



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

| | |
|---|-----|
| Ceisteanna - Questions | 1 |
| Priority Questions | 1 |
| Penalty Points System | 1 |
| Judicial Appointments | 9 |
| Garda Oversight | 11 |
| Other Questions | 14 |
| Office of the Director of Public Prosecutions | 14 |
| Penal Policy Review Group Report | 16 |
| Crime Prevention | 18 |
| Foreign Conflicts | 20 |
| Topical Issue Matters | 22 |
| Protected Disclosures Bill 2013 [Seanad]: Second Stage (Resumed) | 23 |
| Leaders' Questions | 39 |
| Order of Business | 48 |
| Freedom of Information (Amendment) Bill 2014: First Stage | 56 |
| Membership of Committee: Motion | 58 |
| Northern Ireland: Statements | 58 |
| Topical Issue Debate | 77 |
| Hospital Services | 77 |
| Health Services Issues | 83 |
| Harbours and Piers Funding | 83 |
| Northern Ireland: Statements (Resumed) | 86 |
| Companies (Amendment) Bill 2014: Second Stage (Resumed) [Private Members] | 128 |

DÁIL ÉIREANN

Dé Céadaoin, 5 Feabhra 2014

Wednesday, 5 February 2014

Chuaigh an Ceann Comhairle i gceannas ar 9.30 a.m.

Paidir.

Prayer.

Ceisteanna - Questions

Priority Questions

Penalty Points System

1. **Deputy Niall Collins** asked the Minister for Justice and Equality the timeframe for the completion of the Garda Síochána Ombudsman Commission investigation into allegations by Garda whistleblowers regarding the administration of penalty points; and if he will make a statement on the matter. [5571/14]

2. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality if he will ensure that the Garda Síochána Ombudsman Commission has access to the PULSE system during the investigation it initiated last week into the administration of fixed-charge penalties. [5629/14]

3. **Deputy Mick Wallace** asked the Minister for Justice and Equality the precise circumstances which led him to request the Garda Síochána Ombudsman Commission to commence an investigation under section 102 of the Garda Síochána Act 2005; the reason he did not choose to initiate a wider investigation, under section 106, of policies, practices and procedures; the reason he considered the matter to have become one of public interest; if he consulted with the Garda Commissioner when choosing the relevant legislative provision under which the investigation would be conducted; and if he will make a statement on the matter. [5582/14]

Deputy Niall Collins: Concerns about the administration of the penalty points system have been raised in the Oireachtas since the publication of the O'Mahoney report. The matter has been discussed by the Joint Committee on Justice, Defence and Equality, the Joint Committee on Public Service Oversight and Petitions and the Committee of Public Accounts. In the absence of its being conclusively dealt with, public confidence in the entire system will be undermined, if that has not already happened. Will the Minister give a timeframe for comple-

tion of the investigation into the matter by the Garda Síochána Ombudsman Commission? In addition, will he outline why he did not refer the issue to the ombudsman commission in the first instance?

Minister for Justice and Equality (Deputy Alan Shatter): I propose to take Questions Nos. 1 to 3, inclusive, together.

I begin by apologising to Deputies if my voice is not very clear. I seem to have some type of bug, but I will try my best.

Before giving my reply to these questions, I take the opportunity to pay tribute to the work done by An Garda Síochána, the Defence Forces and Civil Defence in recent days in helping people affected by flooding in various locations throughout the State. Extraordinary work is being done and we are seeing great voluntarism on the part of members of Civil Defence and great commitment by An Garda Síochána and the Permanent Defence Force. That support for communities is very welcome and will continue to be in the coming days in the context of the dreadful weather conditions we are experiencing. Wearing both of my caps as Minister for Justice and Equality and Minister for Defence, I thank all those involved in the relief efforts, including those engaged in planning in advance of the severe weather.

Last week I referred allegations by Sergeant Maurice McCabe and former garda John Wilson of multiple incidents of wrongful cancellation by members of the Garda Síochána of fixed-charge notices to the Garda Síochána Ombudsman Commission. I am giving to the ombudsman commission all of the documentation in the possession of my Department relevant to these matters and I have requested the Committee of Public Accounts to do the same. I made this referral under section 102 of the Garda Síochána Act 2005 which permits me to “request the Garda Ombudsman Commission to investigate any matter that appears to the Minister to indicate that a member of the Garda Síochána may have (a) committed an offence, or (b) behaved in a manner that would justify disciplinary proceedings” and where I consider it desirable in the public interest to do so. This is the dual test for a referral under section 102 of the Act. The Garda Síochána Ombudsman Commission can, in accordance with that section and on its own initiative, investigate any matter by reference to the same dual test. It was open to the commission to engage in this matter prior to my referral had it sought to do so.

The ombudsman commissioners, during their appearance before the Joint Committee on Public Service Oversight and Petitions in July 2013, referred to a recent letter received by them from that committee and furnishing, for their consideration, a copy of the O’Mahoney report and accompanying report from the Garda professional standards unit. The commissioners noted that I, as Minister for Justice and Equality, had referred this matter to the Joint Committee on Justice, Defence and Equality and the Garda Inspectorate. They stated they had decided against opening an investigation but that this decision was open-ended and their position in the matter was reserved.

In circumstances where, notwithstanding a detailed Garda investigation into the allegations, continuing and additional allegations had been made and where An Garda Síochána, in the context of discussions at the Committee of Public Accounts, was being drawn into a matter of political controversy, I concluded that, in the public interest, it was appropriate to refer the matter to the Garda Síochána Ombudsman Commission. I did so on 28 January 2014. The timeframe for this investigation is a matter for the ombudsman commission which must be allowed the time and space to conduct a thorough investigation into all of the allegations and the circum-

stances in which they were made and pursued. The commission has made clear its expectation of full co-operation by all relevant parties with the investigation and the Garda Commissioner has given an assurance in respect of An Garda Síochána.

On the question of access by the ombudsman commission to the PULSE system, new protocols were agreed to last year between the Garda Commissioner and the chairperson of the Garda ombudsman commission. These revised protocols provide that the commission has access to the PULSE system through the two Garda superintendents working on secondment with the commission. In this context, under the 2005 Act, a member of An Garda Síochána, during a period of temporary service with the ombudsman commission, is not subject to the direction or control of the Garda Commissioner. However, notwithstanding the above and especially in respect of this investigation, where information on the PULSE system - how it is recorded and the detail of the information - is of central relevance, the Garda Commissioner and I are agreed that the ombudsman commission will have direct access to the system, without the need to go through the intermediary of a seconded member of An Garda Síochána. In the future, that will be the case both for this and any other investigation in which the Garda Síochána Ombudsman Commission is engaged. The revised protocols will be amended accordingly and arrangements made to put in place the necessary technical infrastructure and training required to facilitate this access.

The possibility has been raised of an alternative referral to the Garda Síochána Ombudsman Commission under section 106 of the 2005 Act. The purpose of a section 106 referral is for an examination by the commission of Garda practice, policy or procedure for the purpose of preventing complaints arising. There are two points to make. First, a section 106 referral is for an examination of systems, not individual allegations or incidents. Second, it must be for the purpose of preventing complaints which, under the Act, means complaints by members of the public who are directly affected by or who witness Garda conduct, rather than allegations by a member of the force. Clearly, whatever misgivings there may be about cancellations of fixed-charge notices, complaints will not be made by the members of the public who benefited from these cancellations. It is clear, therefore, that a referral under section 102 of the 2005 Act, rather than under section 106, is the only way in which these allegations can be investigated.

Deputy Niall Collins: The Minister outlined why he has now decided to refer it to the Garda Síochána Ombudsman Commission, GSOC. The Oireachtas Committee on Justice, Defence and Equality was united in its view that the matter should have been referred much sooner. Be that as it may, we have had a number of public utterances from current and former members of GSOC about some of the constraints and limits of powers afforded to them under the 2005 Act. It is important that this Act is revisited as soon as possible. The Minister mentioned access to the PULSE system. There has to be complete and unfettered access to PULSE.

Does the Minister agree that the Garda Commissioner in his role as chief of police should be subject to scrutiny by GSOC? In Northern Ireland and the UK, the heads of MI5 and MI6 are subject to scrutiny. Can the Minister confirm whether the Act will be changed to allow the referral of complaints by serving members of An Garda Síochána directly to GSOC? Can he also comment on the role of the confidential recipient? I think it has been proven conclusively that this role is not fit for purpose or up to standard.

Deputy Alan Shatter: I remind the Deputy that he is a member of the Oireachtas Joint Committee on Justice, Defence and Equality. The two reports to which I referred were referred to that committee and it was open to that committee to hold hearings, call in An Garda Síochána

and raise any questions it sought to raise arising out of those reports with other individuals. What the committee did was send the matter to the Oireachtas Committee on Public Service Oversight and Petitions. The Deputy is aware of that. It was my understanding that it was passed on to the committee of which Deputy Wallace is a member. This committee questioned GSOC about the matter and the response it got was the one I referenced. It did not go any further with that committee either.

I intend, as I announced, to bring forward new legislation to amend the 2005 Act. We have been conducting a review of this Act for the past nine months in terms of how matters work and where difficulties arise. The confidential recipient was a creature created by my predecessor in 2007 for serving members of the gardaí to make complaints of alleged misconduct that would effectively be furnished to An Garda Síochána itself to investigate. Time has proved that this is a defective procedure. It is my intention in the context of a series of amendments to address other issues raised by the Deputy that need to be addressed with regard to GSOC to confer on it a remit to deal with serious allegations of misconduct made by serving members of the force. Following the enactment of the amending Bill, I do not envisage that the office of confidential recipient will continue.

Deputy Pádraig Mac Lochlainn: The Minister has been critical of members of Committee of Public Accounts and has said that he referred the matter to GSOC in the public interest due to the direction in which it was going. He now says that the Committee on Justice, Defence and Equality should have dealt with it. That committee and the Committee on Public Service Oversight and Petitions were both of the view that GSOC was the best place to investigate this because, unfortunately, committees cannot make adverse findings of fact against individuals. That was the people's decision in a referendum. We felt that the only independent place to have a proper full investigation with the proper expertise was GSOC. Unfortunately, both committees were unsuccessful because GSOC said it could not investigate it because it came from a serving member of An Garda Síochána. That is for the Dáil record.

Over the past year, we have all have been dealing with the lack of co-operation on the part of senior members of An Garda Síochána regarding GSOC. That has been heavily criticised but is now moving in the right direction. There are proper guidelines with regard to the penalty points issue so the public can look at this debacle and say that things are improving. However, on the back of all this, we need fundamental change in terms of the powers of the Garda Ombudsman and the independence of An Garda Síochána. It is really important that we send out the message that the issues around penalty points and co-operation with GSOC do not affect the vast majority of serving members of An Garda Síochána. They have done no wrong and there is no question mark over what they do. The issues relate to senior management and some senior officers regarding penalty points. That message needs to go out. This is not a crisis for An Garda Síochána. It is a crisis for the management and structures of An Garda Síochána.

Deputy Alan Shatter: I have the transcript of what took place when the Garda Ombudsman appeared before the Committee on Public Service Oversight and Petitions. In response to a question raised, Carmel Foley of the GSOC addressed the matter and made references that correspond with what I said. She said that they were conscious that the whistleblower was a serving Garda and, therefore, they could not under the Act deem a complaint from him admissible. Of course they could not, and that was, unfortunately, the position with regard to the 2005 legislation and the creation of the confidential recipient. The legislation removed complaints from serving members of An Garda Síochána from the remit of GSOC and the 2007 provision sought to provide an alternative mechanism. I did not want to jump to conclusions about this

at an early stage as Minister but I think it has been proved that the confidential recipient system does not work. It is unfair to those who raise issues of complaint and to the gardaí themselves because where the Garda fully and properly investigates a matter it is still open to question. I said all along that in the context of the fixed charge ticket issue, there was a need to tighten up on procedures and to ensure that the practice that was supposed to be followed was followed and that the decisions ultimately made even when the practice was appropriate were justified. I described some of those decisions as exotic, and deliberately so, because I would question whether proper procedures had been followed.

In the context of dealing with this overall issue, a legislative change is of importance, so that where serious allegations are made by serving members of An Garda Síochána, the GSOC can investigate them, there is no issue as to the independence of the investigation and the matter is dealt with once and for all. In the context of the issue we are dealing with, a range of allegations were investigated by Assistant Commissioner John O'Mahony which were referred to the Committee on Justice, Defence and Equality and the Garda Inspectorate. Since then, a series of additional allegations have been made. These are rolling, never-ending allegations, which is why it is appropriate that, as Deputy Collins said, we bring this matter to a conclusion where no further questions arise. That is why it was appropriate to refer it to the GSOC. I will come back to the issue of members of the Committee of Public Accounts.

An Ceann Comhairle: I ask Members to watch the clock. That is what it is there for.

Deputy Mick Wallace: Despite the Minister's protestations to the contrary, if he was serious about investigating the penalty points issue he would have introduced section 106, because it would have allowed for a wider examination of the practices, policies and procedures of An Garda Síochána, which is necessary. Unfortunately, the GSOC's hands are tied unless the Minister introduces section 106. This legislative deficiency in our policing oversight mechanism was severely criticised by UN rapporteur Margaret Sekaggya in her report to the Government last March. The Minister recently refused our request in the Dáil to reconsider the GSOC's request for permission to investigate under section 106 issues surrounding Corrib and the delivery of a large amount of alcohol to Belmullet Garda station. We need a reassessment of the limited GSOC referral currently proposed; immediate publication of broad terms of reference focusing on whistleblowers' allegations and not just whistleblowers themselves, which seems to be the slant taken; and reform of the legislative structures of Garda accountability. There is also a need to address the over-politicised relationship that exists between the Minister and the Garda Commissioner. That relationship is not healthy for our police force. An independent police commission must be established and must carry out a root-and-branch review of the Garda Síochána for the first time in its history.

Deputy Alan Shatter: Let us deal with a few matters. Deputy Wallace obviously read from a pre-prepared note and chose not to listen to what I said earlier.

Deputy Mick Wallace: I did listen.

Deputy Alan Shatter: I would not expect him to conduct himself any differently from normal in respect of these issues. As already stated, during the past nine months we have been conducting a review of the Garda Síochána Act 2005. I also stated that we will be bringing forward amendments in order to address matters with which the Garda Ombudsman Commission has been dealing in order to address some difficulties with and anomalies in that legislation. I explained to Deputy Wallace why section 106 is not the appropriate vehicle for a referral. Ob-

viously, he paid no regard to what I had to say on that matter. The Deputy is also ignoring the fact that this report was referred to the Garda Inspectorate, the role of which is to examine the procedures and approaches taken by An Garda Síochána with regard to fulfilling its obligations in addressing and deciding how best to deal with matters. I expect to receive the report of the Garda Inspectorate shortly, which might provide further enlightenment and insight in the context of any additional changes to be made.

As Deputies on all sides have acknowledged, procedures have been tightened up in the aftermath of the report of Assistant Commissioner O'Mahony. At the end of August last year, the Garda Commissioner issued new directions to members of the force to ensure the prescribed procedures will be fully and properly complied with and that an audit will be conducted to ensure that this occurs. I am sorry that Deputy Wallace does not choose to accept that matters are being properly addressed. This seems to be a single-issue obsession of his.

Deputy Mick Wallace: The matters in question have not been properly addressed for two years.

Deputy Alan Shatter: In fairness to them, Deputies Niall Collins and Mac Lochlainn-----

An Ceann Comhairle: We are over time.

Deputy Alan Shatter: -----acknowledge the very important and substantial work done by members of the force. I wish to congratulate the force on very important arrests that took place in the past 24 hours.

Deputy Clare Daly: Oh God.

Deputy Alan Shatter: I do not want to say anything further about them but they are the subject of reports in today's newspapers.

Deputy Clare Daly: Stick to the subject.

Deputy Alan Shatter: The arrests in question relate to individuals who, it is alleged, committed a number burglaries across the country. Perhaps the Deputy might, for once, acknowledge-----

Deputy Clare Daly: Perhaps the Minister might, for once, answer the question.

Deputy Alan Shatter: -----that, regardless of procedural and other difficulties that arose on this issue-----

Deputy Mick Wallace: The Minister is not answering my question.

Deputy Alan Shatter: -----we have a police force-----

An Ceann Comhairle: The Minister is over time. Will he please adhere to the rules?

(Interruptions).

Deputy Alan Shatter: -----of which we can be proud. The members of that force are doing their duty and in the past 24 hours many of them have been out in the floods helping to ensure the safety of members of the public.

An Ceann Comhairle: I ask the Minister and Members to adhere to the clock, that is what

5 February 2014

it is there for. We have run out of time on these questions and I must move on.

Deputy Pádraig Mac Lochlainn: I request that an exception be made.

An Ceann Comhairle: I am sorry-----

Deputy Niall Collins: This is a very important issue.

An Ceann Comhairle: -----but a time limit applies.

Deputy Pádraig Mac Lochlainn: I am sure all the Members present would agree to an extension of the time.

An Ceann Comhairle: We are obliged to adhere to the rules. However, I will take a very quick supplementary from each Deputy.

Deputy Niall Collins: I thank the Ceann Comhairle for that. I may not have heard his initial reply clearly or correctly so will the Minister provide confirmation in respect of three issues for me? Will the Garda Commissioner come under the remit of the Garda Ombudsman Commission in the aftermath of the proposed changes? Will the legislation be amended in order to allow serving members of An Garda Síochána to refer complaints directly to the Garda Ombudsman Commission? Will the Minister be amending the position in respect of section 106 procedure and practices?

Deputy Pádraig Mac Lochlainn: The Minister should reflect on the events of the past 18 months, particularly in terms of the relationship between the Government and senior members of An Garda Síochána dealing with legitimate complaints. I reiterate that vast majority of serving members of An Garda Síochána have done no wrong. However, they are hurt and affected by the issues under discussion. When gardaí are on duty and performing difficult tasks - for example, giving out speeding tickets - they are likely to get a bit of aggro in respect of this issue. That is not fair because they were not at fault. It is important that the Minister acknowledge at some point that this was an issue for senior management and that changes need to happen in order to make the latter accountable to GSOC. There must be a better response to any criticisms that are levelled or any allegations of malpractice that are made in the future.

Deputy Mick Wallace: The Minister has been dragged, kicking and screaming, to the point where he is making a few changes. Despite his claims to the contrary, it is almost two years since the Minister first heard about this matter. He has been dealing with it for all that time and he states that he is dealing with it in a proper manner. If this was Britain, the heads of the Minister and the Garda Commissioner would have rolled long before now.

An Ceann Comhairle: A question please.

Deputy Mick Wallace: However, even that would not be enough. There is a need for a complete culture change in the context of how the force operates. What is happening is unfair to all the honest members who are serving on the force. The Minister has undermined confidence and trust in the force. We are not responsible for that.

Deputy Alan Shatter: On every occasion on which he has something to say about An Garda Síochána, Deputy Wallace appears to be engaged in a campaign to undermine public confidence in the force.

Deputy Mick Wallace: No, the Minister is doing that.

Deputy Alan Shatter: The Deputy is incapable of acknowledging in any shape or form the good work done across a broad range of matters-----

Deputy Mick Wallace: Not true.

Deputy Alan Shatter: -----and the substantial reduction in crime rates across the vast majority of areas. This is an issue in respect of which he is also incapable of acknowledging that even some of the allegations made have been established to be incorrect.

Deputy Mick Wallace: The Minister has been dealing with this for two years.

An Ceann Comhairle: Other questions were asked.

Deputy Alan Shatter: As the Deputy knows, Assistant Commissioner O'Mahony's report only became available in May 2013. It was then referred to the Oireachtas Joint Committee on Justice, Defence and Equality-----

Deputy Mick Wallace: Whitewash.

Deputy Alan Shatter: The Deputy is at it again. Is there any aspect of that report he accepts to be true or accurate?

Deputy Mick Wallace: Why did the Minister-----

Deputy Alan Shatter: The Deputy is at it again.

An Ceann Comhairle: The Minister is way over time. Will he please deal with the supplementary questions that were asked? We are four minutes over time on these questions.

Deputy Alan Shatter: Deputy Wallace is making a career out of blackguarding the Garda Síochána.

An Ceann Comhairle: Will the Minister please resume his seat for a moment?

Deputy Mick Wallace: The Minister will not deal with the facts.

Deputy Alan Shatter: That is exactly what the Deputy is at.

An Ceann Comhairle: The Minister should deal with the supplementaries that were asked. We are four minutes over the time allocated for these questions.

Deputy Niall Collins: In the context of the questions he posed, I hope Deputy Niall Collins will understand that I must formally bring to Cabinet the proposals for the heads of a Bill to amend the Garda Síochána Act 2005. I do not, therefore, want to discuss in detail what will be those proposals. However, I can confirm - as I did not Monday evening last - that where serious allegations are made in respect of misconduct on the part of a serving member of the force, that the matter would be referred to the Garda Ombudsman Commission. There is no difficulty with the latter being the case. I also wish to confirm that when the relevant amendments are enacted, the statutory position will effectively be that the office of confidential recipient will be rendered redundant. That office was created by my predecessor and it gives rise to all sorts of difficulties, allegations and conflicts, which are unfair to members of the force in general and to any individual members who have valid complaints to make. Such individuals do not have full

visibility of what happens in the aftermath of a complaint being made.

Deputy Mac Lochlainn referred to accountability. In the past debates have taken place on whether we should have an independent policy authority or whether the relevant matters should ultimately remain the responsibility of the Minister. Under statute, the Garda Commissioner has full independence in making operational decisions. He is the Accounting Officer of the force and he reports to the Committee of Public Accounts. Ireland is a small country and the system we have in place allows for this type of discussion and debate in this Parliament. Ultimately, I am accountable to the House in respect of issues regarding or questions that arise in respect of the police force. The UK created a very complex structure in this regard some years ago and the authorities there have since discovered that it does not work very well and that there is a lack of accountability within it. I am of the view that, no matter how difficult it may be for a Minister for Justice and Equality of the day, Deputies should be able to raise direct questions or concerns with regard to the workings of our police force. I also believe that the Minister must be accountable. If we created a separate entity, we would not have that level of accountability which I believe to be important.

Judicial Appointments

4. **Deputy Niall Collins** asked the Minister for Justice and Equality his plans to reform the judicial appointments process; and if he will make a statement on the matter. [5572/14]

Deputy Niall Collins: The Minister is in the middle of a consultation phase at present, although I accept that this may have concluded on 31 January last. In view of the fact that there will be anything between ten and 15 retirements from the Judiciary during the coming year, will legislation to reform the judicial appointments process be brought forward? We discussed this matter in the House on a number of previous occasions.

10 o'clock

Deputy Alan Shatter: The Deputy will be aware that, under the Constitution, judges are appointed by the President on the advice of the Government. The current process for the appointment of judges is set out in sections 12 to 17, inclusive, of the Courts and Court Officers Act 1995 which established the Judicial Appointments Advisory Board. Under the existing system of judicial appointments, the board submits to me, as Minister for Justice and Equality, the names of the persons who have applied for appointment and whom it recommends as suitable for appointment. This procedure has been in place since 1995 and, at my request, my Department is undertaking a review of the judicial appointments process. This review will consider how best to ensure and protect the principle of judicial independence and includes consideration of issues such as the appointment process, eligibility criteria, the role of the Judicial Appointments Advisory Board and the need to promote equality and diversity.

In December I initiated a public consultation process which involved not only members of the Judiciary and the legal profession generally but also engaged the broader public who benefit daily in innumerable ways from the protection of an independent Judiciary. A number of submissions have been received to date and they will be considered within my Department and by me. The consultation process sought submissions within the current constitutional provisions. Any proposal to introduce a new system of appointments which would require statutory amendments would, of course, be a matter for consideration by the Government in the first instance.

As the Deputy may be aware, Deputy Shane Ross has published a Private Members' Bill relating to the system of judicial appointments. A debate on the Bill will afford a useful opportunity for Members of the House to discuss what they would consider to be an appropriate reform. It was always my intention that we would have such a debate after we had the opportunity to review the submissions received. Unfortunately, on the designated date for the discussion of Deputy Shane Ross's Bill, 21 February, I will be in Greece on Government business in my capacity as Minister for Defence attending the informal Defence Ministers' Council which is part of the Greek EU Presidency programme. Despite contact with the Deputy's office with a view to changing the date for discussion of the Bill in order that I could be present to hear what Members had to say and participate in the debate, as of today I am disappointed to note that it has not proved possible to agree an alternative date for discussing the Bill, but I hope it will be possible to do so.

Deputy Niall Collins: There is no doubt that all members of the Judiciary have acted independently since they were appointed. Nobody has ever offered to me, or anybody else of whom I am aware, any evidence that there have been examples of political bias exercised by members of the Judiciary. There is a debate around the appointments process. We need to look at it and possibly consider shortening the number of names that come from the Judicial Appointments Advisory Board to the Government for consideration. There is merit in that proposal.

When we discussed this issue last May, the Minister, rightly, made the point that up to two thirds of the Judiciary had no political affiliation. I do not think the debate should be crowded around the notion that, because somebody was politically affiliated at one point in his or her life, this should automatically disbar him or her. Are we to go down a road where it will be a crime to engage politically during one's life?

Am I right to suggest the Minister does not envisage any constitutional change in terms of the appointments process for members of the Judiciary and that, following his consultation and proposals, when published, the *status quo* will continue in terms of the Government asking the President to appoint? In other words, it will be a process of nomination by the Government but that the preceding process undertaken by the Judicial Appointments Advisory Board will be looked at, revamped, modernised and made more fit for purpose.

Deputy Alan Shatter: The Deputy is right that we are not proposing any constitutional change. The great merit of the current position is that it is the Government or the Minister - it would end up coming to me, as Minister for Justice and Equality - who is ultimately accountable to the Dáil should an appointment be made that clearly is not appropriate. I want to repeat what I have said previously, that every appointment to the Judiciary made by the current Government has been of an individual furnished on the list provided by the Judicial Appointments Advisory Board of appropriate individuals to be so appointed, or, alternatively, has involved the promotion from lower courts of other members of the Judiciary already appointed.

I have been reading the submissions as they have been coming in and found them very interesting, although there are some I have not yet had an opportunity to read. I note that members of the Judiciary in their submissions have stated that, despite their wish to see reforms implemented - they are addressing possible reforms - there is no evidence of any description since the foundation of the State that members of the Judiciary are politically partisan in any shape or form in the manner in which they determine proceedings. That is as it should be and as it has been. It is important, as the issue is discussed, that we look at how we modernise the system in a careful and responsible way to preserve judicial independence. However, I do not believe the

5 February 2014

debate should be contaminated by a suggestion that any current or past judge has ever, at any stage, made a decision based on a political commitment he or she may have had prior to his or her appointment to the Judiciary.

Deputy Niall Collins: This is an insider's debate. This is not an issue people queue up in our clinics or stop us in the street to discuss. However, it is a very important one to try to uphold the independence of the Judiciary. For some-----

An Ceann Comhairle: Will the Deputy, please, put his supplementary question as we are over time?

Deputy Niall Collins: For some, there is a view that people who have a political affiliation are somehow fast-tracked. We need to find a mechanism to stamp this out.

With regard to the Judicial Appointments Advisory Board, I make the point that for the two judges who were removed and are no longer on the Bench, namely, former Judge Brian Curtin and former Judge Heather Perrin, no pre-screening process could have blocked out their activities. The Judicial Appointments Advisory Board needs to be reformed to remove the perception that judicial appointments are fast-tracked politically.

Deputy Alan Shatter: Under the legislation in place since 1995, the Judicial Appointments Advisory Board has had the capacity to interview applicants for judicial appointment. It has been said judicial appointments should only be made on merit. I totally agree and it has been my view for many years, well before I was appointed Minister. In government we have sought to make appointments based on merit. The capacity of an individual to act as a member of the Judiciary and his or her legal background are issues at which the Judicial Appointments Advisory Board can look based on the criteria for eligibility detailed. Even in the context of current legislation, it would be beneficial if arrangements were made by the board, where appropriate, to interview potential candidates for the Judiciary, as this would provide an additional insight. It would also be of assistance to lay members of the board who have no personal knowledge, generally, of any of the applicants, whereas members of the professions who sit on the board and the presidents of the courts may well know some of the applicants and what their capacities are when they appear in the courts system.

I thank publicly those who made submissions. I hope we can have a good discussion in the House on possible reforms before I proceed to make proposals to the Cabinet. Some reform in this area is in the public interest. I will come back to the issue.

Garda Oversight

5. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality his plans to introduce amending legislation to ensure the independence of An Garda Síochána based on other policing models on this island or elsewhere in Europe. [5630/14]

Deputy Pádraig Mac Lochlainn: As I said earlier, the events of the past 18 months give us cause to engage in real reflection. As the Minister knows, the Garda Síochána Act 2005 emerged after the Morris tribunal when there was a need for huge change. The 2005 Act certainly represented considerable change, but we are in a period when we again need to look at that model. What are the Minister's thoughts in terms, for example, of the policing model in

the North of Ireland where the ombudsman and the criminal justice inspectorate have stronger powers in the case of the PSNI? Has the Minister looked at that model as one we could consider here?

Deputy Alan Shatter: It is of crucial importance that the Garda Síochána be operationally independent but also democratically accountable. The Garda Síochána Act 2005 seeks to achieve these objectives by specifying the functions of the Garda Commissioner and the force, on the one hand, and the Minister for Justice and Equality, the Government and the Houses of the Oireachtas, on the other. The Act provides that the Commissioner has the function of directing and controlling the Garda Síochána and that he is accountable to the Minister for the performance of that function. The Commissioner is responsible for recruitment, training, discipline and the distribution of members and for all other aspects of the management and administration of the force. The Act also made the Commissioner the Accounting Officer of the force and liable to appear before the Committee of Public Accounts in that capacity.

In addition, the 2005 Act established the Garda Síochána Ombudsman Commission, which is empowered to carry out independent investigations into Garda conduct, and also the Garda Síochána Inspectorate, which provides expert advice on achieving the highest levels of efficiency and effectiveness in the operation and administration of the force. The accountability of the Garda Síochána has, through these measures, been significantly strengthened.

There are those who advocate a police authority, as the Deputy mentioned, but the onus is very much on them to explain how this would improve accountability. Until recently, England and Wales would have been two of the main examples of comparable jurisdictions with police authorities. However, police authorities there were abolished in 2012 and replaced by directly elected police and crime commissioners, precisely on the grounds that the police authorities were not sufficiently democratically accountable. It is true that Northern Ireland retains a police authority - the Policing Board - and it does a good job, but most people understand that the need for the Policing Board arises from the unique requirements associated with the need for confidence building in a cross-community environment.

Another important point often overlooked by those who advocate a separate authority is that the Garda Síochána is not only the police service in this jurisdiction, but is also the security and intelligence service of the State. This makes it even more appropriate that the Garda Síochána should be accountable to the Government and ultimately to the Oireachtas.

I am perfectly willing to listen to legislative proposals on accountability, but it is important that they deal with all of the issues involved in a sensible and convincing way.

Deputy Pádraig Mac Lochlainn: We certainly need to get the balance right between having a genuinely independent police service and democratic accountability. That is a given. We can achieve that. The Policing Board model in the North is a good one. There is no doubt that the PSNI is accountable not just to the Policing Board but to the Assembly. With the right will we can achieve that.

Members of the Garda Síochána want an independent police service. The difficulty they face now is that the Commissioner is enforcing cutbacks which he presents as modernisation, smart policing and efficiency, which distances him from the grass roots gardaí who tell us a very different story. We need to make a clear separation from Government in respect of budgeting, and the present relationship, which people would argue was the reason it took so long

to refer the penalty point allegations to an independent ombudsman. The relationship is too close between Government and the police. We can bring in changes that make the police more independent and deal with the Minister's legitimate concerns about democratic accountability. If we put our minds to it we can make it better. What does the Minister think of that?

Deputy Alan Shatter: I find it ironic that the Deputy should continue to advocate a structure that has been removed in England and Wales.

Deputy Pádraig Mac Lochlainn: I am talking about the North of Ireland.

Deputy Alan Shatter: When I was spokesperson on justice, one of the issues in the debate about whether there should be a separate police authority or police board was substantially influenced by the approach taken in the United Kingdom. That has proved to be an approach in which there is a lack of democratic accountability. The Policing Board in Northern Ireland has been created for particular and unique circumstances. I presume that it has been left in place and that the reforms that have taken place in England and Wales have not been transferred to or been taken on in Northern Ireland because of the unique background circumstances and the Deputy is as familiar as I am with the requirements for eligibility for membership of that board because of the need to ensure there is a balance on the board between the different communities in Northern Ireland and that both communities have confidence in policing. That was necessary.

On the issue the Deputy raises I do not see how interposing an undemocratic layer between the gardaí and the Oireachtas will assist in increasing accountability. Internationally, there is now a move away from independent policing authorities. In any event, such a structure would not be suitable for this jurisdiction, which has a single police force, which incorporates national security and border control within its remit. The Deputy has not addressed the issues surrounding that particular area in his proposal.

Deputy Pádraig Mac Lochlainn: I accept there are two challenges, ensuring that democratic accountability continues, and the fairly unique situation that the Garda Commissioner has control over policing and intelligence. The Minister should keep an open mind and engage with the need to have a truly independent policing authority, as seen by the people, separate from Government in terms of budgets and so on, and which deals with the Minister's concerns. Does the Minister accept that it is possible to achieve that balance if we put our minds to it?

Deputy Alan Shatter: I have no idea how we can provide funding for our police service that is separate from Government, does not take account of budgetary issues and does not appear in the Estimates that can be carefully examined, as they were only a few days ago at the Oireachtas Select Committee on Justice, Defence and Equality. The Deputy is saying that a police authority could magic up from some unidentifiable source whatever resources it believed it needed, without any decision of Government or accountability to Parliament. That does not and cannot work.

Deputy Pádraig Mac Lochlainn: That is not what I am saying. The Minister is wilfully ignoring what I am saying.

Deputy Alan Shatter: The Deputy has made the case that the Commissioner conceals cut-backs in smart policing. Smart policing, the careful use of resources in circumstances where the strength of the Garda force has unfortunately been reduced because of the economic difficulties of this State, has resulted in a substantial reduction in crime in 12 out of the 14 categories of

crime. Targeted policing has produced the type of arrests I mentioned earlier today, resulting in substantial reductions in a broad range of crimes including burglaries, and in many individuals engaged in gangland crime being brought before our courts, where their hearings are pending, or successfully convicted so that they are now guests of the State within our Prison Service. The Deputy should not deride the concept of smart policing. It means targeted, specialised approaches to the different areas in dealing with every type of crime that arises, from fraud to burglary and a whole range of other issues.

Deputy Pádraig Mac Lochlainn: The Minister is the most skilled man I have ever seen at answering a question that was not put.

Other Questions

Office of the Director of Public Prosecutions

6. **Deputy Clare Daly** asked the Minister for Justice and Equality his plans to amend the Prosecution of Offences Act 1974, or introduce any other legislation in order to improve the transparency and accountability of the office of the Director of Public Prosecutions. [5307/14]

Deputy Clare Daly: There has been some concern about the operation of the Office of the Director of Public Prosecutions, DPP, because decisions are not published and are not made accountable or monitored. The Minister said earlier that he does not like to rush into things but he has been in office for three years and these matters have been in the public domain for some time. What plans does the Minister have to make the Office of the DPP more accountable and transparent?

(Deputy Alan Shatter): Independence for prosecutors is a key principle underpinning the rule of law in the international standards set by the Council of Europe, the UN and the International Association of Prosecutors. The independence of the Office of the Director of Public Prosecutions is set out in section 2(5) of the Prosecution of Offences Act 1974 which states: “The Director shall be independent in the performance of his functions”.

The Office is accountable to the Committee on Public Accounts for administrative and statistical matters in accordance with section 67(7) of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013. The Director of Public Prosecutions is also accountable to the courts for her actions.

The Office of the DPP also provides reasons to victims’ families and close associates for its decisions not to prosecute in certain cases involving death through a project which was initiated in 2008. Speaking about the reasons project in 2008, Mr. James Hamilton said:

the Director of Public Prosecutions prosecutes on behalf of the People as a whole, on behalf of society, not on behalf of individual victims. For this reason I think the concept of accountability is not the appropriate concept to use when discussing the Office’s relationship to victims. There is not and will not be accountability to victims in the sense that we will regard ourselves as bound by their wishes or will allow them to determine how cases should proceed... The fundamental idea behind the change in policy is one of fairness, not of accountability.

The Department of Justice and Equality has no legal or administrative role in relation to the

administration of the Office of the DPP and there is no provision in the Government's legislative programme for any amendment of the Prosecution of Offences Act 1974. However, the EU directive on the rights, support and protection of victims of crime includes a requirement for victims to be informed of a decision not to prosecute and the reasons for the decision, Article 6, and for a review of a decision not to prosecute, Article 11. I will be bringing forward legislation to transpose the directive, and the provisions relating to these aspects will be developed in consultation with the Attorney General and the Director of Public Prosecutions. I hope to bring forward that legislation in 2015.

Deputy Clare Daly: There are several important issues here. Nobody would dispute the need for the DPP to be independent but I reject the implication that there is a contradiction between independence and accountability. One can have both. In a society which aspires to be democratic and open it is necessary to have both. The Minister has acknowledged that he will finally bring in the EU legislation next year which would give victims the right to know why the DPP decided not to prosecute. That should have been done well before now. I am glad the Minister is looking at it now, but to my mind that is a basic human right. For example, the GSOC referred a number of cases to the Director of Public Prosecutions in respect of the Corrib incidents, but not one of them was prosecuted and nobody got information about it. I attempted to table a question last month about the DPP and I was told it had nothing to do with the Minister and therefore nothing to do with the House.

I would like to give one last example from the public domain of how we address this balance between independence and accountability. Mr. Justice Barry White, as part of a libel action in the case of Mr. Ian Bailey, made a writ - an extensive discovery order - that the DPP should release files in its possession on Ian Bailey, as well as copies of all statements in the possession of the DPP which cast a doubt on his involvement in the murder of Sophie Toscan du Plantier and documents suggesting that he was of good character. The DPP's office furnished 700 statements and then furnished a list of other documents which they claimed they could not release because of confidentiality. More importantly, they did not provide information on a crucial previous DPP critique of that case, which exonerated his character. That decision and failure by the DPP to adhere to a court order has been a serious problem for this man and his liberty. What is the Minister, who has a role in justice and accountability, going to do about that?

Deputy Alan Shatter: The Deputy has just provided an example of why we need an independent DPP that is not subject to reporting to Parliament or to a Minister, who can make prosecutorial decisions based on the obligations of his or her office under the provisions contained in relevant legislation, and who cannot be pressurised in Parliament by any Deputy on any particular case or issue. The Deputy classically illustrated the difficulties that would arise if the DPP was so accountable. On a daily basis, Deputies Daly and Wallace are naming individuals in this House-----

Deputy Mick Wallace: And the Minister is naming them on RTÉ.

Deputy Alan Shatter: -----raising specific cases and making comment that could be prejudicial in circumstances where court proceedings exist. Instead of the DPP's office carrying out its role, we would have a government forced to interfere politically. That is exactly what we do not need. It would be contrary to the public interest. I would like to draw the Deputy's attention to the Venice Commission's 2010 draft report on European standards on the independence of the judicial system, which states that "accountability to parliament in individual cases of prosecution or non-prosecution should be ruled out."

Deputy Clare Daly: I was not making any allegations. We were speaking of matters that are in the public domain.

Deputy Alan Shatter: The Deputy was speaking of two specific cases.

Deputy Clare Daly: The point I was making, which perhaps the Minister did not fully understand, was that in this instance it has been demonstrated that the DPP failed to adhere - in fact breached - a court order for discovery by Mr. Justice Barry White. To whom is the DPP accountable for breaching court orders? Can the Minister enlighten me as to why in the national Parliament we are not allowed raise issues of such public interest?

Deputy Alan Shatter: I thought the Deputy knew the answer to the question she is raising, but I think she is only raising the question to grab a headline. If the DPP or anybody else does not comply with court orders, he or she is accountable to the court. Are there court procedures in place to deal with any individual engaged in litigation of any description, be it civil or criminal, against whom it is alleged that he or she does not comply with court orders? Of course there are. That is an issue that the courts address. It is not an issue for Parliament, nor is it an issue on which prejudicial comment or judgments should be expressed by Members of this House if matters are still current and before our courts. It is unfortunate that the Deputy has travelled this route this morning, but it is helpful to illustrate the frailty of her case and to illustrate the dangers posed by her suggestion that the DPP should be accountable to this House for the manner in which prosecutorial decisions are made.

However, in the context of victims' rights, I support the enactment of new legislation to incorporate the new European measure, which I supported when it was going through the Council of Ministers. The Deputy may not be aware that I previously published two Bills on victims' rights, the most recent in 2002. The EU measure, together with the previous legislation that was drafted, will inform the content of what we bring before the House, which will not be minimalist in the context of victims' rights, and may address some issues that we are not obliged to address under the EU provision for the benefit of victims of crime.

Penal Policy Review Group Report

7. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality if he plans to implement the five recommendations contained within the Joint Committee on Justice, Defence and Equality's report on penal reform. [5333/14]

Deputy Pádraig Mac Lochlainn: We had some engagement on this already, but I would like to say that our committee worked very hard over quite a period of time putting together our penal reform report, and we have five key recommendations, including the reduction of prison numbers by one third through decarceration over the next ten years, by examining the Fines Bill and by not imprisoning people for minor offences. The Minister knows the five recommendations, so what can he do to implement them?

Deputy Alan Shatter: I would like to thank the joint committee for their hard work on this matter and for their report which was published last March, which we touched upon recently in a meeting of the select justice committee. In summary, the joint committee report recommended that prison numbers be reduced; that prison sentences of less than six months be commuted; that standard remission be increased from one quarter to one third and an incentivised

remission scheme introduced of up to one half; that legislation be introduced providing for structured release, temporary release, parole and community return; and that prison conditions and overcrowding be addressed and the use of open prisons be increased.

We are in fact travelling a route on which some of the report recommendations have already been implemented. For example, legislation has been passed to encourage the Judiciary to make community service orders more frequently. The Criminal Justice (Community Service) (Amendment) Act 2011 requires the sentencing judge to consider the imposition of community service where a custodial sentence of 12 months or less is being considered.

With regard to the issue of overcrowding, as outlined in the Irish Prison Service three year strategic plan for 2012 to 2015, it is intended to align the capacity of our prisons with the guidelines laid down by the Inspector of Prisons during the lifetime of the strategy, in so far as this is compatible with public safety and the integrity of the criminal justice system. Priority has been given to reducing the chronic overcrowding in Mountjoy, Cork and Limerick Prisons and the Dóchas Centre. There has been a significant improvement in the situation in Mountjoy and good progress has also been made at other prisons.

Construction of a new prison in Cork on the site of the current car park and adjacent green-field site, commenced in January 2014. This new prison will have a capacity of 275 and will replace the existing outdated prison with modern cellular accommodation containing in-cell sanitation and showering facilities supported by a full range of ancillary services. A new accommodation block in the Midlands Prison was opened in December 2012. In addition, the opening of a new 20-space accommodation block, which was formerly used as an administration building, has helped alleviate the overcrowding being experienced in the Dóchas Centre.

The construction of a new wing at Limerick Prison, to replace the outdated accommodation in the existing A and B wings, forms part of the Irish Prison Service 40-month capital plan. The first phase of this development will include the construction of a new 100-cell accommodation block for male prisoners, while the second phase will include the construction of a new 50-cell accommodation block for female prisoners and a range of ancillary works. Enabling works for the project are already well advanced and the tender process for the first phase is under way. The refurbishment project in Mountjoy and the construction of the new prison in Cork reflect the Government's determination to deliver on the commitment in the Programme for Government to modernise the prison estate and eliminate slopping out.

Major changes have also been made over the past three years with regard to structured release, temporary release and community returns. In terms of the sub-committee's report and the issues not yet addressed, in September 2012 I announced an all-encompassing strategic review of penal policy. A working group was established to carry out this review and to make recommendations on how a principled and sustainable penal system might be further enhanced, taking into account resource implications, constitutional imperatives and international obligations. In that context, the review group was asked to undertake an examination and analysis of all aspects of penal policy, including the role of penal policy in crime prevention, sentencing policy, alternatives to custody, prison accommodation and regimes, supports for reintegration and rehabilitation, and the issue of female offenders. The review group has also been asked to consider the joint committee's recommendations on penal reform.

Deputy Pádraig Mac Lochlainn: I am sure the Minister read the reports in the *Irish Examiner* about Cork Prison around the Christmas period, which referred to the frustration of the

governor that judges continue to send prisoners to the jail for non-payment of fines, which is farcical because sometimes people are released on the same day, or stay overnight or for a few days, which causes real problems. Committee members visited Cork Prison as part of the preparation for the report on penal reform and we saw for ourselves the situation there. We welcome the new prison development that is long overdue. How will the Minister specifically implement the five recommendations over the lifetime of the Government? It is rare that one would have a proposal that would make society better, yet would cost less money in the long term. We would save money if we could reduce the level of incarceration in prisons by one third over ten years, introduce community service, a far more sensible way of dealing with minor offences, and have resources to help people and prevent recidivism. It would be remarkable to have a proposal to save taxpayers' money in the medium term and it would be better for society. I wish to know how the Minister will implement the five proposals.

Deputy Alan Shatter: First, as I indicated to the Deputy, we are already along the road towards implementing a series of the proposals. As he knows, one of my objectives and hopes during the lifetime of the Government is that we would also put the parole board on a statutory footing. That is another important measure I hope we will have the opportunity to address, but because of the legislative programme I know it will not happen in 2014. I want to have visibility as we move into the autumn as to the timeframe for doing this.

I very much welcome the report of the Oireachtas Joint Committee on Justice, Defence and Equality. It is examining issues and travelling routes that have informed part of the strategic plan. On changing the rules for remission and when people might be released, I am deliberately waiting for the report of the review group which is not just composed of departmental officials but of others such as representatives of the Irish Penal Reform Trust. We have effected reforms in the Irish Prison Service, with the objectives the Deputy outlined – to reduce offending, assist prisoners when they are released to obtain employment and protect the public. To date, we have achieved more reforms in three years than occurred in the previous 30 years. It is my intention to continue along these lines. The head of the Irish Prison Service is excellent and provides huge support. The connectivity between the Irish Prison Service and the Probation Service on the joint strategic plan is unique. It has not occurred before and is substantially in the public interest. There is great advantage in having joined-up thinking in these areas and the level of connectivity now achieved.

Crime Prevention

8. **Deputy Bernard J. Durkan** asked the Minister for Justice and Equality the extent to which he and his Department continue to monitor criminal gangland activity with particular reference to homicides arising therefrom; the extent to which he and his Department continue to put in place the necessary measures to disrupt this activity; if an update of the bail laws is likely to become an instrument in this regard; and if he will make a statement on the matter. [5329/14]

Deputy Bernard J. Durkan: This question relates to the ongoing activity of criminal gangs, the degree to which homicides have occurred as a result of that activity, the extent to which reoffending has been observed as a feature of their activity and the extent to which action can be taken and continues to be taken to address the issue.

Deputy Alan Shatter: Serious crime is being tackled aggressively by An Garda Síochána, with all the necessary resources deployed to the investigation and prosecution of murders re-

5 February 2014

lated to the activities of criminal gangs. The organised criminal activity which gives rise to this violence is being targeted by An Garda Síochána across a number of fronts, including through the use of focused intelligence-led operations by specialist units such as the serious and organised crime unit and the work of the Criminal Assets Bureau.

While the challenges posed by gangland and organised crime remain clear to all, week in, week out An Garda Síochána is making arrests and bringing persons before the courts, with substantial sentences handed down in many instances. The drug trade is also being tackled relentlessly, with drugs valued at €67 million being seized by the Garda in 2013, including seizures of cannabis plants with an approximate value of €20 million.

These law enforcement operations are underpinned by a comprehensive framework of criminal law measures which are being fully utilised by the Garda. I have, however, made it clear to the Commissioner that I will look positively at any legislative suggestion he may wish to make which would render our efforts even more effective. I also draw attention to the forthcoming legislation to provide for the establishment of a DNA database to assist An Garda Síochána in tackling crime. The intelligence generated will be invaluable to the Garda and will greatly assist in the investigation of a wide range of serious crimes, including homicides.

With regard to updating the bail laws, my Department has been engaged in work to consolidate and update bail law with a view to presenting a clear, accessible and modern statement of the law. In the context of the modernisation of the law, I will seek to restructure the law in order that it has a focus on the protection of the individual and the public. The intention is that the new proposals will provide better guidance for the courts on how such protection might be provided. I intend to bring proposals to the Government on the matter as soon as possible, having regard to other legislative priorities.

I draw the Deputy's attention to the most recent crime figures which show that total recorded crime was down by 7.1% in the 12 months to the end of September 2013. The figures underline the fact that those involved in criminal gangs and the drugs trade which funds their operations are being robustly opposed. The Commissioner and I are united in our determination that these efforts will be vigorously maintained.

Deputy Bernard J. Durkan: I further inquire whether, for example, it has been noted in the past two to three years the extent to which reoffending has been a feature of serious crime and also the extent to which individuals on bail have reoffended. Has the Garda Síochána made specific recommendations on how the issue might be tackled and whether it might be possible to deal with these issues in the short to medium term?

Deputy Alan Shatter: As the Deputy knows, there is a concern surrounding individuals on bail committing offences. That is the first issue. Where one is on bail and commits an offence, of itself that is a separate offence. In circumstances where this occurs and individuals are brought before the courts it is a matter for the Judiciary to decide whether sentences imposed are concurrent or consecutive. There is a perception among some of the criminal fraternity that when one is out on bail, one is on licence to commit any crime one wants because if one is subsequently arrested and brought before the courts, there is a reasonable possibility that one will receive a concurrent sentence, not a consecutive one. As the Deputy knows, the Judiciary is independent and individual judges need to make decisions where prosecutions take place and convictions result on what are the appropriate sentences to impose without being influenced by me, as Minister, the Government or Members of this House. That is an issue in the context of

people being out on bail pending the hearing of a criminal prosecution. We are looking at the bail laws to see the constitutional parameters within which we can best introduce any required reform.

Deputy Bernard J. Durkan: I thank the Minister for his comprehensive reply. I ask whether in a case of reoffending, on the appearance of a person before the court who has previously offended and obtained bail, it should be possible to prevent bail being granted subsequently? Otherwise, it defeats the purpose of the exercise.

Deputy Alan Shatter: There are certain constitutional and human rights parameters within which the Government and the Legislature have to operate. We are looking at the legislation and how best to approach it. In the case of repeat offenders, of an individual who, for example, has been convicted a number of times, served a sentence, paid a fine or done community service and then offends again, following a conviction, when it comes to a court considering the appropriate penalty to impose and whether it should involve imprisonment or a lesser penalty, evidence is given to it of previous convictions. The fact that someone has previous convictions is one of the factors to be considered by the judge who has to determine what penalty should be imposed. It is not simply a question of whether there is a previous conviction but also the seriousness of the offence committed which resulted in the conviction. Ultimately, as the Deputy knows, the courts are independent in this area. We can provide some guidance through legislation, but when it comes to disposing of an individual case and making a decision on a penalty to impose, it is ultimately a matter for judicial discretion.

Foreign Conflicts

9. **Deputy Brendan Smith** asked the Minister for Justice and Equality if his attention has been drawn to the number of persons who have travelled from Ireland to fight in the Syrian civil war; and if he will make a statement on the matter. [1506/14]

Deputy Brendan Smith: This question refers to the greatest humanitarian crisis of modern times. Up to 2.3 million Syrian people are refugees in neighbouring countries, half of whom are children. Up to 6.5 million people have been displaced internally with upwards of 130,000 murdered. Foreign fighters began arriving in earnest in Syria in early 2012, a year after peaceful protests against the al-Assad regime were violently suppressed and an armed revolt then ensued. Up to 11,000 fighters from more than 70 nations have joined the struggle in Syria against the president, Mr. al-Assad.

An Ceann Comhairle: Thank you, Deputy.

Deputy Brendan Smith: Has the issue of Europeans taking part in this conflict been discussed at the Justice and Home Affairs Council?

(Deputy Alan Shatter): What is happening in Syria is a humanitarian disaster and tragedy of epic proportions. It is unfortunate that the recent talks did not produce any successful outcome or indicator that this conflict might come to an end. Upheaval and conflict in Syria has witnessed the phenomenon of individuals travelling from Europe to the fighting. The motives for individuals travelling to Syria vary from humanitarian to a willingness to participate in the conflict. Sadly, it seems a number of Irish residents have travelled to Syria to take part in the fighting. Tragically, a number of them have lost their lives there.

5 February 2014

With possibly up to 2,000 foreign fighters in Syria, the involvement of European citizens is unprecedented in comparison to other recent conflicts. There is also increasingly emerging evidence that rather than helping the situation, these individuals are merely adding to the chaos and confusion. Many of them no longer know who they are fighting or who is commanding them. Unfortunately, some are being exploited by more malign elements with wider fundamentalist agendas than the Syrian conflict. Among the groups participating in the civil war in Syria are al-Qaeda and groups who are or have been al-Qaeda affiliates.

As I have previously indicated, this is an issue of concern to the majority of European states and one to which I gave priority during the Irish Presidency of the Council of the European Union. In that connection, Ireland was successful in gaining the agreement of the member states to carry out a review of the EU strategy for countering radicalisation and recruitment to terrorism. Work is ongoing on this matter at various levels in the EU. One of the aspects to be addressed in the review is that of how best to manage the foreign-fighter phenomenon. In addition, Ireland is also a member of a small group of like-minded member states set up during the Irish Presidency to develop a response to this issue. I have met with my EU ministerial colleagues in this regard.

It is widely accepted that a key element in addressing this problem is a programme of proactive engagement with the communities most affected. This is with a view to persuading those inclined to travel that there may be more beneficial and positive ways of contributing to a resolution of the conflict than taking up arms. The Garda racial, intercultural and diversity office is in contact with many of our minority communities through its network of ethnic liaison officers and is there to discuss all matters of concern to these communities, including those related to the conflicts in the Middle East. An Garda Síochána is also a member of the EU's radicalisation awareness network which was set up by the European Commission to develop responses and best practices in the field of radicalisation, including the foreign-fighter dimension. This work is continuing.

From a security perspective, an Garda Síochána will continue to monitor developments in this area and take action as required.

Deputy Brendan Smith: I thank the Minister for his detailed reply. The number of individuals from western Europe who have travelled to participate in the conflict in Syria has trebled to almost 2,000. According to a study by King's College, London, this figure includes up to 366 from Britain. Have we an estimate of how many Irish people have travelled to Syria to participate in the conflict?

Deputy Alan Shatter: Across Europe there are various estimates as to the numbers from different EU member states who have travelled to participate in this conflict. We estimate between 25 and 30 Irish residents have travelled there for that purpose. Some have lost their lives in this conflict.

A whole range of particular issues arise for this State and the EU member states. It is a matter of great concern across Europe as to when individuals who participated in the conflict under the flag of fundamentalist and extreme organisations return to the European Union. Having been radicalised by those with whom they are engaged, they may pose certain threats within member states. Some were already radicalised before they travelled to participate in the conflict.

This is not a simple issue. Wearing my two hats as the Minister for Justice and Equality and Minister for Defence, we are carefully monitoring this situation as there are important security issues of relevance to this State, as well as to the broader European Union.

Written Answers follow Adjournment.

Topical Issue Matters

An Ceann 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 Michael Healy-Rae - the restoration of the free telephone allowance to all old age pensioners living alone; (2) Deputy Lucinda Creighton - the need to reassure expectant mothers on foot of the RTE “Prime Time” report on Midland Regional Hospital, Portlaoise; (3) Deputy Derek Keating - the serious national issue of neknomination and the uncontrolled practice on Facebook of young people putting their own lives and those of others at risk; (4) Deputy Catherine Murphy - the access crisis in secondary education in the north Kildare area which has emerged from a serious deficit in provision of primary and secondary places at Gaelscoileanna in 2014 and how it is intended to manage this problem in the medium to long term; (5) Deputy Charles Flanagan - the issues to be addressed following the deaths of four babies at the maternity unit, regional hospital, Portlaoise; (6) Deputy John Lyons - RTE’s reported compensation to Iona Institute and others; (7) Deputy Brian Stanley - maternity services and staffing at Portlaoise hospital; (8) Deputy Éamon Ó Cuív - the need for the Government to take urgent action on the damage caused by recent storms, particularly regarding the cumulative effect of these storms over the past two months; (9) Deputy Peadar Tóibín - to ask the Minister to raise the cap on rent allowance in light of increasing rents throughout certain parts of the country; (10) Deputy Sean Fleming - the deaths of four babies at the Midland Regional Hospital, Portlaoise; (11) Deputy John Halligan - recent storm damage and the continuing effects; (12) Deputy Michelle Mulherin - the need for the Minister for Finance and other relevant Departments to ensure there is an appraisal of all homes and property throughout the country which have been damaged by floods and storms and, thereafter, that appropriate State assistance be provided in the short term and preventive measures be pursued for the longer term and in the case of agricultural lands that farmers receive some grant aid for land reclamation and protection to be administered and overseen by Department of Agriculture, Food and the Marine in conjunction with the Office of Public Works, local authorities and the National Parks and Wildlife Service; (13) Deputy John Browne - the need to provide funding to repair Courtown Harbour pier following recent storm damage; (14) Deputy Dan Neville - the increasing risk of Lyme disease here; (15) Deputy Denis Naughten - the need to reassure expectant mothers on foot of the RTE “Prime Time” report on the Midland Regional Hospital, Portlaoise; (16) Deputy Billy Timmins - to ask the Minister for Health if any difficulties similar to those identified at the maternity unit at Portlaoise hospital have been brought to his attention or exist at any other maternity unit or hospital; and if he will make a statement on the matter; (17) Deputy Michael McCarthy - the position regarding the claw-back of single farm payments and the ongoing land parcel review; (18) Deputy Pat Deering - the lack of health services in Carlow and, in particular, radiography and paediatric physiotherapy services; (19) Deputy Clare Daly - the use of unsupervised isolation rooms for children with autism in primary schools; (20) Deputy Seán Ó Feargháil - the ending of community welfare clinics in rural areas; (21) Deputy Mick Wallace - the use of unsupervised isolation rooms for children with autism in primary schools; (22) Deputy Billy Kelleher - the need to ensure any new GP contract does not restrict doctors from bringing issues of concern to public attention; (23) Deputy Niall Collins - the recent surge in bankruptcy applications and its implications for

5 February 2014

the personal insolvency regime; (24) Deputy Richard Boyd Barrett - RTE and compensation paid to the Iona Institute; and (25) Deputy Michael Moynihan - the measures required to tackle the abuse of social network sites which endanger our young people.

The matters raised by the Deputies Lucinda Creighton; Charles Flanagan, Brian Stanley, Sean Fleming, Denis Naughten and Billy Timmins; Dan Neville; and John Browne have been selected for discussion.

Protected Disclosures Bill 2013 [Seanad]: Second Stage (Resumed)

Question again proposed: "That the Bill be now read a Second Time."

Deputy Thomas Pringle: There is some confusion about sharing time. I am sharing time with Deputies Ross, Clare Daly and Wallace.

The identity of a whistleblower should be presumed to be protected rather than having a provision that they must indicate they want their identity protected.

I welcome the Minister's intention to bring forward an amendment to deal with interim relief for whistleblowers. This has been raised as a concern at the Oireachtas committee and by the Irish Congress of Trade Unions. The Minister has outlined that no new systems or structures will be put in place to oversee this legislation, thereby limiting any potential costs arising from it. That is a retrograde step. An amendment was put forward in the Seanad by Senator Zappone to provide for the Standards in Public Office Commission to receive information from the Government on the operation of the legislation. The Minister should give this proposal further consideration. Legislation such as this should not be implemented and then left for five years before it will be reviewed. In particular, there should be ongoing reviews to ascertain how public bodies are implementing legislation and facilitating whistleblowing within their organisations.

The final point I wish to make pertains to the definition of "worker" contained in the Bill. There is some concern that it may exclude many categories of contractor, including external auditors, accountants and professional advisers. This definition should be reconsidered by the Minister to ensure it is as wide as possible. Concern has also been expressed about voluntary workers. As all Members are aware, many charities rely on voluntary workers who should be covered on this basis to provide for disclosures if they arise in their particular situation. In addition, on foot of the increased use of internships within both private and public organisations, in order to prevent employers from designating such persons as volunteers and thereby placing them outside the scope of the legislation, the Bill should be amended to provide that persons in internships or who are working for no pay within an organisation are protected under this legislation.

This legislation can lead to a change in culture within organisations across the State, which would be very welcome. I hope this will be the main outcome of the legislation but protections will then be in place for those who must make disclosures and that constitutes a welcome step.

An Leas-Cheann Comhairle: I call Deputy Shane Ross who will be followed by Deputies Mick Wallace and Clare Daly.

Deputy Shane Ross: Is my understanding correct that we each have seven minutes?

An Leas-Cheann Comhairle: Yes.

Deputy Shane Ross: In principle, I welcome the Bill, in that it certainly is an attempt to address a long-standing problem for many years. The Government has made an effort to fulfil a commitment it made. It has been many years since a man by the name of Eugene McErlean came to my office in Leinster House when I was a Senator. He had been a whistleblower in AIB, although I believe he does not like to be called that, and, rightly, was unhappy about the treatment he had received during the years. He had lost his job and been obliged to sign a confidentiality agreement that muzzled him forever on the subject of his whistleblowing. I believe he thought it was time that some of the problems he had identified were brought out into the open. I was keen to do this because there had been a wall of silence from the Central Bank and AIB, which was central to the problem he had addressed at the time. It was very difficult to do very much at the time and very hard to get him in front of an Oireachtas committee. In that context, I pay tribute to Deputy Fergus O'Dowd who at the time was in opposition, as well as to Deputy Michael Moynihan, whose party was in government at the time and who was Chairman of an Oireachtas joint committee of which I was a member and who eventually managed to bring Mr. McErlean before that committee. They did so in the face of huge pressure, not just from the banks but also, to its shame, from people whom I will not name in the regulatory authority. Eventually, the chief executive of AIB made an apology of a sort to Mr. McErlean in front of an Oireachtas committee, which was many years overdue. However, it still took a long time for this problem to be addressed by any Government.

The problem was touched on by Deputy Thomas Pringle, when he stated there was a need for a change in culture. The Bill is good in many ways, although it is incomplete and I disagree with some of its clauses. However, the problem is that it is no good having in place such legislation unless it is actually welcomed and worked by the institutions. I can discern no change in the institutional attitude, particularly among the banks and the Central Bank, to whistleblowers. They will live with the Bill, but my guess is that they will try to bypass it. The culture within these bodies is anti-whistleblower and antagonistic to whistleblowers. There was one mysterious case of a Central Bank whistleblower who blew the gaff in the last stress tests. When one approaches the Central Bank - I note the previous Deputy Governor of the Central Bank was asked about this matter in one of the Oireachtas committees - its officials are very unhelpful in revealing anything that happened at that time. However, it is known there was a whistleblower and that, ultimately, that whistleblower did not go ahead. However, the circumstances surrounding the case were mysterious to say the least, were highly disturbing and remain so. While it is a mystery that has yet to be solved, there are people who still are determined to solve it.

As for the Bill, given the time constraints, I will only address one aspect of it, namely, what are called the special cases and the issue of the Garda. The Bill is not satisfactory in respect of the Garda and whistleblowers within the force. In section 19 which addresses the issue of the Garda it is proposed to amend the Garda Síochána Act 2005 by adding a clause that in the case of whistleblowers emerging within the Garda, will give the Minister the power to set regulations after consultation with the Garda Commissioner, the Garda Síochána Ombudsman Commission and the Inspectorate, with the approval of the Government. I do not believe this is satisfactory because within the past week there has been a case of a whistleblower within the Garda and the regulations would not sort out the problem that arose in that case. The regulations would cement the problem because the last person who should have been consulted about the man who appeared before the Committee of Public Accounts last week was the Commissioner. Moreover, I am unsure whether the Inspectorate should be consulted either. It was quite obvious last week that what happened then could happen again.

5 February 2014

Last week, when a whistleblower sought to appear before the Committee of Public Accounts, the Commissioner threatened to take the committee to court and then started mouthing about subordinates usurping his authority. This is neither a friendly nor a warm climate into which a whistleblower is likely to enter. Moreover, the remarks of the Garda Commissioner were fascinating. The Commissioner who had the right to a public hearing which the whistleblower did not asked whether it was not extraordinary that of the 13,000 members of the Garda, only two were whistleblowers. He was absolutely 100% right. He was saying this was because there was nothing about which to complain, whereas the truth, of course, is that they felt they would not get anywhere, that they felt intimidated and that their jobs might be under threat and, consequently, they did not go ahead. If my interpretation of the Bill is correct, it appears as though the same or a similar system will be in place after the legislation is put into effect. This is not satisfactory and there will be a repeat of what happened last week. The last whistleblower who incidentally turned out to be an outstanding witness had tried that system of going to the confidential recipient and found it to be completely unsatisfactory. When he came to the Dáil, he found that he was obstructed at every single turn.

Deputy Mick Wallace: I welcome the long-awaited Government action in eventually bringing forward this legislation. I note it was promised in the programme for Government in 2011 and, when published last summer, was to be enacted by the autumn. However, I submit there is much work to be done on it before it can provide a robust and comprehensive form of protection for whistleblowers, one that will inspire sufficient confidence in the system to encourage more to come forward.

I echo the call of the Irish Human Rights Commission for simplification of the Bill and the requirements placed on a whistleblower. I share its concern about the different standards of belief and different procedures required to be followed on the part of a whistleblower, depending on whether he or she is reporting the information to his or her employer, a designated agency, a Minister or the public. This may not meet the stated policy aim, to provide a single and pan-sectoral simple form of statutory protection for all whistleblowers.

The Minister has made much of the fact that section 14 protects whistleblowers by providing for civil immunity from actions for damages and a qualified privilege defence under defamation law. However, it is likely that there is already this protection under section 18 of the Defamation Act 2009 which provides that the defence of qualified privilege applies so long as the whistleblower has a duty or interest in providing this information for a person who has a duty or interest in receiving it.

11 o'clock

We are all very well aware of the story of John Wilson and Maurice McCabe, the two whistleblowers who exposed the penalty points malpractice. Given that we are discussing whistleblowers and improving matters, I ask that Maurice McCabe immediately be given independent access to the PULSE system. Maurice McCabe and John Wilson have put so much on the line. It is almost two years since they first went to the confidential recipient. The manner in which this Government has dealt with this is frightening and puts a question mark over the credibility of this Labour-Fine Gael Government. The competence and credibility of the Minister and the Garda Commissioner are in question.

When the same Minister spoke on "Prime Time" about my incident, not one Member of the Government had a word of criticism about what he did. I heard the Minister being very

economical with the truth last week on RTE saying the Standards in Public Office Commission, SIPO had cleared him of all wrongdoing. That is not true. SIPO said it did not have the remit to deal with my complaint. SIPO is toothless and lacks the appetite to challenge the Minister. Is there any point in having SIPO if this is how it carries on?

Whistleblowers are rare for many reasons, and will become rarer, given how this State treats them. A while back we were given a transcript of a conversation two years ago between Maurice McCabe and the confidential recipient. It is frightening. It includes the following: “I’ll tell you something Maurice, and this is just personal advice to you, if Shatter thinks you’re screwing him, you’re finished.” Here is another line: “If Shatter thinks, here’s this guy again trying another route trying to put pressure, he’ll go after you.” Our Minister for Justice and Equality will “go after you”. What is going on?

This Minister has referred the matter to the Garda Síochána Ombudsman Commission, GSOC, in a limited form under section 102. He still refuses to apply section 106, which would investigate practices, policies and procedures of how the Garda Síochána operates. He can pass a new whistleblower Bill but it is pointless unless he applies it. Building regulations in this country are powerful. The reason so many buildings were built wrong is not because we did not have building regulations but because we did not apply them and supervise building, and the State did not spend money inspecting them. It was not that the regulations were not there.

The same applies to the whistleblowers. The Government can introduce all the laws it likes about whistleblowers, but if the Minister for Justice and Equality is going to spend two years diminishing and dismissing complaints and allegations made by whistleblowers, what will come of the new Bill? What will it be to us? The Minister was in here this morning and I tried to raise several points, but time was scarce. However, I told the Minister if this were Britain, he would not be in office. He would have been long gone. If this were Britain, the Garda Commissioner would not be in office. He would be long gone. The Minister, having presided over the penalty points fiasco for the best part of two years, has proven that he is unfit for office.

Deputy Clare Daly: The other Deputies have hit the nail on the head regarding this legislation. We have an attempt to put some protection on paper, with which most right-thinking citizens would agree. However we must ask ourselves how effective that will be when we have a problem with the culture in our society and a tone set by those on the top. It is interesting to look at previous Dáil debates about other whistleblowing protections that have been there, for example the reports on the discussions after the Morris tribunal. At that time we were promised gold-plated systems of accountability and protection and a means of breaking down the blue wall of silence in this instance regarding the Garda Síochána. The promised protections never happened and we need to critically examine this.

It is very difficult for somebody to report wrongdoing. The position of whistleblower is an incredibly vulnerable one, not least because of the cultural attitude towards grasses. Nobody wants to be a rat or report something they should not. It is ingrained in us from an early age. Protection already exists in law. It is a criminal offence to retaliate against whistleblowers under section 21 of the Criminal Justice Act. However there is no protection in reality. It might be there on paper but not on the ground. We need to examine this. For example, a constituent of mine who did the accounts for a voluntary housing body in this State took seriously his responsibility to report wrongdoing in terms of tax returns and signatures being forged on cheques. That man, with a young family, is out of a job while that voluntary housing body continues to receive funding from the State.

There is a lot of talk in this Bill about protections for workers from unfair dismissal and so on but constructive dismissal needs to be examined. In many organisations a whistleblower's stay becomes untenable. It is untenable if those against whom a whistleblower is reporting stay in their positions. The legislation is incomplete because on the one hand we talk about protecting whistleblowers, which is good, but one of the best ways to protect them is to increase the penalties on those who have done them wrong. That is not examined seriously enough.

Mark Harrold, who blew the whistle on the Leas Cross scandal, originally reporting the treatment of a patient who had died in that nursing home. He tried to deal with it internally. He went to the Minister for Health of the day. Eventually the case was investigated but this man had to leave. He fought a case which cost him €75,000 in the Employment Appeals Tribunal and never got justice although he highlighted that wrong very effectively. We could spend much time reiterating many examples in different areas.

Why should we believe this Bill will change anything when we see what happened to the two most prominent whistleblowers who have operated in this State over the past period, the two gardaí at the centre of the penalty points controversy? One of them is out of a job. He did not want to be out of a job. He is a young man with 30 years' service in a force that he loved but he could not continue to operate in it. The other man, as Deputy Wallace said, is being denied the ability to do his job properly because he is denied the right to access PULSE, as if he is some form of contaminant when he should be rewarded for the courageous stand he made. The confidential recipient system, which we were told was going to deal with everything after the Morris tribunal, does not work. We had the ridiculous spectacle this morning of the Minister for Justice and Equality admitting this. He is the man who denied this for so long, but now when it is standing up in neon lights, he acknowledges it, as if it is something he himself has discovered. He is the same man who bragged about giving the Garda Síochána Ombudsman Commission, GSOC, access to the PULSE records this morning and that he is going to deal with that now. Six months ago, when the GSOC asked for access, he refused to include that in the protocols. There are huge difficulties here with this type of mentality and operation.

Deputy Wallace dealt with the issue of when the whistleblower first went to the confidential recipient and the response he got. We know the confidential recipient went to the Minister, Deputy Shatter, in May 2014 and reported to the Garda whistleblower that he got no feedback from the Minister. The confidential recipient said he had discussed the case. He said: "I have done my best for you Maurice; I haven't heard anything back." After a certain period of time he stopped contacting the Minister in that regard. It was only in desperation, after going through every official channel that the garda came to Members of the Oireachtas, as he is lawfully entitled to do. He came to us with the information, which we got onto the Dáil record and then "Prime Time" ran with the story.

Let us look at what happened the day after "Prime Time" was broadcast. A confidential Garda circular, signed by the Assistant Commissioner, was sent out to all of the Garda stations around the country, effectively warning gardaí. It stated: "In order to protect the reputation of An Garda Síochána, individual inquiries conducted by Garda personnel on PULSE will be audited." Then, underlined on the back it stated: "Inappropriate release of data in the possession of An Garda Síochána to external agencies is prohibited. Release of this information to any source external to An Garda Síochána will be fully investigated and processed and the criminal aspects of inappropriate disclosure will be fully investigated." This was a warning to these men to back off and shut up.

After the internal report came out, the Minister for Justice and Equality made a public press statement which did disclose wrongdoing, but minimised it. He was talking about whistleblowers and how, while they could not have everything right, the substance should be right. He said: “However, even allowing that latitude in this case, it is a matter of concern that the allegations made by this Garda whistleblower were in many instances seriously inaccurate and without any foundation in fact, or else involved an incomplete understanding of the facts.” He repeated that in this House on 21 May, in response to the allegations in regard to his disclosure on “Prime Time” about Deputy Wallace, when he talked about us denigrating An Garda Síochána, undermining public confidence, damaging their reputation and saying that we rejected the conclusions contained in the report which, to any fair-minded individual, revealed that some of the most serious allegations made by the whistleblower had no basis in reality.

The Minister for Justice and Equality has repeated in this House, at every turn, that the whistleblower’s evidence did not stack up. When we have the man at the top setting that tone, with the Commissioner - whom he appointed and the remit of whose office was extended beyond what any other Commissioner got before, at the behest of this Minister - in league together and unaccountable to this House in any real sense, how can we have a system where people inside An Garda Síochána can speak up? I am sorry to say that nothing in the proposed Bill will protect future whistleblowers from that scenario.

An Leas-Cheann Comhairle: The next speaking slot is shared by Deputies Damien English, Seán Kyne, Áine Collins and Paul Connaughton.

Deputy Damien English: I welcome the Protected Disclosures Bill 2013 and commend the Minister for Public Expenditure and Reform, Deputy Howlin, on including this whistleblower legislation in the programme for Government. It is positive and much needed legislation which aims to bring into effect a single charter or framework of protections for workers in both the public and private sectors. This must be welcomed strongly.

The timing of this Bill is topical in terms of what has been reported in the media over recent weeks and months. However, the issues are probably older and wider than what has been alleged in the Committee of Public Accounts of late. The final report of the Mahon tribunal and the Nyberg banking report highlight the need for this legislation. Reports yesterday that corruption costs the European Union economy as much as the EU budget itself also demonstrate the need for action and urgency on this matter. No one can argue but that the public interest, the public purse and the rule of law must govern all the dealings of the public and private sector. The role of whistleblowers in guaranteeing this must be recognised and protected. However, measures to protect the public must also protect people and bodies from false or malicious claims and it is imperative this important balance will be struck in this legislation.

Employers I meet, particularly those in the SME sector, commend the Government for creating a sustainable pro-enterprise and pro-jobs culture in this country over the past three years, a fact recognised internationally by *Forbes* magazine. Much needed reforms must strike a balance and not set this back. We must be careful this legislation keeps that balance right. As Chairman of the Joint Oireachtas Committee on Jobs, Enterprise and Innovation, I would like to outline to the Minister and the House some of the legitimate concerns of the SME business sector regarding this legislation that have been brought to our attention.

The divergence in the treatment of whistleblowers, in terms of awards and compensation, reliefs etc. arising out of their actions, from the norms of employment law have been questioned

by some businesses. I call on the Minister to take the opportunity when responding on this debate and on Committee Stage to provide more detail in this area and to explain the rationale behind this. I understand some of this, but there have been questions with regard to how, for example, interim relief will work. We accept it should be there to provide for exceptional circumstances, but should it become the norm? The IBEC submission of October 2013 highlighted this. It also has concerns with the compensation of 260 weeks, which is a 250% increase on the standard maximum amount a rights commissioner or Labour Court can award.

It is feared this new level, which is meant to be a ceiling, will become a target. It certainly gives more power to the rights commissioner or the Labour Court. It is a significant settlement and while it might be needed in some cases to encourage whistleblowing, if it becomes the norm or a factor in every settlement, it will be difficult for businesses to survive. As IBEC has outlined, the issue is it creates a potential for the needless closure of businesses and the loss of jobs to people with direct involvement or responsibility for the matters at issue. It is about getting a balance. The Minister has talked about taking a stepped approach to the issue. I am sure he is in favour of this proposal, but there is a fear that the new ceiling will become a target.

The IBEC submission also highlights the issue that interim relief for protected disclosures in the legislation diverges from the current measures in place, which leaves it at the discretion of a judge in exceptional cases. I ask the Minister to provide an explanation for this provision to employers and for us to tease the issue out further on Committee Stage so that we can bring everybody on board and clarify the reasons for it. We all recognise that there are exceptional cases.

I believe there is room for the public interest provisions of the Bill to be strengthened. There is a real fear among employers that businesses are not adequately protected against false or malicious claims. I read in the media reports on yesterday's debate that a good business which acts properly has nothing to fear. This is only right. Likewise, an employee who knowingly makes false or malicious claims should have something to fear. These people should have cause to fear this legislation. The Minister has clarified what will happen if a person knowingly or maliciously makes a claim, but that provision in the Bill is not strong enough. I am not convinced there is enough fear being invoked to stop somebody from wrongly using the legislation or from abusing the legislation. We want the Bill to work in the public interest. Also, if a legitimate business is doing everything right, it should not be affected. I understand we need a balance. We must encourage people to come forward, but we must get the balance right. If there are no measures in the Bill that will prevent malicious behaviour from the outset, there will be cause for a more defined avenue for businesses to pursue and discipline individuals and recover costs from them.

I believe that when the best international practice is introduced to protect individuals who, in the public interest, disclose information, the best international practice is also introduced to protect businesses from malicious activity by individuals. Such provisions would be in the public interest. The Bill is, as the Minister says, a significant step forward in the framework of existing protections for workers, which will ensure Ireland's international reputation in preventing corruption is significantly enhanced.

Mention was made earlier of the need to change our culture. There is a difficulty with the culture that exists throughout the public and private sector in terms of sharing information and speaking one's mind. When I worked with the health board during my days in college, in the late 1990s, people were afraid to speak out or give their view. They did their jobs in silence.

This attitude seems to exist throughout the public service. I have spoken previously about the fear throughout the public service that speaking one's mind might affect one's chances of promotion. We need to move away from this, hear people's thoughts and tease out matters. We should have a proper framework to enable people to say what they think. I accept the rules and regulations about speaking to the media, but people should be able to speak their mind freely within their organisation or to Deputies, raise concerns and make suggestions. The legislation establishing the HSE states the CEO cannot question Government policy. This is mad and where the problem starts. We should encourage the questioning of policy.

Deputy Seán Kyne: This is an important Bill and I am delighted to see it before the Dáil. I commend the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, and his officials. The publication of whistleblower legislation is a clear commitment in the programme for Government. In 2012 the Mahon tribunal's report strongly recommended strengthening protection for whistleblowers. Internationally, protection of whistleblowers is seen as central in the struggle against corruption. In the United Kingdom, our nearest neighbour, legislation was enacted in 1998, while legislation was enacted in New Zealand in 2001. While the Bill is welcome, it is long overdue.

The aim of the legislation is to protect workers from reprisals were they to report wrongdoing and its application will be in the public and private sectors. The Minister had a number of options and I am delighted that he chose to encompass both sectors. A whistleblower will be covered under the legislation from the first day of work. We are not in the business of creating new quangos but cutting costs and it is right that the Rights Commissioner will be the first port of call in making a complaint, with a right of appeal to the Labour Court.

A definition of a whistleblower is a person who discloses an activity which he or she believes to be illegal, immoral or unethical and can include items such as danger in the workplace, price-fixing, negligence and bribery. In the past decade in the United Kingdom the top five areas of concern as reported have been financial malpractice, work safety issues, public safety, including patient safety, the abuse of children or adults and ethical issues such as nepotism and conflicts of interest. This country has a disgraceful history in terms of child abuse and it is right and proper that the legislation will allow easier and safer disclosure of issues which may arise with children, vulnerable adults and the elderly community. Examples have been provided by other Deputies and it is a positive move.

Last year I raised a Topical Issue regarding a complaint made to me by a constituent who would have benefited from this legislation were in place at the time. The person who approached me had lost his job at a health facility merely because he had raised concerns that proper and safe procedures were not being followed in the disposal of hazardous radioactive medical waste. At the core of this issue was the safety of patients, workers and the public. The individual lost his job, as did many of his associates and friends at the facility, because he had chosen to raise questions and speak out and send e-mails indicating that proper procedures were not being followed. He received a redundancy payment, but he went through a very difficult period, as did others.

The legislation refers to retrospective effect. Where an individual has moved to another job, will he or she be entitled to avail of the compensation mechanism? Is it possible for someone to make protected disclosures about a previous job? Is it possible for my constituent who is now in a new job to make protected disclosures about safety concerns in his previous employment, the measures not taken and procedures not followed? Perhaps the Minister might clarify this.

I welcome the Bill which will change the Unfair Dismissals Act to cover those who make protected disclosures. It will also deal with the issue of compensation and prohibit the penalisation of whistleblowers by measures such as suspension, unfair treatment and blacklisting, whereby someone's name is mud, whether in the banking sector or the health care sector, as in the case I discussed. This is an issue of grave concern. I commend the Minister and his officials for bringing forward the legislation.

Deputy Áine Collins: I compliment the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, for bringing the Bill to the House. It is long overdue, as a culture of secrecy and, at times, false loyalty has cost the State dearly. Much of what went on in this culture has only come to light in recent years. We have had one wave after another of scandal or wrongdoing, from revelations of child abuse to bad practice in financial circles, the health care sector, the education sector and many others.

Not identifying wrongdoing leads to a huge financial cost for the taxpayer and society generally. In recent years we have had tribunal after tribunal which eventually exposed scandals of one sort or another. This has led to huge compensation claims which must be paid by this and future generations of taxpayers, not to mention the cost of the tribunals. New issues from the past emerge on a continuous basis. The recent decision of the European Court of Human Rights highlights other injustices from the past that we have failed to deal with.

There have been so many revelations that we wonder how did we not find this out before and why no one said anything. We have had a culture of keeping quiet, saying nothing and not rocking the boat. Being an informant was always seen as bad, but this culture is changing and must continue to do so. There is a growing demand that people who know about wrongdoing should report it and not be afraid to come forward. The Bill aims to provide for this by offering protection to all workers against penalisation in circumstances where they make a protected disclosure. It is an anti-corruption mechanism and a key ingredient in the promotion of a culture of public accountability and transparency, which we all welcome.

We must ensure balance in any new legislation. We need to ensure that not only is protection given to people who make a disclosure but that employers are also protected from unreasonable, unfair or unlawful disclosures. The Bill outlines the protected disclosure must be of relevant information and made in the reasonable belief of the worker. It must also tend to show one or more relevant acts of wrongdoing. It must also have come to the attention of the worker in connection with his or her employment. It should be in the public interest, as opposed to a personal grievance. We already have much employment law to cover such grievances.

There is no motivational requirement test in the Bill which may be of concern to some employers, especially in the SME sector which accounts for 80% of jobs. We must be mindful of the burden on these employers. We must also be conscious of protecting employers from ill-informed, spurious or malicious disclosures. No one wishes to see the livelihood of a business and its staff threatened by someone making a disclosure with no reasonable basis in the first place or with another motivation behind the claim. Will the Minister and his team further examine the Bill to ensure the verification process of a reasonable disclosure is robust enough to protect the employee and employer and provide for open and honest transparency? Employers will have a responsibility to ensure they put in place a whistleblowing policy and they cannot ignore it.

We all welcome this measure. It will be another burden on businesses, but it will be a very

good practice that will result in a more open culture, which we will all welcome. I am sure it will encourage more innovative practices in employment also.

We have all seen cost of past wrongdoing - financially, physically and morally - to our society. We cannot allow such wrongdoing continue in the future. We must ensure that people believe it is safe to speak out in that regard. For that reason, I commend this Bill to the House.

Deputy Paul J. Connaughton: I welcome the opportunity to speak on this very important Bill. This is one of the most welcome legislative measures to come before the House during the lifetime of this Government. Every day we are seeing and reading about instances of systematic and endemic wrongdoing in organisations that was highlighted internally by employees, but only at great risk to their professional careers. In the past teachers, nurses, doctors, gardaí and social workers have spoken up at great risk to their careers because they believed their concerns in respect of the safety of individuals was being overlooked. To speak up and question the culture of one's own workplace takes great courage. That is the reason this Protected Disclosures Bill is vital to workers and former workers in public and private sectors.

Taking the medical profession as one example, a nurse or doctor who raises serious and significant concerns about aspects of the way a hospital or residential home is run could justifiably believe that if their employer acts in a vindictive manner, they could find themselves out of work in a time when employment is becoming increasingly difficult to source. Nurses, doctors and other hospital employees have made their concerns public in the past, but only at great personal cost. However, in doing so they helped highlight some dangerous and unjust situations that were subsequently rectified.

Such whistleblowing in the public interest must be encouraged as it will make for a fairer and more just Ireland. One only has to recall the culture of secrecy in past decades to determine that the "see no evil, hear no evil, speak no evil" approach has not stood us in good stead and has allowed dangerous or abusive situations to continue unchecked for years and decades. This Bill will not stop dangerous or abusive situations arising but will help ensure that they can be exposed as quickly as possible and that the person taking this courageous step does not have their career progress hampered.

I welcome the fact that deliberate false reporting is not protected. Other welcome provisions in the Bill include immunity from civil liability and protection of the whistleblower's identity. Internal procedures for protected disclosures will now have to be put in place, and I believe that any rational organisation will see the logic in having problems highlighted and addressed as soon as possible rather than allowing a problem, of which management may or may not be fully aware, to fester for years and decades.

Ongoing monitoring of new legislation is imperative, and the review of this legislation every five years by the Houses of the Oireachtas will allow Members determine if the legislation is having the desired effect. However, the Bill will only have the desired effect if employees are made aware of their rights under the Bill. Information campaigns and proper communication structures will be key to the effectiveness of the Bill.

Two years ago, the report of the Mahon tribunal recommended increased protection for whistleblowers. Prior to that, a similar recommendation was made by the Standards in Public Office Commission. The aim of this Bill is to ensure that higher standards pertain in Irish institutions, both public and private, and also to encourage trust in the workings of various institu-

tions.

The actions of whistleblowers have exposed low standards in places as diverse as planning departments, churches, schools, crèches, banks, hospital theatres and private companies. That must continue if low standards are to be exposed. The world's best and most resourced regulatory framework cannot achieve through inspection what can be achieved through the actions of whistleblowers.

To whom the disclosure should be made is a very important consideration, and I note that various sections of the Bill allow for disclosures to employers, prescribed persons, legal advisers, law enforcement or to a Minister of a Government. Disclosure of wrongdoing should only be made to a Minister if the worker is employed by a public body for which the Minister is responsible. Making the disclosure is simply the first step in this process, and we must ensure that the person or persons to whom the disclosure is made are fully aware of the steps they must take to deal properly with the disclosure, whether that person be a Minister, a trade union official or a solicitor.

There are steps available to make disclosures to Members of Dáil Éireann, but it is clear from the legislation that they are only intended for exceptional cases where disclosure has been made but has not been acted upon or other avenue available taken. Much greater clarity must be provided in this regard to ensure public representatives are not the first port of call for those intent on exposing wrongdoing but rather that the disclosures are made through the proper channels.

This Bill is long overdue but we can only hope its enactment will result in a more open and progressive culture within the State institutions in both public and private spheres.

An Leas-Cheann Comhairle: The next speaking slot is shared by Deputies Seán Kenny and Michael McNamara. Deputy Kenny has ten minutes.

Deputy Seán Kenny: The programme for Government makes a clear commitment to the introduction of whistleblower protection legislation. The Minister for Public Expenditure and Reform subsequently reiterated this commitment on a number of occasions in undertaking to introduce overarching legislation that would provide protection for workers in all sectors, and the legislation before us is the result. I very much welcome this legislation. Comprehensive legislation that protects those making disclosures is long overdue.

The term "whistleblower" is a convenient shorthand way of describing a person who discloses information regarding concerns about some form of wrongdoing or misconduct that comes to the attention of others either inside or outside their organisation.

The public generally becomes aware of an incident of whistleblowing when something has gone wrong, usually when the whistleblower has been dismissed or has been made to suffer in some way. When it appears that the whistleblower has been motivated by genuine and well-founded concerns, public opinion tends to support the whistleblower on the grounds that they have done a public duty. Unfortunately, however, the message that emerges from media reports of whistleblowing tends to be negative, namely, that those who put their heads above the parapet and speak out are liable to be penalised in some way.

The raising of genuinely held concerns about issues of public importance is to be encouraged, and it therefore follows that workers who wish to raise concerns about wrongdoing in

the workplace ought to be shielded from the retribution of some employers who would seek to suppress the disclosure of such information. Similarly, it is equally important in providing protection for workers that an appropriate balance is maintained that does not result in the unnecessary public disclosure of genuinely confidential information. In addition, it should not provide a mechanism for private employment-related grievances that are properly dealt with under existing, long-established and tested industrial relations mechanisms.

It is worth giving a brief history of whistleblowing legislation in Ireland which, in my view, shows how lacking it has been until now. The Whistleblowers Protection Bill was introduced in the Dáil as a Private Members' Bill by my Labour Party colleague and now Minister, Deputy Pat Rabbitte, in March 1999. In June 1999, the Government agreed to accept the Bill in principle on Second Stage, subject to amendments proposed following consultations with interested parties and following on the advice of the then Attorney General. The Bill passed Second Stage in the Dáil in June 1999 and was referred to the Dáil Select Committee on Enterprise and Small Business.

At its meeting in July 2001, the Government approved the redrafting and amending of the Whistleblowers Protection Bill 1999. The Government raised a number of detailed and complex amendments which, according to the advice of the Office of the Parliamentary Counsel, would require substantial redrafting. Further progress on redrafting the Bill was overtaken by the dissolution of the Dáil in April 2002 and the general election in May 2002. In June 2002 the new Government decided to restore the 1999 Bill to the Dáil Order Paper, and it became part of the Government legislative programme. On 2 November 2004, the then Taoiseach, Bertie Ahern, indicated to the Dáil that the Whistleblowers Protection Bill 1999 was no longer a Government priority.

The Government decided in March 2006 to address the issue of whistleblowing on a sectoral basis and to include, where appropriate, whistleblowing provisions in all future draft legislation. It also decided to remove the Whistleblowers Protection Bill 1999 from the Dáil Order Paper. The Whistleblowers Protection Bill 1999 was reintroduced as a Private Members' Bill in the Dáil in January 2010 as the Whistleblowers Protection Bill 2010, but fell on the dissolution of the 30th Dáil in February 2011.

The delaying of legislation and the subsequent watering down of what had been proposed was done, disgracefully, by Fianna Fáil during its long 14 years in government, and I am not surprised by that. Fianna Fáil has presided over a great deal of political corruption in this State since the time of Charles J. Haughey in particular, and it is not a surprise to me that it would not wish to bring in proper legislation. I can only hope that the Fianna Fáil Party of today is a different party.

On a related matter, I wish to raise again the matter of the final report of the Mahon tribunal. In Chapter 18, page 2,531, of the Mahon tribunal report the view was expressed that whistleblower protection plays an important role in the detection of corruption offences and that the protection offered to prospective whistleblowers should be as robust as possible. In particular, it recommends that protection be extended to protect independent contractors from penalties where they blow the whistle on a person to whom they are providing services and that limits on the amount of compensation which may be awarded to those penalised for whistleblowing be removed.

The final Mahon tribunal report pointed out that if top-down initiatives to combat corruption

were to be successful, they had to be mirrored by bottom-up demands coming from a public which was fully engaged in and committed to combating corruption. It noted that such “demands help to strengthen and reinforce political will to confront corruption. In addition, the willingness of the public to engage in anti-corruption efforts through whistleblowing as well as voicing concerns and demands is likely to greatly enhance attempts to uncover corruption when it occurs and to undo its effects”. The report also noted that there was no pan-sectoral protection for whistleblowers in Ireland. It further stated:

Protection for those who blow the whistle on corrupt transactions is an important element in ensuring their detection and sanctioning. Corruption is frequently an offence committed by wealthy and/or powerful members of the community and those reporting it may well fear the consequences of doing so for their own careers and employment prospects. Whistleblower protection may help alleviate those fears, thus facilitating the reporting of corruption offences.

It went on to urge the Government to reconsider its approach to whistleblower protection and bring in at the earliest opportunity a general law protecting all whistleblowers. It recommended that the existing whistleblower protections under the Prevention of Corruption (Amendment) Act 2010 be extended to protect independent contractors who reported suspicions of corruption from penalties and to remove the existing limit on the amount of compensation awarded.

I commend the Bill to the House. The legislation is overdue. As a Labour Party councillor who witnessed corruption at first hand in Dublin in the 1980s and 1990s, I am proud to support it as a Member of this House.

Deputy Michael McNamara: I join Deputy Seán Kenny in welcoming the Bill, although I do not agree with him that corruption in this State was confined to Fianna Fáil. Corruption is, unfortunately, part of human nature, particularly in Ireland, and to the extent that Fianna Fáil was corrupt, it reflected corruption in the body politic. A range of prominent international organisations have called for the introduction of whistleblower legislation, including the United Nations, Transparency International, the European Parliament and the G20. In Ireland we did not need international bodies to draw our attention to the need for such legislation, given our own difficult experiences. The Nyberg report on the banking crisis stated:

The very limited number of warning voices was largely ignored. Attempts by banking insiders during the period to send cautionary signals to market participants about escalating property values were dismissed as ill-informed and wrong. Doubters (the few that identified themselves as such to the Commission) in the main grew unsure over the years when nothing seemed to go wrong. It also appears that some stayed silent in part to avoid possible sanctions.

The Mahon tribunal’s report stated:

The Tribunal is also of the view that whistleblower protection plays an important role in the detection of corruption offences and that the protection offered to prospective whistleblowers should be as robust as possible. While those who blow the whistle on corruption are protected to a certain extent under the Prevention of Corruption Act 2010 and the Criminal Justice Act 2011, the Tribunal believes that this protection could be made more robust. In particular, it is recommending that protection be extended to protect independent contractors from penalization where they blow the whistle on a person to whom they are providing

services and that the limits on the amount of compensation which may be awarded to those penalized for whistleblowing be removed.

I am glad that Ireland is operating within the framework of the European Union and the Council of Europe with this Bill. I understand the Council is in the process of drafting recommendations at a committee of Ministers level which will apply to all 47 member states. I am glad that Ireland is pressing for robust protections in this context. This is something previous Governments failed to do and it is welcome that the Government is taking action on the issue. However, while I welcome the Bill, I have some concerns about the extent of its provisions. The issue of whistleblowers was discussed by the Parliamentary Assembly of the Council of Europe, following which a resolution and recommendations were passed in plenary session. The assembly recommended that the committee of Ministers develop recommendations, which it is now doing. The draft resolution stated whistleblower legislation should be comprehensive and cover relevant areas in law. It refers, in particular, to media law and the protection of journalists' sources. This is something that could be provided for to a greater extent in the Bill.

I am conscious that the relevant Minister is not in the Chamber. I will pause until the Minister of State at the Department of Arts, Heritage and the Gaeltacht, Deputy Dinny McGinley, is in a position to hear what I am saying because doing otherwise would defeat the purpose in being here.

Media law is an area which should be included in the Bill. I am struck by the limited recourse to the media available to whistleblowers under the Bill. If I am wrong, I would welcome a connection because it would allow me to support the legislation more wholeheartedly than I do. We do not want to create a situation where the media or Members of this House will be the first port of call for a concerned worker - it is welcome that "worker" is defined broadly and includes gardaí and members of the Defence Forces - but it is unreasonable to always expect him or her to begin by reporting internally. The Garda Síochána, for example, is a highly hierarchical organisation and one must assume that the command structure allows those at the top to be aware of what is being done in their name by those at the bottom. The reason Edward Snowden did not approach somebody inside the security services in the United States was he assumed - probably correctly - that he would have been silenced had he done so. Disclosures are allowed to Ministers and certain prescribed persons and there is provision to enable the whistleblower to report elsewhere if a prescribed person does not act or moves to destroy relevant information.

I draw the attention of the House to two sections of the Bill which refer to special cases. The section on law enforcement provides for the disclosure of relevant information other than that pertaining to defence, international relations or intelligence matters which might reasonably be expected to facilitate the commission of an offence or impair the enforcement or administration of, or compliance with, any law or legal proceeding. This provision is subjective and I would worry about whistleblowers faced with such a lack of concreteness. Should they take the risk that they might not be protected under the Bill? Even if they run that risk, if they decide they are going to take their chances, the disclosure is not a protected disclosure unless it complies with sections 6(1)(a), 7 or 9. Section 6(1)(a) relates to a disclosure to an employer, section 7 to a disclosure to a prescribed person and section 9 to a disclosure to a legal adviser. Does that mean the person can never make a disclosure to the media which will be protected?

Section 18 relates to security, defence, international relations and intelligence. I suppose there are many who wonder about the extent to which the Irish security apparatus has information which is really of international significance or affects international relations and intelli-

gence, but I would like to think that it does, particularly with regard to Shannon Airport. There has been much controversy of late with regard to the troops who are going through Shannon Airport. It has to be borne in mind that those troops who go through Shannon Airport are going in pursuit of sanctions, methods and goals which have been endorsed by the United Nations and are fully lawful. There is much discussion about this. I have met Reprieve, an international organisation based in London which does much work on the death penalty, but also on drones and rendition flights. Rendition flights are wholly at odds with international law, as are the operation of drones and unmanned warplanes which are used to kill civilians in the Middle East and central Asia, primarily in Afghanistan, Pakistan and Yemen. If these were to be going through Shannon, that would be highly unlawful and at odds with international law. If somebody was being rendered through Shannon, that would be abhorrent to international law and the law of the State, and yet if somebody were to obtain that information, he or she would have to make the disclosure in accordance with sections 6(1)(a), 8 or 9. A disclosure under section 6(1)(a) is to an employer. One would have to assume that the person's employer might do very little about it in the circumstances, particularly because of the gravity of the effect the disclosure would have. A disclosure under section 8 would be to the Minister. Ministers, we have been told, always accept blandly assurances from the American ambassador. A disclosure under section 9 would be to the person's legal adviser, by which time the person would possibly be prosecuted under some incredibly draconian legislation. While I welcome the legislation, its parameters could be broadened considerably to be a badly needed beacon for whistleblower legislation in Europe.

An Leas-Cheann Comhairle: The next speaking slot is shared by Deputies John Paul Phelan and Eoghan Murphy. I remind the Deputies that at noon we will take Leaders' Questions.

Deputy John Paul Phelan: I welcome the legislation and have been listening to most of the debate this morning.

It is a commitment in the programme for Government that we would introduce a piece of overarching whistleblowing legislation. A number of Bills have been introduced into the Oireachtas in my time that contain sections dealing with what are termed protected disclosures, and it is important that a single overarching piece of legislation is introduced in this area. I agree with Deputy McNamara that perhaps there are certain areas where it could be broader in terms of scope.

I was struck by what one or two of the Members stated about a mentality that exists in Ireland against what they termed as the informer. Perhaps from our history there is such a mentality but I do not believe that somebody who has a legitimate concern about an illegal act taking place in the organisation to which he or she belongs should be confused with somebody who is an informer. Somebody who has witnessed something which he or she believes to be inappropriate, to be wrong or to have a potentially negative impact on somebody else in that organisation or a member of the general public is in an entirely different category. We cannot ignore the fact that, historically, certainly in an Irish context, there is a general antipathy to those who would loosely be termed as informers. However, whistleblowers are an entirely different category of person.

Whistleblowers have not been legally protected over the years. Previous speakers have correctly gone through various instances, most notably with regard to the way we have treated the most vulnerable in society, particularly children, over generations, in which it would have to be said that a great many people should have had serious knowledge of abuses that were taking place and chose, perhaps for varying different reasons, not to act upon that knowledge. We

cannot ignore the fact that in some of those instances it may well have been because they did not feel they had the legal protection required to act upon it. That is why this legislation to be greatly welcomed.

The scope of the legislation is to ensure that a disclosure is protected where a criminal offence has occurred or is likely to occur; where a person has failed or is likely to fail in a legal obligation that he or she is due to carry out; where somebody suspects that a miscarriage of justice has occurred; where the health and safety of an individual may be at risk; where there may be potential damage caused to the environment; where unlawful, corrupt or irregular use of public funds may have taken place; and where, by an act or omission in the course of his or her duty, a public official may act in an oppressive or, as it has been interestingly termed, “improperly discriminatory” fashion - one would wonder what sort of discrimination is proper, but that is the legalistic term that is put on it. Those aspects of the legislation are to be welcomed.

The Labour Relations Commission is in the process of preparing a code of practice for workers and employers as to how this legislation might be enforced directly in the workplace. That is to be greatly welcomed and should be expedited as soon as possible.

I agree with Deputy McNamara that this legislation could be broader, but it is signally important that we are introducing overarching whistleblowing legislation to protect those who have legitimate concerns about how public money is spent and about how other citizens are treated by arms of the State or other organisations within the State, and that is why I wholeheartedly support it.

Deputy Eoghan Murphy: In the context of the Bill, I was not going to speak about the recent situation with the Garda whistleblower in the Committee of Public Accounts, PAC, but after listening to the debate yesterday and this morning, there is a particular point I want to make. Somebody said that if one had stayed inside the bubble of Leinster House one might have come to the conclusion that it was not correct for the Garda whistleblower to appear before the Committee of Public Accounts because the committee would be acting outside of its remit, but that if one ventured out into the wider world, talked to the public and heard that people in fact wanted the Garda whistleblower to appear before the PAC, the conclusion would be that the PAC took the correct action in calling the whistleblower in. I do not disagree with this negative reflection of the political bubble here in Leinster House, but it is not our job simply to always follow public opinion or media direction. Our job, in the Burkean sense of the reflection of the responsibility, is to use our own judgment; it is to lead. Public opinion is not always correct and does not always have the full facts on these matters. For example, when I spoke to people, I found they were not necessarily aware of the detailed report done by the Comptroller and Auditor General in August last on this matter, that he had met with a whistleblower, that following that meeting he had investigated the penalty points system in its entirety, and that he had looked at issues such as the fact that one in two company cars were not summonsed, 3,000 fixed charged notices were disallowed because they were statute barred and 2% of the system had fallen down because of an issue with notepads, and in all of this, in addition, there was a concern regarding the use of discretion in only 5% of the system.

Debate adjourned.

12 o'clock

Leaders' Questions

Deputy Micheál Martin: Our coastal regions, including towns and cities such as Galway, Limerick, Waterford, Wexford and Cork, as well as many others, have endured significant destruction, damage and disruption affecting people's daily lives. Trade and commerce have also been affected, along with farmlands, as a result of the storms and severe flooding of recent days and weeks.

I commend public service workers in the ESB, city and county councils and other public utilities who have been working extremely hard in difficult circumstances to assist citizens in coping with the consequences of such severe weather. It is clear that climate change is having an impact, with sea levels rising. The severe storms we have experienced are developing into a pattern of increasing frequency. Professor John Sweeney of NUI Maynooth is on record as saying that flooding is likely to get worse because of global warming. However, the Government's response is not urgent enough and flood prevention is not getting the level of priority it requires. There is no national co-ordination going on. What Minister is responsible? Is it the Minister of State with responsibility for the OPW, Deputy Brian Hayes, the Minister of State at the Department of the Environment, Community and Local Government, Deputy O'Sullivan, the Minister for Finance, Deputy Noonan, if it happens to concern Limerick, or the Minister for the Environment, Community and Local Government, Deputy Hogan?

Yesterday, the Minister of State, Deputy Brian Hayes, essentially put his hands up and said that the €250 million being provided over the next five years for flood relief work would probably not be enough. He went on to say we might have to tax 10% and so on to do what we want to do.

A Deputy: Scaremongering.

Deputy Micheál Martin: I think he is right.

An Ceann Comhairle: A question, please.

Deputy Micheál Martin: The sum of €250 million over the next five years is not enough. We know from successful flood prevention schemes in Clonmel, Mallow and Fermoy that they do work. Studies are still ongoing in Cork but I am reliably informed that it will be 2016 or 2017 before any flood prevention works commence. That illustrates a lack of urgency and prioritisation. Does the Taoiseach accept that the figure of €250 million is totally inadequate to meet the requirements? Will he commit to a fundamental reconsideration of that and accelerate funding for flood relief schemes and flood prevention programmes? Will the Taoiseach answer the question as to who is in charge? Does the Government believe that what has occurred is a national emergency requiring a sufficient response? For example, when will flood barriers be installed in cities such as Cork and Limerick?

The Taoiseach: We offer our congratulations on the brilliant reaction of so many communities, including voluntary groups and ordinary individuals, who worked together with the public services recently to deal with unprecedented heavy rainfall and floods due to a number of natural factors. These included high winds and tidal surges.

We will have to revert to this issue on many occasions. Clearly, the warnings of bad weather are not over yet. Who knows what weather patterns will come in from the Atlantic in the next three or four weeks? I agree with Deputy Martin that recent flooding has not occurred to this extent in living memory. The extent of planning permissions issued on flood plains is coming back to haunt so many people. We should now rue the day because, clearly, a rush to judgment was penny wise and pound foolish.

Coming from Cork, Deputy Martin will know that the outcome was not as bad as people had expected. That is not to say, however, that the situation was in any way acceptable. The line Minister is the Minister for the Environment, Community and Local Government, Deputy Hogan, in whose Department is the unit dealing with emergency response planning. The Minister of State, Deputy Brian Hayes, has responsibility for the Office of Public Works, which is linked to the Department of Finance. He has been around the country and will visit Cork later this week to see for himself the extent of the damage inflicted by flood waters.

Deputy Michael Healy-Rae: He could come to Kerry too.

The Taoiseach: The Minister for Social Protection has a central role in dealing with the expenditure of €15 million in humanitarian funds, which, pending an assessment, is an initial amount. The Cork city flood response group met on 3 February to activate the Cork city inter-agency flood emergency response plan. These are well established plans which are led by the city council to bring about a co-ordinated response to flooding in the city. The group includes Cork Fire Brigade, the Garda Síochána, the HSE and the Army. That flood response group agreed on a number of things, including public flood warnings, road closures, co-ordination with the ESB on water management for the River Lee through the Inniscarra Dam, the Lee tunnel closure and critical infrastructure. In addition, adult education facilities in the city centre were to close early and the ESB was requested to check its sub-stations. Vulnerable population areas were to be provided with sandbags and a decision was taken to remove parking facilities from affected areas. Media interface and briefings were also provided.

The group met again on 4 February and was expanded to include Port of Cork officials and naval officers. They agreed that sandbags would be distributed to businesses in the city centre as well as vulnerable areas at Wandesford Quay. In addition, the fire service and Civil Defence were put on standby to provide assistance, along with the Army, Navy and Coast Guard. Council roads, drainage and clean-up crews are also on standby, while diversion warning signage is in place and roads are closed off in affected areas. Electronic motorway signs provide flood alerts, while city centre traffic restrictions are in place between 5 p.m. and 10 p.m. Bus Éireann and Irish Rail have been advised of road restrictions, while an evacuation plan is ready if the situation were to deteriorate further than expected. In addition, further public warnings will be issued.

The Deputy asked when we will have defences ready in Cork to deal with this situation, if that is possible. I am informed by the Minister of State that this will cost between €50 million and €100 million and will involve up to 10 km of what might be deemed appropriate wall defences, if it is possible to stop the inexorable rise of tides and consequential water back-up. This is a complex engineering challenge in Cork alone. It is not within the remit of politicians to decide how to deal with it on the basis of engineering challenges. The estimate for Cork is between €50 million and €100 million. Given what has occurred in Galway, Wexford and other locations, this presents a national challenge for the longer term. I agree that climate change is having a serious and unprecedented impact on our country. The OPW has spent €50.6 million

5 February 2014

in Cork in the past six years. I accept that €250 million for the country will not be adequate. We have an estimated 300 locations with serious flooding and farmers are now getting into difficulties with the usual annual Shannon floods.

In Cork, the warnings were there and the local community and public services responded. It is not easy to deal with such a challenge of nature but we are doing the best we can. Tomorrow morning the Cabinet meeting will hear an update on the situation. Next Tuesday, the Cabinet will receive a full report from the Minister, Deputy Hogan, and the Minister of State, Deputy Brian Hayes. We will then see how to deal with the situation.

Deputy Micheál Martin: I thank the Taoiseach for his reply. Can he confirm whether the Minister, Deputy Hogan, has visited any of the flooded areas affected by storms? Given that he is the Minister in charge, he should get a first-hand assessment of the situation. A sum of €50 million a year is nowhere near enough. Some €45 million has been allocated this year. The Taoiseach has identified one scheme. Limerick will need protection and the coastal region in Galway needs far stronger coastal protection. The public capital programme has been under-spent in the past three years and local authorities have had €400 million taken from them. It was money they thought they were getting via the local property tax but in November it was siphoned back to the centre.

Deputy Michael Healy-Rae: Another broken promise.

Deputy Micheál Martin: Local authorities are cash-strapped at the moment and do not know where the next euro will come from. There is a lack of urgency and priority on this issue.

Deputy Aodhán Ó Ríordáin: Fianna Fáil councillors rezoned those areas.

Deputy Micheál Martin: Cork was founded on a marsh by St. Finbar, not Fianna Fáil. Let us get that right.

Deputy Bernard J. Durkan: We now know why Deputy Martin is confused.

Deputy Patrick O'Donovan: Does Fianna Fáil not take credit for it?

Deputy Micheál Martin: I accept that climate change is having an impact and the response to the impact of climate change is not urgent enough. We are now told that it will be 2016 or 2017 before any work will commence on schemes in Limerick, Cork or Galway. The programme for Government refers to legislating to give relevant line Ministers temporary powers to take charge of the State's actions in response to natural disasters under the aegis of the national response action committee. That is in the programme for Government but it has not happened and it is time it happened.

An Ceann Comhairle: The Deputy is way over time.

Deputy Micheál Martin: Yesterday, the Minister of State, Deputy Brian Hayes, said that it is up to the Cabinet. He said he does not have sufficient money and that it is up to all of us to take part in a national debate. I take his point but what is provided for at the moment does not go anywhere near dealing with the severity of what is happening and what will happen next year and the year after.

The Taoiseach: I am delighted to know that Cork was founded by St Finbar. I thank Deputy Martin for clearing up the matter as it was a source of discussion over the years as to

who founded it. In the past four years, €250 million has been spent on capital works for flood defences in Mallow, Clonmel and Kilkenny. These defences have, by and large, worked successfully. The sum of €50 million for this year is one area of Government expenditure that has not been cut. I accept the figure is inadequate to deal with the scale of what we have to deal with but it is important to understand that there is an interim programme of providing emergency defences, with a programme to follow, requiring complex engineering and much investment to put in place defences that can keep out the Atlantic and deal with the scale of floodwaters based on the weather that comes over the next number of years. No one is able to predict it at this stage. Areas in the country that have not been flooded before and are experiencing this for the first time or areas where the flooding is worse this year give an indication of the scale of what we face. Tomorrow, we will have an update at the Cabinet sub-committee on jobs and on Tuesday we will have a detailed report from the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, the Minister of State, Deputy Brian Hayes, and the emergency units and local authorities around the country. We will have a debate in the House after that.

I cannot answer about what places in the country the Minister, Deputy Hogan, will visit but from speaking to him early this morning I understand he will visit a number of locations this week to see for himself. The emergency response committee met on 3 and 4 February and there is a full scale analysis of reports from local authorities in the areas flooded. Some houses are cut off, some roads are washed away and I heard from farmers this morning about flooding in different areas. Our immediate problem is people and the humanitarian assistance to people with houses flooded who have nowhere to stay. We must accommodate them and provide community welfare assistance to them. That is being co-ordinated through the local authorities and local committees community groups with the Department of Social Protection. Payments are being made on this. Hopefully the weather will not be too bad over the weekend and hopefully it will be better than last weekend. We will have an accurate assessment on Tuesday from around the country. Listening to the European spokesperson, the accumulated extent of damage can be taken into account if a European application is to be lodged. We will consider that but I cannot say whether it will be eligible.

In respect of the Government response, let us see the scale of it, the immediate priorities, the interim emergency plan to be deployed and the longer-term analysis of the best thing to do from an engineering perspective. No more planning permissions will be issued for floodplains.

Deputy Gerry Adams: Putting the Minister for the Environment, Community and Local Government, Deputy Hogan, in charge of the response to the flooding crisis will do very little to reassure the communities affected. It is a King Canute gesture by the Government. Yesterday, I raised the plight of the householders who, through no fault of their own, have no insurance cover. For the Minister of State, Deputy Hayes, to dismiss this in his usual flippant hyperbolic fashion on cost grounds is not good enough. The communities have responded bravely, as have the front-line services, but many of the families in areas of floods have lived there for generations. Some have already been affected on multiple occasions. There are historic planning debacles but we are talking in the main about the humanitarian plight of ordinary working class communities and small businesses with no major resources of their own. Their property and their belongings are destroyed and they must replace everything from scratch. It is not their fault or responsibility that they cannot get insurance. Surely it is the duty of the State to protect citizens no matter where they live.

There is always money for consultants, bankers and politicians but not enough for citizens

in need. Yesterday, the Taoiseach referred to the emergency fund but surely there is a requirement for a specific Government-funded financial aid scheme for those who cannot get emergency insurance cover because of where they live. We do not need to wait for reports. We know the plights of families and small businesses affected. Will the Taoiseach give a commitment to provide financial assistance to householders affected by flooding who have no insurance because no insurance company will insure them?

The Taoiseach: The Minister of State, Deputy Brian Hayes, dealt with the issue of mandating insurance companies to provide insurance in areas where there has been repeated flooding over the years. It is not possible to do that. Applications are being received as we speak for assistance in regard to the consequences of flooding. One woman told me that the flood damage to her business is estimated at €250,000. The State has a duty in so far as it can, in respect of communications and the provision of adequate facilities, to deal with uncommon consequences of heavy rain, wind and high tides. In these cases, in Cork, Galway and Wexford, they have brought devastation. The national co-ordination unit is in the Department of the Environment, Community and Local Government and the Minister is the lead in that respect. The Minister of State, Deputy Brian Hayes, has been at pains to visit a number of locations and will do so again this weekend to see how the State can assist.

I recall the landslide that occurred in my county a number of years ago and how the Red Cross was activated in terms of an additional facility or call for assistance, together with local authorities and the measures the State can take. From 1986 to 2013, some €320 million was spent by what was then the board of works on flood defences. Some €20 million related to minor flood works in addition to €50 million spent on programmes such as catchment flood risk assessment and management. If we take the case mentioned by Deputy Martin about the defence of Cork, the estimate for 10 km of defence in the longer term is between €50 million and €100 million. With respect to the intelligence of Members, none of them is in a position to say what we need. The Deputy speaks of consultants as if they just sit behind desks and tell us what to do. There is an engineering challenge in the defence of Cork city, its inhabitants and business that is very complex, given that there are two rivers, an extent of flood water, the dam and Lough Mahon heading out to the open sea. It is not an easy issue to resolve, as these are complex engineering works. We will have to invest in order to get the right answer to the problem we face.

The local authorities are now required to review their programme every six years where planning permissions are issued with regard to the consequences of bad decisions made over the years. The river splits in Cork, and there are islands; as a consequence there is added complexity, and that does not mean that engineering expertise is not required to point out the best thing to do. It is a case of applications for assistance being received now and we will consider all this on Tuesday at the Cabinet meeting. There will be a discussion in the House afterwards and everybody will pick up new information from the locations they represent about the damage inflicted on people.

I agree with everybody that the response from the communities, together with the emergency services and agencies, has been absolutely first class. There is real commitment evident and people know that when nature wreaks devastation in this fashion, it is very difficult to deal with it. All we can do from a Government perspective is identify the scale of the problem and what we can deal with before doing so as quickly as possible.

Deputy Gerry Adams: The brave response of the communities exposes a lack of strategic

response by the Government. I commend all those who have helped their neighbours through this difficult time. My question specifically concerned a Government-funded financial aid scheme for those who could not get insurance cover. The Taoiseach did not answer the question but perhaps we can return to the issue after the Cabinet meeting.

On more strategic issues, we have been arguing for contingency plans to be put in place to deal with the flooding issue and other developments in weather patterns and so on. Many people are angry that measures which might have been put in place before this to offset the worst impact of flooding were not taken. It is reported today that 300 cities, towns and villages in this State are at “significant risk” of flooding in the time ahead. That clearly argues for strategic planning by the State to invest in flood defences. The Taoiseach has cited figures but the figure that jumped into my head is the €64 billion given to banks, which had no problem in being paid. These issues will destroy the livelihood or homes and properties of people and the Government has fumbled in the greasy till.

An Ceann Comhairle: Will the Deputy put a question please?

Deputy Gerry Adams: With the example of Cork, experts have stated that a tidal weir across the Lee like that which was built across the Lagan would resolve the flooding crisis. Similar solutions are available in other places. Where is the Government’s long-term plan to deal with the major differences emerging - and of which we were well warned - that the State and its citizens face? What flood defences will be put in place to protect our cities, villages and towns?

The Taoiseach: With those comments, we would be in a deeper mess if the Deputy were in charge of this.

Deputy Brian Hayes: Hear, hear.

The Taoiseach: Not even the postman in Donegal could have predicted that the tide would be 20 ft. higher than normal at the mouth of the Corrib, with due respect to his experience and analysis of what might be weather patterns.

Deputy Finian McGrath: He said it would be 22 ft. higher.

The Taoiseach: The Office of Public Works, with the Minister of State, Deputy Brian Hayes, is completing a mapping process for the country based on river catchment areas. The Deputy has mentioned a figure of 300 villages, towns and cities, according to newspaper reports, but there are many more that may suffer flooding in the time ahead. We must know what we want to do-----

Deputy Gerry Adams: It is an argument for strategic planning. The Taoiseach is out of his depth.

The Taoiseach: -----before making plans to deal with the issue.

Deputy Paul Kehoe: On dry land.

Deputy Patrick O’Donovan: Deputy Adams is drawing attention to himself.

The Taoiseach: If the Deputy thinks he can deal with Waterford, Wexford, Cork, Limerick, Ennis, Galway and all the other places which have suffered severe flooding now - not to men-

tion if the same weather patterns would present in Dublin as they did a number of years ago - he must be aware that the scale of the engineering works and capital costs involved will be very extensive. We must know what is to be done before we can plan to do it. In order to do this, there must be an in-depth analysis based on river catchments, patterns of weather changes and what they lead to.

Deputy Micheál Martin: Where is the urgency?

The Taoiseach: This is not a simple solution. Those Deputies who have been to see the many thousands of acres flooded around the Shannon on an annual or biannual basis know what I am talking about. When water comes into homes and business, it wreaks devastation. In working to prevent this there may be capital defences which may or may not work. In Limerick, as the Minister of State, Deputy Brian Hayes, mentioned, there was no breach in the levees, rather they were submerged by rising waters. What height should they be and how can defences be deployed? What emergency planning will be done in the interim? We must consider such questions.

Everybody can have a view on this and we will hear them on Tuesday. The Cabinet will present its report based on the best assessment of what we get by then and over the weekend.

Deputy Micheál Martin: There have been reports for years.

The Taoiseach: Let us hope the weather is a little kinder than it has been in the past few days.

Deputy Mattie McGrath: Go home and forget the studies.

Deputy Stephen S. Donnelly: At 9 p.m. this evening the Government will vote down a Bill that could save thousands of companies and tens of thousands of jobs. The Bill would do so without the need to spend a single penny in public money. Every year hundreds of companies in Ireland are shut down that do not need to be because we do not have a functioning examinership process. This is how badly it is broken.

In the past three years, 4,700 companies have declared insolvency in Ireland and of them only 64 have availed of the examinership process. Many of those companies could have been saved and in other countries they would have been; here, they are instead forced into liquidation and all jobs are lost. I have an estimate from somebody who works in examinerships that approximately a quarter of insolvencies could be brought through a proper insolvency process. That means that over the past three years, well over 1,000 viable Irish companies have shut down because they do not have recourse to examinership that is fit for purpose.

The Companies (Amendment) Bill 2014 makes examinership a real option for struggling companies. It makes it cheaper and faster and it cuts legal fees for the examiner by approximately €50,000 while maintaining judicial oversight and authority. The main concern raised last night by the Minister, Deputy Bruton, and several Fine Gael backbenchers is the belief that this Bill would place an unfair burden on creditors. They were speaking in particular about smaller unsecured creditors like suppliers. The Bill would do no such thing. Under the current examinership process, creditors do not often go to court, and if they do, they must choose to go, hire lawyers and pay for them. With this Bill creditors can go to court any time they want and again they would have to hire and pay lawyers. They would go for the same reasons they do now. What would change with this Bill is that the examiner would not have to keep going to

court for largely procedural and unnecessary reasons. He or she would not have to keep hiring lawyers. This would leave more money in the company which, critically, would leave more money for creditors.

Companies all over Ireland are screaming for a viable examinership process, which this Bill provides. Creditors want this Bill to pass because it would leave more money in the company and therefore more money for them. The Small Firms Association, which represents companies which would go through examinership and their suppliers, wants this Bill to pass. The only group that does not want the Bill to pass is this Government. Why is that?

Deputy Mattie McGrath: Hear, hear.

The Taoiseach: The Deputy is wrong. The change in the way we do politics here allows Deputy Donnelly to bring in a Private Members' Bill, which is good-----

Deputy Micheál Martin: It was always there.

Deputy Mattie McGrath: That was always the case.

The Taoiseach: -----as these issues must be discussed and commented upon. It is the Deputy's right. The Deputy had discussions with the Minister, Deputy Bruton, about the Bill and what the Government is doing with this. The Bill does not do what the Deputy says and it is legally unsound and potentially damaging to other creditors.

Deputy Mattie McGrath: Who said that? Was it the Minister for Justice and Equality, Deputy Shatter?

The Taoiseach: The Government will not accept the Bill on that basis. The Government has already changed the rules to allow for small and medium enterprises to go to the Circuit Court-----

Deputy Mattie McGrath: Did the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, say that?

The Taoiseach: -----and not have the costs of the High Court to deal with. The Government has extended the remit of the Cabinet committee dealing with small and medium enterprises to cover this area also. With regard to the targets and objectives set by the Government for the banks, the evidence now shows that, by the end of this year, the vast majority of small and medium enterprises that have been suffering overhang from the boom will be back in good shape by the end of the year. It is for that reason and because Deputy Donnelly was spoken to courteously by the Minister for Jobs, Enterprise and Innovation that the Government is not accepting his Bill. We regard it as legally unsound and unsure, and unfair to other creditors.

Deputy Stephen S. Donnelly: I have had it reviewed by senior counsel and I would love to see the legal advice that claims it is legally unsound. The Bill is not unsound. If there are aspects of it that need to change - undoubtedly there are because we do not have access to the Office of the Attorney General - that is what the legislative process is for.

It must be incredibly frustrating for the owners of businesses that are insolvent and could be rescued to hear this kind of talk. As we know, the SME sector employs seven out of every ten people in the country. According to the Central Bank, approximately half of the loans currently outstanding in the SME sector, amounting to €25 billion, are in trouble. We know from the

ECB that it is harder for small firms in Ireland to gain access to credit than it is for such firms in most of the rest of the eurozone. This means that, in the coming weeks, months and years, many more viable Irish companies that are insolvent, largely owing to legacy debt issues, will go to the wall. They do not have to but the Government is sitting on its hands.

My Bill is not a stab in the dark; it was compiled with the help of a solicitor, Mr. Barry Lyons, who has handled over half of the examinerships in the country. It is not based on wishful thinking and there is legal opinion on how sound it is. The Bill could easily be accepted by the Government this evening and changed, as required, by the Minister and the committee. Several members of the Select Committee on Jobs, Enterprise and Innovation said last night in the Chamber that they want the Bill to proceed beyond Second Stage. They want to get their teeth into it. The Taoiseach can wait for another report and set up an interdepartmental committee to see what happens but he should note that every single week we wait for a different version of the Bill to come through, viable companies and jobs will be lost. The alternative for the Taoiseach is to seize the opportunity, exploit the momentum, use my Bill as a structure and amend it as required. Why, if creditors, businesses and examiners are all saying we need this legislation to save jobs, will the Taoiseach not use the Bill as a template, allow it to pass this evening and change it as needed to prevent businesses that do not need to shut down from doing so?

Deputy Peter Mathews: Hear, hear.

Deputy Mattie McGrath: Hear, hear.

The Taoiseach: It is a great idea that Deputies can bring forward Private Members' Bills. Deputy Donnelly was in conversation with the Minister for Jobs, Enterprise and Innovation in this case. He could have said he understands the Government's point of view and is willing to change his Bill to accommodate the direction of the Government. He was not prepared to do so.

Deputy Stephen S. Donnelly: I have already done so.

The Taoiseach: He is not prepared to do that. It is all very well for the Deputy to come into the House and say this is his Bill and this is how he wants it to be.

Deputy Micheál Martin: He just stated the opposite.

The Taoiseach: He is not prepared to work with the Minister for Jobs, Enterprise and Innovation in this case. He has the opportunity to put his name to the Bill but it is not going to go through because, as far as the Government is concerned, it is legally unsound and unfair to other creditors. It is not true to say another interdepartmental group is being set up. We already have a specific Cabinet committee dealing with small and medium enterprises and banks. The objectives set for the banks are being achieved.

Deputy Dara Calleary: No, they are not.

The Taoiseach: By the end of this year, we expect that the vast majority of businesses that were in trouble since the days of a previous Administration will be in good shape.

The CLRG, whose recommendations we are implementing, represented all the business interests involved. Therefore, the position is not as Deputy Donnelly states. The next time he introduces a Private Members' Bill, I will welcome it. If he is prepared to engage with the Government on amending his Bill to deal with what we want to deal with, circumstances will be different from those that now obtain.

Deputy Micheál Martin: He just said he was.

The Taoiseach: The Government has set targets for the pillar banks in respect of SME credit access. We are working through the Department of Finance with the German credit bank KfW to realise possibilities. There is an increasing trend involving corporates acquiring commercial banking licences to lend, at appropriate rates, to firms that use their own technology and equipment.

Of course, the SME sector is critical to the development of the country. That is why we have made an absolute Government priority of focusing on jobs this year. That is why, for 20 months in a row, the number on the live register has begun to fall. This is why, for the first time in several years, there is increasing confidence in the SME sector regarding where the future lies. That future lies in job creation, increased exports, and being lean and competitive. Access to credit is part of this. If the Deputy had been prepared to change his Bill to accommodate where we want to be, he would probably get a different answer.

It is not a case of just turning down Deputy Donnelly's Bill; it is legally unsound and unfair to other creditors.

(Interruptions).

Order of Business

The Taoiseach: It is proposed to take No. 11a, motion regarding committee membership; and No. 23, statements on the current situation in Northern Ireland.

It is proposed, notwithstanding anything in Standing Orders, that No. 11a shall be decided without debate; No. 23 shall be taken on the conclusion of the Order of Business and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 7.30 p.m. tonight and the following arrangements shall apply: the opening statements of the Taoiseach, Tánaiste and leaders of Fianna Fáil, Sinn Féin and the Technical Group, who shall be called upon in that order, shall not exceed 15 minutes in each case, and such Members may share their time, the statements of a Minister or Minister of State and of the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group, who shall be called upon in that order, shall not exceed ten minutes in each case, and such Members may share their time, the statement of each other Member called upon shall not exceed ten minutes in each case and such Members may share their time, and a Minister or Minister of State shall be called upon to make a statement in reply that shall not exceed ten minutes; and Topical Issues shall take place on the conclusion of the opening statements of No. 23. Private Members' business shall be No. 45, Companies (Amendment) Bill 2014, Second Stage (resumed), to conclude at 9 p.m. tonight, if not previously concluded. Tomorrow's business after Oral Questions shall be No. 2, County Enterprise Boards (Dissolution) Bill 2013 [Seanad] - Second Stage.

An Ceann Comhairle: There are three proposals to be put to the House. Is the proposal on No. 11a agreed to? Agreed. Is the proposal for dealing with No. 23 agreed to? Agreed. Is the proposal for dealing with Topical Issues agreed to? Agreed.

Deputy Micheál Martin: A number of issues arise. During the term of the last Dáil, there was a committee on climate change. I have detected that the commitment to climate change issues has waned since the current Government came into office. There is not the same sense of prioritisation of climate change that may have existed previously. The committee was chaired

by the Ceann Comhairle. The current Government decided not to proceed with the committee in this office. I ask the Taoiseach to consider re-establishing the committee. He might indicate the progress on the climate change Bill. I remind him that in the programme for Government, there is a clear commitment to “legislate to give the relevant line Ministers temporary powers to take charge of State’s actions in response to natural disasters, under the aegis of National Emergency Response Action Committee.” What is the position on that legislation and when can we expect its publication?

The Taoiseach: We have a Cabinet committee dealing with climate change.

Deputy Micheál Martin: I referred to a Dáil committee.

The Taoiseach: Deputy Martin wants to establish another Dáil committee dealing with climate change.

Deputy Dara Calleary: There was one. The Ceann Comhairle chaired it.

Deputy Micheál Martin: There was a Dáil committee.

The Taoiseach: We had 20 committees and there are fewer than 20 now. There is a Cabinet committee dealing with climate change.

Deputy Micheál Martin: Will the Taoiseach restore it?

The Taoiseach: The heads of the climate change Bill are expected to be published by Easter. It will proceed to consultation and will be published later on in the year.

Deputy Micheál Martin: When?

The Taoiseach: I will give the Deputy an up to date assessment on the preparation of the legislation for temporary powers.

Deputy Micheál Martin: Does the Taoiseach know at what stage it is at the moment?

The Taoiseach: No. I will tell the Deputy where the work on it is at.

Deputy Micheál Martin: What I asked was whether the Taoiseach would agree to the re-establishment of the previous Dáil committee on climate change.

The Taoiseach: Climate change is part of the remit of the Committee on the Environment, Culture and the Gaeltacht. That committee is entitled to focus on climate change or aspects of climate change as it wishes.

Deputy Micheál Martin: That committee has a very wide-ranging brief.

The Taoiseach: It is an Oireachtas committee. We had a plethora of committees before, with Deputies running from Billy to Jack, unable to complete their business properly.

Deputy Micheál Martin: Climate change is not a priority for the Government.

Deputy Gerry Adams: Tá cúpla ceist agam maidir le reachtaíocht atá fórógartha - the official languages Bill. D’fhógair an Coimisinéir Teanga ag tús mí na Nollag go raibh sé i gceist aige éirí as a phost. Ba mhaith liom mo bhuíochas a ghabháil le Seán Ó Cuirreáin as an mhéid a rinne sé ar son na teanga. Tá sé tábhachtach mo inní a léiriú fosta maidir leis an easpa measa

atá ag an Rialtas d'Acht na dTeangacha Oifigiúla agus do ról an choimisinéara. An bhfuil an Rialtas ag fanacht go dtí go mbeidh an reachtaíocht seo curtha i bhfeidhm chun Coimisinéir Teanga nua a cheapadh? An bhfuil sé i gceist ag an Rialtas coimisinéir nua a ainmniú sular gcuirtear an reachtaíocht sin i bhfeidhm? An mbeidh sé seo pléite sa Dáil?

The Taoiseach: Tá an próiseas ar siúl chun Coimisinéir Teanga nua a cheapadh. Tá níos mó na 20 iarratas curtha isteach. Tabharfaidh an tAire Gaeltachta faisnéis don Teach nuair a bheidh sé réidh. Tá Bille na dTeangacha Oifigiúla le foilsiú sa seisiún seo agus déanfar plé air anseo sa Dáil.

An Ceann Comhairle: There are 14 Deputies indicating that they wish to ask questions about promised legislation so I ask that they refrain from making speeches.

Deputy Dessie Ellis: Many universities have different pay, allowance and pension structures. They are not answerable to the Government or the people and operate independently.

An Ceann Comhairle: I ask the Deputy to leave out the speech, thanks.

Deputy Dessie Ellis: The universities (amendment) Bill is designed to give powers to the Minister to regulate the sector. When will the Bill be published and the discrepancies addressed?

The Taoiseach: The heads of that Bill were cleared last October. Work is proceeding on the development of the Bill itself, which is due for publication later this year.

Deputy Sandra McLellan: The need to preserve Moore Street as a national monument is now critical as the buildings continue to fall into disrepair. When will the monuments Bill come before the House and will the Taoiseach encourage the Minister for Arts, Heritage and the Gaeltacht to meet us to discuss any outstanding issues relating to this national monument?

The Taoiseach: That is due for publication later this year.

Deputy Peter Fitzpatrick: The Radiological Protection (Miscellaneous Provisions) Bill will put in place the legislative basis for the merger of the Radiological Protection Institute of Ireland and the Environmental Protection Agency and will incorporate the terms of the amendment to the convention on the physical protection of nuclear material into Irish law so that it may be ratified by Ireland. When does the Taoiseach expect the Bill to be published?

The Taoiseach: That is due for publication this session.

Deputy Brendan Ryan: The Immigration, Residence and Protection Bill 2010 aims to bring much needed reform to our immigration and asylum systems. The Minister for Justice and Equality indicated in the middle of last year that he hoped to bring a revised Bill to the Government before the end of 2013. Can the Taoiseach report any progress on this much needed and long overdue legislation?

The Taoiseach: A Bill was published a number of years ago which is now awaiting Committee Stage. However, I have been informed that the scale of amendments being submitted is such that the Minister for Justice and Equality is considering drafting an entirely new Bill. I will give the Deputy an update on that as soon as possible but so many amendments have been tabled that it may be impractical to proceed with the Bill in its current form.

5 February 2014

Deputy Peter Mathews: As the Taoiseach is aware, the Constitutional Convention met last weekend in Malahide. A proposal was put to the convention that there should be more free votes on Dáil and committee business. Has the Taoiseach any proposals in this regard?

The Taoiseach: I have.

Deputy Mattie McGrath: Will he tell us what they are?

The Taoiseach: The Government and the Dáil will consider all of the reports of the Constitutional Convention and will debate them here, as is right and proper----

Deputy Mattie McGrath: No doubt the debates will be guillotined.

The Taoiseach: ----and as already committed to by the Government.

Deputy Micheál Martin: Will the Taoiseach continue to expel free voters from committees?

Deputy Mattie McGrath: The vote was 84 in favour.

(Interruptions).

The Taoiseach: I am well aware of the outcome of the vote.

Deputy Robert Troy: Will the Taoiseach give an amnesty to those who exercised a free vote?

The Taoiseach: We will consider all of the convention reports and will discuss them here in open session, not in secret rooms as used to happen before.

Deputy Mattie McGrath: Danske Bank is sending receivers into farms and businesses all over the country and is doing so without even going to court. In that context, when will the Central Bank (consolidation) Bill come before the House and when will action be taken to reign in the receivers and banks? There was an incident in the constituency of Deputy Kehoe on Monday last----

An Ceann Comhairle: We will not go there but will just find out when the legislation will be published.

Deputy Mattie McGrath: ----where farmers had to take action to get the receivers out.

The Taoiseach: That Bill is not due until next year.

An Ceann Comhairle: Next year, Deputy McGrath.

Deputy Mattie McGrath: Everything is next year but there will be so many farmers and business people in penury----

An Ceann Comhairle: I understand the Deputy's frustration but----

Deputy Mattie McGrath: In the context of the road traffic Bill, sulky racing on country roads is a huge problem.

An Ceann Comhairle: Is legislation promised to deal with sulkies?

Deputy Mattie McGrath: Horses are being ill-treated and people are being put in danger.

Deputy Paul Kehoe: Is the Deputy talking about piebalds?

Deputy Mattie McGrath: I ask Deputy Kehoe to come back and look after his own people in Enniscorthy and tell them to stop ringing me.

An Ceann Comhairle: Deputy, we are running out of time.

(Interruptions).

The Taoiseach: It is a piebald question. Several matters must be considered but the Department of Agriculture, Food and the Marine is examining this from an animal welfare perspective. I will update the Deputy on the favourites in due course.

Deputy Michael Healy-Rae: Regarding the Planning and Development (Strategic Infrastructure) Bill, will a Cabinet sub-committee be set up to deal with the weather crisis and will an application be made to the EU solidarity fund?

An Ceann Comhairle: Deputy, we have just dealt with that issue on Leader's Questions.

The Taoiseach: The Planning and Development (Strategic Infrastructure) Bill was passed years ago.

An Ceann Comhairle: The Deputy is not asking about promised legislation.

The Taoiseach: If the Deputy checks the digital archives, he will find that Bill. It was passed several years ago.

An Ceann Comhairle: We will have a debate next week. The Taoiseach has already promised a debate on the whole issue of flooding.

Deputy Thomas P. Broughan: When can we expect the Maritime Area and Foreshore (Amendment) Bill and the Criminal Justice (Miscellaneous Provisions) Bill to come before the House? Last week myself and Deputies Terence Flanagan and Boyd Barrett attended a press conference arranged by the Stardust Relatives and Victims Committee. That committee asked me to remind the Taoiseach that he promised the people of Coolock and Artane that once he got into office, he would convene a commission of investigation----

An Ceann Comhairle: We cannot discuss that issue now.

Deputy Thomas P. Broughan: ----under the legislation introduced by the former Minister for Justice and Equality, Deputy McDowell, in 2004. He said that there would be a short and quick commission of investigation into the Stardust tragedy, the 33rd anniversary of which falls on Friday week. Will the Taoiseach keep his promise? I feel very strongly, as do other local Deputies, that he should do so. It is a legacy issue that we need to deal with.

An Ceann Comhairle: The Deputy asked about a couple of Bills.

The Taoiseach: The Maritime Area and Foreshore (Amendment) Bill is due before the summer. In respect of the other matter that the Deputy raised, the last time I had contact with some of the survivors of the Stardust tragedy, they informed me that their legal advisors had new information to present. I advised them that their legal advisors should present that infor-

mation, if it is new, and I understand that they are going to do so.

Deputy Terence Flanagan: I support Deputy Broughan's remarks and thank the Taoiseach for his response. We are very anxious to progress this issue, particularly in the context of the new information that has come to light. If that information could be examined by departmental officials and if those officials could liaise directly with the Stardust victims' committee, that would be greatly appreciated.

The universities (amendment) Bill aims to ensure that universities comply with Government guidelines on pay, remuneration, bonuses, pensions and so forth. When will that Bill come before the House?

The Taoiseach: I have already referred to that Bill, which is due later this year. I have also already commented on the issue raised by Deputy Broughan.

Deputy Mary Lou McDonald: The whistleblower legislation is now on Second Stage in the Dáil. It requires new regulations in terms of the confidential recipient and whistleblowing mechanism within An Garda Síochána. Could the Taoiseach confirm to the Dáil that those regulations will be laid before us and whether we will have an opportunity to consider and debate them?

The Taoiseach might be aware that today the UN Committee on the Rights of the Child added its voice to the UN Committee Against Torture in support of the survivors of the Magdalen laundries and those who represent them, calling for a proper and full investigation into the Magdalen laundries so that those responsible for abuse of children are held to account and victims can receive full compensation and redress. Will the Taoiseach commit to such an inquiry? Each of the international bodies has consistently highlighted the gross inadequacies that were within the McAleese process. Will the Taoiseach now acknowledge that and commit to return to the issue? In the same vein, will he make a similar commitment in respect of the Bethany Homes survivors and on the issue of illegal adoptions?

The Taoiseach: Deputy McDonald raised a number of questions. We have already dealt with the Bethany Homes-----

An Ceann Comhairle: Some of the questions are out of order on the Order of Business. It is better that the Deputy raise them in another way so that we can stay in order.

The Taoiseach: We already dealt with the Bethany Homes issue. That has been confirmed as not being akin to the Magdalen situation by Government. The Government has made a decision on that - not just this Government, but a previous Government. The Magdalen laundries issue is being dealt with very effectively following the judicial report into it and payments are being made.

The Minister has already commented this morning on the whistleblowers' legislation in response to a question from Deputy Mac Lochlainn about his proposal to amend certain aspects of the Act.

Deputy Mary Lou McDonald: Will the regulations be seen in the House?

The Taoiseach: Of course.

Deputy Lucinda Creighton: The Taoiseach will be very well aware of a long litany of

failures in Portlaoise hospital in respect of babies who died there. A range of issues has been raised that will need to be addressed by legislation and otherwise. I welcome the commitment by the Minister for Health, Deputy Reilly, to move forward with a HIQA inquiry. One of the issues that has come to light is the fact that the babies' deaths in Portlaoise were not reported to the National Perinatal Epidemiology Centre.

An Ceann Comhairle: I am sorry-----

Deputy Lucinda Creighton: That is the centre that provides information to Government, the Minister and the HSE about failures and shortcomings in maternity services.

An Ceann Comhairle: I have granted a Topical Issue debate on the matter.

Deputy Lucinda Creighton: It is in the context of the health reform Bill. I would like to know whether the Government is prepared now to make it mandatory to report the deaths of all babies so that we can have full information about maternity care in this country.

An Ceann Comhairle: When is the Bill due?

The Taoiseach: The health reform Bill is due this session. The Minister for Health, Deputy Reilly, spent six hours in the company of people who lost their babies in Portlaoise hospital. He has made it perfectly clear that following receipt of the chief medical officer's report, which will be given to him shortly, he will consider the question of a completely independent investigation by HIQA. The Minister, as a family doctor himself, is very much focused on communication, openness and information being made available to people. He has commended the parents in this case on their commitment to finding out what happened. As Deputy Creighton is well aware, we need absolute integrity in terms of the maternity services in the country for mothers and expectant mothers and the Minister is committed to that. He will see to it that the situation is sorted out. It is not acceptable that inferior standards apply in any hospital, especially where the birth of children, their mothers and every patient are concerned. The issue has caused the Minister some distress. He wants to see it sorted out and it will be sorted out.

Deputy Joan Collins: My question follows on from that of the previous speaker, who raised the Immigration, Residence and Protection Bill. My understanding is that the Bill had been withdrawn. It was on the C list. I wished to ask when it would come before the House but I have been informed there are a number of amendments to the Bill and it might be withdrawn. Could the Taoiseach clarify the situation and contact the Deputies who have raised the issue?

The Taoiseach: The Bill is still on the Order Paper. A motion has been submitted for it to be withdrawn but that has not been activated yet. Many amendments have been tabled. The Minister for Justice and Equality, Deputy Shatter, will inform the House of his intention to draft a new Bill, given the range of amendments that are already there.

Deputy Robert Troy: Last week the Taoiseach issued an apology to Louise O'Keeffe. I compliment him on doing so. In that context he spoke about the Children First legislation. In March 2012 the Minister for Children and Youth Affairs, Deputy Fitzgerald, confirmed that her Department was finalising the Children First legislation. On 27 September 2012 the Minister confirmed that the legislation was on the A list. On 23 June 2013 the Taoiseach confirmed on the Order of Business that due to pressure on the legislative programme the Bill would be taken in the next session. The next session was what is now the previous session - autumn. Autumn has come and gone and we are still awaiting the publication of the legislation. Could

5 February 2014

the Taoiseach confirm to the House today when we will see the publication of this much-needed legislation?

The Taoiseach: I agree with the Deputy that autumn has come and gone. Spring approaches. I am informed by the Minister for Children and Youth Affairs that the legislation will be presented to the House in the coming weeks. A few legal issues remain to be clarified.

Deputy Robert Troy: Could the Taoiseach quantify the weeks please?

Deputy Willie O'Dea: I wish to raise two items. The first is on the same theme as that spoken about by my colleague, Deputy Troy. The Taoiseach might recall that last year he promised me faithfully that the consumer protection and competition Bill would appear before the end of the then session. We are now 12 months down the road. Could the Taoiseach give some indication of when the Bill will make its long-awaited appearance?

The Taoiseach will be aware that the Legal Services Regulation Bill is in committee at present. When will it come out of committee? When will the Government resolve its differences on the matter? The Taoiseach might consult with the Tánaiste and he might agree to withdraw his objections and allow the Bill to proceed.

The Taoiseach: The Legal Services Regulation Bill is on Committee Stage next Wednesday.

Deputy Willie O'Dea: When will it come back to the House?

The Taoiseach: It will come back when Committee Stage is finished.

Deputy Willie O'Dea: The Bill is not being debated by the committee. The committee has suspended its deliberations due to lack of agreement.

The Taoiseach: Committee Stage must conclude before the Bill comes back to the House.

Deputy Willie O'Dea: I am sorry.

An Ceann Comhairle: We are not having a debate on the matter.

The Taoiseach: The committee must finish with the Bill. I expect Committee Stage to be finished next week.

Deputy Willie O'Dea: Does the Taoiseach expect the differences of the Government parties to be resolved by next week?

The Taoiseach: Yes. I am sorry that I have not fulfilled a commitment given to Deputy O'Dea in good faith last year. The consumer protection and competition Bill is a serious piece of legislation. It is an extensive Bill but it is very well advanced and I expect it to be published early in this session. I hope we can honour that particular commitment to the Deputy.

Deputy Willie O'Dea: I will remind the Taoiseach.

Deputy Jerry Buttimer: The head of RTE sent a memo to staff yesterday evening regarding an incident on a television programme about a payout to an organisation.

An Ceann Comhairle: No.

Deputy Jerry Buttimer: I am coming to the question, a Cheann Comhairle.

An Ceann Comhairle: No.

Deputy Jerry Buttimer: I respect the ruling of the Ceann Comhairle that the Minister has no direct responsibility for RTE. Are there any plans to make RTE directly accountable to the House?

The Taoiseach: No.

An Ceann Comhairle: That is a matter under consideration for a Topical Issue debate. I do not know who told Deputy Buttimer that I had ruled the matter out of order.

Deputy Bernard J. Durkan: I wish to inquire about promised legislation to prevent the sexual exploitation of children and vulnerable adults. Have the heads of the Bill been cleared and when is it likely to come before the House? I have a similar question on the EirGrid Bill.

The Taoiseach: The heads of the Bill were cleared in December. The criminal law (sexual offences) Bill is due for publication later this year.

Deputy Bernard J. Durkan: What about the EirGrid Bill?

The Taoiseach: It is listed for next year.

Freedom of Information (Amendment) Bill 2014: First Stage

Deputy Sean Fleming: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Freedom of Information Acts 1997 and 2003 by including EirGrid as a public body covered by the aforesaid Acts.

I thank the Cheann Comhairle for giving me the opportunity to introduce the Freedom of Information (Amendment) Bill 2014. The intention of the Bill is to amend the freedom of information legislation by including EirGrid as a public body to be covered under freedom of information. Everybody agrees that EirGrid should come within the scope of the freedom of information provisions. No one in his or her right mind would oppose such a change.

I o'clock

Not only would this be good for the public, it would also be good for EirGrid to have its decision-making process subject to public scrutiny through freedom of information legislation. This Private Members' Bill proposes to amend existing freedom of information legislation to provide for this.

Recently, 35,000 submissions were made on EirGrid's Grid Link proposals. If ever proof was required that people wanted information to enter the public arena, this was it. The 35,000 submissions on this one project show that the public is keen to know what is happening in EirGrid. The main reason behind this legislation is the Government, specifically the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, rejected my amendment before Christmas to include EirGrid in the Freedom of Information Bill 2013. I was genuinely surprised that the Minister rejected this because I believed he was committed to freedom of information. He stated:

5 February 2014

EirGrid is regulated by the Commission for Energy Regulation, CER, which means there is transparency in how its network business is regulated, and significant information is published by the CER on its website.

That was a pathetic and nonsensical answer. As in a current advertisement on television, I was waiting for the big brick to come down and land on the Minister's head.

I am giving the Government an opportunity to reverse what it knows was a wrong decision on the part of the Minister. Amendments were also tabled to include Irish Water in the freedom of information legislation which were also rejected by the Government. However, it has bowed to public pressure to agree that Irish Water should come within the terms of freedom of information legislation. It will also do a U-turn on EirGrid. It is not sustainable for any Member to tell the public that EirGrid should not come under freedom of information legislation and the Government knows this is the right move. Ministers should not be guided by the mandarins or someone who might tell them otherwise.

EirGrid is effectively a pylon company. It sees this as its mission. It must change this approach and examine the underground option. In the past it claimed the cost of undergrounding would be 20 times higher than that of pylons. Now it accepts it would only be three times higher. The only conclusion one can draw is that every figure EirGrid has given on this issue has been wrong. I can guarantee that before very long the underground option will be cheaper.

EirGrid has also given wrong information to the Minister on how long it would take to fix a broken line underground, giving the impression that it would take 25 days. During a public hearing during a planning process at Portlaoise before Christmas, my brother, Mr. Pádraig Fleming, a county councillor, asked if there would be a threat of blackouts if underground cables failed. EirGrid explained there would not be because it would lay a parallel duct to which it could switch over. It has been peddling this nonsense that there would be power cuts if there was a fault with an underground cable. Ministers were not aware of the mad steer they were getting.

The expert panel established to examine overgrounding or undergrounding relies on EirGrid for information. Again, this is not sufficient and the panel should have access to separate information. The latest effort by EirGrid to buy off legitimate objections by communities across Ireland will not work. It is an affront to the public to use public moneys to buy off objections. We need to see how the board of EirGrid arrived at this conclusion that it thought it could buy off the public. The public has no confidence in EirGrid and neither does the majority of Members of the Government parties. Freedom of information legislation would help EirGrid. I, therefore, look forward to the Government supporting my legislation to bring EirGrid within the terms of freedom of information legislation.

An Ceann Comhairle: Is the Bill being opposed?

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): No.

Question put and agreed to.

An Ceann Comhairle: Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

Deputy Sean Fleming: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Membership of Committee: Motion

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

That Deputy Mick Wallace be discharged from the Joint Committee on Public Service Oversight and Petitions and that Deputy John Halligan be appointed in substitution for him.

Question put and agreed to.

Northern Ireland: Statements

The Taoiseach: I welcome the opportunity to open the debate on Northern Ireland. We all want to see a modern, forward-looking and prosperous Northern Ireland. In the times in which we live, however, whether it be north, south, east or west, we cannot be insular. We all must be aware of, and responsive to, external, international and global issues beyond our direct control. That is the reality of the world economy today. We are all interdependent, one way or another. A more dynamic Northern Ireland economy means more exports, more trade, direct and indirect, and more investment, ultimately to the benefit of all on the island.

I last met Northern Ireland's First Minister and Deputy First Minister in Japan in early December where we were separately going about the necessary business of promoting trade and investment to the benefit of both jurisdictions. Significantly, Ministers from Dublin, Westminster and Stormont will in the coming days embark to Singapore on the first international joint trade mission. Led by the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton; his Northern Ireland counterpart, Mrs. Arlene Foster, MLA, and the British Parliamentary Under-Secretary of State for Transport, Mr. Stephen Hammond, MP, the trade mission aims to pursue trade and investment opportunities in the aviation sector.

The peace process and North-South relations are very important, but they are not the only pieces of the jigsaw. The North-South relationship is not just about resolving past differences and developing further economic co-operation. It is also about integrating new identities into our society. What it means to be Irish, what it means to be British, what it means to be an Ulsterman or woman, what it means to be a European, all of these identities are in a state of flux and change. It is also of great concern to both parts of Ireland what will happen as regards the constitutional arrangements on our neighbouring island. We need to inform ourselves on what is happening on our doorstep. We need to take a keener interest in political developments in Britain, particularly in its relationship with the European Union. It matters very much to us, North and South, how Britain renegotiates its membership of the European Union and how it will vote in a future referendum on EU membership. We share a common interest in Britain remaining a full and active member of the European Union which would be immeasurably weakened without Britain being a full, active and committed member.

The majority in this House agree that membership of the European Union has been extremely positive for Ireland. Much of Ireland's economic progress during the past 50 years is due to our membership of the European Union. The country has been transformed by the benefits of our membership. Northern Ireland has also benefited from Britain's membership of the European Union. In particular, Ulster farmers have been big winners under the Common Agricultural Policy. Northern Ireland has also benefited from a strong EU regional policy and the cross-Border INTERREG programme. The European Union has been an active political

5 February 2014

and financial supporter of the peace process. Were Britain to leave the Union, it would have very serious consequences for Northern Ireland and enhanced North-South co-operation. This island is already on the edge of Europe. Britain disengaging from the European Union would make the case for investment in Northern Ireland even more challenging. Europe and, especially, our role as a small country within the eurozone must help Britain to resolve its relationship with Europe.

It also matters to us all on the island, North and South, how the people of Scotland will vote in their referendum on independence this September. A “Yes” vote for independence would obviously have an impact on Northern Ireland.

I turn to the suffering inflicted on ordinary people, on all sides, on the island of Ireland and beyond during the Troubles which it is difficult to comprehend and, yet, too great to forget. The consequences are there for all to see. It knows no divide - suffering is no respecter of borders, creed or age, but it reminds us of the fragility of our shared humanity across the island. This is the terrible legacy of the Troubles and remains a daily reality for numerous families and individuals and continues to have an impact on politics and society on these islands. The inner strength and resilience of people who have suffered are very evident from my engagements in the past two years. I have met victims and families of appalling violence from Kingsmill, east County Fermanagh and Enniskillen, the disappeared and the Dublin-Monaghan bombings. I have met the families of the disappeared and the widow of Pat Finucane. Just last week, I met the families of those who died in terrible circumstances in Ballymurphy in 1971. As with all victims, I was glad to offer the Ballymurphy families both my sincere sympathy and my active support in their quest for justice and truth. The tremendous dignity and bravery that these victims of unjustified violence have displayed in the face of unimaginable suffering is an example to everyone. What these people have lost no one can return, but collectively they reinforce my faith in humanity and the power therein, of goodness and of ordinary common decency and understanding. As politicians on all sides across these islands, we owe them the assurance that the painful lessons of the past have been learned and that the suffering they have endured will not be visited on future generations. As political leaders, our collective focus must be on ensuring and building a shared and prosperous future. It requires a sustained effort and drive on all our parts. However, there still is a tiny minority who remain committed to violence. As we know from recent events, this threat is clear and real, but the determination of the people of the island, North and South, to oppose such violence is far stronger.

Through the Good Friday Agreement, the people on all parts of the island of Ireland made clear their commitment to peace and to a society founded on mutual respect and equal rights and opportunities. The Good Friday Agreement has opened up opportunities for us North and South, east and west, to get to know one another in new ways. It has opened up new possibilities and new perspectives regarding our shared history. Both Governments are the constitutional guarantors of the Good Friday Agreement. Our collective responsibility is to encourage all political parties to work the Agreement to its fullest potential. Northern Ireland clearly is a much better place because of the Good Friday Agreement but we must all, particularly the political parties in Northern Ireland, build on it so as to realise reconciliation. In this connection, I acknowledge the work of Members of both parliamentary Houses of the Oireachtas from across all political parties and groupings who, through their contributions as members of the Joint Committee on the Implementation of the Good Friday Agreement, the British-Irish Parliamentary Assembly and the North-South Inter-Parliamentary Association, continue to work for, foster and further British-Irish and North-South relations. This work and these relationships

matter. They matter enormously as with every step taken together, the benefits of all-island co-operation boost every county.

The constitutional issue is resolved for this generation and now it is time to reach a new accommodation and a new understanding between both parts of this island. Doing things together that make a difference to ordinary people must become the new reality in respect of jobs, economic growth and working together to increase prosperity for all the people of this island. It is within this wider context that Members should give recognition to the recent steps taken by First Minister Peter Robinson and Deputy First Minister Martin McGuinness in continuing Northern Ireland's journey towards a more united and reconciled society. They invited Dr. Haass and his team to assist with the work of the working group of representatives from each of the five Northern Ireland Executive parties established to examine the contentious issues of flags, parades and the past. Again, the establishment of the working group formed part of the Executive's wider initiative termed "Together: Building a United Community", a strategy aimed at improving community relations. I very much welcome the initiative taken by the First Minister and Deputy First Minister. The fact that the initiative came from them and did not involve the two Governments is in itself a positive signal that the political parties are taking ownership of and trying to address these contentious issues.

As the Government was not one of the five parties conducting the negotiations, its primary position has been one of support for the parties, rather than to oppose or endorse any specific proposal. Having said that, I welcome the progress that was made within the talks process over a short time. The Haass proposals provide a basis for taking these outstanding issues forward. Now is a time for the five political parties in Northern Ireland to show continued leadership, and I welcome the fact that they currently are meeting and engaging not just in respect of the past, parades and flags but are back to the big issues that must be resolved. I have stated repeatedly that the Irish Government stands ready to work with the Northern Ireland Executive and with the British Government to support these further efforts to achieve greater peace and the common goal of building a united community. I pay tribute to the Tánaiste for his active work on the Haass talks over the Christmas period.

As politicians, one of the things we can do is rebuild trust. Together, we already have begun to explore new perspectives in respect of our shared history, through the decade of commemorations encompassing the Ulster Covenant, the Great War and the Easter Rising and through to Independence and partition. We are taking the opportunity of new relationships on and across these islands to rebuild understanding and trust over this decade of commemorations. We have made some progress in recent years in dealing with historical differences in a non-violent way. Politicians, both British and Irish, with help from the United States and the European Union, are entitled to take some credit for that. In March 2012, the British Prime Minister and I concluded a joint statement on British-Irish relations, which set out a vision of closer co-operation between Britain and Ireland and identified a range of areas where this could be advanced. This work is being carried forward through an extensive programme of work under the stewardship of the Secretary General to the Government and the Cabinet Secretary, as well as at political level through the annual summit meetings. Recently, the British Prime Minister, David Cameron, and I visited the war graves in Flanders to honour all those Irish and British soldiers who died in the First World War. This was the first such joint visit to commemorate the terrible loss of life that occurred during the First World War. The ever-strengthening relationship between Britain and Ireland will be evident in the upcoming State visit of President Higgins to the United Kingdom in April this year. The State visit in April follows on from the

historic and highly successful visit to Ireland by Queen Elizabeth in 2011.

The peace process shows that politics does matter and politics can make a profound difference. However, having found common agreement on the constitutional argument, we need to drive the economic and social agenda North and South. This is the reason the Government, in the programme for Government, has committed to working for greater cross-Border economic co-operation to accelerate the process of recovery and the creation of jobs on this island. I and members of the Government are availing of all opportunities, including meetings within the framework of the North-South Ministerial Council established under the Good Friday Agreement, to have continuous and constructive engagement with Northern Ireland Ministers on matters of mutual economic interest, to advance initiatives designed to boost economic activity on the island and to seek practical co-operation in providing services. Since 2011, Ministers have attended more than 80 meetings within the framework of the North-South Ministerial Council.

There are numerous and recent examples of this positive progress across the North-South Ministerial Council's work sectors. In respect of agriculture and rural development, progress is being made on the delivery of an all-island animal health and welfare strategy action plan. As for trade and business, InterTrade Ireland is working to encourage and stimulate greater co-operation to increase applications to EU framework programmes, including enhanced levels of participation by small to medium-sized enterprises. In respect of the EU's funding programmes, the Special EU Programmes Body is facilitating North-South participation in the INTERREG IV transnational and inter-regional programmes, with 61 project partners secured to date across the relevant programmes.

In aquaculture and marine and waterways, there is ongoing maintenance of the waterways, provision of additional moorings and efforts to increase awareness of the waterways across all navigations. In the environmental area, research is being undertaken to identify further opportunities for beneficial joint working on EU directives in the areas of environmental quality and protection. In the tourism sector, the island of Ireland is promoted abroad by Tourism Ireland and the Government is working with the Northern Ireland Executive to ensure the sector's potential is fulfilled. Projects such as The Gathering and Derry UK City of Culture all played their part in this success. In 2013, Fleadh Cheoil na hÉireann went North for the first time and was a resounding success. In education, liaison between the two teaching councils is being encouraged with the objective of facilitating full mobility of teachers across both jurisdictions. In the area of health, construction of the £70 million radiotherapy unit at Altnagelvin commenced last year and will be operational by 2016. Moreover, joint programmes in education, training, research and prevention by the Ireland-Northern Ireland-National Cancer Institute Consortium will continue. On child protection, the launch of the inter-jurisdictional protocol for the transfer of child care cases between Northern Ireland and Ireland and the work to progress its implementation and the agreement on a new work programme focusing on five specific work streams is under way. In sport, the hosting of a high level conference on sport and sectarianism took place in November 2013, with participation by the Gaelic Athletic Association, the Irish Football Association and the Irish Rugby Football Union. In 2014 there will be another significant cross-Border sports event in the Giro d'Italia. In the longer term the recent agreement to co-operate on a possible 2023 Rugby World Cup bid will, I hope, result in major benefits for the tourism industry throughout the island. I hope we will eventually achieve success in that regard.

Clearly, there are other sectors not immediately within the remit of the NSMC that have the capacity to grow. The agrifood sector on the island has a very bright future and the abolition of milk quotas in 2015 will open up new, exciting opportunities for the dairy sector, in particular.

If there is one economic certainty, it is that the demand for food will continue to grow. Ireland's most important natural resource, its land, will be at the centre of sustainable development for generations to come on the island. We have the potential to create a powerful food culture which will be recognised around the world.

One of the greatest successes of North-South co-operation in recent years is the creation of the single energy market. That market, together with new electricity connectors between Ireland and Britain, will support the renewable sector and stimulate competition in this key economic sector. The proposed North-South electricity interconnector is a very important part of the new infrastructure that we are building together on the island. It is, of course, of particular importance for Northern Ireland where security of supply will become an increasingly important issue in coming years. Both jurisdictions on the island, therefore, have a direct interest in working closely together in research, new generation and energy storage technologies and together can make a strong case for a major European Union investment programme in renewable energies in Scotland and Ireland.

Northern Ireland in particular but also the Republic has a well developed education system and a very supportive educational culture. The provision of education services for international students is one of the areas where the island of Ireland has a comparative advantage, particularly as regards language. The provision of education services is a very lucrative market. We can grow our share of this market, providing an immediate income stream but also long-term benefits for our economies.

On a practical level, everybody needs to focus on how our two economies might grow and prosper and provide job opportunities and a sustainable future. In our most recent discussions at the North-South Ministerial Council and as part of the St Andrew's review, we have also agreed, in particular, on the need to use every opportunity to focus on getting better outcomes, putting in place policies that will lead to growing exports and foreign investment, working together on accessing overseas markets such as China, India and Brazil, upgrading services, creating jobs and improving young people's skills. We have agreed that Ministers will examine priorities at their sectoral meetings, especially as they affect economic development, job creation and the best use of public funds and the most effective delivery of public services.

I look forward to discussing the progress we have made on the review when I host the next plenary meeting of the North-South Ministerial Council in Dublin in June. I still want to see further co-operation that will create more employment and boost exports. I have in mind opportunities to develop synergies on increasing our joint draw-down of innovation funding under Horizon 2020 and jointly examining the potential to develop cross-Border clusters of economic activity. In the Europe of today states have never been more interdependent. This applies as much to Northern Ireland as anywhere else. Therefore, co-operation and collaboration are necessities. By working together, politically and economically, we can build a better future for all people who make this island their home. While we must look at issues of the past, we must not forget that the future is where we all have to live together. Therefore, we should not waste time in seeing that the opportunities which present are developed.

Tánaiste and Minister for Foreign Affairs and Trade (Deputy Eamon Gilmore): I welcome the opportunity to reflect on developments in Northern Ireland, in particular on the recent political talks and the contribution and role of the Irish Government in support of political progress, reconciliation and prosperity in Northern Ireland. In the past few years there have been significant developments across the agenda of government in British-Irish relations. There is a

5 February 2014

mutual interest and ease in co-operation, trust and respect which goes across government and which reaches beyond it into the official and civic spheres also. I have experienced this on my visits to Britain, when I have encountered the assurance and confidence of the many younger Irish people who are succeeding in business, the arts and all sectors in Britain. Being Irish in Britain now has only positive connotations.

Engagement with the British Government is increasingly about our bilateral opportunities, shared interests in Europe and internationally. Our economic interdependence is explicitly recognised and valued by both Governments, with €1 billion worth of traded goods and services crossing the Irish Sea each week. We will continue to grow this area of co-operation, yet co-operation in support of reconciliation, prosperity and a shared perspective in Northern Ireland remains at the heart of the British-Irish relationship. The British-Irish bilateral relationship has been both a catalyst for positive change in Northern Ireland and a beneficiary of that change. We want to ensure the strengthening of the British-Irish bilateral relationship benefits and is reflected fully in Northern Ireland. This is because, despite the enormous political progress of recent years, a number of significant challenges remain with respect to Northern Ireland. In my recent visits I have been confronted with concerns about identities under threat, work that is still needed to ensure parity of esteem and the virulence of sectarianism. That is why reaching agreement around the proposals which emerged from the panel of parties talks is so important. Parades, flags and emblems and contending with the past can be touch-paper issues which, in the absence of agreement at executive level on how best to deal with them, continue to disrupt other areas of government and civic life. We saw this happen on numerous occasions during 2013. Agreement and unity on these issues would inspire a new sense of security and confidence across communities in Northern Ireland. The Northern Ireland parties deserve and require all the support they can get from across society and the two Governments.

The Government will provide that support to the full as the Northern Ireland parties seek to complete their work on these issues. Both Governments have made it clear that we attach high importance to the parties making progress on these issues and we aim to facilitate progress in any way we can. This work is important in itself, but it is also necessary in order that the parties can turn their attention to the other serious, pressing issues around unemployment, education and economic recovery. The Irish Government has no closer political relationship than with the Northern Ireland Executive. There is a shared interest to move North-South co-operation in a practical direction in support of recovery. Ministers have been reviewing priorities in their respective areas, especially where they could cultivate more economic recovery, job creation, the best use of public funds and the most effective delivery of services. We are making real progress on these issues. I would like to see a new approach to co-operation that will emphasise job creation and boost exports and economic activity. Opportunities for greater co-operation in higher education, youth employment measures, transport, sport and health are also being examined very carefully.

From visiting Derry I have seen that there are great synergies, real and potential, between Derry and Donegal. Since 2006 the Government and the Northern Ireland Executive have worked hard with local stakeholders through the north-west gateway initiative to take the fullest advantage of the potential for co-operation at all levels within the region. There has been good progress with the Altnagelvin radiotherapy unit as a regional centre which will serve the people of the north west. There has also been excellent co-operation between IDA Ireland and Invest NI on the north-west business technology zone which is providing linkages between industry, the colleges and Altnagelvin. As well as looking at co-operation on the island, the Government

and the Northern Ireland Executive are also looking at how we can collaborate internationally to ensure that where there are economies of scale which give us competitive advantage, we pursue these opportunities.

The Good Friday and St. Andrew's Agreements have had an overwhelmingly positive and transformative effect on security, politics and economic and social opportunity on the island, in Northern Ireland most particularly. They came about as a result of a sustained effort over a number of years by the British and Irish Governments and the Northern Ireland parties. The US Government also played a crucial role, through its envoy George Mitchell and directly, in facilitating agreement in 1998. The US Administration continues to provide significant support and encouragement in addressing current challenges. Vice President Joe Biden, in particular, has made clear his support for the ongoing political talks and I deeply appreciate his positive and ongoing contribution and that of the US Administration. Taken together, the agreements set out the guiding principles for peace, stability and reconciliation in Northern Ireland, namely, devolution, power-sharing, agreement on sovereignty, human rights, parity of esteem, support for the rule of law, and the continued shared responsibility of the two Governments to guarantee these principles. However the full potential of the agreements has yet to be reached. We need to reflect honestly on where gaps remain and commitments are unfulfilled. As is the case in any comprehensive political agreement, implementation is essential to the integrity and balance of the whole.

I want to mention three issues I believe require particular effort. First is the strengthening of civic society in Northern Ireland. I support the establishment of a civic forum which would stimulate informed public debate on key societal challenges. As part of their work, Richard Haass and Meghan O'Sullivan met with a variety of community groups and with representatives of wider civil society. I believe this consultation process enriched their work, in particular in regard to the proposals on contending with the past. I wish to put on the record today also my gratitude to them for their contribution in progressing so significantly public and political debate on the three contentious areas of parades, flags and emblems, and contending with the past. Through my Department's reconciliation and anti-sectarianism funds, we support the community sector to play its part also. We enable organisations to pursue projects promoting genuine and lasting reconciliation and to build sustainable community relations. Grants totalling almost €2.7 million were made in 2013 and I am pleased to confirm that an equivalent amount will be available in 2014. I thank Members of this House for their support through the Estimates process for this important resource.

The second issue is the need for further progress, in a rights-based approach, to addressing contentious issues. During my visits to Northern Ireland, I have been struck by the level of interest among a broad swathe of civic society in a Bill of rights for Northern Ireland. Many of the contentious issues around culture and identity have rights at their core and progress on a Bill of rights would provide a framework for the resolution of these issues. The third issue is the need to give effect to the principle of parity of esteem. I believe, for example, that an Irish language Act should be introduced in Northern Ireland. All parties to the Good Friday Agreement recognised the importance of respect, understanding and tolerance of linguistic diversity.

Seeing through the implementation of the remaining elements of the agreements is about supporting stability, prosperity and reconciliation. They are not add-ons, belonging to one party to the agreement or another, but are an integral part of it. I am confident that working together the Northern Ireland parties, with the support of the two Governments, will complete this important work. I do not underestimate the nature, scale or complexity of the work ahead. What

started as a political process almost 30 years ago continues today as a journey toward reconciliation that is as complex and as challenging as any previous phase. If we rise to the challenge, it will continue to be every bit as rewarding economically, socially and politically for every inhabitant on this island.

A few weeks ago we marked the 20th anniversary of the Downing Street Declaration, a landmark in British-Irish relations and in the peace process that has helped redefine political relations on this island. Every party in this House has played its part in shaping and guiding that process, through challenges that often appeared insurmountable. That we have come so far is a tribute to this House, which has long taken the view that this work lies above politics, above party advantage. However, we need to be vigilant and alert to the risk of complacency. We have come a long way and some may be tempted to say that “this good is good enough”. It is not. If we cease moving forward, we risk handing the momentum to those who would turn the clock back.

The challenges that face us now, while considerable, are far from insurmountable. Parades can and should be regulated in a manner that encourages dialogue, respect and compromise. Steps can and should be taken that provide for the respectful expression of British and Irish cultural identity, whether that is for the appropriate display of the Union flag as the sovereign flag of Northern Ireland or for affording the protections and status to the Irish language that are already afforded in Wales to the Welsh language. We must also find a much better way of dealing with our past and of meeting the needs of those who were bereaved, hurt or damaged during the Troubles. That is why the political talks on these issues matter so much.

Speaking in Iveagh House recently, John Major reminded us “the task of building a normal society is still work-in-progress. The British and Irish Governments need to continue working together to help Northern Ireland become the tolerant, inclusive, shared society we all wish to see”. That work of the two Governments continues, as it must. Tomorrow, I will meet the Secretary of State and we will consider what more the Governments can do to help facilitate agreement. I know there is a great deal of scepticism that these talks will lead to agreement. I do not share that scepticism. I believe there is genuine desire by all party leaders to find agreement and that agreement is within reach and achievable. I encourage them to conclude this work now without further delay. Today’s debate can help support that process.

Deputy Micheál Martin: Over the past three years there has been a growing and increasingly dangerous complacency about the situation in Northern Ireland. On the rare occasions that Northern issues are now addressed in the Dáil by the Taoiseach, we hear statements that everything is in hand and lots of meetings are taking place. We also hear Deputy Adams express his general support for a Government policy which has given his party a much freer hand.

I welcome this debate because it gives an opportunity to challenge this complacency. It is not just that sectarian tensions and dissident activities are giving rise to widespread concern but that, more fundamentally, the entire momentum of peace, reconciliation and development is being lost. The Good Friday Agreement was an undeniably historic breakthrough. Its anniversary was, unfortunately, allowed to pass unmarked last year because the Governments were concerned that they would have to acknowledge the central role of others. The agreement was a victory for the vast majority on this island who always believed in our shared interests and in constitutional methods. The generosity of the Irish people remains an inspiration in how they offered a hand to those who bombed and killed for decades without ever receiving public legitimacy. It was a great demonstration also of how much can be achieved through genuine

political leadership.

The benefits of the agreement are real and have been sustained. However, it was never intended as a conclusion. In the words of Seamus Mallon, one of the great democratic heroes of the fight for peace, it was “a new dispensation”. It gave this generation an opportunity to permanently overcome divisions and to work together for lasting prosperity and social progress. There was nothing inevitable about the success to date of the peace process and there is nothing inevitable about its longer-term course. While we hear various figures tell us how well they are getting on and how institutions are in place, let us not forget the objective of the process is not for politicians to get on and avoid constantly collapsing basic institutions. The goal is to deliver tangible action on behalf of people.

The undeniable reality is that today the majority of people in Northern Ireland say they do not have an increased influence on how they are governed and they believe that the Assembly is achieving little. Every survey confirms a growing detachment and disillusionment. One does not need to know much about history to know how dangerous this is or how it creates an atmosphere in which those who promote division find it easier to get listened to. In the South there has also been a collapse in levels of interest in Northern matters. In the media, the Oireachtas and among the wider public, the North increasingly only gets attention when things go wrong. When I first pointed out the dangers of this complacency and disengagement, I was roundly attacked by the Government, Sinn Féin, the DUP and some parts of the media. Since then even they have been forced to admit that all is not well. Last year we even saw the DUP and Sinn Féin attack each other in regard to why they are failing to use the Executive to deliver action on behalf of all.

Today we are facing the harsh reality that we have reached a defining moment. Sectarian tensions are important, but they are only one part of what is a rising challenge to the entire process of reconciliation and development. This challenge is faced within each of the three strands of the agreement. The process is becoming ever more concentrated on the elites, who are distracted by their partisan concerns. This is leading to a marked increase in public disillusionment. The focus has been on managing rather than developing institutions. Opportunities to address shared problems are missed and in some areas we see a retreat from the policy of deeper co-operation. This has had an inevitable and growing negative impact on public attitudes. It is not only that we fail to take advantage of the many and obvious opportunities which peace and a shared blueprint have brought. The failure to take these opportunities, to build a deep understanding of other communities, to aggressively target development, and to work to bring the concerns of marginalised groups and areas onto a shared agenda pose long-term threats to what has been achieved. Over the past two years I delivered a series of speeches on both sides of the Border calling for action on the growing dysfunction of institutions that are ever more beholden to narrow party interests. In particular I have addressed the dangerous vacuum being created in Northern Ireland. This critique stands. Last summer once again we saw the two largest parties adopt a highly selective approach to the legitimacy of the system they are supposed to guarantee.

The only way to deal with the matters included in the Haass process is through inclusive talks. However, the refusal of the two governments to participate directly in the process, and their refusal to play any role in challenging the dysfunction of the Executive, gives the Haass process little hope of reaching a comprehensive conclusion. I strongly reject the idea, to which the Government signed up, that the Haass process is an internal Northern Ireland matter in which the Government should not be directly involved. The idea that a basis for challenging

sectarianism and dealing with issues of the past has nothing to do with us is completely unacceptable. It is a rejection of the basic dynamic which delivered every major breakthrough of the past decade and a half.

As we saw this week, for the Unionist side the Republic is very much part of the historical narrative about communal divisions and the campaign of the provisional movement. During my time as Minister for Foreign Affairs I made substantive outreach to loyalist groups and communities an active part of our work. Showing the goodwill of Dublin and dispelling old myths had, no doubt, a very positive impact. Equally, we played a role in supporting communities which proudly give their allegiance to the tricolour. Everything to do with building lasting peace, reconciliation and growth on the island is a legitimate concern of the Government elected by Dáil Éireann, and to step back from this is absolutely wrong. It also removes the dynamic which has time and again proved it can deliver breakthroughs.

The Haass proposals are positive and should be accepted, though let no one forget they include quite a few areas being pushed into another review. That the parties are still meeting is welcome, but the time has long since come for the governments to assert their legitimate role in the process to seek significantly increased involvement. The last time this issue was surveyed the majority in Northern Ireland accepted that the Dublin Government has a legitimate interest in Northern Irish affairs. No one has pointed to a single example in which we have been anything other than constructive and progressive in our engagement. The Taoiseach appears to have a good personal relationship with the UK Prime Minister, David Cameron. We need this to be used for the practical benefit of getting him to reverse his policy of *de facto* disengagement with Northern Ireland, and this is the most important thing the Taoiseach could try to achieve.

The exclusion of the Republic from the new economic pact for Northern Ireland remains a disgrace, as does the Taoiseach's disinterest in it. Developed between Sinn Féin, the DUP and Whitehall, it has been presented as the definitive blueprint for the development of Northern Ireland's economy. The pact is welcome and includes many important commitments, but it also whitewashes out of the picture any North-South dimension whatsoever. Even though common development was a core part of the objectives and funding in the 2007 national development plan, and we maintained most of the proposals even through the toughest of times, the pact does not include a single mention of the Border region or cross-Border co-operation. There is no comparable example in the past 16 years in which no North-South or east-west discussions took place before such an announcement. This is another area where, for their own reasons, the Government and Sinn Féin have had no problem with the process, which increasingly proceeds without Dublin's proper involvement. This move away from the spirit and practice of enhanced co-operation is reflected in area after area and is having a wider influence.

One mistake we make is to wait for crises before considering Northern issues. We miss many opportunities to deliver for communities on either side of the Border. Failure to deliver the cross-Border bodies puts them in danger of being frozen and marginalised rather than being the evolving and dynamic entities we need them to be. Since 1998 the operation of the existing bodies has proved there is no slippery slope whereby communities will wake up and find themselves living in a different state without the consent of the majority. Cross-Border bodies are not about constitutional sleight of hand. They are about securing economic development and social progress for all communities on the island. The review of existing bodies has already been strung out over three years and no proposals to extend them are being discussed.

Decisions to abandon North-South infrastructural projects are the worst thing that could

happen. We have gone from a situation in which communities asking for greater barriers to one in which they are asking for improved links, but in project after project the governments fail to take up the opportunity. The failure to fund the Narrow Water bridge is the most high-profile example, but there are many others. The bridge would have a uniformly positive economic and social impact, but it is being let fail for want of a relatively small amount of extra public funding. This is worse than a shame; it is a disgrace. What would we have given 30 years ago for all communities North and South to be united in calling for new links? Are we really so complacent that we think we do not need to embrace the spirit of joint development seen in this and other projects? The failure to prioritise the economic development of the Border region has to stop and the most effective way of doing this would be to establish a Border development zone.

The withdrawal of An Foras Teanga from direct funding of some language development projects in the North is not welcome. We need more direct engagement on the language, not less. I welcome the First Minister's defence of the right of the language to be seen as non-partisan. The obvious next step is for the DUP and Sinn Féin in the Executive to put aside their bickering and agree a language plan so that it is no longer the only administration in Europe failing to meet its obligations with regard to minority languages.

In opposition Fianna Fáil has never wavered in maintaining the same level of commitment to developing the peace process that we showed in government. The structures of the Agreement are fundamentally sound, but they were never meant to stand still. The absence of a more active approach to cross-Border bodies is a major deficiency at present. We have already outlined some areas where we believe such bodies should be developed and we will publish details of more. The Taoiseach has indicated his willingness to hold further debates on the North, and we would like a specific session to be set aside to discuss the development of cross-Border bodies and more general cross-Border co-operation.

An important point which is rarely mentioned is that supporting the minority communities on this side of the Border was a significant part of the early confidence-building measures undertaken when we were in government. We undertook investment to ensure the ability of Protestant and Presbyterian communities to protect their own identities. One element of this was investment in small Protestant schools in the Border region. National policy on providing extra teachers to enable small schools to be viable was significantly influenced by the disproportionate benefit which would flow to marginal communities. Everyone should realise that the Government's new agenda of targeting small schools for extra cuts is having a terrible impact on schools under Protestant patronage, particularly in Border communities, and many are being pushed to the edge of viability. There are many strong reasons to invest in small schools, but protecting religious diversity and marginal Border communities is a powerful one which the Taoiseach should stop ignoring.

There is no excuse for failing to implement existing clear-cut provisions of agreements. The failure of the British Government to proceed with the Finucane inquiry is unacceptable. We fulfilled our commitment by opening up An Garda Síochána to a rigorous and public inquiry. It was not comfortable, but we did it. It is long past time for the Government to make a formal complaint about the failure of the British Government to honour its commitment.

There are other areas where a selective approach to implementing agreements is undermining essential confidence. In 2007, it was agreed to review the working of the Civic Forum set out in section 56 of the agreement. To review the forum was reasonable; to leave it in suspension for seven years is inexcusable. It has once again demonstrated the eagerness of those

5 February 2014

who have taken hold of the reins of power to exclude any competitors. The First Minister and Deputy First Minister have actually said in public that they meet community groups all the time so there is no need to reconvene the forum. As we can see on the streets, it is exactly the groups who should be involved in the forum who are most likely to feel they are excluded from public discourse in the North.

I welcome the SDLP's initiative on this and their refusal to let the issue drop. For things to change in the North they require greater generosity and restraint. They require leaders to be willing to move the agenda on and to be consistent in respecting institutions which are trying to serve the whole community. They cannot say they support the police if they attack them every time they pick up one of theirs. Equally, they cannot be selective in their demands for transparency about the past. The families of the disappeared in particular need particular attention and full transparency in terms of what happened to all their loved ones. That transparency should be provided by those who are responsible, and the Sinn Féin-Provisional IRA community have particular responsibilities in that regard.

I have no doubt that there is a wide, growing gap between the bulk of the population of this island and leaders who act as if there is nothing more to be achieved. People understand the logic of peace and reconciliation and are largely getting on with it as far as they can. What is missing is a determination and focus from our leaders to take the process forward rather than allow it to be overtaken by forces led by neglect and a sense of disillusionment.

The great historical opportunity to build a lasting and constructive co-operation between all of the traditions who share this island still exists. Enormous progress has been achieved and is still in place. However, no one can realistically deny that a sense of drift is present. There has been disengagement and a reduction to formalities which has left serious problems intact and waiting to break out into new crises.

It is time to end the complacency and return to a position in which our Government again assumes the role of an active and interested partner in all elements of the still ongoing peace process.

Deputy Gerry Adams: I very much welcome this debate but I believe we need to formalise these arrangements and open up the discussion so that we can have a structured discussion on the North on a regular basis as part of the normal business of the Dáil. Unfortunately, the current arrangements do not allow for this and there is not sufficient time to deal with these important and complex issues.

What is equally unacceptable is the disgraceful way in which some TDs and parties occasionally have tended to use the North, and issues arising from the recent conflict, in a shallow, juvenile way, usually to attack Sinn Féin. Regrettably, some of Teachta Martin's remarks today reflect this approach. I would like him to bring me to the North some time and introduce me to the Sinn Féin-Provisional IRA communities he has now discovered.

Deputy Micheál Martin: Is Deputy Adams serious?

Deputy Gerry Adams: Almost 4,000 people died in the recent conflict. Countless others died in other phases of conflict over the centuries. Is as gach pobal a tháinig said. The victims came from all walks of life and all sections of the community. They include members of the British State forces, Garda and Defence Forces members, members of republican organisations, Unionist paramilitaries, and civilians.

The focus of political leaders and of this Dáil must be to ensure that there are no more casualties of political conflict on this island, no more victims, and no more deaths. That means we must understand the errors of the past in order not to repeat them. Ní raibh cogadh maith riamh ann, nó ní raibh síochán dona riamh ann ach an oiread.

I remind the Fianna Fáil leadership that the democratic position is that the conflict on this island arose from the British Government's colonial policy and its immoral and illegitimate claim to jurisdiction in Ireland. Following the Black and Tan war, the partition of Ireland, as James Connolly predicted, triggered a carnival of reaction and created not one but two conservative states administered by two elites who entrenched their own power and privilege to the detriment of ordinary citizens. In the North, a one-party Unionist regime controlled a sectarian Orange state with the aid of the RUC and the infamous B-Specials, backed up by draconian legislation and the use of pogroms. Denial of basic civil rights and other measures, including the introduction of internment without trial, were the order of the day in both states. Discriminated against in employment, education, housing and voting rights, Nationalists in the Six Counties were treated as second-class citizens. The Protestant working class were only marginally better off, but sectarianism was utilised by the British and Unionist establishment to separate citizens.

Over this period, abandoned by Dublin, a republican minority maintained heroic resistance at periods during the intervening years, but it was not until the 1960s that Nationalists demanded our basic civil rights in an effective way. The campaign of the Civil Rights Association in the late 1960s for equality in housing, education and employment and at elections was met with a violent response by the Stormont regime. Savage attacks by the RUC and the B-Specials, backed up by loyalist mobs, culminated in organised pogroms in August 1969 against Catholics in Belfast and Derry. The violence saw the biggest population movement in western Europe since the Second World War.

As the Orange state began to crumble under the weight of democratic demands, British troops were more frequently deployed. Promised reforms from Westminster turned out to be purely cosmetic, and the British Government's guns were turned against the Nationalist population.

Following the introduction of internment without trial, many Nationalists who advocated reform within the six-county state realised that the state was not reformable. The shooting dead by British troops of 14 Nationalists in Derry on Bloody Sunday in 1972, and the condemnation that followed this televised event, left the Stormont regime in ruins. Last week, the Taoiseach met another group of victims of British terrorism from Ballymurphy, and I very much welcome his support for them and their campaign and for the other victims. It was those responses by the British State to democratic demands that created the conditions for republican armed struggle.

It is often forgotten that Sinn Féin was banned outright in the Six Counties between 1956 and 1974. Armed resistance or support for armed resistance was the only path that many saw open to them after the civil rights movement was shot and beaten off the streets, and that included members of the present Government. The IRA that emerged in these years was one built by ordinary people out of sheer necessity because of the conditions in which they found themselves. In the Nationalist areas of the North, as it had been previously in this part of the island at other times, the IRA was from the people, not some abstract idea. However, the British, and the Irish Government as well, used oppression, initially in the belief that it could militarily defeat the IRA and later because it hoped to isolate or criminalise it.

5 February 2014

We should focus on how the abject failure of successive Irish Governments to represent Irish national interests, and specifically to stand by those citizens under attack, contributed to the political conditions in which armed struggle was waged. From the “we cannot stand idly by” moment, the relationships of Irish Governments with repressive British Administrations grew more and more subservient.

The militarisation of society in the North and the corruption of policing, the prisons, the Judiciary and public life were obvious for decades. What was less obvious was the extent to which that adversely affected the people and the institutions of this State. From the early 1970s, many areas of public life here - the prevailing political culture, broadcasting legislation, the courts, and the Garda - were gradually subsumed into supporting British counter-insurgency efforts. Many good people here who wished to stand by their fellow citizens in the North and stand up for justice were hounded and harried by the forces of the State. Many had their careers ruined. While Irish Governments did not ban Sinn Féin outright, they attempted to close down the party and harassed our members on a continuing basis. Surveillance of political radicals, the abuse of detainees in Garda custody, and the activities of the notorious Garda heavy gang became a feature of political policing here, which only a tiny minority of journalists were prepared to question and expose. Non-jury courts and extremely anti-republican Ministers for Justice gave the green light to such abuse and malpractice.

2 o'clock

The overall effect was extremely corrosive and included serious miscarriages of justice. The peace process, the fruits of which we now enjoy, was made possible only when this failed policy of repression, censorship and political exclusion was abandoned in favour of a more enlightened approach in response, initially, to Hume-Adams. I recall the contrived outrage at the news that John Hume and I had met. John Hume was vilified at the time. The sterling work of Fr. Alex Reid, Des Wilson and others created the way forward. The Good Friday Agreement marked an historic shift in politics on this island by establishing a firm foundation from which it is now possible to continue building a future based on equality. For the first time since partition almost 100 years ago, there is an international agreement involving the Irish and British Governments, as well as Nationalist, republican and Unionist parties, on a way forward. Unlike the efforts that governments had concocted previously, from Sunningdale in December 1973 to the Anglo-Irish Agreement in 1985, the Good Friday Agreement was comprehensive, inclusive and addressed the issues that were previously ignored. The agreement tackles constitutional issues, political and institutional matters, policing, weapons, justice and equality and more. Citizens in this State expect the Government and the Oireachtas to be proactively involved in the peace process. Just as important, citizens in the North expect the same. As I have said to the Taoiseach previously, I want issues relating to the past conflict to be dealt with in a rational, reasoned, considered and informed way but I also want to see the future discussed in a non-threatening and inclusive manner.

I want to see this Dáil breaking out of a partitionist mindset. An Irish Government that truly wanted a united Ireland would understand this means unity of all the people, including those who see themselves as British. It would require us to pursue every avenue to promote greater all-Ireland co-operation and seek to build relationships on the basis of equality between all the people on this island. It means genuine outreach efforts to Unionists on the basis of equality and undoing ingrained partitionist thinking on the part of policy makers. An esteemed economist recently spoke about the efforts to develop an all-island economy and cross-Border economic corridors. One of the difficulties he encountered was that many of the policy makers

were partitionist in that their thinking did not extend beyond the Border.

There has never been a better time to plan and deliver on an all-Ireland basis without infringing perceived Unionist sensitivities. When it is to our mutual benefit, even the most fundamental Unionist will embrace these measures. I welcome the work that has been done thus far, but much more needs to be done. The Government, in its caution around some of these issues, does not differ from the previous Fianna Fáil Governments, including those in which Deputy Martin served. As someone who comes from the North, I want the cross-Border agencies and the implementation bodies to expand and intensify their efforts. As I noted to the Taoiseach well in advance of the decision, if he had wanted the Narrow Water bridge to happen, it would have happened. That was a missed opportunity which will cost more when we return to deal with it at some point in the future.

There is also a need to deal with the British Government in an ongoing way. I have seen too many senior people from here almost tipping the forelock, such was their delight to be in Chequers or some other stately house. This is a sovereign Government, notwithstanding the powers that have been given away, and it needs to act in the national interest of the entire island of Ireland, including what we perceive to be the interest of all of the people who live in the Six Counties. The British Government acts in what it perceives as its national interest. Not all aspects of the Good Friday Agreement and subsequent agreements have been implemented. It is not that the British do not know they should commission an inquiry into the murder of human rights lawyer Pat Finucane or that the Oireachtas passed motions on the issue on two occasions. It knows about collusion, but the Irish Government needs to face up to it on the issue. This should be a matter of concern to every Deputy and Irish Government. The issue of collusion has most recently been set out by Anne Cadwallader in her book *Lethal Allies*. Many people in this State were killed as a result of this policy, including the victims of the greatest loss of life in any single incident during the conflict, namely, the Dublin-Monaghan bombings of 1974. The Irish Government has a responsibility to educate the British Government on these issues and to persuade it to engage on the basis of the agreements it has made.

There is also an ongoing need to enlist the support for this necessary endeavour of our friends internationally, especially in the USA. It is no accident that Irish America and its representatives have often been more informed, involved and progressive than successive Governments here. I thank our friends for that involvement and welcome the ongoing interest shown by Bill Clinton, who is due to visit Belfast next month. I also thank President Obama and Vice President Biden for their ongoing efforts.

The British and Irish Governments must be clear and unambiguous in their support for the ongoing process of change. If the British Government is not focused and clear, we cannot expect Unionist leaders to be positive. I commend the Joint Committee on the Implementation of the Good Friday Agreement on the important work it has done in this regard. Those tiny minorities who want to cling to the past must be rejected. Those of us in Sinn Féin reject such minorities every day of our lives in the Six Counties. Sectarianism must be tackled and ended. We should also consider some of the scandals in this State, because some of them are the product of the post-colonial condition in which we find ourselves. Building a real Republic will benefit everyone.

The promise of the Good Friday Agreement for a new society in which all citizens are respected and which is based on justice and equality must be advanced. If I came into this Chamber 20 years ago to announce that there would be a ceasefire and that Ian Paisley would be

5 February 2014

in government with Martin McGuinness, I would have been laughed at. I would not have been allowed in, as John Joe McGirl and Eddie Fullerton found to their cost. I can think of nothing better for this Government to accomplish than to advance that process. That needs to be the focus of every Member of this Dáil.

Deputy Joe Higgins: Even a cursory glance at the daily newspapers in the North bears out that sectarianism is alive and present and intruding negatively on the everyday lives of ordinary people across communities. Sectarian actions and statements regularly emanate not only from minorities in both Protestant and Catholic communities but also from politicians and political parties on both sides of the divide. The Good Friday Agreement was signed in 1998. Far from overcoming sectarian division, the Assembly and the power-sharing Executive established under the Agreement have been a big factor in maintaining division. The political structures established under the Good Friday Agreement and the so-called D'Hondt system amount to the institutionalisation of sectarian division. The political structures in the North encourage political parties on both sides to appeal to sectarian divisions in stirring up issues that divide communities in order to consolidate their political support and draw attention away from the failure of the power sharing institutions to resolve the social and economic crisis that inflicts so much suffering on the people of Northern Ireland. Unionist and Nationalist politicians and political parties are equally culpable in stirring up tensions in the dispute about flags and emblems. Loyalists who insist on marching through Catholic communities create fear and anger and intensify divisions between communities. Equally, Sinn Féin, in publicly commemorating in Castlederg the deaths - every death is a tragedy and hugely to be regretted - of republican activists killed in bringing a bomb to bomb the town, in an area where dozens of Protestants had been killed by republican activists, stirs up fear, anger and divisions between communities. How could it be otherwise?

The political parties represented in the Northern Ireland Executive trade sectarian insults on these issues. However, they unite in implementing the vicious austerity programme dictated by the Tories and the Liberals at Westminster that savages the livelihoods and living standards of working-class people across the board. Yesterday, in the Northern Ireland Assembly in Belfast, both Unionist and Nationalist parties supported a vicious cut to the pensions of 250,000 public servants. They also agreed to raise the retirement age of workers to 68 years. These are the same austerity policies implemented by Fine Gael and the Labour Party in government here and by Fianna Fáil before them. In the North working-class people, particularly working-class youth, suffer hugely from unemployment, poverty, inadequate housing, as well as sectarian divisions. Clearly, working-class people, both Protestant and Catholic, can have no confidence whatsoever that there will be a better future under either the Tories or the Liberals, the British Labour Party, the Irish Labour Party, Fine Gael or Fianna Fáil or, as experience demonstrates since the setting up of the structures in the North, Unionist and Nationalist parties represented in the Executive. None has a way forward to offer. That is the reality. They all base themselves on the crisis-ridden economic system sustained by the capitalist financial markets and the capitalist system. Neither can they place any confidence in big business Irish-Americans or Republican Party former activists such as Mr. Haass. What do they have to offer?

The real danger is that the failure of the political establishment to solve the severe problems of working-class people in the North will create a dangerous political vacuum which vicious and violent sectarians are attempting to fill, basing themselves on the alienation of working-class people, particularly young people, with the horrific vista of misleading a new generation of youth into supporting paramilitary and sectarian organisations. Workers and working-class

communities in Northern Ireland desperately need their own independent political organisation, movement and political party which could unite them in a common campaign against austerity from both Westminster and Dublin, a common mobilisation of workers against the attacks on their living standards and the horrific effects of the crisis. That was the approach of Connolly and Larkin in their day. That is what was seen in the engineering strike in 1919 and the outdoor relief movement of Protestants and Catholics united in 1932. It is still the only way forward. The way forward is through independent mobilisation of the working-class and political organisation across sectarian divisions, with a radical programme of socialist policies to overcome the crisis, and a new party for the working class.

Deputy Finian McGrath: I thank the Acting Chairman, Deputy Catherine Byrne, for giving me the opportunity to speak in this important debate on the current situation in the North of Ireland.

Following the Haass-O'Sullivan talks and proposals, it is important for all of us living on the island to focus on what is happening in the North and the urgent need to keep the momentum of the peace process. I have major concerns that some think we can let it drift and that it will be all right on the night. That is not going to happen. As we have all seen recently, sectarianism is on the rise and the Government needs to adopt a more hands-on approach to the current situation in the North. Complacency is not an option; we all need strong leadership. Sadly, this leadership is lacking, particularly following the Haass talks, in respect of which, to be quite frank, I was shocked by the reaction from some sides to the conflict and the silence from others. Do we have to have another death before some sides wake up to the reality that staying still is not an option and that sectarianism is never an option?

The British Government also has to wake up and care a little more about the peace process. Its position is simply not acceptable and not in line with the Good Friday Agreement. The parades and flags issue shows clearly that it is not focused enough. Turning a blind eye to sectarianism and violence is not acceptable and, above all, is bad politics. There can be no tolerance of sectarian violence. Mutual respect for all traditions is the only game in town and the only way for the future of this island of ours. We all want to empower citizens, North and South, to develop co-operation across all sections of society. The sectarian rants against the Irish language and culture seen recently should always be a no-go. I strongly challenge the leaders of the Orange Order, particularly in Belfast, to end this activity.

I know where I stand on these issues. I believe strongly in building a new Ireland of Catholic, Protestant, Jew, Muslim, other faiths and dissenter. We should all wise up and enjoy difference and diversity on the island. Two years from the 1916 Rising celebrations, we should all take a close look at what those involved stood for and worked towards. A divided country is always going to be weak and flawed. We need to work harder to end division on the island. It is not trendy anymore, in certain quarters and within the current establishment, but we always need to tackle division, sectarianism and the revisionism of Irish history that has taken place in the past ten years. It is important to remember the mistakes of history and learn from them. The division of this island was one of the major mistakes in Irish history and I will always work hard to end that division, no matter how unpopular it is to say this in some quarters, particularly in this House.

On a positive note, I welcome the Taoiseach's remark that he met the victims of Kingsmill, Dublin and Monaghan, the families of the disappeared and the widow of Pat Finucane. I was delighted last week when I saw him meeting the residents from Ballymurphy. They have been

neglected and ignored for many years. All victims of the conflict have to be treated with respect. We cannot have a constant stream supporting one side or the other. All sides have to be respected and looked after.

I welcome the Taoiseach's remarks about sport, in which I am interested. He referred to the hosting of a high level conference on sport and sectarianism in November 2013 with involved participation by the GAA, the IFA and the IRFU. We should develop this initiative more on an all-island basis. There is an all-island rugby team. I do not see why we cannot have an all-island football team. In football, sectarianism is rampant. Like racism in other countries, we need to root it out.

I urge the Taoiseach and the Tánaiste and Minister for Foreign Affairs and Trade to give maximum priority to the Haass proposals. I welcome the leadership shown by the Northern Ireland Deputy First Minister, Mr. Martin McGuinness, and Deputy Gerry Adams and commend their efforts on conflict resolution. I urge all Deputies in this House to up their game and work hard to develop the peace process to build a new Ireland that is inclusive and respects all of its citizens.

Deputy Richard Boyd Barrett: The worrying rise of sectarian violence, confrontation and attacks in the North in recent years, most recently during the flag protests, is an indictment of the failure of the structures established under the Belfast Agreement, the failure of the power-sharing Northern Ireland Executive and the failure of the political architects of the Agreement in the North, Britain and the South. There is a conventional narrative about the peace process in the North which is that visionary politicians from Ireland, North and South, and from Britain dragged a reluctant population into some sort of peace agreement. I have never accepted that narrative and always thought that it was the other way around. Ordinary people in the North had had enough of communal violence. Catholic people, irrespective of whether they supported the republican movement and its struggle, realised that the armed struggle had hit a *cul de sac* and could go no further. Ordinary Protestants were sickened by sectarian and communal violence and wanted an alternative to it. Only months before the cessation of hostilities, people will remember the massive walk-out from Harland and Wolff by Catholic and Protestant workers after the shooting of Maurice O'Kane. Protestants and Catholics who were disgusted by sectarian violence appealed to political parties in the North, Britain and here to come up with a solution. The solution they came up with was the Belfast Agreement.

Now, more than a decade later, we have to ask if that agreement brought an end to sectarianism. Is it capable of bringing an end to sectarianism or has it, in fact, institutionalised sectarianism in the North? I think the jury has come in on that; it has institutionalised it.

The structure of the Northern Ireland Assembly is almost exactly the same as that which was established in the Lebanon with such disastrous consequences at the end of the First World War. It encouraged sectarian conflict in the Lebanon which festered with disastrous consequences and continues to do so because everything is based on communal and sectarian quotas.

In the North, everybody has to designate themselves as either Nationalist or Unionist, while the other category is completely marginalised in any important decisions. Therefore everything is a communal balancing act between two communities. Indicative of this is the fact that the number of peace walls - in actuality, they are separation walls - has doubled since the peace agreement was signed. Sectarian violence continues to fester and spills over in particular because of the failure of the Northern Ireland political institutions to deliver the promised peace

dividend. People expected that the agreement would improve the lives of ordinary people in the North but it has failed to do so. Unemployment, poverty and the housing crisis all persist. In Protestant areas the levels of deprivation have significantly increased. Whereas in past decades, Protestant workers could have expected jobs in the big manufacturing industries, these have now gone, so levels of deprivation and poverty have risen. There is a perception, encouraged by sectarian politicians, among alienated deprived Protestant communities that Catholics are benefiting from the arrangements. That is not true, of course, because the levels of unemployment and deprivation are still higher in Catholic areas than in Protestant ones, but they are rising more rapidly in Protestant areas. Third level education is an example of this. There are twice as many Catholics as Protestants in third level education in the North. This is indicative of the rise in deprivation in Protestant areas.

This situation is being fuelled further by neo-liberal attacks such as the cuts that were mentioned, the raising of the pension age and talk of introducing a spare bedroom tax. Disgracefully, there is also talk of abolishing the Northern Ireland Housing Executive, thus essentially privatising social housing. I understand that none of the major parties in the North has protested against that. It is worth stating that the whole conflict in the North started with battles over housing. We are now abandoning the Northern Ireland Housing Executive in favour of a more sectarian way of allocating housing, which will fuel sectarianism. We need to break from communal politics, which have failed.

Debate adjourned.

Topical Issue Debate

Hospital Services

Acting Chairman (Deputy Olivia Mitchell): There are five speakers on the first issue and they will have two minutes each. I call Deputy Creighton first.

Deputy Lucinda Creighton: I wish to thank the Ceann Comhairle for an opportunity to speak on this matter. I also wish to thank the Minister for Health, Deputy Reilly, for participating in this debate. I welcome his announcement to the media yesterday that he will proceed with an independent HIQA inquiry into the deaths of babies in Portlaoise Hospital. The families concerned and a cross-section of Deputies have been calling for such an inquiry.

After the tragic death of Savita Halappanavar and the HIQA report that was conducted into her death, the HSE's national director of quality and patient safety said that there would need to be a clear analysis of where staffing does not match demand. He promised that he would address that matter. On Sunday, the Minister for Transport, Tourism and Sport, Deputy Varadkar, appeared on *The Week in Politics* programme and stated that Ireland is a very safe place in which to have a baby. He also said that Ireland does much better in this regard compared to England or Scotland. I want to believe that that is the case but I have to be honest and say that after meeting with the parents of one of the Portlaoise babies, baby Mark Molloy, I am deeply concerned that this is not the case. I am concerned by what the Molloy's have indicated to me privately, as well as by what was revealed in the *Prime Time* documentary last week. Furthermore, very little has been done since the last HIQA report into the Halappanavar case when Dr. Crowley assured the public that these issues would be addressed.

5 February 2014

Baby Mark Molloy's death, as well as the deaths of baby Nathan, baby Joshua and other unnamed babies - whose information we do not have and whose parents have not been made privy to it - were not reported by the clinicians at Portlaoise Hospital to the national perinatal epidemiology centre in UCC.

On the Order of Business earlier today I raised with the Taoiseach the fact that the independent research centre is used to advise the Minister for Health, the HSE and the public on the standard of maternity care.

Acting Chairman (Deputy Olivia Mitchell): The Deputy's time is up.

Deputy Lucinda Creighton: Information is not being provided to that centre, however, so how can we have confidence in the information that is being provided?

Deputy Charles Flanagan: I thank the Ceann Comhairle for allowing a brief debate on this matter. This has been a very sad time for mothers and families, particularly in the midlands area. Serious deficiencies have been exposed, including disturbing failures at a senior level in HSE management. The worst aspect was a failure to put the patient first. An apology in these circumstances is not sufficient. I am asking the Minister to ensure that due process is essential and that Portlaoise Hospital is not made a scapegoat in this issue. There is an urgent need on the Minister's part to restore confidence in the quality of maternity services at Portlaoise hospital. It is a busy hospital covering a large catchment area with 2,200 babies being born there every year. We have seen a big population increase in County Laois. I want the Minister to ensure that we have a thorough examination of all practices and procedures. This must include staffing levels, accommodation and implementation of national and, if necessary, international protocols. There should be ongoing training and development of a professional nature. I want the Minister to indicate now the specific measures the HSE is undertaking to ensure high-quality service to expectant mothers in the midlands area. I acknowledge the hard work of the midwives, doctors and those concerned at the hospital. They are under pressure. My constituents want the highest standards in the midlands. Why are these standards being denied? We have had a number of debates about the hospital. Unfortunately, the predecessors of the Minister neglected to take appropriate action, as has been said in recent days. I want to see strategies and quality of care. We cannot allow the lessons of the documentary television programme of last week to go unheeded.

Acting Chairman (Deputy Olivia Mitchell): Deputy Stanley is not present so we will move on to Deputy Fleming.

Deputy Sean Fleming: When I saw the "Prime Time" programme last Thursday night, I was saddened and shocked. It was all news to me. I was not aware of any of the four cases in which babies died at Portlaoise hospital. I had not heard about it and I did not know the families involved. Our hearts went out to those parents and they have our deepest sympathy and support. Yesterday I had the privilege of meeting two of the finest people I have ever met, Róisín and Mark Molloy, and they talked about the death of their baby, Mark. We also touched on the issue of the other baby, Joshua, whose name we know. I do not know the other children.

Róisín Molloy said that this was about one issue: equality of care for people in the maternity unit in Portlaoise compared to treatment available in other maternity units. There are 2,500 births per annum at the unit, but certain basic equipment should have been in place. I cannot say for certain but it is possible that such equipment would have reduced or prevented the risk

of death for baby Mark. We will never know. The parents and staff in Portlaoise hospital are entitled to have basic equipment which is available in other units. We need to restore confidence in the unit.

There should be an independent HIQA inquiry and it should engage with the families. No HSE or Department of Health review is acceptable. Senior people in the Department of Health and the HSE were involved in cover-ups and denial for several years. People with knowledge or those who were made aware of it should step aside and take no part in any inquiry. The question to be asked by HIQA is whether this has happened in other maternity units. It took “Prime Time” to highlight this. We all need to know whether this is the case. It appears the HSE felt that if it denied it and covered up for long enough the parents would go away. That is not true of Mark and Róisín and they are to be commended on that.

Deputy Denis Naughten: The most disgusting aspect of the debacle is that the parents were told their innocent baby was stillborn when the baby was born alive. How can any health professional stand over this? Not only does it have major implications for how the birth is treated from a legal perspective, but far more importantly, it has far-reaching consequences for the mother, who will naturally question herself. Was it her fault that the baby was stillborn? Did she have a knock at some stage during the previous 40 weeks? This doubt delays the grieving process and the mother’s ability to come to terms with the loss of her baby. This has an impact on her partner and any other children she may have. If that was not bad enough, in the case of little Mark Molloy, the way the truth was actively concealed from the parents is inhumane. This went right to the top of HSE. In the initial six weeks, phone calls to the hospital were not returned until a third party intervened. Two years on, the desktop review of the death of baby Mark has not been released to the family even though they have tried to obtain it under the Freedom of Information Act.

There is a litany of such examples throughout this case and others. This is not confined to Portlaoise but is systemic throughout the health service. A number of orthodontists in the west have been referred to the Dental Council for fitting used braces to children’s mouths. These are braces that should have been destroyed, but no child in receipt of these braces has yet been contacted. I could go on and give other examples. We need mandatory medical disclosures to patients where something goes wrong and we should not rely on decisions being made behind legal closed doors that allow for risky practices to continue. Baby Mark, baby Nathan, baby Joshua and the other innocent baby deserve that.

Deputy Billy Timmins: I extend my sympathy to the families and relatives of those involved in this case and other similar cases. I also acknowledge the hard-working staff in the maternity units in hospitals around the country. This is causing a lot of grief, particularly to those in Portlaoise hospital.

The Minister should not have to be here today. Why is the Minister in the Chamber? He is here because we have a flawed system, one that includes a policy of silence and obstruction. We are dealing not with the Charles Dickens era but with the post-Celtic-tiger era, yet our institutions have learned nothing. The Minister should not have to be here because the issue should have been dealt with by the HSE in the first instance. Notwithstanding the tragic circumstances, the family should have received satisfaction on the day.

I have three questions I would like the Minister to answer. When did he first become aware of the issue? The most disturbing aspect of the programme was the HSE representative speak-

ing about Portlaoise having a relatively good record. How many similar cases exist around the country, where families are going through the same difficulties with other maternity units? Will the Minister give a commitment to publish a list of all child deaths during childbirth over the past ten years and the hospitals in which they occurred? Many of these happen for reasons beyond anyone's control, but it is important to realise the extent of the issue. It is terrible to come in here after every crisis. There was a hullabaloo about the CRC and top-ups but newspapers wrote that the Department of Health was aware of it two years ago. We do not deal with these issues. The policy of silence, frustration and obstruction has us in the Chamber today. When did the Minister become aware of the issue? Are there similar cases out there? Will the Minister commit to publishing a list of all child deaths in hospitals over the past ten years?

Minister for Health (Deputy James Reilly): I extend my sympathies to the families. I thank the Deputies for raising these matters and for affording me the opportunity to place my concerns on the record of the House. I, like everyone else who watched the programme, was deeply disturbed by what I saw. At the weekend, I met three of the families involved to offer my sympathies personally and to hear their individual stories. The meetings were very constructive, and I am indebted to the families for speaking to me in such an open and honest manner.

As a priority, we must establish exactly what happened. I have therefore asked the Chief Medical Officer to provide me with a report on the issue as quickly as possible. He will have the support of the chief nursing officer in compiling his report. I have assured the families that the process will be transparent, that they will be involved and that they will have the opportunity to see the report in advance of its release. The findings of the Chief Medical Officer's report will inform the terms of reference of any subsequent HIQA review into this issue. There will be such a review.

My Department is working on the development of a new maternity strategy, which I hope will be finalised by the end of the year. The strategy will ensure that our services are fit for purpose into the future and in accordance with best available national and international evidence. The Chief Medical Officer's report will inform that strategy, as well as the need for any wider review by HIQA.

It is important to recognise that this issue is of significant concern to pregnant women across the country. I want to be clear and reassure women that Ireland is a safe country in which to have a baby. Compared to neighbouring countries, we have low rates of perinatal deaths, and this rate continues to fall. The perinatal mortality rate is estimated at 5.9 per 1,000 live births and stillbirths in 2012, which is a decline of 31% since 2003. I know this is very little consolation to the families that have lost babies and I know from speaking to the families that they are concerned about how these figures are collected. I have instructed my Department to carry out an audit on the figures and how they are collected in individual hospitals. Nevertheless, these rates are encouraging and I am determined that there will be continuous improvement.

Patient safety is a priority for me. My officials meet representatives of the HSE each month to discuss the service plan, and patient safety is a standing item on that agenda. I have also written to the chairman of HIQA to ensure that his patient safety priorities are included in the monitoring programme against the National Standards for Safer Better Healthcare. My Department is also leading the development of a code of governance which will clearly set out employers' responsibilities in achieving optimal safety culture, governance and performance. I have instructed the national clinical effectiveness committee to commission and quality-assure four priority national guidelines on sepsis, clinical handover, maternal early warning score and

paediatric early warning score. The House might also be interested to note that in November 2013 I launched a national policy on open disclosure, developed jointly by the HSE and the State claims agency, designed to ensure an open, consistent approach to communicating with patients when things go wrong in health care. Roll-out of the policy across all health and social services has now commenced.

We cannot undo the loss that the families have suffered, but we can ensure that we learn the lessons we should learn from such events. I want to assure the families that we will do so. I can assure the House that I am determined that a thorough review will be undertaken and that any actions deemed necessary will also be taken.

Deputy Lucinda Creighton: I thank the Minister for his reaction, although he has not addressed any of the questions raised by Deputy Timmins. I appreciate that statistically our low rate of perinatal deaths compares well with other OECD countries and other parts of the European Union. What I have learned from my discussions with the families involved is that there are inaccurate figures, which must be of grave concern to the Minister because deaths of babies have essentially not been reported, collated or acknowledged. As Roisín Molloy indicated yesterday, these amount to babies “missing” from our national statistics, which is unacceptable. I appeal to the Minister to consider the possibility of putting a mandatory requirement in place so that hospitals cannot have the choice of opting in or out of reporting such deaths, as it should be mandatory. The policy of open disclosure appears to be working extremely well in parts of the United States of America but this should not simply be a policy aspiration and instead should be put in a legislative framework so that it must be implemented by the HSE and all maternity units around the country.

Deputy Charles Flanagan: I thank the Minister for his reply and wish the report well. I want the Minister to ensure it is thorough and adequate. I refer to the Minister’s speech to the all-Ireland midwifery conference of 17 October 2013. At an early date, if not today, the Minister should stitch into the record of the House the target for planning as evidenced by the speech, as it is important.

Will the Minister assure me and the House that there is a plan for the hospital in Portlaoise? Before last week’s programme was aired, the HSE blamed the increasing population for pressures on the hospital, and that is evidence that there is an absence of a plan or strategy for the facility. I have raised the issue with the Minister before in the House and as a local Deputy I cannot stand over a position in which there is no plan or strategy for this hospital. I would like the Minister to address that matter. This is a regional hospital in the midlands in which 2,250 babies were born in a year. We want assurances and commitments from the Government that the HSE, and the Minister will ensure the delivery of high-quality care in the midlands area.

Deputy Sean Fleming: I thank the Minister for his reply and acknowledge the fact that he has met the families concerned. From the tone of his reply it genuinely appears he has a deep personal interest in dealing with this case. The four baby deaths cannot be undone, as the Minister indicated, and the families can now grieve properly as they begin to know what happened. Perhaps the deaths will not be in vain if some good comes from the system changing for the better so as to benefit other families and expectant mothers. That is really all that can be achieved at this stage.

I want the Minister to support the maternity unit in Portlaoise with whatever resources and equipment are required for the staff on the front line. I will not overly labour the point but it is

5 February 2014

ironic that around the day of the programme's airing, the Department issued the 2014 budget for the Portlaoise hospital, cutting it by €2.76 million. That was announced within hours of the programme airing on television. That is not the proper response, although I will not play party politics.

I have some little concerns about the Minister's comments. The Chief Medical Officer is to complete a report, as is HIQA, and the Department is leading the development of a code of governance. The national clinical effectiveness committee is to consider another issue and there was also mention of a national policy launch on open disclosure. Everybody seems to be doing something, but perhaps the Minister can take personal charge of the process. When everybody is doing something, nobody is held responsible at the end of the day. We want to learn from this.

Deputy Denis Naughten: I acknowledge that the Minister met the families and he is to be commended on that. I have three sets of questions. Why did we have to wait until yesterday for foetal blood sampling to be introduced at the sister hospital at Mullingar? With regard to the questions from Deputy Timmins, how many similar reviews have been performed in other hospitals and have the parents of the babies in question been informed of the reviews? Which maternity hospitals have implemented the HSE open disclosure policy and when will all maternity hospitals have an open disclosure policy in place? Does the Minister intend to put that open disclosure policy on a statutory footing? Legislative change drives social change, as we have seen with drink-driving and smoking, and there should be a cultural shift within the medical profession in that regard. Legislation is needed.

Deputy Billy Timmins: Historically, when there is a difficulty in this country, the political establishment and institutions have morphed together to conspire against the citizen. That is something I have noticed more in the past couple of months as I reflect on issues. We seem to lose track of why we were elected and how we are here to represent the people rather than conspire with institutions in silence.

There is an unrelated issue which involves other legislation. I listened to a woman this morning who had a child on 19 June 1987 at Holles Street hospital. That was one year before Ray Houghton scored the goal against England and not long after Band Aid; it was not the time of Charles Dickens. The child was handed to a social worker, but that woman cannot find any record of the child or any details whatever. This was in the National Maternity Hospital at Holles Street. It is completely unacceptable.

I will come back to the three issues I raised earlier, particularly the list of perinatal deaths across the board, when the Minister first became aware of the issue and whether there are other similar issues evident. With regard to the implementation of reports, there were 27 recommendations following the tragic death of Tanya McCabe, and when HIQA investigated the Savita Halappanavar case it found that many hospitals had not implemented those recommendations. I have tabled questions on that issue over a period. In recent correspondence the HSE has requested all hospitals to undertake a self-assessment against a HIQA recommendation resulting from the Galway case, with reference to the recommendations made in the report on the death of Tanya McCabe. It is unclear from the letter whether they have all been implemented, but I do not believe they have been. Will the Minister tell us at some stage whether all maternity hospitals have implemented the 27 recommendations, in addition to the ones made following the Galway case?

Acting Chairman (Deputy Olivia Mitchell): I call on the Minister who has just two minutes in which to respond.

Deputy James Reilly: It will not be possible to answer all of the questions asked in two minutes.

Patient safety has been my priority. It is the priority in the national service plan for the HSE. We have made available specific funding to address the recommendations made in the HIQA report on the death of Savita Halappanavar and have had monthly updates. A recent update shows that great progress has been made in implementing all of the recommendations. I have asked the HSE to bring forward the patient safety agency on an administrative basis so as to get it up and running as quickly as possible.

With regard to Portlaoise hospital, the issue will be fully investigated. We will use this matter to address and fix the problems in the hospital, not to downgrade it. The plan for the hospital will be created by the new hospital group. The clinical treatment questions must be addressed and answered. What was very disturbing was the way in which patients' families had been dealt with by the hospital and the HSE. That has to change and will. If ever there was a case that demonstrated the need for a patient safety agency, this is it.

I thank Roisin and Mark, Shauna and Joey, and Natasha for taking the time to tell me their stories and raise their concerns. They will be addressed in full.

Health Services Issues

Deputy Dan Neville: I thank the Ceann Comhairle for allowing me to raise this issue.

The Ombudsman found that the HSE had discriminated against a mother and her child who had attention deficit hyperactivity disorder, ADHD, and criticised the failure of the executive to ensure a uniform approach to the administration of the long-term illness card scheme. In his first major finding since taking over in December the new Ombudsman, Mr. Peter Tyndall, ordered the HSE to pay the mother of a child who had lodged a complaint €3,000 to refund the costs she had incurred in purchasing medicines. He also made a ruling in regard to children in general concerning the long-term illness card benefit for those with ADHD. He found that a child with ADHD and autism had been discriminated against on the basis of geography. The child's mother took the case to the Ombudsman, complaining that her son was being discriminated against because he lived in Wexford. She maintained that if he had lived elsewhere, she would have received a card.

Acting Chairman (Deputy Olivia Mitchell): Is the Deputy talking about Lyme disease?

Deputy Dan Neville: No, I am talking about ADHD. I submitted the topic. There is confusion because I believed we were to deal with the topic I submitted on ADHD.

Acting Chairman (Deputy Olivia Mitchell): Can the Minister deal with that matter?

Deputy Dan Neville: I will leave it.

Acting Chairman (Deputy Olivia Mitchell): If the Deputy withdraws the matter, I will make sure he gets to raise it again.

5 February 2014

Deputy Dan Neville: I will come back again.

Acting Chairman (Deputy Olivia Mitchell): Absolutely. I will make sure that happens. I apologise.

Deputy James Reilly: Would the Deputy like the answer on Lyme disease now?

Acting Chairman (Deputy Olivia Mitchell): Did the Deputy submit a topic on Lyme disease?

Deputy Dan Neville: I did, but I then submitted one on ADHD.

Acting Chairman (Deputy Olivia Mitchell): We will address it on another day.

Harbours and Piers Funding

Deputy John Browne: I thank the Minister of State for attending. The flooding in the past week or ten days has caused problems in every county, including Wexford. Courtown Harbour and Marshmeadows in New Ross have both been affected. We are dealing today with Courtown Harbour. The Courtown Harbour and Pier Association has been in touch with me about the problems caused by storms in recent weeks. It states the pier at the back strand and boulders have been swept into the channel and that silting has occurred at the entrance, with the result that fishermen cannot put out to sea. As the Minister will be aware, coming from the south-east, Courtown is very dependent on tourism and fishing. In recent years, despite repeated requests and efforts by Wexford County Council to secure funding to upgrade the harbour at Courtown, nothing has happened to date. Numerous surveys have been carried out, the latest of which was by a company called Malachy Walsh & Partners Consulting Engineers. It proposed solutions, but solutions cannot be effected unless there is sufficient money available.

The piers are in a dangerous state of disrepair and there are massive holes where the concrete facing on the front of both piers has fallen off. The pylons are rusted and some have fallen off. At one stage, some of them were sticking out at the mouth of the harbour, causing problems for fishermen trying to gain access. A large hole appeared in the south pier recently, with the result that seawater from the back beach was flowing through into the channel. The storm caused massive damage to the coastline and it is a miracle that the piers are still standing.

As I stated, countless surveys have been carried out of the piers, but no recommendation has been implemented. There have been numerous meetings and numerous Ministers have visited - Mr. Seán Kelly, MEP, visited recently - but the locals believe they are being fobbed off and not getting any concrete answer or funding to solve the problem.

As well as being a fishing harbour with five fishing trawlers, the harbour depends very much on tourism. There are leisure boats and yachts. Many other types of boat use the harbour regularly. However, because of the silting they are unable to gain access. The yachting club made an application to Wexford County Council to drain the harbour to carry out some necessary works, but it seems this did not happen because the club was told it could not do so for health and safety reasons. The club was willing to put up half the money, which would have benefited all the people using the harbour. Perhaps the Minister of State will respond on how this problem can be addressed. If organisations are prepared to put up money, surely the Government and the council should reciprocate by putting forward money.

As the Minister of State knows, fishermen are very dependent on the weather. In recent years, however, even when the weather was good, they have been unable to gain access to the sea to fish because of the silting of the harbour. Whelk fishing is very important to Courtown Harbour, but, as I stated, the fishermen are finding it very difficult to fish.

I thank the Minister of State for attending. I ask him to have discussions with Wexford County Council which I am sure will be only too willing to propose a solution if he can find the necessary money to put it into effect. I ask him to consider making funding available as soon as possible.

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes): I thank the Deputy for raising this issue. The Department of Agriculture, Food and the Marine is responsible for six fishery harbour centres located in Howth, Dunmore East, Castletownbere, Dingle, Rossaveel and Killybegs. The centres provide essential services and facilities for the fishing industry around the coastline.

3 o'clock

The Department also has responsibility for North Harbour at Cape Clear Island and for maintaining a range of small harbours, piers, lights and beacons around the coast, in accordance with the 1902 Act.

Repairs to local authority-owned piers and harbours and other coastal defences remain, in the first instance, the responsibility of the relevant local authority. Courtown Harbour is therefore the responsibility of Wexford County Council. That said, myself and the Minister for Agriculture, Food and the Marine, Deputy Coveney, are acutely aware of the ferocity of the recent storms combined with the exceptionally high tides which have resulted in widespread damage to vital public infrastructure including various small local authority piers and harbours and various navigational lights and beacons around the coast. We are also concerned, in particular, at the impact this damage may have on our fishing industry.

The Minister is working closely with his Cabinet colleagues in evaluating the overall extent of the damage. The Department of Agriculture, Food and Marine is represented on the National Co-ordination Group on Severe Weather, convened to assess the impact of the storms on infrastructure and communities and to ensure a co-ordinated response by the relevant local authorities, Departments and agencies. The Government is anxious to deal with the totality of the impact of the storms and has asked local authorities to assess the damage in their areas and revert with their reports as soon as possible to enable a fully informed and co-ordinated response to the damage to our coastal communities as a result of the exceptionally bad storms. However, even now it is hard to completely determine the full extent of the damage. Inspections will have to continue when there are more favourable tides, to check the lower structural sections of some harbours. It should be noted that weather and tidal conditions over the coming days may not make things any easier.

The Minister will continue to assess the damage reports and the estimates of the cost of repair and expects a full and complete damage evaluation over the next few weeks. That information will be fed into the Government's overall consideration of the appropriate course of action. The Minister fully expects his Department to have a prominent role in the Government's co-ordinated response. He is confident that the damage caused to critical pier and harbour infrastructure can be addressed as comprehensively and quickly as possible and that the Depart-

5 February 2014

ment will play its part along with all other relevant Departments, local authorities and agencies to achieve this objective.

Deputy John Browne: I thank the Minister of State for his reply but it does not signal any great hope for Courttown Harbour. I ask the Minister of State to consider visiting the harbour himself to see the current situation there. Courttown Harbour is not an issue just because of the recent storms. Problems have been ongoing at the harbour for the last two or three years because of silting. While I accept that this is chiefly a matter for Wexford County Council, the Department of Agriculture, Food and the Marine allocates some funding for small harbours and piers and I believe it is important that some funding be provided through that scheme. I ask the Minister of State to visit Courttown Harbour and to pass on a request to the Minister for the Environment, Community and Local Government, Deputy Hogan and the Minister of State at the Department of Finance, Deputy Hayes, to visit Marshmeadows in New Ross, where 500 people are currently employed. It is completely under water, causing grave concern in the area. A number of companies are located there, employing 500 people between them. Marshmeadows is very important to the economy of New Ross.

I ask that when the Minister of State is visiting Courttown Harbour he would bring some money with him for Wexford County Council to enable it to solve the problem there. As I said, the yacht club is prepared to put up half the money so I ask for a *quid pro quo* on that.

Deputy Tom Hayes: On the question of a visit by me or anybody else, I would not like to hype expectations in the area. The Cabinet discussed this matter yesterday. Local authorities have been asked to submit estimates on the cost of the damage done along the coast. I am very pleased to hear that an organisation in Deputy Browne's locality is prepared to put up some finance of its own to address the problem at Courttown Harbour. That should feed into the process involving the local authorities and I would be hopeful that the problem will be resolved.

The Government is fully aware of the problems in this regard. Deputy Hayes, who has responsibility for the OPW, has visited Limerick and Clare already. I will certainly ask that at least one Minister or Minister of State would visit Wexford and see the situation there at first hand.

Sitting suspended at 3.05 p.m. and resumed at 4.05 p.m.

4 o'clock

Northern Ireland: Statements (Resumed)

Minister of State at the Department of Foreign Affairs and Trade (Deputy Paschal Donohoe): I welcome the opportunity to debate the situation in Northern Ireland. As Members are aware, engagement on Northern Ireland issues is a matter of the highest priority for the Government which, in common with the British Government, is co-guarantor of the Good Friday Agreement. However, engagement must take account of the fact that the devolved institutions are in the lead in ensuring Northern Ireland becomes the peaceful and reconciled society envisioned in the Good Friday Agreement.

The Government takes a whole-of-government approach to Northern Ireland. That is particularly evident through the work of the North-South Ministerial Council which can play a central role in maintaining both parts of the island on the path of economic recovery and job creation. The Council and its work is an excellent example of the kind of work that is to the

benefit of all parts of the island. As we have seen, Ministers come together to discuss areas of work and opportunities of mutual benefit in agriculture or transport, for example. By using such a body to work on behalf of all communities on the island, it allows Ministers to deliver a mutual benefit in making progress towards the kind of society articulated in the Good Friday Agreement.

As the Taoiseach said, in the current economic circumstances we are even more determined to concentrate on all areas in which co-operation makes sense and is capable of delivering real, tangible and practical benefits to people across the island. The Taoiseach and the Tánaiste work closely together and with the British Government in ensuring the two Governments maximise co-operation in support of the Northern Ireland Executive. The Taoiseach works closely with the British Prime Minister, with whom he now has an annual meeting in the St. Patrick's Day period, in addition to their regular meetings in the EU context. The Tánaiste works closely with the Secretary of State for Northern Ireland on political issues, particularly in support of the political talks between the five leaders of the Executive parties to follow up the excellent work done by Dr. Richard Haass and Dr. Meghan O'Sullivan.

The Minister for Justice and Equality, Deputy Alan Shatter, works closely with the Secretary of State on justice and security issues. Co-operation between the Garda and the PSNI is better than ever as they work together on countering the threat from dissident republicans, in respect of whom continued vigilance is required. As the Taoiseach mentioned, thanks to the efforts of the Ceann Comhairle and the Speaker of the Northern Ireland Assembly, Mr. Willie Hay, we are fortunate that the North-South Inter-Parliamentary Association, foreseen in the Good Friday Agreement, was established in 2012. The inter-parliamentary dimension of the relationship within and across these islands is also nurtured through the work of the British-Irish Parliamentary Assembly established under the 1985 Anglo-Irish Agreement, the 30th anniversary of which we will mark next year. I record my admiration for the enormous achievement by the then Taoiseach, Dr. Garret FitzGerald, and his colleagues at the time. The situation in Northern Ireland is debated regularly by the Joint Committee on the Implementation of the Good Friday Agreement, the members of which hear from a wide range of voices on the island and undertake regular visits to Northern Ireland. It is regrettable that MLAs from all Northern Ireland Assembly parties do not participate in meetings of the committee but I welcome the fact the Ulster Unionist Party leader, Mr. Mike Nesbitt, MLA, addressed the committee in 2012. The Government would like to see more engagement by Unionist political representatives with Members of this House.

Mr. Mike Nesbitt, MLA, chairs the Northern Ireland Assembly committee overseeing the Office of the First Minister and the Deputy First Minister, the OFM-DFM committee. Part of its remit extends to EU issues and I was pleased to brief it last October on the achievements of Ireland's 2013 Presidency of the European Council of Ministers, with particular reference to North-South issues. In particular, I briefed its members on issues of direct relevance to Northern Ireland such as the strong progress made on negotiations on the Common Agricultural Policy, the Common Fisheries Policy and the EU budget. I also briefed MLAs on the increasing importance of the role of national parliaments and assemblies in the European Union, drawing attention to the increasing importance of the European Parliament under the Lisbon treaty and the need for national parliaments, assemblies, Council Presidencies and member states generally to deepen engagement with it.

I spoke about the debate developing around the UK's terms of membership of the European Union. I made it clear we absolutely recognised the right of any country to discuss or debate its

5 February 2014

membership or terms of membership of the European Union as a sovereign right. I also made it clear we believe the European Union is a far stronger place for having the UK in it and that we work together with the UK on a large number of areas. I emphasised Ireland greatly values our continued strong membership of the European Union and wants to see the United Kingdom stay in the Union. It is important all regions in the United Kingdom ensure their contribution is heard in the debate on its role and future membership of the Union.

The EU brings specific benefits to Northern Ireland. The EU's PEACE and INTERREG programmes continue to play a key role in supporting cross-Border and cross-community co-operation in Northern Ireland and the Border region. In excess of €340 million has already been spent on PEACE and INTERREG projects in the current programmes. The PEACE III programme has seen several valuable cross-community projects such as the teaching divided histories project work with communities along the interface areas of Belfast and shared space projects such as the Peace Bridge in Derry, which has become an iconic reminder of how much progress Derry has made in overcoming past divisions.

Several high profile projects were launched under the INTERREG programme last year including the all-island tourism trail, cross-Border economic development projects and business support programmes aimed at small and medium-sized enterprises. The Government was disappointed that the Narrow Water Bridge and Maze Long Kesh projects had to be withdrawn. However, our immediate focus must be to ensure full expenditure under these programmes. The Government remains committed to the concept of the Narrow Water Bridge and to the development of the peace building and reconciliation centre at the Maze Long Kesh site.

As we are now in the critical final implementation stages of PEACE III and INTERREG IVA, the priority will be to ensure expenditure targets are met and EU funds are fully drawn down, so the benefit to this island in developing the peace process and the cross-Border economy is maximised.

I am particularly pleased that during our EU Presidency, the European Council decided to include a special allocation of €150 million for a new PEACE programme in its multi-annual financial framework. It is also positive that the British Government has indicated it will provide an additional €50 million of ERDF, European Regional Development Fund, funding to the PEACE programme. The Special EU Programmes Body, SEUPB, has undertaken its initial consultation process for both the new PEACE programme and the successor INTERREG programme. Preliminary drafts of the programmes will shortly be released for consultation. The focus of the new INTERREG programme, which covers Northern Ireland, the Border counties and the west of Scotland, is likely to be directed towards areas such as research and innovation, social inclusion and combating poverty, the low-carbon economy and the environment.

The Government believes the current talks process presents an opportunity to reaffirm the fundamental principles set out in the Good Friday and St. Andrews Agreements and to use those principles as the basis for agreement in the three areas of contention. The Government, as co-guarantor of the Good Friday Agreement and of the process as a whole, must ensure there is no weakening of those commitments. It is encouraging that the Northern Ireland party leaders are meeting again this week and I hope their discussions will lead to further progress. We will continue to support the process in any way we can and will work closely with the British Government to do so.

The Government will continue to keep Northern Ireland at the forefront of its agenda. We

will maintain our whole-of-government approach, focusing in particular on the central role of the North-South Ministerial Council in keeping both parts of the island on the road to economic recovery and prosperity.

Deputy Brendan Smith: The Good Friday Agreement is a powerful and lasting achievement, marking an historic breakthrough in relations on this island, as well as in relations between Ireland and Britain. All of us must be conscious of the significant benefits that have derived from the Agreement but we must be diligent in our work to ensure the peace process is not just about the absence of violence. That is not taking away from the importance of the cessation of violence but the potential of the Agreement is not being maximised. Unfortunately, complacency has been the order of the day for both Governments over the past three years. The peace process was always intended to be a bit more than an absence of violence. The people of Northern Ireland deserve a political system that delivers progress and shows clearly in people's everyday lives that politics works. The ongoing work of the peace process must be about delivering benefits to the people on this entire island.

All analyses of the work of the Northern Ireland Assembly show, regrettably, how ineffective it has been in regard to the processing and passing of legislation. The Executive and the Assembly have extremely important work to undertake, major problems to be surmounted when one considers the high level of child poverty which requires urgent attention. A staggering 46.2% of children in Belfast are defined as living in poverty. Those indices clearly indicate the need for financial support for families and communities, particularly in areas classified as deprived or disadvantaged. Surely statistics should indicate to any public representative of any political party or religious belief that these are the issues to be tackled for the betterment of society, not daily petty political bickering. At the end of 2012 and in early 2013, the flag protests inflicted massive damage on the economy both North and South, but naturally more so in Belfast. Alienated sections of the community obviously will latch on to any particular movement like that, and such tensions and activities are holding Northern Ireland back. One also must be cognisant of the criminal intent of some people who would be referred to commonly as dissident republicans, which is a description I believe is not apt for criminals. Those people pose a threat to society in Northern Ireland and right along the Border, including my constituency of Cavan-Monaghan and elsewhere. I want to state clearly to those people that they have no mandate and no support, that their behaviour is not tolerable and is not acceptable and that such criminality, thuggery and violence should end.

Political parties in the North cannot simply rule by division of the spoils. As a guarantor of the Good Friday Agreement, the Irish Government, together with its British counterpart, has a critical role to play in ensuring the peace process provides real dividends to all the people on this island. I commend those who participated positively and actively in the Haass talks, but unfortunately, a consensus was not reached on those particular proposals. As my party leader, Deputy Martin, stated earlier and as I have noted in debates with the Tánaiste in this Chamber, particularly during Question Time, it is highly regrettable that the two Governments did not adopt a hands-on approach in those important and necessary talks. Ireland's history and recent history in particular shows clearly that the active and constructive engagement of the two sovereign Governments is essential to bring about needed agreement on major issues. All of the issues that formed the basis of the Haass talks are important and I note that the aforementioned talks were the first time that the Northern Ireland Executive undertook substantial discussions on the architecture of the peace agreement in the North without either Government being involved. The failure to date to reach agreement on the Haass talks clearly underlines again the

importance of both Governments being vigilant and being actively involved in Northern Ireland.

I believe it is vital that the Irish Government, as a guarantor of the process, works with the British Government and the Northern Ireland Executive to help ensure that peace yields real dividends for all communities in the North. Lack of progress and a vacuum can be very dangerous. As I mentioned earlier, the residual threat of dissident groups and indeed violence by loyalist thugs are a real threat to the economy and to society on the island. Politics in the Assembly and in the Executive must be about bread-and-butter issues that face the communities in every town, village and rural parish in the North of Ireland. The time for grandstanding and playing to one's own constituency is long gone.

I will take this opportunity to compliment Ambassador Richard Haass and Dr. Meghan O'Sullivan on their work in formalising good proposals which, unfortunately, have not won the support of the five parties in the Assembly. It is extremely regrettable that the two Unionist parties have not agreed to the proposals put forward. I believe the proposals are good, important and progressive and that they can be built upon. I commend the other three parties, which were positive in their work. There is an urgency with regard to this matter, particularly in view of the tensions, conflicts and violence Members witnessed last year. It always has been my opinion from the outset of this process that it would be extremely difficult to achieve agreement without the hands-on and direct involvement of the two sovereign Governments. All Members are aware that the Downing Street Declaration, the Good Friday Agreement and the St. Andrews Agreement were driven by the two Governments working with the parties in Northern Ireland. There never has been a breakthrough in Northern Ireland without the direct hands-on involvement of the two sovereign Governments.

I wish to recognise again the huge contribution the SDLP has made to the progress that has been achieved on this island. On 8 January, after Dr. Haass and Dr. O'Sullivan had tabled their proposals, the SDLP leader, Alasdair McDonnell, speaking in the House of Commons, stated:

The Secretary of State will recall that when the Haass process has been mentioned on previous occasions, I have urged a much greater involvement at an earlier stage by both the British and Irish Governments to ensure [that a] positive outcome and ... a determined implementation and legislation programme [was put in place].

Those are the comments of the leader of a democratic Nationalist party that continues to contribute so much to the political life in this island. Moreover, they contradict directly comments made by the Tánaiste in this House previously. The proposals published by Ambassador Haass and Dr. O'Sullivan on 31 December 2013 captured a series of measures that would facilitate progress on the key issues that are holding Northern Ireland back. Both Governments, working with all of the parties in Northern Ireland, must ensure the progress made is not lost and that the outstanding issues are addressed properly and conclusively. Hopefully agreement will be reached without much further delay, and the SDLP and others have called on the British Government to contribute financially to ensure the successful implementation of the proposals that warrant expenditure. On foot of an agreement, any necessary legislation should be enacted and necessary financial resources provided.

I again welcome the publication of Anne Cadwallader's *Lethal Allies: British Collusion in Ireland*, which literally was chilling reading. Ms Cadwallader recounted the stories of 120 people murdered by loyalist gangs, some of whom had been armed from Ulster Defence Regi-

ment, UDR, depots. All but one of those 120 people were not involved in violence of any kind, with just one person having a link with the IRA. The rest were citizens going about their daily work. Some were active members of the SDLP and other legitimate voluntary and community organisations, including Cumann Lúthchleas Gael. That was their only public involvement. The minimum their families deserve is the truth, and society deserves the truth about all of those awful murders. Ms Cadwallader's book raises a series of questions about the past that are very relevant in the context of the Haass talks. It has now been some years since Members passed the unanimous motion in this House calling on the British Government to co-operate on the matter of the Dublin-Monaghan bombings, but sadly there has been no positive response. Of the 120 murders outlined in Ms Cadwallader's book, one third took place South of the Border. Sadly, a number of people were murdered in my own constituency, in the Belturbet bombing and in the bombing in Monaghan town. Appropriate inquiries must be carried out in respect of the slaughter of those innocent people. In the middle of December last, I arranged for representatives of the families of the Disappeared and of other victims to address the all-party Oireachtas Joint Committee on the Implementation of the Good Friday Agreement. Again, those families outlined their demand, which simply was a demand for the truth. In meeting those families and in any dialogue with them, one can see they do not seek revenge but just want the truth. Margaret Urwin of Justice for the Forgotten and Anne Cadwallader are to be commended on their ongoing advocacy work with regard to these very difficult issues and their ongoing contact with and support for those families.

The reunification of the island of Ireland as one political entity is a founding value of the Fianna Fáil Party and a key guiding objective of our party. The changes to Articles 2 and 3 of the Constitution under the Good Friday Agreement in 1998, verified by an overwhelming majority in an all-island vote, set out our vision to work towards that goal of a united Ireland through a peaceful consensus with all traditions. It was a pleasure to listen recently to the former British Prime Minister, John Major, outlining in detail the work both he and Albert Reynolds did in achieving the Downing Street Declaration. That work was carried out during a very difficult period in the history of both islands and it was the tenacity, commitment, leadership and courage of both political leaders that achieved that very important declaration. Similarly, the Good Friday Agreement and the St. Andrews Agreement were victories for constitutional republicanism. That commitment and that leadership were shown and this is what is needed at present to deal with the important issues confronting the people in the Six Counties, which are of critical importance to the entire island.

I note that the Minister of State, Deputy Perry, who also represents a Border constituency, is present in the Chamber. One area that must be addressed is the maximisation of the Good Friday Agreement, with particular emphasis on cross-Border economic, trading and retail policy. All of these issues must be treated with urgency and additional impetus must be given to them. I hope, for the benefit of all people on this island, that progress, which unfortunately is sadly lacking today, can be achieved.

Deputy Seán Crowe: Like many of my generation the conflict in the North shaped, tempered and radicalised my politics. It was personal and immediate, not abstract, and it was not something that could be ignored or air-brushed from our consciousness. If conflict changed us, so did the peace process. The peace process did not start with the Good Friday Agreement and did not end when the DUP ended up in government. Peace, conflict resolution and reconciliation need to be nurtured, protected and worked at daily by those who are committed to their primacy. Sectarianism, bigotry, inequality, the denial of human rights and the failure to deal

with the past still bedevil progress.

Is it naive to think that many of the causes of conflict that were identified after endless, frustrating and maddening hours, days, months and even years, of talks and discussions should be gone and relegated to the past? Was it naive to think that the methodology and structures that were collectively agreed by both Governments and all the parties to the talks in an international agreement should be legislated for and be now, years later, playing a positive part in building a new Ireland? Is it naive or gullible to think that the process of change wished for and dreamed of by so many could not have happened quicker, driven forward by both Governments and all parties to the agreement? The majority of people North and South signed up to the Good Friday Agreement. The Irish Constitution was amended and some legislation initiated. The Irish Government is a joint, co-equal guarantor to the agreements and has a formal role in all-Ireland and east-west institutions.

Since Christmas we have seen unionist parties try and walk away from Haass and their responsibility to address the past, parades and cultural symbols. In the past week we have seen police attacked at a reconciliation event in east Belfast, a Roman Catholic teacher intimidated from her job because of her religious and political beliefs and Orange Order spokespersons threaten Protestants who want to learn a cúpla focal. The response from mainstream political leadership of unionism has been to minimise many of these events, to try and explain away these actions as an aberration or the actions of a few. Is this acceptable? Is this good enough? Should we remain quiet, keep our heads down, not upset them even more, ignore sectarianism and intimidation? Is that an option? I do not think so.

Those opposed to change, inclusion and equality believe they can get away with this behaviour and remain unchallenged by political leadership, secure in the knowledge that there will be little political fallout or, sadly, any electoral retribution. Let us be honest, one will not hear many complaints in this Chamber at this behaviour unless it can be twisted somehow and blamed on Sinn Féin or, by extension, Irish republicans. The “no” men, the “no surrender” brigade, believe they can frustrate the democratic will of the vast majority of people and unpick the Good Friday Agreement line by line. Their only agenda is to maintain division and roll back the clock to a not-too-distant time when inequality was the norm and discrimination endemic.

Speaking of division Nelson Mandela said of his conflict resolution process:

It is not our diversity which divides us; it is not our ethnicity, or religion or culture that divides us...there can only be one division amongst us: between those who cherish democracy and those who do not.

It is clear that the actions of a section of unionism and so-called republican micro-groups do not respect democracy and, by extension, do not respect the rights, entitlements and views of the Irish people. These groups are about frustrating political progress, undermining the potential for lasting peace and creating even more dissension and division. The response of the British and Irish Governments to events have contributed to the political paralysis. We know there still remain outstanding issues to agreements that have yet to be addressed or implemented. This reduces the moral authority of the Governments and their ability to hold others to account.

The North is still without the promised Bill of rights that could conceivably have been the basis for resolving the issues of parades, the past, flags, and emblems, that would have, arguably, contributed to a process of reconciliation and the promised shared inclusive spaces. The

British Government has failed in its commitment to implement an Irish language Act and a full public inquiry into the killing of Pat Finucane. The Good Friday Agreement enshrines the rights of all cultures and identities to equality and parity of esteem regardless of the issue of sovereignty. Yet the British Government pushed through legislation on the flying of the Union flag on a set number of days. This was long before the Belfast City Council decision and was seen as a sop to David Trimble and unionism. Was it not legitimate for some to ask why there was no similar or parallel provision being enacted with regard to Irish identity in the North?

The old pals approach meant the unionists did not have to engage and reach agreement on the issue. This move further entrenched the demands of the few over the rights of the many. In these important matters it appears that the Irish Government has allowed itself to become a junior, ineffective, silent partner. This passive and silent approach makes progress more difficult and encourages, some would say feeds, the belief of those opposed to change. Is it too much to ask that an Irish Government lead by example in the many areas for which it has direct responsibility and hold the British Government to account for its commitments? The big question overhanging this debate today is, will it?

The Irish Government could, for example, legislate and give the Human Rights Commission in this jurisdiction the same powers as that in the North, as per the Good Friday Agreement. It could develop the all-Ireland framework of rights and the all-Ireland consultative forum. It could ensure all legislation is proofed against the provisions of the Good Friday Agreement and ancillary agreements. This would effectively mean no more discriminating legislation, for example of qualifying Good Friday Agreement prisoners such as the recent Taxi Licence Bill. The development of all-Ireland and cross-Border services and projects has stalled. This has undermined economic development and maintained costly separate public services.

Lately there has been a focus brought to bear on the past and victims' rights to information and truth. This should not be a selective or party political motivated process. Recently Justice for the Forgotten, a group that deals with many of the people bereaved and injured in this State, told how some victims were having their quest for truth processed by the office of the Police Ombudsman for Northern Ireland. This entails a review of the RUC's investigation or, in most cases, its failure to investigate. These families cannot do the same with regard to Garda investigations as the Ombudsman's office in this State does not have the powers with regard to historic actions or inactions of the Garda. The funding to Justice for the Forgotten was cut by the previous Government. The group now relies on short-term funding from the Pat Finucane Centre in Derry. This is unacceptable and needs to be addressed. The Government should act with others to redress this anomaly.

The peace process needs to be imaginative and inclusive. It requires us all to challenge prejudice, be open to new ideas and welcome change. It requires leadership. We may not agree about what caused the conflict but surely we can collectively work together to put in place structures that will ensure conflict is never allowed visit these lands again. We need to be more pro-active, engage with people and listen to people. That is the key. We need to go out to those areas where people feel left behind by the process. There are clearly many of them here in this State and in the North. That is where all the parties in this House have a significant role to play. I have travelled the North. The conflict there changed my life, but the peace process has also changed me. We need to work on that process, nurture it and work on it day by day. Sometimes we need to be quiet and listen to others.

Deputy Clare Daly: When we look at the North, it is in some ways a case of everything

being different, yet in some ways everything remains the same. I was in Derry at the weekend at the invitation of a community organisation to discuss issues of justice following on the anniversary of Bloody Sunday. It had been approximately 28 years since I had been in Derry and in some ways it was like nothing had changed at all. Big murals calling for an end to internment, armoured cars, tanks and guns and all the rest were alive and well on the streets. We would do well to look back 42 years to Bloody Sunday. People involved in that march did not come along to get shot. The original march was about internment, a situation where people are incarcerated and have their liberty taken from them without the benefit of a trial, which is an affront to democracy. That scenario radicalised a generation.

Now, 42 years on, we have a new power structure and a new Administration, but it must be said that internment without trial still exists. People are ending up in prison, in some instances at the whim of the Northern Ireland Secretary of State. This is an enormous attack on human rights and civil liberties but, critically, it is an incredibly destabilising issue in the communities and in terms of the peace process. Those of us involved in the cross-party group in the Oireachtas have had the advantage of being able to visit a number of prisoners in Maghaberry and of meeting the Northern Ireland Minister for Justice, visiting the Northern Ireland Office and other members of the Northern community.

I must say, however, that the cases of the likes of Martin Corey and Marian Price, who had their licences or parole revoked, have shocked us. Marion Price is the only person in the history of the universe who had a pardon which was mysteriously lost. These people have been recently incarcerated, without being told the evidence against them, on secret information, with secret hearings being conducted by the parole commissioners. The legal rights of these people have been absolutely violated by secret hearings, secret evidence and so on. This is outrageous and is an insult to any idea of real justice and transparency. It is also a hugely destabilising issue in Northern Ireland. We have made the point on numerous occasions that had Marion Price's ill health resulted in her condition worsening in prison, this could have had a seriously destabilising effect and could have created a martyr.

We must recognise there is a case of internment by remand, where people, like Stephen Murney, are being kept for incredibly long periods without hearing the charges against them and without being able to answer for their alleged crimes. This again is hugely destabilising. Stephen Murney has spent 14 months in prison, yet only recently had charges put to him. By the time his case came to trial, most of the charges were struck out and not pursued, but the man had already spent over a year in prison. This is not on. Neither is the situation where we have prisoners who had to embark on a "dirty" protest for over a year in order to reach agreement on improvement in prison conditions. Yet, these prisoners will tell us that many months after agreement was reached and they came off the protest, many of the agreed conditions in terms of free association have not been implemented and they continue to face invasive body searches and so on. We must acknowledge that unless these issues are addressed, they will continue to fuel dissident activity.

Sectarianism and division are alive and well. We have a sectarian carve-up at the top, but on the ground many of the issues have not been addressed. Nowhere is this more evident than in the area of housing. I do not have sufficient time to deal with that issue, but earlier this week the UN rapporteur for housing published a report of her visit to Britain and Northern Ireland, in which she highlighted the inequality problem in North Belfast in terms of the housing situation. As a result of the sectarian carve-up, those in charge are unwilling to address the issues of substandard housing because housing Catholics in the area might result in a different electoral

configuration next time around. People's human rights are being violated.

The last point I wish to make is that discrimination is not an exclusively Catholic possession. We have met many Northern Protestants who feel alienated and who feel their issues are not being addressed. Unless their concerns are taken on board in a joint campaign or co-operation that will deal with civil, political and economic rights, we will not have a lasting peace and the stabilisation so many people desire.

Deputy Mick Wallace: I too have been involved in visits to the North with other Deputies and have visited Maghaberry on five occasions. We have been at pains to point out that we have no interest in dissident IRA activity or anything of that nature. We visited Maghaberry on the basis that there were human rights issues to be addressed, in the context of how prisoners were being treated. Some of the issues have been resolved, but others have not.

As Deputy Daly mentioned, the remand issue is a huge concern. For people to be held for over two years without trial is crazy. This is a form of internment and does not stack up. Given that the situation outside can be very volatile, such issues just throw diesel on the fire and make little sense. Strip searching is another issue for prisoners. Republican prisoners who were leaving the prison in the custody of the police and returning to prison without having left their sight were being strip searched on their return to the prison. I do not see how this can be justified and one must suspect an element of humiliation is involved. This is not right and should be challenged.

The general perception in republican communities is one of distrust of the legal and prison system and the events of the past few years have heightened this distrust. The peace process was built on creating confidence in shared institutions, but this is something that can be easily undermined and, therefore, needs careful attention. The cross-party group has visited a number of people in the North, including the Justice Minister, David Ford. It was good that he was prepared to meet us, but I found him a bit intransigent. I pointed out to him that not all is perfect in the South either and we have no right to throw stones. I pointed out to him that our treatment of the Traveller community here has been deplorable and that the end result is that many male Travellers get involved in crime because they have been disconnected from mainstream society and do not feel part of it. If the Northern Ireland authorities do not adopt an inclusive policy and treat everybody fairly the situation could be similar. Chickens come home to roost and discrimination is not a good long-term approach to take.

Like Deputy Daly, I looked at the UN special rapporteur's report on housing last September, in which she addressed the issue of housing inequality in north Belfast. It is sad that tribal politics could interfere in the provision of proper housing for people of either persuasion. The research carried out by the group found that 38% of residents in north Belfast were living in homes with damp, that 89% were unhappy with the heating system in their homes and 71% reported their housing had a negative impact on their health. This is a serious concern.

The issue of abortion has also been raised. Sadly, despite enactment of the Abortion Act in Britain in 1967, it was never extended to Northern Ireland. Women in Northern Ireland who want to access abortion must travel to mainland Britain to do so, much like women in the South. I also find this strange.

From what I can gather, in the North a huge proportion of working-class Protestants are every bit as aggrieved as working-class Catholics with how they are treated. Neoliberalism seems

to be applied in Northern Ireland in the same measure as it is in the South. I am disappointed that Sinn Féin and the DUP have not had the strength to stand up to it, no more than the Government here. It is sad that neoliberalism seems to be the order of the day for anyone in political power in the developed world.

Deputy Joe McHugh: The specific item is statements on the situation in Northern Ireland, but we need to include the east-west dimension. Any time we speak about North-South issues we must be conscious of the east-west element. I acknowledge the Taoiseach's ongoing commitment to east-west relations, in particular his work at the British Irish Council. Work is being undertaken on youth unemployment, an issue which resonates with everybody in the House.

The Tánaiste's role is specific to the North-South element and he has engaged intensely with many political parties and individuals in various organisations in the North and, more recently, in the Haass-O'Sullivan talks. While many in the House are disappointed, we must pursue a positive approach to finding a solution in addressing legacy issues, including emblems and parades.

Acting Chairman (Deputy Jerry Buttimer): I ask Members to respect the Deputy who is speaking and have their conversations elsewhere.

Deputy Joe McHugh: I do not mind. They can chat away.

Acting Chairman (Deputy Jerry Buttimer): Not in the Chamber.

Deputy Joe McHugh: Recently the Tánaiste announced new work at North-South Ministerial Council level regarding a better focus on economic development and job creation. I acknowledge the new strategy. Representatives from the Centre for Cross Border Studies and a representative from the North-South Ministerial Council were present today to share information with Members of the House on a cross-party basis. Such activity is very welcome.

Deputies Martin Ferris and Seán Crowe are active members of the Oireachtas Joint Committee on the Implementation of the Good Friday Agreement and we focus on victims' groups, ex-prisoners and former combatants. Prior to Christmas representatives from Families of the Disappeared appeared before the committee. We have a sharp focus on legacy issues and coming up with a solution and roadmap to address the legacy of the conflict. We must also be conscious of the silent and forgotten victims. On Monday I met a gentleman who had suffered serious harassment and intimidation in the early 1970s. He was told never to leave County Donegal and never to set foot again in Northern Ireland. Such intimidation needs to be addressed and there should be an avenue for people to tell their stories. Those who were not directly involved in the Troubles may state this happened in the 1970s and that people need to move on and put the past behind them, but it is important to address and acknowledge that many still have a story to tell. Some seek justice, others seek the truth, while others seek closure. They want various solutions to their experiences in the past 30 to 40 years. We must find a solution for those who were affected indirectly, through intimidation or otherwise, during the Troubles.

As the Taoiseach correctly pointed out, we must also look to the future. In doing so we must examine the economic construct and what is happening at legislative level. Legislation passed at Westminster can directly affect the lives of Irish citizens; an example is the new levy to be introduced on 1 April on heavy goods vehicles. This is a new annual levy of £1,000 on trucks over 12 tonnes. This legislation was introduced on the basis that British hauliers must pay tolls in the Republic of Ireland, but British hauliers must also pay the new levy. The legislation

will affect those operating in Border counties such as County Donegal in which there are no tolls. There are no tolls because the county has terrible roads because of economic and political neglect as a result of partition, but operators there will suffer from legislation enacted at Westminster. We cannot inspect every piece of legislation enacted in the United Kingdom, but we have a responsibility as a co-guarantor of the Good Friday Agreement to see how legislation enacted at Westminster has a direct effect on business and Irish citizens. This was not done in the case of this legislation. Secondary legislation will pass through Stormont specifically to enforce this legislation and set out the PSNI's role in this regard. There was no due diligence or proper consideration and analysis of the legislation to assess how it would affect Irish citizens. That is wrong. It sends a very poor and negative signal to citizens who listen to us speaking week in week out about cross-Border collaboration and co-operation, how we can work better together, have more streamlined services on a North-South basis and make Border areas more accessible. There are obvious sovereign and currency constraints, but issues such as this send a very negative signal.

I acknowledge the role of the Minister for Transport, Tourism and Sport, Deputy Leo Varadkar, in trying to secure derogations for certain roads. A 7 km section between Cavan and Monaghan has a derogation and I call for the A5 to receive a similar derogation. The Minister will continue to pursue this issue. If the A5 receives a derogation, should the road from Donegal to Belfast also receive one? It sends all the wrong signals on our approach. Our democratic mandate, as legislators, is based on the fact more than 70% of those in Northern Ireland voted for the Good Friday Agreement, with 90% of the people in the Republic of Ireland, and it was not only on a North-South basis but also on an east-west basis. I have written formally to the Secretary of State for Transport in the United Kingdom calling on him to re-examine the issue. I appreciate that the legislation has been enacted, but secondary legislation is going through Stormont. I have spoken to the Minister for the Environment in Northern Ireland, Mr. Mark Durkan, MLA, and if there is a way to amend the legislation to provide derogations for certain roads in Northern Ireland, it would send a very positive signal to citizens of this country that the British were looking to work with us in a meaningful way and make commonsense laws which would not in any way impact on businesses such as hauliers in this example.

Recently in London Ms Judith Gillespie, the Deputy Chief Constable in Northern Ireland, gave a very frank and open account of what life was like in Northern Ireland and the challenges faced by her members in the PSNI. She made a specific call to politicians involved in the peace process in Northern Ireland, elsewhere in the United Kingdom and the Republic of Ireland to take risks. She stated unless we, as politicians, took risks, we would not move forward. Shortly after the 1998 Good Friday Agreement, Mr. Seamus Mallon stated that the legislators had built the institutional construct of the Agreement.

5 o'clock

I believe he was being modest when he said that was the easy part and now we have the constitutional challenges. We have to listen to Seamus Mallon, Judith Gillespie and the various people who are asking politicians to take risks and not play political football with this issue. When the then leader of the Opposition, now Taoiseach, Deputy Enda Kenny, the then Deputy Eamon Gilmore and I sat on the opposite side of the House there was careful, cross-party co-operation on the Northern issue. That has changed. I will not tell a political party how to do its business but I do not believe that change is for the better. It was reflected here earlier in Deputy Micheál Martin's contribution when he said that everything was terrible, everything was wrong and that Northern Ireland was an unhappier place. Northern Ireland is not an unhappier place.

5 February 2014

People have moved forward. Sixteen years after the Good Friday Agreement, people are no longer being killed, which was the case for the previous 30 years. We have to look at the positives. Challenges remain but we must work together, and this House should show leadership and work together on this issue and not the way it was done today.

Deputy Éamon Ó Cuív: I would like to say at the outset that I will work with anybody who shares any idea with me. It is fair to say that a group of politicians who have worked hard together in recent months, across very diverse backgrounds, on the prisoner issue, including two previous speakers, Deputies Clare Daly and Mick Wallace. I saw Deputy Frank Feighan in the House earlier and I would like to compliment the work he has done, and Deputy Martin Ferris for the support, advice and help he has given. It is welcome that we work across parties, but it is wrong in any facet of politics to say we cannot debate issues openly and express differences of opinion.

There appear to be some sacred cows in this country, the Irish language being one of them, on which we are not meant to have a proper, robust political debate but how can we ever move forward if we are not willing to debate issues, express different ideas and respect different views?

We all know that the quickest way to get stagnation is to have no real debate and to create an atmosphere where we say that everything is okay and we should not question anything. That is very dangerous.

I am a republican. I have always been a republican. I believe passionately in the bringing together of the people of this island. I believe that partition has been very bad for Ireland socially, economically and culturally but the big challenge for us is how we achieve the bringing together of the people in the different communities on this island. My belief is that it will not be possible to do that until the people get to know each other. The biggest source of violence is distrust. The biggest source of distrust is people not knowing each other. The people at the top knowing each other is not good enough. We must always remember that the First World War was fought between families that were closely related to each other - the Kaiser of Germany was a grandson of Queen Victoria - but the ordinary people did not know each other, and we saw the slaughter that followed. Political change is important, but interaction on the ground is more important.

Since I became a politician I have visited as many times as I could every corner of the North and every community in the North to which I was invited, and they have been diverse. I have continued that over the years. I have met leaders of the UDA and the UVF. I have met leaders of the IRA. Recently, with other colleagues, I have visited both loyalist and republican prisoners. I have been in Rathlin Island four times. I have been in Ballymoney. I have been in east Belfast. I have been in Newtownards, Portaferry and Ballymurphy. I could not count the number of times I was in west Belfast. I have been across Derry and in many other places. I believe all Members of this House have an obligation to meet our Northern co-citizens to create the trust and give the leadership needed to ensure the people of this island get rid of the fear and the distrust and begin to trust each other. In that way they will see that together we can create a much better place to live in than the island we have now.

One of the constant challenges is the idea that some day we will wake up and all Unionists will think the tricolour was the greatest flag in the world and that they would somehow turn on their own identity. That idea is wrong and simplistic. In whatever Ireland we build, we will

have to respect the different identities that exist on this island.

In trying to illustrate that I recall being severely criticised many years ago by some super-Nationalists for saying I had no difficulty with a united Ireland being part of the Commonwealth so that those who would live in that united Ireland would have some way of associating themselves with the British Crown, which is so important to them, not only in a political sense for some of them but also in a quasi-religious sense. If we are not willing to engage with their identity, it is difficult to understand how people will engage with the depth of our identity. I have found that when one respects others' identity, they return that respect for one's own identity.

It was for that reason some years ago I facilitated the provision of funding to a company operating effectively as part of the Orange Order in lieu of halls that had been destroyed by vandals in the Border counties of this State. I believed that somebody coming from such a strong republican tradition as I do had an obligation to show that we are not afraid of their identity. I attended loyalist marches, and I was a guest of honour at an Orange march in Drum, County Monaghan, and it was good to see both Nationalists and Unionists come out and celebrate that in a non-confrontational way. All of us went into the Orange Hall afterwards and had tea and sandwiches. That has not made me any less a republican. As far as I am concerned, part of being a republican is that we share every tradition, every identity and work with everybody.

There are some issues that worry me deeply. I am not sure that this Government, at a ministerial level, is engaging with the communities in the North in the same way the previous Government did. I am not denying it has many contacts with the British Government but the British Government has clearly declared that it has no strategic or selfish interest here. The challenge, therefore, is not to achieve good relations with the British Government, which one would expect to have anyway as northern members of the European Union, but to win the hearts and minds of the people of this island for a new way forward. I will be told that North-South ministerial meetings take place. We had those too, but I am talking about getting on the ground in the communities. I am talking about going into loyalist, Unionist, Nationalist and republican communities and getting to know the people in Portaferry, Newtownards, the Creggan, south Armagh and so on. Unless we do that day by day, week by week, I do not believe we are doing the job in the way it needs to be done.

To be blunt, in terms of my experience of dealing with Northern Secretaries of State over the years, with the single exception of Mo Mowlam, to whom this island owes a debt that will never be repaid because she genuinely cared, showed a genuine interest and engaged with the problem day and night despite her illness, it is fair to say that for most Northern Secretaries of State now, being Secretary of State is something they do for a while. They are very disinterested and disengaged, and that may not be a bad thing. It is very natural because if I was a politician in England and I was sent to the Northern Ireland Office for two or three years, I am not sure how engaged I would be with it in terms of a problem I do not understand, that I have never been involved in and that had nothing to do with my life until then. It would be difficult to see how they can engage, particularly as they move on so rapidly, but that may not be a bad thing. How long have we argued that if the British disengaged, we on this island could re-engage across all of our differences? I do not agree with the policy the Government followed in respect of the Haass talks, whereby only Irish people born north of an arbitrary line were involved. That process should have been on an all-Ireland basis, and if Britain wanted to be involved, that was its call. The identity issue does not solely concern Northern Nationalists. If we are to be truthful, we must admit that Southern people have never dealt with it properly.

5 February 2014

My colleague spoke eloquently on the issue of prisoners. Trying people for what occurred prior to the peace process is wrong and always seems to be on the one side. I do not agree with the revocation of licences and what was said about remand is wrong. However, we must not forget that a decent and honest prison officer is now dead. David Black was murdered because of the refusal on the part of people in authority to deal with the issues that resulted in a dirty protest that lasted 18 months. One can see the cause and effect.

Deputy Frank Feighan: I welcome the opportunity to speak on this important issue. All of us are victims of history. Last weekend I visited Belfast, as I do, and went to the Grand Opera House in Belfast to watch Garry Hynes's great production of "The Colleen Bawn". On Sunday I went to mass in St. Patrick's Cathedral on Donegall Street, which in recent years has been the focus of issues that are not particularly nice for Northern Ireland. I also happened to pass by the courthouse in which my grandfather, James Feeley, was convicted almost 100 years ago. He was a Sinn Féin councillor and an IRA commander in County Roscommon. He went on hunger strike in the Curragh and in Mountjoy Prison and later became a garda in the new Free State. My other grandfather was born in Cullyhanna in south Armagh. He was in the south Armagh brigade of the IRA and was incarcerated in Dundalk Prison. I am proud to come from a strong republican background, but there are two sides to every story. Less than 100 years ago Ireland was part of a different jurisdiction. There were various armies in Ireland. The UVF had 100,000 volunteers from a Unionist background and the National Volunteers also attracted a large membership from a Nationalist background. Every second day these armies were to be seen marching through towns and villages. Arms were smuggled to them through Howth and Larne. The historian Roy Foster has suggested that if World War I had not occurred there would have been unprecedented bloodshed on this island.

I pay tribute to the 200,000 Irishmen, both Nationalist and Unionist, from North and South who fought in the First World War. They all fought for different reasons. Unionists do not always realise that more Nationalists than Unionists died in that war. However, as history is written by the victors, those who came from a Southern background were forgotten. In my home town of Boyle, 126 young men out of a population of 3,000 died in the war. Four hundred young men from County Roscommon and 50,000 men from the island of Ireland died. They were written out of history. I grew up near an old British army barracks but I never knew about these young men. They should be remembered, just as the men of 1916 are remembered. I take great pride in wearing a poppy as someone from a Nationalist background. The poppy should not be the preserve of British imperialism or militant Unionism. I also take great pride in wearing the Easter lily.

I have been in Maghaberry Prison and visited Marian Price while she was in a Belfast hospital. I am delighted she was released. Her detention was managed in a ham-fisted way and I welcome the fact that common sense prevailed in the decision to release her. I have also visited a number of dissident republican prisoners in Maghaberry Prison, as well as meeting loyalists and Nationalists who are trying to work together. A little over a year ago I was part of a delegation under the Good Friday Agreement which visited the Skainos Centre in Newtownards in east Belfast. The experience was eye-opening because the First Minister and Deputy First Minister both gave speeches in Unionist east Belfast. I saw my colleague, Deputy Ferris, warmly embrace his counterparts in the UDA. It was poignant that people could embrace one another after so many years of conflict. I pay tribute to Deputy Ferris for proving that the people at the coalface were able to find solutions. Their flanks were sometimes exposed by those who talked the talk but did not walk the walk. It is our duty to work together to ensure the democratic

process is protected.

Belfast was vibrant when I visited on Saturday night, thanks in part to the peace process. A greening process is ongoing in the PSNI, but there is also a darker side to that force. Certain issues remain to be addressed. We will have to learn the truth about the infamous Glenanne gang and the Dublin-Monaghan bombings, because dealing with the past is a critical factor in moving forward. Perhaps our greatest challenge is dealing with the past to deliver a sustainable peace. Issues arise in respect of cultural identity, ethos, flags, equality and parity of esteem. The establishment of an all-island civic forum would help us to resolve many of these issues. The Bill of Rights and the all-Ireland charter of rights, as well as the North-South review and the Irish Language Acts, are all important.

We have come an awful long way but we cannot forget the past. The person who forgets history knows nothing.

What I try to do is to look at it as politicians should and remember that there are two sides to every story. I do not have all the answers and neither do Nationalists or Unionists. Our duty is to look at the two sides of the story and try to determine whether we will take two steps forward and one step back. Sometimes it will be one step forward and two steps back.

We are in a very different place from the one we were in when I was growing up 40 miles from the Border in the 1980s, when Northern Ireland was not our problem. It was up there and as long as it did not come down here, we were happy. Indirectly, it was our problem.

Unfortunately we have had many lapses over the years, but in my humble opinion the Anglo-Irish Agreement, under the late former Taoiseach, Dr. Garret FitzGerald, opened up dialogue and cross-Border institutions and was followed by the Good Friday Agreement. Hopefully, the Agreement will bring lasting peace and prosperity to Ireland. As I said, 100 years is not a long time. I was born 50 years ago. I hope that in the next 15 or 20 years our differences will be put in the past.

Deputy Caoimhghín Ó Caoláin: Exactly 20 years ago journalists in the public service broadcaster, RTE, and in the independent stations were, for the first time since 1972, interviewing members of Sinn Féin. The broadcasting ban on Sinn Féin under section 31 of the Broadcasting Act 1960 was lifted by the party colleague of the Minister of State, Deputy Sherlock, the then Aire Ealaíon, Cultúir agus Gaeltachta, Uachtarán na hÉireann, Michael D. Higgins, in January 1994. Prior to that, I fought seven elections at local, European and Dáil levels while I and other Sinn Féin candidates and elected representatives were barred from the airwaves. One can only imagine how difficult that must have been.

Deputy Robert Dowds: How about the people of Kingsmill?

Deputy Caoimhghín Ó Caoláin: Of course, this was a violation of our rights as citizens and of the rights of the people who voted for us. More importantly, it was a violation of the right of the Irish people to freedom of information, to the facts about what was happening in the conflict and to a balanced view of how and why that conflict continued.

It was not only information about the conflict that was denied to people - it was much wider than that. If the speaker was from Sinn Féin, no matter what he or she was speaking about, and no matter in what capacity, the ban was imposed. As the High Court challenge of trade unionist and Sinn Féin member Councillor Larry O'Toole established, the ban was extended illegally

by the broadcasters themselves. The 20th anniversary of the ending of the section 31 ban has not been sufficiently marked in the media, but in one piece broadcast by RTE a media lecturer stated that when he tells students today about section 31, they find it incredible that such blatant political censorship existed well within living memory.

Section 31 was only possible because of the deeply partitionist mindset that was so prevalent among the dominant political forces in this State for so long. They claimed to be protecting the State, but in reality they were protecting their own political patch, the corrupt conservative set-up that Fianna Fáil, Fine Gael and the Labour Party had kept in place for decades. It suited most of them to turn their backs on the Six Counties and on the direct effects of partition on the Border counties in particular and on Ireland as a whole, and that was even before the armed conflict began in the early 1970s.

As the conflict went on, the partitionist and censorship ethos among the political elite in this State spawned a mindset in which republicans North and South were demonised and the entire responsibility for the conflict placed upon their shoulders. I regret to say that mindset remains prevalent among some in the Oireachtas. The other day in the Seanad, in the course of a debate on the charity sector, the Minister for Justice and Equality, Deputy Shatter, because he could not take criticism, interrupted Senator David Cullinane to say, "The actions of a few resulted in the deaths of 3,000 people on this island." We know the so-called few he was referring to and it was not the members of successive British Cabinets.

It would be useful in this decade of centenaries for the Government of this State to ask its British counterpart to reflect on the role of its predecessors over ten decades in imposing partition, suppressing democracy and fostering sectarianism in Ireland, as they most certainly have done. It was exactly 100 years ago, in 1914, that the British Government first hatched the plot to partition Ireland, as part of the climb-down in the face of armed Unionist opposition to Home Rule. British officers at the Curragh mutinied lest they be asked to go North to keep order among their Unionist brethren - there was not only one mutiny at the Curragh.

It was 40 years ago this May that the same unholy alliance between armed Unionism and the British Crown forces resulted in the no-warning bombings of Dublin and Monaghan and the deliberate killing of 33 civilians, including a pregnant woman, in the single worst loss of life in the conflict. That 40th anniversary will fall on 17 May, just a short time away. Four decades on, the survivors and the bereaved of Dublin and Monaghan have yet to receive truth and justice. The British Government has yet to release all of the information in its possession. I urge a far more proactive approach from the Irish Government to this and to the other fatal acts of collusion between British State forces and loyalist paramilitaries that led to loss of life in this jurisdiction. I have lost count of the number of times I have had to make that appeal to the former Taoisigh Mr. Ahern and Mr. Cowen and to the Taoiseach, but I and my colleagues here will continue to make it. We are, after all, simply seeking the implementation of the call on the British Government made unanimously and repeatedly by this House.

Most of the fatal acts of collusion in this State occurred in the Border counties. This, one of the many tragic aspects of the effect of partition and conflict on the counties of Donegal, Sligo, Leitrim, Cavan, Monaghan and Louth, is not in the past. The Border counties still suffer both the legacy of decades of economic neglect and the current ill-effects of partition and the failure of regional policy by successive Governments in this State. Those counties need continuing attention and I urge especially that assistance be given to the struggling indigenous small and medium-sized businesses on which the local economies in the Border counties are based.

There is no excuse for either the British or the Irish Governments to stand over any delay in advancing with key cross-Border infrastructural projects such as the Carlingford Narrow Water bridge and the Ulster Canal. With regard to the Ulster Canal, I have been in touch with the office of the Northern Ireland Minister for Culture, Arts and Leisure, Carál Ní Chuilín MLA, my party colleague. She assures me that both she and her counterpart here, the Minister for Arts, Heritage and the Gaeltacht, Deputy Jimmy Deenihan, are fully committed to this project, and I welcome that affirmation. As I pointed out in the debate on the Six Counties last year, the North-South Ministerial Council agreed to proceed with the Ulster Canal project in 2007. In the intervening period, we have seen the economic collapse in this State and a parallel contraction in the North. Despite this, the Ulster Canal project was kept alive.

Permission was granted last year for the Northern section by Environment Minister, Alex Atwood, and by Clones Town Council and Monaghan County Council for the section in this jurisdiction.

The Minister for Arts, Heritage and the Gaeltacht, Deputy Jimmy Deenihan, has advised that the earliest the contract could be awarded would be late 2014 with a completion date in spring 2017. I urge the Minister to do all in his power to expedite this process and to encourage his colleagues to do so. I also urge him to maximise the possible EU funding for the project from the Peace IV programme.

The Ulster Canal project is about greatly enhancing one of the finest landscapes in Ireland for locals and tourists alike, regenerating rural areas that have long been neglected and delivering a tangible peace dividend to Border communities that were neglected for far too long. It is time to get the work on the ground under way.

In the course of his contribution, the Fianna Fáil leader, Deputy Micheál Martin, made his by now customary but quite pathetic effort to lump Sinn Féin in with the DUP as somehow jointly placing obstacles in the way of the full implementation of the Good Friday Agreement and the expansion of the all-Ireland institutions. Does anyone but himself actually believe this?

Quite blatantly, Deputy Martin totally misrepresented Martin McGuinness by claiming that he joined with Peter Robinson in opposing the convening of a civic forum. The opposite is the case, as any informed voice in this House would know. Sinn Féin has advocated a civic forum, both in the Six Counties and nationally, as provided for under the Good Friday Agreement. Deputy Martin should set aside the political posturing and get his facts right. He may mistakenly think that his approach will do his party some good in electoral competition with Sinn Féin in this State, but it contributes absolutely nothing to building the peace process.

We should always be conscious of the tremendous progress which has been made over the past decade and a half. That needs to be emphasised here today. We should never be complacent or take for granted what has been built. We should have an all-Ireland vision, as befits our name - Dáil Éireann and Oireachtas Éireann.

For our part, we in Sinn Féin, will never cease our efforts to promote reconciliation, combat sectarianism, create a sense of common purpose on this island and fulfil the dream of millions past and present of a new united Ireland, built in agreement among the people who share this island and achieved solely by peaceful and democratic means.

Deputy Robert Dowds: Is maith an rud é go bhfuilimid ag déanamh díospóireachta ar an ábhar seo inniu.

5 February 2014

In some respects I find this subject very difficult because I approach it from a slightly different angle than most. That is because although I am a republican and a social democrat, a lot of my ancestry is Unionist. I do not share their ideology and wish they would embrace a more open type of unionism. However, I am conscious of the fact that they are part of the peoples of this island and that we have to learn to work with them. A great deal of work has been done on that journey.

At a meeting in Ballycastle, County Antrim, I heard Nuala O'Loan say that we all have to work at the peace process. We take it for granted that we have peace, which is a very foolish idea in the context of Ireland. I am particularly grateful to the Tánaiste, Deputy Eamon Gilmore, for keeping a close eye on what is happening in Northern Ireland. He uses people like me, various other Labour parliamentarians and others, to try to have links with different parts of the community in the North. I am not suggesting that Labour is the only party that does this; it is not, but it is really important that we do so. I wish to pay tribute to the Tánaiste for showing a real, active interest in being on top of the issue and in trying to encourage the British Government in particular to be more active, as well as interacting with different parties in Northern Ireland.

When one thinks of the three areas that Dr. Richard Haass was considering - parades, flags and emblems, and the past - one could get very frustrated. For example, the last time I was in Belfast just before Christmas, we met some loyalists who were protesting at Twaddell Avenue just outside the Ardoyne. I spoke to one of them who was in charge of some of the protestors. I said it was really important that the PSNI enforced the order that the Orange Order were not to march up past there, because if they did not it would damage whatever relationship they were building with the Catholic or Nationalist community so much. The response I got to that was so frustrating. He said: "Yes, I understand what you are saying, but we still want to do it." That mindset is one of unionism's greatest enemies.

I do not share their view, but they have every right to want to maintain a link with Britain. However, they do not, and never did have, a right to treat Nationalists and Catholics as second class citizens. While they are no longer top dog in the way they used to be, they still have a huge amount to learn in terms of treating their Northern Nationalist brethren as equals.

I have used that example to show the frustration involved. I appeal to the Unionist parties to engage fully in the Haass process. That was a real attempt to get both sides to treat each other with respect and dignity. Some serious steps have been taken down that track. For example, in the area of the past it is now possible to show some mutual respect towards commemorations of the Somme and of Bloody Sunday in Derry.

There is an urgent need to take a leadership role, however, particularly because there are small groups both on the nationalist and unionist sides who want to destabilise things. There is a real need for unionists to engage properly with the nationalist community and nationalist politicians, be they from Sinn Féin or the SDLP, in order to find a way forward. I urge them to do so.

There is great scope for civic society to play a much more leading role in all of this. In the Republic of Ireland civic society plays a huge role in representing different interests. Businesses, trade unions and churches could do more to encourage people to engage with one another in the North.

Deputy Anne Ferris: This year, Europe remembers the 100th anniversary of the start of World War I. For the island of Ireland, North and South, the First World War is a shared sorrow. From this island 250,000 men left to fight a war that should never have happened. A fifth of those men never returned. Some of them were Unionists, loyal to their king and country. Some were nationalists, loyal to an ideal of home rule or some other form of independence for Ireland that they assumed would follow the war.

Most were just young men who signed up to see the world. One of the most poignant Irish symbols of peace is not in Ireland at all, but at the all-Ireland peace park in Flanders, Belgium. At the entrance to the park is a peace pledge, unveiled a little over 15 years ago by former President Mary McAleese and Queen Elizabeth of the United Kingdom. The pledge contains the following words that are worth repeating in this House today: “As Protestants and Catholics, we apologise for the terrible deeds we have done to each other, and ask forgiveness.”

There is a lot to forgive and be forgiven. The late Senator and peace campaigner, Gordon Wilson - one of the few true persons of forgiveness and peace to walk the corridors of Leinster House - set a very high standard with his statement “I bear no ill will. I bear no grudge,” which was uttered just hours after his beloved daughter Marie died following the devastating IRA bomb at Enniskillen in 1987.

Walking out the gates of Leinster House onto Kildare Street and turning right towards Trinity College Dublin, we find ourselves on South Leinster Street, at the bottom of Nassau Street. On the footpath by the railings of Trinity College Dublin there is a square granite plaque that marks the spot where almost 40 years ago, in May 1974, two innocent women lost their lives in a UVF car bomb explosion. Anna Massey, a 21 year old employee of Lisney’s auctioneers, and 51 year old Christine Lawlor, who worked up the street in the Shelbourne Hotel, died on that spot, a short walk from where I stand. They were two of the 33 victims of four bombs planted on that day, three in Dublin city and one in Monaghan. It was the highest number of casualties on a single day during the years of the conflict in Northern Ireland. Twenty of the dead were women.

More than 3,500 people were killed by violence in Northern Ireland - the population of a medium-sized town just wiped out. More people were killed by Northern Irish violence than in the Twin Towers tragedy in New York on 9/11. Tens of thousands of Irish and British people remain living victims of the terrible deeds committed, supposedly, in the names of nationalities and religions. One island and two nations share the sorrow of these deaths. There is too much sorrow and darkness in Ireland’s history, too much of which is claimed falsely in the name of religion.

In this jurisdiction we have had in recent years an avalanche of reports and inquiries into church and State abuse of vulnerable people. Even more inquiries will be needed before, as a country and an island, we will have faced up to the impact of that part of our past. In Northern Ireland the Historical Institutional Abuse Inquiry is hearing evidence from witnesses, including victims. A witness in giving evidence last week to the inquiry was asked to compare his time spent in the Termonbacca children’s home in Derry with his experience of a home in Salthill, County Galway. “Salthill was Auschwitz,” he said, “Termonbacca was Treblinka.”

The people of this island, North and South, have been the victims of political and religious ideology and claptrap for far too long. Symbols, whether crosses or flags, hymns or anthems, are just that - symbols. If people take comfort from their symbols, let them be, but there is a

bigger picture. This shared island of ours has common sorrows that must be addressed with meaningful apologies and forgiveness. Only then can the people of this island, whether they call themselves Irish, British, Northern Irish or European, move forward and embrace a future of common opportunities.

Deputy Maureen O’Sullivan: Tá sé tábhachtach agus oiriúnach go bhfuil an díospóireacht seo againn inniu. Tá a fhios againn go léir cad a tharla sna Sé Chontae - na daoine a fuair bás, na daoine a bhí gortaithe, na daoine a bhfuil gortaithe go fóill, an íobairt, an féiniobairt, an obair i rith na blianta i dtreo is go mbeadh síocháin againn inniu agus Comhaontú Aoine an Chéasta.

This is an important debate and we must, first, acknowledge the pain, suffering, destruction and sacrifices people experienced in Northern Ireland. We must also acknowledge the extent of the work and commitment that went into realising the Good Friday Agreement. It was disappointing to listen to contributions in which Deputies only seemed to recognise the role of members of their own parties in bringing about peace. Peace would not have come except that it was comprehensive, involving players from all walks of life. I acknowledge the front-line players and those behind the scenes who did so much to bring it about. No one wants to see it jeopardised and the Six Counties descend into trouble, but there is no doubt that there are serious threats to peace. The Irish section of the Association of European Parliamentarians with Africa, AWEPA, which I chair, had parliamentarians from north African conflict countries such as Egypt, Libya, Tunisia and Yemen in Ireland at the weekend. I was struck by what was common between them and what had happened in the North of Ireland. They had also experienced bloodshed, destruction and loss of life. They must deal with the legacy of bitterness and hurt. However, they were proactive and definite in what they appreciated - the values of freedom, democracy, social justice and equality. That is what they are trying to bring into constitutions. Equality means no discrimination on the grounds of gender, creed, sexuality or ethnicity. Human rights are at its core. I was struck by two points which had been made forcefully. One was on the need not to exclude anyone from political dialogue. The other was that no country could become complacent about safeguarding liberty and justice. There are groups in the North which are excluded from political dialogue and we have become complacent about the rights to justice and fairness of certain groups and individuals there.

With other Deputies, we have been involved in the promotion of the human rights of prisoners in Northern prisons. Meeting and listening to them has been frustrating because we see what is happening to them as undermining the peace process. It is certainly not conducive to maintaining peace. People in prison in the North, both loyalists and republicans, were denied justice. They feel they have been left behind by their leaders. Strip searching is a significant issue for them. In the two years we have been travelling there, very little progress has been made on that issue. Issues stem from the time of the dirty protest and protests by loyalists and there are outstanding issues. What is horrifying is the way licences have been revoked without giving a reason. We have met people who have been in jail for four years without charges being brought against them. If people are suspected of committing a crime, charges should be brought against them and due process followed. Depriving them of their rights is a recipe for disaster and will only fuel violence and threaten the Good Friday Agreement, which we see happening. We have also seen disengagement and the lack of interest among some in authority. People who have never been charged with a crime have been released on very restrictive conditions. In certain cases, they deprive them of the right to make a living.

People disagree with the Good Friday Agreement. They are entitled to their opinion and express it, but they are not entitled to express it through violence. It also means listening to those

who have outstanding issues, whether they are loyalist or republican. We have seen violence in the North, the murder of PSNI and prison officers, which is regrettable and horrifying. The perpetrators must be brought to justice, but that means having a thorough investigation in order that the real perpetrators are brought to justice, not just the targeting of known individuals. There are outstanding issues of collusion, finding the murderers of solicitors such as Rosemary Nelson and Pat Finucane, the Dublin and Monaghan bombings, the murder of members of the Miami Showband and the disappeared. We must acknowledge the success of the Good Friday Agreement. We meet people who come from other conflict areas who are very supportive and respectful of it. They see it as a landmark, one that they want to follow. We owe it to people in the North and other conflict areas who see it as something to which they should aspire to ensure the inclusion of all in political dialogue. We must not be complacent in this regard.

Deputy John Halligan: I concur with Deputy Caoimhghín Ó Caoláin that tremendous progress has been made in Northern Ireland. I do not agree, however, with the derogatory remarks directed at political parties from those dredging and digging up the past for political gain or expediency. That is not the way forward. I have been in Northern Ireland on hundreds of occasions as a member of the Workers' Party and have my own opinions. I have met many people from both sides of the divide.

People should not be surprised that there is a degree of sectarianism in Northern Ireland. Many say the political institutions are built on sectarian division and segregation. Change will have to occur at that level. The full promise of the Good Friday Agreement has not been realised and one of the major failings is that we have not moved beyond the narrow and dangerous confines of unionism and nationalism. We must change the way Northern Ireland's political institutions are structured. We need to bring to an end designating MLAs as Unionist and Nationalist, which would be a great step forward. Perhaps the parties might examine this. Otherwise we are setting a trend in saying to the people that the MLAs are not members of Sinn Féin or another democratic party but are Nationalist or Unionist.

There is a myth that we can develop a society based on the notion of being separate but equal, an expression I have heard in Northern Ireland and the South. It cannot be perpetuated if we are to work seriously towards having an integrated society. In continuing to promote that policy people compound existing problems. They are probably widening the community division.

The immediate basis for the development of an integrated and non-confrontational society would have to be a complete rejection of the philosophy of separate but equal, as there are very many people in the working class suffering the same problems in Northern Ireland from the divide. There should be a promotion of citizenship as an antidote to Unionism and Nationalism as a way forward, along with a robust and transparent programme for integrated housing, a commitment to introduce integrated education and teacher training in Northern Ireland and an accelerated programme to dismantle Northern Ireland's peace walls. I believe this would be a way forward.

Has the Executive failed to deliver a radical and social economic agenda required to provide quality of life? There are many people who would say that, although I am not here to criticise the individual parties in the Executive, and there are some very good members on both sides. This has resulted in a major disconnect between the citizens of Northern Ireland and the political parties there. One way to address that, on balance, is to explore ways in which civic society can be strengthened or empowered. To this end, there should be the introduction of a compre-

5 February 2014

hensive bill of rights and reinstatement of the civic forum, which Sinn Féin has indicated it supports. The Good Friday Agreement acknowledged that a bill of rights should form part of the settlement. Although there is much more I would like to say on the matter, I do not have the time.

I will skip to the big issue of parades and flags. Everybody has a right to parade, protest and lawful assembly, and such rights should be available to all citizens and protected in law. The vast majority of parades in Northern Ireland pass off peacefully and without a problem, but there are difficulties in specific locations such as Ardoyne and Carrick Hill in Belfast, where it is less about the parade and invariably more about a chance to reverse localised underlying sectarian tensions, as can be seen with the violence that can take place after parades. The flying of the Union flag at Belfast City Hall is a case in point, as few if any people would even have noticed the flag flying before the decision to limit its presence was taken. People are aware of that.

One of the Labour Party Deputies stated that we should not forget our past, but I am not so sure about that. Somebody once said that we should not forget the past and our history but we should never be shackled by it. That is the way forward.

Deputy Patrick O'Donovan: I welcome the opportunity to speak in this very important debate. It is a bit overdue but nonetheless welcome.

This afternoon I sat here for most of the contributions of the main party leaders, and the contrast between the statements given by the leaders of Government and those of the main Opposition parties could not have been greater. I think when the leaders of Fianna Fáil and Sinn Féin read or listen to the contributions from earlier today they will agree that their tone and contributions lacked any degree of vision that their respective parties might have on the issue at hand. I was particularly disappointed in the contribution of the leader of Fianna Fáil who, despite his experience in the affairs of Northern Ireland, reduced his contribution to making political shots and jibes in the hope that it might bring some electoral advantage to his party, particularly on those flanks that might be threatened by Sinn Féin south of the Border. Language and its various meanings and emphases has always been a very important part of building peace on the island, but some of the comments of the Fianna Fáil leader today were an attempt to introduce divisive tribalism into a debate, which would result in a lack of unity of purpose from this side of the Border. Attempts to cash in politically on what has been called the national question are nothing new, as we can recall from the way a predecessor of his tried to bring down the Anglo-Irish Agreement in 1985; however, political immaturity in this area in 2014 is something that should not be condoned and instead should be seen for what it is. The Sinn Féin leader spent the first ten of his 15 minutes talking about the past - and a very one-sided version of that past - without any reference to the here and now or to the future.

I am a younger person who has been fascinated by this for a long time, as my first exposure to Northern Ireland politics was in the early 1980s, when Northern Protestant workers stayed with us at home during the construction of Aughinish Alumina. It is from that point that I developed an interest, and I resent any claim that this is the sole preserve of one political party or an individual. I agree with the sentiments of Deputy O'Sullivan and many others that all political parties south of the Border have played a very mature role in this. My party, like many others, has played a firm and concrete role in the delivery of the current position through Sunningdale, the Anglo-Irish Agreement, the framework document and more recently the developments in the North-South Ministerial Council and the British-Irish Council. Although these contributions are of themselves no more or less important than the contributions of any other

constitutional nationalist party to the national question, it seems, upon reflecting on the remarks of the two Opposition leaders this morning, that the conciliatory nature which for so long was a hallmark of this State's approach to the national issue could be starting to fray, and that is something of which we must be vigilant as a Dáil and that we must work to prevent.

This debate is an opportunity for us to give contributions on the challenges that we as a Dáil believe confront the North, and they are many. However, we know that there are many challenges and we must also acknowledge the positives. As I said earlier, the news bulletins of the childhood years of a person in his or her 30s were dominated by the latest killing of a Catholic or a Protestant and the constant sectarian bloodbath which left open sores and deep divisions that we must confront as a society. We must be prepared to confront the horrors of the past in a way that respects the memories of those who had their lives cut short while respecting the wishes of families. For those families who desperately seek to find out how a loved one died, who ordered the killing and why it was ordered, we must be prepared to stand with them and seek the truth. Similarly, those who have no graveside to visit, no headstone and no remains, only the knowledge that the person might be buried in a lonely bog or on a deserted beach, deserve something better as well. They deserve to have their loved one at rest in a peaceful location close to family, and every effort needs to be made to ensure that any information which can lead to the recovery of their remains is given. On that note, I would appeal to anyone in this House or outside it who may have influence on anyone who knows where these remains are to bring it forward so that the families in question can begin the normal process of grieving and of letting go.

Through my membership of the British-Irish Parliamentary Assembly, BIPA, I have probably had a greater level of insight into the difficulties that exist in building the peace, but I am under no illusion that the issues we discuss are the only ones or the most important. I am delighted to be a member of the BIPA sovereign affairs committee, and we are currently carrying out work on the implementation of the Good Friday Agreement. We have through the course of our work met several groups, and one of the issues I have come to understand is that there is no shortage of people willing to speak in Northern Ireland; the issue is that the talking needs to be done in a more structured way that not only gives a platform to the elected representatives but also to the genuine community leaders, who, without fear of paramilitaries or other threats, can articulate the views, fears and, most importantly, the hopes of their communities. That is why I agree with the views of the Tánaiste from today that we need to see the establishment of a civic forum, which I believe could be a real power for good as it would ensure that proper discourse on bread-and-butter issues for communities are openly and frankly aired.

In our discussions, I got the sense that the recent flag demonstration was a symptom of a greater problem in some communities which feel threatened and disconnected, and this needs to be watched. Educational underachievement, unemployment and lack of access to housing, together with other issues, can gnaw away at the heart of a community whose political leaders have peddled the notion that the community is under siege and almost threatened with extinction. That is something which naturally could resonate with people who need something to blame for their condition, and the temptation of some political leaders to lay the blame for social and economic problems at the gate of another because of their religious belief is something that we all have a duty to work to confront. However, the culture of blame will not fix the problem; as we have seen, it will merely make it worse, because the result of the highly charged blame game with the resultant street protests and violence leads to other difficulties, including challenges for the retail and hospitality trades. This makes places look even less attractive for

5 February 2014

visitors and investors, and as a result further threatens livelihoods and people's futures. The way out of that for the community concerned has nothing to do with a flag but everything to do with a political process that is made to work for a community and deliver for it. These challenges of exclusion and social deprivation are not unique to Northern Ireland but they are complicated exponentially when we add sectarian divisions, historical hatred and lack of political leadership to the mix. The key is for the co-guarantors of the agreement, namely the British and Irish Governments, to continue to press the Executive to ensure that proper programmes of delivery of education, training, employment, housing and inter-community relationships are provided in these areas. These are the areas with the greatest potential to cause the scenes that will flash across the world and do untold damage to the economy of the North, and that is why it is vital that the issue be addressed.

6 o'clock

To that end, we must all, through any engagement we have, no matter how low the level, encourage the parties to ensure the outstanding issues of the agreement are discussed further. I do not accept the prophecy of those who want to destroy this agreement that these issues cannot be resolved. For the most part, these are the same people who said there would never be an agreement. They campaigned against it and lost, finding themselves out in the cold when it came to the express wish of all the Irish people at the ballot box.

People have a right to protest and to assemble to voice their concerns, but when protests turn ugly and intimidatory and are designed to strike fear into others who might not share the same views in the same area, the authorities have an obligation to intervene. To that end, I applaud the work of the PSNI and its Chief Constable, Mr. Matt Baggott, who I understand is due to retire. We wish him well. The continuing work on acceptance and the normalisation of policing is work that we must continue to support. The effectiveness of the policing board and the devolved justice functions from Westminster will be the critical tests for the success of peace-building in Northern Ireland, and continuing co-operation between the PSNI and An Garda Síochána is a vital part of that.

I understand that the aspects of the agreement that remain to be resolved, together with the headings of the Haass talks, are the most contentious, but they were always going to be the most difficult ones to be addressed. We should not shy away from them because the opportunities for this whole island will be immense when they are behind us. The economic potential of the island as a whole, particularly in agriculture, tourism and technology and the food sector, will be important in delivering opportunities to the communities I referred to.

I welcome the Taoiseach's remark on Horizon 2020 and his view that this could be the blueprint for further co-operation on European programmes involving the island of Ireland. However, following on from the Taoiseach's speech, these co-operative measures can only be developed further within Europe if the United Kingdom continues to be a member of the Union. It is blatantly obvious that a withdrawal of Northern Ireland from the European Union would be disastrous for its economy and people. It would also pose considerable challenges to the economy and people in the South. However, rather than bemoan the fact that the United Kingdom might leave the Union, it would be neglectful and remiss of us to fail to ask why the British are even contemplating a withdrawal at this time. It would be foolish of the Union to ignore the reasons a growing number of British people feel disconnected from the Union. We on this island, north and south of the Border, need to have an honest conversation on our European experiences. The sooner this takes place on this island and in the other member states, the

better for the Union itself.

Strand 3 of the Good Friday Agreement is one in which further real opportunities can exist for both islands. We have already witnessed the ability of a healthier political relationship between the islands to create an environment for increased trade and jobs, but greater levels of collaboration in energy, education, health, agriculture, communications, culture and transport, the sharing of experiences, the creation of joint ventures and the adoption of single positions could all lead to greater opportunities for people north and south of the Border, and that is why I envisage critical roles for the British-Irish Council and British-Irish Parliamentary Assembly. I wish the Taoiseach and Tánaiste well in their role. It behoves all political parties to unite with the common purpose of building peace for all people on the island.

Deputy Patrick Nulty: I am grateful for the opportunity to speak on Northern Ireland. Before I address the past and the particulars of the ongoing Haass talks in regard to flags and parades, I would like to put a number of points on the record as this is the first time I have had the opportunity to discuss the North.

The world lost Nelson Mandela this year. From his experiences in South Africa and the experience of the civil rights movement in Northern Ireland, it is important that we record the root causes of the problems right across the world. The civil rights movement in the North campaigned for political freedoms, freedom of expression and assembly, access to decent housing, proper and fair democratic participation and elections. It is right that we acknowledge the outstanding contribution of those concerned.

From experience not only on this island but also internationally, we must remember a number of important principles. One such principle is that no political problem, however protracted, can be resolved through violence. Another is that violence and the taking of innocent life are never acceptable in the pursuit of a political objective. Equally, political violence can never be addressed or resolved without dialogue and discussion and by addressing the root causes of conflict.

In Northern Ireland, the crucial issue continues to be the ongoing challenge associated with segregation. There has been very disappointing progress in moving towards an integrated system of education in the North. The North needs to move towards this so as to have children educated together rather than on the basis of sectarian division.

We must challenge the decision of the British Government to reduce significantly the block grant to the North. The reductions have resulted in severe cutbacks to public services. I am disappointed in the parties that formed the Northern Executive in that they have not organised and mobilised citizens in the North more strongly to challenge the coalition in Westminster and the cuts to the block grant. A problem we in the Twenty-six Counties share with our friends and fellow citizens north of the Border is that we are all victims of neoliberal policies implemented by a conservative coalition.

I am disappointed by the established parties in the North - Sinn Féin, the SDLP and the Unionist parties - because of their continuing refusal to support the extension of the Abortion Act 1967 to the North. I am pro-choice for both the North and South. Political parties need to take a stronger position and they have questions to answer because of their refusal to support the extension of the Act to the North and because of the consequent fundamental undermining of women's reproductive rights. I support the extension of the legislation and legislation to ad-

dress the issue more broadly in this State also.

With regard to dealing with the past, the problem with all mechanisms thus far has been attributable to staffing and resources. It has been established that the authorities cannot investigate a particular killing as part of a wider pattern. Collusion comes to mind in this regard. I still do not believe collusion between British security forces and loyalist terrorists in the Dublin-Monaghan bombings has been addressed adequately; nor has the murder of Pat Finucane. There has been an inability up to now to gain access to intelligence and military files so as to find out the full truth. This should be made possible. A single mechanism such as the one suggested by Mr. Haass - the historical investigations unit - would, if implemented properly, go beyond these constraints. Implementing it properly means a security-cleared group with access to the files that is independent and free from state and political interference. It should have powers to compel witnesses and recommend prosecutions, where appropriate. Victims want different results, and we must remember the victims of every single act of violence in the political conflict on this island. Victims want truth and, in many cases, prosecutions. More than anything, they want to know what happened to their loved ones. Any approach needs to recognise this and allow victims the choice between pursuing prosecution and opting out of this process.

A useful aspect of the Haass document was the recognition of the value of investigating thematic areas, such as collusion and the mistreatment of prisoners, as mentioned by other Deputies. I oppose absolutely internment without trial, irrespective of the circumstances. I condemn the decision to engage in internment, even very recently, in particular cases. Doing as I suggest would allow the narrative in Northern Ireland to move beyond individual cases and allow for a study of the policies and practices of various governments and political organisations that operated within the Six Counties over four decades and more. However, the model Mr. Haass suggested was that combatants would testify on actions in which they were involved in exchange for immunity. This testimony would be confidential. This, however, would mean no one could tie it in with state files or the larger patterns. This needs to be teased out.

With regard to parades, it is a generally accepted principle across this House that the rights to freedom of assembly and organisation should be respected. However, there ought to be a balancing of rights. Communities have a right to go about their daily business without fear and intimidation. I vividly recall, as a young man, witnessing the dreadful scenes on the Garvaghy Road in the mid-1990s, when our fellow citizens were literally beaten off the road by the British security forces to allow the Orange Order to march down that road. Such situations should not be tolerated and should never be repeated. Organisations do not have a right to march through communities without the consent of those communities and any attempt to do otherwise can only be considered to be provocative and intent on heightening rather than ameliorating tensions.

On the issue of flags and banners, again I believe people have an absolute right to express their political views. However, Northern Ireland as a State witnessed institutional sectarianism, where Irish citizens were discriminated against in accessing housing, for example. Even today, there are still issues of concern, with question marks over some housing allocations in the context of population balance within certain constituencies. Groups do not have a right to seek to roll back progress and undermine a society based on equality and social justice. We must address the issues of unemployment, poverty and inequality in the North of Ireland. I firmly believe that the real division on this island is not between Protestant, Catholic and Dissenter, nor between Nationalist and Unionist but between the vast majority of citizens - workers, carers, the unemployed - the 99%, as it were, and the 1% - bankers, developers and political elites

- who control wealth in this country. That is the real division within this State and in the North of Ireland, as well as across Europe. That is the issue that must be addressed.

I have visited the North of Ireland on many occasions and, in particular, Belfast and believe that if poverty and injustice were addressed through a significant redistribution of wealth, the frustration and anger felt by many communities, which is often exploited by sectarian groups, could be resolved once and for all. Social and economic policy must be at the heart of the solution in the North of Ireland. I agree with Deputy Halligan that we need to move beyond the sectarian divisions within the Northern Ireland Assembly of Nationalist or Unionist, where people adopt positions based on their political perspective on the economy and society rather than on the narrow issue of the national question.

I wish community groups, trade unionists, women's groups and those fighting for LGBT rights in the North of Ireland well. I aspire to the establishment of a 32 county Republic on this island which is democratic, secular and socialist and which enjoys the support of the people who live on the island but I respect alternative view points. That is the way forward. I thank the Leas-Cheann Comhairle for giving me the opportunity to contribute to this debate.

Deputy Dan Neville: I am grateful for the opportunity to contribute to this important debate. The people on this island, North and South, as well as those in Britain, must move on, learn to understand one another and get to know each other better. We must enhance our knowledge of the common work we must do in order to deliver services to our people. We can learn much from each other's experiences. We can also learn from one another's mistakes in terms of implementing policy.

This morning the Taoiseach acknowledged the work of members of both Houses of the Oireachtas and the Northern Ireland Assembly. He also paid tribute to the members of the Oireachtas Joint Committee on the Implementation of the Good Friday Agreement, the British-Irish Parliamentary Assembly and the North-South Inter-Parliamentary Association which continue to further British-Irish and North-South relations.

I am a member of the North-South Inter-Parliamentary Association, which consists of 50 parliamentarians from the main political parties in the Northern Ireland Assembly and the Houses of the Oireachtas. The inaugural meeting of this body, which alternates between Leinster House and Stormont Castle, took place in the Seanad Chamber on 12 October 2012. Meetings are chaired jointly by the Ceann Comhairle, Deputy Seán Barrett and the Speaker of the Northern Ireland Assembly, Mr. William Hay, MLA. I wish to pay tribute to all of the members of the association and to commend them on the quality of the debates in which they have engaged on important social issues. The association has invited experts from both North and South to outline their experiences, knowledge and research on important social, cultural and economic issues affecting our people.

Many of the issues discussed by the association are not strictly political but have an enormous bearing on the daily lives of people, both North and South. There was a very interesting meeting on co-operation in child protection. The tragic experience of child abuse, North and South, is known to us all and mutual co-operation in that area was discussed at length. The plan for the restoration of the Ulster Canal was raised by Deputy Ó Caoláin and was discussed at length. We also discussed positive mental health strategies and there was a separate session on suicide, during which we learned that there is different but complementary research being conducted in Northern Ireland and the Republic. It is important that we share that research and

share the experiences of suicide prevention programmes on both sides of the Border. In that context, the Irish Association of Suicidology, a 32-county organisation, held its annual conference in Derry last October. There were contributions from various Northern bodies dealing with psychological and counselling services and the conference was hugely successful. The North-South Inter-Parliamentary Association has also discussed type 2 diabetes and caring for an aged society. We also discussed the emergency ambulance services and GP out-of-hours services and potential areas of co-operation in that regard. We also discussed energy security. The association has discussed a very broad range of issues to date and the quality of the debate has been consistently high.

We need a more prosperous Northern Ireland and southern Ireland and co-operation will lead to more success. The promotion of Ireland abroad as an island has great potential. I welcome the joint initiative being taken for the first time by Ministers from Dublin, Westminster and Stormont. They will shortly go on a trade mission to Singapore, led by the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, the British Parliamentary Under-Secretary of State for Transport, Stephen Hammond, and the Northern Ireland Minister for Enterprise, Trade and Investment, Arlene Foster. There is co-operation in this area. We have seen the benefits we have obtained by being members of a larger body of nations, namely, the European Union. Surely both islands could also benefit from co-operation between North and South and between Britain and Ireland.

We must also consider co-operation to enhance our mutual interests and benefit from the European Union. North and South have a common interest in staying in the European Union. We must try to influence and understand the difficulties that would arise if Britain were to leave the European Union. That would have enormous consequences for the North and the south of Ireland, especially from the perspective of agriculture, regional development and cross-Border INTERREG programmes, as we have mutual interests in those areas.

The terrible consequences of the Troubles will continue to have repercussions for politics and society in Northern Ireland, the South and Britain. We must recognise the difficulties experienced by the victims of Northern violence on both sides of the divide, which we are working towards removing. We must also recognise the immense contribution of the peace process, which has made a profound difference. The political process worked and those who contributed to it on all sides, including with the co-operation of the United States, helped to bring about peace. We must now drive the economic and social agenda North and South as a compliment to the development of the peace process. I am pleased to have had an opportunity to contribute to the debate.

Deputy Seamus Kirk: Fianna Fáil is committed to working towards a united Ireland through the peaceful agreement of all people on this island. We believe the peace process has to be about more than the absence of violence. Political parties in the North cannot simply rule by the division of spoils. Fianna Fáil supports the adoption of the majority of the Haass proposal as a means towards moving Northern Ireland out of its current dangerous inertia. The failure of the Haass talks to reach a consensus and the ongoing bickering between Northern Ireland parties is a sad reflection of the poor state of Northern Ireland at the moment. The peace process has stalled and fallen into inertia, yet there is absolutely no urgency or ambition on any side to come to a viable solution. Northern Ireland has enormous potential but it seems the political parties are all playing hardball and no major progress is being made.

I commend the Haass approach to dealing with the major issues in Northern Ireland. Now

is the time to adopt the main points and focus on the rebuilding and growth of Northern Ireland. There are three key areas, the first of which is the past. More than 3,500 people died in the Troubles, and in almost 3,300 cases no one was prosecuted. Reaching agreement on how to investigate the killings and what to do about other people affected by the Troubles has so far proven impossible. The second is the flags issue, which was highlighted last year when Belfast City Council's decision to fly the Union flag from City Hall and other council buildings only on 18 designated days sparked street protests. The third is the issue of parades. Although many parades are not contentious, some Unionist parades that pass through or close to Nationalist areas have been controversial. A small number of Nationalist parades have also proven contentious in the past. I hope further discussion can be made with the parties independently. Those issues are holding back Northern Ireland and its economic recovery.

There is a need to develop a conventional economic environment. This would lead Northern Ireland into the future, with a key focus on jobs, job creation and job retention. Peace is not something to be taken for granted – it must be built upon. The idea that seems to have seeped into Government Buildings that the North is sorted is extremely short-sighted. Equally, the unity of people on this island in one state remains the aspiration of the majority of the Irish people and it is the duty of our Government to work towards it with real commitment.

The fact that a major investment programme, the Northern Ireland economic package, was launched in Northern Ireland without any reference or consultation with the South is a clear indictment of the gap that the Government has allowed to develop. On St. Patrick's Day in Washington in 2010, when all the various economic and political interests converged on the White House and Washington generally, I was disappointed to see that the promotion of industrial development was separate and distinct on that occasion. We need a comprehensive economic strategy that targets skill shortages and prepares Northern Ireland for future industries. There needs to be a clear and concise focus on key job creators, be it the IT industry or the financial industry. More support is needed to expand SMEs in Northern Ireland.

Being so close to the Border in Louth, I have found it obvious in recent years that fuel smuggling has increased. That must be addressed urgently. Recent figures suggest that 12% of all diesel in Ireland is sold illegally. The illegal laundering of diesel is damaging to public safety, the environment and the public finances. With the rise in fuel costs only encouraging such criminal activity, it is imperative that measures be taken to address the matter. Revenue agencies North and South need a formula to urgently deal with the issue.

In the health area, a joint operation for public procurement of equipment could facilitate savings for hospitals north and south of the Border. The provision of specialist hospital care for certain conditions requiring expert treatment in centres of excellence also has the potential for both jurisdictions to co-ordinate their planning and investment in an all-island framework for neck, brain, heart, lung, spinal and cancer specialists. Establishing the value for money of any North-South project to share provision is therefore a key task, because the incentive has to exist. As an immediate first step, it is important to develop a model for estimating potential economic benefits, including those for cost savings from shared health service provision, by undertaking a micro-sized bottom-up exercise to scope in detail joined-up patient care in both jurisdictions. I recently visited Daisy Hill Hospital in Newry. I was impressed by the adoption of technology and the linkage with Craigavon Area Hospital. Daisy Hill is a small but intense hospital where a large number of patients are seen on a daily basis. One could not but be impressed with the difference the adoption of modern technology makes to the delivery of health care. We have much to learn from it.

5 February 2014

There is growing uncertainty about the future of the Narrow Water project, with funds from the Northern Ireland Executive still to be provided. The bridge at Narrow Water linking County Louth and County Down was first proposed in the mid-1970s and received significant support from Fianna Fáil in government, including a major funding commitment. I am extremely anxious to see this project delivered for the communities on both sides. The European Union has generously provided significant sums for the construction of the bridge, with the remainder to come from the Government and the Northern Ireland Executive. The time has now come for the Minister for Finance and Personnel in Stormont, Mr. Simon Hamilton, to give the green light and allow this important project to proceed. I have previously raised this matter directly with the Minister and I believe there is progress to be made. The project might be stalled at this point but I sincerely hope the Government can succeed in keeping it on the political agenda and that it is not effectively abandoned. It must be kept as a priority project. It is a hugely symbolic and iconic project that would do much to build the peace process in the Border counties. There is a need to set up a cross-Border tourism agency to develop such areas as Louth, Monaghan, south Armagh and south Down. The building of the bridge would add an integral infrastructural dimension to the process. The key focus would be on establishing this unique area with a clear strategy for developing the area for tourism. This will lead to both job creation and economic stimulation. The region offers a unique mix of history, culture, shopping and scenery. With a co-ordinated approach, this area has massive potential and will also strengthen the links between Republic of Ireland and Northern Ireland. With the Minister of State with responsibility for European affairs in the Chamber, I urge examination of the development of an economic zone between Dundalk and Newry on a joint basis.

Another area which can be strengthened is the agriculture sector. A recent report by the Centre for Cross Border Studies focused on agriculture, food and fish. Its main recommendations included exploiting the natural unspoiled landscape and history of food production in the area; differentiating products in export and domestic markets; applying the same concept to develop local markets and food-related tourism to encourage people to visit the area; fostering collaboration to maximise internal synergies; leveraging domestic procurement opportunities and the base of large food producers to support small and medium-sized enterprise development; sharing resources between small and medium-sized enterprises to overcome scale and peripheral disadvantages; and strengthening linkages between industry and education and research institutes. With the end of the milk quota in 2015, the potential to develop agriculture on an all-island basis is obvious, with benefits for rural areas and the wider economy.

On 31 May 2013, the president of Dundalk Institute of Technology, Denis Cummins, with Paul Hannigan of Letterkenny Institute of Technology and Dr. James Brennan, head of life sciences in Sligo Institute of Technology, called for an establishment of a North-South higher education working group. Dundalk Institute of Technology's strategic alliance and the University of Ulster also recommend the establishment of a North-South higher education joint working group to promote student mobility between North and South through improved co-ordination in admissions processes, the establishment of cross-Border staff mobility programmes, reform of the Central Applications Office system so that Northern Irish students receive equitable treatment and the establishment of scholarship funds for students from low-income backgrounds. This strategy needs to be re-examined. With co-operation in the education sector, it will prosper and grow. With further co-ordination between Dundalk Institute of Technology and University of Ulster, more people in this area would have to access to all the services both universities have to offer.

I too am a member of the North-South Inter-Parliamentary Association. During my tenure as Ceann Comhairle, I remember the engagement we had with the Speaker in Stormont, Willie Hay. While the process of establishing it was slow, we eventually had the first meeting in Slieve Donard Hotel in Newcastle and there have been many plenary sessions since. We need to look at the establishment of specific committee structures for this body which will allow smaller groupings to explore specific areas that have immediate potential for development and see if they can be grasped through the political system.

Deputy Aodhán Ó Ríordáin: I welcome the opportunity to speak on the current situation in Northern Ireland and on the recent work that has been undertaken by the Government and, in particular, the Tánaiste and Minister for Foreign Affairs and Trade in seeking a successful resolution to the talks chaired by Dr. Richard Haass. It is with a sense of regret that I point out that almost 20 years since the IRA and loyalist ceasefires, 15 years since the Good Friday Agreement and seven years since the restoration of the Assembly and Executive in 2007, over the past 18 months, negative events in Northern Ireland have come back on the political agenda. Whether it is ongoing paramilitary activity by dissident groups, protests over flags and parades and related disturbances, dealing with the legacy of the past through books and television programmes on collusion, the publication of the Smithwick tribunal report or the ongoing search for the disappeared, matters relating to tension in Northern Ireland have been to the fore.

Regarding the latter issue, I, along with several colleagues in the parliamentary Labour Party, Deputies Nash, Wall and Dowds, travelled to Belfast last November, where we were privileged and humbled to meet the relatives of the disappeared. Their courage and dignity in their ongoing search for the remains of their loved ones who were abducted and murdered by the IRA during the Troubles stands in contrast to the callous cowardice of their killers, as well as the embarrassing denials by the leadership of Sinn Féin that they had any hand, act or part in these events. We also told the families that the Labour Party would be proud to facilitate the bringing of their simple and moving exhibition on the disappeared, which we visited in Belfast City Hall, to public spaces and civic centres across Ireland so that people do not forget one of the saddest outstanding legacies of the Troubles. I am glad to inform the House that their exhibition will open in Drogheda next Monday, facilitated by my colleague, Deputy Nash, where it will be on display for a number of weeks. Family members of those whose remains have not yet been found will be in attendance. I have requested the Lord Mayor of Dublin to facilitate this exhibition in the capital.

With regard to the Smithwick report, I want to place on record my support for the apology given to the Breen and Buchanan families by the Tánaiste and Minister for Foreign Affairs and Trade last December. It was not easy for those of us who abhorred the violence of the IRA during the years of the Troubles to hear that agencies of this State were culpable in the murder of the two RUC men. In particular, it was a difficult day for an Garda Síochána. I commend the manner in which the Garda Commissioner acknowledged the report's findings on publication. However, it was important the Government took a leadership role in fulfilling the commitments it gave to have an open, honest and transparent investigation into the murders of the two men. Following publication of the report, it was fully appropriate for the Tánaiste to offer the apology that he gave. The type of courage he displayed in doing so must be replicated by others. In this I include paramilitaries from either side, as well as the British Government regarding activities by the British State and its agencies during the Troubles. The Government has led; others must now follow. It was significant that both the Breen and Buchanan families welcomed the Tánaiste's apology with great dignity. For too long, the needs of the victims of the Troubles

have come second to the understandable need to keep the political process on track.

One of the positives to be taken from the Haass process, however, is the significant progress made on dealing with the outstanding legacy of the past. The final Haass document is 40 pages long; dealing with the past takes up 50% of that. There was considerable agreement among the political parties on this section. I welcome this development and urge the two Governments to safeguard the extensive agreement that was reached. There are some in Northern Ireland who would like simply to wish the past away or draw a line under some of its horrific events. It is possible to do so. If we are to have a fully reconciled society in Northern Ireland, however, then we have to deal with the past.

I pay tribute to those political parties, in particular the SDLP, which have over recent years argued that the needs of victims and their families have to be dealt with. This is supported by the Labour Party and we continue to support the efforts of groups seeking the truth. A Labour Party delegation met the Ballymurphy families in Belfast last November. We welcome the support that was given to them by the Taoiseach on behalf of the Government last week. Similarly, the Labour Party continues to support the call for an independent inquiry into the death of Pat Finucane and encourages the Tánaiste to continue to raise this with his British counterpart at every opportunity.

In saying this, I pay tribute to the Tánaiste for the work he has put into seeking agreement in Northern Ireland over recent months. While in recent years the Irish and British Governments largely gave the political parties in the North the time and space to sort out local issues under devolution, in response to recent events there has been a clear need for the two Governments to reassert their roles as co-guarantors of the Good Friday Agreement. I know the Tánaiste devoted significant time to the Haass process - largely behind the scenes - as well as undertaking frequent visits to Belfast, Derry and Armagh. While it is regrettable that these efforts did not lead to agreement at the end of the talks process, I urge him to continue his efforts over the coming months. In particular, the effort the Government has put into the process over recent times should be reciprocated on the British side. Intergovernmental co-operation remains an important element of the process. I know that the Tánaiste has developed a positive working relationship with the UK's Secretary of State for Northern Ireland. There may be a need for increased activity by the two Governments over the next several weeks and months to keep the process moving. I urge all parties in this House to give their support to the two Governments in this regard.

Traditionally there has been a large amount of consensus among the main political parties in Dáil Éireann on the political process in Northern Ireland. It has been an unspoken rule that we do not play party politics with the peace process. Regrettably, over recent times, this consensus has been broken. Earlier in this debate, I heard an extremely partisan speech by the Fianna Fáil leader, Deputy Martin. His unhelpful criticisms of the Government were consistent with his recent remarks in which he has tried to score political points rather than support the process. I point out to Deputy Martin that many of the issues with which the political parties in the Executive and Assembly and the two Governments were dealing in the Haass talks were live when he was Minister for Foreign Affairs. He was not able to get agreement then and he should know better than to snipe from the sidelines now. He knows the failure to extend the remit of the North-South bodies or regarding the construction of the Narrow Water bridge in Louth is not down to the Irish Government. Rather, it is down to opposition within the Executive and Assembly in Northern Ireland. I support fully the development of both and we in the Labour Party will continue to work in whatever way we can to advance both these projects.

In conclusion, I welcome this opportunity to speak on Northern Ireland and hope there will be further opportunities to speak as the process continues over the coming months. Many issues remain unresolved that have an impact on all of us who live on the island, just as they do on the population in the North. I thank the Tánaiste for his work to date and pledge the Labour Party's full support for the period ahead.

Deputy Jonathan O'Brien: Sinn Féin welcomes the debate today and the statements on the North, as this gives an opportunity for all parties in this House to set out what political action they have taken individually and what political action Members have taken collectively in recent times to help build the peace and to advance the full implementation and delivery of the Good Friday Agreement and subsequent agreements, of which both Governments are co-signatories.

In his earlier contribution, Deputy Adams outlined and catalogued the historical and political context to the partition of Ireland and the two conservative States that were created in both the Six Counties and the Twenty-six Counties as a result. In his remarks, the Taoiseach noted the significance of the decade of centenaries upon which I wish to spend some time reflecting and on how the events of the past 100 years have shaped both our country and the relationship between Ireland and Britain. Between 1913 and 1923, this country began a journey that still has huge contemporary political relevance today, most particularly in the continuing struggle for national independence, peace and sovereignty for all of Ireland. Last year we commemorated the historical landmark events of the 1913 Lockout, as well as the founding of the Irish Citizen Army and Óglaigh na hÉireann, the Irish Volunteers. This year we will commemorate the founding of Cumann na mBan in 1914, and before long there will be the centenary of the 1916 Easter Rising itself, followed by that of the death of Thomas Ashe in 1917, who was the first of the 22 hunger strikers to die in the past century, and the centenaries of the First Dáil and the Democratic Programme of 1919 will follow soon after. As a Cork Deputy, the year 1920 is hugely significant for me in remembering our past, since that was the year in which the Black and Tans were introduced and in which the murder of Cork Lord Mayor Tomás Mac Curtain occurred in March and the death of Terence MacSwiney on hunger strike on 25 October. After the signing of the Treaty, the pro-Treaty Free State Army bombed former comrades out of the Four Courts and civil war ensued with devastating consequences, both during 1922-3 and for decades thereafter, which has left Irish society divided and embittered, as Members sadly know well. Terrible events occurred during this period, including the official and unofficial executions of more than 100 republicans by the Free State, 77 of whom were executed in prison.

This is not meant as a history lesson but merely is a brief reminder of what this country has gone through over the past century of conflict and struggle North and South. It also is the political and historical context for what emerged as the recent phase of conflict after 1969. The issue of conflict is a century old and no party in this House was born out of peace. Frank Aiken, a founder of Fianna Fáil, started out as a young IRA man in south Armagh. Only before Christmas, the leader of Fianna Fáil, Deputy Martin, was at his graveside there to pay his respects and to commemorate him. However, in the same graveyard, only a short distance away, lies a hunger striker from 1981, Raymond McCreesh. Is Deputy Martin telling me and everyone else in this Chamber that they, as republicans, are different? If so, he is a hypocrite. Republicans from every decade and generation fought and died for Irish freedom and unity and no amount of revisionist rhetoric from parties such as Fianna Fáil, Fine Gael and the Labour Party will change this. To listen to some in this House, one would think this State came into existence through wishful thinking and the bluster of debate. The halls on the way into this Chamber are

lined with portraits of men in the uniform of the IRA. Every party within this House, including Fine Gael, Fianna Fáil, the Labour Party and the remnants of the Workers' Party, all have links back to militant republicanism. For more than 40 years this Parliament failed to protect Irish citizens in the North. It stood idly by while a sectarian State, ruled by oppression and governed by discrimination, was established and allowed to run roughshod over the rights of Northern Nationalists.

When the demand for peaceful and democratic change was voiced towards the end of the 1960s, the full brunt of the Northern State was brought to bear on the Nationalist community and some decided to fight back. When politics and democracy failed, an alternative was pursued by republicans and the IRA. That was a choice made by some and the longest phase of militant republicanism was born. Almost 30 years of violent conflict took place before the political path opened up and a peaceful and democratic alternative to achieve a united Ireland was negotiated. There are some who may prefer the analysis of republicans as the sole aggressors, but this does not hold up to historic scrutiny. The conflict was bloody and violent. The British Government was an actor in that conflict, yet there has been a disproportionate focus on the role of republicans. Many within this House and within the media have attempted to vilify and criminalise republicans engaged in armed struggle, but I for one will not allow that analysis to go unchallenged. As for the men and women who were volunteers of the IRA, they were ordinary people who found they were living in extraordinary times. They were not criminals; they were revolutionaries and freedom fighters of whom I, for one, am proud. The fact that in the past 40 years, Irish men and women were obliged to organise and fight an armed campaign at all to defend their families, friends and neighbours, as well as their dignity and rights, was an imposed reality and a manifestation of the failure of politics and they were entirely justified in taking up that fight. The volunteers of the IRA from the latest phase of struggle died for Ireland in order that this generation could live for Ireland and do so as first-class citizens North and South, winning the freedom while building the peace.

However, that was then, and the armed campaign is now over. The IRA rightly left the stage as new frontiers which had never before existed opened up and evolved into a successful peace process. Sinn Féin's peace strategy evolved over a period of ten years. It began with the production of two key documents, namely, A Scenario for Peace in 1987 and Towards a Lasting Peace in Ireland in 1992. The IRA ceasefires in both 1994 and 1997, as well as the ending of the armed campaign in July 2005, formed a critical part of the process that led to the signing of the Good Friday Agreement in 1998. As for its success thereafter, that peace process is considered to be one of the most successful contemporary peace processes in the world. Sinn Féin is proud of the pivotal role we played with others in forging agreement. Outstanding issues remain and republicans will not be found wanting in pursuing and working towards a shared solution with others. Such solutions will be based on parity of esteem and equality and one needs to look no further than the recent Haass talks to see the commitment and desire of republicans to address these outstanding issues. Sinn Féin entered those talks with a desire for an agreed outcome. Our commitment is to continue working with all other parties and sectors of society to achieve a successful outcome in this regard.

In conclusion, gone are the days of sectarian domination and political conflict in the North - that is, a century-old conflict. Things have changed and change will continue. Parity of esteem and equality will continue to be cemented and the outstanding issues of the Good Friday Agreement, including dealing with the past, truth recovery and reconciliation and an end to sectarian division, must be worked on to achieve success both in the immediate and longer term, despite

our opponents or the naysayers, in whatever quarter they may be found. We will not be found wanting in that. Republicans stand tall, we stand proud and we stand prepared to work with others to ensure conflict remains a thing of the past.

An Leas-Cheann Comhairle: Could I have the co-operation of the remaining Members? There are 30 minutes left before I call the Tánaiste and there are four speakers, two of whom are here, and two more may arrive. I will allow eight minutes for each speaker, if that is okay.

Deputy John Paul Phelan: I would say eight minutes will be plenty. I am glad to have the opportunity to speak. I do not think I have ever spoken on matters relating to Northern Ireland as a Member of the Dáil. There have been some very interesting contributions. I have listened to most of the debate earlier today and this evening. I found myself in the unusual position of agreeing with a large chunk of what Deputy Ó Cuív had to say, which is a political first from my perspective. I want to emphasise some of the points he made about the practical efforts that people, particularly Members of the Oireachtas, can make in fostering relations between people on both sides of the Border.

I have been a regular visitor to Northern Ireland in my 35 years on the planet. My late father was a much travelled man, had a deep interest in history and politics and travelled to many parts of the world, including spending a week in Baghdad in the 1970s. I had a discussion with him before he died five years ago and found he had never been to Northern Ireland. He held quite strongly nationalistic views, as I do. I was struck by Deputy Feighan's outline of his family's involvement. If one goes back far enough, most Members of the House on all sides, including my family, have people who were involved in political struggle around the time this State was founded in the 1910s and early 1920s.

I do not want to spend all my time talking about the past. Deputy Ó Cuív mentioned the recent Haass talks. There has been some negative commentary and some people have stated that they were a complete failure. They were not. They are the basis for further discussion and conciliation between the communities. As somebody who is a regular visitor but has no immediate family living in Northern Ireland, I see particular difficulties for the two communities at the margins, whether dissident republicanism or - a more visible threat - the flags protest. Some loyalist communities feel themselves to be politically marginalised.

I was in Belfast for quite some time this summer and I took the opportunity to spend an evening close to confrontation points near the shops in the Ardoyne. I witnessed some of the activities and was struck by the fact that so many people were involved on that particular sunny night, while it gets little media coverage on this side of the Border. They obviously feel a disconnect from the parties that traditionally would have represented them. That reality has not been grasped or understood and is not even spoken about that much. For one reason or another that sector of Northern Ireland society feels politically marginalised. That is not a good thing because the history of the conflict is that those who feel marginalised may take drastic action. We need to ensure that whether communities are republican or loyalist in their outlook, they do not feel marginalised. I commend many of the efforts the Sinn Féin party has made in the recent past to ensure the current largely peaceful situation exists on our island.

I was born in the late 1970s, as my name would suggest. My name also suggests that I might be expected to hold particular political views on Northern Ireland. I come from a family that was politically interested but not politically involved. My first political memories are of waking up to go to school and listening to radio reports about who had been blown up, murdered,

5 February 2014

maimed or injured the night before. The fact that that is not happening is something we take for granted a bit too much. I commend those involved in ensuring that it is no longer happening. We should not rake over the past.

Language is important. I agree with much of what the previous speaker, Deputy O'Brien, said, but some of his language was a little rash in terms of other Opposition parties and the role they have played. All the political parties in this Chamber, and the non-aligned people, could rightfully claim some credit for the situation of broad peace that exists on our island. It is a question of trying to ensure that peace is sustained into the future and extended to those communities on both sides, but particularly to the loyalist community, which feels marginalised. That marginalisation cannot be allowed to develop into something much worse. A number of initiatives have been undergone recently.

The fact that Northern Ireland is not so prominent in our political discussion any more is reflective of the fact that it is not covered as much in our political media as it was heretofore. My first real political memory was the Anglo-Irish Agreement. I remember being at home as a rather strange seven-year-old baby-sitting my sister and seeing that the Government in the Republic, for the first time - through the efforts of then Taoiseach Garret FitzGerald - had a political input into the future of Northern Ireland. That was a significant development from which all other developments since have flowed.

I welcome the fact that in the past ten days the Taoiseach has engaged in a meeting with the families of those people who were murdered in the Ballymurphy massacre. A number of other outstanding inquiries and discussions need to be had regarding a permanent or long-lasting solution. These include the Dublin and Monaghan bombings, the recent findings of the Smithwick tribunal and the very necessary desire of the families of the people now loosely referred to as the disappeared to have some degree of finality brought to their situations by finding the last resting places of their loved ones. That is why the Haass talks, while they may not have been immediately successful, at least provide another step along the road towards, hopefully, a more permanent and long-lasting solution in Northern Ireland.

I do not want to be too party political, but Deputy Ó Caoláin, with whom I often agree, provided an interpretation of the thoughts of the Minister for Justice and Equality, Deputy Shatter, as he spoke in the Seanad last week when he said he was referring to a small group that led to 3,000 deaths during the course of the Troubles in Northern Ireland. Had the Minister wanted to pinpoint a particular group, he would have. He has never been known to be slow to speak his mind on particular issues as they arise. I was not aware that Deputy Ó Caoláin was able to read the minds of Cabinet Ministers.

I welcome the opportunity to have this discussion. The major outstanding issues I mentioned in my contribution can be resolved. The Haass talks provide a step towards that resolution.

Deputy Charlie McConalogue: I also welcome the opportunity to discuss Northern Ireland here this evening. It is very important that we discuss Northern Ireland, but a person I spoke to earlier made the point that we rarely discuss the counties around Northern Ireland and the three other counties of Ulster, which have been more affected than any other part of the country by the legacy of the Troubles in the North over the years and by the difficulties we still experience in terms of trying to ensure further integration of our services and co-operation between Northern Ireland and our Government.

7 o'clock

No county has been affected more by the Border and the fact that we are two separate jurisdictions than my county of Donegal. I welcome the fact that we are here discussing the issues in a scenario where there is no longer the type of conflict we saw over so many years. There has been much progress. The Good Friday Agreement was an historic agreement and many did not think we would see the scenario we have lived through over the past ten to 15 years. However, there has not been the level of progress in recent years that we would all like to have seen. We need to ensure the institutions within the Six Counties and between Northern Ireland and the Republic continue to be developed further.

The recent Haass talks offered an opportunity to deal with some of the outstanding issues and it is unfortunate that they did not lead to agreement across all parties. Unfortunately, many people are still looking over their shoulders rather than ahead to what is possible. The pace of political progress continues to be slow. There was much that was positive in the Haass proposals and I hope the parties, perhaps after the upcoming elections, can get together again to develop them and, hopefully, reach agreement. I urge the Tánaiste and the Government to work closely with the British Government and to do their bit in terms of being involved in this effort.

Overall, there has been more of a hands-off approach than we should have seen from the Government, particularly since the current Government took office. I make this comment in the context of some of the projects on which we should be seeing some progress. Three years ago, the A5 project, the dual carriageway from Derry to Aughnacloy, had political and co-funding commitment from the Government. It was a bad day for the north west and Northern Ireland when the Government rowed back on that. I know there have been problems in regard to planning and that this has led to difficulties. The actions of our Government in terms of re-quantifying its commitment to the project was not a good move in the context of trying to make progress. In regard to the current position of the project, the Government has given a commitment of €25 million in 2015 and the same the following year. However, we need to see more active participation by the Government and the Northern Ireland Executive on the project. They must work alongside each other. Since the Government's commitment has been re-quantified, the project has been very much left to Northern Ireland to drive it. This project is critical to the future infrastructural development of the north west, but because the St. Andrews Agreement did not come until later on in our economic development and just a couple of years before the economy turned, the agreement between the Six Counties and the Republic to work alongside one another to develop it came too late to avail of the funds that had been in place. Unfortunately, the economic recession in the North and South has made progress more difficult.

Another project I would like to bring to the attention of the Tánaiste is the Foyle ferry, from Greencastle to Magilligan, which has been up and running for almost ten years and has transported more than 1 million people across the two-mile strait. This service is currently in significant difficulty and a group met the Minister for Transport, Tourism and Sport last week on the issue. The service was funded by Limavady Council and Donegal County Council, but they are no longer in a position to continue with the funding as they were doing. Without some kind of co-operation between the Northern Ireland Executive and the Government, the future of this cross-Border project is in question. I urge the Tánaiste and the Minister to make every effort possible to get together and liaise at North-South level to find a solution to allow this important service to continue.

My party leader referred to the issue of support for Protestant schools and minority faith

schools in his contribution to this debate earlier. As a result of the introduction by the Minister for Education and Skills of increased pupil thresholds for the maintenance of teacher numbers, significant pressure is being put on many Protestant schools. We have seen, for example, the pupil threshold for a three-teacher school move from 49 pupils required to maintain three teachers to 56 for next year. Approximately half of all Protestant schools have fewer than 50 pupils and they are suffering a disproportionate impact due to this measure. Just as it is important to respect the traditions of all cultures and backgrounds in the Six Counties, we should do the same here. I ask the Tánaiste to reflect on that and on the impact of the changed pupil thresholds on Protestant schools.

Acting Chairman (Deputy Frank Feighan): The next speaker is Deputy Durkan and I would like to inform him that in his absence it was agreed speakers could have seven minutes to make their contributions.

Deputy Bernard J. Durkan: I wish to comment on a number of issues, some of which have been referred to already. It is essential that the economic projects envisaged some years ago as being part and parcel of the benefits accruing from the Good Friday Agreement are re-defined and renewed as early as possible. We all know there have been economic difficulties across this island and the adjoining one. Notwithstanding that, the benefit and focus of the Good Friday Agreement and all the effort that went into it would be worth nothing if we did not try to ensure that the economic benefits are continued and developed in a determined fashion. If we do not do this, it will be recognised as time goes by that nobody cares. In any situation where there has been conflict in a community, it is a serious concern when it transpires that the people on the ground get the impression that nobody cares. In that regard, I wish to compliment the Taoiseach and the Tánaiste on their respective input into this structure over the past number of years. I wish to add that the Tánaiste made a tremendous speech in Cambridge last year in which he touched on all the issues of concern to the people of Northern Ireland and to the Governments here and in the United Kingdom, and was recognised as having done that. It is vital this work continues and that there is visible, ongoing recognition that this work must continue in a positive and supportive way, rather than in a confrontational way. This is important.

We must recognise that we amended our Constitution to redefine our objectives in respect of our entire island in order to accommodate the views of others on this island. This was the right thing to do, but it means - I support this - that everybody must adopt a slightly different stance from the one adopted 50 years ago. The sooner we learn that we have changed our attitude and build accordingly, the better. We must build on the legacy of people such as Senator George Mitchell, Tony Blair, the Government here and many others who contributed in this country and elsewhere because the people recognised that what had gone on for 30 years was not acceptable. The atrocities, terrible tragedies and perpetration of more and more violence, which begot more and more violence and retaliation, could not continue and was not acceptable. What needs to be done now is the people in both communities in Northern Ireland must be re-examined, not in an inquisitive way but in a supportive way, to try to find out what is most required to support them in recognition of the Good Friday Agreement. We want to recognise there is a huge difference between telling those on both sides of the divide what they should do and asking them what they would like us to do. This is hugely important.

There will always be outstanding issues, and as time goes by new issues will emerge and we will need to deal with them on a regular basis in a meaningful way. The Nationalist and Unionist, or Catholic and Protestant, communities need to know they can trust the people they are dealing with. There was no trust for a very long time which is why we had what we had. We

have an opportunity to build on the trust, which brought about the Good Friday Agreement, in a meaningful way with a new generation. There will always be disruptive people who want to return to the past and who have their own agendas, but a new generation is coming on board and it is of huge importance that we engage in a meaningful way, and by “we” I mean the country and population, with the people of Northern Ireland on both sides, not in a confrontational or regressive way but in a way which gives them a clear impression we understand their problems and will try to help - without intrusion or incursion - and that they also need to help themselves.

There are those who state they would like the process to move much faster and that the aspirations of the Good Friday Agreement have not been realised. Rome was not built in a day and there is no sense in reverting back to the let us free Ireland brigade of a few years ago. It would not solve any problem and would create other problems. It would create distrust and the foundation for more conflict in future. The speech made by the Tánaiste in Cambridge was tremendous and needs to be read carefully by everybody in the House. Within it are the rudiments of what is required to address what is still a very fragile situation.

The points I have made are those I believe need to be dealt with, as a Member of the House with the knowledge and experience I have gained from what I have observed and learned over the years.

We inherited a positive legacy from people such as Senator George Mitchell who spent a long time in the process. He returned again and again to the table when everybody else had given up. I for one believed he could never succeed, but he did. We should never forget everything we do and say should be geared towards supporting his legacy because any deviation from it will leave a further, much more negative, legacy to the people of the country which we cannot afford. Far from old-fashioned republicanism, to which an earlier speaker made reference, we need to look to the future and ensure what we have achieved so far sticks and that we continue to have even greater achievements in co-operation with the rest of the population of the island.

Deputy Thomas Pringle: I welcome the opportunity to contribute to the discussion on the situation in Northern Ireland. Many of the contributions have focused on the economic progress made since the ending of the conflict. While progress has been made on economic issues and North-South co-operation, which is very welcome, there are still high levels of unemployment in the Six Counties and high levels of deprivation in many communities on both sides of the political divide.

Over the past year much disquiet has built regarding the political situation. We saw the reaction of loyalist communities to the so-called flags issue and the amount of unrest it fermented. This shows the complete lack of political leadership within loyalist communities and the lack of political direction from which they suffer. For many years they were used by Unionist politicians and the British State as cannon fodder, and it has always been in their interests to ensure they do not have political leadership. Loyalist leaders need to look at the state of their communities and ask why they are in that situation. They need to work within their communities to build political alternatives to Unionism, which has not served them. The recent Haass talks have shown the lack of leadership in mainstream Unionism and that it still cannot go beyond the traditional stance of blocking progress and not making decisions that would benefit all of society.

A structure, whether a truth commission or not, to allow families obtain answers on the many atrocities that took place in the conflict has to be established. The Government in the

5 February 2014

South has to stop letting the British Government off the hook on this issue and should ensure any structure to deal with the past includes both Governments, with full and frank disclosure of information. If families believe they will get answers and some form of closure, then reconciliation can begin. It is vital the British Government is forced to participate fully in any process.

Large cohorts of activists in republican communities do not see the Government in Stormont as the solution to the conflict which raged for many years. The Stormont regime is not a substitute for a united Ireland and should not be seen as such. I do not believe anybody in this State believes it is a substitute. They must question whether they should continue with armed action because there is a greater need for political work within their communities. The focus on armed action deprives communities of politically-oriented activists who could spend their time representing the community and building political strength rather than languishing in jail.

However, it also appears elements within the security apparatus do not want to see this happen. The use of a system of administrative internment, whereby people are held for years on remand without charge and whereby licences are revoked without explanation, sustains the sense of resistance and helps to create an atmosphere of conflict. We only have to look at the use of stop and search, whereby some politically active republicans have been stopped hundreds of times for no apparent reason. There are also concerns regarding the surveillance of solicitors. This leads many to wonder why they should be involved in politics and only creates a self-sustaining cycle of conflict.

The activity of MI5 in republican communities continues as they attempt to recruit agents, and this is causing huge concern. I wonder how active MI5 is in the Twenty-six Counties. Some commentators believe there are so many agents in republican groups they wonder whose aims they are pursuing. There are times when one must wonder in whose interests is the continuation of armed action and whether the security apparatus encourages it because it wants to ensure its own future.

Community and political action is the only way forward to remove the causes of the conflict once and for all and build towards a united Ireland and remove the British influence on our island.

Tánaiste and Minister for Foreign Affairs and Trade (Deputy Eamon Gilmore): I thank members for their contributions. I believe there was great value in taking stock of the situation in Northern Ireland and considering recent developments in the totality of relationships set out in the Good Friday Agreement, which support and underpin our approach to Northern Ireland.

There was encouragement and support today from a number of Deputies for the Northern Ireland parties and their ongoing work on finding agreement on flags, parades and contending with the past. As many speakers have pointed out, if they can succeed in reaching agreement on how to manage these issues now, they will create the political and civic space to consider what else needs to be done to make Northern Ireland a less divided and more prosperous place.

Reaching agreement without further delay must remain their priority. We, as a Government, will facilitate progress in any way we can. There is no room for complacency on this. I have made that clear. I have made it clear also that I do not underestimate the nature, scale or complexity of the work ahead.

Many Deputies raised the scourge of sectarianism, and I agree wholeheartedly that it must be tackled urgently. The Northern Ireland Executive's initiative entitled Together: Building a

United Community made this a priority for the Northern Ireland public service. I welcome that. I referred earlier to the work of my Department's reconciliation and anti-sectarianism funds, which assist projects in interface areas designed specifically to address the root causes of sectarianism and defuse tensions.

It is clear that current difficulties regarding sectarianism, identity issues and contending with the past, if left unresolved, will continue to undermine peace, hamper confidence and hinder prosperity. They are important issues and rightly deserve the attention they have been receiving in the context of the ongoing political talks from the parties, from this House and from the Government as a co-guarantor of the constitutional agreements.

There are many other challenges and opportunities facing Northern Ireland which are also deserving of attention. I alluded to a number of them in my statement, as did other Deputies. These include issues around housing, youth employment, attracting foreign direct investment and growing indigenous industries. In some cases, these are challenges we face in this jurisdiction also and it makes sense that, as part of our approach, we should look to tackle these jointly on a North-South basis.

North-South co-operation is strong and strengthening, and both Deputies Martin and Adams echoed my views that there is the potential to do more on an all-island basis. On my visits to Belfast and Derry last autumn, I actively reached out to local business people to get their sense of how this Government can work with them to address the challenges they face. In addition, I ensured that the Northern Ireland business community was represented at last year's Global Irish Economic Forum and that a specific Belfast element was included in the forum's programme. I believe the addition of a stronger Northern focus enhanced the work of the forum. This is a practical example of how we can co-operate to our mutual benefit.

The Taoiseach acknowledged the work of Members of both parliamentary Houses of the Oireachtas from across political parties and groupings who, through their contributions as members of the Good Friday Agreement committee, the British-Irish Parliamentary Assembly and the North-South Inter-Parliamentary Association, continue to foster and further British-Irish and North-South relations. A number of Deputies earlier referred to their own work and contributions as members of these committees and bodies. This is where political relationships develop and good ideas are formed. I want to underline again the importance of this work and to encourage Members to continue to foster these links.

A number of contributors also made reference to the importance of international support and interest in furthering the peace process. The support of the US Administration has been constructive, essential and steadfast over a number of years in encouraging and strengthening peace and reconciliation on this island, including throughout the recent political talks. The European Union has been and, through the new PEACE IV and INTERREG programmes, continues to be a constant, positive and generous supporter of reconciliation and development. I want to acknowledge and thank our US and European friends for that support and acknowledge the agreement that we secured during our Presidency of the European Union of the €150 million PEACE IV programme that will now be developed and brought forward.

Throughout the decades this House has united on several occasions in respect of matters in regard to Northern Ireland. I welcome the solidarity expressed today by Members of this House with the Northern Ireland political parties as they work collectively to find agreement on the contentious issues of parades, flags and contending with the past, in the knowledge that that is

what the majority of the people of Northern Ireland want. I welcome that so many Deputies today were united in support of new, renewed and unprecedented opportunities for North-South co-operation and for the continued strengthening of British-Irish relations. I know that we are all united today in support of a safe, secure, fair and prosperous Northern Ireland at peace with itself and with its neighbours. However, I want to express some disappointment at the contribution made earlier by Deputy Micheál Martin, as Leader of Fianna Fáil, which was echoed, unfortunately, by some members of his party later in the day. It was the first occasion I can recall when the Leader of the Opposition in this House, in a contribution on Northern Ireland, failed to support the work the Government is doing, irrespective of its composition, on Northern Ireland and the issues on which all of us in this House are united. If there were any words of support in Deputy Martin's contribution for the work of the Government in regard to Northern Ireland - and I was here for it - they escaped me as I listened to it. I want to caution against the temptation, which I do understand, for Fianna Fáil in opposition to play Northern Ireland for party advantage. There has been-----

Deputy Brendan Smith: That is not correct. Absolutely incorrect.

Deputy Eamon Gilmore: -----a very strong tradition in this House of a united approach to supporting Government work on Northern Ireland. I have to say to Deputy Smith that I think we would have to go back to the then Deputy Haughey to find a contribution that was as negative about the role of the Government. There were also inaccuracies in Deputy Martin's contribution. He stated, for example, that we did not recognise the 15th anniversary of the Good Friday Agreement. That is simply not true. There was an event in the MAC centre in Belfast attended by 15 year old children who were born the year of the Good Friday Agreement. That was attended and addressed by both myself and the Secretary of State for Northern Ireland precisely to mark the 15th anniversary of the Good Friday Agreement.

I want to conclude this debate on an optimistic note. In its consideration of Northern Ireland this House has always emphasised the importance of three sets of relationships: between Britain and Ireland; between Ireland, North and South; and between the different political traditions in Northern Ireland. Relations between the British and Irish Governments are strong, extending to a depth and across a range of policy issues unmatched in our recent history.

Devolution has facilitated a similar expansion in North-South relations. I had the honour last week of speaking at the Chartered Accountants Ireland event in the Convention Centre in Dublin, together with the First Minister, Peter Robinson. He acknowledged that North-South co-operation has never been better and welcomed the range of work that the Northern Ireland Executive and the Irish Government does together to achieve mutual benefit across many areas. That is not to say we cannot do more. It can and it should be the case, but we are now building on a strong foundation.

Although the political talks between the party leaders in Northern Ireland have yet to reach agreement, there has been a convergence of views on how to move forward on some of the most difficult of issues, which few could have imagined or foreseen a few months ago. We need to build on these strengths.

I said earlier that I know that there is some scepticism about whether these talks will lead to agreement. I do not share that scepticism. I believe there is a genuine and sincere desire among the Northern Ireland party leaders to find agreement and that agreement is within reach and achievable. I believe their work is best assisted by the unity of purpose and the construc-

tive support shown in most of the contributions to this debate today. I encourage the Northern Ireland party leaders to conclude their work now without further delay, and in concluding that work they will have the support of the Irish Government.

Companies (Amendment) Bill 2014: Second Stage (Resumed) [Private Members]

Question again proposed: “That the Bill be now read a Second Time.”

Acting Chairman (Deputy Frank Feighan): I call Deputy Pearse Doherty, who I understand may be sharing his time.

Deputy Pearse Doherty: I am sharing time with my colleague, Deputy Peadar Tóibín. We will have five minutes each, leith do thoil.

Ar dtús báire, ba mhaith liom fáilte a chur roimh an initiative seo atá curtha os comhair an Tí ag an Teachta Stephen Donnelly, maidir le gnóthaí beaga, go háirithe gnóthaí beaga atá i dtrioblóid, agus maidir le cuidiú a thabhairt dóibh. However, at the outset I want to refer to personal debt. I welcome the initiative announced last night, not by AIB but by RTE, in regard to the fact that the penny seems to have dropped in AIB headquarters that debt write-off must be part of the solution at the very early stage. I hope we can tease out the detail in that regard. I welcome Deputy Donnelly’s Bill. The Government has not explained why it will not allow the Bill to proceed to Committee Stage, where any deficiencies perceived can be addressed. It is disappointing the Government took such an approach. We need to accept that examinership is a part of business life. It is an important option that can save jobs and keep a business going when other options do not suffice. I welcome the progress the Government has made in making examinership a less burdensome process through revisions of the Companies Acts and other initiatives but it needs to go further. Allowing this Bill to be examined on Committee Stage would be a generous gesture given that we accept more work is required. Examinership does not always lead to a solution but it is an important step in saving businesses.

I do not think any community in this State has not been affected by job losses and the closure of businesses that could have been saved through the approach to examinership outlined by Deputy Donnelly. The Government has already provided a way of accessing examinership through the Circuit Court instead of the High Court. This process would allow smaller businesses to avail of the possibilities offered by examinership, while avoiding potentially massive legal costs. The Bill is aimed at saving jobs and protecting the SME sector, which employs more than 70% of our workers and acts as an essential engine for the Irish economy. It is the most sustainable sector of the economy, if managed correctly. Unfortunately, this Government’s insistence on shrinking rather than growing the economy out of recession has hit small and medium enterprises hard. Its dismissal of the Bill is another blow to the sector.

Sinn Féin has proposed concrete measures which, if implemented, will give a shot in the arm to small and medium enterprises and job creation. Among these measures, we propose to amend section 149 of the Consumer Credit Act 1995 to put a freeze on all increases in bank charges in two years, to instruct banks to allow flexibility in overdraft facilities and sole traders and in moving overdrafts to term loans if a direct debit payment is missed. We also want to reform the national training fund to make it more available to SMEs to upskill their employees. We would examine the potential for allocating additional resources to the Competition Authority to allow full and timely investigations of abusive market positions and other anti-competitive practices that undermine businesses and consider merging the authority with the

National Consumer Agency to make the savings necessary for these resources. We also believe it is important to legislate for the issue of upward only rent reviews. The Labour Party's capitulation on its commitment to legislate on this issue is appalling. Upward only rents are a major burden on SMEs, particular in Dublin and other cities. We would consider empowering the Credit Review Office so that its decisions on credit decisions can be made binding on the banks owned by the people of this State.

These are just some of the measures that would provide certainty for small and medium enterprises by helping them to compete on a level playing field. The Government has failed small and medium enterprises and it needs to change its position. Deputy Donnelly outlined the assistance he has received from experts in this area. We regard his Bill as a generous and genuine effort to support small and medium enterprises in the limited but important area of administration. We hope the Government puts the needs of SMEs first by allowing this Bill to pass Second Stage.

Deputy Peadar Tóibín: Cuirim fáilte roimh an mBille. Tá an Teachta Donnelly tar éis chuid mhaith oibre a dhéanamh ar son gnólachtaí na hÉireann. Ag amanna mar seo, séanann an Rialtas smaointe maithe ón bhFreasúra. Iarraim ar an Aire glacadh leis an mBille seo agus na smaointe atá ann.

Strong indigenous enterprise sectors are the backbone of economies throughout the world because they provide stable employment. Indigenous businesses are not characterised by the volatility of foreign direct investment. They tend to grow in a more organic fashion and become more embedded in the economy. I say this not to devalue FDI but to seek redress in the imbalance in policy. To this Government, small indigenous businesses are the poor relations. Thousands of businesses throughout this State are hanging on with their finger tips in the worst economic storm since the 1920s and with blockages including energy costs, upward only rents and business rates.

The micro-enterprise development sector has not moved on since the days Batt O'Keeffe was Minister. I am aware that a Bill is currently before the Oireachtas but on a practical level, micro-enterprises are not being supported in the towns and villages across the State. We have a two tier economy and growth, anaemic though it is, is only seen inside of the M50. Business debt is putting a brake on the country's opportunities for growth. The last four years have shaken out thousands of businesses because of insolvency. Last year, 1,365 companies closed due to insolvency, of which 375 were in the construction sector, 190 in retail and 163 in hospitality. The motor industry recorded a 43% increase in insolvencies last year. Bankruptcies increased, as did the number of Irish people going bankrupt in England. We are potentially facing an avalanche of 7,000 bankruptcies in this State next year.

The examinership system is a curious thing. It seeks to rescue business from insolvency only where they have sufficient money to cover the enormous costs that arise. As a result, last year only 5% of businesses with unsustainable debt opted for examinership. Another example of Government dysfunction is the fact that businesses are being forced into the examinership process in order to rid themselves of the anti-business crisis of upward only rents. I welcome that the Government introduced new regulations last year but it is difficult to get clarity on how individual judges will adjudicate on upward only rent cases. Business will continue to worry that disgruntled landlords might force them to the High Court. I welcome the greater influence that the Bill affords to examiners, particularly in regard to lending conditions and leases. The balance this will help to bring is good for business, employees and society.

The environment within which businesses engage with the Government requires reform. The Government has introduced a number of positive initiatives in the last several years but they have enjoyed limited take up due to a lack of education and knowledge amongst businesses. In light of recent reforms, it is important that the Government educates business on how they can best engage with the system. I have previously suggested that the Government should establish an Enterprise Ireland emergency enterprise team with the skills to advise businesses in crisis before they go down the route of examinership. By carrying out these initiatives, we will be looking at fewer than 1,375 insolvencies next year.

Deputy Anthony Lawlor: I wish to share time with Deputies Heather Humphreys, Andrew Doyle, Dan Neville, Joe McHugh and Marcella Corcoran Kennedy.

I thank Deputy Donnelly for producing the Bill. It is a difficult and onerous task to get a Bill before the Chamber and I welcome the good discussion on small and medium-sized businesses that are being affected by the recession. For the information of Deputy Tóibín, who said the country was developing only inside the M50, I happen to live just outside the M50, where there is a major indigenous company established just outside Naas. He might be aware of that. I am just trying to keep him informed of what is happening outside the M50 as well, in case he gets some peripheral vision.

I always look at a Bill to see what might be the benefits of it. While I agree substantially with the thrust of the Bill, the object of which is to drive down costs, I have to look at the way it goes about driving down costs and further examine who benefits - the debtor or the creditor. When one looks at this, one can see we have to protect the creditor as much as the debtor because the creditor is also, more than likely, a small business. If the creditor was directly afflicted as a result of what this Bill might bring, there is the potential for the creditor to lose his or her company and its employment. What concerns me initially is that this Bill is anti-creditor. We have to look at it and take care in that regard.

One issue highlighted within the Bill that Deputy Tóibín mentioned is that of upward-only rent reviews. While I agree that the cost of examinership is quite high, as Deputy Tóibín will be aware, according to section 510(7)(b) of the Companies Bill 2012, small businesses will be entitled to go under examinership to the Circuit Court. I welcome this as it will reduce the cost of taking the examinership route for small companies.

With regard to upward-only rents, for anyone who is in business and who has properties, the objective is to have the properties occupied. What I have seen through companies that have gone to examinership is that they have been able to negotiate downward rent reviews. We will all be aware of the international company B&Q, where more than 600 jobs were saved as a result of the pressure the examiner put on the owners of the property to reduce the rent. That is one benefit that has come about from a company being in examinership. I am aware that there are negotiations going on with regard to rent.

We also must look at whether, under the Bill, the company going into examinership will be a viable company at the end of it. That is key. If the creditors will suffer most as a result, it does not then make the company coming out of it viable. It might make companies that are marginal decide to take this route rather than trade themselves out of their difficulties, and that would lead to difficulties for their creditors.

With regard to the decision by a company to have an examiner rather than go through the

court process, the court process gives an umbrella of protection for both the debtor and the creditor. While, under the Bill, the creditor must initiate court proceedings to regain some of the funds it might have lost as a result of the company's going into examinership, it is important that we protect both the debtor and the creditor by giving them some protection with this court umbrella.

I am concerned also that the examiner may have too much power under this Bill. We in government are driving down costs. According to the Doing Business 2014 survey done by the World Bank, Ireland is ranked 8th in the world for ease of resolving companies' insolvency issues. That is an important statistic to examine.

My view is that the Bill is a little too onerous, gives too much power to the examiner and does not protect the creditor. It is vitally important that we maintain protection for both the creditor and the debtor, but also reduce costs. This Bill is a little too onerous in that it places too much emphasis on the company in examinership rather than the creditor. It is our objective to drive down costs and we as a Government are doing that as much as possible.

Deputy Heather Humphreys: I thank the Acting Chairman, Deputy Feighan, for the opportunity to speak on this Private Members' Bill proposed by Deputy Donnelly, the Companies (Amendment) Bill 2014. While I cannot support the Bill for the reasons I will outline shortly, I commend Deputy Donnelly on what he is trying to achieve with this Bill in terms of making the liquidation process more simple and less expensive, and for putting this matter on the agenda because the real and tangible problems facing small businesses on a day-to-day basis needs to be continually highlighted.

There are many problems facing small businesses but the problem that concerns them most is the lack of finance, particularly the lack of overdraft facilities, which is leaving them without cashflow. As we will all be aware, cashflow is the lifeline of any business and without it the business will fail.

Small businesses create employment and it will be small indigenous industry that brings economic recovery to counties such as Monaghan and Cavan. Only last week I went into a retail business in Monaghan town and heard at first hand the difficulties it was facing. Those who run the business have to meet the fixed overheads such as rates, ESB, water charges and rent, and while they would prefer if these were much lower, they know they have to pay them. Their biggest problem is that the bank has withdrawn their overdraft facilities and they are finding it practically impossible to continue trading.

Many business owners have used all their reserves and their personal savings, there is nowhere left to go to get finance, and they are at breaking point. Rural towns in Ireland are on their knees. Small shop owners are working six and seven days per week and are waiting anxiously for customers to appear. Unfortunately, the customers are shopping online, saving their money or have gone elsewhere. Business owners need overdraft facilities from their banks to replenish their stock to attract customers but it is not forthcoming. They are putting in long hours for little or no return. Businesses need the support of their banks. I want to use this opportunity to call on the banks, once again, to give small business a break, work with them, understand their businesses better and support them. There is no point in giving a bank's customers an umbrella when the sun is shining and taking it away when it starts to rain.

I acknowledge the schemes that have been introduced by the Minister, Deputy Bruton. Both

the credit guarantee scheme and the microenterprise loan fund represent a significant change in enterprise support for locally traded sectors. The message needs to be sent out clearly to SMEs that there are many supports in place for them and they need to avail of them to the benefit of their business.

My main concern with the Bill is the negative impact and lack of protection it would give to creditors, who will most likely be other small businesses, and the fact that it removes oversight by the courts. The Construction Contracts Act 2013 gave protection to subcontractors, which are also small businesses. It puts in place a statutory arrangement with regard to payments under construction contracts, including providing for interim payments, that reduces a payee's exposure to non-payment and introduces a new mechanism for swift resolution of payment disputes through a process of adjudication. This was welcomed by subcontractors and it is important that we do not put anything in place that would undermine this legislation.

Examinership will give a company protection from its creditors and allow the examiner to put forward a plan which will force creditors to take a write-down. The Bill forces creditors to initiate a court case if they object to the plan. This is designed to make it more difficult for creditors who supplied goods or services to take on the risk and the additional cost of a court challenge in an effort to recover moneys owed to them. We cannot have a situation where it would be easier for ailing companies to write down debts at a cost to their creditors while at the same time introducing new obstacles for those creditors who have supplied goods and services in good faith.

The Company Law Review Group has advised that while simplification of examinership may be possible, which could reduce costs further, court oversight remains essential if the legislation is to be legally robust and respect the provisions of the Constitution. This Bill also raises constitutional concerns about protection of property rights.

I welcome the commitment from the Minister, Deputy Bruton, that he will set up a working group to examine the proposal of a more simplified administrative initiation of examinership for small private companies and I ask him to deal with this as a matter of urgency.

The Companies Bill 2012 which is currently due to go to Report Stage in the House in the coming weeks, is targeted at reforming company law, and in particular reducing the costs of doing business in Ireland. It is the largest substantive Bill in the history of the State and will provide significant benefits to companies by reducing red-tape and making company law obligations easier to understand.

This legislation is part of the Government's drive to make Ireland the best small country in the world in which to do business. It was encouraging to read that *Forbes* magazine recommends Ireland as one of the best small countries in the world in which to do business.

The Companies Bill 2012 will consolidate the 17 existing Companies Acts, which date from 1963 to 2013, into a single Act and introduces a number of reforms. I am pleased that it is hoped to have this Bill enacted in 2014.

I want to acknowledge the spirit in which the Companies (Amendment) Bill 2014 is being brought forward but in view of the issues I have highlighted I will not be supporting it.

Deputy Andrew Doyle: I also wish to commend Deputy Donnelly on drafting the Bill and bringing it before the House. It is a long process to get it to the point where one feels confident

enough to present it. It boils down essentially to the cost of doing business, as well as protecting a business and keeping it viable. In considering this Bill, however, we may have lost sight of the fact that most SMEs do business with other SMEs. In that case, the Bill may tip the balance against a creditor. A domino effect can result whereby the company seeking the protection of examinership can have a knock-on effect. If enacted, the powers of the Bill would put other businesses in jeopardy by seeking examinership and, therefore, instead of reducing costs one would actually compound them. Having read the summary of the Bill, that seems to be a consequence, notwithstanding the fact that what Deputy Donnelly is trying to do is commendable.

The High Court should be removed from the process as far as possible, without removing the courts system itself. The court is an independent arbiter and adjudicator that should be left in the process. If it wishes to take on only an administrative role, then let it do so.

Small businesses around the country depend on credit. There is a story of somebody who spent €50 in a shop. When that €50 note came back to him it had been through 15 different people, but everybody had benefited from it. It is a light-hearted story but it demonstrates how money in circulation can benefit everybody, even though the note in question ended up with the person who had spent it in the first place.

We must be cognisant of the fact that by tilting the balance and ending up with challenges from creditors and landlords, there is a danger that this matter will get bogged down in the legal system to a greater extent than at present.

The Office of the Director of Corporate Enforcement is beset by delays. When a complaint or request is sent to that office, one cannot expect to see a result for two or three years. Therefore, I do not know if it is fair to involve that office as part of the process at the level proposed by Deputy Donnelly's Bill.

When the Government's Companies (Miscellaneous Provisions) Bill 2013 is commenced, it will permit small businesses to apply for examinership in the Circuit Court which, as a rule, will result in an average of 30% fewer costs than in the High Court process.

In the main, the Government's Bill covers the same category of businesses as Deputy Donnelly's Bill seeks to assist. They are companies with a balance sheet of less than €4.4 million, a turnover not exceeding €8.8 million, and no more than 50 employees. It is the same cohort of companies that Deputy Donnelly's Bill seeks to address. To be fair, this amending legislation was already proposed at an earlier stage but was rejected on the same grounds that the Government feels it now needs to reject it. For that reason, we should contribute to the Government's Bill and allow its passage. The positive emphasis that Deputy Donnelly's Bill tries to promote is encompassed in the Government's own legislation. It should therefore be accepted in that spirit.

While I cannot support the Bill as presented, I hope the Government's Bill will seek to achieve in a more balanced way the same objectives as Deputy Donnelly's Bill espouses.

Deputy Dan Neville: I welcome the opportunity to contribute to this debate on the Companies (Amendment) Bill 2014 which deals with the current situation regarding examinership. Deputy Donnelly must be congratulated on the work he has put into the Bill as well as for bringing it before the House. He has sparked an important debate on the issue of examinership. We are talking about the survival of small, medium and large companies, as well as the maintenance of jobs within such organisations.

I have introduced Private Members' Bills in the past, so I can appreciate that such measures may be rejected for various reasons. I have also seen how they can contribute to future legislation, however. At least two or three times over the years, I have seen work I did on a Bill being rejected but being reintroduced by the Government of the day at a later stage. Therefore any contribution such as this is important in terms of progressing a debate on the issue and prompting the powers that be to respond to the needs expressed within the Bill.

Both Deputy Donnelly's Bill and the company law review group, established by the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, accept that examinership should continue to be the vehicle to deal with companies in financial difficulty. I welcome the fact that the cost of examinership has been reduced by 70% due to the Minister's decision to move the process from the High Court to the Circuit Court.

Deputy Donnelly put the cost of examinership for an SME company at approximately €70,000. Some such companies might not have three times that figure as an annual turnover, yet they are in trouble as well. They may only employ a few people and the owner might have devoted his or her life to building up that company. They then have to go through a process that costs €70,000, most of which is in legal fees. Surely a system of mediation could be introduced to sort out the situation between creditors and the company itself in the interests of preserving jobs. If that had been done ten years ago we might not have the current levels of unemployment. The objective is to preserve jobs and keep small businesses in operation.

I was appalled to hear that the cost of examinership could be as high as €350,000. We have been asked by the troika to examine legal costs in Ireland and do something about them. The cost of examinership demonstrates how people can be prevented from seeking court protection because they cannot afford it. In this respect, a company that may have been viable could be put out of business due to the high level of legal fees to go through an examinership.

8 o'clock

I welcome the approach of a simplified procedure and the establishment of an agency for preliminary examination. I welcome the commitment of the Minister, Deputy Bruton, to this. I hope the agency will involve itself in the suggestion I made regarding a less formal way of sorting out difficulties.

Creditors of companies in difficulty must get equal hearing. I have been through difficulties with small contractors and subcontractors prior to the legislation going through last year. Jobs were certainly lost and small businesses went into liquidation because of large contractors. There is a problem with that and it was well expressed during the debate so I do not intend repeating it now. I welcome the initiative of Deputy Stephen Donnelly in creating this discussion.

Deputy Joe McHugh: I welcome the opportunity to speak on the Bill. Deputy Stephen Donnelly has heard it before from his constituency colleague, Deputy Andrew Doyle - in fact, peace nearly broke out and it was nearly going to go the whole way. We welcome the spirit of Deputy Donnelly's intervention. Leaving aside all the documentation with regard to rebuttal and the legally binding voluntary commercial debt plan, there is a weakness there. What I picked up on was a weakness in respect of the protection of creditors. I will digress a little. We had an awful experience with subbie busters ruining small companies. My sympathy always lies with the question of how to provide small companies with legally binding protection. This did not exist during the past ten years. Fortunately, we have introduced the Construction Con-

tracts Act to give protection to smaller companies. The weakness in the legislation is that there is no legal protection, although Deputy Donnelly will argue differently.

We have a Pandora's box in respect of anything to do with banking. Does the personal insolvency legislation cover every aspect of everybody's rights in a legally binding process of restructuring loans? No, it does not. Who holds the veto? The banks hold the veto in respect of third parties. Will the examiner or a third party hold a veto? Will there be an automatic process in this Bill or will it still be the banks? It comes back to the banks. A gentleman in my constituency paid commercially for a third party in the form of a restructuring plan. It is a sensible restructuring plan but he cannot get it advanced to the stage of the personal insolvency process. Once again, the bank holds the veto.

The aggressive job we need to do in the House is to hold the banks to account. Obviously, they were not held to account in the past. The Central Bank has a job to do in that regard. We are going to have a banking inquiry so that we can learn from mistakes. However, this very day the banks still hold the cards, and it suits the banks not to engage in restructuring plans. It suits banks to have a bad debt that will be bought by a third party at a lower amount to solve the problem of bad debts on the bank's balance sheet. That is something in respect of which we must learn from the personal insolvency legislation.

We must also broaden the debate beyond company law and into procurement. There are stringent turnover requirements for companies in that they will get Government contracts only if they hit a threshold of so many million euro in turnover. We should use the opportunity to debate how we can provide protection to smaller companies in respect of Government contracts. Moving on to another Department, many centralised decisions are putting smaller companies at a disadvantage. Large companies can cherry-pick all sorts of Government jobs, including the provision of food in hospitals. Are we not looking after local companies and local food produce? This is another area where we need to broaden the debate.

My sympathy lies with the creditors. Deputy Stephen Donnelly argues that creditors will be protected under his Bill. I am interested in hearing what he has to say. We have had a horrible experience where creditors get burned when subbie busters come in. Companies can set up under a different name and do not have to move country. They can burn the creditors. Anything to move the debate forward in protecting small companies and creditors is a good move.

Deputy Marcella Corcoran Kennedy: I welcome the opportunity to speak on Deputy Donnelly's Bill and I acknowledge the efforts he and others put into bringing it to the Dáil for consideration. I do not doubt the sincerity behind the proposals to help small viable businesses in reducing their costs if they experience unsustainable debt and cashflow problems. The past five years have been some of the most challenging for many of our small and medium-sized businesses. They have responded to the changing business environment by reducing costs, developing new markets and exploring innovative ways of reaching their customers by embracing technology in order to achieve online sales and using social media for marketing purposes. SMEs are at the heart of our communities across the country, in every rural area, village, town and city. They are the backbone of the economy in many areas that will never attract foreign direct investment in the way that towns and cities will.

The programme for Government recognised the challenges facing the sector and focused on rebuilding the economy by encouraging the development of a job-rich economy, as can be seen in the implementation of the Action Plan for Jobs each year. Supporting businesses operating

in Ireland has been a Government priority. Evidence shows that the efforts are being rewarded, with improvements in our competitiveness being recognised nationally and internationally. The ESRI forecast for growth levels in 2014 is 2.7%. While this is good news, we cannot rest on our laurels.

Helping all businesses by simplifying administration has been an important measure. The establishment of Microfinance Ireland and the credit guarantee scheme have had a positive impact. Employment figures are up and this is welcomed by everyone. I welcome the fact that the Minister, Deputy Richard Bruton, intends to commence legislation that will reduce legal fees by providing for cases to be dealt with in the Circuit Court rather than in the High Court, based on the report of the Company Law Review Group. I also look forward to hearing the findings of the working group that the Minister intends to establish to examine the feasibility of allowing small private companies to be placed into examinership through an administrative procedure, with some court oversight. I appreciate the intention of the Bill, but removing obligatory court oversight is risky. I am concerned about the potential impact on the property rights of directors if the examiner were to assume their powers. Whether the company has a prospect of survival can be independently adjudicated by the court at present. This Bill has some merits, but it is weighted in favour of a troubled company, rather than taking creditors into account, as others have noted. I am concerned about this. Creditors need to be protected as they want to survive and remain viable. Regretfully, I cannot support the Bill, but one should recognise that the Government has already commenced far-reaching reform of company law which will bring together 50 years of companies Acts into a single piece of legislation. I hope it will be enacted this year as the sooner we have these reforms in place, the better.

An Ceann Comhairle: Deputy Thomas Pringle is sharing time with Deputies Shane Ross, Seamus Healy, Joan Collins and Mick Wallace. They each have six minutes.

Deputy Thomas Pringle: I am glad to have the opportunity to contribute to the debate on the Companies (Amendment) Bill 2014. I commend Deputy Stephen Donnelly and his team for putting together this legislation and bringing it before the House.

The Bill seeks to make examinership a cheaper and more viable option for companies in difficulty or at risk of receivership and insolvency. It is a very clear statement for the legislation, especially if we consider that last year 360 firms went into receivership, while only 21 entered examinership. That indicates there must be something particularly wrong with the system as it stands and the Bill seeks to make it easier for companies to enter the examinership process and enable a third party to formulate ways of restructuring the business and protecting jobs. That is a tenet of the Bill and the Government should consider it on the basis that it is trying to protect jobs and keeping as many companies as possible operating in the State. It is only through companies continuing to operate, trade and work their way out of difficulties with the protection of an examinership process that they can contribute, with creditors standing a better chance of getting money back than if a company goes into receivership.

In outlining his opposition to the Bill the Minister stated it would weaken the position of creditors, but I do not understand how that can be the case. I have listened to much of the debate over the two nights, but I am still not satisfied as to how that could be the case. As I understand it, if a company goes into receivership, preferred and priority creditors are dealt with. They include the State in the form of the Revenue Commissioners which deal with PRSI, PAYE and VAT payments. Secured creditors are dealt with after this and if there is anything left over, ordinary creditors will receive a proportion of what remains.

It stands to reason that in a receivership case very little is left over for creditor small and medium enterprises as the company and all of the assets have gone, with the State and secured creditors taking priority. In an examinership case the company continues to trade and has the chance to trade its way out of difficulty. Creditors would then receive a larger portion of what they were owed, although they might be put in a position where they would have to do a deal or accept a write-down on what was owed in the process of the examinership in order that the company could continue trading. Surely that scenario still offers a better chance for a creditor to recover debt. Perhaps I am completely wrong in my reading of this, but it seems that this would be a better option than forcing companies into receivership, disposing of assets and forcing significant write-downs on all creditors.

I listened to Deputy Joe McHugh speak about “subbie” busters and how companies could go into liquidation before being set up again, with subcontractors losing out. He argued that they should be protected, but that means nothing in the context of this Bill, as the company that will follow such a practice will follow it regardless of this legislation. Even if the Bill could be passed, such a company will not look to go into examinership; it will instead go straight into receivership. As the subcontractors will be burned in any case, they should have protection under other legislation; this Bill would not have an impact on their position.

Under this legislation, the examiner would have the power to reduce upward-only leases to which companies might be tied into in order to make them viable. That is a laudable possibility which should become a reality. Before the general election Fine Gael spoke long and hard about how it would end upward-only rent reviews, but this Bill would give the opportunity to a business that could be viable to achieve a sustainable rent.

The argument against the Bill seems to be about protecting creditors, but I do not see how it can stand up. When the Minister spoke about protecting creditors, was he really speaking about protecting the State and ensuring it received the due taxes, VAT, PAYE and PRSI? Perhaps it is better for the State if a company goes into liquidation as the Revenue Commissioners can recover debts before anybody else can get a look at the failed company.

The Minister mentioned property rights, which is the biggest cop-out I have seen in this House. Property rights are often mentioned, with people saying they are sacrosanct and nothing can be done to affect them. Property rights are enshrined in the Constitution in Article 43, but Article 43.2 attaches conditionality. No Government seems to have the neck or the balls to test this provision by bringing forward legislation that could stand up against it. Article 43.2.1° indicates that property rights should be qualified in civil society in terms of social justice; surely it would be social justice to allow people to continue to work, businesses continue to trade and for all of them to operate for the betterment of society. Article 43.2.2° indicates that property rights should be qualified in terms of the common good; is it not in the common good to keep people in employment and everybody working? That must surely be tested by a Government.

Deputy Shane Ross: I congratulate Deputy Stephen Donnelly on introducing this Bill which is so constructive and unprovocative that it is very strange that it has not received a welcome and applause from the Government benches. It is far better thought out than many Bills that have been put before the House and the result, if implemented, could be nothing but good. There would be very few losers under the Bill - perhaps there might be a few lawyers or other professionals for whom nobody in this House would have a great deal of sympathy who would lose - and the reasons for its refusal are somewhat puzzling. It is a pity the Government did not take it on board and implement it in its entirety, rather than putting up such flimsy argu-

ments against it. A particular example is the argument that it would be unconstitutional. If the Government cannot provide the detail of how it would be unconstitutional, we should not take it on trust.

I was in the other House over 20 years ago when examinership was introduced by former Deputy Des O'Malley when he was Minister for Industry and Commerce. It was introduced in an emergency as a method of saving a very large company, the Goodman Group. Goodman International was apparently so important and powerful, providing so much employment and had so much political clout that examinership could be introduced overnight. I recall that in the middle of the summer we were brought back to put it in practice. A big business could be rescued, although it was a big business of very dubious repute at the time. Examinership was successfully introduced and it rescued the Goodman Group and Goodman International before it came back to flourish. Whether that was good or bad is a debate for another day.

Examinership was introduced because it was suitable for a very large company and it was necessary to save one such company. One of the points being made implicitly by Deputy Stephen Donnelly in his Bill is that examinership in its present form is not suitable for small companies. He has introduced two areas very well which would benefit under the Bill - debt reduction and the saving of jobs. The Government is concentrating successfully on creating jobs and the multinational sector. I applaud it for its persistence in this area. The sector is one in which we can create jobs and improve conditions for much of the workforce. I applaud the Government for retaining the corporation tax rate of 12.5% as this has been successful. There is not very much to doubt about that. There are arguments about whether it could be more or less successful and result in more revenue if it were changed but, in effect, the policy has been successful because jobs have been created and sustained. However, Government policy on small business has been an abject failure. This is the sector where so many of the jobs are. Policy on creating jobs in the sector has been a failure. There is an opportunity to save jobs, however. Members of the House will know that so many jobs have been lost as small businesses closed overnight willy-nilly. Therefore, a strategy for saving jobs is crucial. The key is not in incentives and tinkering around the edges, as the Government did in the budget, but in tackling the debt problem. The key lies in tackling the banks and tiding over some of the viable companies to ensure they can survive the bad times, not by putting them into liquidation but by putting them into examinership. I would have believed that one of the best and most aggressive ways in which the Government could have approached this would not just have been by accepting Deputy Donnelly's Bill but by taking responsibility for and not conniving in the fact that the banks have not been lending money to small businesses. By pretending otherwise, one turns a blind eye to the crisis that faces small businesses, just as one does so by creating fig leaves such as the Credit Review Office, which was established to review loans that small businesses have tried to obtain from banks only to have been refused.

This Bill proposes putting in place an examiner with new powers and lower costs. This attacks the problem at the root. It makes it possible for small businesses to go into examinership without incurring the sorts of costs that large businesses can afford. It would allow the examiner to impose conditions on the lenders. These are absolutely essential. The Bill would reduce legal fees and impose conditions on landlords, as referred to by Deputy Pringle.

Deputy Seamus Healy: I welcome the Bill and compliment Deputy Donnelly on its introduction. He has worked with legal practitioners on producing what is a well-thought-out and well-structured Bill. It protects jobs and small, viable industries. I am surprised and disappointed that the Government has not taken the opportunity to take it on board. There may

well be flaws in it, as Deputy Donnelly has indicated on the basis of his not having access to the drafters of legislation, but the legislative process in the Oireachtas is the proper means of teasing out and amending flaws so as to bring about an improvement. This raises the question as to whether the Government's opposition to the Bill has more to do with petty politics than anything else.

Small business is the heart of our communities and towns. It is the lifeblood of the main streets in all towns and villages. Sadly, many small businesses have closed and are closing. Many tend to struggle until Christmas and find in the new year that it is no longer possible to continue. A large number of small businesses close at this time of the year, with the attendant loss of a significant number of jobs, which are mainly based on the main streets of towns and villages.

The Bill has the aim of protecting small viable companies and thereby protecting the jobs they are providing. It offers an amended system of examinership to small firms with fewer than 50 employees and a turnover of less than €10 million. It is important to remember that small industries comprise approximately 99% of businesses in the State, and they provide up to 70% of the employment. The most fundamental issue facing small businesses is the question of debt, which is obviously jeopardising their survival. The examinership process provided for in the legislation is designed to deal with this and make examinership accessible to small businesses. What is proposed is an improved system of examinership. The very question of job creation and retention is at the centre of this legislation. Jobs will be saved if it is implemented. According to the Central Bank, half of the loans to small and medium-sized businesses are in distress. The problem of over-indebtedness is certainly killing small businesses as we speak. The opportunity should be taken to introduce this legislation and thereby protect jobs.

The current examinership process is very expensive but most of the expense is not necessitated as it relates to legal fees and fees incurred by the examiner in preparing for court. Therefore, there are significant advantages to the proposed legislation. It presents a win-win situation for small businesses, job creation and the economy generally. The only people who would appear to lose out as a result of it would be the legal eagles in the Four Courts.

The constitutionality of the legislation has been raised. Deputy Donnelly and the legal team with which he has worked are satisfied that it is constitutional. If this is not the case, I would like to see the legal advice to that effect. We certainly have not heard it yet. All in all, this is well-drafted legislation. It is welcome as it would retain and protect jobs.

Deputy Joan Collins: I commend Deputy Donnelly on introducing this legislation because it concerns jobs at the heart of the economy. When researching the Bill, I was very surprised to read in the Central Statistics Office's survey Business in Ireland 2011 that only 0.2% of businesses were in the big business sector and some 99.8% were in the small to medium category. In fact, 90% employ fewer than ten workers. This suggests a very lop-sided economy, with a big business sector dominated by foreign capital surrounded by a plethora of micro-businesses such as hairdressers, cafes, restaurants, bars, small shops and so forth. It shows the disastrous failure by Irish capitalism to develop a modern, viable industrial base. There is no real linkage between the foreign multinationals and Irish businesses. Irish capitalism can be summed up as a wide range of small to medium sized businesses engaged in enterprise and providing jobs alongside a wealthy elite engaged in speculation and property development with a banking sector focused on lending to this elite. There is a huge hole in our economy which should be filled by larger scale, Irish-owned enterprises. This black hole is one which Irish capitalism

will never fill. The private sector-led policies for industrial and economic development have failed and we need a new direction based on publicly-owned companies backed by investment from publicly-owned banks. The development of Coillte or the Irish Sugar Company would be examples of such companies, to be backed by publicly-owned banks. At present, small and medium enterprises employ seven out of every ten workers in the private sector. SMEs were extremely hard hit by the economic collapse. The collapse in domestic demand, at more than 26%, which is second only to Greece in the history of economic slumps, hit small enterprises particularly hard. Employment in the SME sector fell by 20% in 2011 alone. The Minister said earlier that he accepts that the extremely high cost of the examinership poses a serious problem for small businesses in financial difficulty. Companies that could be rescued, with jobs that could be saved, simply cannot undertake the costly court process, particularly the high legal fees involved when an examiner goes to court. The high cost of anything to do with the legal system makes it unavailable to the average citizen or small business person. Therefore, it makes perfect sense to take the process of examinership for small businesses out of the court system as far as possible. Of course, a balance must be struck to protect the interests of creditors, many of whom may be struggling small businesses too but that is something that can be teased out on Committee and Report Stage. Bringing down the cost of the examinership process by taking it out of the court system would benefit many small companies. Some of them would probably not survive after the examinership process but it at least offers the prospect of giving back money to creditors and retaining jobs.

The Bill also deals with the issues of debt and rent write-downs and, in that context, the Minister and the Government have reverted to the hoary old chestnuts of legal advice, property rights and the Constitution. The Government's legal advice is never disclosed so there is no way to challenge or debate it or to offer alternative legal opinion. Successive governments have regarded property rights as sacrosanct, protected by the Constitution. However, there is a clause in the Constitution which subjugates private property rights to the common good. As Deputy Pringle has suggested, that clause should be tested by the Government. We should now be seeking to subjugate private property rights to the common good in order to retain jobs.

In my constituency of Dublin South Central, many small businesses have gone bust overnight. Many hairdressers, for example, are opening only three days per week because it is not worth their while opening more often. That affects their employees in the local area. Several hairdressers have come to my office seeking information on the examinership and insolvency processes because they cannot continue in business. They have tried really hard in the past two or three years to keep their businesses open, employing local women because they know those women depend on their wages to pay their mortgages and to put food on their tables. They do not take lightly the decision to close their businesses and any legislation that enables us to debate and tackle these issues can only be to the good. I support the Bill.

Deputy Mick Wallace: I welcome the Bill proposed by Deputy Donnelly. It introduces a greater element of fairness to the equation, which can only be a good thing. The biggest problem for most SMEs in the past few years has been accessing money. For a lot of people in business, money stopped being available, in some cases overnight and they found it impossible to survive. I listened to the Taoiseach earlier today during Leader's Questions addressing this issue but I did not find his argument to be the most rational.

This debate boils down to public interest versus creditors rights. The Government takes the position that some of the measures in the Bill would require a change to the Constitution but we should test the Constitution to see if that is true. Sometimes we are afraid to test the

Constitution, which is unfortunate. We all know that strong property rights are enshrined in our Constitution. Sadly, property rights are much stronger than any rights flowing in the direction of small businesses.

The director of the Small Firms Association has said that due to the cost of applying for examinership to the High Court only 1% of SMEs are currently opting for the examinership process as a way of trading out of their difficulties, with the remaining 99% going into liquidation or receivership. These are pretty stark figures. I acknowledge that the measure introduced by the Government before Christmas was positive and helpful. However, this Bill will give more help to SMEs because it reduces the cost of examinership. Not only does it reduce the cost of examinership itself by cutting down on legal bills, which represent half of the cost of the process, it also gives the examiner new powers to impose lending conditions on secured lenders. This would be a big breakthrough. In fairness, though, the Bill also allows banks to challenge this.

Another very important part of this legislation is that it allows the examiner to impose changes in leases over a period of five years. During the general election campaign there was much talk about upward-only rent reviews and lots of candidates promised to challenge these and to deal with the issue. However, it was not a big surprise that the Government found itself between a rock and hard place on this issue because most of the rent payable in Ireland since the crisis began is payable to the banks. Various financial institutions are the main landlords in Ireland now and the notion that upward-only rent reviews would be abolished was unlikely to go down well with the banking institutions. The banks opposed it and sadly, our Government decided it would stick with the big financial institutions rather than with small businesses. It cannot be mentioned too often that more than 70% of the people in Ireland work in small and medium sized businesses and it is fair to argue that they are entitled to more protection than they have enjoyed to date. Life has been very difficult for small businesses in Ireland for the last few years but the Government has not been very supportive of the sector. There was a lot of talk about making sure the banks were lending to SMEs and about doing this and that. The reality was that they were left stranded and many of them have disappeared. That is very sad. It would have been worth the Government's energy to make a greater effort to protect SMEs. It would be money well spent and would have prevented much unemployment. The Government puts a far stronger emphasis on creating employment by means of foreign direct investment. I appreciate the significant number of people employed in foreign direct investment companies but in the long term it is unsustainable and some day the Government will have to bite the bullet and start investing in indigenous industry. We do not put a fraction of the same money into it as is given to foreign direct investment.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Sean Sherlock): I wish I could address every single point that was raised in the debate but in the five minutes I have I will try to stick to the more salient and pertinent points. I note Deputy Donnelly's Bill. Deputy Wallace has referred to it as Stephen's Bill. That is something that might catch on in public parlance.

Deputy Mick Wallace: I never like to be called "Deputy". The name reminds me of Deputy Dawg.

Deputy Sean Sherlock: Questions have been asked about the legal reasons the Government has for opposing the Bill. As the Minister, Deputy Bruton, pointed out last night, there are some features of the Bill that give rise to constitutional concerns. One of those is the role of

the court. Under the current examinership process the court is sitting over the process, taking into account all the relevant interests of those that will be affected by the rescue and making an independent assessment of the appropriate outcome. In Deputy Donnelly's Bill, the court is less of a feature in the process, only entering it at the very end, when time is running out, or at an earlier stage only if an appeal is made.

Another issue of concern is the way in which creditors can pursue their interests. Under existing law, a creditor is heard by the court from the start. That is quite different from the provisions in the Bill where a creditor has to mount a case and meet a high threshold of proof that, in many cases, requires an in-depth knowledge of the company's affairs that would not easily be within his or her remit or to borrow the colloquial expression, within his or her ken.

The Bill also gives new powers to examiners to alter the debts owed to others. These appear to be quite wide ranging and may stray into what is more properly the preserve of the courts. When all of the provisions are taken together, as they are in the Bill, there is a danger of making an unjust and disproportionate attack on the property rights of those who have, in good faith, supplied goods and services. Examinership has been on the Statute Book for nearly 25 years. Any proposal for alteration of that tried and tested formula needs careful consideration.

The House is currently in the middle of consideration of the Companies Bill 2012 with all its reforms and modernisations that are designed to simplify the establishment and management of a company. As some Deputies acknowledged, only a few weeks ago we enacted the Companies (Miscellaneous Provisions) Act 2013 to make it easier for small companies to have their examinership cases heard in the Circuit Court. We all share the hopes of those Deputies who mentioned it that it will bring a noticeable improvement once it is in operation, which should be soon.

We acknowledge that perhaps we could do more. That is why the Minister, Deputy Bruton, announced last night that he is setting up a working group to further examine the remaining recommendations of the Company Law Review Group in the area of examinership to assess whether they offer a viable and less costly solution. The Minister also said that some of the concerns raised by Deputy Donnelly will be examined in the course of the working group's deliberations.

We should thank Deputy Donnelly for the considerable time and effort he has put into the proposals. We all acknowledge his work in that regard. We regret that on this occasion we cannot support the Bill but it is the Government's firm intention to keep doing all it can to support enterprises so that they flourish.

Some points were raised by Deputies about the nature of enterprise supports. Some of those issues can be teased out by a committee. We challenge the numbers in terms of the balance between foreign direct investment and support for indigenous industry but I do not have time to address those concerns tonight.

Deputy Richard Boyd Barrett: I commend Deputy Donnelly on his excellent work in putting the Bill together. The Government's response is extraordinarily disappointing if not entirely unpredictable. There is a very clear pattern with the Government. It is one it shares with the previous Government, namely, that it will move hell and high water to protect big corporate and financial interests but when people come forward and attempt to suggest things that would assist, support or to use the jargon of the day, bail out, the small business – the people at the

bottom of the pile - it is just not interested.

The excuses the Government puts forward for not allowing the Bill to continue to the next Stage are utterly bogus. They truly smack of political cynicism on the part of the Government because the Ministers know quite well that to say the very least there is a debate on the two main objections that have been raised, which could be had on Committee Stage and Report Stage. The Government has far from given a conclusive rebuttal to Deputy Donnelly but it will not allow the debate to happen. The Ministers just snigger away, as they always do.

When we criticise the Government we are told that all we ever do is criticise the Government and we are asked why we do not bring forward our own positive proposals. When we bring forward positive proposals the Government rubbishes them, dismisses them and ignores them. That is the cynicism of the Government. It is ironic that a socialist has to get up and attack the Government over its failure to take seriously the plight of small and medium enterprise. There is an irony. The Government bangs on about it but does absolutely nothing. The Bill is a well thought-out concrete proposal to assist small and medium enterprise and the Minister just dismisses it out of hand with entirely bogus arguments.

Deputy Donnelly explained on Leaders' Questions this morning, as others have done tonight, why the creditors would benefit from moving to a cheaper, more streamlined and easier to access examiner process. It is because it would make it more likely that the company that owes them money would stay in business. Is it not blatantly obvious that if the company that owes one money stays in business there is a better chance one will get one's money back? A child could work that one out yet the Minister gives a rubbish argument about how he is defending the small creditors who have been crucified, yet the Government has done virtually nothing for them. Small and medium businesses have been crushed and crucified and the Minister is not doing much to change that. Similarly, as Deputy Joan Collins rightly said, the Minister fell back on the old chestnut of property rights, the Constitution and legal advice without even furnishing it to us. Not challenging that interpretation, as Deputy Pringle said, is laughable. It is no surprise to see the two Ministers opposite, Deputies Sherlock and Bruton, laughing now because they do not take these matters seriously. It is all a game to them.

Deputy Sean Sherlock: I have a tendency to switch off because I have heard the Deputy's speech a million times. The single transferable speech is a bit tiresome and it does not speak to the Bill.

An Ceann Comhairle: Please, Minister.

Deputy Richard Boyd Barrett: It does speak to the Bill.

Deputy Sean Sherlock: No, it does not.

An Ceann Comhairle: Please, Minister. Allow Deputy Boyd Barrett to proceed.

Deputy Richard Boyd Barrett: I just explained how the Minister's main argument against the Bill is to defend creditors.

Deputy Sean Sherlock: This is boring.

Deputy Richard Boyd Barrett: The Members opposite are cynical, petty politicians who do not give a hoot about the people they claim to represent. They dismiss positive suggestions and will not even allow them to be discussed further. They have also dismissed out of hand sug-

gestions we might examine a regime of differential rates to give a break to small and medium-sized enterprises.

Deputy Sean Sherlock: Why does the Deputy not make a submission to the working group?

Deputy Richard Boyd Barrett: We have made umpteen submissions.

An Ceann Comhairle: Sorry, Deputies but I am calling Deputy Donnelly.

Deputy Richard Boyd Barrett: It is a pity the Minister keeps interrupting me. The Government's response was sad but predictable.

Deputy Sean Sherlock: Boring.

An Ceann Comhairle: Minister, please allow Deputy Donnelly to conclude.

Deputy Stephen S. Donnelly: I thank all Members on all sides of the House who contributed to the debate this evening and yesterday. I have listened carefully to them. It seems to me there is plenty of common ground where it matters most, namely that this Bill presents an opportunity to save thousands of companies and jobs at zero cost to the State. There is also common agreement on all sides that the current system of examinership does not work. There have been 4,700 insolvencies in the past three years but only 64 of them have gone down the examinership route, about one in 73. In the US, the ratio is 1:8. If we hit the US ratio, then nearly 600 companies that closed in the past three years would still be trading and thousands of jobs would still exist.

There is common agreement that the examinership system is too expensive for small companies and that the majority of this expense is legal fees. In spite of this common ground, the Government will vote this Bill down tonight. The Minister for Jobs, Enterprise and Innovation claimed the proposed changes would create significant risks and that the measures could be unconstitutional. While the challenge of constitutionality is vague, we were not able to get our hands on the legal advice. The Minister and Government Deputies were unhappy that the Bill would give power to the examiner to write down secured debts and repudiate leases. These were described as "unjustified and disproportionate interference in the property rights of those involved." Under the current legislation, the examiner can write down secured debt to the value of the security. That provision is simply maintained in the new Bill. Leaseholders' interests could be written down between the enactment of the examinership legislation in 1990 and the 1999 amending legislation. Both issues raised either exist, or have existed, in legislation and are constitutional. It is, accordingly, not credible to hide behind the Constitution to vote down this Bill.

The Minister and several Deputies raised concerns that the Bill shifts the onus, unfairly, to creditors. In doing so, it creates an undue examinership process, it is claimed. Deputy Lawlor suggested the Bill is anti-creditor while Deputies Doyle and Heather Humphreys raised issues of creditors with small enterprises being put out of business. This Bill was developed over considerable time by Ross Maguire SC, who has much experience in insolvency, Barry Lyons, a solicitor who has handled more examinerships in the country than everyone else combined in the past 12 years, and me. Our objective was to reduce the costs of examinership by removing unnecessary court appearances. I accept we addressed other issues that examiners on the ground found were stopping the process. However, at no point did we think of penalising creditors. There is one case for secured creditors where they are tied in. That was brought in specifi-

cally because some banks, in trying to get their money out of this country, are burying viable companies in the process. The domestic banks, on the other hand, are not calling in security but allowing businesses continue to trade.

It was claimed the Bill creates high hurdles of proof for creditors who want to go to court such as information not being disclosed. These are in fact the existing hurdles in existing legislation. This Bill does not change the burden of proof. The second concern was that the Bill creates a situation where a creditor must not only vote against the scheme of arrangement but must also go to court to prove that they have been unfairly prejudiced. This is also the current position under existing legislation.

A third concern, raised by Deputy English and others, was that if a creditor does not agree to the survival plan put forward by the examiner, the Bill would force the creditor to initiate a court case. Accordingly, it was claimed this would make it more difficult for creditors, like suppliers, to defend their interests and, therefore, property rights. Again, these are concerns with the current process. In fact, this Bill provides new protection to critical suppliers by allowing them be granted higher security if they keep trading with the company. The Bill also makes life easier for the creditors, as in the new process, should a creditor wish to initiate legal proceedings, they simply inform the examiner of that who in turn arranges a court hearing. This process radically reduces the costs of examinership. Up to €50,000 in legal fees evaporates in the current process which comes out of the company. If this is reduced, then the creditors get a higher dividend.

Another claim was that the Bill leaves creditors to cover their own legal costs, when they are challenging the process or the proposed survival plan. This is also the current position under existing legislation. Deputy Barry claimed the Bill would see all the costs of legal proceedings borne by the creditor. As per the current legislation, creditors would pay for their own legal costs and no others. We added a clause to the Bill that if the court believed a creditor to be acting in a vexatious manner to intentionally load unnecessary costs onto the company, then the court can force the creditor to pay the legal costs of the company for those proceedings.

Deputy Barry believed the Bill gives too much power to the examiner. It does not but it changes the terms of reference within which the examiner works. Deputy Barry also mentioned that the Bill does not address the qualifications required of an examiner. These requirements are in fact contained in the Companies Act 1963 and the Companies (Amendment) Act 1990.

9 o'clock

Deputy Connaughton was concerned that the examiner can assume the power of company director, if he or she believed the directors were trying to stymie the process. Under current legislation, the examiner enjoys this power and in this Bill, as in the current legislation, directors have the right to challenge an examiner assuming that power. Deputies Connaughton, Lawlor, McHugh, Doyle, Heather Humphreys and others raised a concern I take seriously, which is that allowing insolvent firms easier access to writing down debt in turn would damage many other firms in the sector. To be clear, this Bill does not make it easier for insolvent firms to write down debt. However, by reducing the legal fees of examinership, it provides a higher dividend to those other firms and, critically, keeps one of their customers trading. The result is not more damage to other viable firms but is less damage.

There are other points into which I do not have time to go but I hope all this makes clear

two things. First, the main reasons given for not accepting this Bill were identified by us and indeed by the Minister during drafting and already have been dealt with. Second, as it stands, this Bill is more than good enough to go through Second Stage, warts and all, and could be turned into the finished article during the rest of the legislative process. The question then is, why vote against it now. At present, approximately four viable companies per week are shutting down unnecessarily because we do not have an examinership process that works. The time to help them is now and this Bill provides that opportunity. If the Government so wished, it could do what it needed to do to this Bill. I and the team with which I am working would work with the Government and this Bill could be in law, protecting jobs and small to medium-sized enterprises, SMEs, by June. Sadly, I believe the Government is not burying this Bill because it believes it to be unworkable. I believe it is burying this Bill for political reasons. Earlier, the Taoiseach stated the Government would not support this Bill because it was “legally unsound”. That simply is not true. He then implied, astoundingly, that the Government would not support the Bill because I refused to work with it, that I wanted my name on the Bill or something. While that is what he said, obviously that is not true.

An Ceann Comhairle: Thank you.

Deputy Stephen S. Donnelly: I will finish on this point. This is a good Bill. It would save thousands upon thousands of jobs. It provides more protection to the SMEs which are the creditors. I admit two groups of people would lose, namely, lawyers and foreign banks that are trying to shut down viable companies to get their assets out of the country. Everyone else would win. I commend this Bill to the House.

Question put:

| <i>The Dáil divided: Tá, 42; Níl, 71.</i> | |
|---|-----------------------------|
| <i>Tá</i> | <i>Níl</i> |
| <i>Boyd Barrett, Richard.</i> | <i>Bannon, James.</i> |
| <i>Broughan, Thomas P.</i> | <i>Barry, Tom.</i> |
| <i>Browne, John.</i> | <i>Breen, Pat.</i> |
| <i>Calleary, Dara.</i> | <i>Bruton, Richard.</i> |
| <i>Collins, Joan.</i> | <i>Burton, Joan.</i> |
| <i>Collins, Niall.</i> | <i>Butler, Ray.</i> |
| <i>Colreavy, Michael.</i> | <i>Buttimer, Jerry.</i> |
| <i>Cowen, Barry.</i> | <i>Byrne, Catherine.</i> |
| <i>Crowe, Seán.</i> | <i>Byrne, Eric.</i> |
| <i>Daly, Clare.</i> | <i>Carey, Joe.</i> |
| <i>Doherty, Pearse.</i> | <i>Coffey, Paudie.</i> |
| <i>Donnelly, Stephen S.</i> | <i>Conaghan, Michael.</i> |
| <i>Dooley, Timmy.</i> | <i>Connaughton, Paul J.</i> |
| <i>Ellis, Dessie.</i> | <i>Conway, Ciara.</i> |
| <i>Ferris, Martin.</i> | <i>Coveney, Simon.</i> |
| <i>Flanagan, Luke ‘Ming’.</i> | <i>Creed, Michael.</i> |
| <i>Fleming, Sean.</i> | <i>Daly, Jim.</i> |
| <i>Fleming, Tom.</i> | <i>Deasy, John.</i> |
| <i>Halligan, John.</i> | <i>Deering, Pat.</i> |

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| <i>Healy, Seamus.</i> | <i>Donohoe, Paschal.</i> |
| <i>Healy-Rae, Michael.</i> | <i>Doyle, Andrew.</i> |
| <i>Kelleher, Billy.</i> | <i>Durkan, Bernard J.</i> |
| <i>Kirk, Seamus.</i> | <i>Fitzgerald, Frances.</i> |
| <i>Kitt, Michael P.</i> | <i>Fitzpatrick, Peter.</i> |
| <i>McDonald, Mary Lou.</i> | <i>Flanagan, Charles.</i> |
| <i>McGrath, Finian.</i> | <i>Griffin, Brendan.</i> |
| <i>McGrath, Mattie.</i> | <i>Hannigan, Dominic.</i> |
| <i>McGrath, Michael.</i> | <i>Harrington, Noel.</i> |
| <i>McLellan, Sandra.</i> | <i>Harris, Simon.</i> |
| <i>Murphy, Catherine.</i> | <i>Hayes, Tom.</i> |
| <i>Nulty, Patrick.</i> | <i>Heydon, Martin.</i> |
| <i>Ó Caoláin, Caoimhghín.</i> | <i>Hogan, Phil.</i> |
| <i>Ó Feargháil, Seán.</i> | <i>Humphreys, Heather.</i> |
| <i>Ó Snodaigh, Aengus.</i> | <i>Humphreys, Kevin.</i> |
| <i>O'Brien, Jonathan.</i> | <i>Keating, Derek.</i> |
| <i>O'Sullivan, Maureen.</i> | <i>Kehoe, Paul.</i> |
| <i>Pringle, Thomas.</i> | <i>Kenny, Seán.</i> |
| <i>Ross, Shane.</i> | <i>Kyne, Seán.</i> |
| <i>Shortall, Róisín.</i> | <i>Lawlor, Anthony.</i> |
| <i>Smith, Brendan.</i> | <i>Lynch, Ciarán.</i> |
| <i>Troy, Robert.</i> | <i>Lynch, Kathleen.</i> |
| <i>Wallace, Mick.</i> | <i>Lyons, John.</i> |
| | <i>McEntee, Helen.</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>Neville, Dan.</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> |

Dáil Éireann

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| | <i>Rabbitte, Pat.</i> |
| | <i>Reilly, James.</i> |
| | <i>Ring, Michael.</i> |
| | <i>Ryan, Brendan.</i> |
| | <i>Sherlock, Sean.</i> |
| | <i>Stagg, Emmet.</i> |
| | <i>Stanton, David.</i> |
| | <i>Tuffy, Joanna.</i> |
| | <i>Walsh, Brian.</i> |

Tellers: Tá, Deputies Stephen S. Donnelly and Catherine Murphy; Níl, Deputies Paul Kehoe and Emmet Stagg.

Question declared lost.

The Dáil adjourned at 9.20 p.m. until 9.30 a.m. on Thursday, 6 February 2014.