



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Dé Céadaoin, 2 Aibreán 2014*

*Wednesday, 2 April 2014*

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

*Paidir.  
Prayer.*

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## Ceisteanna - Questions

### Priority Questions

#### Irish Airlines Superannuation Scheme

1. **Deputy Timmy Dooley** asked the Minister for Transport, Tourism and Sport if he will provide an update on the expert review of the Irish airlines superannuation scheme dispute; and if he will make a statement on the matter. [15169/14]

**Deputy Timmy Dooley:** The Minister for Transport, Tourism and Sport does not need me to tell him about the seriousness of the situation at our State airports in regard to the superannuation scheme, the impact it is having on workers' morale or the potential impact of an unresolved dispute on our tourism industry. A flash point was reached recently which saw Aer Lingus and other airlines making alternative arrangements in the context of a potentially significant impact on our tourism product and the image of our country. It is incumbent on all of us that the issue be resolved without delay. I ask the Minister to outline the current status of the process of establishing a committee to investigate the issue.

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** The expert panel was appointed on 3 March following consultations between my Department and the Department of Jobs, Enterprise and Innovation with IBEC and ICTU. The panel was asked to carry out an investigation into how a final resolution of the industrial relations issues with the IAS scheme can be secured. Last Monday, the panel made a preliminary report to the two Departments, IBEC and ICTU. The panel also issued a statement summarising the progress of its work to date.

The panel has held a series of meetings with all the relevant parties including the DAA,

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Shannon Airport, Aer Lingus, the trade unions and representatives of deferred members and pensioners. Through these meetings, it has identified a number of critical issues that it believes should now be jointly explored to deepen its understanding of the scope for progress among the parties. Intensive discussions on these issues are already under way and the panel will report back by 14 April. It is important these discussions and deliberations be allowed proceed over the coming weeks without interference so that a resolution can be found to this long-standing and complex issue.

As Minister for Transport, Tourism and Sport, I have no formal function in the resolution of the funding difficulties of the IAS scheme. This is primarily a matter for the trustees, the members of the scheme, the companies participating in the scheme and the regulator of such pension schemes, namely, the Pensions Board. The purpose of the expert panel is to identify the critical issues and facilitate the parties in finding a solution. In circumstances where this work is still under way, the threat of industrial or legal action between the parties is not helpful. I hope that all the parties involved will put all their efforts into engaging with the expert panel in order to find the most feasible and equitable solution to this matter in a timely manner. This would be in the best interests of all parties.

**Deputy Timmy Dooley:** I welcomed the appointment of the independent review panel and I broadly support the approach that the Minister is taking. He has indicated that the panel is next due to report on 14 April. Does he expect it to issue a conclusive report at that stage? Will it have the capacity to reach a binding agreement or solution and, if not, what machinery of State will he use to bring about an appropriate resolution? I accept that he does not control the scheme but he has indicated in the past that if he had control of it he would have solved the problem a long time ago. Perhaps he will outline to the House the solution he has to bring the issue to a speedy conclusion in light of the considerable trepidation in the tourism sector and among workers and pensioners, who are deeply concerned about their future.

**Deputy Leo Varadkar:** There is a potential to resolve the problem in the pension scheme. A significant deficit has arisen over the years because the company and former staff did not put enough into the scheme to match the benefits that were expected or promised. Deficits that accrued in similar schemes in the private sector and semi-State sector have been resolved by companies investing more money and beneficiaries accepting reduced benefits. The current problem arises because the deficit is so big that what is being asked from the company, staff and former staff is also very big. That is the space in which the solution has to be found, however. The expert panel is due to report to us on 14 April. The parties are currently quite far apart. The expert panel can make recommendations but it cannot impose them. What will be required after that will be decisions by the trustees and, probably, ballots by the existing workers if not also by other members of the scheme. As there is a soft deadline of June because of pension rules and regulations, the issue will need to be resolved by then and, of course, there is a risk of industrial action in the meantime.

**Deputy Timmy Dooley:** I agree that the issue needs to be resolved but the Minister is not a hurler on the ditch who has handed the entire responsibility for the matter to the trustees. As one of the biggest shareholders in Aer Lingus and the sole shareholder in DAA, he is a significant actor in this game. I urge him to engage to the fullest extent to ensure the State is prepared to man up to its responsibilities. He stated that the pension fund has not been adequately resourced over the years and suggested that was an issue for the funders, one of which is the State. He has a responsibility to the workers who took pay cuts and accepted pay restraints in the expectation that when they reached pension age they would receive an appropriate level

of benefits. Unfortunately, it is now clear to many of them that their working lives have not provided them with the capacity to retire in the manner they expected. The State shares a responsibility in this regard. Given that the Minister is at the coalface on this issue, I urge him to provide the appropriate level of funding to meet the State's responsibility.

**Deputy Leo Varadkar:** I am certainly not a hurler on the ditch or a bystander. I have worked with others to establish an expert panel to try to find a solution, but I cannot dictate a solution. I am a player, but I am not in charge.

The Deputy is right. I feel we have a responsibility to the workers to ensure they get some security in regard to their pensions. However, I also have a responsibility to taxpayers. It must be borne in mind that the Aer Lingus stake belongs to the 4.5 million citizens of this State, as does the stake in the airports. I cannot stand over a situation whereby Aer Lingus, the DAA and Shannon are devalued or put in a precarious financial position in order to secure benefits for a few thousand people at the expense of 4.5 million citizens. I must have regard to my responsibilities to everyone in the State, all the taxpayers and citizens, not just one group of employees or former employees.

### **Public Transport Provision**

2. **Deputy Dessie Ellis** asked the Minister for Transport, Tourism and Sport if he will ensure that the tendering of 10% of all PSO bus routes and 100% of Waterford city bus services will not further undermine the wider public transport network and lead to wholesale privatisation; and if he will make a statement on the matter. [15405/14]

**Deputy Dessie Ellis:** There is a big fear among people that the tendering of 10% of all routes and approximately 100% of the Waterford City bus routes will further undermine the public transport network and will lead to wholesale privatisation. Will the Minister make a statement on this issue because there are huge concerns about it?

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Alan Kelly):** Neither Dublin Bus nor Bus Éireann is being or will be privatised over the lifetime of this Government. In fact, they will have a guaranteed level of public service funding up to 2019.

The direct award contracts for the provision of public service obligation, PSO, services held by Dublin Bus and Bus Éireann expire later this year. The awarding of subsequent contracts is the statutory responsibility of the National Transport Authority, NTA. In accordance with the decision made by the NTA board in December last on the arrangements for the award of public transport contracts after December 2014, all Dublin Bus and Bus Éireann routes will be included in the new five year direct award contracts which the NTA will enter into with the companies next December. However, the NTA announced that 10% of publicly subvented bus services will only remain within the direct award contracts until the end of 2016, after which they will be operated under separate contracts that will have been competitively tendered. It must be recognised that the tendering decisions announced by the NTA are relatively modest and there will be a long lead-in before they take effect. Furthermore, it is open to the two incumbent companies to compete for any tendered routes and I am confident they will make strong bids.

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The NTA considered it to be in the public interest to leave Dublin Bus and Bus Éireann with a scale of operation which remains efficient for each company's resources and overheads. The NTA has determined that tendering about 10% of the market presents little, if any, risk to Dublin Bus or Bus Éireann's overall operations while giving the opportunity to test market pricing, offer opportunities to improve efficiency and customer service, as well as the possibility, subject to the outcome of the competition, of bringing new operators into the market, and enabling benchmarking. No service changes will occur as a result of this process as it will still be the State, in the form of the NTA, that will determine the schedules, the frequency, the vehicle types and standards, the fares and the customer service requirements. This is the key message we need to promote.

**Deputy Dessie Ellis:** Sinn Féin is opposed to privatisation, in particular privatisation by stealth which seems to be happening across the transport service, particularly with Dublin Bus. This is happening at a time when Dublin Bus has made massive strides forward and passenger numbers have risen significantly and continue to rise. I do not believe for a minute that private companies can do what Dublin Bus has done. The evidence across Europe is that Dublin Bus is up there in terms of competition, how it is run and how efficient it is. There is no doubt about this. I met officials from Dublin Bus the other day and they confirmed this.

**An Ceann Comhairle:** Will the Deputy please put his question?

**Deputy Dessie Ellis:** There is serious concern about this. The Minister of State mentioned there will be no further cuts to the PSO in 2015. Will he guarantee for us no more money will be removed, making it more difficult to enforce cutbacks?

**Deputy Alan Kelly:** I have outlined what will happen in regard to the contracts and the public service obligation, PSO, up to 2016 and then to 2019. There is a plan in place for up to 2019. The key message that needs to be brought out here is that at all times the National Transport Authority must act within the law. Both European law and the Dublin Transport Authority Act 2008 set down strict criteria under which the NTA must operate. Where the NTA proposes to enter into further direct award contracts for bus services, it is obliged to carry out statutory consultation under the Act. It has done that. Under the legislation, if the NTA proposes to enter into direct award contracts, it "may only do so where it is satisfied that the continued adequacy of the public bus passenger services to which the contracts relate can only be guaranteed in the general economic interest by entering into such direct award contracts". If it is not satisfied, it must provide for some level of competitive tendering. This is what is happening, but on a modest scale. There are no further plans to change what has been announced by the NTA in the past few months.

**Deputy Dessie Ellis:** The Minister of State says there has been little change made, but 100% of Bus Éireann's Waterford routes are being put out to tender and 10% of routes across the board are being put out to tender. There are huge implications if these routes go to private companies. It has been suggested that anybody can tender for the routes, including Dublin Bus and Bus Éireann, but I believe this move is a smokescreen for privatisation.

In regard to the bus rapid transport, BRT, plans, is it guaranteed this will be given to Dublin Bus? This is an important scheme. Will the Minister of State guarantee that if it goes ahead, it will be given to Dublin Bus or is it likely that it will go the same road of seeking the best tender? We do not always get the best results when we go down the route of direct award contracts.

**Deputy Alan Kelly:** I outlined earlier how this will work up until 2019. In regard to BRT, Dublin Bus will be the operator. We need to get the message across that the NTA in deciding to open up only up to 10% of routes for competition is ensuring that this will have a minimum impact on Bus Éireann and Dublin Bus from the point of view of scale. The NTA will have complete control over this process and all issues relating to public transport to ensure quality of service is maintained. Given the legislation that guides this issue at national and European level, this decision has been handled quite well and it is a modest opening up of the market.

### **Vehicle Clamping**

3. **Deputy Catherine Murphy** asked the Minister for Transport, Tourism and Sport if, in relation to the regulation of clamping in the State, he has considered following the example in England and Wales where clamping on private land was outlawed recently; if he has further examined the same system in Scotland which has been in place since 1992 to determine the benefits of a similar arrangement here; and if he will make a statement on the matter. [15337/14]

**Deputy Catherine Murphy:** This question relates to clamping on private land, a practice which was outlawed in Scotland in 1992 and outlawed in England and Wales in 2013. A plethora of clamping companies is employed to clamp vehicles here. This question is not about paying for parking, but about this punitive sanction of clamping. Will the Minister consider outlawing the practice as has been done in other countries so that we can have a fairer approach to parking on private land?

**(Deputy Leo Varadkar):** The programme for Government contains a commitment “to legislate to regulate the vehicle clamping industry”. This builds on the work that my party, in particular my colleague, the Minister, Deputy Simon Coveney, carried out in opposition in the form of a Private Members’ Bill. I understand that in England, Wales and Scotland clamping is in general banned. However, there is no evidence to suggest that clamping cannot be properly employed for the common good. I believe that, if used as part of a controlled and responsible parking enforcement regime and if appropriately regulated by the State, clamping can modify parking behaviour and serve to encourage proper use of parking facilities.

Prior to the introduction of clamping in Dublin, the problems associated with illegal parking were endemic, causing difficulties for residents and traders alike who could not access parking during business hours as metered spaces were often occupied by all-day commuters. Contrasting Dublin before the introduction of clamping with today, it is evident that the use of clamping as an instrument of public parking policy has been highly effective.

In 2011, I asked the then Joint Committee on Environment, Transport, Culture and the Gaeltacht, of which the Deputy was a member, to take a role in the pre-heads of Bill stage and to contribute to the initial drafting of legislation. The committee carried out a number of hearings on the matter and published detailed recommendations on the issues that should be included in the legislation.

In March 2013, the Government approved the drafting of a regulation of vehicle immobilisation Bill. This is now with the Office of the Parliamentary Counsel. As this is a complex area of law, dealing with issues concerning private property rights, drafting has taken longer than I initially had hoped. I expect to publish the Bill in the coming months and look forward to debating it in the House.

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The principal provisions of the Bill will require adequate advisory signage in locations where clamping is in operation, set maximum clamp release periods and fees, and establish an independent appeals process. These provisions will apply to clamping activities on property where the public has an invitation to park as of right or subject to terms and conditions.

**Deputy Catherine Murphy:** First, there is a big difference between clamping on-street and clamping in a private location. We are seeing it being used as a sanction in all sorts of situations, including apartment blocks.

In villages and towns where clamping is applied, often one finds two or three different clamping companies, perhaps in addition to the local authority operating a pay parking system, and it causes confusion. There must be symmetry in the messages motorists receive. There cannot be a range of different types of advice notices for them.

Often when a motorist has been clamped once and must pay €120 or €130 to release the clamp, he or she will never go back to that location again and it does considerable damage to the business sector in areas where there is that confusion. I would like to know what is different about private property in this country that is not the case in England, Scotland and Wales.

**Deputy Leo Varadkar:** We are both agreed that there is a difference between clamping on a public road or public property and in a private space. It is a judgment call as to whether one prohibits the latter. In my constituency, there are a lot of apartment buildings near train stations and before clamping was introduced in them, those who lived there could not park in their own development and their visitors could not visit them because commuters were using those private developments to park for the train station. As a result, clamping was brought in and has been effective. Similarly, there is a shopping centre in my constituency where people could not park to go to the shops in the car park paid for by the shops because motorists were using it for commuter parking purposes. Since they have brought in clamping, people can go to the shops and park in the car park for that purpose. It is a judgment call, but there is on balance room for regulated clamping on private property.

The legislation, which I hope to publish before the recess, will address the issue Deputy Catherine Murphy mentions where there are different companies doing different things. It will bring in standards, a maximum fee, rules around signage and an independent appeals mechanism.

**Deputy Catherine Murphy:** I am quite sure the same applies to apartment blocks and higher density developments being close to the like of railway stations in England, Scotland and Wales. I am sure it is possible to get a sanction other than a clamping sanction, which both discommodates people and is a lazy sanction. It is difficult to appeal some of these. I would have had some engagement with constituents who have tried to deal with some of these companies, and in some cases it is impossible.

I engaged in the preplanning of this particular legislation and would have made suggestions. I am hopeful there will be some positive developments and I welcome what the Minister is talking about. I tend to think of clamping as a lazy option and regulation can only go so far. It may well be that we end up doing this in a piecemeal way and it will ultimately be required to be outlawed, but I do not understand where the treatment of private land differs from other countries that would be similar to us.

**Deputy Leo Varadkar:** We are different jurisdictions. It is up to us to make different deci-

sions if we want to, even if the circumstances are the same. That is the nature of sovereignty.

The alternative to clamping, as the Deputy will be aware, is a fines system where one puts a fine notice on a car and one must bring the person through the courts. That is more cumbersome, expensive and probably less effective than clamping in terms of deterrence. What drove behavioural change in irregular or illegal parking was clamping. When motorists were merely given a fixed charge notice, there were all sorts of problems.

### **Sports Capital Programme Administration**

4. **Deputy Timmy Dooley** asked the Minister for Transport, Tourism and Sport the assessment procedure followed and the objective criteria used in deciding on the allocation of funding under the sports capital programme. [15375/14]

**Deputy Timmy Dooley:** In the interests of transparency, can the Minister outline the assessment procedure followed and the objective criteria used in developing a scoring criteria or model for the sports capital programme?

**Deputy Leo Varadkar:** The Minister of State, Deputy Ring, sends his regrets. He is in Milan promoting the launch of the Giro d'Italia and I am representing him today.

All applications received under the 2014 sports capital programme will be assessed by my officials in the Department. Every application will be assessed by one official and then reviewed by another member of staff. Given the number of applications received and the detail contained therein, this process will take a number of months.

Applications are first checked to ensure eligibility, and eligible applications are then initially assessed against five criteria: the likelihood of increasing participation and-or improving performance and sharing of facilities; the level of socioeconomic disadvantage in the area; the technical merits of the project; the level of own funding available; and the level of sports capital programme funding received by the applicant in the past, with the preference for those who have not received funding. These criteria are designed to give higher scores to applications that will increase participation, where facilities will be shared, that are from designated disadvantaged areas, that is, RAPID areas and CLÁR areas, that have not received substantial funding in the past and are ready to be progressed as soon as possible.

**Deputy Timmy Dooley:** I get the piece that one official looks at the application to see whether it is eligible and that it meets the criteria and a number of others review that. At what point is a number or a scoring reference given to the individual application?

**Deputy Leo Varadkar:** The first step is to see that the applications are eligible, that they have the title to the land, the matching funds, a bank account, tax clearance, etc. After that, only if they are eligible, it is scored based on a certain criteria. It is checked by a second official to ensure the first official did it correctly.

The scores do not necessarily determine the decision on funding. One might find that the highest scored project would take up all the funding and, therefore, it is up to the Minister to decide not to fund that and, for example, give funding to six other projects instead, or one might find that the scores result in all the funding going to the GAA and nothing for anyone else, at which point the Minister has discretion to spread the funding out more evenly.



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**Deputy Timmy Dooley:** To be clear, the scoring is carried out by officials of the Department and the Minister takes the pot of money and, effectively, distributes the loaves and fishes. Does he refer to the score or not?

**Deputy Leo Varadkar:** The scores are put in brackets. For example, the difference between getting seven out of 50 and eight out of 50 is not much. They are put in categories based on their score. After that, the Minister must have regard to the scores but then must make a decision. As Deputy Dooley stated, it is loaves and fishes. Sometimes one may find, for example, that one has €1 million for a particular county, the highest scoring project costs €1 million and one either gives everything to that or one decides not to fund that and to fund seven other projects instead. One may decide that one wants to distribute the funding better throughout the county or that one wants to ensure the different codes get some funding. The Minister must have regard to the scores and certainly cannot fund an ineligible application. I understand that under the previous Administration ineligible applications were funded. That has not happened under this Administration.

Roughly speaking, give or take 10% or 20%, amounts are allocated to each county according to its population and it is never the case that the county in which the Minister is resident can get twice the amount of funding of another country.

*10 o'clock*

**Deputy Timmy Dooley:** Is it correct to say this is a change from the procedures used under the previous Administration? Am I right to say that under the previous Administration, the civil servants carried out the scoring and recommended the allocation of funding? It seems it is only this Administration that carries out the process of distributing the funds but will the Minister confirm that?

**Deputy Leo Varadkar:** Under this and the previous Administration, the scoring was done by the civil servants. Under the previous Administration, ineligible and invalid applications were funded on some occasions but that no longer happens. Under this Administration, a particular effort has been made to ensure there is a roughly equal distribution *per capita* in counties, as that was not the case in the past.

**Deputy Timmy Dooley:** Will the Minister clarify that under the previous Administration, the notional allocation of funding was done by the Civil Service rather than the Minister? The departure seen in the Minister's tenure is the allocation of money at a political level by the Minister rather than by permanent officials.

**Deputy Leo Varadkar:** I am not sure how this was done in the past. The Minister now gets the scores.

**Deputy Timmy Dooley:** Yes.

**Deputy Leo Varadkar:** They are done by officials. The amounts are put against those scores. We should bear in mind that the amounts in question are by and large those requested by clubs in the first place. It is not that an official or Minister decides the amount, as it is the amount requested by the applicant.

**Deputy Timmy Dooley:** It would be a first in my experience if a club got everything it asked for. I understand now that somebody at a political level completes the process of distrib-

uting the pot of money across projects. I accept that the Minister argues it relates to scores but that is a departure from the existing practice. It is a worrying development as it brings politics much deeper in the allocation of funds.

**Deputy Leo Varadkar:** It is the case that clubs get what they request on occasion. For example, there was not enough valid applications from Dublin last time, so any valid application from the county got what it asked for.

**Deputy Timmy Dooley:** It is an advantage having a Minister in the constituency.

**Deputy Leo Varadkar:** Dublin got a fair share for a change.

### **Public Private Partnerships Cost**

5. **Deputy Catherine Murphy** asked the Minister for Transport, Tourism and Sport the total sums paid by the State to each toll operator per year for the previous seven years and in 2014 to date under the terms of a minimum traffic guarantee clause entered into in respect of the Limerick tunnel and the M3 motorway; if this arrangement is a violation of the principles of EU state aid regulations; if he will indicate the terms of the exception received from the Commission to allow this system to operate; if he has investigated the example in Portugal where in 2010 such arrangements were successfully ended; and if he will make a statement on the matter. [15382/14]

**Deputy Catherine Murphy:** This relates to secondary or shadow tolling and I refer particularly to the Limerick tunnel and the M3. The State pays the companies which developed those facilities an amount to compensate for fewer vehicles using them than anticipated.

**Deputy Leo Varadkar:** The contracts for the privately-operated toll schemes are commercial agreements between the National Roads Authority, NRA, which has statutory responsibility in this area, and the public-private partnership concessionaires concerned. The M3 and Limerick tunnel schemes commenced operations in 2010. The NRA has provided me with details of the traffic guarantee payments payable per year since and I will provide these in a table below. The proposed traffic guarantee provisions were the subject of a State aid notification in 2006 and the EU Commission decision on the notification was to consider the aid to be compatible with the European treaties.

As regards the position in Portugal, I understand there were specific conditions relating to the scale of the public private partnership programme and the nature of the contracts that resulted in the renegotiation of contracts. As the Deputy will appreciate there is a contract in place between the State, in this case represented by the NRA, and the two public-private partnership companies. This contract cannot be unilaterally changed by either party and can only be done by agreement.

*Additional information not given on the floor of the House*

<i>Year</i>	<i>Limerick Tunnel (€)</i>	<i>M3 (€)</i>
<i>2010</i>	<i>1,242,793</i>	<i>524,311</i>
<i>2011</i>	<i>4,453,979</i>	<i>1,859,404</i>
<i>2012</i>	<i>4,971,435</i>	<i>2,492,733</i>

<i>2013</i>	<i>5,190,068</i>	<i>2,659,264</i>
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**Deputy Catherine Murphy:** I have a rough idea of some amounts from 2011 but I seek updated figures. The NRA withheld information about the minimum guaranteed amounts during oral hearings with the public. Several people have told me vehicle numbers were inflated and took no account of a possible downturn. Has the Minister dismissed the prospect of seeking a renegotiation on the Portuguese basis? The European Commission in that case argued that there was State aid. If the figures were wrong and the public was excluded from the processing mechanism, would there be a basis for renegotiating those contracts? Approximately €4.7 million was paid in one instance in 2012 - I will get the updated figures - and I know the Minister and his colleagues could spend that very large amount very wisely if it could be freed.

**Deputy Leo Varadkar:** For the Limerick tunnel, some €5.2 million was paid in 2013, with €2.659 million being paid for the M3. The amount is increasing. The Deputy is right in that this was a bad deal. Not only did the deal not take account of the possibility of a downturn but it assumed the economy and therefore traffic would continue to grow forever. Much capital development in Ireland was done on that basis and there has been much cost for infrastructure we possibly did not need.

I considered the possibility of renegotiation but came down against it for two reasons. First, I have nothing to offer and in any negotiation there must something offered in order to get something in return. I have nothing I want to give the companies in question. I spoke to my Portuguese colleague and what has happened there is quite different. The country had a system of shadow tolls, with the Portuguese Government paying the toll for the driver. As part of the renegotiation, new tolling points were introduced but I have decided against that. I do not intend to introduce any new tolling points anywhere in the country during my term of office. It was the Portuguese solution but I do not favour it.

There is another important point. I am trying to get private sector funders to invest in public-private partnerships again. I was very keen to initiate the projects at Newlands Cross - which the Deputy knows very well - and Rathnew going and they have been started. I am keen to get the Gort to Tuam route started in the next few months. The one way to ensure this cannot happen is to try to break deals already made with similar or the same companies. That would destroy confidence in the public-private partnership process and funding will not come if funders are concerned that the Government will try to change a deal in five years. If funding is received in such a case, there will be a premium because companies will factor in the risk.

**Deputy Catherine Murphy:** The deal was flawed from the outset. Will the Minister review the figures on what was provided? If there is a flaw in them, the contract would not be as robust as the Minister states. A review could open opportunities in that respect. The deal was not only fundamentally flawed from an economic perspective as we need decreasing numbers of vehicles on the road if we are to deal with climate change. We are at variation with European obligations in that respect as well. The issues have changed so I ask the Minister to carry out that review.

**Deputy Leo Varadkar:** I am not arguing with the Deputy's implication that this was a bad deal. In fairness to the previous Administration, most people at the time believed the economy would continue to grow and very few predicted the scale of collapse that occurred. I can review the contracts but when we did so before, they were solid and had EU approval with respect to State aid. It is very difficult to see a basis for renegotiation on a legal technicality or similar

grounds.

With regard to the Limerick tunnel, there was a toll holiday last November which resulted in a 20% increase in the number of trucks going through toll plazas but the increase was 70% in Limerick. The heavy goods vehicles are going through Limerick to avoid that toll. Ironically, one way to reduce the traffic guaranteed payments would be paying the tolls and making it toll-free for HGVs to use the Limerick tunnel. Even though the Government would then have to pay the tolls the trucks would have paid to the company the fact more trucks would be going through would reduce the traffic guarantee. This is one option we are considering.

## **Other Questions**

### **Driver Licences**

6. **Deputy Michelle Mulherin** asked the Minister for Transport, Tourism and Sport the criteria for re-issuing a new driver licence in circumstances where the original has been lost or stolen and the timeframe involved; and if he will make a statement on the matter. [14972/14]

**Deputy Michelle Mulherin:** This question arises out of complaints I have received about the adequacy of arrangements for the operation of the National Driver Licence Service. I have heard complaints about the length of time it takes to issue licences, particularly in cases where a replacement licence is required for a lost or stolen licence and in an emergency case where someone wants to travel. In particular there seems to be confusion at some of the centres as to what is required in the unusual situation of lost or stolen driver licences.

**An Ceann Comhairle:** Thank you.

**Deputy Michelle Mulherin:** The other point is the distances people must travel to personally present themselves to have their driver licence issued. This is a real challenge.

**Deputy Leo Varadkar:** The National Driver Licence Service, NDLS, is the statutory responsibility of the Road Safety Authority, RSA, and the criteria for applying for a replacement for a lost or stolen driving licence are set out on the RSA website. These requirements include a Garda report stating it was lost or stolen.

There were problems with the speed of processing applications in the NDLS when the system came on stream last November. However, my officials, advisers and I have been in regular discussions with the CEO of the RSA about the difficulties people have experienced and how the RSA proposes to address them. The authority acknowledges there were teething problems with the service when it opened. Some were technical and systems issues, while others related to the fact the staff were new and needed to become familiar with the rules and processes on driving licences and permits. However, the system has now improved.

The RSA responded by increasing resources and staff numbers in NDLS centres experiencing delays, as well as in the licence processing centre, and providing further training to staff.

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There are no longer any technical difficulties affecting the service. A booking system is in place to allow customers make appointments. This was operating on a pilot phase, which was successful, and the system is being extended on a phased basis to all NDLS offices. I understand from the RSA that applications for a driving licence which are fully in order are now processed in a timeframe of eight to 13 days. This timeframe will reduce to between five and eight days later this month.

The RSA has assured me the remaining backlog has been cleared and that the NDLS can also respond to urgent situations where a licence is needed for travel abroad or for work purposes. The details of this are on the website.

**Deputy Michelle Mulherin:** As recently as the week before last four people contacted me and in the case of one of them the person at the desk issuing these licences did not know what was required when a licence was lost or stolen.

Another issue which the Minister might address is the adequacy of the number of offices and the considerable distances people are required to travel in cities such as Dublin or in rural areas where there is no public transport. The service is less accessible now than it was before. This is an obvious case where the post office would be a more opportune way to deliver the service.

In his reply the Minister stated the RSA responded to the problem by increasing resources in the NDLS centres. How can this be when the service was tendered for and won by a particular company? How can additional resources be put into it if the fees have been set?

**Deputy Leo Varadkar:** What is required is on the website and it is a very understandable website. If there are particular cases the Deputy wishes to bring to my attention she should give the details to my office and I will take them up with the NDLS.

The tender required that at least 95% of the population be within 50 km of a centre. It is important to bear in mind that unlike under the previous regime one can go to any centre and one does not have to go to the one in one's local authority area. They are open on Saturdays and during lunchtime, which was not the case under the previous regime.

An Post tendered for it. My understanding is among the reasons its tender was not successful was it could not guarantee openings on Saturday or at lunch time, and the cost of installing the equipment required to take the special photographs in every or many post offices was enormous. Even if it had gone to An Post it would not have been in every or most post offices; it would have been in a number of major post offices.

With regard to the gaps in the system the tender was done by the RSA and not by me and when it is done again it should probably be more prescriptive as to where centres are located. For example there is no centre in Dublin city centre. One must go to Santry, Citywest or Leopardstown for one's licence, which is odd. Generations of people who obtained their licence in the city centre wonder why this is.

**Deputy Michelle Mulherin:** On the simple point, will the Minister explain to me why the RSA's response when the company was failing to deliver the service, and allowing for any reasonable excuses given by the Minister such as teething problems, was to give it additional resources? Surely this was tendered for and the contract was signed to deliver it within certain terms and conditions. Why were more resources given to it? The service is still inadequate.

**An Ceann Comhairle:** I will allow Deputy McHugh five seconds.

**Deputy Joe McHugh:** Five seconds or sentences.

**Deputy Timmy Dooley:** Two of them have gone.

**Deputy Joe McHugh:** I welcome the Minister's comment on the future construct of the tender. I stand to be corrected, but under the previous contract 30 locations were identified in the tender and this precluded companies such as An Post from tendering for it. When the new tender is being constructed we should consider An Post as a readily available outlet. There is an opportunity there if we are creative.

**Deputy Leo Varadkar:** A point to bear in mind is there are three contracts for the front office, the back office and card production. Some of the contracts are going better than others. The front office contract has been a particular problem. The RSA put in additional resources because people were experiencing problems and these needed to be fixed. I was not willing to wait three years for another contract to fix these. This is why extra staff and resources were introduced. There will be a claim and a financial discussion with the company about this. There will be an interesting discussion and debate between the RSA and the company as to who meets the cost of these additional resources. I stand over the fact they were put in. We could not have had a situation where the delays continued for years.

I am a big supporter of the post office and it is a great institution but An Post needs to move with the times. If it is to win contracts it must provide the services which people now expect. People expect services to be available on Saturday morning and they expect availability in the evening. An Post needs to modernise before it starts complaining about not getting work.

### **Haulage Industry Regulation**

7. **Deputy Mick Wallace** asked the Minister for Transport, Tourism and Sport if his attention has been drawn to the fact an increasing number of haulage operators are reregistering their vehicles in other jurisdictions due to the significant costs associated with the haulage industry here, such as the commercial vehicle road tax and commercial vehicle testing; his views on the United Kingdom's restrictive interpretation of the revised cabotage rules which is making it extremely difficult for Irish operators, in addition to the pending introduction of the lorry road user charge in the UK and Northern Ireland; his plans to address these challenges facing the industry; and if he will make a statement on the matter. [15132/14]

9. **Deputy Timmy Dooley** asked the Minister for Transport, Tourism and Sport if he will provide an update on the discussions with his British counterpart regarding the introduction of a heavy goods vehicle road user levy in the United Kingdom which will have a significant impact on Irish hauliers; and if he will make a statement on the matter. [15133/14]

56. **Deputy Dessie Ellis** asked the Minister for Transport, Tourism and Sport if he will provide an update on his work with the British Government and the Northern Ireland Executive to avoid potential damage to the haulage industry here posed by the heavy goods vehicle levy proposed by the British Government. [15147/14]

257. **Deputy Joe McHugh** asked the Minister for Transport, Tourism and Sport if he will investigate if it would be allowable under European Union regulations to have a common road

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charging regime between Ireland and the United Kingdom whereby only one charge would be levied for access to the road network in both jurisdictions; and if he will make a statement on the matter. [15620/14]

**Deputy Mick Wallace:** More than 11,000 international trucks operate in Ireland but more than 1,000 have left the jurisdiction and reregistered elsewhere because they do not feel there is a level playing field here. I am sure the Minister is well aware of the issues and I have raised a few of them in the question. Does the Minister have any plans to deal with the matter?

**Deputy Leo Varadkar:** I propose to take Questions Nos. 7, 9, 56 and 257 together.

I had the privilege of speaking at the Irish Road Hauliers Association annual conference in Kilkenny on Saturday, the third time I have done so since I was appointed Minister. I have consistently sought to work with the industry to ensure it is fit for purpose. My goal is to have a haulage industry that operates efficiently, safely and profitably and I believe that during my tenure to date we have made real progress in this regard.

I appreciate the UK HGV road user levy is of concern, in particular for hauliers operating to and from Donegal. I have had extensive discussions with my UK and Northern Ireland counterparts on the matter and have made representations to the UK authorities to exempt certain significant sections of Northern Ireland's road infrastructure from the levy. Departmental officials and I are committed to pursuing this issue to the fullest possible extent. In this regard I acknowledge the co-operative role that Mark Durcan, the Northern Ireland Minister for the Environment, has taken on this matter.

The Taoiseach raised this issue at his recent meeting with UK Prime Minister, David Cameron, and I understand that yesterday Deputy McHugh met the Northern Ireland Secretary, Theresa Villiers, on this issue also. My colleague Jim Higgins, MEP, Ireland's representative on the European Parliament Transport and Tourism Committee, has written to the Commissioner for Transport, Siim Kallas, and the Commissioner for the Internal Market and Services, Michel Barnier, on the issue and will shortly meet the chairman of the European Parliament Transport and Tourism Committee to discuss the matter. I encourage Sinn Féin Deputies to ensure their party colleagues use their good offices in Northern Ireland and in the House of Commons to encourage the British Government to accede to our position on this matter.

With regard to Deputy McHugh's suggestion, a HGV road user charge group was set up across Departments and is due to report by the middle of this year. The group will explore all options, including the feasibility of joining existing regimes such as Eurovignette and the new UK HGV user levy.

Deputy Wallace refers to commercial vehicle roadworthiness, CVR, testing and cabotage. The Road Safety Authority has undertaken a comprehensive programme of reform of CVR testing. Conformity with vehicle standards is fundamental to our safety agenda. The previous system was introduced 30 years ago and is no longer fit for purpose. Specific concerns were raised by the industry about the testing of trailers under the new regime. I am pleased to report that my officials, the RSA and the Irish Road Haulage Association met to discuss these concerns and they have been satisfactorily dealt with.

I have had consultations with my UK counterpart to discuss cabotage carried out by Irish hauliers in the UK. Ultimately, the issue is that the British Government is taking a very strict interpretation of EU cabotage rules and that is impacting greatly on the ability of Irish hauliers

to operate in the UK. The current cabotage regulations are too restrictive, inappropriate, anti-competitive and represent undue interference in the free market. However, while the current regulations are in place, the British Government's enforcement actions, while unwelcome, are legal.

**Deputy Mick Wallace:** There are a number of issues. The UK interpretation of the movement of unaccompanied trailers seems unfair. It is surprising, given the close relationships between Ireland and England, that we cannot come to a better understanding. Nolan Transport, one of the biggest companies in the country, lost two trucks recently. The company is out of pocket to the tune of €300,000 from this issue but claims it was working under Irish guidelines set by the Department of Transport, Tourism and Sport when the trucks were seized. There is little doubt the Irish hauliers have been looking at the difference it costs to run a truck in Ireland and in the UK on an annual basis, a difference that amounts to €31,000. It beggars belief.

Will the Minister consider balancing the lorry road user levy that has been introduced by taxing the lorries coming south from the North and compensating the lorries going north from the South? This will achieve some fairness.

**Deputy Leo Varadkar:** That suggestion certainly violates the Single European Act so I cannot consider something that is unlawful. Cabotage is wrong. We are supposed to have a free market and the free movement of goods and services across the European Union. If it were up to me, I would get rid of cabotage rules altogether. The European Commission is also in favour of doing that provided we have similar safety and social standards across the European Union. It should and could be done but, unfortunately, some of large member states take a protectionist view of this and do not want other countries' hauliers operating in their domestic markets. One difficulty in finding a solution is that it is not possible to have a special arrangement between Ireland and the UK. That would run against European treaties. There can be special arrangements between two or three countries, like Benelux, but only if they predate European treaties. Any concession the UK authorities grant to Ireland, or *vice versa*, must be granted to every country in the EU, including Romania and Portugal.

**Deputy Timmy Dooley:** The Joint Committee on Transport and Communications meets after this session and the Irish Road Haulage Association will appear before it. Much of what has been discussed will be dealt with at the meeting, which will afford the group an opportunity to outline its position. One of the reasons I tabled Question No. 9 was the user levy being introduced by the UK and its impact in the North. The last time we spoke in the House on the matter, the Minister was to meet his counterpart in London on 20 February to discuss the matter. Can the Minister explain the outcome of that meeting?

The A3 and the A37 are already excluded and one of the biggest issues is whether we can get confirmation that the A5, connecting Donegal and Derry to Dublin, is also to be excluded. Others have clearly indicated the impact this is having on the haulage sector, but a number of haulage companies along the Border are considering relocating and registering their businesses in Northern Ireland. That will have an impact on the tax take and requires a more proactive approach from the Government in trying to find a resolution. There was an expectation or an understanding that the Minister for the Environment, Community and Local Government, Deputy Hogan, would examine the whole road tax issue to level the playing pitch between North and South. Can the Minister update us on these points?

**Deputy Leo Varadkar:** I met my UK counterpart, Mr. Hammond, and his officials. They



heard me out but made no promises other than to examine the matter further. The Taoiseach's meeting with the Prime Minister was along similar lines. I made the point that we had put money into the A5 already and had committed money for the future. For every argument we have, the UK has a counter-argument and pointed out that our motorways were built with EU Structural Funds, much of which came from British taxpayers. They also pointed out that we impose tolls on HGVs whereas they have no tolls in Northern Ireland and very few in Britain. The solution may exist in the survey suggested by Deputy Dooley, which involves us introducing a user levy and reducing motor tax substantially to compensate for that. That is why a working group, including my Department and the Department of the Environment, Community and Local Government, is examining it and will make recommendations by the summer with a view to doing something in the budget and the Finance Bill at the end of the year.

**Deputy Dessie Ellis:** Sinn Féin has made submissions on this and has been in regular contact with the Northern Ireland Executive and Westminster. Power is in Westminster. Does the Minister think there is a danger that vehicles will be registered for VRT and the NCT in the North? Does the Minister believe the only answer to this is exemptions on roads? We have heard certain roads would be exempt. Is that the only answer? These will be manual checks, followed by cameras using plate recognition software.

We had an argument about penalty points and the legislation required to have these effected, North and South. Does this pose a problem? People will be crossing over and fines of €300 or €1,000 will be imposed. This poses a similar problem to penalty points. We need to know this. The hauliers are saying the extra cost will amount to €1,000 in some cases. There must be an answer. I agree with the Minister that cabotage is the angle to look at.

**Deputy Leo Varadkar:** There is a risk that some haulage firms will register some of their trucks in the North and it may be the case that some have done so already. Others will buy the annual pass. People do not have to pay €10 every day they use UK roads. There is an option of purchasing a heavily discounted annual pass. Some people will do that, depending on how often they cross the Border and go through the UK. We must move towards introducing a similar system to level the playing field. The system in the UK is an old one and is out of date, based on a charge per day, whereas other countries have done so on the basis of distance, using GPS. The idea is that people pay for the roads they use and with GPS it would be possible to charge more appropriately for the use of the roads. That may be the road we go down.

**Deputy Joe McHugh:** In the short time available I will try to be as specific and constructive as possible. I acknowledge the Minister's role - I believe he made first contact on the issue approximately 18 months ago. Speaking off the record, people within the authorities in the United Kingdom have said this is a sin of omission. However, acknowledging this off the record is not good enough and still does not help us to get over the problem. The parameters of the Good Friday Agreement go beyond North-South aspects and also encompass east-west aspects. The British Government in Westminster, as a co-guarantor of the Good Friday Agreement, has a responsibility here in acknowledging that it has not taken in the wider impact and effects of this law which came into force yesterday morning.

There is still time to be creative on this issue. The secondary legislation has not been passed in Northern Ireland yet. I agree with the Minister that there is a role for the Northern Ireland Executive with regard to this matter. There is a very good work on the part of the Northern Ireland Minister, Mr. Mark H. Durkan, MLA, and his officials in collaboration with the Department here. There is still an opportunity to be creative in some way. One road between Cavan

and Monaghan has been granted a derogation. There has been considerable talk about getting a derogation just for the A5. Officials I have spoken to have said it would be hard to monitor and hard for the PSNI to enforce.

**An Ceann Comhairle:** I thank the Deputy.

**Deputy Joe McHugh:** As of yesterday, this is in law and we need to use the British-Irish Parliamentary Assembly as a mechanism for considering a more constructive approach rather than the British introducing levies in Westminster and then us reporting in June or July about a possible levy where we will be charging Northern trucks coming down the M1 and they will be charging us going up the A5. It is outside the spirit of the Good Friday Agreement and we have joint responsibility at a sovereign level-----

**An Ceann Comhairle:** I thank the Deputy.

**Deputy Joe McHugh:** -----involving both Dublin and Westminster. Ultimately, it was Westminster that introduced this legislation.

**An Ceann Comhairle:** We are way over time.

**Deputy Joe McHugh:** The Northern Ireland Executive is the Legislature that will introduce the secondary legislation.

**An Ceann Comhairle:** I want to be able to get to other Deputies who want to ask other questions.

**Deputy Leo Varadkar:** I thank Deputy McHugh for his interest in the matter. I have had several meetings with him involving some hauliers from County Donegal. I welcome him taking the initiative to meet the British Secretary of State for Northern Ireland, Ms Theresa Villiers, MP, about the matter. We will not give up on it and will continue to work on it. As he pointed out, the legislative instrument required to enforce it has yet to be passed by the Northern Ireland Assembly so while it is law, it appears to me that it is not enforceable at this point in time. It may give us a little bit of time to come up with a solution. However, his point is well made that we should try to co-ordinate these matters better at inter-ministerial level and also through the British-Irish Parliamentary Assembly. It is worth bearing in mind that it is no longer possible to have special arrangements between the UK and Ireland unless they pre-exist the signing of the European treaties so anything that is done will have to agree with European law.

## **Roads Maintenance**

8. **Deputy Jim Daly** asked the Minister for Transport, Tourism and Sport if he will support a pilot scheme to alter the strategic approach taken by local authorities of maintaining rural roads by targeting the maintenance of verges and watercourses on local roads with a view to minimising the damage caused by surface water run off; and if he will make a statement on the matter. [15148/14]

**Deputy Jim Daly:** The old maxim states, “If you always do what you always did, you will always get what you always got”. The crisis of our country roads has reached breaking point and it is high time for us to take a fresh look at how we maintain our roads. I made a proposal, to which the question relates, that 2% of the road tax collected in County Cork be used to com-

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plete serious drainage maintenance on 1,000 km of roadway. However, until we take the water off the roadways, the €330 million that the Department allocated to the local authorities will have been wasted.

**An Ceann Comhairle:** I thank the Deputy.

**Deputy Jim Daly:** We have to take the water off the roadways. I am not seeking to get the Minister to say that he will allow-----

**An Ceann Comhairle:** We are over time.

**Deputy Jim Daly:** -----or encourage the authorities, but I hope he would direct the authorities because with the €330 million allocated the Department has a responsibility to ensure the local authorities do not simply put tarmac on top of tarmac but will take the water off the roads to ensure the maintenance of those roads.

**Deputy Leo Varadkar:** I agree with the Deputy that drainage is an issue of particular importance that local authorities need to give consideration to in their work programmes. Indeed, last year I made a specific allocation for proper drainage work in order to protect pavement surfaces to focus their attention on this area.

However, it must be stated that the improvement and maintenance of regional and local roads is the statutory responsibility of each local authority. Works on those roads are funded from local authorities own resources supplemented by State road grants. The initial selection and prioritisation of works to be funded is also a matter for the local authority concerned.

In January, I announced that €331.9 million was being provided to local authorities for the maintenance and improvement of regional and local roads in 2014. This year, I decided to give local authorities increased flexibility. I reduced the number of grant categories and increased the amount allocated under the discretionary grant heading which will facilitate the transfer of funds between key grant categories where local authorities need this. This gives greater flexibility to local authorities to focus their expenditure on drainage if they so wish.

In the context of the Government's political reform agenda, the Government's policy has been to transfer more powers and autonomy to local authorities. Instead of giving directions to them, I would rather allow them to make decisions for themselves, particularly when it comes to local and regional roads.

**Deputy Jim Daly:** I thank the Minister. I also acknowledge his proactive steps to date in allowing discretion in this area. That is very much welcomed by the area engineers on the ground and increased discretion will always be welcome.

However, we have a responsibility to the taxpayer and €330 million is being poured into the roads on resurfacing and doing minor maintenance works in many cases. Anybody who works on the roads or uses them will agree that the water needs to be taken off the roads. For the past 20 years the local authorities have not taken the water off the roads. They have not cleared the drains and have not allowed the drainage to occur. While that continues, all the money we pour into local roads will be wasted. I hope the Minister takes a more proactive role. While I take his point about local government reform, if the Department is allocating €330 million we have a responsibility to ensure that at the very least there should be a prerequisite that the water should be taken off the roads to ensure that any maintenance works will last into the future.

**Deputy Leo Varadkar:** It is worth pointing out that the €330 million represents the State road grants that come from the Department via the motor tax. Local authorities can add their own resources to that - some are very good and some are very bad. For every €1 that the Government gives Fingal County Council for local and regional roads, that council matches it with €2. Other counties are considerably worse - only matching every €1 from central government with 10 cent. There is a big issue for candidates in the local authority elections to commit to putting more of their discretionary resources into roads, particularly when it comes to the property tax revenues, 80% of which will stay local from next year. I encourage Deputies to make that point to councillors and county managers when they meet them.

The bigger-picture problem here is, of course, that even with the money allocated by the Department and that put in by the local authorities, it is simply not enough. We are well short of where we need to be in terms of road maintenance. I am concerned that because of inadequate resources we are storing up bigger problems for the future.

*Question No. 9 answered with Question No. 7.*

### **Community Involvement Scheme**

10. **Deputy Pat Breen** asked the Minister for Transport, Tourism and Sport if he will provide an update on the community involvement scheme; if the scheme will be re-introduced this year; and when he expects funding to be made available to local authorities for same. [15043/14]

16. **Deputy Marcella Corcoran Kennedy** asked the Minister for Transport, Tourism and Sport if he will run a community involvement scheme in 2014; and when local authorities will be informed of the matter. [15119/14]

17. **Deputy Anthony Lawlor** asked the Minister for Transport, Tourism and Sport if he will run a community involvement scheme in 2014 and when local authorities will be informed on the matter. [15045/14]

22. **Deputy Seán Kyne** asked the Minister for Transport, Tourism and Sport if he intends on operating a community involvement scheme for 2014; the types of projects that would be eligible under the scheme; and when it is envisaged that local authorities will be notified. [15126/14]

32. **Deputy Pat Deering** asked the Minister for Transport, Tourism and Sport when the review of the community involvement scheme will be complete; if there will be an allocation of funding for the current year; if so, when same will be announced; if he will consider a similar review of the local improvement scheme to include local contributions and voluntary labour; and if he will make a statement on the matter. [14992/14]

57. **Deputy Martin Heydon** asked the Minister for Transport, Tourism and Sport if he will run a community involvement scheme in 2014 in view of the useful projects completed in 2013; if so, when local authorities will be informed; and if he will make a statement on the matter. [15123/14]

**Deputy Pat Breen:** This is an issue that affects many rural Deputies and I understand that a number of Deputies have tabled similar questions. The success of the community involvement scheme last year, particularly in my county, Clare, was tremendous. Many roads that would not normally be maintained were covered by the scheme, including culs-de-sac and yellow roads.

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I ask the Minister to continue the scheme in 2014. In 2013, some €2.3 million was allocated to the scheme, which proved a tremendous success.

**An Ceann Comhairle:** I thank the Deputy.

**Deputy Pat Breen:** Even the engineers in Clare County Council welcome it. I ask the Minister to continue it this year and perhaps provide additional funding to continue the good work done by local authorities.

**An Ceann Comhairle:** We are running short of time and I understand the Minister is taking a number of questions together.

**Deputy Timmy Dooley:** There are so many of them with the same question, it is clear the answer is going to be positive. The Minister is still trying to tell me he does not co-ordinate the questions.

**Deputy Leo Varadkar:** Deputy Dooley is very cynical.

**An Ceann Comhairle:** We are wasting time.

**Deputy Timmy Dooley:** I would say the press releases have gone out already.

**Deputy Leo Varadkar:** I propose to take Questions Nos. 10, 16, 17, 22, 32 and 57 together.

The improvement and maintenance of regional and local roads in this area is a statutory function of each road authority. Works on such roads are a matter for the relevant local authority to be funded from its own resources, supplemented by State road grants. The initial selection and prioritisation of works to be funded is also a matter for the local authority.

My Department launched a pilot community involvement scheme, CIS, in 2013 for works on regional and local roads. The scheme was aimed at works on local roads which would usually only be considered for funding towards the end of a council's road programme after routes with heavier traffic volumes had been dealt with. This is a voluntary scheme and is based on community contributions in the range of 20% to 50%.

I allocated more than €2.3 million to a number of local authorities in 2014 for previously committed CIS schemes. Following the recent review of the operation of the CIS in 2013, I am pleased to say the findings indicate the pilot scheme proved to be a success. Overall works with a value of almost €9 million were undertaken at a cost to the State of €6.64 million. A total of 299 schemes were completed in 2013, resulting in more than 173 km of improved roads.

Given the success of the scheme in 2013 in making available moneys go further, I can confirm that I have decided to allocate additional funding of €4.5 million to local authorities in 2014 for CIS. This extra funding, combined with the €2.3 million allocated in 2014, could see 170 km of additional road improvements. The Department will shortly contact local authorities seeking applications for funding under the 2014 scheme.

Separately, I will not be considering a similar pilot for the local improvements scheme, LIS. I have given local authorities considerable flexibility whereby they may use up to 15% of their discretionary grant, should they wish to do so, towards works on roads that have not been taken in charge. The local contribution for these schemes is 20% of the total cost of the project. In excess of €10 million is available in 2014 for the LIS should local authorities wish to allocate

funds from their discretionary grant to such projects.

**Deputy Pat Breen:** I thank the Minister for the funding for the scheme this year. It is very good to put in place another €4.5 million, which as he said, will cover 170 km of road. It is very welcome and good news for rural Ireland. I thank the Minister again.

**Deputy Marcella Corcoran Kennedy:** Is it the intention of the Minister to have the community involvement scheme as a permanent feature of the roads programme? This would give the local authorities a great opportunity to plan ahead for a two year or three year programme. When I was on Offaly County Council, the community involvement road works scheme, as it was known, was one on which we were able to plan ahead because we knew it was coming in for each roads allocation. I very much welcome this allocation of almost €7 million, which will be very much welcomed by the local authorities.

**Deputy Anthony Lawlor:** Like my colleagues, I welcome this funding. When does the Minister expect to allocate the money to the various counties? Will he write to the counties that have a poor record in taking up this scheme? I particularly refer to my county of Kildare, where last year only two schemes were taken on board. I urge them to be more proactive on an issue such as this.

**Deputy Pat Deering:** I welcome the scheme. How will the money be distributed? Will it be according to the number of schemes per county or so much per county? While I welcome the money that has been allocated, I am disappointed with the Minister's answer in regard to the LIS. In the past, all the roads schemes were considered as one. Some schemes were taken in charge by the council and others were not, and there is also the question of private roads versus public roads given it is very difficult to distinguish between one and the other. Will the Minister reconsider the LIS based on the same principles as the CIS?

**Deputy Seán Kyne:** I welcome the Minister's response on the additional €4.5 million. It is one of the better schemes. Having lodged applications and gone out to landowners in regard to taking in bad bends and bad corners, I know some good work has been done in my county of Galway, especially in my area. It goes down very well with the public and is also very positive in terms of improving road safety. Will the dedication of land still be allowed under that scheme or will it be required that hard cash is given over for these improvements?

**Deputy Martin Heydon:** I thank the Minister for his positive response. Following on from Deputy Lawlor, it is correct that Kildare County Council only had two applications last year, which was a source of great frustration for us. The point to make is that both were fully utilised and the sum of approximately €40,000 was money well spent on both projects. The extension of the CIS and the extra injection of funds is something we will be better placed to take up in the coming year. I agree it is very important the Minister would write to the local authorities as soon as possible to make them aware of this. The success of last year's project and the positive results in the review mean this makes a lot of sense if one lives on one of these roads. People have shown an appetite to make a small contribution towards fixing up a road that would otherwise not get done. It is a practical solution and one I very much welcome.

**Deputy Leo Varadkar:** I will certainly consider putting it on a permanent footing. It was always intended to be a two year pilot. We will be coming to the end of the two years shortly and we will put it on a permanent footing so long as things continue to work well this year.

I do not have all the details of the scheme but contact will be made with the local authorities

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in the next few weeks with all the details, and I will ask that this be copied to Deputies. We will certainly put pressure on or encourage councils to apply. As was pointed out by the Deputies from Kildare, only two schemes were funded in Kildare as against 19 in Meath, for example, and while there was one in Waterford, there were 29 in Cavan. There is certainly more scope for applications from different counties.

I acknowledge the role of the Minister of State, Deputy Kelly, in this regard. While the funding comes from the roads budget, which is under my control, the initial initiative for this scheme came from him last May. I want to put that on the record.

*Written Answers follow Adjournment.*

### **Companies Bill 2012: Report Stage (Resumed)**

**An Leas-Cheann Comhairle:** I ask the Minister of State to move amendment No. 152.

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Sean Sherlock):** Before I move that amendment, I want to make a note for the record. There was a mix-up on amendment No. 149. I explained the purpose of this amendment to the House believing that we were on amendment No. 149. However, we had, in fact, moved on to amendment No. 150; we were going that quickly. Therefore, I would like to note for the record that the explanation given at amendment No. 150 should have been attributed to amendment No. 149. There is no knock-on effect as amendments Nos. 150 and 151 were grouped and discussed together, so the explanation provided on amendment No. 151 refers also to amendment No. 150.

**An Leas-Cheann Comhairle:** I thank the Minister of State.

**Deputy Sean Sherlock:** I move amendment No. 152:

In page 383, lines 23 and 24, to delete all words from and including “after” in line 23 down to and including “creditor,” in line 24 and substitute the following:

“after giving notice to the person who, for the time being, stands registered as the person entitled to such charge or to the judgment creditor,”.

The purpose of this amendment is to allow notice of satisfaction of a charge to be served upon the person when registered as entitled to the charge where the Companies Registration Office has been statutorily notified that there has been a change of lender. As the Bill stands, the notice of satisfaction of a charge must be given to the person to whom the charge was “originally given”. This is inappropriate given that updating of the register will be allowed under section 410(8) of the Bill.

It is more appropriate for the notice of satisfaction of charge to be served on the person then registered as entitled to the charge as if there has been a charge, the original holder will no longer have an interest.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 153 and 170 are related and may be discussed together by agreement.

**Deputy Sean Sherlock:** I move amendment No. 153:

In page 391, lines 34 and 35, to delete “and by the person who is at that date the secretary”.

The purpose of these amendments is to remove the mandatory requirement for the secretary to sign the statement of affairs in cases where the directors are obliged to give such a statement to the receiver or liquidator.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 154:

In page 405, line 16, after “application” to insert “, at any time,”.

The purpose of the amendment is to clarify that a court may on application and at any time order a scheme of meetings of the creditors or members to be summoned in such a manner as the court directs. The court is given discretion to order scheme meetings to be summoned in such a manner as it directs. This section deals with the convening of scheme meetings by directors and the power of the court to summon such meetings.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 155 and 156 are cognate and may be discussed together by agreement.

**Deputy Sean Sherlock:** I move amendment No. 155:

In page 408, lines 14 and 15, to delete “and of the assets or liabilities” and substitute “, assets or liabilities”.

The purpose of these minor typographical amendments is to bring the section in line with existing law regarding the undertaking assets and liabilities of a company in the reconstruction and amalgamation of a company.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 156:

In page 408, lines 21 and 22, to delete “and of the assets or liabilities” and substitute “, assets or liabilities”.

The purpose of amendment No. 156 is to remove the specific cross reference to chapter 15 of Part 11. The provisions of chapter 15 of Part 11 do not apply to acquisitions.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 157:

In page 409, to delete line 36.



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Forgive me - I am racing ahead of myself again. For clarification, the explanation I previously gave was the explanation for amendment No. 157.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 158:

In page 412, line 12, to delete “her.” and substitute the following:

“her; or

(iv) if the conditions specified in *subsection (2)* are satisfied, by electronic means.

(2) The conditions referred to in *subsection (1)(b)(iv)* are—

(a) the shareholder has consented in writing to the offeror’s using electronic means to give notices in relation to him or her,

(b) at the time the electronic means are used to give the notice or notices in relation to the shareholder, no notice in writing has been received by the offeror from the shareholder stating he or she has withdrawn the consent referred to in *paragraph (a)*, and

(c) the particular means used to give the notice or notices electronically are those that the shareholder has consented to.”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 159:

In page 413, line 14, to delete “*section 458(7)*” and substitute “*section 458(7)(a)*”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 160:

In page 413, line 20, after “shall” to insert the following:

“, within 30 days after the date on which the offeror becomes so bound or, if an application to the court by a dissenting shareholder is then pending, as soon as may be after that application is disposed of”.

This amendment specifies a time period within which subsection 5 must be complied with. The section as it stands currently is silent in this regard.

**Deputy Dara Calleary:** Does putting a time period in represent a change to current legislation?

**Deputy Sean Sherlock:** The section is based on existing law. Therefore, in the interests of certainty and maintaining existing law, the amendment reinstates the original time limit of 30 days.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 161:

In page 424, between lines 30 and 31, to insert the following:

“(a) *section 480* (preservation of rights of holders of securities),”.

The purpose of this amendment is to include a reference to the application of section 480 where the summary approval procedure is employed. As the Bill currently stands, the application of section of section 480 is excluded. This is not what was intended. Without the amendment, the rights of the creditors may be infringed.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 162 to 165, inclusive, and No. 167 are related and may be discussed together by agreement.

**Deputy Sean Sherlock:** I move amendment No. 162:

In page 450, to delete lines 25 and 26 and substitute the following:

“(b) in the case of a company that, in respect of the latest financial year of the company that has ended prior to the date of the presentation of the petition, fell to be treated as a small company by virtue of *section 351*, the Circuit Court,”.

The purpose of these amendments is to consolidate section 2 of the Companies (Miscellaneous Provisions) Act 2013 into this Bill.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 163:

In page 450, line 28, before “all” to insert “subject to subsection (9),”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 164:

In page 450, between lines 35 and 36, to insert the following:

“(8) For the purpose of *paragraph (b) of subsection (7)*, if the latest financial year of the company concerned ended within 3 months prior to the date of the presentation of the petition, the reference in that paragraph to the latest financial year of the company shall be read as a reference to the financial year of the company that preceded its latest financial year (but that reference shall only be so read if that preceding financial year ended no more than 15 months prior to the date of the presentation of the petition).

(9) *Subsection (7)* does not confer on the Circuit Court any jurisdiction that is provided under this Part to hear a petition for the winding up of, or to wind up, a company.”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 165:

In page 451, line 8, to delete “or certificate”.

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Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 166:

In page 451, line 25, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 167:

In page 456, to delete lines 16 to 19 and substitute the following:

“(8) The Circuit Court shall only have jurisdiction to make an order referred to in *subsection (1)(a)* or *(b)* if the related company is a company that, in respect of the latest financial year of it that has ended prior to the relevant time referred to in *subsection (1)*, fell to be treated as a small company by virtue of *section 351*.

(9) For the purposes of *subsection (8)*, if the latest financial year of the company concerned ended within 3 months prior to the relevant time referred to in *subsection (1)*, the reference in *subsection (8)* to the latest financial year of the company shall be read as a reference to the financial year of the company that preceded its latest financial year (but that reference shall only be so read if that preceding financial year ended no more than 15 months prior to the relevant time referred to in *subsection (1)*).”.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 168, 169 and 175 are related and may be discussed together by agreement.

**Deputy Peadar Tóibín:** I move amendment No. 168:

In page 488, line 2, after “due,” to insert “or in the case of an employee or a group of employees a sum exceeding €1,500,”.

Legislation is complex at the best of times but this Bill is so cumbersome, it is very difficult to have proper oversight. I ask the Government not to produce any Bills this size again. Will the Minister of State be accepting any amendments provided by the Opposition?

Some of these amendments relate to the amounts of money in respect of which people can act. There is a significant change that relates specifically to the minimum amount of indebtedness entitling a creditor to petition a company that is wound up and that increases the amount from €1,269 to €10,000. At the moment, anybody who owes over that initial figure can petition the wind-up of a company. This amount has been increased to €10,000, which will impact unfairly on lower income employees who obviously do not have €10,000 of indebtedness and will render them unable to act.

Amendment No. 169 seeks the insertion of a formula of words which would increase the responsibility of the individuals working within the firm. The amendment states that:

Where a breach of employment law is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been attributable to any neglect on the part of, a person who, when the breach was committed, was a director, manager, secretary or other

similar officer of the body corporate or a person who was purporting to act in any such capacity, that person (as well as the body corporate) shall be liable to be proceeded against as if guilty of the breach committed by the body corporate.

The amendment seeks to do what it says on the tin. It seeks to hold people to account.

Amendment No. 175 focuses on the issues of preferential creditors in a wind-up. While it appears to broadly reflect the provisions of section 285 of the 1963 Act, the total amount payable to the employee creditor has been increased from €300 to €10,000 in 2014. In reality, this is very low and we could do with raising it to a higher figure, for example, €40,000, which is just above the average industrial wage.

**Deputy Sean Sherlock:** In respect of the question posed by Deputy Tóibín as to whether or not we will take any amendments on board, the amendments are put forward and we respond to them. We have taken a clear position on them and believe that the legislative process is such that it produces robust legislation. However, there are some points we can consider for Seanad Stage in the Seanad. We may look at the court of jurisdiction, which is an area raised by the Deputy in connection with employee issues.

In response to the amendments put forward as they are grouped, we are not in favour of adopting these amendments. We must keep reiterating that the Bill is only concerned with company law. In general terms, company law concerns itself with the fiduciary duties a director owes to the company alone while recognising that a director ought to have regard to the interests of his or her employees. It would be wholly inappropriate to include the proposed provisions in the Bill.

*11 o'clock*

Legislation governing employee rights should be considered in the context of employment law. We have stated this several times in the context of other amendments tabled by Opposition Deputies. By addressing such a matter in a company Bill, the provision is not providing protection for all employees, such as sole traders or those working in partnerships.

Second, employment law already provides for redress in less cumbersome and costly fora than the High Court. Third, and equally importantly, it must also be borne in mind that company law must balance the rights of all creditors, many of whom are employers in their own right, in winding-up situations. I appreciate what the Deputy is attempting to achieve with these proposed amendments but the simple fact is that company law is not the correct vehicle for these ambitions. Therefore, we are not in favour of these amendments.

Amendment No. 168 suggests that a company may be wound up in court where it owes an employee or a group of employees more than €1,500. The Bill sets the limit at €10,000, as it was considered that a greater balance and proportionality must be achieved in circumstances where the severe sanction of wind-up is concerned. The section does not distinguish between an employee and any other creditor. In the circumstances, any creditor is entitled to issue a letter demanding payment and if, after 21 days, such payment has not been received the creditor is entitled to petition the High Court. I am sure the Deputies present can appreciate that petitioning the High Court is not a simple or low-cost exercise. It would have to be questioned whether winding-up is really the most effective way to settle a debt of €1,500. It must also be borne in mind that there are provisions in both employment and health and safety law, alongside common law remedies, which already provide for the type of situation described. For example,

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the Payment of Wages Act 1991 provides more efficient remedies for employees who have not been paid their wages than an attempt to have the company wound up in the High Court, with all of the associated costs.

Amendment No. 169 would fail in substance as prosecutions thereunder would be doomed to fail due to the ambiguity of the phrase “breaches of employment law”. There is no indication as to what is meant by this. Such provisions are workable but only in the context of the specific and appropriate enactment, where the transgressions are clearly identified or identifiable. Finally, the amendment proposes that the separate legal personality of the company would be proceeded against for a transgression of civil law rather than criminal law. In all of the other circumstances where this phrase is used, as with health and safety legislation, for example, it requires a criminal offence.

Amendment No. 175 suggests that the value of the preferential treatment of employees should be increased to €40,000. The principal benefactors of section 622 are the employees of the company and the Revenue Commissioners. The period for which the calculation is based, in the context of employee salaries or wages in respect of services rendered, is four months before an order to wind up, the appointment of a provisional liquidator or a passing of the resolution for the winding up of the company is made. The sum of €10,000 is considered to offer sufficient protection for employees in these circumstances.

I understand the Deputy’s intention with these amendments. However, we also need to consider that there are other creditors whose rights must be protected in a winding-up situation. The Bill seeks to offer a fair balance to all.

**Deputy Peadar Tóibín:** In the context of amendment No. 169, the Minister of State pointed out that the transgressions are not identified within the amendment. If those transgressions were identified in an amendment, would the Minister of State have a change of heart during the course of the debate in the Seanad on this Bill? I understand that the Minister of State is not seeking to create a body of employment law within this particular Bill. However, the Bill offers us an opportunity to strengthen employee rights and to ensure that individuals who have been mistreated by unscrupulous employers and companies have an opportunity to hold those companies to account - for reasonable amounts of money - in the wind-up process and elsewhere. While the Minister of State is correct that an approach to the High Court would be a very unwieldy and difficult activity for an individual to proceed with, the very fact that employees’ rights are written in law would encourage most companies to take those rights more seriously. Therefore, the law in its own right serves as a guideline for the proper functioning of society. It is only in a small minority of cases that it is necessary to pursue that law through the courts.

**Deputy Sean Sherlock:** How would one set out in a schedule what constitutes a transgression? There is a multitude, if not an infinite amount, of potential transgressions. Perhaps the Deputy could articulate exactly how he would propose to do that in advance of the debate in the Seanad. Without being facetious, perhaps he would also outline why the transgressions were not articulated in his amendment.

**Deputy Peadar Tóibín:** I do not want to labour the point but we did not do that because, as the Minister of State pointed out, there could be a multitude of transgressions, most of which are encompassed within existing employment law. That is why the reference to employment law is in the amendment.

**An Leas-Cheann Comhairle:** Is the Deputy pressing the amendment?

**Deputy Peadar Tóibín:** Yes, I am.

**Deputy Sean Sherlock:** Excuse me, but the Deputy makes the point for us in his last submission. Transgressions, where they occur, are already sanctioned. For instance, health and safety related transgressions are defined and sanctioned within health and safety law. The same applies to employment law. Having said that, I respect the point the Deputy is making and accept that he wishes to press the amendment.

Amendment put and declared lost.

**Deputy Peadar Tóibín:** I move amendment No. 169:

In page 488, between lines 20 and 21, to insert the following:

“**572.** Where a breach of employment law is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been attributable to any neglect on the part of, a person who, when the breach was committed, was a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, that person (as well as the body corporate) shall be liable to be proceeded against as if guilty of the breach committed by the body corporate.”.

Amendment put and declared lost.

**Deputy Sean Sherlock:** I move amendment No. 170:

In page 498, line 38, to delete “, and by the person who is at that date the secretary,”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 171:

In page 503, line 37, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 172:

In page 505, line 6, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 173:

In page 506, line 35, to delete “*section 667(3)*” and substitute “*section 678(3)*”.

The purpose of this amendment is to correct an incorrect reference in section 603(2)(b).

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 174:

In page 522, to delete lines 9 to 18 and substitute the following:

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“(ii) each tax assessable on, in relation to, or by the company under the Taxes Consolidation Act 1997 in respect of, or apportioned on a time basis to, a period ending on or before the relevant date, for which the tax concerned is due and payable, but the particular period (in respect of which priority under this subparagraph for the tax concerned is claimed) shall not be of more than 12 months duration;”.

The purpose of this amendment is to further clarify the 12 month priority period in section 622(2)(a)(ii). The wording used in the Committee Stage amendment was identified as being potentially problematic as it changed the common law position on this matter. This amendment purports to revert to the current established practice whereby the Revenue Commissioners determine the appropriate 12 month period.

Amendment agreed to.

**Deputy Peadar Tóibín:** I move amendment No. 175:

In page 523, line 42, to delete “€10,000” and substitute “€40,000”.

Amendment put and declared lost.

**Deputy Sean Sherlock:** I move amendment No. 176:

In page 586, line 39, to delete “30 days” and substitute “3 months”.

The purpose of the amendment is to extend the time period of validity for the Revenue Commissioners’ letter of no objection in a voluntary strike off.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 177:

In page 602, line 18, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 178:

In page 603, line 5, to delete “*section 749(1)*” and substitute “*section 748(1) or 749(1)*”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 179:

In page 603, line 6, to delete “under this Part” and substitute “by virtue of the performance by him or her of functions (whether under this Part or otherwise)”.

The purpose of the amendment is to clarify that the Director of Corporate Enforcement may obtain information or documents in the exercise of his or her functions under the law.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 180:

In page 612, line 12, after “been” to insert “, are”.

The purpose of the amendment is to correct an error and reflect the existing law by inserting the word “, are” after the word “been”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 181:

In page 625, between lines 36 and 37, to insert the following:

“(g) the Revenue Commissioners;”.

The purpose of the amendment is to include the Revenue Commissioners in the list of competent authorities that any information, book or document relating to a company that has been obtained under sections 779 to 781, 784 or 788 may be disclosed without the consent of the company.

Amendment agreed to.

**Deputy Dara Calleary:** I move amendment No. 182:

In page 630, between lines 4 and 5, to insert the following:

“**798.** The Minister shall, within three months of the enactment of this Act, publish a report on the adequacy of the resources available to—

(a) the Companies Registration Office, and

(b) the Office of the Director of Corporate Enforcement,

and such report shall detail the areas in which resources need to be increased in order to allow both agencies to adequately deal with each agency’s area of responsibility.”.

This is an enormous piece of legislation which will bring huge changes to the way in which companies are run. On several occasions we have expressed a concern over whether the Companies Registration Office and the Office of the Director of Corporate Enforcement will be adequately resourced to enforce this legislation and, more important, to run an information campaign on the legislation. This book is only a part of it. A huge amount of work has gone into it, placing major new responsibilities on people. I believe it is necessary to insert in the legislation that a report will be published on the adequacy of the resources in order that we can be sure the Act is being pursued, information is being provided and resources are available to both offices to do so.

**Deputy Sean Sherlock:** I respect that the Deputy raised this matter in some detail on Committee Stage when we opposed the amendment. The staffing needs of the offices of my Department are kept under constant review, including through participation in the workforce planning process initiated by the Department of Public Expenditure and Reform in 2012. That process required all areas of my Department to provide detailed information on current staffing resources and to estimate the predicted skills needs of each area up to 2015. The offices of my Department are subject to the same constraints and pressures that apply generally across my Department. The moratorium on recruitment and the need to reduce staff numbers to comply with challenging targets imposed by the employment control framework mean that there is little scope to increase staff resources in response to what might otherwise be regarded as a legitimate case for increased resources. Assignments in my Department are made by reference to the



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priority needs of the Department and its offices as a whole. This will remain the case. On that basis I am not in favour of the amendment.

**Deputy Dara Calleary:** The Department has many priority needs. This revision is a project that has been in operation for 12 or 14 years. An enormous amount of work has gone into it. It is too much to expect businesses suddenly to introduce all the changes that will come upon them once the Seanad passes this Bill. The Department's agencies are struggling to do their job and are stretched as it is. If we are serious about this legislation providing information, which will be the one potential deficit in the next 14 months, some sort of commitment to extra resources should be given. The Department of Public Expenditure and Reform should be involved in that conversation in order to take this legislation seriously. We have been let down by gaps in company law for some years, but this legislation will remedy a lot of those gaps. There is no sense in having the solution if people do not know about it.

**Deputy Sean Sherlock:** The Deputy will be aware that there is a transition period of 18 months and there will also be an appropriate commencement period. I am confident those involved in all the agencies across my Department will be well equipped when the time comes to get the message out. The Companies Registration Office is well under way in terms of planning the information campaign and all the inherent publicity planning that goes with it. The Department is also proactively providing information to Deputies as this process unfurls.

We have had a number of seminars throughout the country - I was at one in Cork yesterday - entitled "Taking care of business". More than 27 State agencies and Departments are offering valuable information to people in their own geographical areas. I have great faith in the ability of my Department and its member organisations to get the message out. They can also deal with any queries that come in, no matter how difficult or complex they are.

Amendment, by leave, withdrawn.

**Deputy Sean Sherlock:** I move amendment No. 183:

In page 654, after line 41, to insert the following:

"(5) This section shall also apply to the additional case that, by virtue of *subsection (9) of section 151, subsection (1) of section 151* applies to.

(6) For the purposes of the application of this section to the foregoing additional case, this section shall have effect subject to the following modifications:

(a) the following definition shall be substituted for the definition of "relevant change amongst its directors" in *subsection (1)*:

" 'relevant change amongst its directors', in relation to a company, means the change referred to in *subsection (1) of section 151* (as that subsection applies by virtue of *subsection (9) of that section*), namely the case of a person appointed a director of a company before the commencement of that section and who, subsequent to his or her appointment but before that commencement, becomes disqualified under the law of another state (whether pursuant to an order of a judge or a tribunal or otherwise) from being appointed or acting as director or secretary of a body corporate or an undertaking;"

(b) in *subsection (2)*, after "*section 150(8)*" there shall be inserted "(as that provi-

sion applies by virtue of *section 151(10)*”;

(c) in *subsection (3)(a)*, there shall be substituted the following for *subparagraph (i)*:

“(i) in the case of a failure referred to in *subsection (2)(a)*, on the expiry of 3 months after the commencement of *section 151*; or”;

and

(d) in *subsection (3)(b)*, there shall be substituted the following for *subparagraph (i)*:

“(i) the period of foreign disqualification as remains unexpired as at the date that is specified in *paragraph (a)* to be the date on which the period of disqualification commences;”.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 184 and 185 are related and may be discussed together.

**Deputy Sean Sherlock:** I move amendment No. 184:

In page 673, to delete lines 15 to 17 and substitute the following:

“(b) *section 791*; or

(c) *section 877*.”.

The purpose of this amendment is to remove the reference to the offence under section 878. As the Bill stands, the reference to section 878 is contradictory as the offence of destruction, mutilation or falsification of any book or document can only be committed by an officer of the company and not by the body corporate itself. This section applies where an offence is committed by a body corporate. As regards offences relating to producing, disclosing, destroying or falsifying books or documents belonging to the company, in such cases where the offence can be proven to have been committed with the consent or connivance, or due to the neglect of an officer of the company, that officer together with the body corporate will be guilty of the offence.

Where the affairs of the body corporate are managed by its members, this section will apply to those members as if they were a director or manager of the company. This derives from section 241 of the Companies Act 1990.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 185:

In page 673, lines 18 and 19, to delete “*section 786, 791, 877 or 878*” and substitute “*section 786, 791 or 877*”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 186:

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In page 673, line 37, to delete “fine not exceeding €1,000” and substitute “class D fine”.

The function of this amendment is to take account of the fact that “not exceeding €1,000” fine formulations are now dealt with by the “class D” fine in the Fines Act 2010. This section provides that if the contravention in respect of which a person is convicted of an offence under this Bill is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues. This derives from section 240(6) of the Companies Act 1990.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 187:

In page 678, line 13, to delete “such” and substitute “such book or”.

The purpose of this amendment is to correct a missing reference in section 878(1)(b) that ought to read “book or document”. The section provides a category offence for the destruction, mutilation and falsification of a book or document affecting or relating to the property or affairs of the company.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 188:

In page 681, line 2, to delete “*subsection (2)*” and substitute “*subsection (1)*”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 189:

In page 682, line 35, to delete “*section 725*” and substitute “*section 448 or 725*”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 190:

In page 688, between lines 13 and 14, to insert the following:

“(3) For the purposes of communications between registers through the system of interconnection of registers, the Registrar shall assign to each company a unique identifier which shall include elements to identify the company as a company in the State, to identify the number assigned to the company in the register and other appropriate elements to avoid identification errors.

(4) The Registrar shall make available, through the system of interconnection of registers, electronic copies of the documents and particulars of companies referred to in Article 2 of Directive 2009/101/EC.

(5) The Registrar shall ensure that any changes to those documents and particulars, other than changes to the accounting documents referred to in Article 2(f) of Directive 2009/101/EC, are entered into the register and disclosed within 21 days after the date of receipt of the complete documentation regarding those changes.

(6) The Registrar shall make available, without delay, through the system of inter-

connection of registers, information on the opening and termination of winding up or insolvency proceedings of a company on the register and on the striking-off of a company from the register.”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 191:

In page 688, to delete lines 32 to 35 and substitute the following:

**“Disposal of documents filed with Registrar**

**895.** (1) The Registrar may, as respects any document that has (whether pursuant to this Act or the prior Companies Acts) been received and recorded by the Registrar, destroy the document if the following conditions are satisfied—

(a) 6 or more years have elapsed after the date of its receipt by him or her, and

(b) its destruction is authorised by the Director of the National Archives under section 7 of the National Archives Act 1986,

but this is subject to *subsection (2)*.

(2) Without prejudice to *subsection (3)*, for so long as a company’s existence is recorded in the register, and for a period of 20 years after the date of its dissolution, the Registrar shall keep in electronic form a copy of every document that, in relation to that company, has been received and recorded (whether pursuant to this Act or the prior Companies Acts) by the Registrar and the keeping of such copy in that form shall be such as to ensure the authenticity and accuracy of the data and that the data may be reliably accessed.

(3) On and from the expiry of 20 years after the date of its dissolution, a copy of every document kept, in relation to a company, by the Registrar under *subsection (2)*, and in the form specified therein, shall be kept and maintained by the Registrar in an archival database comprising the records of companies, the length of the period of dissolution of which stands at 20 or more years.

(4) The means of keeping, in electronic form, the archival database referred to in *subsection (3)* shall be such as are, in the opinion of the Registrar (after consultation with the Director of the National Archives), best calculated to preserve and maintain the integrity of the data.”.

The purpose of the amendment is to provide for the destruction of documents received and recorded by the registrar.

Such destruction must be authorised by the director of the National Archives under section 7 of the National Archives Act 1986 and a period of more than six years will have elapsed following its receipt by the registrar.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 192 to 196, inclusive, and 272 are related and may be discussed together by agreement.

**Deputy Sean Sherlock:** I move amendment No. 192:

In page 703, between lines 27 and 28, to insert the following:

**“Funding in respect of functions of Supervisory Authority under certain regulations**

**919.** (1) In this section “public-interest entities” has the same meaning as in Regulation 3 of the 2010 Audits Regulations.

(2) For the purposes specified in *subsection (3)*, the Supervisory Authority may impose, with the Minister’s consent and subject to *subsections (4) to (6)*, one or more levies in each financial year of the Supervisory Authority on statutory auditors and audit firms auditing public-interest entities.

(3) Money received by the Supervisory Authority under this section may be used only for the purposes of meeting expenses properly incurred by it in performing its functions under Regulations 83 and 84 of the 2010 Audits Regulations and under any other Regulations of those Regulations that contain consequential or incidental provisions on, or in relation to, those Regulations 83 and 84.

(4) In addition to the requirement under *subsection (2)* with regard to the Minister’s consent, the total amount levied in any financial year of the Supervisory Authority on statutory auditors and audit firms shall not exceed an amount in relation to that year specified in writing by the Minister for the purposes of this subsection.

(5) The Supervisory Authority shall—

(a) establish criteria for apportioning a levy among the several statutory auditors and audit firms auditing public-interest entities,

(b) submit the criteria to the Minister for approval before imposing the levy, and

(c) specify the date on which the levy is due to be paid by the relevant statutory auditors and audit firms.

(6) As a consequence of the apportionment of the levy under *subsection (5)*, different statutory auditors and audit firms may be required to pay different amounts of the levy.

(7) Notwithstanding that the particular audit of a public-interest entity has been carried out by a statutory auditor, no levy under this section shall be imposed on the statutory auditor if he or she was designated by a statutory audit firm to carry out the audit, and the levy under this section shall, in those circumstances, be imposed on the statutory audit firm instead.

(8) The Supervisory Authority may recover, as a simple contract debt in any court of competent jurisdiction, from a statutory auditor or audit firm from which the levy is due, a levy imposed under this section.”.

The purpose of this group of amendments is to consolidate sections 6 and 7 of the Companies (Miscellaneous Provisions) Act 2013 and incorporate them in the Bill. Section 6 of the 2013 Act added the Insolvency Service of Ireland to the list of bodies which may share information with the director. The section restates that notwithstanding any other law, the Competition

Authority, members of An Garda Síochána, officers of the Revenue Commissioners and the Takeover Panel and other persons that may be prescribed may disclose information to the director or his officers about the commission of an offence under the Companies Acts.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 193:

In page 704, lines 19 and 20, to delete “*sections 915(2) and 917*” and substitute “*sections 915(2), 917 and 919*”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 194:

In page 732, between lines 20 and 21, to insert the following:

“(d) the Insolvency Service of Ireland;”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 195:

In page 732, to delete lines 33 to 35 and substitute the following:

“(II) without prejudice to the generality of *clause (1)*, in a case where the making of an application for a disqualification order in relation to a particular person in accordance with *section 843(h)* is contemplated, whether and to what extent the matters mentioned in *section 844(3)* apply in the circumstances concerned.”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 196:

In page 732, to delete all words from and including “*subsection (1)—*” in line 36 down to and including “*shall,*” in page 733, line 4 and substitute “*subsection (1), an officer of the Revenue Commissioners shall,*”.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 197, 205, 243 and 253 are related and may be discussed together by agreement.

**Deputy Sean Sherlock:** I move amendment No. 197:

In page 744, line 19, to delete “*provision*” and substitute “*provision; and such a purchase may be so ordered notwithstanding anything in section 103*”.

The purpose of the grouped amendments is clarification. Amendment No. 197 provides that a court order for the purchase of the designated activity company, or DAC, and the shares of any members of the DAC and the reduction of the DAC’s company capital may be made notwithstanding anything in section 103. The amendment purports to clarify that a DAC may continue in accordance with existing law deriving from section 10(1) to 10(6)(a) of the Companies Act 1963 to alter its objects clause by special resolution subject to the provision in the section. An

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application may be made to the court for the alteration to be cancelled and, in such a case, the alteration will not have effect except in so far as it is confirmed by the court.

Amendment No. 205 provides that a court order for the purchase of the public limited company and the shares of any of its members and the reduction accordingly of the company's capital may be made notwithstanding anything in section 103. Amendment No. 243 provides that a court order for the purchase of the ULC or PUC and the shares of any member and the reduction accordingly of such company's capital may be made notwithstanding anything in section 103.

The purpose of amendment No. 253 is to clarify the court's jurisdiction to alter the public limited company's or resultant company's constitution and make provision for the purchase of the shares of any of its members. The amendment purports to replicate existing law on this matter. Section 103, which is substantially unchanged from the existing law, sets out the power to acquire shares in positive terms. A company may not acquire its own shares other than in accordance with the section. Any default of the rules is deemed to be a category 2 offence and any such acquisition shall be void.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 198, 229 and 247 are related and may be discussed together by agreement.

**Deputy Sean Sherlock:** I move amendment No. 198:

In page 751, line 7, to delete "*Section 1086* shall apply to securities of a DAC as it applies" and substitute "*Sections 1085 to 1087* shall apply to securities of a DAC as they apply".

The purpose of amendment No. 198 is to correct the incorrect reference to sections which apply to designated activity companies, companies limited by guarantee and public unlimited companies. The purpose is to ensure that the current law relating to existing private companies limited by shares is extended to those companies also. Section 1084 deals with transfer of uncertified securities and re-enacts regulation 5 of the Companies Act 1990 (Uncertified Securities) Regulation 1996, SI 68/1996. Certain provisions of the current law requiring the execution under hand or seal of a document in writing for the transfer of property will not apply to the transfer of title of securities pursuant to section 12 of the Electronic Commerce Act 2005.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 199:

In page 753, line 19, to delete "shall appear in typeset, and not written, form" and substitute ", and any date or dates thereon, shall appear in typeset form".

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 200:

In page 753, line 25, after "signature" to insert "or of a date".

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 201:

In page 755, line 21, to delete “licensed bank” where it firstly occurs and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 202:

In page 755, line 21, to delete “licensed bank” where it secondly occurs and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 203:

In page 758, between lines 29 and 30, to insert the following:

“

<i>Voting by director in respect of contract, etc. in which director is interested</i>	<i>Section 162(7)</i>
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“

The purpose of the amendment is to disapply section 1627 from public limited companies. Subject to other provisions in the Bill, section 1067 allows directors of private limited companies to vote in respect of any contract, appointment or arrangement in which she or he is interested and she or he will be counted in the quorum at a meeting. It is not appropriate for public limited companies to have such a default provision applied to them. It is a matter the public limited company must address in its constitution, which shall take the form of a memorandum and articles of association.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 204:

In page 759, line 25, to delete “Europæ” and substitute “Europaea”.

The purpose of the amendment is to correct a spelling error.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 205:

In page 765, line 19, to delete “provision” and substitute “provision; and such a purchase may be so ordered notwithstanding anything in *section 103*”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 206:

In page 766, between lines 34 and 35, to insert the following:

**“Official seal for sealing securities**

**1019.** (1) A PLC may have for use, for sealing—



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(a) securities issued by the company, and

(b) documents creating or evidencing securities so issued, an official seal which is a facsimile of the common seal of the company with the addition on its face of the word “Securities” or the word “Urrúis”.

(2) Where a company was incorporated before 3 April 1978 and which has such an official seal as is mentioned in *subsection (1)*, the following provisions apply:

(a) the company may use the seal for sealing such securities and documents as are mentioned in that subsection notwithstanding anything in any instrument constituting or regulating the company or in any instrument made before 3 April 1978 which relates to any securities issued by the company; and

(b) any provision of an instrument referred to in *paragraph (a)* which requires any such securities or documents to be signed shall not apply to the securities or documents if they are sealed with that seal.”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 207:

In page 767, between lines 10 and 11, to insert the following:

**“Provisions as to shares transferable by delivery (general prohibition and provision for certain letters of allotment)**

**1020.** (1) The provisions of this section shall, in relation to a PLC, have effect in place of *subsections (8) to (10) of section 67*.

(2) In this section—

“bearer instrument” means an instrument, in relation to shares of a PLC, which entitles or purports to entitle the bearer thereof to transfer the shares that are specified in the instrument by delivery of the instrument, and includes a share warrant as that expression was defined by section 88 of the Act of 1963;

“expiry date”, in relation to a permissible letter of allotment, means a date no later than 30 days after the date of the instrument;

“permissible letter of allotment” means a letter of allotment by a PLC to a member of it of—

(a) bonus shares of the PLC, credited as fully paid;

(b) shares of the PLC, in lieu of a dividend, credited as fully paid; or

(c) shares of the PLC allotted provisionally, on which no amount has been paid or which are shares partly paid up, where the shares are allotted in connection with a rights issue or open offer in favour of members and the shares are issued proportionately (or as nearly as may be) to the respective number of shares held by the members of the PLC, there being disregarded for this purpose any exceptions to such proportionality, or arrangements for a deviation from such proportionality, as

the directors of the PLC may deem necessary or expedient to make for the purposes of dealing with—

(i) fractional entitlements; or

(ii) problems of a legal or practical nature arising under the laws of any territory or requirements imposed by any recognised regulatory body in any territory,

which letter is expressed to be transferable by delivery during a period expiring on its expiry date.

(3) Save as provided by this section, a PLC shall not have power to issue any bearer instrument.

(4) If a PLC purports to issue a bearer instrument in contravention of *subsection (3)*, the shares that are specified in the instrument shall be deemed not to have been allotted or issued, and the amount subscribed therefor (and in the case of a non-cash asset subscribed therefor, the cash value of that asset) shall be due as a debt of the PLC to the purported subscriber thereof.

(5) *Subsection (3)* shall not apply to an instrument falling within the definition of “permissible letter of allotment” in this section.

(6) Shares comprised in a permissible letter of allotment shall, until its expiry date, be transferable by renunciation and delivery of the letter, but subject to compliance with such conditions (if any) as may be specified in the letter.

(7) Where, on the commencement of this section, a PLC has in issue a bearer instrument in relation to shares of the PLC, other than a permissible letter of allotment—

(a) the PLC shall procure the entry in its register of members of the name of the holder or holders of those shares no later than the expiry of 18 months after that commencement;

(b) if and to the extent that *paragraph (a)* is not complied with, the PLC shall enter in its register of members the Minister for Finance as the person entitled to the share or shares concerned and thereupon the Minister for Finance shall become and be the full beneficial owner of that share or those shares.

(8) Subject to *subsection (7)*, where on the commencement of this section a person has or is entitled to possession of a bearer instrument (other than a permissible letter of allotment), whether as owner or as encumbrancer, nothing in this section shall affect any rights which such person has by virtue of such entitlement or possession, provided that any right to transfer the shares that are specified in it by delivery of the instrument shall cease 21 days before the expiry of the period referred to in *subsection (7)(a)*.”.

Amendment No. 207 is necessary as a consequence of a Committee Stage amendment agreed with regard to section 67. The Committee Stage amendment concerned a general prohibition of bearer instruments. The purpose of amendment No. 207 is to restate the prohibition for public limited companies while also providing for certain letters of allotment which are to be allowed. Shares comprised in a permissible letter of allotment shall, until its expiry date, be transferable by renunciation and delivery of the letter subject to compliance with such condi-

tions, if any, as specified in such letter.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 208:

In page 767, line 39, to delete “shares” and substitute “relevant securities”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 209:

In page 768, line 1, to delete “shares” and substitute “relevant securities”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 210:

In page 768, between lines 7 and 8, to insert the following:

“(8) Any director of a PLC who knowingly contravenes, or knowingly permits or authorises a contravention of, a preceding provision of this section shall be guilty of a category 3 offence.”.

The purpose of the amendment is to create a category 3 offence in circumstances where any director of a public limited company knowingly permits or authorises a contravention of a preceding provision of the section. The language of the amendment is in line with the language agreed in the general scheme of the companies (consolidation and reform) Bill 2007. The offence under this section has been brought in line with the general scheme of offences in Part 14 and will now be a category 3 offence.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 211 to 213, inclusive, are related and may be discussed together by agreement.

**Deputy Sean Sherlock:** I move amendment No. 211:

In page 768, line 33, to delete “other”.

The purposes of this group of amendments is to maintain existing law. Section 23(1)(a) of the Companies (Amendment) Act 1983 uses the expression “same or more favourable” in relation to pre-emption rights that may be enjoyed by the members of the company.

Second, the amendments reduce the offer period for preemptory offers from 21 days to 14 days in the case of public limited companies. This is in line with EU requirements, specifically Article 29.3 of the second directive on company law. This 14 day time limit also corresponds with the offer period of the company limited by shares, designated activity companies and unlimited companies. The amendment, therefore, purports to ensure consistency in time limits across the Bill. I am sure those present in the Public Gallery are riveted.

**An Leas-Cheann Comhairle:** I welcome those present in the Visitors Gallery, especially visitors from County Galway.

**Deputy Mick Wallace:** The parish pump is never far away.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 212:

In page 768, line 35, after “same” to insert “or more favourable”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 213:

In page 769, line 31, to delete “21 days” and substitute “14 days”.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 214 and 215 are related and may be discussed together by agreement.

**Deputy Sean Sherlock:** I move amendment No. 214:

In page 774, lines 33 to 35, to delete all words from and including “or” in line 33 down to and including “*subparagraph (i);*” in lines 34 and 35 and substitute the following:

“(ii) a partner or employee of an officer or employee referred to in *subparagraph (i);*  
or

(iii) a person otherwise connected (within the meaning of *section 221* as adapted by *section 1029(7)*) with an officer or employee referred to in *subparagraph (i);*”.

The purpose of the amendments is to exclude any connected persons, for instance, family members as per *section 221*, from being an independent person. As the Bill stands, a civil partner or child of an officer or employee of the public limited company is not to be precluded from being such an independent person. For this reason, the amendment is deemed necessary.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 215:

In page 777, between lines 3 and 4, to insert the following:

“(7) For the purposes of the provision made by *section 1028(6)(b)(iii)* concerning a person’s being connected with an officer or employee there referred to (which officer or employee is, in this subsection, subsequently referred to as the “relevant person”), *section 221* applies as if—

(a) for each reference in *subsections (1), (2), (3) and (8)* to a director of a company there were substituted a reference to the relevant person;

(b) for the first reference and the third reference in *subsection (5)* to a director of a company there were substituted a reference to the relevant person;

(c) the references in *subsection (5)* to another director or directors included references to one or more other relevant persons; and

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(d) the reference in *subsection (6)(b)* to a director included a reference to a relevant person.”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 216:

In page 791, to delete line 5 and substitute the following:

“the time being governed by, as appropriate—

(a) regulations under *section 1086*, or

(b) for so long as they remain in force (including for any period as they may stand amended by regulations under *section 1086*), the Companies Act 1990 (Uncertificated Securities) Regulations 1996 (S.I. No. 68 of 1996).”.

The purpose of the amendment is to provide more accurate cross-referencing concerning the exemptions governing the restriction of transfer of shares. The amended section provides for Statutory Instrument 68 of 1996 relating to the Companies Act (Uncertificated Securities) Regulation. This regulation provides for the transferring and recording of shares and other securities without stock transfer forms or certificates.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 217:

In page 800, line 38, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 218:

In page 814, line 19, to delete “body corporate” and substitute “company”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 219:

In page 831, line 18, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 220:

In page 831, line 19, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 221:

In page 831, line 22, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 222:

In page 831, line 24, to delete “licensed banks” and substitute “credit institutions”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 223:

In page 831, line 33, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 224:

In page 832, line 1, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 225:

In page 833, line 18, to delete “licensed bank” where it firstly occurs and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 226:

In page 833, line 18, to delete “licensed bank” where it secondly occurs and substitute “credit institution”.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 227 and 239 are cognate and may be discussed together by agreement.

**Deputy Sean Sherlock:** I move amendment No. 227:

In page 876, to delete lines 15 to 17 and substitute the following:

“(c) the division of a company pursuant to *Chapter 4 of Part 9*.”

The purpose of these amendments is to remove the incorrect cross-reference to the European Communities (Cross-Border Mergers) Regulations 2008. The cross-border mergers regulations allow that any Irish limited liability company other than an Irish company that is limited by guarantee may be party to a cross-border merger with an entity in another member of the European Economic Area. The regulations do not apply to companies limited by guarantee or unlimited companies.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 228, 240, 241, 280 and 281 are related and may be discussed together by agreement.

**Deputy Sean Sherlock:** I move amendment No. 228:

In page 877, to delete lines 36 and 37, and in page 878, to delete lines 1 and 2 and substitute the following:

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“(5) Subject to their compliance with *section 1197(3)* (articles must state the number of members with which the company proposes to be registered), articles may otherwise consist solely of a statement to the effect that the provisions of the *Companies Act 2014* are adopted and, if the articles contain such a statement, *subsection (4)* shall apply.”.

The purpose of the amendments is to ensure that the constitution of a company limited by guarantee, which must take the form of a memorandum and articles of association, must state the number of the members with which the company proposes to be registered. This obligation is notwithstanding the provision that allows for a simple statement in the constitution to the effect that the provisions of this Bill are adopted by the company. Should a company extend the number of its members beyond its registered number, the company must notify the registrar within 15 days of the increase. Failure to do so is a category 4 offence.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 229:

In page 888, line 2, to delete “*Section 1086* shall apply to securities of a CLG as it applies” and substitute “*Sections 1085 to 1087* shall apply to securities of a CLG as they apply”.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 230 and 248 are cognate and may be discussed together by agreement.

**Deputy Sean Sherlock:** I move amendment No. 230:

In page 889, to delete lines 21 and 22 and substitute the following:

“(2) Such other persons—

(a) being persons—

(i) whom the directors admit to membership; or

(ii) who are admitted to membership, pursuant to provisions that the constitution may contain in that behalf, whether provisions that—

(I) provide a separate power to; or

(II) supplement or limit, or exclude, any power of the directors in that regard;

and

(b) whose names are entered in its register of members, shall be members of the CLG.”.

These amendments allow for a procedure for admission to membership to be determined by the company constitution. This section introduces new law which has been modelled on the Model Regulation 3 in Table C of Schedule 1 of the 1963 Companies Act. The proposed amendment provides for the first time that the constitution of the company must state the number of members with which the company proposes to be registered, that the registrar be notified

of any increase to this number and that the constitution may limit the number of members in the constitution and regulates voting, that is, one vote per member in the absence of constitutional provision to the contrary. The offence, under this section, has been brought within the general scheme of offences under Part 14 and is now a category 4 offence, that is, on summary conviction a class A fine.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 231:

In page 890, line 4, after “death” to insert “or bankruptcy”.

The amendment expands the instances on which membership is automatically terminated, that is, when a member dies or becomes bankrupt.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 232:

In page 890, line 30, after “of” to insert “*subsection (1)(b) and (c)* and”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 233:

In page 894, line 19, to delete “shall appear in typeset, and not written, form” and substitute “, and any date or dates thereon, shall appear in typeset form”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 234:

In page 894, line 25, after “signature” to insert “or of a date”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 235:

In page 896, line 32, to delete “*section 966*” and substitute “*section 1171*”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 236:

In page 897, line 6, to delete “licensed bank” where it firstly occurs and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 237:

In page 897, line 6, to delete “licensed bank” where it secondly occurs and substitute “credit institution”.

Amendment agreed to.



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**Deputy Sean Sherlock:** I move amendment No. 238:

In page 899, between lines 27 and 28, to insert the following:

“

<i>Returns of allotments</i>	<i>Section 71(7) and (8)</i>
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”.

The purpose of this amendment is to disapply the obligation to file a return of allotments to unlimited companies. Public unlimited companies are not obliged to return allotments of shares under current law. The Company Law Review Group recommended in this heads of this Bill that the obligation to file a return of allotments for unlimited companies be disappplied to both private and public unlimited companies.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 239:

In page 902, lines 29 to 32, to delete all words from and including “*Part 9*,” in line 29 down to and including “2008).” in line 32 and substitute the following:

“*Part 9*, or

(c) the division of a company pursuant to *Chapter 4 of Part 9*.”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 240:

In page 904, line 32, to delete “Articles” and substitute “In the case of an ULC or PUC, articles”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 241:

In page 904, between lines 35 and 36, to insert the following:

“(6) In the case of a PULC, subject to the articles’ compliance with *section 1254(3)* (articles must state the number of members with which the company proposes to be registered), articles of such an unlimited company may otherwise consist solely of a statement to the effect that the provisions of the *Companies Act 2014* are adopted and, if the articles contain such a statement, *subsection (4)* shall apply.”.

Amendment agreed to.

**Deputy Mick Wallace:** I move amendment No. 242:

In page 905, between line 18 and 19, to insert the following:

“**1233.** (1)An unlimited company shall disclose by the filing of a notification with the Companies Registration Office a list of all members which are limited companies, and their respective number of allocated shares.

(2) *Subsection (1)* shall apply to all body corporate members, wheresoever registered.

(3) A transfer of shares to a new body corporate member which is a limited liability company shall not take effect until the notification referred to in *subsection (1)* has been filed with the Companies Registration Office.

(4) Failure to file the notification referred to in *subsection (1)* may result, on application to the Court by any interested party, to the imposition of limited liability status on the unlimited company in question.”.

In recent years, we have heard a great deal about how companies such as Apple, Google and Starbucks operate and manage to avoid paying tax. Such companies are greatly helped by their status as unlimited companies. I am concerned about the use of unlimited holding companies in corporate structures in Ireland and the use of offshore limited companies as shareholders within this structure. I had hoped some of my concerns in this regard would have been addressed in the Bill.

Perhaps the Minister of State will consider some of the following issues. It is possible to start up an unlimited company in Ireland with shareholders who have limited liability. If the company is based offshore, the unlimited liability of the company is reduced. The Government needs to examine this loophole. Most people assume that in the case of an unlimited company there is no upper limit on the personal liability of its shareholders for the company’s debts were it to become insolvent. There are more than 4,000 companies with unlimited status currently operating in Ireland. These companies escape the stricter filing and disclosure requirements to which private limited companies are subject.

The usual filing and disclosure requirements allow a creditor to appraise himself or herself of a company’s solvency before commencing trade with it. Many large corporate structures are, however, using unlimited liability companies with limited shareholder liability by ensuring that some or all of the shareholders are limited liability entities. They may also reorganise company structures to transfer trade to a limited liability company at a later date. While it is always open to the courts to look through the corporate character of unlimited companies to determine whether its members include limited companies, in other words to lift the corporate veil to examine the underlying members, it can only be done via an expensive court application. This general principle was approved by the Supreme Court in the case of *Bray Travel Limited* but as the High Court remarked recently in the *Goode Concrete v. CRH* case, this approach is not possible when the limited company is an offshore company. This happens where the subsidiary limited company of an Irish holding company with unlimited status is registered in a country outside the EU, including the Isle of Man, which has limited disclosure requirements.

A number of large companies which previously operated in Ireland, in particular in the construction sector, collapsed at enormous cost to the taxpayer, and much more than I cost them. The people trading with these companies at the time did not understand where they stood because of the level of secrecy around their business affairs. This could possibly be addressed by way of the introduction of legislation requiring all private unlimited companies to notify the Companies Registration Office of any shareholder company that might limit its liability. The unlimited company could be required to update information yearly when filing its annual returns or any abridged financial information required. This would allow a creditor to check the CRO’s records of an unlimited company at the outset of contractual negotiations and would

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alert him or her to the fact that although registered as unlimited, the company's liability may be limited. Failure of an unlimited company to notify the CRO of any limited liability shareholder could result in the immediate imposition of a limited liability status on the company or in respect of a particular transaction, as the court sees fit within the limits of reasonableness and proportionality.

Transparency could be enhanced by addressing this issue. I realise that Fine Gael is pro large business but I would expect members of the Labour Party to try to hold them to account in terms of ensuring greater transparency. I look forward to hearing what the Minister of State has to say in response to those issues.

**Deputy Sean Sherlock:** There is not a Minister or Deputy in this House who is not pro-business, be that business small, independent, a sole trader or a transnational corporation. The vast majority of businesses, whether multinational corporations or sole traders, operate legitimately and with probity in relation to their taxation, employment, health and safety and any other corporates of law one cares to mention.

Amendment No. 242 is made up of four subsections. Subsection (1) states that an unlimited company shall disclose by the filing of a notification with the Companies Registration Office a list of all members which are limited companies, and their respective number of allocated shares. The information sought by the amendment is already available on request. Under 217(9)(c) all companies are obliged to allow any person to inspect their members' register on the payment of a fee which must be €10 or less. Section 217(12)(c) obliges companies to send copies of the members' register to any person who requests it, again for a fee of €10 or less. This register contains the names and addresses of members and the number of shares held by each member. This also applies to unlimited companies.

In relation to subsections (3) and (4) of the amendment, it would be costly to set up a public register of the type set out, in particular in light of the fact that the information is already available by other means. Currently, there is no requirement to report this information to the CRO. In this regard, the Deputy referred to the possibility of the introduction of legislation. The Deputy is free to introduce legislation to this House. Therefore, there would be costs associated with this for the CRO and the affected companies. The ongoing cost to the CRO and affected companies of making and processing thousands of notifications would be colossal. The costs involved in delays to transfer of ownership in shares would be unacceptably and could interfere with the constitutional rights to private property. That is something we all adhere to also.

I am not sure if the Deputy is suggesting that we should remove unlimited companies from Irish law altogether. Limited companies serve many legitimate business purposes and are a feature of company law across the European Union. Just as guarantee companies and public limited companies are important for certain types of business, unlimited companies also serve an important purpose. Removing them would be disproportionate and would, I would argue, put Ireland at a competitive disadvantage. If the Deputy would like to remove the reporting exemption from unlimited companies, other countries across the EU allow unlimited companies to dispense with reporting requirements. This is because reporting requirements are imposed as a *quid pro quo* of limited. Where there is no limited liability there is no reason to require financial reporting.

**Deputy Mick Wallace:** As regards the Minister of State's statement that everybody in this House would be pro-business, history will show that austerity and all it entailed was not pro-

small business. That is why our domestic economy has struggled so much during the past few years. It may have been pro-big business it was not pro-small business.

As regards the Minister of State's final comment, I have not asked that unlimited companies be removed from Ireland. I believe they should be allowed to operate but we should maximise our efforts to hold them to account. The Minister of State mentioned that limited companies have to go through the same hoops as unlimited companies. However, my point is that many of the unlimited companies are not near as unlimited as one would think. Some are actually limited and have many of the benefits of limited companies without being titled limited. The Minister of State said that similar systems operate across Europe. World economists like Ha-Joon Chang and Stiglitz are looking at what is happening in the business world. They see a race to the bottom in terms of how we operate. Companies Bills are not introduced very often. The Bill before us is mammoth. It will be years before similar legislation is introduced again. We should maximise our efforts to ensure that these unlimited companies are more transparent in their operations and that they are at least held to account in Ireland. I still believe we are going somewhat easier on them. In the past couple of years large businesses have received more favourable treatment than their smaller counterparts.

**Deputy Sean Sherlock:** It is very easy to state that small businesses have received less favourable treatment than their bigger counterparts.

**Deputy Mick Wallace:** It is true.

**Deputy Sean Sherlock:** I will speak to the amendment. We could become involved in an argument with regard to the supports available to small and large businesses. However, as stated in reply to a previous amendment, between 250 and 300 individuals who own small businesses of various sizes attended an event in Cork yesterday in order to learn about the business supports provided by over 27 agencies of the State. Factually, the Deputy's statement is just not correct.

In the context of the amendment, the law on unlimited companies is governed by EU directives and any proposed changes to Irish law would produce few, if any, benefits for the creditors of such companies. However, such changes would give rise to a substantial cost to this country in terms of its international commercial competitiveness. Ireland is a small island nation and the foreign direct investment sector here is responsible for employing many thousands of people either directly or indirectly, in the context of sub-supply or in the provision of services. The fact that foreign direct investment companies operate here gives rise to downstream benefits, in terms of supply, for many of the small businesses we are discussing. I accept the Deputy's concern with regard to the ownership of unlimited companies. This issue will be dealt with in the coming months in the context of the accounting directive, which is due for transposition in 2015. The debate relating to said directive is the most suitable avenue for considering the issues raised by the Deputy.

The primary aim of the Bill before the House is to consolidate and tidy up the existing law. It is also designed to provide an accessible, user-friendly framework for businesses operating within our shores. I reiterate that EU law does not require reporting on the part of unlimited companies. That is the position in law at present.

Amendment put:

<i>The Dáil divided: Tá, 19; Níl, 91.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Adams, Gerry.</i>	<i>Barry, Tom.</i>
<i>Broughan, Thomas P.</i>	<i>Breen, Pat.</i>
<i>Colreavy, Michael.</i>	<i>Bruton, Richard.</i>
<i>Crowe, Seán.</i>	<i>Butler, Ray.</i>
<i>Daly, Clare.</i>	<i>Buttimer, Jerry.</i>
<i>Ellis, Dessie.</i>	<i>Byrne, Catherine.</i>
<i>Halligan, John.</i>	<i>Byrne, Eric.</i>
<i>Healy, Seamus.</i>	<i>Calleary, Dara.</i>
<i>Mac Lochlainn, Pádraig.</i>	<i>Cannon, Ciarán.</i>
<i>McDonald, Mary Lou.</i>	<i>Carey, Joe.</i>
<i>McGrath, Finian.</i>	<i>Coffey, Paudie.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Collins, Niall.</i>
<i>O'Brien, Jonathan.</i>	<i>Conaghan, Michael.</i>
<i>Pringle, Thomas.</i>	<i>Conlan, Seán.</i>
<i>Ross, Shane.</i>	<i>Connaughton, Paul J.</i>
<i>Shortall, Róisín.</i>	<i>Coonan, Noel.</i>
<i>Stanley, Brian.</i>	<i>Coveney, Simon.</i>
<i>Tóibín, Peadar.</i>	<i>Creed, Michael.</i>
<i>Wallace, Mick.</i>	<i>Daly, Jim.</i>
	<i>Deasy, John.</i>
	<i>Deering, Pat.</i>
	<i>Donnelly, Stephen S.</i>
	<i>Donohoe, Paschal.</i>
	<i>Dooley, Timmy.</i>
	<i>Dowds, Robert.</i>
	<i>Doyle, Andrew.</i>
	<i>Durkan, Bernard J.</i>
	<i>English, Damien.</i>
	<i>Farrell, Alan.</i>
	<i>Feighan, Frank.</i>
	<i>Ferris, Anne.</i>
	<i>Fitzpatrick, Peter.</i>
	<i>Flanagan, Charles.</i>
	<i>Flanagan, Terence.</i>
	<i>Griffin, Brendan.</i>
	<i>Hannigan, Dominic.</i>
	<i>Harrington, Noel.</i>
	<i>Harris, Simon.</i>
	<i>Hayes, Tom.</i>
	<i>Healy-Rae, Michael.</i>
	<i>Heydon, Martin.</i>

	<i>Hogan, Phil.</i>
	<i>Howlin, Brendan.</i>
	<i>Humphreys, Kevin.</i>
	<i>Keaveney, Colm.</i>
	<i>Kehoe, Paul.</i>
	<i>Kelleher, Billy.</i>
	<i>Kenny, Seán.</i>
	<i>Kitt, Michael P.</i>
	<i>Kyne, Seán.</i>
	<i>Lawlor, Anthony.</i>
	<i>Lyons, John.</i>
	<i>McCarthy, Michael.</i>
	<i>McConalogue, Charlie.</i>
	<i>McEntee, Helen.</i>
	<i>McGrath, Mattie.</i>
	<i>McGrath, Michael.</i>
	<i>McLoughlin, Tony.</i>
	<i>McNamara, Michael.</i>
	<i>Martin, Micheál.</i>
	<i>Mitchell, Olivia.</i>
	<i>Moynihan, Michael.</i>
	<i>Mulherin, Michelle.</i>
	<i>Murphy, Dara.</i>
	<i>Murphy, Eoghan.</i>
	<i>Nash, Gerald.</i>
	<i>Naughten, Denis.</i>
	<i>Neville, Dan.</i>
	<i>Nolan, Derek.</i>
	<i>Ó Fearghail, Seán.</i>
	<i>O’Dea, Willie.</i>
	<i>O’Donnell, Kieran.</i>
	<i>O’Donovan, Patrick.</i>
	<i>O’Dowd, Fergus.</i>
	<i>O’Mahony, John.</i>
	<i>O’Reilly, Joe.</i>
	<i>O’Sullivan, Jan.</i>
	<i>Penrose, Willie.</i>
	<i>Perry, John.</i>
	<i>Phelan, Ann.</i>
	<i>Phelan, John Paul.</i>
	<i>Rabbitte, Pat.</i>
	<i>Ryan, Brendan.</i>
	<i>Sherlock, Sean.</i>

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	<i>Spring, Arthur.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Tuffy, Joanna.</i>
	<i>Twomey, Liam.</i>
	<i>Wall, Jack.</i>
	<i>Walsh, Brian.</i>

Tellers: Tá, Deputies Clare Daly and Mick Wallace; Níl, Deputies Emmet Stagg and Paul Kehoe.

Amendment declared lost.

Debate adjourned.

### **Leaders' Questions**

**Deputy Micheál Martin:** Last evening, the letter from the former Commissioner, Mr. Martin Callinan, to the Department of Justice and Equality for the attention of the Minister in respect of the telephone recording issues was published along with a report from the Department's Secretary General. It is fair to say that the letter from the Garda Commission gives a clear sequence of actions, outlines the comprehensive interaction that the Commissioner had with many State agencies - the Chief State Solicitor's office, the Department of Justice and Equality and the Attorney General's office - and references that consultations would need to be held with the Data Protection Commissioner following advices from the Attorney General. It goes on to assert that the Attorney General advised that an inventory of all of the recordings would be compiled and also that the Commissioner's main concern was as a data controller. These are all important points because, when one reads the letter, it is difficult to find anything wrong with how the Commissioner responded to the issue, both legally and within his duties, given the comprehensive nature of his response.

The Secretary General's report is also interesting, but leaves many questions unanswered. On one particular issue, it is clear that the Secretary General is saying that he briefed the Minister on the content of that letter on the Monday evening, before the Cabinet meeting, at 6 p.m. Accepting that the Minister did not get the actual copy of the letter until the following day, he was clearly briefed on the issue. That is at odds with what the Taoiseach told me yesterday in the House when he stated categorically: "I am assured by the Minister for justice that he was not so briefed." This goes to the heart of the issue. Following on from this and the meeting between the Taoiseach, the Attorney General and the Secretary General, the Secretary General was sent to Commissioner Callinan essentially to put pressure on him to reflect on his position, leading to his resignation.

**An Ceann Comhairle:** A question, please.

**Deputy Micheál Martin:** Will the Taoiseach correct the record of the House? Is the Secretary General correct in saying that the Minister, Deputy Shatter, was briefed on the content of the letter at the justice briefing meeting on the evening of Monday, 24 March or is the Taoiseach correct in saying that the Minister was not so briefed? Does the Taoiseach accept that, at the meeting that he held with the Minister, the Attorney General and the Secretary General, he should have been told about the existence of that letter from the Commissioner before the Secretary General went to the Commissioner's house?

**Deputy Michael Healy-Rae:** And who did the Taoiseach send to Ms Angela Kerins's house?

**An Ceann Comhairle:** I am sorry, but the Deputy is not the Taoiseach. I will call the Taoiseach.

**Deputy Pat Breen:** The Taoiseach of Kerry.

**The Taoiseach:** First of all, I might bring to the attention of the House the fact that, this morning at the home of the Minister for Justice and Equality, an incident occurred where an item in the post contained-----

*(Interruptions).*

**An Ceann Comhairle:** Sorry, please.

**The Taoiseach:** -----anti-Semitic material and a substance which, when analysed, was harmless. I am in this House a long time. We have had members of the Jewish faith here representing the Fianna Fáil Party, the Labour Party and the Fine Gael Party over the years. This has sunk to a new low. I might say for the information of Members of the House as well that a stream of similar material has been received in the Department of Justice and Equality. Irrespective of the rough and tumble that we can have here in our politics, I am sure all of the Opposition deplores that.

**Deputies:** Hear, hear.

**The Taoiseach:** It is not in order that this sort of anti-Semitic material is being received by someone who happens to belong to a particular religion in our country irrespective of the political challenges that we have here.

**Deputy Mattie McGrath:** When did he get that letter?

**The Taoiseach:** The question Deputy Martin asked me is this, and it has been cleared on many occasions by the Minister himself. In fact, on numerous occasions on his long stay in here, he indicated clearly that the letter was not furnished to him, was not seen by him and that the Department officials briefed him on the issues of the day, including the Bailey case and including the discovery of the transcribed recordings, which have a serious implication in respect of that particular case.

I should have been told about that letter, I would have assumed,-----

**Deputy Micheál Martin:** Sorry?



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**The Taoiseach:** -----although when I spoke to the Minister and the Secretary General, I was coming from a position of having been briefed by the Attorney General on the wide range of issues here, the discovery process, the transcribed tapes and the existence of a much wider systematic business of having tape recordings made in numerous Garda stations all over the country.

So, the Minister did not see the letter. The Minister was not aware of the letter. The Minister, therefore, was not briefed on the contents of the letter. He was briefed on the issues that had arisen, including the nature of the Bailey case, which was quite explosive in terms of the content of those tape recordings.

This is an example, Deputy Martin, of information being brought to Government level where Government has responded speedily and decisively in the sense of putting together a commission of investigation to look into these matters to sort this out once and for all and to put in place a structure which will provide an independent Garda authority where political accountability will still remain with the Minister of the day to this House. That is a long way, I might add, from the Deputy's own style of refusing to speak to former Fianna Fáil Ministers for justice. It is a long way from the time when we had the geriatric costs implied in the nursing homes scandal where the Secretary General of the Deputy's own Department briefed him on two occasions and said so at a committee of the Dáil and the Deputy relied on the Travers report to have a difference between the Department knowing and the Minister being aware.

So, the substance here, Deputy Martin,-----

**Deputy Billy Kelleher:** The Taoiseach should read what he said in the Dáil at that time. He should live by his words.

**The Taoiseach:** -----is of serious concerns to the citizens of this country and Government has moved decisively and swiftly to deal with that. The Minister has cleared up in the House here on a number of occasions the nature of the matters that he discussed, the fact that he did not see this letter, the fact that he was not told about the letter and that he did not get it or see it or receive it until the following Tuesday,-----

**Deputy Billy Kelleher:** The Taoiseach will be sending someone to Mr. Brian Purcell's house next.

**Deputy Timmy Dooley:** With a razor.

**The Taoiseach:** -----in the same position as I was myself. The point is, he has already referred to this in some detail on a number of occasions in his contribution here to the House.

**Deputy Micheál Martin:** Can the Taoiseach explain to the House how the Secretary General - I will cite the report - briefed the Minister on the matter on Monday evening? How could he brief the Minister on the matter without briefing him on the letter? Can the Taoiseach explain that? The letter is comprehensive and outlines a series of actions that the Commissioner took since last November on this issue. It is just not credible, particularly in the context of the Secretary General a few hours later being sent out to the Commissioner's house. I would love to have been a fly on the wall. I would love to have seen the Commissioner's reaction to the Secretary General. Was it, "Did I not send you a letter two weeks ago-----

**Deputy Tom Hayes:** The Deputy was often a fly on the wall.

*(Interruptions).*

**An Ceann Comhairle:** Deputies, please.

**Deputy Micheál Martin:** -----detailing everything I was doing and voicing my concern?"

**Deputy Finian McGrath:** The Government is worried.

**Deputy Micheál Martin:** The former Commissioner wrote in his letter: "I am anxious to resolve any data protection issues... "

The issue of substance is a simple one - for the first time in 30 years, we saw the forced resignation of a Garda Commissioner-----

**Deputy Mattie McGrath:** Sacked.

**Deputy Micheál Martin:** -----on the issue of telephone recordings because, as the Taoiseach told the House last week, he wanted the gravity of the situation conveyed to the former Commissioner. Sources close to the former Commissioner are saying that he was told by the Secretary General that there was anxiety in the Cabinet about the issue. He was clearly forced out of the position. That is why it is very important, as an issue of substance, that we get clarity on this.

Can the Taoiseach get the Secretary General to say that he did not at any stage brief the Minister on the content of the letter? There should be less of the language terms "furnishing", "receiving", "get" and so forth. He says in this report that he accepts he did not get the copy of the letter until the following day, but he briefed him the previous day. There is a fundamental issue of substance here, because the sequence of events led to getting rid of the Garda Commissioner. The inescapable conclusion is that the Garda Commissioner was the scapegoat to protect the Minister. Unless we get clear answers I can come to no other conclusion, and I regret to have to say that.

**The Taoiseach:** The Deputy does not want to come to any other conclusion. That is the position. He has no interest in anything other than political damage to the Minister for Justice and Equality.

**Deputy Michael Healy-Rae:** The Taoiseach is able to do that himself.

**The Taoiseach:** There was a case before the Deputy's time in the House when a relation of Deputy Collins, a former Minister for Justice, called in the Garda Commissioner and told him he had two hours to resign or be sacked. I considered it my duty-----

**Deputy Timmy Dooley:** To get someone else.

**Deputy Finian McGrath:** The Taoiseach outsourced it.

**The Taoiseach:** A woman was murdered in west Cork. Her killer is at large, if the killer is alive. There is a court case of very serious substance arising from that murder. It is a live, unsolved case.

I was briefed by the Attorney General and if the Deputy thinks I should sit in the Taoiseach's office and not do something about it, he is badly mistaken.

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*(Interruptions).*

**An Ceann Comhairle:** No one can hear anything.

**The Taoiseach:** When I spoke to the Minister for Justice and Equality and the Secretary General, I made it perfectly clear that my concerns were grave, because the transcription of those tapes has serious implications for our international relations, the status of the Garda Síochána and the case in question.

**Deputy Timmy Dooley:** How was the Garda Commissioner culpable?

**The Taoiseach:** That is a matter of serious substance.

**Deputy Timmy Dooley:** What is the Garda Commissioner culpable for?

**Deputy Billy Kelleher:** So the Taoiseach is accusing the Garda Commissioner of something.

**An Ceann Comhairle:** Will you mind your own business?

**Deputy Billy Kelleher:** It is my business, a Cheann Comhairle.

**Deputy Tom Hayes:** The Deputy is not the party leader yet.

**An Ceann Comhairle:** It is not your business.

**Deputy Billy Kelleher:** It is everyone's business.

**Deputy Tom Hayes:** Deputy Kelleher should wait for another few weeks until he makes his move.

**The Taoiseach:** When I spoke on Monday evening to both the Minister and the Secretary General-----

**Deputy Timmy Dooley:** The Garda Commissioner was sacrificed to save the head of the Minister.

**An Ceann Comhairle:** Hold on, this is a reply to the Deputy's leader. Please allow us to hear the reply.

**The Taoiseach:** -----I made it perfectly clear that I wanted my concerns communicated to the former Garda Commissioner.

**Deputy Billy Kelleher:** What were the Taoiseach's concerns?

**Deputy Timmy Dooley:** To hold on to his best buddy, Deputy Alan Shatter, as Minister.

**The Taoiseach:** The Secretary General did that.

**An Ceann Comhairle:** I am not putting up with this filibuster. If the two Deputies do not stay quiet, I will ask them to leave the House.

**The Taoiseach:** Obviously I am not privy to the content of the discussion they had, and I do not wish to assume anything. I wanted my concerns about this communicated to the former Garda Commissioner. The former Garda Commissioner made his decision and I noted his press

release the following morning regarding his retirement in the interests of his family and the Garda Síochána.

**Deputy Timmy Dooley:** I think I will go of my own accord, a Cheann Comhairle.

**The Taoiseach:** To reply to the Deputy's first question, the Minister for Justice and Equality was not aware of the letter, was not informed about it and did not see it. The briefing that began in the Department of Justice and Equality was interrupted by me at 6 p.m. to call the Minister over to the Department of the Taoiseach. That briefing was about the Bailey case, the discovery of those tapes and their transcription and the need for an affidavit, and it had started when I called. It is not a case of the contents of the letter being the subject of a briefing, because the letter was not seen and the Minister was not made aware of it.

We are in a different spot now-----

**Deputy Billy Kelleher:** A tricky spot.

**The Taoiseach:** -----with a very serious issue. When the terms of reference for the commission of investigation are finalised, in consultation with the eminent judge, we can then set out the strategy to deal with this. I assume the Oireachtas Committee on Justice, Defence and Equality will, in time, have the opportunity to discuss the exact timelines with the Secretary General and the Minister for Justice and Equality. That is the proper way to deal with all the detailed questions. For now, we are proceeding to follow clear Government decisions that will lead to a commission of investigation with clear terms of reference and also to the establishment of an independent authority for the Garda Síochána in order that the men and women in the force can have absolute pride in the uniform and the citizens of the country can have faith in its openness, transparency, professionalism and oversight.

**Deputy Gerry Adams:** The difficulty with dealing with all of these ongoing controversies in the administration of justice is that every day brings a new revelation, such as the taping of prisoners' telephone calls and the latest twist last night in the penalty points debacle. However, there are other distractions. While I have no confidence in the Minister, Deputy Shatter, it was nauseating to listen to the former Fianna Fáil Minister, Deputy Willie O'Dea, pontificating last night in a highly vindictive, personalised and inappropriate way about the Minister. Fianna Fáil Members know as well as everyone else that this telephone tapping happened on their watch.

**Deputy Tom Hayes:** It did.

**Deputy Timmy Dooley:** The Deputy was most of the reason for setting it up in the first place.

*(Interruptions).*

**Deputy Gerry Adams:** These justice issues date back for decades and involve Governments made up of Fianna Fáil, the Labour Party, Fine Gael, the Progressive Democrats and Democratic Left-----

**Deputy Brendan Howlin:** The Green Party.

**Deputy Michael McCarthy:** The Independents.

**Deputy Gerry Adams:** -----so the Oireachtas should keep its focus on what is involved

here. Yesterday I made the point, and the Taoiseach agreed, that the Ian Bailey case is at the root of these problems. This arose from the investigation of the murder of Sophie Toscan du Plantier. Ian Bailey's solicitor wrote three times in 2012 to the Minister, Deputy Shatter, about the Garda Commissioner's refusal to provide information to the Garda Síochána Ombudsman Commission. Incompetence aside, this refusal, repeated many times, is the real reason for the lack of cohesion in the Government's response to these scandals. Yesterday's report by the Secretary General of the Department of Justice and Equality confirms this. He said that departmental officials were so preoccupied with the possible ramifications of taped calls at Bandon Garda station that they might not have realised the gravity of more widespread taping of telephone calls over decades.

Yesterday I asked if the Minister would clarify his position in the debate on the Private Members' motion. Our justice spokesperson, Deputy Mac Lochlainn, put the same question directly to the Minister but he refused to do it. Is it not the case that alleged corrupt activities by gardaí in the investigation of the murder of Sophie Toscan du Plantier should have been the subject of a commission of investigation? Will the Government now initiate such a commission or will the Taoiseach give a commitment to make it part of the commission of investigation that is being established?

**The Taoiseach:** Yesterday, the Deputy raised the Bailey case, which arose from the murder of Ms Toscan du Plantier. The case has been ongoing for a number of years. As I said yesterday, the issue became crystalised because the end of the discovery process required a Garda affidavit to send the material to the legal team representing Mr. Bailey. It is clear from the Secretary General's report that the tapes that became known to officials when they were transcribed and assessed contain material that is very serious indeed. Those tapes are part of the discovery process and this case is before the courts. I do not wish to say anything here that would prejudice the outcome of that case, but clearly the material that has been transcribed and assessed and which will more than likely enter the public domain is very stark. Those tapes are part of the discovery process and are being sent to the legal team to be part of the case before the courts.

In approving the appointment of Mr. Justice Fennelly at its meeting yesterday, the Government made a number of recommendations that will have to be concluded in the terms of reference for the commission in consultation with the Department of Justice and Equality. Clearly, we need to be able to have, as part of that, the process, background, context, reasons, authorisation, use, retention, and the legality, the illegality or whatever of tape recordings where matters of public concern are involved. This is a matter of grave public concern and it needs to be dealt with.

This is in two parts. There is the immediate focus on the specific case and there is the wider implication for the trawl which produced evidence of systematic recording of conversations in Garda stations, and their retention, which have to be subject to a protocol if they are to be destroyed, as the Data Protection Commissioner pointed out. However, as the Deputy is aware, the Attorney General made an order that no tapes be destroyed. I think that is in the public interest as well.

**Deputy Gerry Adams:** The Taoiseach's answer is very disappointing because I am not clear whether he is going to include these matters in the commission of investigation, or whether he is going to set up a separate commission of investigation. The Taoiseach is saying these are highly significant and stark matters. In the lead-in to the Morris tribunal, then Opposition Deputy Alan Shatter rightly tabled a motion here for the required public inquiry into allegations

of misconduct by some gardaí in County Donegal. He expressed disappointment when the then Fianna Fáil Minister for Justice said that he was going to appoint a lawyer instead to examine all the relevant papers. At the time of the Morris report, the Minister said the following:

These matters should not have been left festering. The [Fianna Fáil] Minister for Justice kicked essentially to touch... A banana republic would not deal with an issue as serious as this in such a manner.

I rest my case. The Minister, Deputy Alan Shatter, said that a banana republic would not deal with an issue as serious as this in such a manner, yet he is now the justice Minister. The Morris tribunal uncovered alarming illegalities, corruption and cover-up by some elements of the Garda, which do not reflect on the vast majority of members of that service. Mr. Justice Morris was also very clear that the combination of corruption uncovered in Donegal could easily occur elsewhere. He made that very clear. In the Bailey case, it could be even worse, because the issues involved are not just local or regional; they go right to the top of the justice system in the Garda Síochána and the Minister for Justice and Equality, and that is a matter of public record.

Again, I ask the Taoiseach to be clear in his answer that either he will include these matters in the commission of investigation, or he will set up an appropriate inquiry, which the Minister, Deputy Shatter, argued for in the build-up to the Morris tribunal when he was Fine Gael spokesperson, which means a commission of investigation.

**The Taoiseach:** When the information was brought to the attention of the Minister for Justice and Equality, he informed his colleagues at yesterday's Cabinet meeting in respect of the recordings of prisoners. I heard Mr. Donnellan speak clearly on that matter. The Minister published immediately the information that we have, and it will be the subject of further discussions here. The terms of reference for the commission of investigation have to be agreed and concluded with the eminent judge. They have to be brought here to be approved by the Dáil.

This matter was brought to my attention on Sunday evening. Within 48 hours, we had moved to make a decision to have a commission of investigation. The Minister, Deputy Shatter, spent two years raising the case in Donegal before the then Minister, former Deputy John O'Donoghue, agreed that there should be an investigation. Now we are being criticised for acting swiftly and decisively in putting together a commission of investigation-----

**Deputy Timmy Dooley:** The Minister still has not appointed a commission of investigation in respect of the whistleblower issues.

**The Taoiseach:** We are being criticised now because we are going and doing something about it, when that crowd over there year after year let it pass by, swept it under the carpet and did nothing. As far as I am concerned-----

*(Interruptions).*

**The Taoiseach:** -----the Government will bring the terms of reference here for discussion and approval by Dáil Éireann.

**Deputy Billy Kelleher:** He was opposing a Garda authority until a couple of weeks ago.

**An Ceann Comhairle:** Will you stay quiet?

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**The Taoiseach:** If it is appropriate that the terms of reference include tape recordings of conversations between gardaí and the public, prisoners and so on, these are matters that the Government will decide on with the involvement of the Department of Justice and Equality and approval by the Dáil. I do not wish to pre-empt that, except to say that the Bandon tapes are covered by the discovery process. I am informed by the Attorney General that the Garda affidavit has been sworn and signed off on, and that material will be going to the legal team involved.

Deputy Adams comes in here and says that we should not act decisively and have a commission of investigation set up within 48 hours to deal with a matter of fundamental importance for our State.

**Deputy Timmy Dooley:** The Taoiseach is becoming a bit like background noise, like elevator music.

**An Ceann Comhairle:** Deputy Dooley, can you keep your mouth closed for just a few more seconds? Thank you.

**The Taoiseach:** A woman was murdered and there is a court case. There are tapes that are very stark in their remarks about this matter. At the end of the day, all we can do is what we believe to be right. What I believe is right is to have a commission of investigation, to have proper terms of reference, and to have all these matters investigated by an eminent Supreme Court judge to deal with that matter. Separately from that, we need to move to having an independent authority for An Garda Síochána. It has gone on for too long and we must put in place a structure that stands up to this country's needs for the future. That is what we intend to do.

**Deputy Seamus Healy:** Thousands of Irish families are facing eviction. Ulster Bank alone has 4,700 repossession cases before the courts.

**An Ceann Comhairle:** Please allow the Deputy make his point. If you are leaving the Chamber, you should leave quietly. You are in the Houses of Parliament, so please remember that.

**Deputy Seamus Healy:** At Clonmel court last Thursday, there were 30 such repossession cases and the same is happening in every courthouse right across this country. At the same time, thousands of Irish homes have been sold to foreign landlords. The Irish Nationwide Building Society non-performing loan book is being sold at knock down prices to American vulture capitalists Loan Star and Oakland Capital. What have they immediately done? Their first action was to appoint Pepper of Australia as debt payment enforcers. The holders of these mortgages, who are the home owners, were not even allowed to bid for them. At the same time, the Government is allowing senior bankers to give each other and other rich friends huge secret write-downs using money borrowed by the State and supplied to the banks, when unemployed and low-income families who owe as little as €20,000 on their homes are being bullied out of their homes or they are being repossessed. The banks have sole discretion on write-downs using State supplied money.

What did the vultures pay for the former Irish Nationwide Building Society loan book? Will the Taoiseach bring forward immediately legislation to protect these and other mortgage holders from arbitrary interest rate increases and repossessions? Will he bring forward legislation to bring complete transparency to the write-down process? Will the Government ban confidentiality clauses in that process? Finally, will the Government put in place fair, legally enforceable criteria for that write-down process?

**Deputy Finian McGrath:** The Government could get that done in two days.

**The Taoiseach:** We have made it perfectly clear that there is no strategy in place to force or encourage possessions of people's family homes. In fact, the Government's approach to mortgage arrears and mortgage distress over the past two and a half years has involved putting in place a suite of opportunities for borrowers and lenders to work out sustainable solutions in each of these cases. That is why the personal insolvency legislation was introduced and other facilities were brought into operation. I am glad to say these measures are having an impact on significant numbers of people. This is not happening as quickly as we would like, and is not helping as many people as we would like, but it is happening. A number of people just will not engage with the lender in the first place. Those cases are solvable-----

**Deputy Seamus Healy:** They are not solvable.

**The Taoiseach:** In most cases, they are solvable if people are prepared to work out a solution and a conclusion.

As Members are aware, individual banks have agreed a number of write-offs in the recent past. These agreements have received quite a deal of publicity. If Deputy Healy wants to get these details from the Minister for Finance, I suggest he submit a request to the Ceann Comhairle to raise this matter on Topical Issues. The overall position is that house repossessions should be the very end of the line.

The majority of house repossessions have taken place by voluntary consent or voluntary offering from the people involved. While there are occasional increases in the number of mortgages in distress or in arrears of more than 90 days, they are being worked out as time goes on. We want the target set for the banks by the Central Bank and the Government - that sustainable workable solutions should be offered by the end of the year to every mortgage holder in distress or in arrears - to be achieved. The policy here is that no instruction for house repossessions has been given. It should be a very last resort. In some of the cases I have read about, it was a very last resort. The banks involved made substantial write-downs, which allowed people to continue to live in their own houses and contribute to their local areas, etc.

**Deputy Seamus Healy:** As the leader of this country, the Taoiseach is responsible for what is happening in relation to repossessions and evictions. As he well knows, thousands of families are unable to meet the insolvency criteria set down by this Government. Up to 30,000 families are facing eviction. This is happening every day throughout this country. At the same time, tax exiles and the Irish elite are getting huge write-downs from the banks.

Professor Morgan Kelly recently asked a pertinent question about whether the bankers' friends, the members of rugby clubs and the parents' associations of exclusive fee-paying schools will get first preference for write-downs. As a follow-on question, one might ask whether a house owner or a small shopkeeper-----

**Deputy Billy Kelleher:** Or a friend of a Government Minister.

**Deputy Seamus Healy:** -----will have a property repossessed on foot of a debt of €50,000 while a friend of the bankers has €500,000, €1 million or €5 million written off.

**Deputy John Halligan:** Someone had €110 million written off.

**Deputy Seamus Healy:** Can senior bankers give write-downs to each other? Will a banker



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be able to give a write-down to his political buddies in the local branch or cumann? During the boom years, these bankers gave huge loans to the Irish elite. The same people are now benefiting from these write-downs. The International Monetary Fund said in a recent report that the current situation here endangers social cohesion. The answer to both of the questions I have asked is “Yes”. It is a scandal that the banks have sole discretion for write-downs. I appeal to the Taoiseach to introduce legislation to end this scandalous situation.

**The Taoiseach:** I do not accept the Deputy’s assertion that evictions are happening in this country every day.

**Deputy Seamus Healy:** Every day.

**The Taoiseach:** That is simply not true.

**Deputy Seamus Healy:** Every day.

**The Taoiseach:** There is no need for the Deputy to engage in scaremongering in here and cause many people throughout the country to worry that they are facing eviction.

**Deputy John Halligan:** Representatives of the Money Advice & Budgeting Service will be at the Joint Committee on Finance, Public Expenditure and Reform this afternoon. Perhaps the Taoiseach should speak to them. They will tell him about it.

**The Taoiseach:** As I have said, the fact of the matter is that people who have problems with their mortgages now have a range of opportunities to work out a solution with the lenders.

**Deputy Richard Boyd Barrett:** What about tenants who have receivers moving in on them?

**The Taoiseach:** On the one hand, the Deputies opposite seem to want write-downs, but on the other hand, they do not want write-downs. They need to be clear on what they are actually talking about. I am sure they support the cases that have been sorted out in recent weeks. There are particular circumstances in each case in which a write-down was given.

**Deputy Seamus Healy:** What about the 30,000 cases that will not get written down?

**The Taoiseach:** I am not sure what the Deputies are saying. They do not want write-downs for some people, but they want write-downs for others.

**Deputy Richard Boyd Barrett:** We want fairness. We want the Government to do something.

**Deputy Seamus Healy:** We are concerned about the write-downs being given to bankers’ buddies.

**Deputy Pat Rabbitte:** The Deputy should give us a list of the evictions.

**Deputy Seamus Healy:** The elite were given huge loans during the boom and now they are getting huge write-downs.

**The Taoiseach:** We want everyone to be able to retain their houses. When Leaders’ Questions has come to a conclusion, perhaps Deputy Healy might furnish me with a full list of the evictions that have taken place in the past two months. That will allow me to assess the veracity

of his argument.

**Deputy John Halligan:** Many people in this country who are €20,000 in arrears are not getting write-downs.

### **Order of Business**

**The Taoiseach:** It is proposed to take No. 24, Companies Bill 2012 - Report Stage (resumed) and Final Stage; and No. 22, Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Bill 2013 [*Seanad*] - Report Stage (resumed) and Final Stage.

It is proposed, notwithstanding anything in Standing Orders, that in the event a division is in progress at the time fixed for taking Private Members' business, the Dáil shall sit later than 9 p.m. tonight and Private Members' business, which shall be No. 146, motion re confidence in the Minister for Justice and Equality, and Defence (resumed), shall, if not previously concluded, be brought to a conclusion after 90 minutes. Tomorrow's business after Oral Questions shall be No. 24, Companies Bill 2012 - Report Stage (resumed) and Final Stage, if not previously concluded; and No. 25 – statements on the supply of social housing and the Government's homelessness policy (resumed).

**An Ceann Comhairle:** There is one proposal to be put to the House. Is the proposal for dealing with Private Members' business agreed to? Agreed. I call Deputy Martin on the Order of Business.

**Deputy Richard Boyd Barrett:** A Cheann Comhairle-----

**An Ceann Comhairle:** Settle down. We are not going anywhere. You have plenty of time.

**Deputy Richard Boyd Barrett:** I was just putting up my hand to get on the list.

**An Ceann Comhairle:** You will be on the list. I could not miss you.

**Deputy Timmy Dooley:** The ranking might be a problem.

**Deputy Richard Boyd Barrett:** I was trying to get in early because the early bird catches the worm.

**An Ceann Comhairle:** You are not a leader yet. Keep hoping.

**Deputy Richard Boyd Barrett:** We are all leaders.

**Deputy Timmy Dooley:** We are all winners.

**Deputy Micheál Martin:** The Government has belatedly published the White Paper on universal health insurance. I am not clear about its exact status. Is it a Green Paper or a White Paper?

**The Taoiseach:** White.

**Deputy Billy Kelleher:** No, it is coloured white with black ink.

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**Deputy Micheál Martin:** In terms of the substance contained within the paper, it is very shallow. It has no costings. One might suspect that many aspects of it are being deferred until after the local elections. Obviously, a substantial number of people will either face significant extra taxes or charges arising from it, or will have their existing level of cover restricted or cut back. Will the Taoiseach facilitate a debate in the House on the White Paper as quickly as possible, given the importance it potentially holds for many people? There is a need for clarity regarding the taxation issue. It is inevitable that a sizeable proportion of people will have to pay extra charges. Ultimately, universal health insurance is no more than a funding model. Nothing is free at the end of the day. Someone has to pay for the health service. The model of funding is the key issue here. Now that the White Paper has been published - shallow and all as it is - I believe it should be debated in the House.

Can the Taoiseach tell us when the health (general practitioner medical service) Bill will be published? The Bill is necessary if the Government is to follow through on its commitment regarding GP care for those aged five years and under. Will that legislation cover those who continue to have their medical cards taken from them in a random fashion? The elimination of discretionary medical cards is one of the scandals of this Government. It has hit hardest those who are sickest. I refer particularly to children with special needs and multiple conditions and to people with motor neurone disease and multiple sclerosis. When one knocks on doors and people come to one to complain that medical cards have been taken from them in such circumstances, it is difficult to comprehend. It reflects very badly on the Government. We need some legislative response to that in the context of the forthcoming Bill.

**The Taoiseach:** I will facilitate a discussion in the House on the White Paper. It is a White Paper. It requires real consultation with people throughout the country.

**Deputy Micheál Martin:** Does the Taoiseach know what we do with a Green Paper?

**The Taoiseach:** The intention is to move from a two-tier system to a single-tier system in which everybody is treated the same. I think people are entitled to know what this will mean for them. For instance, under UHI, for the first time, people who are paying for private health insurance at the moment will have primary-care facilities covered by that package. To be truthful about it, it is not costed because it is necessary to work out the exact system of the basket of services that will be provided under the insurance companies-----

**Deputy Billy Kelleher:** So it is not a White Paper; it is a Green Paper.

**The Taoiseach:** -----in respect of which people will have a choice and there is a process to be put in place leading to that. The first part of the process is already under way with the free GP care for those aged under six. Legislation for that will be in here in a couple of weeks, driven by the Minister of State, Deputy White. We will facilitate a discussion here in the House on UHI and I am sure Deputy Kelleher will have some very complimentary remarks to make about it-----

**Deputy Billy Kelleher:** I will have observations anyway.

**The Taoiseach:** -----and will have some worthwhile views for us to hear. It is a White Paper, but in fairness it requires a deal of consultation with people around the country.

**Deputy Micheál Martin:** Regarding the consultation, will the Government publish the memos from the Ministers, Deputies Howlin and Noonan, who had some very important things

to say about it?

**The Taoiseach:** Did the Deputies opposite not have those already?

**Deputy Micheál Martin:** I think that the internal Cabinet disagreements would be important in the public consultation we will have.

**The Taoiseach:** The UHI paper is the agreed position of the Government. It is one of substance. There are issues of cost constraint in there - it cannot cost any more than the two-tier system that it will replace. There are requirements to come back to Government, and the Minister of the day with Government authorisation will make the decisions in respect of the baskets that are in there in terms of the services so all of that can be discussed.

**Deputy Gerry Adams:** Ar dtús, ba mhaith liom a rá go seasaim leis an gCeann Comhairle maidir leis an méid a dúirt sé faoi anti-Semitism. Aontaím leis faoi sin. Táim sásta fosta go mbeidh díospóireacht againn faoin White Paper on universal health insurance. Tá sin an-tábhachtach. An féidir linn ceisteanna a chur ar an Aire ag deireadh na díospóireachta sin?

Maidir le reachtaíocht atá fógartha faoi chlár an Rialtais, and the consolidated domestic violence legislation, the programme for Government promises to introduce reformed domestic violence legislation to address all aspects of domestic violence and to do so in a manner that provides protection to victims. When will the legislation be published? At this time women's aid refuges are being closed, including one in Dundalk, which will leave Drogheda women's aid centre as the only refuge for victims of domestic violence covering Louth, Cavan and Monaghan. In addition to the legislation we also need the Government to really help the victims of domestic violence by ensuring that funding for these refuges continues.

**The Taoiseach:** Tá mé buíoch den Teachta as ucht an méid atá ráite aige faoi dhaoine atá ag cur ráiteas amach agus maidir leo siúd atá i gcoinne chreideamh na nGiúdach. Aontaím leis an Teachta agus gabhaim buíochas leis as ucht an méid a dúirt sé faoi sin.

The Oireachtas Joint Committee on Health and Children will also have an important role in respect of UHI. It will hold hearings in locations around the country so that people can give their views for or against so that we can come back and make this as complete and comprehensive as possible.

In respect of domestic violence, Deputy McDonald was notified on 21 March, I think, of the Government's commitment to consolidate and reform domestic violence legislation. Work is under way to update the 1996 Act. It is planned that the reformed legislation will include provisions on emergency barring orders and safety orders. The reforms will facilitate Ireland ratifying the Council of Europe Convention on Combatting Violence Against Women and Domestic Violence under what is known as the Istanbul Conference. The general scheme will contain provisions necessary to give effect to the EU regulation on mutual recognition of protection measures in civil matters. It is hoped to publish the general scheme before the summer recess. Once that is considered by the Attorney General, it will be submitted to Government for consideration. We can update the Deputy as the process moves along.

**Deputy Richard Boyd Barrett:** There are 240,000 mortgages for buy-to-let properties in the country of which 35% to 40% are now in distress and thousands are facing insolvency. This affects up to 60,000 or 70,000 tenants who may be paying their rent but could face eviction because their landlords are insolvent. Where is the legislation to update the receivership

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guidelines to give some protection to tenants with families who have paid their rent and have a right to expect security of tenure of the roof over their heads, but who through no fault of their own face the possibility of being thrown out on the street, as is happening as we speak? They are being forced on to housing lists when no local authority houses are available. They are even facing the prospect of their families being thrown into emergency housing accommodation. Where is the legislation?

**The Taoiseach:** The Deputy should make his contributions during tomorrow's debate on the matter, which is part of the continuing discussions the Government has agreed to with regard to housing, homelessness and pressure on people in a variety of sectors. I would be glad to hear him expand on the detail to which he has already referred. Obviously, when the Minister replies there will be an indication of when amending legislation or whatever is necessary can be drafted. The Government also intends to bring forward a comprehensive response to the construction crisis given the necessity to provide housing for so many people where pressure has built up in recent years.

**Deputy Richard Boyd Barrett:** It is a crisis.

**Deputy Mary Lou McDonald:** Today at Mount Jerome Cemetery in Harold's Cross a memorial stone will be unveiled to mark the spot in which 221 babies and young children, who died in the Bethany Home in Rathgar between 1922 and 1949, are buried. The State has consistently turned away from the small number of survivors of this home. They have been refused recognition, have received no apology and have been consistently excluded from any redress scheme the State has introduced. When does the Government propose to introduce legislation to give effect to these victims' rights and bring them within the net of a redress scheme? When does the Government propose to give them the recognition they so desperately need and deserve? Does the Taoiseach propose to make an apology on behalf of the State to these children, who happen to come from Protestant churches? Many of them believe they have actively been discriminated against because of their faith beliefs?

**An Ceann Comhairle:** Is there promised legislation here?

**The Taoiseach:** There is not any legislation promised in this area. It has been the subject of ministerial discussion and decision over the course of a number of governments, but no legislation is promised here.

**Deputy Bernard J. Durkan:** What is the status of the regulation of lobbying Bill?

Two probation Bills are proposed, the criminal law probation supervision mutual recognition Bill and the probation services Bill. They both relate to European directives to be transposed into Irish legislation. When are those Bills likely to come before the House? When are they likely to be passed and come into law? The decisions go back as far as 2008.

**The Taoiseach:** The regulation of lobbying Bill will be published in this session. The heads of the two Bills in respect of probation were approved in January so they will be published later this year.

**Deputy Peter Fitzpatrick:** The health (general practitioner medical service) Bill will fulfil the Government's commitment to support young families, protect children in their critical early years and improve the overall health of future generations by providing free GP care to children under six.

*1 o'clock*

This is a Bill the parents of young children support and are waiting to see published and passed. When can we expect publication?

**The Taoiseach:** We expect that within the next couple of weeks. The Minister of State, Deputy White, has done a great deal of work on this and it is practically concluded.

**Deputy Willie O'Dea:** There is a commitment in the programme for Government to introduce a petitions system in this Parliament along the lines of what happens in the European Parliament. What is the position in that regard?

There is a proposal in the programme for Government to have at least a fortnight's delay between different Stages of legislation. What is the latest status of that given it will require a change to Standing Orders?

**The Taoiseach:** I will have the Whip respond to the Deputy on that. I do not think we have had any row about Bills being guillotined since we came back. It takes a while to get the process of pre-legislative hearings by the committees back to Government and then moved back into the House and the Seanad, as the case may be.

**Deputy Willie O'Dea:** This was promised three years ago.

**Deputy Micheál Martin:** In any case, we have had no Bills recently.

**The Taoiseach:** Do not worry. Deputy Martin will have plenty of them before too long. As I said, I had to take the lead out and things are moving.

**Deputy Willie O'Dea:** What about the petitions?

**The Taoiseach:** I will come back to the Deputy.

**Deputy Mattie McGrath:** Will the Taoiseach have investigated the provisions of the fair deal nursing home support scheme, which are continuing to discriminate against farmers?

**An Ceann Comhairle:** He cannot do it on the Order of Business.

**Deputy Mattie McGrath:** It is under the Health Service Executive (Financial Matters) Bill 2013. Elderly farmers are made pay for all the time they are in a nursing home whereas ordinary people only pay for three years. It is discriminatory against elderly farm owners.

**An Ceann Comhairle:** We cannot get into the detail.

**Deputy Mattie McGrath:** I have ceann amháin eile.

**An Ceann Comhairle:** Ceann amháin eile.

**Deputy Mattie McGrath:** Under the same scheme, GPs are charging full medical card holders for blood tests, sick certs and everything else. I hear evidence of this every day of the week in my office. People are being charged even though they-----

**An Ceann Comhairle:** I suggest the Deputy get in touch with the Minister's office about that. Is there any help the Taoiseach can give the Deputy?

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**The Taoiseach:** That HSE Bill is awaiting committee. On the first point, the Deputy might send details of what he is talking about. I am not sure if he is talking about the new legislation because that has already gone through.

**Deputy Mattie McGrath:** It has, yes.

**The Taoiseach:** It may need to be adjusted. The Deputy might supply the details.

**Deputy Brian Walsh:** When can we expect publication of the immigration, residence and protection Bill which, among other things, will introduce measures to deal with those families and individuals who are trapped in the direct provision system, in many cases bereft of hope and without any light at the end of the tunnel? While I know the numbers in the direct provision system have fallen sharply in the past three years, this is something that is needed.

**An Ceann Comhairle:** Thank you, Deputy.

**Deputy Brian Walsh:** We cannot accuse the Minister, Deputy Shatter, of being shy in introducing legislation given he has been churning out legislation since he assumed office, but this is extremely important for those in the direct provision system.

**The Taoiseach:** The Immigration, Residence and Protection Bill was published back in 2010. However, there are substantial amendments to it which would alter the effect of the Bill completely. I believe the intention is to publish a new Bill on immigration. I will send Deputy Walsh the details concerning at what stage the progress towards publication of a new Bill actually is.

**Deputy Pearse Doherty:** I understand the Government has announced emergency legislation which is due to be enacted before the Easter break. Therefore, it is in the next two weeks that it will bring forward an electoral (amendment) Bill to scrap the provisions whereby, if one is bankrupt, one cannot stand for this House, the Seanad or the European Parliament. I welcome that. However, I have a concern about rushed legislation. I understand this is because of a High Court challenge. This is the second electoral (amendment) Bill that has resulted from a High Court challenge, the other being my own challenge in the by-election case. I put the Taoiseach on notice that there will be further challenges unless we deal with this. For example, local elections taking place on islands which are accessible all year round-----

**An Ceann Comhairle:** We cannot debate the issue now.

**Deputy Pearse Doherty:** This is an emergency Bill so we will not really get time-----

**An Ceann Comhairle:** You should deal with it through the committee.

**Deputy Pearse Doherty:** The issue of bankruptcy will be dealt with. Will the issue of Oireachtas Members having to give tax clearance certificates within nine months also be scrapped because it falls into the same remit of one's financial circumstances? Obviously, any Member of this House or the Upper House who does not furnish that can be suspended for an indefinite duration. Is it the intention of Cabinet to get rid of both measures?

**An Ceann Comhairle:** We cannot discuss the content of Bills. We want to know when they are coming in.

**The Taoiseach:** The Cabinet is responding to a court case in respect of bankruptcy. The

Minister for Public Expenditure and Reform deals with the other matter. The Government yesterday cleared the issue of bankruptcy but there was no reference or decision made in respect of the second matter raised by the Deputy.

In response to Deputy O'Dea's earlier question, I understand the Joint Committee on Public Service Oversight and Petitions is up and running and dealing with petitions every week.

**Deputy Robert Troy:** The Children First Bill has been repeatedly promised by the Minister, Deputy Fitzgerald, by the Tánaiste and by the Taoiseach as far back as before the summer recess last year. As recently as at the launch of the new Child and Family Agency, the Taoiseach promised it would be before the Oireachtas within two weeks. That agency was launched eight weeks ago and we are still waiting to see the Bill before the House. Will the Taoiseach please give a definitive timeframe for when that legislation will be before the House? Children are being left in vulnerable situations as a result.

The second Bill was alluded to earlier, namely, the health (general practitioner medical service) Bill. The Taoiseach said that will be in within two weeks. Will that deal with the inequitable situation that currently exists?

**An Ceann Comhairle:** We cannot deal with the content of the Bill.

**Deputy Robert Troy:** I am dealing with an 18 month old child with leukaemia who cannot get a medical card.

**An Ceann Comhairle:** There are other ways of raising these issues.

**Deputy Robert Troy:** I am three weeks dealing with this situation.

**An Ceann Comhairle:** Thank you. Please resume your seat.

**Deputy Robert Troy:** Her parents are facing enough anxiety and worry. For three weeks-----

**An Ceann Comhairle:** Please resume your seat.

**Deputy Robert Troy:** -----they cannot get a medical card for an 18 month old child with leukaemia. Does the Taoiseach think that is fair? Does he think it is right?

**An Ceann Comhairle:** We are not dealing with the content.

**Deputy Robert Troy:** Will that be dealt with when we bring this legislation before the House? I apologise, a Cheann Comhairle. I do not do this often but it is a very serious issue of an 18 month old who cannot get a medical card.

**An Ceann Comhairle:** The Deputy can table a Topical Issue matter or try some other way but not on the Order of Business.

**Deputy Robert Troy:** My apologies.

**The Taoiseach:** I expect the legislation will come before Cabinet next week.

**Deputy Ray Butler:** On the social welfare and pensions Bill, last week ISME and the Self Employed Alliance attended a meeting of the joint committee. Everyone is in favour of-----

**An Ceann Comhairle:** That is very interesting. What are we talking about?



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**Deputy Ray Butler:** It is the social welfare and pensions Bill. Everyone is in favour of a new stamp for the self-employed. The big question is whether it is going to be voluntary or mandatory. Will the Government move on this over a period of time? The Minister has said she will not introduce a stamp of 1.5% and that she will bring it in in stages of 0.25%. It is a huge issue.

**An Ceann Comhairle:** I know it is a huge issue.

**Deputy Ray Butler:** I just want the Government to move because-----

**Deputy Robert Troy:** Deputy Butler is in government.

**An Ceann Comhairle:** The Deputy can have a chat with the Minister.

**Deputy Ray Butler:** -----the previous Government did nothing.

**An Ceann Comhairle:** Will the Deputy resume his seat?

**Deputy Ray Butler:** Let us recognise the self-employed people through social protection.

**The Taoiseach:** It is an important matter. I expect Deputy Butler will have an opportunity to debate all these issues in May of this year when that Bill comes before us.

**An Ceann Comhairle:** All these are very important issues. However, there is a place and a time to discuss them and it is certainly not on the Order of Business.

**Deputy Frank Feighan:** When will the Higher Education Authority Bill be before the House?

**The Taoiseach:** That is next year.

*Sitting suspended at 1.10 p.m. and resumed at 2.10 p.m.*

### **Topical Issue Matters**

**Acting Chairman (Deputy Joe O'Reilly):** 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 Terence Flanagan - the need for more beds for cystic fibrosis patients to be provided at Beaumont Hospital; (2) Deputies Michael P. Kitt, Éamon Ó Cuív and Denis Naughten - the need to address the issues raised regarding the national ambulance service; (3) Deputy Brian Stanley - the future of Ballacolla post office, County Laois; (4) Deputy Regina Doherty - the proposed closure of a day centre in County Meath; (5) Deputy Gerald Nash - that a person, details supplied, be provided with assistance to be cared for at home; (6) Deputy Peadar Tóibín - the need to provide a housing solution for persons forced into homelessness; (7) Deputy Billy Kelleher - the White Paper on universal health insurance; (8) Deputy Alan Farrell - the alternatives following the decision taken in relation to a directly elected mayor for Dublin; (9) Deputy Ann Phelan - the compulsory redundancy of enlisted Defence Force members based on an upper service limit of 21 years; (10) Deputy Jack Wall - the compulsory redundancy of enlisted Defence Force members based on an upper service limit of 21 years; (11) Deputy Willie Penrose - the compulsory redundancy of enlisted Defence Force members based on an upper service limit of 21 years; (12) Deputy Catherine Murphy - the extra

charging of families by some nursing homes for the provision of basic equipment and medical supplies; (13) Deputy Jim Daly - the need to restructure and target road tax revenue at repairing the current road network; (14) Deputy Colm Keaveney - the need to reduce the waiting lists for assessments of needs for special education supports in schools; (15) Deputy Dara Murphy - the time constraints that An Bórd Pleanála is subject to on planning applications; (16) Deputy John Browne - the cut in Meitheál funding this year; (17) Deputy Michael Moynihan - the broadcasting rights of national sports; (18) Deputy Dan Neville - the suicide rates for young persons here; (19) Deputy Aodhán Ó Ríordáin - the change in the referral process for children in the Dublin 1 area to the Mater CAMHS; (20) Deputy Mick Wallace - the staffing levels at St. Mary's national school in Enniscorthy, County Wexford; (21) Deputy Eamonn Maloney - the public concern at private hospitals being funded by the taxpayer; (22) Deputy Sandra McLellan - the impact of broadcasting GAA games as part of a pay per view agreement; (23) Deputy Michael Colreavy - the broadcasting of GAA games on pay per view channels; (24) Deputy Joe Higgins - the broadcasting of GAA games on pay per view channels; (25) Deputy Helen McEntee - the proposed closure of a day centre in County Meath; (26) Deputy Clare Daly - the issues raised in regard to the Go Safe system; (27) Deputy Mattie McGrath - the levies payable under provisions of the fair deal nursing home support scheme; and (28) Deputy Seamus Healy - the need to alleviate the trolley crisis at South Tipperary General Hospital.

The matters raised by Deputies Michael P. Kitt, Éamon Ó Cuív and Denis Naughten; Aodhán Ó Ríordáin; Dara Murphy; and Peadar Tóibín have been selected for discussion.

## **Topical Issue Debate**

### **Ambulance Service Provision**

**Deputy Michael P. Kitt:** I thank the Minister for Health for attending. There has been a long campaign for an ambulance service in north Galway and I was one of several representatives who organised a campaign petitioning to have an ambulance base located in Tuam to serve north Galway-south Mayo. We expected a 24-hour service but what we received is a day service that is not fully operational. There is not even a timetable available for the ambulance base. On the one hand, we are told there is an embargo on recruitment and on the other, we are told that there are staff willing to transfer to Tuam to provide the service and we are still waiting.

There is a new building in place and people are very anxious to have a service there. Great work is being done by the Order of Malta but the Minister probably understands that traffic to and from Galway city where the ambulances come from is a huge issue. We do not have adequate staffing or vehicles, there are over 30,000 people in the catchment area and €2 million has already been spent on the building. I know other centres are looking for funding but I make the point that trade unions have been fighting the cause of the people and there are very well-qualified personnel. Many of the staff trained in St. Brigid's Hospital in Ballinasloe. We are still using Galway city as a base even though we have bases in Loughrea and Carraroe in west Galway. Traffic is a huge issue. We are waiting for work on the new Gort-Tuam motorway to start. There seems to be some delay in getting it started. Given that work has not started, traffic

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will be a huge issue and there will be delays in Tuam and south Mayo, which we hope will be served by the base. I hope the Minister can give us some indication as to how the base in Tuam will proceed.

**Deputy Éamon Ó Cuív:** When I was a Minister, we recognised that the more isolated rural areas were unlikely to ever get an ambulance service adjacent to them. The Minister would appreciate far more than me the rule about the golden hour. As a result, we decided to grant aid through the Order of Malta and the Red Cross the purchase of voluntary ambulances. Local people did all the necessary training up to the standards laid down to become voluntary ambulance workers. We had a very good ambulance service in places like Carna, Leenane and Clonbur in my own area but also around the country. We had ambulances in place anywhere a local community was willing to commit to this service. They were available on call-out. It meant that times getting to incidents were vastly reduced.

It was with great shock that I found out recently that the ambulance service of the HSE has claimed that these people who are trained to the national standard and have the qualifications laid down by the Pre-Hospital Emergency Care Council are not considered sufficiently trained to continue to provide this service. My understanding is that there are four levels of qualified staff - emergency first responder, emergency medical technician, paramedics and advanced paramedics. I understand that the HSE's argument is that these people are not trained paramedics. It is strange that they are allowed to attend football matches *gratis* and any other event and that if a person has a heart attack there, there is no problem with putting them in the ambulance. However, they cannot do a call-out in our area and we must wait for an hour, an hour and a half or two hours for a first call. An ambulance could be sitting within ten to 15 minutes of the person affected but according to some bizarre rule, they cannot get that ambulance to provide the service.

I presume the Minister was not aware of this. I would not expect him to know every detail of every decision made by the HSE. However, this issue is worthy of an investigation. Perhaps in his reply, the Minister could commit to coming back having investigated the basis for this decision.

**Deputy Denis Naughten:** I compliment Una Smith and the "Prime Time" team for exposing the reality of what is happening at the coalface in our ambulance service. We have wonderful staff working in appalling conditions. I want to bring the Minister back to something he said in the House on 30 June 2011 when he stood up and promised the people of Roscommon that they would have additional ambulances. He stated:

The service was to be supplemented by an additional ambulance so there would be four ambulances covering Roscommon during the day and three at night. I can guarantee that. There will be extra paramedics available with a car to provide cover if all the ambulances are out of Roscommon at any given time. These are services that I can control and which I will deliver.

The Minister went on to say that "the abiding message I want to send from this House today is that I want to replace that which is not safe with something that is safe". The "Prime Time" report exposed the fact that there has been a complete depletion of all the ambulances in county Roscommon for extended periods of at least two hours on ten out of 14 days that the report analysed. An expert interviewed on the programme highlighted the fact that too few resources are available to the people of Roscommon to meet their needs.

Instead of addressing this issue, the intention is to spread these limited resources over an even wider area with one of the Roscommon town ambulances now to be relocated to Loughglynn to provide a badly needed service to the people of west Roscommon and east Mayo. We have already seen the loss of one of our ambulances servicing the county in Ballinasloe which has been relocated to Tuam for three days a week. Yes, we have a great air ambulance service, which is to be welcomed, but people get heart attacks and strokes at night and the only way the ambulance can be called in is if the paramedic calls it.

We have three nationally recognised ambulance black spots, all of which happen to be in the west of Ireland - Mulranny in Mayo, Tuam in Galway and west Roscommon-east Mayo. The Government is spending €1.2 million on the Tuam base, €470,000 on the Mulranny base and €70,000 on the Loughglynn base with no ambulances and no additional staffing being made available to service those stations.

**Minister for Health (Deputy James Reilly):** I thank the Deputies opposite. We covered this area last week in the Chamber and again yesterday at Question Time. I understand that in different parts of the country, different concerns are raised but I welcome the opportunity to outline again the current position relating to our pre-hospital emergency care services. The National Ambulance Service, NAS, is working to ensure the provision of high quality and timely emergency pre-hospital care services using all available resources as effectively and as efficiently as possible. As with any pre-hospital service, development and modernisation is an ongoing process as technology and clinical standards change. A significant reform programme is under way and additional funding of €3.6 million and 43 staff have been provided in the 2014 national service plan. I believe it is important that we acknowledge that progress is being made.

New governance arrangements are being put in place to ensure the timely assessment, diagnosis, initial management and transport of acutely ill patients to appropriate care. A joint review of Dublin ambulance services, commissioned by Dublin City Council and the HSE, will determine the best model of ambulance services for the city, although I know this does not concern any of the Deputies here. In addition, an independent review of the NAS capacity nationwide will determine the level and use of resources required in terms of staff, vehicles, skills and distribution, for a safe and effective service now and into the future. I am confident that the reports of these reviews will inform the development of a modern, clinically-driven system, properly resourced, for appropriate and timely services to the benefit of patients.

Deputy Kitt raises the issue of services in north Galway and south Mayo. The national capacity review, as well as the HIQA review, will be of importance in the context of the development of services outside the main urban areas and, in particular, the western area which, because of its rural nature and road network, provides a particular challenge for response time targets. The counties in question benefit from the Emergency Aeromedical Support, EAS, service. This service provides rapid air transport of seriously ill or injured patients to an acute facility, where the land transit time would not be clinically advisable. The EAS has completed 556 missions since its inception in June 2012 to February 2014. The Irish Coast Guard also performed over 300 helicopter missions in support of the NAS in 2013 and will continue to do so in 2014.

I would like to assure the House that the NAS will continue to modernise and reconfigure its services to deliver timely and appropriate emergency pre-hospital care. The ongoing reform programme will provide a clinically driven, nationally co-ordinated system, supported by improved technology.

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Deputy Ó Cuív commented on the golden hour but things have moved on in that regard. The critical period now is 90 minutes for somebody with an acute myocardial infarction or a heart attack which requires a bypass, which is now done through stenting. All patients going to the relevant centres can avail of this and the outcomes have been hugely improved for people who suffer heart attacks. There have also been huge improvements in the numbers of stroke patients who receive thrombolysis, the blood clot busting agent, which relieves their symptoms, saving at least a life a week and preventing three people per week from going into long-term care. We have gone from the bottom of the list in Europe for such procedures to the very top in a very short timeframe of 18 months.

**Deputy Michael P. Kitt:** As the Minister said with regard to Tuam, the traffic situation on the Galway Road is very serious and presents a huge challenge when ambulances have to be called from outside the town. In reference to HIQA, the health correspondent of the *Irish Independent*, Ms Eilish O'Regan, wrote recently about HIQA conducting a six-month review of the ambulance service. I would hope that the review could be done very quickly because the situation is urgent. I was hoping a start would be made on the new road from Gort to Tuam but there seems to be some delay in that. The contracts were to be signed last week. We have very good staff who I know get good training and I have no issue with the equipment or the ambulances themselves. That said, there is a worrying rise in the number of incidents of serious delays in terms of response times. This has been highlighted by the National Ambulance Service Representative Association. I hope the situation can be improved. I believe a national control centre is to be put in place and steps are being taken in that regard. Above all, however, where a building is available, it should be staffed, training should be provided and the ambulances should be put in place. I hope that can be done quickly in the case of Tuam.

**Deputy Éamon Ó Cuív:** I am delighted to hear about the extended time to an hour and a half but with most of the places to which I refer, an hour and a half would get one there but would not get one back again. I am talking about places where it would take an ambulance well over two hours and up to three hours to get out and get back. The local ambulance, on the other hand, is run on a voluntary basis by people who work to serve their communities and who have huge dedication. They are fully qualified and have received training from organisations like the Red Cross and the Order of Malta, which adhere to very high standards. No explanation has been given as to why they can transport patients who were injured at sports events and so forth but cannot pick people up who need to be brought to hospital. Perhaps the Minister would inquire into this matter because we are always talking about communities helping themselves in this country but it seems that often, when they do, they are rocked back by some rules that come out of the blue and for which there seems to be very little justification.

**Deputy Denis Naughten:** We were told on the "Prime Time" programme by Martin Dunne, the head of the ambulance service, that we are providing an excellent service to everybody in the west. Along with the north east of the country, we have the worst response times. We have the biggest number of dropped shifts, which means a loss of ambulances. Bizarrely, we also have the biggest underspend on overtime. The only places where there are overtime underspends are the west, the north east and the east, based on the first nine months of last year. That does not include the scheduled overtime cuts that are taking place, with no cover for annual or long-term leave. It is all well and good that we have fabulous uniforms but we do not have ambulances or ambulance staff. I could not care less if the ambulance crews come to us with the knees out of their uniforms if we actually have ambulances and ambulance staff. That has to be the priority. I urge the Minister to intervene directly in this regard. I know the Minister

has taken a huge interest in it and has demanded that HIQA comes forward with its report. We need ambulances and staff now. I ask the Minister to direct the National Ambulance Service to put ambulances and staff into the three bases referred to, the only three nationally recognised ambulance black spots of Mulranny, Tuam and west Roscommon. We need those additional services now.

**Deputy James Reilly:** It is important to make it clear, in the short time I have, that nobody who works in the ambulance service believes it cannot be improved - it can be and it will be. The real issue here, which Deputy Ó Cuív alluded to, is the time to care. That is why the early responder and pre-hospital emergency care advance paramedics are so important. That feeds into the Deputy's other concern regarding the Order of Malta and others, who are not trained to deal with people in the same way as the advanced paramedics are trained, which is why they cannot be used in as open a fashion as the Deputy might like. That is not in any way to denigrate the people concerned and we certainly need to look into the issue raised by the Deputy to determine how we can best use the resources available. There must be cases which would be suitable for the Order of Malta to transport - patients who are not acutely ill but who, nonetheless, need to go to hospital. However, I do not think we would want them to be looking after someone who has had an acute heart attack, without the ability to cannulate the patient and so forth, or other situations which require the specialist expertise of the advanced paramedic.

In 2013, the HSE target for carrying vehicles to respond within 19 minutes was 70% for echo calls and 68% for delta calls, both of which are life-threatening. For 2014, the target for both call types has been increased to 80%.

There has been in excess of a 1,000% per month increase in ambulance call-outs and this has placed a strain on the service. None the less, they are only 1% and 2% behind those rates this year. The Government has increased spending on the ambulance service both this year and last year. While there was a reduction in the number of ambulance vehicles *per se* for carrying patients, there are more of them available to do that job now because we have increased the number of vehicles to transfer patients between hospitals, thus freeing up those as well as the number of cars and motorbikes.

We are making improvements, although I can understand that there is room for more. We plan to make more improvements as time goes by. We want people to be reassured that they are able to obtain acute care when they need it. We fully realise and understand also that there are isolated areas with poor roads that are very difficult to access. We will continue to strive to achieve that, however. Mr. Dunne was alluding to the fact that our vehicles are of the highest specification and that our staff are trained to the highest level. Those matters are important. The crucial thing is that ambulances can get to the patient who needs them on time.

**Deputy Denis Naughten:** They need to respond at all stages.

### **Mental Health Services Provision**

**Deputy Aodhán Ó Ríordáin:** I must apologise for my voice which has been affected by some dental work, but I will try to struggle through. I wish to raise the important issue of the new referral procedure for children in the north side of Dublin to the Mater child and adolescent mental health service. Mater CAMHS deals with the mental health needs of children aged from birth to 16 in Dublin North-Central. Sixteen and 17 year olds are also continuing to use

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the service. Dublin postcodes 1, 3 and parts of 7, 9, 11 and 6, Dublin North-West, Glasnevin and part of Cabra are also covered. The services provided are psychiatry, clinical psychology, social work, speech and language therapists, occupational therapists, administration, registrars in child psychiatry, trainees and students in all disciplines.

The referral process is for children from birth to 16 years with persistent mental health problems such as emotional, behavioural, developmental and other psychiatric disorders. It also concerns problems that impact on functioning at home, in school or in relationships that have not been resolved by primary care level intervention, including the National Educational Psychological Service. We are talking about deliberate self-harm, suicidal thinking, depression, mood disorder, complex and severe anxiety, attention deficit disorder, attention deficit hyperactivity disorder, significant emotional and behavioural difficulties, post-traumatic stress disorder, complex behavioural problems, conduct disorder, complex behavioural response, psychosis, eating disorders, obsessive compulsive disorder and complex developmental problems.

Local school principals dealing with these very vulnerable children in an acutely disadvantaged area, which is the team A area in Dublin North-Central, are being told they can only get referrals to use the Mater CAMHS service through their local general practitioner. Children in Dublin 2 or 4 can therefore be referred by their local school principal, but children in Dublin 1 and 3 have to go through their GP. This is completely unfair, unwarranted and unnecessary. We are asking school principals to bring a parent and child to their local GP before they can make an essential and sometimes immediate intervention to save a child's mental health or potentially save a child's life.

People working within the service are saying this is completely unworkable. Why is a child in Dublin 1 being treated differently from a child in Dublin 2 or 4? The referral process should be uniform throughout the system. Will the Minister ensure principals in the team A area for Mater CAMHS will continue to be allowed to refer vulnerable children to this most important service?

**Deputy James Reilly:** I thank the Deputy for raising this issue for discussion today and giving me the opportunity to discuss it.

The Dublin north city and county child and adolescent mental health service, formally known as Mater CAMHS, has become part of the HSE from 1 January this year. Currently, referrals can be made to Dublin north city and county CAMHS from 13 different referral sources, which would not be consistent with national policy as advocated by A Vision for Change. The service is currently reviewing its existing clinical care pathway and referral criteria to bring it into line with A Vision for Change and the other mental health specialties. As part of this review it is developing a plan for the implementation for the standard referral pathway and referral criteria which, when implemented, will reflect A Vision for Change and national policy. This plan will be implemented in 2014. Some of the teams had reduced the number of referral sources in anticipation of the wider plan. However, the service can confirm that in advance of its referral criteria being brought in line with national policy, it will continue to consider all referrals, including those from schools.

Community child and adolescent mental health teams are the first line of specialist mental health services for those under 18 years of age, providing acute secondary mental health care. The assessment and intervention provided is determined by the severity and complexity of presenting cases. Nationally, there are a total of 61 child and adolescent mental health teams,

comprising 56 community-based teams, two adolescent day hospital teams, and three hospital paediatric teams. All community CAMHS teams screen referrals received, with those deemed urgent seen as a priority and those regarded as routine placed on a waiting list. In the period 1 October 2012 to 30 September 2013, a total of just over 12,000 referrals were accepted by the HSE, representing a 21% increase when compared with the previous 12 months. This statistic alone highlights the challenges being faced in providing mental health services. Arising from the investment in mental health in 2012 and 2013, 232 new posts and €7.5 million were allocated to enhance CAMHS community team provision. Of these, 171 or approximately 75% had started in their posts by 31 January last.

The HSE will continue to prioritise investment in CAMHS services in line with A Vision for Change. The €20 million allocated to mental health for 2014 will allow between 250 and 280 more posts to be filled. As outlined in the national mental health division operational plan for 2014, a comprehensive workforce analysis will inform the best targeting of the 2014 investment. It is expected that a proportion of the new posts will be allocated to CAMHS to build on the 2012 and 2013 investments.

The detailed annual CAMHS reports will continue to report on the activity, access, timeliness and resources of these services. I wish to reiterate the Government's strong commitment to developing mental health services for children and adolescents nationally. I trust this clarifies the matter for the Deputy.

**Deputy Aodhán Ó Riordáin:** I thank the Minister for his response. I note he said that “the service can confirm that in advance of its referral criteria being brought in line with national policy, it will continue to consider all referrals, including those from schools”. The problem though is that the Mater CAMHS is telling local school principals something different. While people within the service are quietly telling principals that they think this is unworkable and they want the previous criteria to remain, the Minister's message and the message local principals are getting from Mater CAMHS are two very different things. I ask the Minister to ensure local schools dealing with these vulnerable children are aware they can still refer such children to the local Mater CAMHS and that the situation has not changed. Will the Minister also communicate that to the service itself? We do not want mixed messages to be coming from the Minister and the local Mater CAMHS.

According to a presentation for principals by that service, the HSE is recommending that referrals come through the local GP. Two very different messages are coming out here, so we need clarity. We are dealing with very vulnerable children in serious situations who will potentially need life-saving interventions. We cannot play around with words in the circumstances. Principals and school communities need to know what protections they have and what line of responsibility they have. Mixed messages from CAMHS or the Department do not help. If the Minister could clarify the matter or ensure that it is clarified, it would be deeply appreciated.

**Deputy James Reilly:** I thank the Deputy again for raising the matter. It provides an opportunity to communicate with service users as well as service providers. It is the responsibility of the Minister of State, Deputy Kathleen Lynch, who cannot be here due to a family bereavement. I apologise on her behalf and note that our thoughts and wishes are with her. I will discuss the matter with her. I have no doubt that she will be in a position to communicate a clear message to the services concerned. The question of whether it is more appropriate that referrals be carried out through certain pathways rather than in a broader sense is a matter for further discussion given the hugely increased pressure under which the service has come. That increase in pres-



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sure is evidenced by the statistics I have just set out to the Chamber.

The Government is committed to dealing with mental health issues and to ending the situation whereby children with serious mental health issues are admitted to adult facilities. We have reduced the incidence of that considerably. We are committed to ensuring that people are looked after in the community, which is the first line of defence. That is appropriate because it is where most needs can be met and it is far more convenient for parents and their children not to have to spend a great deal of time travelling to specialist clinics. It would be better to have local clinics accessed through local referral pathways.

I will certainly raise the Deputy's concerns with the Minister of State and we will clarify matters. The note from the Department is very clear that the current system of referral has not changed. I note from the document the Deputy read out the suggestion that it might be best done through the general practitioner. I do not have a difficulty with that but I accept equally that school teachers who are dealing with children on a daily basis are often skilled at detecting problems that might require further investigation. Such teachers should be facilitated for the sake of the child, which is what we are all interested in.

### **Planning Issues**

**Deputy Dara Murphy:** I thank the Office of the Ceann Comhairle for choosing this Topical Issue. I will reference a local example, but the underlying issue is one of national importance.

Last Thursday week, 20 March 2014, planning permission which had been granted by Cork City Council for a development on the quays in the city centre of office accommodation for 2,000 workers was appealed to An Bord Pleanála. Under the current rules, any individual or company has an absolute right to make such an appeal. I have two difficulties with the current situation, the first of which relates to the length of time and uncertainty surrounding the appeal process.

An Bord Pleanála uses the unusual term “statutory objective” regarding its intention to deal with appeals within 18 weeks. However, it is not a statutory requirement. There is a statutory requirement on local authorities to deal with planning applications within four months, including a month for extra information. An Bord Pleanála will make the case that it has increased the pace at which it deals with appeals. While Ireland is doing exceptionally well on international competitiveness charts, one area in which we are not faring well involves the uncertainty in the planning process. It is no consolation for a company seeking certainty to wonder whether it will fall within the 20% of appeals to An Bord Pleanála which can take up to a year to process. The proposed development in Cork has a specific client with 700 jobs to offer. We are competing in Cork not only with other Irish cities, but other countries which would like to attract the specific company. One of the reasons the company is willing to locate in Cork is to have specific offices designed and built as quickly as possible.

My second difficulty relates to the mode of appeal. Anyone who has made an application or an objection to an application at the local authority stage may appeal to An Bord Pleanála. The fees on appeal are up to €50. There is no restriction on anyone who wishes to make an observation on a local authority planning application. A person may be based anywhere in the country and object to an application in Cork regarding which he or she has no skin in the game. That must be looked at. People can object for competitive reasons. I note that in Cork an objector

has argued that it has similar office space to offer. I assume the company has looked at that. Some business in Dublin might object to a business's plans in Cork without having any reason or having to provide a reason.

I ask that the time for disposing of appeals be made a statutory requirement for An Bord Pleanála. I also ask that the grounds on which an objection can be made be examined while protecting people with geographical or other valid reasons for objecting to a development. We are seeing cases arising in circumstances in which jobs are being created. I urge the Minister to consider the issues I have raised.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan):** I thank the Deputy for raising this important matter. There are two issues to discuss in addressing the issues raised while bearing in mind that under section 30 of the Planning and Development Acts I am precluded from discussing individual developments which are matters for the appropriate planning authority - in this case Cork City Council.

Legislation sets down a requirement for An Bord Pleanála to ensure that planning appeals are determined within an 18 week period. The board has a strategic objective to determine the bulk of cases within this period. In 2013, more than 72% of appeals were concluded within 18 weeks. Those appeals represented the bulk of the planning workload. As of February 2014, the compliance rate for normal planning appeals with the statutory objective was 80%.

An Bord Pleanála operates a classification system designed to identify and prioritise the processing of certain types of appeals. Generally, the system prioritises cases at the earliest stages which have significant employment potential or involve projects of significant economic potential on a national, regional and-or local scale. The project to which the Deputy refers falls into that category. Also prioritised are major infrastructure developments that would not be classified under the legislation as strategic infrastructure. The Planning and Development (Strategic Infrastructure) Act 2006 established a strategic infrastructure division within An Bord Pleanála to act as a one stop shop in respect of all major infrastructure projects. In addition to motorways and local authority projects, which were already handled by the board, the strategic infrastructure division is the sole planning consent authority for major electricity transmission lines, railway lines, heavy and light rail and metro orders, infrastructure requiring environmental impact assessment, such as significant airport or port developments, waste infrastructure, very large energy projects and strategic upstream and downstream gas pipelines.

Regarding the assessment of planning appeals by An Bord Pleanála, it should be remembered that the 18 week objective is broken down into a number of deadlines which facilitate the making of an informed decision. The board must gather all relevant information from the planning authority, applicants and parties to the appeal and enable the relevant parties to provide feedback. The process is particularly challenging in the case of strategic infrastructure. Accordingly, attempts to cut back the 18 week decision period could have a bearing on the ability of the board to make an informed decision, which is key to the whole process. The point the Deputy makes as to the large number of jobs offered by a key employer indicate that the matter will fall into the priority category.

**Deputy Dara Murphy:** I welcome the reference to priority. It is not clear, however, whether the company in question can be informed that it is being given priority as the position in this regard remains a little vague.

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While I do not have any issue with a timeframe for processing applications of 18 weeks and I am aware of the 80% target and the other figures cited by the Minister of State, I cannot understand the reason the position cannot be changed to require An Bord Pleanála to meet the same target as local authorities, which must deal with 100% of applications within four months. I fully accept that An Bord Pleanála's performance has improved and that if decisions are made within the timeframe in 80% of cases, 80% of applicants will be happy. However, if An Bord Pleanála were required to process all applications within 18 weeks, large companies would have a definitive timeframe for a decision on their application and could report to their parent boards that a cap of 18 weeks - essentially four months - applies to the processing of planning applications in Ireland. I ask the Minister of State to consider this matter.

The Minister of State did not refer to the second issue I raised, namely, the practice by which companies lodge objections to planning applications for competitive or, worse still, scurrilous reasons. If an objector is not located close to the site to which a planning application pertains or if the objection is clearly motivated by competitive reasons, these factors should be taken into account, either by expediting the decision or disqualifying the objection. I make clear, however, that in the case I raise the companies in question have valid reasons for objecting. I am not suggesting their objections are scurrilous.

**Deputy Jan O'Sullivan:** I am sure Deputy Murphy will agree that we must ensure there is confidence in the planning process, that the process is transparent and that the right to object is respected.

**Deputy Dara Murphy:** Yes.

**Deputy Jan O'Sullivan:** The Government is working on construction policy and will publish a strategy on the issue in the near future. Many planning issues are under consideration and all issues related to planning are kept under constant review. Planning legislation will also be introduced later in the year. However, I cannot provide any commitments on the issue of objectors living in a local area or having valid reasons to object. At this point, there are no plans to change the position in that regard. As I stated, however, these issues are kept under review.

I reiterate that An Bord Pleanála is making good progress in reaching its objectives. While it is not required to meet a target of processing 100% of applications within 18 weeks, it aims to achieve this target and is making steady progress towards doing so. It has assured the Department that it prioritises planning applications that are strategically important or involve job creation. This should offer encouragement that the application in question will be dealt with as speedily as possible.

### **Homeless Accommodation Provision**

**Deputy Peadar Tóibín:** The number of people seeking housing advice as a result of losing their homes increased by 43% in 2013. Each week, between three and five new cases of families in mortgage distress present at my office. This is in addition to families already being processed by my office. For most of the families involved, dealing with this issue is a disaster. They experience the stress of potentially losing their home and the financial challenge of trying to meet mortgage repayments, while trying to feed and clothe their families and cover the costs of school, visits to the doctor and so forth. Facing all of these issues is a perfect storm for many of these families.

Another group of people are in a worse position, however. In addition to mortgage distress, unemployment, negative equity and so forth, an increasing number of people seeking advice at my office are dealing with relationship breakdown. In other words, not only are they experiencing all of the crises faced by other families, but they are also facing family breakdown. In a significant proportion of the cases of mortgage distress my office deals with, the main reason is the breakdown of relationships. In many cases, the person who remains in the family home is unable to meet the mortgage repayment on the home. It is unfortunate that this problem is not discussed in the House or media because the numbers affected are growing.

If this were not bad enough, many families are facing homelessness as a result of their circumstances. Separated mothers or fathers and their children may be able to secure support from their local authority if they have experienced physical abuse from a partner and have been forced out of their homes. However, in many of the cases I deal with, families cannot live in the family home following a separation because the environment in the home has become extremely unhealthy for one of the partners and the children. While physical violence may not occur, such toxic conditions force people to leave their homes. Typically in such scenarios, families who apply for rent supplement or to be placed on the local authority housing list, all of which are extremely long, are informed that they do not have a housing need because they have a house or their name appears on a mortgage. These people are being left in limbo as they face the possibility of homelessness. While it is technically correct that they have a house, the toxic nature of their home environment means they do not have anywhere to live. In such circumstances, the mother and children must present to the local authority seeking emergency accommodation. Many of the people in question are accommodated in bed and breakfast accommodation, flats or must share a house with other people, none of which is suitable for families. The cost of temporary accommodation such as bed and breakfast solutions is shockingly high.

Families in these types of cases have no option but to become homeless because the current legal position and structure does not recognise their family circumstances. Sleeping rough is becoming more common on the streets of Dublin and other towns and cities and the number of people accessing emergency homeless services has increased by 40%. These issues are inter-related and I ask the Minister of State to think hard about a solution for families experiencing the circumstances I have outlined.

**Deputy Jan O’Sullivan:** I thank Deputy Tóibín for raising this matter. While different personal, financial and social reasons can contribute to a person becoming homeless, for those involved the effects on their personal life are similarly traumatic and disabling. Societally, the ramifications of homelessness are also equally as destructive and costly. For this reason, I am strongly focused on achieving the Government’s ambitious goal of ending long-term homelessness.

In February 2013, I published the Government’s homelessness policy statement which set out the aim of ending long-term homelessness by the end of 2016. The statement emphasises a housing-led approach, which is about accessing permanent housing as the primary response to all forms of homelessness. The availability and supply of secure, affordable and adequate housing is essential in ensuring sustainable tenancies and ending long-term homelessness.

The homelessness oversight group, which I established in 2013 for the purposes of reviewing the progress of the approach being advocated in the statement, identifying obstacles and proposing solutions, has submitted its first report to me. The report considered the prevention of homelessness, the families presenting as homeless and housing supply. A copy of the report

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is available on my Department's website.

On 25 February 2014, the Government approved the establishment of a homelessness policy implementation team and an implementation unit. The team is tasked with implementing the oversight group's first report. This will include the preparation and publication of a structured, practical plan to make the transition from a shelter-led to a sustainable housing-led response to homelessness and achieve the 2016 goals for homelessness.

The implementation team is representative of the key State agencies dealing with homelessness, housing and related services because the solutions to homelessness do not solely reside in my Department.

*3 o'clock*

The team is being led by my Department and includes a senior official from the Department of Social Protection and the Health Service Executive, as well as the managers of Dublin City Council and Monaghan County Council, representing local authorities. The team will report on this plan to the Cabinet committee on social policy later this month and quarterly thereafter.

I am acutely aware of the significant number of families now presenting as homeless in the Dublin region owing to economic difficulties, job loss, a decline in house supply and, as mentioned by Deputy Tóibín, relationship breakdown. More than half a billion euro in funding is being made available through my Department in 2014 across a range of housing programmes and I expect that in the region of 5,000 social housing units will be provided this year. I am committed to continuing to develop innovative and sustainable approaches to the provision of social housing. I want to see an increase in the supply of new social homes and to ensure that every available appropriate unit that exists is transformed into a home as quickly as is reasonably possible. Included in this is the transfer of NAMA units, in respect of which 596 were provided to the end of 2013.

On the specific issue raised by the Deputy, the Social Housing Assessment Regulations 2011 provide that a household with alternative accommodation that would meet its housing need is ineligible for social housing support, but the regulations clarify that paragraph (1) does not operate to exclude from eligibility for social housing support an applicant who owns accommodation that is occupied by his or her spouse, from whom he or she is formally separated or divorced. Under the enactment, a deed of separation is sufficient to set aside this ineligibility ground and it is not necessary to await judicial separation or divorce to get a decision on social housing support in these cases. I am aware that there are people who do not have a deed of separation. The legislation operates satisfactorily in most cases. However, I am currently considering in the context of the housing (miscellaneous provisions) Bill currently in preparation, whether legislative change is warranted to deal with exceptional cases that present difficulties under the current arrangements. I am examining whether it is possible to provide for greater flexibility in this regard.

**Deputy Peadar Tóibín:** Many people in relationship breakdown do not have the funds to engage in the separation and divorce process. Many of the families involved are at their wits end. While some people may potentially have a legal claim to a property, owing to the difficulties they have left behind all they want to do is start afresh. I will give one example from the many cases with which I have been dealing. A young mother of three children who suffered abuse in her family home applied for social housing but was refused on the grounds of owning

a home. Following many applications for rent allowance she was eventually approved, only to have it withdrawn, again for the reason that she owned a home, as a result of which she amassed huge rent arrears and was forced out of the house by her landlord around Christmas time. Following reapplication by her for rent allowance, and with a great deal of pressure from my office, the rent allowance was re-approved. She then engaged in a huge trawl of accommodation in the town but could find none within the rent cap for the area. As a result she had to uproot her family from their home and her children from their schools and move to another town. The house she secured is damp and as her youngest child has asthma he cannot reside with her in the house and has to live with his granny for most of the week. The landlord has stated that he did not want to rent out the house but was forced to do so by the local authority because it is under pressure to house people. The window of the house recently fell out. This woman is in serious difficulty and is trying to find alternative accommodation.

The current rent cap for County Meath is causing major difficulties. There is no separation of areas to reflect higher rents. The people about whom I am speaking are in serious difficulty. I listened to the response by the Minister of State and accept that she recognises the problem. However, much of her response related to objectives, teams, reports, plans and so on. There are families in fiercely distraught circumstances. Not having the confidence of a roof over their heads is one of the problems which this Government needs to address.

**Deputy Jan O’Sullivan:** I do recognise that it is a real problem. I am examining whether something can be done to address it in the next piece of legislation relevant to this area. The problem is that for a person to get onto a local authority housing list he or she must establish that he or she has a long-term housing need. In many of the cases involved, a person’s name may, at the point of registering as having a long-term housing need, be on the deeds of a house. We are examining what can be done in this regard, including whether they can be provided with short-term accommodation, with their application being reviewed at a later time. I accept families are experiencing real problems in this area. We will try to address them as soon as we can.

### **Companies Bill 2012: Report Stage (Resumed)**

**An Leas-Cheann Comhairle:** The next amendment is No. 243, which has been discussed with amendment No. 197. I call on the Minister of State to move the amendment.

**Minister of State at the Department of Jobs, Enterprise and Innovation(Deputy Sean Sherlock):** I move amendment No. 243:

In page 908, line 38, to delete “provision” and substitute “provision; and such a purchase may be so ordered notwithstanding anything in *section 103*”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 244:

In page 909, between lines 38 and 39, to insert the following:

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**“Application of *section 1019* to PUCs and PULCs**

**1240.** *Section 1019* (official seal for sealing securities) shall apply to a PUC and a PULC as it applies to a PLC.”.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 245 and 261 are cognate and may be discussed together by agreement.

**Deputy Sean Sherlock:** I move amendment No. 245:

In page 911, line 36, to delete “ “unlimited” “ and substitute “ “unlimited company” “.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 246:

In page 913, between lines 17 and 18, to insert the following:

“(3) Without prejudice to any contrary provision of—

(a) the resolution for, or any other resolution relevant to, the reduction of company capital, or

(b) the ULC’s or PUC’s constitution,

a reserve arising from the reduction of a ULC’s or PUC’s company capital is to be treated for all purposes as a realised profit.”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 247:

In page 913, line 27, to delete “*Section 1086* shall apply to securities of a PUC or a PULC as it applies” and substitute “*Sections 1085 to 1087* shall apply to securities of a PUC or a PULC as they apply”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 248:

In page 914, to delete lines 11 and 12 and substitute the following:

“(2) Such other persons—

(a) being persons—

(i) whom the directors admit to membership; or

(ii) who are admitted to membership, pursuant to provisions that the constitution may contain in that behalf, whether provisions that—

(I) provide a separate power to; or

(II) supplement or limit, or exclude, any power of the directors in that regard;

and

(b) whose names are entered in its register of members, shall be members of the PULC.”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 249:

In page 918, line 12, to delete “shall appear in typeset, and not written, form” and substitute “, and any date or dates thereon, shall appear in typeset form”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 250:

In page 918, line 18, after “signature” to insert “or of a date”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 251:

In page 920, line 10, to delete “licensed bank” where it firstly occurs and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 252:

In page 920, line 10, to delete “licensed bank” where it secondly occurs and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 253:

In page 925, line 19 to delete “provision.” and substitute the following:

“provision, and such a purchase may be so ordered notwithstanding anything in *section 103*.”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 254:

In page 928, line 16, to delete “*section 85(2)(b)*” and substitute “*section 85(2)*”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 255:

In page 937, line 1, after “limited,” to insert “which is”.

The purpose of this amendment is to correct a typographical error to aid better interpretation.

Amendment agreed to.



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**Deputy Sean Sherlock:** I move amendment No. 256:

In page 941, line 8, to delete “shall appear in typeset, and not written, form” and substitute “, and any date or dates thereon, shall appear in typeset form”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 257:

In page 941, line 15, after “signature” to insert “or of a date”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 258:

In page 941, between lines 15 and 16, to insert the following:

“(6) The documents and information referred to in *subsection (2)*, and in *subsection (3)*, other than *paragraphs (a)* and *(b)* of that subsection, shall be made available by the Registrar to the system of interconnection of registers.

(7) For the purposes of communications between registers (through the system of interconnection of registers) the Registrar shall assign a unique identifier to each branch which shall include elements to identify the branch as a branch in the State, to identify the number assigned to the branch in the register and other appropriate elements to avoid identification errors.

(8) On receipt of information, through the system of interconnection of registers, that an EEA company, that has established a branch or branches in the State, has been struck off the register in the state in which it is incorporated, the Registrar shall, without delay, delete from the register the documents and information delivered or notified under this section or any other provision of this Chapter in relation to the company but not in any case in which the company has been so struck off as a result of any change in the legal form of the company, a merger or division, or a cross border transfer of its registered office.”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 259:

In page 941, line 32, to delete “shall appear in typeset, and not written, form” and substitute “, and any date or dates thereon, shall appear in typeset form”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 260:

In page 941, line 39, after “signature” to insert “or of a date”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 261:

In page 964, line 10, to delete “ “unlimited” “ and substitute “ “unlimited company” “.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 262:

In page 985, line 10, to delete “shall appear in typeset, and not written, form” and substitute “, and any date or dates thereon, shall appear in typeset form”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 263:

In page 985, line 16, after “signature” to insert “or of a date”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 264:

In page 993, to delete line 20.

The purpose of this amendment is to remove an incorrect reference in section 226, which governs an obligation of a director to prepare a directors’ compliance statement from the investment company’s tables. Section 226, with a slight modification by section 1002, applies to undertakings for collective investments in transferable securities, as per the 2011 regulations on EU collective investments in transferable securities.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 265:

In page 999, lines 20 and 21, to delete “a company to which *section 1401* applies” and substitute “a migrating company as defined in *section 1400*”.

The purpose of this amendment is to correct an incorrect cross-reference in subsection (9). The correct reference is to section 1400. A migrating company is defined as a body corporate which is established and registered under the laws of a relevant jurisdiction - the place outside the State where the company is established and registered at the time of application under section 1402 - and which is a collective investment undertaking.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 266 and 275 are related and may be discussed together.

**Deputy Sean Sherlock:** I move amendment No. 266:

In page 1002, between lines 21 and 22, to insert the following:

“(6) Regulations made under section 3(3) of the Act of 1990 prescribing, for the purposes of the definition of ‘alternative body of accounting standards’ in section 260(4A) of the Act of 1990, bodies having authority to lay down standards of the kind referred to in that definition, and which regulations are in force immediately before the commencement of this section, shall continue in force as if they were regulations made under *section 12* for the purposes of *subsection (4)* and may be amended or revoked accordingly.”.

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The purpose of this amendment is to correct the unintended exemption provided to investment companies from the filing of financial statements. The new wording will provide for the filing of financial statements without the need to file annual returns. The intention here is to protect the anonymity of investors in investment companies as their names would have to appear as those of shareholders on annual returns.

**Deputy Dara Calleary:** In the context of the relevant section, where lies the proposed review of the term “accountant” and the protections that are necessary in that regard? This matter was raised on Committee Stage and the Minister, Deputy Bruton, undertook to instigate a review. The section to which amendment No. 266 relates would probably be the most suitable in the context of clarifying the matter.

**Deputy Sean Sherlock:** An amendment has not been tabled on this issue.

**Deputy Dara Calleary:** We did not table an amendment because the Minister committed to undertake a review. When we met him after Committee Stage, he stated that the entire issue would be reviewed and that he would consult the relevant bodies. As far as I recall, the various political parties were represented at that meeting which took place last November. We did not table an amendment for Report Stage but we will table one for Committee Stage in the Seanad. However, I had understood that the accountancy bodies were to be consulted by the Minister on this matter. What is the position in that regard?

**Deputy Sean Sherlock:** Without being pedantic, I am not sure which section would be relevant to the matter to which the Deputy refers.

**Deputy Dara Calleary:** In the context of amendment No. 266, we are discussing “Regulations made under section 3(3) of the Act of 1990 prescribing, for the purposes of the definition of ‘alternative body of accounting standards’”. We are, therefore, dealing here with accounting standards.

**Deputy Sean Sherlock:** The review is ongoing. In recognition of the fact that consultation took place on the matter, I wish to read some information into the record of the House. The accountancy profession is, in general, adaptable and agile and is able to respond to new market opportunities and directions. This is, to a great extent, because it is not tied down by layers of regulation. There are detailed statutory provisions relating to auditing and, to a lesser extent, insolvency practice. The Competition Authority holds the view that this is the way things should stay. New regulations should only be introduced where there is clear evidence of market failure or very damaging consumer harm. That has not been established as the position here.

When the matter was reviewed by the Department at the time of drafting, the view was taken that there was no case for introducing a system of regulation for the profession generally. On the contrary, it was felt that introducing such a system would put at risk the flexibility of the profession and its ability to respond to client needs, be it in traditional areas such as tax advice or management accounts or in emerging fields such as succession planning. New layers of regulation could also stultify further growth and innovation. Having examined the issue from the standpoint of the principles of better regulation, the Competition Authority concluded that there was no public interest case requiring legal protection of the term “accountant”. In response to the concerns of the industry, however, the Minister has agreed to consult fully on the matter. I am informed that the review will happen this year but we do not have a definitive timeline in respect of it. However, I am not sure whether it was agreed that the review would be

completed in advance of the conclusion of the deliberations on this legislation. Perhaps Deputy Calleary has a different view to offer in that regard.

**Deputy Dara Calleary:** It would be appropriate for it to be concluded in advance of the Seanad's deliberations on the legislation. If it is not, then we will have no option but to table an amendment. There is a lacuna in that the term is not protected. Chartered Accountants Ireland recently submitted some important evidence in respect of this matter. It would only be fair if the review was completed before the Bill goes to the Seanad in order that all of the relevant information would be available to the Members of the Upper House. We will table amendments on this issue in the Seanad regardless of whether the review is completed. Our window for taking action will close as soon as the legislation is taken in the Upper House.

**Deputy Sean Sherlock:** The Bill has by and large been dealt with up to now on the basis of a consensual approach and I am mindful of the need to conclude our deliberations on it. I take the point the Deputy is making with regard to tabling an amendment in the Seanad. In fairness, the Minister, Deputy Bruton, committed in good faith to carry out and conclude a review by the end of the year. All parties involved will be consulted. I hope we can expedite the review and that any matters relating to it will not delay the implementation of the legislation.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 267 and 268 are related and may be discussed together.

**Deputy Sean Sherlock:** I move amendment No. 267:

In page 1014, to delete lines 29 and 30 and substitute the following:

“**1408.** (1) In addition to their application to *Part 11, sections 1411 to 1420* shall apply to insolvency proceedings dealt with in *Part 10*.”

The purpose of these amendments is to make reference to Statutory Instrument No. 333/2002 - European Communities (Corporate Insolvency) Regulations 2002. This reference is necessary in order to ensure the statutory instrument's re-enactment.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 268:

In page 1015, to delete lines 9 to 14 and substitute the following:

“**1410.** The purpose of *sections 1411 to 1420* is to re-enact the European Communities (Corporate Insolvency) Regulations 2002 (S.I. No. 333 of 2002), apart from their provisions in so far as they relate to insolvency proceedings.”

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 269:

In page 1018, line 2, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 270:

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In page 1019, between lines 6 and 7, to insert the following:

**“Application of sections 114 to 116 to bodies corporate generally**

**1423.** (1) In addition to its application where the company firstly referred to in *subsection (1)* of it is—

(a) a private company limited by shares; or

(b) by virtue of any of *Parts 16 to 24*, any other type of company, *section 114* shall apply to a body corporate that is not a company, and the foregoing reference in *subsection (1)* of it to a company, and the other relevant references in that section, shall be read accordingly.

(2) In addition to their application where the company firstly referred to in *subsection (1)* of either section is—

(a) a private company limited by shares; or

(b) by virtue of any of *Parts 16 to 22*, any other type of company, *sections 115 and 116* shall apply to a body corporate that is not a company, and the foregoing reference in *subsection (1)* of *section 115 or 116* to a company, and the other relevant references in either such section, shall be read accordingly.”.

The intention behind this new section is to replicate current law as set out in section 32(1) of the 1963 Act. The current law was designed to prevent undesirable forms of inter-company financing between holding companies and subsidiaries.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 271:

In page 1020, line 28, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 272:

In page 1024, between lines 29 and 30, to insert the following:

“

<i>No. 46 of 2013</i>	<i>Companies (Miscellaneous-Provisions) Act 2013</i>	<i>Sections 2 to 7</i>
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“

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 273:

In page 1027, lines 13 to 15 to delete all words from and including “debentures;” in line 13 down to and including “shares.” in line 15 and substitute the following:

“debentures; and

(c) costs of research.”.

The purpose of this amendment is to delete an incorrect reference to “own shares or treasury shares” from the balance sheet. This is because they shall be treated as assets in the balance sheet of a company in accordance with the application of accounting standards. The proposed amendment purports to provide greater consistency with the amendment proposed in section 321.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 274:

In page 1029, to delete lines 22 and 23 and substitute the following:

“6. Prepayments and accrued income”.

The purpose of this amendment is to separate the headings “Prepayments” and “accrued income” in format 2 and to provide consistency between formats 1 and 2.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 275:

In page 1071, between lines 34 and 35, to insert the following:

“(3) As provided for in *section 1392(6)*, the Companies Act 1990 (Prescribed Alternative Accounting Standards Bodies) Regulations 2005 (S.I. No. 382 of 2005) and any regulations amending those regulations shall continue in force and may be amended or revoked under *section 12* accordingly.”.

Amendment agreed to.

**An Leas-Cheann Comhairle:** Amendments Nos. 276 to 278, inclusive, are related and may be discussed together.

**Deputy Sean Sherlock:** I move amendment No. 276:

In page 1074, line 29, to delete “and”.

The purpose of these amendments is to address the issue whereby a company is struck off and dissolved prior to the enactment of the Bill. The amendments clarify the status of such a company should it be restored to the register. They also make provision for section 30 of the Multi-Unit Development Act 2011.

This is the case because there is a possibility that an existing private company limited by shares will have been struck off in recent times and will only come to be restored to the register after the end of the transition period.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 277:

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In page 1074, line 32 to delete “*Part 17.*” and substitute the following:

“*Part 17;* and

(c) the references in section 30 of the Multi-Unit Developments Act 2011 to section 311 or 311A of the Act of 1963 or section 12 or 12B of the Companies (Amendment) Act 1982, or to a particular provision of any such section, shall be read as references to *Chapter 1* or, as appropriate, *Chapter 2* of *Part 12* or, as the case may be, the corresponding provision of either such Chapter.”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 278:

In page 1074, between lines 35 and 36, to insert the following:

*“Provisions as to status of companies restored to register, having been struck off under former enactments*

12. (1) Without prejudice to any specific provision in this Act in that behalf and the subsequent provisions of this paragraph, the provisions of this Act that shall apply to a company—

(a) struck off the register under any former enactment relating to companies (within the meaning of *section 5*); and

(b) subsequently restored to the register, whether under—

(i) the former enactment referred to in *section 745(3)*;

(ii) *Chapter 2* of *Part 12*; or

(iii) section 30 of the Multi-Unit Developments Act 2011,

shall be those applicable to the type of company that corresponds to the type of company to which the company belonged before it was so struck off.

(2) Without prejudice to *subparagraphs (3)* and *(4)*, where any of this Act’s provisions, as applicable to a particular type of company, operates differently by reference (however the matter is expressed) to the length of time that has elapsed after the provision’s commencement, then the reference in *subparagraph (1)* to the provisions of this Act that are applicable to a type of company shall, in the case of that particular provision, be read as a reference to that provision as it is applicable to a company of the type concerned at the time of the particular company’s restoration to the register (and then at a future date, as the case may be, as it is so applicable at that future date).

(3) If the company’s type, before being so struck off, was that of a private company limited by shares and the date on which the company is restored to the register under *Chapter 2* of *Part 12* or section 30 of the Multi-Unit Developments Act 2011 is subsequent to the expiry of the transition period (within the meaning of *Chapter 6* of *Part 2*), then, subject, in the case of a restoration under *section 739* or *742*, to any direction or order of the court under *section 743*, *section 62(1)(a)* and *(b)* shall apply in relation to the company notwithstanding that the company was not an existing private company

within the meaning of that *Chapter 6* and, accordingly, the company shall, on the date of its restoration to the register, be deemed to be a private company limited by shares to which *Parts 1 to 15* apply and the other provisions of *section 62* shall apply to it with any necessary modifications.

(4) *Subparagraph (3)* shall similarly apply (where the company's type, before being so struck off, was that of a private company limited by shares) if, by virtue of *subsection (3)* of *section 745*, the former enactment referred to in that subsection applies to the application for the company's restoration but with the modification that the reference in that subparagraph to a particular provision under which the application for restoration is made, or to a particular provision under which a direction or order of the court is made, shall be read as a reference to the corresponding provision of the former enactment concerned.

(5) If in any respect any difficulty arises during the period of 20 years after the commencement of *Chapter 2* of *Part 12* in bringing into operation that Chapter as it relates to a case falling within any of *subparagraphs (1) to (4)*, the Minister by regulations do anything which appears to be necessary or expedient for bringing that Chapter into operation as it relates to such a case.

(6) The Minister's power to make regulations under *subparagraph (5)* extends to removing difficulties in cases in which a private company limited by shares was—

(a) struck off the register under any former enactment relating to companies (within the meaning of *section 5*); and

(b) restored to the register under—

(i) the former enactment referred to in *section 745(3)*;

(ii) *Chapter 2* of *Part 12*; or

(iii) *section 30* of the Multi-Unit Developments Act 2011,

and, before the date it is so restored, there has elapsed a length of time that, in the Minister's opinion, represents a substantial portion (or greater) of the transition period (within the meaning of *Chapter 6* of *Part 2*).”.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 279:

In page 1082, line 8, to delete “LIMITED” and substitute “COMPANY LIMITED BY GUARANTEE”.

The purpose of this amendment is to correct a mistake. The example of the name of the company in the Schedule refers to “company limited by guarantee”. In accordance with *section 1176*, the name of company limited by guarantee shall end with “company limited by guarantee”. That is it.

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 280:



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In page 1082, to delete lines 25 to 28 and substitute the following:

“The following Regulations shall apply to the company:

1. The number of members with which the company proposes to be registered is 4.

*[In addition to the immediately foregoing words, the following sentence may be included:-]*

The provisions of the *Companies Act 2014* are adopted.

*\*See section 1175(5).\**”

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 281:

In page 1088, to delete lines 17 to 20 and substitute the following:

“The following Regulations shall apply to the company:

1. The number of members with which the company proposes to be registered is 5.

*[In addition to the immediately foregoing words, the following sentence may be included:-]*

The provisions of the *Companies Act 2014* are adopted.

*\*See section 1232(6).\**”

Amendment agreed to.

**Deputy Sean Sherlock:** I move amendment No. 282:

In page 1091, between lines 6 and 7, to insert the following:

“

<i>Remedy in case of oppression</i>	<i>Section 213</i>
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”.

The purpose is to include section 213 and the list of provisions to be applied to unregistered companies in Schedule 14. Section 213 provides a remedy to any member of the company who complains that the affairs of the company are being conducted in a manner that is oppressive to the member himself or herself or to any other member. The remedy is available under existing law and it is not intended to alter that law.

Amendment agreed to.

Bill, as amended, received for final consideration.

**Companies Bill 2012: Fifth Stage**

Question proposed: "That the Bill do now pass."

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Sean Sherlock):** This has been a gargantuan task thus far. I wish to extend my gratitude and that of the Minister, Deputy Bruton, to everyone who has been involved in the process. It has been a collaborative effort. I thank the Members opposite for their role in bringing the legislation to this point. I thank the people to my right, who, to be fair to them, have done Trojan work in putting all of the Schedules together. It has been a mammoth task.

Several issues were raised by Deputy Calleary, in particular the accountancy issue. That is something we are trying to grapple with in good faith. I appeal for it to be seen in this light in terms of how the Minister, Deputy Bruton, will deal with the review. I hope we can continue in the same vein in terms of expediting this legislation as quickly as possible. I do not mean to be verbose but it is a landmark legislative project and has involved many years of detailed and comprehensive work by the officials in my Department, the Company Law Review Group and the Office of the Parliamentary Counsel. We extend our gratitude to everyone involved.

**Deputy Dara Calleary:** I join the Minister of State, Deputy Sherlock, in paying tribute to everyone who has been involved in this work of 12 or 14 years. I pay tribute to all who have served on the Company Law Review Group and all the officials involved. In recent months in particular they have been remarkably helpful with briefings. I pay tribute to the predecessors of the Minister of State, many of whom saw this through, as well as to the various chairmen of the enterprise committees. I remember coming to the House in 2007. At the first meeting of the enterprise committee in 2007, Deputy Willie Penrose, who was chairing, advised us to clear our diaries for the first quarter of 2008 because the Bill would come through at that stage. I thank him and Deputy Damien English, who guided this through the committee very well.

The point I made earlier today in respect of resources is important. The Minister for Public Expenditure and Reform is in the Chamber now. He may wish to note that this is how public service reform should be done. The resources to disseminate the requirements of this Bill need to be given to the relevant agencies because they are considerable. It is a sea change. As I said earlier, we have seen how lacunae and gaps in company law legislation have let this country down. We have put a good deal of work into ensuring that those gaps are remedied. It would be a major loss if, for the want of resources relating to information, that work went to naught. I congratulate everyone, including the Minister of State for being the person responsible for getting this legislation over the line, finally, after 12 years.

**Deputy Peadar Tóibín:** Ba mhaith liom míle buíochas a ghabháil le gach duine a ghlac páirt sa tasc ollmhór seo agus déanaim comhghairdeas leis an Aire Stáit as é a bheith críochnaithe, sa Teach seo ar aon nós. The issue of modernising company law has taken in many people and many different views. It has seemed like an impossible task, looking back on it. However, it has been done by people paying attention to detail and it has taken a vast amount of effort as well.

We take the view that the Companies Bill should have been an opportunity to solve several major problems that are affecting society. I understand the Government has probably taken the view that this is separate to those problems and that those particular problems should be dealt with elsewhere. We take the view that where an opportunity exists, we should take it and ensure

we fix the problem.

Some of those problems come about with regard to the lessons we have learned concerning regulation since the crash. I believe opportunities have been lost with this Bill in that regard. The robustness of the compliance statements and responsibilities have not been to our liking. Some of the unions and ICTU have indicated their concern that companies will gain more legal personality and that this may conflict in future with citizens' rights and protections.

The idea of Irish-registered non-resident companies is problematic, as is the difficult and wrong tax problem that is affecting the level of funds that comes into this State and the reputation of the State internationally. This is one of the biggest problems the State is facing with regard to loss of revenue and loss of reputation. We would have preferred to see these issues dealt with in the Bill. I have already remarked on compliance.

We took the view that there are several issues with regard to the winding up of companies. We have seen in the past 18 months especially a large number of employees who have been on the wrong side of businesses and companies which have wound up. Every day we see unscrupulous companies - they are by far in the minority but they exist none the less - which use company law to aid their efforts in reducing their exposure to fulfilling their rights to employees. We believe employees are insufficiently protected and we would prefer to have seen this reflected in the Bill. The opportunity remains for the Government to address some of these problems and we hope it will consider these and the Sinn Féin proposals in the Seanad.

**Deputy Mick Wallace:** I was tempted to call a vote on the Bill but it would be a little unfair. The Bill makes progress.

**Deputy Brendan Howlin:** Deputy Wallace should say that again.

**An Leas-Cheann Comhairle:** No, do not.

**Deputy Mick Wallace:** The Bill makes progress, although not as much as I would have liked-----

**Deputy Dara Calleary:** Deputy Wallace is correcting the record.

**Deputy Mick Wallace:** -----but then it is difficult to get everything one wants in life, irrespective of where one is.

**Deputy Brendan Howlin:** That is true.

**Deputy Sean Sherlock:** Deputy Wallace is rather philosophical.

**Deputy Mick Wallace:** Deputy Calleary pointed out that the Bill has closed certain gaps, and it has done so, but not all of them, unfortunately. I believe it will probably be revisited in the coming years and that is perfectly doable. The race to the bottom in how we structure much of our business activities will be addressed in the coming years and I believe that changes will have to be made.

Deputy Tóibín made the point that our reputation has not really done well when it comes to how we have dealt with some of the multinationals which have invested more money in avoiding tax than anything else. This, too, will become an issue in the years ahead. There is a vast amount in the Bill, there are plenty of good things in it and I welcome it.

Question put and agreed to.

**Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Bill 2013 [Seanad]:  
Report Stage (Resumed)**

**Deputy Sean Fleming:** I move amendment No. 3:

In page 4, between lines 18 and 19, to insert the following:

“(2) The fund into which the parliamentary activities allowance is paid shall be obliged to produce an annual tax clearance certificate.”.

We are discussing Report and Final Stages of the Oireachtas (Parliamentary and Ministerial Offices) (Amendment) Bill 2013.

**Deputy Brendan Howlin:** Well done.

**Deputy Sean Fleming:** I just wanted to put it on the record because people might not know what we are discussing. Amendment No. 3 is short. I also tabled it on Committee Stage. Everyone accepts its principle. I do not have the figures before me and I am a little bit rusty, but I am sure that the taxpayer is paying €1.5 million into these parliamentary activities allowance funds, formerly known as the party leader’s allowance funds, annually. The essence of my point is not unreasonable, in that, when this amount of money is paid into a particular account each year, the people responsible should produce a tax clearance certificate. It would not be acceptable for any State body to pay so much money to an organisation, be it a contractor or service provider, without seeing a tax clearance certificate. This is standard procedure whenever over deals with Departments.

As Deputies, we must return tax clearance certificates when we run for election. Those certificates hold for the period of the Dáil to which we are elected and we are not required to produce a certificate each subsequent year. I am not suggesting that that be the case either, as people elsewhere in the public service do not need to produce their tax clearance certificates each year. However, this is a specific allowance and there should be a requirement of a tax clearance certificate.

The Minister may have been right to a point on Committee Stage, but he nitpicked the word “fund” and asked whether it meant a person, an organisation, a bank etc. We did not really deal with the key issue. I had hoped that he would take the gist of my comments on Committee Stage on board and am disappointed that he did not. I will move on, however, as there may be a good way to resolve this issue.

The first amendment I moved yesterday called for the parliamentary activities allowance to be paid into an account of the qualifying party rather than into a named account of the party leader. We debated this matter then and on Committee Stage. Usefully, the Minister clarified the reality.

**Deputy Brendan Howlin:** I checked.

**Deputy Sean Fleming:** The money is being paid into accounts that are not in the party lead-

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ers' names. What I was seeking to achieve was actually the case anyway. The Minister did not even need to object to the amendment, but the clarification was helpful.

The same approach could be taken in this instance. My understanding is that the Standards in Public Office Commission, SIPO, will introduce regulations on how these accounts should be administered. These must be clear and drafts must be given to party leaders. SIPO has a public obligation to include in the draft regulations, be they secondary legislation or guidelines on auditing standards that must be followed, the requirement for an annual tax clearance certificate. Let it be done on an administrative basis instead of through primary legislation. The essence of my point is correct, in that the State should not hand out that much money each year without tax clearance certificates. I would hand the job over to SIPO and let the Minister off the hook by requiring the inclusion of this amendment in the legislation, although I suspect he will not agree to it. As SIPO requires audited accounts, it should also require tax clearance certificates and report to the House if necessary. What I am seeking could be more simply achieved in this way than via primary legislation.

I have moved my amendment to hear a short response from the Minister, but I will not push it.

**Minister for Public Expenditure and Reform(Deputy Brendan Howlin):** I thank the Deputy. As he rightly stated, we had a long discussion on this matter on Committee Stage. Obviously, I consulted Revenue subsequently. I agree with the principle of the amendment, in that every Member should be tax compliant. As I explained on Committee Stage, however, my difficulty lies in accepting an amendment that is not practical or that will impose an unclear duty on a political party. Much of our Committee Stage discussion did not centre on legislation for which I am responsible, but on the Electoral Acts. It is probably those that we should consider.

I listened to the Deputy's comments on SIPO. The advice I have received is that SIPO could not impose such regulations without a statutory underpinning, but we must discuss the matter with Revenue. We will revert on this suite of issues when we deal with the consolidated ethics Bill that we are working on and that we hope to introduce to the House before the end of the year. I will bear this matter in mind while that Bill is being drafted.

**Deputy Sean Fleming:** I am disappointed that SIPO might not be able to do this. I do not understand how a local authority can require a local builder to produce his or her tax clearance certificate to avail of a small grant to do up a house when SIPO cannot ask political parties to do the same. However, I take the Minister's comments. There is agreement in principle that it would be a good measure and should be done, but it is a question of how to do it.

**Deputy Brendan Howlin:** The practicality.

**Deputy Sean Fleming:** On that basis, I will withdraw the amendment.

Amendment, by leave, withdrawn.

**Deputy Sean Fleming:** I move amendment No. 4:

In page 4, between lines 18 and 19, to insert the following:

“(2) Where a member of a party elected to Dáil Éireann or Seanad Éireann ceases to be a member of that party, the percentage amount of the allowance paid in respect of him or her to his or her former party shall be paid to such former party member and such

amount shall be deducted from that party's parliamentary activities allowance.”.

I want to move this amendment formally. We discussed it at length and voted on it yesterday. In light of that vote, I will withdraw it.

Amendment, by leave, withdrawn.

**Deputy Sean Fleming:** I move amendment No. 5:

In page 4, line 21, to delete “one-third” and substitute “one-half”.

Some of my amendments are similar to those I moved on Committee Stage. I have not tabled all of them again, but I kept those that I felt were key.

**Deputy Brendan Howlin:** Important.

**Deputy Sean Fleming:** I have confined my amendments to the specific legislation as opposed to general topics of ethics, fund-raising, parties' activities, electioneering etc. For the benefit of people who want to know the significance of my amendment, I will outline what it means in essence. The arrangement in place with the leader's allowance is that there is a set allowance based on the number of Deputies in a parliamentary party. However, for some time there has been a reduction, and I am not sure which Minister introduced it but I believe it was Deputy Quinn when he was Minister for Finance-----

**Deputy Brendan Howlin:** It was in 1996.

**Deputy Sean Fleming:** Yes, so it was Deputy Quinn. At that time there was a valid recognition that the Government has the support of the public service, special advisers, press office, research office and so forth and that it was not fair that its parties should get the full amount of the party leader's allowance, which will in future be called the parliamentary activities allowance. The legislation provides that the allowance paid to parties in Government be reduced by one third in respect of each of their members. The mechanics of it mean that the Government parties get whatever their allowance would be under the first line of computation and it is reduced by one third. I propose that it be reduced by a half. The number of people taken on by Governments in recent decades in terms of special advisers, press officers, ministerial advisers and so forth means that the amount of support available to a Minister has increased substantially. That should be recognised here by providing for a greater reduction of the allowance for the Government parties. The reduction should be a half instead of one third.

**Deputy Brendan Howlin:** When we discussed this on Committee Stage, I had the temerity to point out that when the Deputy's party was in Government, it was happy to take the full complement of the money. It was my colleague, Deputy Quinn, when he was Minister for Finance, who thought it should be rebalanced to ensure the Opposition is enhanced and the parties in Government disadvantaged given that they have additional supports available to them. That is a good principle. The issue is what quantum should apply. I disagree with Deputy Fleming inasmuch as this allowance is not for Ministers. Ministers have parliamentary supports in terms of advisers and Departments. However, there is a big phalanx of backbenchers, particularly in this Dáil, who should be entitled, given that we are trying to enhance Parliament, to draft their own legislation for the Friday sittings, critique legislation and formulate policies, and have the support to do that. There is a need to support research and activities of the parliamentary parties on the Government side of the House over and above what is available to the Government. The

balance of two thirds and one third is right.

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

Amendment declared lost.

**Deputy Sean Fleming:** I move amendment No. 6:

In page 4, between lines 21 and 22, to insert the following:

“(3) The parliamentary activities allowance shall be paid from voted expenditure not paid from the Central Fund.”.

Approximately €50 billion of Government expenditure is voted to the various Departments every year. There is a proper debate on the Estimates in the committees and that is how practically all the Government’s expenditure of taxpayers’ money should be dealt with. There must be a compelling reason for it not to be voted on in the House. Some people say that is a valid argument with regard to payments of the national debt because people might not be happy to lend us money if they thought the repayment was subject to the vagaries of a vote in the House each year. The State is contractually obliged to pay it, regardless of what the Parliament says, because the State has signed up to that and it is the State’s word. There is a valid case to be made on that point, although I do not accept the total validity of that case. I believe there could be a provision in the Estimates that would more than encompass what we know must be paid, but that is another day’s work.

A number of items are paid from the Central Fund and many of them have been sneaked in. Payments are made to the Oireachtas, to this allowance, to judges, retired politicians-----

**Deputy Brendan Howlin:** That was always the way. We did not sneak in anything.

**Deputy Sean Fleming:** I agree. I am probably a lone voice in saying this in the House. There is no one here to listen to me aside from the Minister, but I think the practice is wrong. I do not know why it grew. It has existed for decades, including when my party was in Government. However, in these days of openness and transparency, I ask the Minister to think about this point. It would be valid for these allowances to be voted through the House each year and it would also be valid to vote on pensions and so forth. I understand there is some expenditure for postal purposes for elections and referenda that is not subject to a vote but is also paid from the Central Fund. Perhaps it is because one cannot properly estimate those expenditures at the beginning of the year but a nominal Estimate could be included. It would be better if Parliament discussed all expenditure. The Minister for Public Expenditure and Reform should try to achieve that, to ensure all expenditure of taxpayers’ money is discussed and voted through the House in the Estimates process each year. This allowance should be part of that process and should also be discussed in the House each year. That is the reason for the amendment.

**Deputy Brendan Howlin:** I do not oppose this in principle. Deputy Fleming’s view on this goes well beyond funding for activities of the Houses of the Oireachtas and he has made a reasoned case for that. It happened because people did not address it rather than it being a contrived way of doing things. It probably would be more democratic if everything was required to be brought formally to the House as opposed to being paid for from the Central Fund. However, as I said on Committee Stage, I do not believe that taking out one element, the parliamentary activities fund, when all the other elements for the Oireachtas, such as wages, expenses and so

forth, are from the Central Fund would be the appropriate way to do it. However, when we next have the Houses of the Oireachtas Commission Bill before the House, we might examine the totality of it. I do not know how my colleagues in Government would react to that, especially the Minister for Finance, who is responsible for the Central Fund, but it is something I will raise with him at that juncture.

**Deputy Sean Fleming:** I am pleased that the Minister will raise it. The Central Fund is under the remit of the Minister of Finance and the Minister for Public Expenditure and Reform cannot unilaterally make an announcement on that today. None the less, I will press the amendment.

Amendment put and declared lost.

**Deputy Sean Fleming:** I move amendment No. 7:

In page 4, between lines 21 and 22, to insert the following:

“(3) The combined parliamentary activities allowances paid to a party under this section, shall be reduced by the amount of any payment paid to any person working for a Minister who is a member of that party, that is in excess of public sector pay guidelines.”.

There should be a reduction of the parliamentary activities allowance to a party in Government where that party has Members who are Ministers and those Ministers are paying amounts above the public sector pay norms to people working directly for them. If they want to have extra money paid to individuals through their Department, there should be an abatement of that amount through the parliamentary activities allowance.

**Deputy Brendan Howlin:** This is the only amendment in which the Deputy is being mischievous. The rest of the amendments were genuinely tabled. The amendment is meaningless because one can set whatever norms one wishes for paying special advisers. I set low norms on the previous occasion with the aim of having controls. People could then make a case-by-case submission to me with regard to recruiting people whose income previously was greater than the set rate.

I wish to make two points on this amendment. I was surprised at the level of consensus on Committee Stage about the importance of political advisers. They are important. Modern politics is very complicated. Yesterday I spent the day from early morning to late last night at a meeting with the EMC. A lot of advice is needed on complicated matters that also have a political dimension, as one needs to have people thinking on the same wavelength and for them to be sounding boards. There was a great degree of support for that principle when we discussed this on Committee Stage. I do not believe we should confuse the support for parliamentary activities with the support for the Government, which is separate, unique and equally important.

Amendment, by leave, withdrawn.

**Deputy Catherine Murphy:** I move amendment No. 8:

In page 4, to delete lines 31 to 35 and substitute the following:

“(5) (a) Subject to the approval of the Houses of the Oireachtas Commission and to such exceptions, restrictions and conditions as may be provided for by regulations, secretarial facilities may be provided to a qualifying party for the purposes of facilitating



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the parliamentary activities of its elected members.

(b) Subject to the approval of the Houses of the Oireachtas Commission and to such exceptions, restrictions and conditions as may be provided for by regulations, the secretarial facilities provided under paragraph (a) may also be proportionately distributed to include the provision of such services to a formally recognised group of the Oireachtas.”.

The Technical Group is recognised under Standing Orders. There must be a minimum of seven Members and a majority of those must not be aligned to a political party. There can only be one technical group and as a consequence, there can only be one majority and that pretty much determines that. According to the way it is interpreted, a Deputy is or is not a member of a group the day he or she is elected, so it is a fixed number at that point.

The Houses of the Oireachtas Commission runs the House and has a budget to do that. The expectation is that when there is a group of that size, there is some guaranteed mechanism of co-ordination. The Technical Group currently employs two people essentially, one of whom is on a job-share basis. We are told that it is an administrative convenience to provide names to the Ceann Comhairle but it would be difficult to foresee how it would be done without that and for the House to function, especially to know where the likes of Ministers are likely to be at any given time. Essentially this is something that makes for smooth running. With 15 or 16 Members in our group, it is not a simple task like it is for parties, which have spokespersons and so on. Considerable co-ordination is required.

Whatever about the internal co-ordination of the group itself, how we interact with the House is important. There is a lot of communication with the Government and Opposition Whips. There can be late changes which we can make and the House can then run smoothly. We liaise with the Questions Office and we are now required to provide lists and things like that, so more is required of us now than there was at the beginning. We have to liaise with the Bills Office and make sure things are on the Order Paper, and liaise with the Journals Office. If we are putting through Private Members’ business on a Wednesday - we have one in every three - it will not be accepted from an individual Deputy as it must come through the Whips’ office. The House demands this of us, so there is a recognition of a need for it, but there is no direct provision and the legislation has a gap.

We help to facilitate business continuity planning in case of emergencies. We have to provide a telephone number of a person who can be contacted by day and night. We provide our co-ordinator, who is employed by us separately to being employed by the Houses of the Oireachtas. We manage facilities when the photocopier breaks down. There is not just one Deputy involved and there has to be co-ordination, even for things like letting the engineer gain access.

We are located in Agriculture House and aspects such as car parking, people getting locked in, the provision of badges and so on are all examples of the practical issues that help to make this House function. Essentially it would not be expected that a political party would have to do this without that resource, but our group has been expected to do it without a direct provision of a resource. That is the argument we have been making over the last two years.

I know the Minister is not going to accept this amendment because we have spoken about it. It is very disappointing because this is the big opportunity that we see to insert this in the legislation as a matter of entitlement, where there is a group that is recognised under Standing

Orders. Some will argue that we should have full parity with the parties but I am not arguing that. I am arguing that there should be a provision that is sufficient to allow the functioning of the group. I wish to acknowledge that the Minister sent me a letter about what the Houses of the Oireachtas Commission can do. It appears that we could make an argument that we could get a secretarial assistant attached to me because I have been nominated as the Whip. That is not something that is guaranteed for a group that is a recognised group. That is the key issue here. The Minister has also told me that the Houses of the Oireachtas Commission can revise its regulations but representatives of the Commission have told me that the impediment for them in dealing with us is that it is not provided for in law, and that the only groups provided for in law are political parties.

I believe we have made a valid case. We are here because we put ourselves as Independents or people from small parties. The electorate decided to elect a large number of us. Independents have been in this House since the State was founded. I acknowledge that this is an unusual situation in that there is such a large group of us but it is not the first time there has been a large group. The last time I was a Member, there was a Technical Group, and there was also a Technical Group in the last Dáil following a by-election. It is recognising the reality and giving a guarantee that there is a minimum that will be provided with regard to the functioning of the House. It is not about deciding on policy because we do not do that and we clearly cannot do so because we are a very disparate group. It is not about those functions; it is merely about making this House function in a way that works for all of us. It works for Ministers, who have one telephone number they can call and we can make sure that our group is briefed or whatever. It works for all of us, but it has to be provided for. There is a difficulty with the way that it is suggested, although I acknowledge that it would probably be the first step in terms of progressing the issue. However, it is inadequate for the reasons I have outlined.

**Deputy Sean Fleming:** I thank the Deputy for tabling the amendment. The Minister might clarify subsection (5), which is being amended by Deputy Murphy. I believe people can understand where she is coming from. The amendment states that the provision of “secretarial facilities may be provided to a qualifying party for the purposes of facilitating...”. Does that include research and press offices? Is it a broad definition of “secretarial facilities” or is it the traditional, narrow definition?

**Deputy Brendan Howlin:** I will respond to Deputy Murphy in the first instance because we have had long discussions about this. The Deputy’s intention is to increase the secretarial facilities, which are broader than “secretary” in the traditional sense. It can be a support made available to the Technical Group but at the expense of parties, because it shifts the money within the pool.

*4 o’clock*

We have had discussions and exchanged correspondence on this. I have indicated on the record of the House that I am sympathetic to the view the Deputy has expressed. It took me a while to reach that position. It cannot be the case that Independents are suddenly seen as a party. Clearly they cannot avail of common research and policy formation services. All shades of opinion are represented within the existing Technical Group. The members of that group have diametrically opposed views on many issues. I think a valid case has been made regarding the practicalities of organising notices and co-ordination.

As Deputy Murphy knows, I examined her amendment in detail in advance of Committee

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Stage and again in advance of this Stage to see how this matter could be addressed. Having drilled into the proposal, and having received strong advice on the matter, I do not believe the legislative route that has been proposed represents the best way to deal with this issue as it would open up other vistas that are not intended in this regard. However, I am of the view that the Houses of the Oireachtas Commission has the power under the existing legislation to provide such secretarial facilities to individual Members of this House as it determines appropriate. The Deputy is right to suggest that this would require the Houses of the Oireachtas Commission to determine that Deputy Murphy, as Whip, or some other person - I do not know whether the Technical Group has a chair - is entitled to additional secretarial support. The Whip would probably be the right person to be provided with such assistance because of the administrative burden that falls on her. I would support that.

I have formally written a long letter to Deputy Murphy quoting the legal instruments and making it clear that I believe this is doable and feasible. I hope the Houses of the Oireachtas Commission will accept that. It might not go as far as the Deputy would like for a number of reasons, the first of which is that it would not be a permanent solution. Depending on the structure of the next Dáil, these arguments could have to be made again. I think they will be made in any event, even if the next Dáil is completely different in structure from this one. It is possible for the Houses of the Oireachtas Commission, through existing Standing Orders and regulations, to provide Deputy Murphy with secretarial assistance in acknowledgement of the additional role of co-ordinator that she performs within the Technical Group in the interests of the effective carrying out of the business of the House. Equally, the commission can decide to amend its own Standing Orders and rules for these purposes.

Deputy Murphy will acknowledge that in my discussions with her, I have been doing my best to address these issues. I know I have not been going as far as she would like. I understand the argument that an additional support official should be available to the Technical Group to provide necessary co-ordination services. If the Deputy could nudge the recalcitrant members of the Technical Group to pay their subscriptions, perhaps it would ensure that an adequate resource is available to the group to enable this work to be done effectively. I have no objection to the formal use by the Deputy of my letter when she is pursuing this matter with the Houses of the Oireachtas Commission. I hope she does so. If I can assist in that endeavour, I will make myself and my office available for those purposes.

**Deputy Catherine Murphy:** The great majority of members of the Technical Group make a contribution and just one person has failed to do so.

**Deputy Brendan Howlin:** I did not namecheck anyone.

**Deputy Catherine Murphy:** This does create a difficulty when contracts are being agreed with people who are working. There has to be fair play when people are employed. They should be employed on the same basis as anyone else. There should be some certainty about their employment. I would be concerned to ensure they are employed on a par with people who are doing a similar co-ordinating job in the Oireachtas. I might talk to the Minister about this issue again.

Is the Minister satisfied that the Houses of the Oireachtas Commission is not excluded from assisting? We were told it could not assist because it was not legally allowed to do so. Is the Minister satisfied that is not the case? I acknowledge the change that has been made to the parliamentary activities allowance. It is an improvement because it is more reflective of the

reality. Like some other Deputies, I find it very useful to be able to employ an extra person. That is the support we get. Those within the party system get greater support from the Houses of the Oireachtas Commission. Fianna Fáil gets 17.25 secretarial assistant equivalents and Sinn Féin gets 9.75 secretarial assistant equivalents. It is quite a large provision of additional assistance. Both parties do well from the premium on the leader's allowance. All parties that get more than 2% in the opinion polls get support under the Electoral Acts. This does not apply to Independents.

I do not think it is unreasonable to press the point that Independents should receive a guaranteed support to enable us to function in the House in a better way. I do not think anyone who examines the functioning of the Technical Group would dispute that. The most common criticism we receive from the Government side is not that we do not do enough - it is that we are sometimes over-represented when it comes to speaking. I think most Ministers have said that at some point. I suggest that this minimum level of support is required by this active group of Deputies. I am afraid that I will have to press this amendment on a point of principle. Having said that, I acknowledge that the Minister has given me a strong letter, which I certainly intend to use.

**Deputy Brendan Howlin:** While I am a little disappointed that the Deputy is taking my letter and also wants to divide the House, I understand her position. The Dáil is continuing to evolve, but there remains a quantitative difference between a parliamentary party and a technical group. I think Deputy Murphy acknowledges that. Each individual member of the Technical Group has a personal allowance for himself or herself that a party does not get. The members of the group can pool that money if they want. If a certain member of the Technical Group is reluctant to do so, that is unfortunate. The Technical Group can choose to set a stipend for common purposes at any level it likes from the significant amount of money that is available to each of its members. I invite the Deputy to consider that when a significant sum of State money is being provided in support of an individual Deputy, I have to be mindful that it could be used for a common purpose involving co-ordination in the House. Having said that, a case has been made for an additional person to do co-ordination and support work. That is a reasonable settlement in the current climate. Perhaps Deputy Murphy would like me to go further but there are others in the House who believe the members of the Technical Group are already doing very well on an individual basis. If they were to pool some of their money collectively, they could have quite a significant resource to use in the House. I acknowledge that the Technical Group is already a very effective force within the House.

**Acting Chairman (Deputy Frank Feighan):** Is the amendment being withdrawn?

**Deputy Catherine Murphy:** No. I am going to press it on a point of principle.

**Deputy Brendan Howlin:** I am going to take back my letter.

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

<i>The Dáil divided: Tá, 81; Níl, 43.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Adams, Gerry.</i>
<i>Barry, Tom.</i>	<i>Boyd Barrett, Richard.</i>
<i>Breen, Pat.</i>	<i>Broughan, Thomas P.</i>

<i>Bruton, Richard.</i>	<i>Calleary, Dara.</i>
<i>Butler, Ray.</i>	<i>Collins, Joan.</i>
<i>Buttimer, Jerry.</i>	<i>Collins, Niall.</i>
<i>Byrne, Catherine.</i>	<i>Colreavy, Michael.</i>
<i>Byrne, Eric.</i>	<i>Cowen, Barry.</i>
<i>Cannon, Ciarán.</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>Conlan, Seán.</i>	<i>Ellis, Dessie.</i>
<i>Connaughton, Paul J.</i>	<i>Ferris, Martin.</i>
<i>Conway, Ciara.</i>	<i>Fleming, Sean.</i>
<i>Coonan, Noel.</i>	<i>Healy, Seamus.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Healy-Rae, Michael.</i>
<i>Coveney, Simon.</i>	<i>Higgins, Joe.</i>
<i>Creed, Michael.</i>	<i>Kelleher, Billy.</i>
<i>Deasy, John.</i>	<i>Kirk, Seamus.</i>
<i>Deenihan, Jimmy.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Deering, Pat.</i>	<i>McConalogue, Charlie.</i>
<i>Doherty, Regina.</i>	<i>McGrath, Finian.</i>
<i>Donohoe, Paschal.</i>	<i>McGrath, Mattie.</i>
<i>Doyle, Andrew.</i>	<i>McGrath, Michael.</i>
<i>Durkan, Bernard J.</i>	<i>McGuinness, John.</i>
<i>Farrell, Alan.</i>	<i>McLellan, Sandra.</i>
<i>Feighan, Frank.</i>	<i>Martin, Micheál.</i>
<i>Ferris, Anne.</i>	<i>Mathews, Peter.</i>
<i>Fitzpatrick, Peter.</i>	<i>Moynihan, Michael.</i>
<i>Flanagan, Charles.</i>	<i>Murphy, Catherine.</i>
<i>Flanagan, Terence.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Gilmore, Eamon.</i>	<i>Ó Fearghail, Seán.</i>
<i>Hannigan, Dominic.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Harrington, Noel.</i>	<i>O'Brien, Jonathan.</i>
<i>Harris, Simon.</i>	<i>O'Dea, Willie.</i>
<i>Heydon, Martin.</i>	<i>O'Sullivan, Maureen.</i>
<i>Hogan, Phil.</i>	<i>Ross, Shane.</i>
<i>Howlin, Brendan.</i>	<i>Shortall, Róisín.</i>
<i>Humphreys, Kevin.</i>	<i>Smith, Brendan.</i>
<i>Kehoe, Paul.</i>	<i>Stanley, Brian.</i>
<i>Kenny, Seán.</i>	<i>Troy, Robert.</i>
<i>Kyne, Seán.</i>	<i>Wallace, Mick.</i>
<i>Lawlor, Anthony.</i>	
<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	

<i>McEntee, Helen.</i>	
<i>McGinley, Dinny.</i>	
<i>McHugh, Joe.</i>	
<i>McLoughlin, Tony.</i>	
<i>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>Naughten, Denis.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Riordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Penrose, Willie.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Phelan, John Paul.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	
<i>Sherlock, Sean.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Twomey, Liam.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Catherine Murphy and Richard Boyd Barrett.

Question declared carried.

Amendment declared lost.

**An Leas-Cheann Comhairle:** Amendment No. 9 in the name of Deputy Catherine Murphy is out of order. Amendment No. 10 in the name of Deputy Mary Lou McDonald is grouped with amendment No. 11. As Deputy McDonald is not present, we move on to amendment No. 11.

Amendments Nos. 9 and 10 not moved.

**Deputy Sean Fleming:** I move amendment No. 11:

In page 10, to delete lines 33 to 39.

This amendment is a simple one which concerns the parliamentary activities allowance. The Standards in Public Office Commission, known as the commission or SIPO, will prepare and publish guidelines for the purpose of providing practical guidance to the parliamentary leaders of qualifying parties, Independent Members and so on. My amendment specifically seeks to delete six lines on page 10 which essentially state that when the Standards in Public Office Commission has prepared its guidelines, carried out its consultation process and wants to issue the guidelines, these draft guidelines should be submitted to the Minister for his or her approval, and the Minister shall act as he or she may think proper. I want that subsection deleted to give the Standards in Public Office Commission, which is independent in regard to the performance of the electoral funding legislation and ethics legislation, the right to be independent with regard to this legislation.

I do not think it right that the Minister should have a veto over the guidelines. Either we have confidence in SIPO to draw up these regulations or we do not. I want to remove the power of the Minister to refuse to approve the guidelines, as approved by SIPO, having gone through its full public consultation. We talk about independence in this House and about a new policing authority. If we are serious about giving these independent organisations the respect they deserve, we should not give them power with one hand but have a rein on them with the other.

I ask the Minister to accept the amendment and to delete this power which he is proposing to give himself because it is not necessary. SIPO is fully competent. We should trust it to do the job and let it get on with it.

**Deputy Brendan Howlin:** Deputy Fleming's amendment, as he has outlined, removes the requirement that the guidelines are subject to the approval of the Minister for Public Expenditure and Reform prior to publication. Under the legislation, the role of the commission has been expanded, as we can see, to ensure increased transparency, accountability and consistency in the use of expenditure from the allowance. However, it is not the intention that the commission, or SIPO, should have a sole interpretative role in regard to this allowance. It falls to me, as Minister for Public Expenditure and Reform, to have a properly constituted involvement in the final guidelines in so far as they relate to the allowance.

There is no question of any lack of trust in the capabilities or the independence of the commission. This legislation itself shows I have full confidence in the commission to draft guidelines for the legislation rather than retaining that responsibility within my own Department. I am moving the drafting of guidelines away from my Department and giving it to the commission, but retaining a democratic accountability within it. The Minister who is responsible has

to have some oversight and it would be wrong to cede my authority in regard to the allowance. I believe the Bill provides the proper democratic oversight in its current form and I do not believe, on reflection, that the Deputy would endure with his proposal, which would cede any democratic accountability. I am responsible to this House. The Deputy's right to have a view and Parliament's right to have a view would be completely extinguished if it was solely the prerogative of SIPO.

Amendment, by leave, withdrawn.

**Acting Chairman (Deputy Frank Feighan):** Amendment No. 12 is out of order.

Amendment No. 12 not moved.

Bill received for final consideration.

**Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Bill 2013 [Seanad]:  
Fifth Stage**

Question proposed: "That the Bill do now pass."

**Minister for Public Expenditure and Reform (Deputy Brendan Howlin):** I thank the Deputies opposite. We had a very good debate, in particular on Committee Stage. This suite of legislation is a work in progress and we will be returning to it later in the year in regard to overarching ethics legislation on foot of the tribunal recommendations and other matters. I believe we are greatly improving the transparency of the way we fund politics in the measures we are taking. As I said at the beginning, and although I should not say this in the absence of the speakers, it was hijacked to give a platform for another argument. This Bill in essence has just two core components, first, the reduction in the amount of money payable through what is now called the parliamentary activities allowance and, second, to make that allowance accountable to every recipient.

That is broadly welcomed, including by the Technical Group which strongly supports this level of accountability applying for the first time. I thank Members for their support during the passage of this Bill.

Question put and agreed to.

**Acting Chairman (Deputy Frank Feighan):** A message will be sent to the Seanad acquainting it accordingly.

*Sitting suspended at 4.30 p.m. and resumed at 7.30 p.m.*

**Confidence in the Minister for Justice and Equality; and Defence: Motion (Resumed)  
[Private Members]**

The following motion was moved by Deputy Niall Collins on Tuesday, 1 April 2014:



2 April 2014

That Dáil Éireann has no confidence in the Minister for Justice and Equality and Minister for Defence, Deputy Alan Shatter.

The debate resumed on amendment No.1:

To delete all words after “Dáil Éireann” and substitute the following:

“commends the Minister for Justice and Equality and Minister for Defence, Deputy Alan Shatter, on the extensive and ongoing programme of modernisation and reform being led by him across all of his areas of ministerial responsibility;

supports, in particular, the Minister’s major programme of reform to the criminal and civil law, including the:

— Personal Insolvency Act 2012 and the establishment by the Minister of the Insolvency Service of Ireland to fundamentally reform the State’s insolvency and bankruptcy law to support people experiencing severe financial difficulties;

— Legal Services Regulation Bill 2011, a far-reaching and overdue reform of the regulation of the legal profession;

— Irish Human Rights and Equality Commission Bill 2014 to strengthen and enhance Ireland’s institutions for protection of equality and human rights;

— extremely significant Criminal Justice (Forensic Evidence and DNA Database System) Bill 2013, which will provide for a DNA database, to assist the Garda Síochána in the investigation of serious crime and in identifying serial offenders across a broad range of types of criminality;

— Criminal Law (Defence and the Dwelling) Act 2011 to clarify the right of a person to use reasonable force to defend themselves in their home;

— Criminal Justice Act 2011 to provide improved powers for the Garda Síochána in combating white collar crime;

— proposed Child and Family Relationships Bill 2014 to significantly reform family law and the protection of children in a range of family forms;

— Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 dealing with the disclosure of information about serious offences committed against children or vulnerable adults;

— National Vetting Bureau (Children and Vulnerable Persons) Act 2012 to provide a mandatory vetting system for persons working with children or vulnerable adults;

— Fines (Payment and Recovery) Bill 2013 providing for a new payment and recovery system, including the introduction of attachment of earnings for unpaid fines, in keeping with a commitment in the Programme for Government;

— Twenty-ninth Amendment of the Constitution (Judges’ Remuneration) Act 2011 to enable salary reductions to be applied to the Judiciary;

— Thirty-third Amendment of the Constitution to establish a Court of Appeal which will

be one of the most significant developments in the justice system since the foundation of the State, leading to efficiencies and improved access to justice;

— Courts and Civil Law (Miscellaneous Provisions) Act 2013, which introduced mechanisms for the attendance of the press in certain circumstances to shed light on family law and child care proceedings, provisions for the appointment of extra jurors in lengthy complex criminal trials, and to permit the appointment of two additional Supreme Court judges to tackle the delay in cases before that Court and the Court of Criminal Appeal;

— Defence Forces (Second World War Amnesty and Immunity) Act 2013 to provide for a pardon and apology for the 5,000 Irish soldiers who fought for the Allies in World War II;

— Criminal Justice (Community Service) (Amendment) Act 2011, which promotes the use of community service rather than imprisonment in appropriate cases;

— Criminal Law (Human Trafficking) (Amendment) Act 2013 to strengthen the law in relation to the important issue of human trafficking and provide for the first time a definition of ‘forced labour’ in Irish legislation;

— Criminal Justice (Spent Convictions) Bill 2012, which facilitates the rehabilitation of offenders; and

— work underway to bring forward further legislation in such important and diverse fields as the law on criminal procedure, sexual offences, corruption, child and family law, civil liability, immigration, residence and protection, mediation, and land and tenant law;

looks forward to further legislative reforms in these and other areas;

welcomes the reduction of 6.6% in recorded crimes in 2013 and the 16% overall reduction in recorded crimes since 2010;

welcomes the securing, in consultation with the Minister for Public Expenditure and Reform, of sanction to commence the first Garda recruitment since 2009 and €19 million investment in new Garda vehicles;

notes secured agreement for targeted Garda strength of 13,000;

notes the steps taken by the Minister to develop and implement proposals to bring into effect the Charities Act 2009, including the establishment of the new independent regulatory body, the charities regulatory authority, during 2014;

supports further measures underway to modernise the courts system, including planning for a new Family Court and a review of the judicial appointments process;

welcomes the work under way to prepare the wording for the proposed constitutional amendment relating to marriage equality;

acknowledges the establishment by the Minister of the Property Services Regulatory Authority to set and enforce standards in the provision of property services and to provide redress mechanisms for consumers;

acknowledges the ongoing initiatives of the Minister and the Garda Síochána in tackling crime and improving community safety, noting in particular the continued success of Opera-

tion Fiacla in tackling burglary;

notes the successes of actions taken against organised crime in the State, resulting in significant drug, illicit tobacco and laundered fuel seizures;

supports the Minister's ongoing and significant programme of investment in, and reform of, the prison system and the sentencing and management of offenders, including:

— introducing structured programmes of temporary release, including the community return programme and community support schemes which have achieved 90% compliance rates;

— requiring the courts to consider community service options for non-violent and less serious offenders;

— the introduction of an incentivised regimes scheme to incentivise better behaviour by prisoners;

— a programme to end the practice of sending children to St. Patrick's Institution;

— the reduction in the number of committals to prisons by 7.6% since 2011 and the average daily numbers of prisoners by 5.8% in 2013;

— the provision of additional prison spaces and the upgrading of existing prison facilities including the provision of in-cell sanitation resulting in a 70% reduction in the number of prisoners without such facilities since 2011; and

— the improvement of the independent oversight of prisons and of prisoner complaints mechanisms and the establishment of the Penal Policy Review Group;

commends the Minister's ongoing engagement with his counterparts in Northern Ireland and Britain in maintaining resolute opposition to the criminal terrorists opposed to peace on the island, and in developing and enhancing North-South co-operation in criminal justice and policing with the aim of improving community safety on the island of Ireland;

recognises the contribution of the Minister at an EU level in the field of justice and home affairs and defence, and in particular in the course of the Irish Presidency, the important progress made in such areas as data protection, measures to tackle organised crime, drugs and terrorism, cyber-security and action taken to address across the EU xenophobia, racism, anti-Semitism and homophobia;

welcomes the streamlined immigration and citizenship procedures in order to support the State's economic recovery and promote better integration for non-nationals resident here, noting in particular:

— the immigrant investor and start-up entrepreneur programmes;

— the new visa waiver programme;

— a historic Inter-Governmental agreement with the UK on the operation of the common travel area leading to the development of ground-breaking reciprocal visa arrangements; and

— the clearing of the backlog of 22,000 applications for citizenship, the new citizenship ceremony and the granting of citizenship to 68,000 applicants;

commends the Minister's initiative to establish the Inter-Departmental Committee, chaired by Senator Martin McAleese, to investigate and to set out the facts of the State's involvement with the Magdalen laundries, his decision to establish a scheme to provide supports for the women involved, to accept the recommendations of Mr. Justice Quirke in that regard, and the work which is under way to implement those recommendations, with priority being given to processing applications and making lump sum payments;

approves the Minister's commitment to the refugee resettlement programme, despite the challenging economic circumstances, and notes the Minister's initiative to establish the Syrian humanitarian admission programme;

welcomes publication by the Minister of a Green Paper on Defence in 2013;

commends the Minister on the significant achievements made in overseeing the development of a newly organised Defence Forces, stabilising the strength of those forces at 9,500; securing sanction for recruitment to achieve this; and in particular targeting female recruits and recognising the changing nature of Irish society generally;

welcomes the priority assigned to funding and support for key equipment requirements, with the first of two new naval vessels due for delivery in the coming weeks;

supports Ireland's continued representation in a range of UN peacekeeping missions with over 400 personnel deployed in 14 locations;

notes the major re-organisation of the Reserve Defence Forces initiated by the Minister, delivering significant efficiencies and dovetailing with the re-organised Permanent Defence Force;

recognises the Minister's very active approach to emergency planning through his chairmanship of the Government task force, with the Office of Emergency Planning being central to the response to recent emergency events, including flooding and severe weather;

recognises the comprehensive steps being taken to address issues of concern which have arisen;

approves the Minister's decision to request the Garda Inspectorate to examine and report on the fixed charge processing system and welcomes the decision by the Government to implement all of the 37 recommendations contained in its report;

welcomes and awaits the outcome of independent reviews of certain allegations of wrongdoing in relation to the Garda Síochána and in relation to allegations of surveillance of the Garda Síochána Ombudsman Commission;

notes the Government's announcement of a commission of investigation in relation to the recording of phone calls in Garda stations;

notes the Government's commitment to the reform of Garda oversight and accountability, which will include the establishment of an independent Garda authority, appropriate to Ireland's needs and which will maintain appropriate democratic accountability to the

Houses of the Oireachtas;

notes the intention of the Minister, in co-operation with the Minister for Public Expenditure and Reform, to enhance the legislative arrangements for whistleblowing in the Garda Síochána;

notes that arrangements will be put in place for an open competition for a permanent appointment to the post of Garda Commissioner as soon as possible;

welcomes consideration by the Joint Committee on Justice, Defence and Equality of the powers of the Garda Síochána Ombudsman Commission;

welcomes the review of the Garda Síochána which is currently under way under the Haddington Road agreement; and

expresses full confidence in the Minister for Justice and Equality and Minister for Defence, Deputy Alan Shatter.

- (Minister for Justice and Equality)

**An Ceann Comhairle:** Deputies Mick Wallace, Clare Daly, Luke ‘Ming’ Flanagan, Joe Higgins and Richard Boyd Barrett have two minutes each. The Deputies can decide the speaking order themselves.

**Deputy Luke ‘Ming’ Flanagan:** I thank the Ceann Comhairle. I did not think we were here to talk about why the Minister for Finance should resign but he is the most senior Minister here. This is meant to be about the Minister ---

**Deputy Michael Noonan:** I hope Deputy Flanagan does very well in the European elections.

**Deputy Luke ‘Ming’ Flanagan:** ---for Justice and Equality. Before the current Minister came to power, I would have imagined that the Molloy family, relations of Father Niall Molloy, would have been rather excited at the prospect of what the Minister would do and the fact that he would deal with this case. He met with members of the Molloy family before he became Minister. On Wednesday, 17 November 2010 he addressed the then Minister for Justice, Mr. Dermot Ahern, in the Dáil and questioned him on the matter. He asked if the Minister intended to have an investigation into the death of Father Molloy conducted by the Garda Commissioner and whether the Commissioner would examine whether the initial investigation was properly conducted, given the concerns that crucial evidence was not taken account of. He also asked about the manner in which Judge Roe dealt with the case when he dismissed it on the grounds that Father Molloy had died of a heart attack when in fact the inquest ruled that he died from head injuries. Sadly, since the Minister has got into power, he has not followed up on these issues. In fact, there has been no official Garda investigation. According to the Molloy family, the Minister refuses to meet with them. They got a little bit of hope when Mr. Dominic McGinn, a Senior Counsel, was officially appointed in February to identify whether there were any serious issues of public interest or concern in connection with the probe by the Garda serious crime review team. However, the family has heard nothing from this man. Surely they should have been talked to. Finally, I wish to ask about Brian Purcell. He had a connection with the prison service; apparently he ran the prison service. Now, we discover that phones were tapped in the prison service. What did he know about that? Did he have anything to do with it?

**Deputy Clare Daly:** I have to say, with no disrespect to the Minister for Finance, that it is an absolute disgrace that the Minister for Justice and Equality is not here. There is a young woman ---

**Deputy Michael Noonan:** He is on his way. He will be here in five minutes.

**Deputy Clare Daly:** I would like to wait until he arrives.

*(Interruptions).*

**An Ceann Comhairle:** The Deputy is using up her time.

**Deputy Clare Daly:** Can we wait? I would like to wait until the Minister gets here.

**An Ceann Comhairle:** The Deputy has been called and she must speak now.

**Deputy Charles Flanagan:** We can speak now instead.

**Deputy Clare Daly:** Can we swap?

**An Ceann Comhairle:** No. The Deputy has one minute and 26 seconds so she had better keep talking.

**Deputy Clare Daly:** There is a young woman in the Public Gallery this evening who has travelled from England; a woman whom Deputy Shatter represented when she was a child; a young woman who was sexually abused horrendously by her father; a young woman called Sarah Bland. Sarah and her mother have provided detailed statements to the gardaí containing serious allegations against Deputy Shatter with regard to perverting the course of justice, obstructing the course of justice and other serious matters. This is one of a number of horrendous cases that remain unresolved in this State. There are too many for us to deal with in a matter of minutes.

To listen to the Taoiseach earlier talking about the Government moving speedily and decisively was quite simply sickening. He talked about a murderer being at large in the context of the case of Sophie Toscan du Plantier as if it was something new. Five Supreme Court judges have previously described the conduct of the gardaí in that case as “breathtaking” misbehaviour. It has been mentioned many times here before but nobody wanted to know. In 2005 Marie Farrell withdrew her statements against Ian Bailey. She went to the press and told everybody that she was given favourable treatment for signing false and blank statements. Nobody wanted to know. Nobody wanted to upset the Garda. In 2001 the DPP produced a report which showed that gardaí had fitted up Ian Bailey. When we brought Ian Bailey to this House last year nobody wanted to know then either. That man, at that time, was facing a European arrest warrant based on briefings by Irish gardaí involved in a corrupt investigation. It is time for the Minister and the rest of the Government to go.

**Deputy Mick Wallace:** I also think it is a disgrace that the Minister is not here. It is more game playing. He said that the crisis is not of his making, or rather, the crises, and I agree with him but his handling of them has been disastrous, defensive and has lacked any appetite for truth, transparency or accountability. We have spent 18 months dealing with one issue after another, pointing out the fact that he has had no appetite for the truth. This place is disconnected from the real world. Fine Gael and Labour Deputies will get up and vote confidence in the Minister tonight, saying “sure, everything is grand; isn’t everything grand”. There are not many

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people who live outside of this place who think that everything is grand. It is a joke; it really is - what they are standing over with the Minister. It has been one sham after another - penalty points, the internal reports, the Roma children, pretending there is no racial profiling, pretending there is no bugging of GSOC, with one weak report after another. Eventually, one public inquiry was set up in the end because the information will come out soon enough anyway. The people do not believe that the Minister has any credibility. The Taoiseach is now backing him 100% and he is losing credibility as well because he is standing over the indefensible. Why did this Government say that it was interested in transparency and accountability? Why did it say that it was interested in doing politics differently, when it is not? It is more of the same. Is anything ever going to change? As long as the Deputies opposite defend the Minister, they are just part of everything that has gone before them. It is a joke.

**Deputy Patrick O'Donovan:** Is Deputy Wallace defending himself?

**Deputy Michael Healy-Rae:** The Deputy should keep quiet and have some manners.

*(Interruptions).*

**Deputy Joe Higgins:** A motion of no confidence in the Minister for Justice and Equality, Deputy Alan Shatter, is warranted by any one of several stances taken by the Minister which were all designed to protect the most senior echelons of the Garda Síochána when issues surfaced that brought their role into serious question. The penalty points controversy and the blackguarding of the two gardaí who brought that to the attention of the Government is one instance. The furious attack against the Garda Síochána Ombudsman Commission when it suspected that its headquarters had been bugged is another and now we have the secret taping at Garda stations.

I wish to raise two issues. I want the Minister or senior gardaí to explain why, following a two year audit by the Data Protection Commissioner of An Garda Síochána, which produced a 95 page report only a few weeks ago about data protection issues, not a single mention is made in that report of a phone call, a taped phone call or anything relating to that. I want the Garda to explain who held off the truth from whom. I want the Data Protection Commissioner to make a statement on this incredible circumstance.

It is time for a commission of inquiry into the circumstances surrounding the death, and the investigation of the death or murder, of the Reverend Niall Molloy as pursued relentlessly by the journalist Gemma O'Doherty. It is one of the longest running miscarriages of justice cases in the history of the State. The Government must move on this.

**Deputy Richard Boyd Barrett:** We cannot have confidence in the Minister for Justice and Equality. His appalling behaviour in dealing with the penalty points scandal, the whistleblowers, the bugging scandal in GSOC and now the taping controversy has been well rehearsed here, so I will not go through it. All of those things have brought the administration of justice and policing in the State into disrepute. That is why he has to go.

There are a couple of other people who deserve to be mentioned in the short time I have. *Irish Independent* journalist, Gemma O'Doherty, was sacked for door-stepping Commissioner Callinan over the issue of penalty points that he may have had quashed last year, by the editor-in-chief of Independent Newspapers who was a former editor of the *Garda Review*. It is alleged in newspaper reports that he had his penalty points quashed. This is the sort of State we live in.

I would gain some return of confidence in the Minister for Justice and Equality if we put all of that aside and going forward he looked interested in bringing justice to people who have been denied it. Three times in the last two weeks I have asked about the appalling case of Cynthia Owen, a child who was ritually raped and made pregnant at the age of ten. Her baby was murdered and she alleges that gardaí were involved in that abuse. The case was closed down after six weeks and nobody was ever brought to trial over it. There was a sham investigation years later when the victim of this heinous crime was not even interviewed. The person who carried out that investigation had said publicly a few weeks before that cases of abuse like this should not be investigated at all. Ms Owen has asked the Minister, Deputy Shatter, through her solicitor, for a meeting. She is seeking a commission to investigate this heinous crime, yet the Minister still says “No”. How can one have confidence with issues like that?

**An Ceann Comhairle:** We have a long list of Members but I will not read them all out because I would be wasting time and there are time limits. I now call the Minister of State, Deputy Fergus O’Dowd, who has two minutes. There is a long list of speakers then who will have one minute each. They will have to stick to that limit.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O’Dowd):** The Minister, Deputy Shatter, is clearly one of the most effective Ministers of Justice and Equality we have ever had since the foundation of the State. He has been a most reforming Minister, enacting 21 separate pieces of legislation during the past three years. He has overseen a further five Bills which are currently before the Oireachtas and he is directly involved in drafting an additional 14 Bills. In terms of taking business through this House, there is no more hard-working, efficient and effective Minister. Most of the debates that I have been involved in on his behalf have been very objective.

Last year, 8,000 people were committed to jail because they did not pay fines. The average fine is about €200, yet the relevant legislation has never been changed despite 16 years of Fianna Fáil rule. However, the legislation is now being changed. Just like all the other legislation the Minister is introducing, it is progressive and gets to the core principle of fairness, justice and equality for all.

The Opposition has tabled this motion but it is important that a parliament is used properly. We have had many debates, including Private Members’ time and questions to the Taoiseach, and the fact is that all the questions concerning the Minister, Deputy Shatter, have been answered. The real point is that we should be talking about the improvement in the economy and in unemployment which is down to about 11.8%. In addition, our tax take is up by about 5%. Notwithstanding the fact that unemployment is still high, it is the lowest it has been in the last five years.

The Minister, Deputy Shatter, is part of a working Government that has reformed the economy. The Minister has been reforming the justice system. The Government is working well and we should be talking about the economy.

**Deputy Dara Murphy:** This morning, the Taoiseach referred to a package that the Minister, Deputy Shatter, received. It goes to show the degree to which the Opposition is now playing the man rather than the issues. Even in what we have heard today, no one felt that such a package was inappropriate or should be condemned.

**Deputy Joe Higgins:** Of course it is inappropriate. Do not be a fool.



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**Deputy Dara Murphy:** The only dispute I heard in four weeks at our parliamentary party meetings was tonight when Members expressed disappointment that they did not have an opportunity to speak today in favour of the Minister for Justice and Equality. In my experience as a Deputy, no Minister has shown the compassion and work ethic that the Minister, Deputy Shatter, has shown. We saw that nationally in how he dealt with the issue of those who were in Magdalen laundries and the long overdue amnesty for deserters in the Second World War.

On a personal level, I have also seen him engage with many people, including a young lady in Cork who suffered a terrible tragedy.

**Deputy Michael Healy-Rae:** He would not even say “Hello” to you.

**Deputy Anne Ferris:** Thirteen is considered by some people to be an unlucky number. Over the 13-year period that Fianna Fáil spent in government from 1997, no fewer than five different Ministers for Justice served the nation. Many of the grave and serious pigeons that came home to roost in recent weeks on the roof of the Department of Justice and Equality were launched into orbit during the era of fianna failure.

Over the past three years, the current Government, including the Minister for Justice and Equality, has put considerable effort into undoing inherited legal problems and their social impacts. The Select Committee on Justice, Defence and Equality has covered a lot of ground in just three years. As a committee we have considered 19 individual reforming Bills. We have conducted no fewer than ten in-depth examinations of areas where poor legislation was ignored for years. I could go on with a big list but I will not do so.

The Committee on Justice, Defence and Equality is currently considering issues concerning Irish prisoners abroad, public order offences, human trafficking, community courts, domestic violence, sexual violence, restorative justice, the children and family relationships Bill, the new criminal justice Bill and the recent review of the Garda Síochána.

**Deputy Jerry Buttimer:** I wish to express my full confidence in the Minister for Justice and Equality who is a man of genuine compassion and sincerity. One can contrast the Minister with the political opportunism of the Members opposite and in particular the response of the Fianna Fáil leader, Deputy Martin, to the Travers report. One can also contrast what this Government and the Minister has done with the inept failure of the Members opposite when in government. Deputy Martin defended his handling of the matters in the Travers report by claiming that he was not briefed by his officials, but his officials said otherwise. In Deputy Martin’s case, a senior Department official briefed him on a number of occasions but he failed to act for two years. Yet within 48 hours this Government acted.

Deputy Shatter is a reforming Minister and a man of political conviction. As regards Deputy Healy-Rae’s point, the Minister not only says “Hello” but also acts. I am proud of the Minister who will bring about full equality for all our citizens. He deserves our support and not the political charade we are going through here.

**Deputy Seán Kenny:** I am happy to speak in this debate. The public interest would be better served if An Garda Síochána was overseen by an independent policing authority. The Labour Party has advocated this for many years, believing that it is not in the public interest or in the interests of the administration of justice for a police force and its commissioner to be directly answerable to a single elected representative.

I welcome the Government's commitment to introduce an independent police authority. I look forward to the work of the Committee on Justice, Defence and Equality, of which I am a member, in reviewing the Garda Síochána Act 2005.

I welcome the Government's decision to appoint Mr. Justice Nial Fennelly, a judge of the Supreme Court, as chair of the commission of investigation. I welcome the agreement that the commission of investigation should examine all matters of public concern relating to the taping of conversations in Garda stations. I understand that the commission's terms of reference will be finalised shortly and will be subject to the approval of this House.

**Deputy Regina Doherty:** This is probably the most cynical move in opposition I have seen from Fianna Fáil since I was elected three years ago. I listened to Joe Duffy's "Liveline" programme yesterday, the institution that gauges the mood of the general public. The overwhelming if not unanimous response from the people on that show yesterday was that Fianna Fáil is a disgrace. They felt this was a complete time-wasting, cynical political move on the part of Fianna Fáil. If that party wonders why it is languishing at 20% in the polls, all it has to do is look at its activities. When we started here on 9 March 2011, Deputy Micheál Martin said he would be constructive in opposition and that there would be no Punch and Judy show. All we are wondering is which one of the Deputies opposite is Punch and which is Judy. Fianna Fáil ought to be ashamed.

**Deputy Patrick O'Donovan:** The only motion of no confidence that should be debated here this week ought to take place in the Fianna Fáil Parliamentary Party room on foot of the shambolic suggestions of its current leader. He sat at the Cabinet table when the legacy of dirt, including the dirt in regard to the economy and the dirt the Minister for Justice and Equality has to clear up, was being created. As on the night he was asked about the bailout, he probably rolled over in the bed and pressed the snooze button. That is what Fianna Fáil did for 14 years, leaving a host of Ministers, including Deputy Shatter, to clear up their legacy. I have no difficulty in voting confidence in the Minister for Justice and Equality tonight but it is regrettable that Fianna Fáil, with its legacy of failure, has decided to use valuable Dáil time in this manner. The reason it did was to avoid being outflanked by Sinn Féin next week. I commend the Minister and his work to the House.

**Deputy Marcella Corcoran Kennedy:** The motion is based on a fallacy. Fianna Fáil and the rest of the Opposition is attempting to convince us and themselves that the people are calling for the resignation of the Minister for Justice and Equality, Deputy Alan Shatter. They have presented no evidence for this and instead have chosen to focus on the Minister's personality. Parliamentarians should lead by example. Members opposite are giving the impression that it is acceptable to attack a human being on a personal basis. The public is not fooled. Over the weekend, the overwhelming response I received from constituents was to the effect that the motion represented populism gone mad. To illustrate my point, I share the contents of an e-mail I received last week. It said:

I wish to express my support for Minister Shatter and I hope he will have your full support too. Alan is a good man doing great work and I hope you extend my thanks and best wishes to him.

That is an example of the type of feedback I am getting about the Minister in whom I have full confidence. I wish the Members opposite could too.

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**Deputy Tony McLoughlin:** What is the Minister supposed to have done that is so wrong as to merit two days' debate at the prompting of a desperate Opposition anxious to deflect attention from a Government which has turned around an economy left on its knees by the party opposite before it was run out of office three years ago? On 1 February 2011, the current leader of Fianna Fáil, who is heading up the witch hunt against the Minister, appointed Deputy Willie O'Dea to his Front Bench despite that Deputy having resigned from his post as Minister for Defence in February 2010. It is difficult to credit the hypocrisy and double standards now being displayed by Fianna Fáil.

Tonight's debate is about confidence in Deputy Alan Shatter as a Minister. When one compares his work to the work of his predecessors in the Department, there is no contest. He has a long list to his credit including legislation, modernisation, reform of our prisons, important changes to the jurisdiction of the courts, numerous guidance documents and reform of citizenship applications. I could go on, but this debate is about attacking the Minister's style rather than the substance of his work.

**Deputy Arthur Spring:** I will vote confidence in the Minister. There has been a regrettable issue in regard to the whistleblowers. That has been resolved and the people have moved on from that issue. They are more concerned with the creation of jobs and mortgage resolution. For the last four hours, the finance committee has been examining personal indebtedness. It is incumbent on all of us to reflect on what has gone on over the past five to six weeks. The people want us to resolve serious issues, but this has become about pedantic and semantic questions which are not related to people's lives. The issues will be dealt with through inquiries and investigations. It is great for the Labour Party to see a new independent body for the Garda being established. It is a matter that has been on the cards since 2002 and it is a good news story. It is a good thing that has emerged from a fiasco.

**Deputy Michael Healy-Rae:** The Minister closed Garda stations.

**Deputy Mary Mitchell O'Connor:** Last weekend in Dún Laoghaire, I was given a loud and clear message which was to do the work we were elected to do, create jobs and get our people back to work. Tonight's motion is a distraction. The people of Ireland are not interested in a personalised attack on the Minister for Justice and Equality, Deputy Alan Shatter. After today's events, the least I would expect is for the leaders of the Opposition parties to condemn the sending of sinister material to the Minister's home. I remind the House that the Minister has a family. Can we please stop the play-acting and allow acting Garda Commissioner, Noirín O'Sullivan, Mr. Justice Nial Fennelly of the Supreme Court and Mr. Justice John Cooke to get on with their jobs?

**Deputy Joe O'Reilly:** The cynicism of tonight's attack on a very good man with a passion for public service will not, ultimately, be lost on the public. The Minister for Justice and Equality, Deputy Alan Shatter, has responded to what are essentially legacy items in quick time. The Cooke and Guerin inquiries and the Fennelly commission will independently and objectively evaluate the issues. For there to be a basis for a motion of no confidence, the Minister would have had to have been negligent or done wrong. Neither is true. Far from doing wrong, the Minister has introduced in his term to date a raft of reforming legislation covering white collar crime, human trafficking, Second World War veterans, community service, insolvency, legal services, defence of our homes, protection of children and the attachment of fines to earnings. The Minister has shown at all times a willingness to be forward thinking and radical.

**Deputy Damien English:** In the minute I have, I rise to speak in favour of Deputy Alan Shatter as Minister for Justice and Equality. I direct Members opposite to listen back to the Marian Finucane show of last Sunday. The guests were James MacGuill, a solicitor, Richard Moore, advisor to a former Fianna Fáil justice Minister, Harry McGee and Mrs Justice Catherine McGuinness. They joined Ms Finucane to talk through recent events as reported in the Sunday newspapers. The discussion on Deputy Shatter was reasonable, measured and stuck to the substantive issues. The contributors were not hysterical or opportunistic.

Insinuations have been made that Deputy Shatter knew about the recordings and failed to act. Deputy Shatter's record disproves that. James MacGuill outlined Deputy Shatter's work on solicitor-client confidentiality during Ireland's Presidency of the Council of the European Union. He outlined that Deputy Shatter's record on this was good. Our Minister was to the fore in guaranteeing the right of access to lawyers and faced down some of the accession states which had become accustomed to eavesdropping. Some of them wished to continue to facilitate it but a complete prohibition was put through under the Irish Presidency thanks to Deputy Shatter.

**Deputy Seán Kyne:** I support the Minister, Deputy Shatter, who is one of the best and most reforming Ministers the Department has ever seen. He has a strong record of enacting positive legislation and reform. I commend his recruitment campaign for the Garda Síochána. Gardaí will enter Templemore this year for the first time since 2009 when the moratorium was implemented under the last Government. Garda numbers will be maintained at 13,000. I commend the Minister for the extra funding he secured for the Department of Justice and Equality over the Fianna Fáil plan. In 2012, he secured an extra €118 million, in 2013 and extra €154 million and in 2014 an extra €160 million. We have seen a reduction in crime over the term of the Government of 16% including a 10% reduction in homicides, a 14% reduction in sexual offences, a 19% reduction in attempts and threats to murder and a 37% reduction in dangerous acts. I could go on. I strongly support the Minister.

**Deputy Paul J. Connaughton:** There have been issues over the last number of weeks and they have been corrected, which is very much to be welcomed. It is now important to move on. I have noticed that no Opposition Member spoke about any of the positive things that have taken place in the last three years, including the introduction of personal insolvency legislation which was ground-breaking and badly needed. If we are honest, the motion is not about Deputy Shatter, Fine Gael or the Labour Party. It is about Fianna Fáil and its concerns about the gentlemen on their left, right and behind them. It is one thing to be behind the curve, but Fianna Fáil is not even on the pitch. I have no problem voting confidence in the Minister.

**Deputy Charles Flanagan:** I have known the Minister for Justice and Equality for more than 25 years. I have worked with him and witnessed first hand his dedication, commitment and hunger for reform. He has been a pioneer for change over a long number of years as a trail-blazing student campaigner, distinguished lawyer, Member of the Opposition and, now, Government Minister. He has a record of which both he and we can be proud. He is not finished yet.

I refer to the vile material which was disseminated and distributed to the Minister's house today. I am surprised and disappointed that it has not been condemned by Deputy Micheál Martin, the Leader of the Opposition or the leaders of other parties. That should be done.

**Deputy Richard Boyd Barrett:** We all condemn it.

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**Deputy Charles Flanagan:** We should all join in that.

**Deputy Mary Mitchell O'Connor:** It is disgraceful.

**Deputy Richard Boyd Barrett:** We agree that it is disgraceful.

**Deputy Charles Flanagan:** The Minister is committed to justice, equality, the rule of law and human rights.

*8 o'clock*

He is tackling and dealing with many problems in his Department and he should be allowed to continue in his role.

**Deputy Aodhán Ó Ríordáin:** Why do I have confidence in the Minister for Justice and Equality, Deputy Alan Shatter? I have confidence in the way he is closing St. Patrick's Institution for Young Offenders and ending slopping out in Mountjoy Prison. I have confidence in the way he has criminalised forced labour and his belief in equality, especially in the areas of women's health and lesbian, gay, bisexual and transgender, LGBT, rights in the workplace and society. I have confidence in the legislation he introduces, especially in the area of personal insolvency, and his decision to introduce a Garda authority. However, some of my confidence in the Minister has been shaken by the handling of this issue in recent months, the matter of direct provision centres, the potential of the legal services Bill to prevent top barristers and solicitors taking on pro bono work because of the multidisciplinary structures it will apply and the delay in properly recognising Traveller ethnicity. Much work remains to be done and more reform is needed. While I have confidence that the Minister can achieve this, some areas need his urgent attention.

**Deputy David Stanton:** Speaking as the Chairman of the Joint Committee on Justice, Defence and Equality, the only complaint I have about the Minister is that he works the committee too hard. The amount of legislation coming before us is unprecedented and its quality is without parallel. The Minister is an ideas man. If a Member from any side of the House approaches him with an idea, he will run with it. Last year a group of students visited the Oireachtas to request the introduction of a missing persons day to remember people who have been missing for more than 20 years. The Minister ran with the idea and the first missing persons day was held in Farnleigh in December last. The event was extremely emotional for the people affected. This is the type of thing the Minister does.

The legislation on assisted decision making before the House is ground-breaking. People from other countries have visited this country to examine the Bill as an example of best practice. While I do not always see eye to eye with the Minister, that is good because constructive debate is necessary.

**Deputy Paudie Coffey:** I, too, will vote confidence in the Minister this evening. Not only do people want economic recovery, they also want us to recover the reputation and integrity of the State, both of which have been damaged of late. The Fianna Fáil Party is engaging in cheap political stunts and targeting the man, rather than the issue. Once this issue has been addressed - the Government acted swiftly in that regard - the Fianna Fáil Party will realise that this matter is yet another legacy of its disastrous period in office. I feel for rank and file gardaí and the manner in which their organisation is being kicked about like a political football. I welcome the independent inquiry and will await its outcome. In the meantime, we must return to the issues in

hand and focus on dealing with economic recovery, job creation and reducing unemployment.

**Deputy Frank Feighan:** The Minister for Justice and Equality, Deputy Alan Shatter, has been one of the most reforming ministers for justice ever. He has been always a strong advocate of legal, social and environmental reform and has been correctly described as one of the Cabinet's most hard-working Ministers. I support the case made for the establishment of a commission of investigation into the case of Father Niall Molloy.

As I look across the floor, I see a Deputy from my constituency who resorted to his usual guff in attacking the Minister again this evening. The same Deputy showed breathtaking hypocrisy on the issue of penalty points and continues to portray himself as an anti-corruption crusader. Farcically, he was forced to admit that the quashing of his penalty points was corrupt. Did this self-appointed moral crusader resign as a result of his self-confessed corrupt behaviour? Of course he did not because, after all, it only involved corrupt behaviour on his part. No man is above the law. The Minister has my full support and confidence.

**Deputy Luke 'Ming' Flanagan:** Will Deputy Feighan ever make a speech without referring to me?

**Deputy Liam Twomey:** I fully support the Minister and the institutions of the State, including the Garda Síochána. The Fianna Fáil Party Deputies opposite stated there are cultural issues that should have been dealt with, yet their party was in power for 15 years during which time Governments failed to act. We do not have any confidence in the ability of Fianna Fáil to deal with important issues. The Minister and Government have promised to establish a Garda authority that will root out the few rotten apples in the Garda Síochána.

The Minister has been a fantastic advocate for the most vulnerable. The Fianna Fáil Party in government avoided introducing legislation such as that the Minister has introduced because it did not wish to invest intellectual capacity in helping the most vulnerable. For that reason alone, the Minister deserves our full support.

**Deputy Martin Heydon:** I am pleased to pledge my full support for the Minister in the face of a pathetic exercise in political opportunism by the Fianna Fáil Party. Almost all Opposition Deputies who attacked the Minister in recent weeks commenced their contributions with an acknowledgment that he is a hard-working and reforming Minister before dismissing these qualities as if they did not matter. As a Deputy from Kildare South, a constituency that includes the Curragh, I recall that local people were seriously concerned when the Government came to power because it decided to merge the defence and justice portfolios in one Department. People feared this would result in the downgrading of the defence portfolio. Since then, however, various Defence Force personnel have indicated to me on numerous occasions that this is an excellent Minister who has been seen more often in the Curragh than many of his predecessors whose only brief was defence. I congratulate the Minister on sticking to the pledge to maintain Defence Force strength at 9,500. In the face of significant austerity measures and cuts in every area, the Minister stuck to his word at the Cabinet table and adhered to the Fine Gael promise to maintain Defence Force strength.

**Deputy Michelle Mulherin:** The bigger picture in this debate is that issues have arisen and the Minister took appropriate and speedy action. As regards the most recent controversy, the relevant tapes are safe. The issues that have arisen are legacy issues which were not addressed previously. The personal and disproportionate attack on the Minister is an attempt to skew real-

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ity and diminishes the public view of how politics operate. The political objective of this attack is to bring down a Minister and destabilise and, ultimately, bring down the Government. It is, therefore, personal.

I regret that in all of this the former Garda Commissioner is no longer in his post. Opposition Deputies have the liberty of saying what they like because they do not carry the burden of responsibility of governing and protecting the public good. To be persuaded by the arguments they have made against the Minister would be akin to allowing the lunatics to take over the asylum. This is a hard-working, reforming and honest Minister.

**Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan):** I am pleased to speak to the motion. I have known and worked alongside the Minister for more than 30 years. In everything he has done, whether as a spokesperson or Minister, he has worked extremely hard. He has been unafraid to tackle difficult issues which others were happy to ignore. He has worked to improve our legislative system, both as a Minister and in opposition, and his legacy is one of reform and progress. As with most members of the Government, he came into office facing a range of challenges which had been long-fingered for some time, and set about methodically addressing them, one by one.

The Minister's record speaks for itself. As many of my colleagues noted, during the past 36 months he has been directly involved in the drafting, publication and enactment of 40 separate legislative items. His work rate is second to none, as Deputies on all sides know. This is a common thread in all the work he has done since 2011, whether on personal insolvency and debt relief or in addressing white collar crime, penal reform, vetting and child protection, judicial pay, equality, human rights or human trafficking. All of these issues impact on people in all parts of the country. The Minister's work has improved the position of people throughout the country in all these areas and many more.

The most important thing now is that, following the conclusion of the various inquiries which the Minister and Government have established, we ensure that An Garda Síochána remains the respected force it has been since the foundation of the State and enjoys the full confidence of the people whose freedoms it serves and protects. With this in mind, the Government has reiterated its commitment to reform Garda oversight and accountability, including by establishing an independent Garda authority. The Government will announce the full details of its comprehensive reform proposals in the coming months. This will be done following the completion of the current inquiries by Judge Cook and Mr. Guerin and the forthcoming hearings of the Joint Committee on Justice, Defence and Equality. As a long-standing colleague, I express my support for the Minister.

**Deputy Michael McNamara:** Much good has come from the unfortunate events of recent weeks. Whistleblowers have acquired a new status and respect, largely as a result of the report of the Garda Inspectorate commissioned by the Minister. A commission of inquiry into Garda telephone recording led by Mr. Justice Nial Fennelly of the Supreme Court will shed light on recordings dating back to the 1980s, including when they started, when they took place and on whose instruction and with whose acquiescence they were made. The Cooke inquiry will inform us on reports of Garda surveillance at GSOC. It has been a rocky road to reform but the system is being reformed. Most important, the Department of Justice and Equality and this Government have shown that unlike previous Governments they can respond to difficult circumstances and crises. That is an important departure. The Department of Justice and Equality, led by the Minister, Deputy Shatter, is responding in a quick and decisive manner to legacy

issues dating back a long time. For this reason, I have complete confidence in the Minister.

**Minister for Health (Deputy James Reilly):** What better way is there to judge a Minister for Justice than to review the crime statistics? Since Deputy Shatter became Minister for Justice and Equality, crime has fallen by 16%. This includes a 10% reduction in homicides, a 14% reduction in sexual offences, a 12% reduction in robberies, a 34% reduction in public order offences and a 23% reduction in organised crime offences.

The Minister, Deputy Shatter, is not content with ensuring only that crime statistics decrease, he is a reforming Minister who has been directly involved in the drafting, publication and enactment of 40 pieces of legislation during the past three years. He has overseen referendums to reduce judges' pay in line with the pay cuts in the public sector and the introduction of a new Court of Appeal to make our court systems more efficient. Deputy Shatter has proven himself to be a compassionate Minister who is not slow to tackle the legacy issues he has inherited. As stated by others, children are no longer committed to St. Patrick's institution and a committee to investigate the Magdalen laundries and a scheme to support and compensate the Magdalen women has been established. His expertise in family law will make a real difference in the future with the publication of the child and family relations Bill. This will significantly reform family law and most importantly enhance the protection of children.

Despite the disastrous financial situation inherited from the previous Government, the Minister, Deputy Shatter, has in respect of the three year period 2012-14 secured additional funding over and above that allocated by Fianna Fáil in its national recovery plan to ensure that An Garda Síochána can continue to deliver an effective policing service. He has also secured agreement for the recommencement of Garda recruitment. The Minister is committed to human rights, equality and the rule of law and recently published the Irish Human Rights and Equality Commission Bill 2014 and has pioneered an EU human rights and equality initiative. He has ensured that the backlog of applications for citizenship was addressed and secured Government approval to hold a referendum on marriage equality.

In Deputy Alan Shatter we have a Minister for Justice and Equality who is reducing crime rates, reforming our sentencing and legal systems, tackling long-standing issues and advancing human rights. We have the right man in the right job. Previous Governments dominated by Fianna Fáil swept issue after issue under the carpet. If a crisis was looming the Fianna Fáil-Deputy Martin way was to dodge it. The Minister, Deputy Shatter, does not do that. This motion is a cheap attempt by Fianna Fáil to distract the public from the job at hand, which is to restore confidence in the Garda Síochána, restore the faith of the people in the Garda Síochána and get our people back to work.

**Deputies:** Hear, hear.

**An Ceann Comhairle:** I call Deputy Martin who is sharing time with Deputies Timmy Dooley, Michael McGrath and Billy Kelleher. The Deputies have ten minutes each.

**Deputy Micheál Martin:** There is, unfortunately, a long and dishonourable tradition of a tiny minority abusing politicians and Ministers, in particular those of the Jewish faith. Everybody in this House is united in condemning this. The people who do things like this should be found and prosecuted.

**Deputy Niall Collins:** Hear, hear.



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**Deputy Micheál Martin:** During this debate, Government members and backbenchers have stuck to the basic line that there is no legitimate reason even to raise the issue of whether the Minister, Deputy Shatter, should continue in office. They have said that partisan politics is the only basis for criticising him and that asking him questions is a distraction from the real issues that should concern us. I agree that there are many urgent issues facing the people we represent which deserve more debate and action, including the mounting mortgage and household debt crisis which is not being addressed because of the Government's decision to put the banks in charge; the two-tiered recovery which is seeing some do well as the majority are left behind; and regressive taxes and stealth charges which are hitting struggling families the most. We all know that the detail of the water charges is being hidden until after May's elections. These and many more issues are what concern people the most-----

**Deputy Regina Doherty:** Finally.

**Deputy Micheál Martin:** -----but to use this as an excuse to try and close down the crisis engulfing the tenure of the Minister, Deputy Shatter, is cynical politics at its worst.

**Deputy Patrick O'Donovan:** Deputy Martin is suffering from amnesia.

**An Ceann Comhairle:** Deputies, please.

**Deputy Micheál Martin:** If we allow this attitude to prevail then it is the same as saying that no Minister can ever be held to account for their actions. The facts of this crisis show that anyone who was looking to the Labour Party to assert basic standards of accountability within the Government can now give up all hope. In this case, the Taoiseach and Minister for Justice pushed the Garda Commissioner into resignation but did not think it necessary to inform the Labour Party about it. This is apparently okay with the Labour Party. It is also okay with that party that it took months to force the Minister, Deputy Shatter, to apologise for a false slur against Garda whistleblowers, and that he has built up a unique record of dismissing anyone who raises any inconvenient issue.

We are not talking about one incident of bad judgment or misfortune concerning a Minister. What is involved is a mounting list of events which have already destroyed public confidence in the oversight by the Minister, Deputy Shatter, of one of the most vital areas handled by Government. The administration of justice and public faith in our police force are not marginal issues: they cannot be pushed aside with the usual spin. Four separate inquiries have been established into matters under the direct control of the Minister, Deputy Shatter. In three instances, there is no question of his full knowledge of the issues and eagerness to declare files closed. The inquiries followed public statements by the Minister that everything was fine. In the case of the Garda and prison tapes, his Department was in possession of significant information for months. This matter is only being investigated because the Attorney General raised the matter with the Taoiseach.

Continuing with his standard practice of dismissing all challenges, the Minister, Deputy Shatter, said last night that questions about "who knew what and when" are irrelevant. During the debate on this motion last night the Minister spoke for 20 minutes about his tenure and quite incredibly failed to mention that he was involved in decisions which led to the resignation of a Garda Commissioner for only the second time in our history.

**Deputy Mary Mitchell O'Connor:** The Garda Commissioner retired.

**Deputy Micheál Martin:** The Minister managed to avoid answering questions on this issue. His stated position is that he is a dynamic Minister fully in charge of his Department and that he should not be held accountable for the ongoing escalation of controversies in his Department or his role in pushing the Garda Commissioner into resignation. He claims to be responsible for everything positive and accountable for nothing negative.

**Deputy James Reilly:** Deputy Martin is describing himself.

**Deputy Micheál Martin:** The Minister, Deputy Shatter, says that he is being vilified and being portrayed as public enemy number one. He has acknowledged the theory that everyone makes mistakes but has refused to admit that he has made any. In addition, he has fallen back on the worn-out, deeply cynical excuse that everything is the fault of his predecessors.

Let it be very clear, Fianna Fáil fully supports the holding of an independent inquiry into the recording practices in Garda stations and prisons. Let that inquiry address any time period it wants and question any former officer it wants. The revelation of this past activity is not the reason the Minister, Deputy Shatter, should leave office. Nobody has said it is. What is at issue is a Minister whose actions in handling the exposure of problems has caused them to escalate to the point of crisis, whose actions have damaged morale within our police force and who is completely dismissive of legitimate questions about his behaviour and the behaviour of those he has been entrusted by the people to oversee.

The manner in which the Minister, Deputy Shatter, has carried out his role as Minister for Justice and Equality goes to the core of the reason the public has lost confidence in him and why we should vote no confidence in him tonight. From his first days in office, he has been aggressively dismissive of any accountability to Dáil Éireann or the wider public. When faced with any specific challenges his immediate response has been to limit information and to attack those asking him questions. Were this purely a matter of style, it would be serious but not fatal. However, this behaviour has led to him taking actions which are incompatible with holding the post of Minister for Justice and Equality in a democratic Republic.

In his early months in office, he started as he meant to go on. He came into this House seeking to limit the time available to the Smithwick Tribunal and said that Judge Smithwick had no problem with what was being proposed. It was only later, and through the freedom of information process, that we discovered that he had failed to tell the Dáil that Judge Smithwick had written to him to object to what he termed his “wholly inappropriate interference” in the work of the tribunal. When questioned, he attacked anyone who suggested that this information was relevant. At roughly the same time in 2011, he appointed his personal friend and donor to serve as Garda confidential recipient. Two years later, this friend and donor was fired for a reason which has still not been explained.

When Independent Deputies raised the possible abuse of the penalty points system the Minister’s response was not to express concern and seek to get to the bottom of the problem but to go on the attack. His misuse of confidential information supplied to him by the Garda Commissioner to attack Deputy Wallace with a false claim of hypocrisy remains a disgrace for which he should have resigned. What compounds this is that a Fine Gael briefing document from last Thursday reportedly dismisses it as a “minor issue” and restates the false claim that Deputy Wallace received penalty points. The Minister’s disinterest in how information about another Deputy was leaked before the results from the tests to which she had submitted and which cleared her were available confirmed his highly partisan approach to a role which should

be above such concerns.

When the persistence of the Garda whistleblowers meant that the issue would not go away, the Minister took every opportunity to dismiss them, including making attacks on them which he now, under pressure and with the minimum grace possible, admits were false. When the possible bugging of the Garda Síochána Ombudsman Commission, GSOC, was revealed, most Ministers would have responded by committing immediately to investigate the situation. In contrast, the response of the Minister, Deputy Shatter, was to immediately attack GSOC. He supplied the Taoiseach with a false claim that GSOC had a statutory duty to inform him of these matters and he commissioned a technical report which said there was no issue for anyone to be concerned with. The Cabinet showed no confidence in his judgment by agreeing to commission an independent report, albeit with strictly limited terms of reference. For over a week we have been trying to get the Minister to explain why he agreed with the Taoiseach to take actions which directly led to the resignation of the former Garda Commissioner.

The Minister said last night that he does not know if there are legal implications beyond the Bailey case. He said it was the Bailey case alone which gave rise to alarm bells ringing. The chronology published by his officials says former Commissioner Callinan acted on the same basis as the Department and the Attorney General, namely, that it was only the Bailey case which set the alarm bells ringing. However, the Minister and the Taoiseach decided that former Commissioner Callinan alone required a visit in order to be informed him that his actions raised concerns. Despite four attempts during Leaders' Questions, the Taoiseach has failed to answer a simple direct question with regard to why he decided to put pressure on the then Commissioner in such a way as was clearly intended to get him to be the fall guy. The Taoiseach will not explain why he and the Minister did not think they should talk to former Commissioner Callinan before deciding to act. Why did they have so little respect for the position of Commissioner of An Garda Síochána that they did not think the then incumbent had a right to be heard by them? They admit that they did not even discuss his 10 March letter. On this issue, another twist has emerged this evening with a report from *thejournal.ie* that an internal Fine Gael briefing document of Thursday last confirms that the Minister was told of the existence of the letter on Monday of last week.

**Deputy Alan Shatter:** Before he claims this is something new, the Deputy should know that *thejournal.ie* got the date wrong.

**Deputy Micheál Martin:** Taken with the Secretary General's confirmation that he briefed the Minister on the issue, this directly contradicts what we have been told on the record of this House.

**Deputy Alan Shatter:** The Deputy is not interested in hearing that.

**Deputy Micheál Martin:** While each morning we find a new informed leak from Government seeking to explain their actions, nothing credible has yet been said.

**Deputy Alan Shatter:** The Deputy has still not commented on the substance of the issue at hand.

**Deputy Micheál Martin:** The most recent anonymous briefing says that they were scared that tapes were about to be destroyed. In reality, they received a briefing from the Attorney General and Secretary General of the Department of Justice and Equality, both of whom knew - as the letter of 10 March stated - that the tapes were "Now stored securely in Garda Headquar-

ters pending the finalisation of legal advice". The inescapable conclusion is that the decision to send his most senior official to the former Commissioner's home on Monday evening last was influenced by the wish to make the latter the sole focus of attention. For a week previous to that meeting, political sources had each day worked to take the attention away from the Minister and place it onto former Commissioner Callinan alone. Newspapers were full of quotes from Ministers willing to talk about his entirely wrong statement about the whistleblowers to the Committee of Public Accounts. When the tapes issue emerged, the reaction of the Minister and Taoiseach was entirely driven by the wider context of wanting the crisis to go away and to protect the Minister.

**Deputy Mary Mitchell O'Connor:** The Deputy is wrong.

**Deputy Micheál Martin:** It has been claimed during this debate that the Minister, Deputy Shatter, is somehow a uniquely reforming Minister. This is just not true. His predecessors in the Department generated an average of 15 to 20 Acts per year and these often had a profound, reforming impact. Many of the Acts brought forward by the Minister have been good and we supported them. However, some important measures are increasingly driven by his personal obsessions and he is dismissive of any disagreements. The Legal Services Regulation Bill is a good example in this regard. If the Minister ceases to hold office, legal reforms will still be proposed, debated and implemented. The difference is that such reforms will reflect a broader democratic input.

**Deputy Patrick O'Donovan:** Like zero tolerance.

**Deputy Micheál Martin:** One must ask how the claims that the Minister is completely on top of his portfolio sits with his hiding from the media for the past month. It is over three weeks since he last gave an interview of any type. He has turned down interview requests from every broadcaster and every newspaper in the country.

**Deputy James Reilly:** The Deputy would be giving out if-----

**Deputy Micheál Martin:** This is unprecedented in our modern history. There is no example of a Minister embroiled in a major controversy who has refused - for so long - to be interviewed.

**Deputy Alan Shatter:** Deputy Niall Collins went AWOL for an hour last evening from a meeting of a particular committee at a time when he could have asked questions.

**Deputy Micheál Martin:** Those in the media cannot expect to have politicians available to them whenever they want but in a modern democracy, a holder of major public office has no right to hide from interviews, limiting appearances to a Dáil Chamber whose agenda and format is tightly controlled by his Government. Of what is the Minister so afraid? How can we be expected to have confidence in a Minister for Justice and Equality who is now proposing the establishment of a Garda authority which last month he said would be damaging and inappropriate? How can we be expected to have confidence in a Minister for Justice and Equality who attacks and dismisses anyone who raises an inconvenient question?

**Deputy James Reilly:** May I raise a point of order please?

**An Ceann Comhairle:** No.

**Deputy James Reilly:** Deputy Martin has gone way over time.

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**An Ceann Comhairle:** No, he has not.

**Deputy Micheál Martin:** How can we be expected to have confidence in a Minister for Justice and Equality who will not be publicly interviewed about a major crisis in his area? How can we be expected to have confidence in a Minister for Justice and Equality when the Taoiseach left him in the dark for 24 hours about a major issue concerning his Department? How can we be expected to have confidence in a Minister for Justice and Equality who agrees to pressurise a Garda Commissioner into resignation and thinks this is not important enough to discuss in the Dáil? We have been accused of playing politics but the real politics in this Chamber are being played by Government parties which have put their own interests ahead of demanding even basic accountability from one of its own Ministers.

**Deputy James Reilly:** Unlike Fianna Fáil when it was in government.

**Deputy Micheál Martin:** The newspapers are full of off-the-record comments from backbenchers and Ministers alike agreeing that the Minister, Deputy Shatter, has behaved disgracefully. The actions of the Taoiseach and the Cabinet show that they do not have confidence in the Minister to address the rising crisis of confidence in his handling of the Department of Justice and Equality. Those opposite have already shown by their actions that they have no confidence in him. If they vote tonight to express confidence in him, they share full responsibility for his behaviour.

**An Ceann Comhairle:** There are 17 minutes remaining in the slot. As a result, Deputy Dooley has seven minutes.

**Deputy Timmy Dooley:** We will take five or six minutes each, if that is acceptable.

**An Ceann Comhairle:** That is fine. The Deputies will have 17 minutes between the three of them.

**Deputy Barry Cowen:** Does anyone opposite wish to raise a point of order now?

**Deputy Timmy Dooley:** I welcome the opportunity to speak on the motion. I bear the Minister no ill will-----

**Deputy Alan Shatter:** The Deputy said that last week but I presume I will be treated to the same speech again.

**An Ceann Comhairle:** Will the Minister please allow the Deputy to proceed?

**Deputy Timmy Dooley:** If that is what the Minister wants, I will deliver the same speech. However, there have been a few developments-----

**Deputy Alan Shatter:** The Deputy always says what he just stated and is then really nasty afterwards.

**Deputy Timmy Dooley:** -----during the course of the past week.

**Deputy Alan Shatter:** The Deputy should go ahead in any event.

**An Ceann Comhairle:** Let me make it clear that I protect the right of those on all sides of the House to have their say, without interruption. I ask that Deputy Dooley be allowed to proceed, without interruption.

**Deputy Timmy Dooley:** I will keep it strictly to business. At issue here is the Minister's stewardship of the justice system during the past 18 months. What is not at issue is what we have heard from his colleagues during this debate. What is also not at issue is the Minister's undoubted intelligence, his capacity for hard work or his zeal to reform. What is at issue is his capacity to manage. There is a big difference between his capacity to legislate and his capacity to manage. In my view he has shown a very poor level of performance in respect of issues that have arrived at his door, some of which were of his making while others were not. The test of his capacity to manage those issues and deal with them effectively is what is at issue, not the kind of claptrap we have all been obliged to listen to since this debate began.

The central theme here is that the former Garda Commissioner was forced out of office to save the Minister's skin and the blushes of the Labour Party. What we have failed to elicit from the Minister, his colleagues and the Taoiseach in recent days is information as to why this happened. I accept that the former Commissioner had issues on which to reflect in the context of his dealings with the whistleblowers, the penalty points controversy, GSOC, etc. We understand that he was of a mind to make some form of statement and sought advice in that regard. He was advised against making any statement. Why was that the case? If the former Commissioner had resigned on foot of the issues to which I refer or had reflected more deeply and apologised, the Minister would have been left in the same boat as him. In fact, the Minister was probably more culpable because he had stuck his neck out much further than the former Commissioner in respect of those issues.

On the Sunday before last, the Taoiseach came into possession of what we believe to be earth-shattering information. I accept that said information relates to a serious issue but I wonder about the haste in proceeding to deal with it. If there was a necessity for such haste, why were steps not taken to arrange a meeting involving the Minister, his officials, the great and the good from the Department of the Taoiseach, the Taoiseach himself and officials from the Attorney General's office in order to try to get to the bottom of the matter? The Taoiseach has stated that he spent the day validating the information he received. There has still not been much clarity with regard to the process of validation which he undertook. Another matter which is not at issue is that the Minister and the Secretary General of his Department sat down with the Taoiseach and the Secretary General of his Department. My belief is that the Minister and the Secretary General at the Department of Justice and Equality were aware of the existence of a letter which vindicated the Garda Commissioner in respect of the issue of the recording of telephone calls, a matter that had been brought to the attention of the Taoiseach on the previous day. During his Government briefing yesterday, the Taoiseach stated that he should have been made aware of the relevant information in this regard. The expectation would be that if such information existed, it should have been made available to him. However, it was not. His briefing should have indicated that he should have been aware and he said as much yesterday at his Government briefing. His expectation was that if that was the information then it would have been made available to him but it was not. The Minister and his Secretary General sat at the meeting while the Taoiseach asked the Minister's Secretary General to meet the then Commissioner Callinan and effectively summarily dismiss him.

It is not conceivable that the Commissioner did not remind the Secretary General that he had sent him a letter which set out clearly the timeline, the chain of events and how the Commissioner had dealt with the recordings. It is not conceivable that the Secretary General, if he had not seen the letter at that stage or was not aware of it because of the explanation he gave in his briefing, would not have been aware of it after his meeting with Martin Callinan. It is not

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conceivable, notwithstanding the concerns of the Minister and the Taoiseach about the use of mobile telephones, that the Secretary General would not have made a call to the Minister on his return journey from the Garda Commissioner to the Minister and the Taoiseach to indicate that there was a document in existence which set out clearly the process followed by the Garda Commissioner. That process clearly sets out a defence that he had against his dismissal.

Other information has come into the public domain which suggests that the Garda Commissioner contacted the Secretary General of the Department the following day to see if anything had changed. What was it? What message had he given the Secretary General on his return to the city centre which created an expectation in the mind of the Commissioner that minds of the Minister and the Taoiseach or those of the so-called members of the Cabinet had changed? According to the Minister for Communications, Energy and Natural Resources, Deputy Rabbitte, they were not even informed. How might their minds have been changed had some information that was already available come to bear?

Will the Minister help me to understand why I have got it wrong, if that is his contention? My belief is that the Garda Commissioner was sacked on a trumped-up charge to the effect that somehow he had done something wrong in respect of the recordings that go back decades. In truth, the Taoiseach, together with the Minister for Justice and Equality, sacked him for his handling of the whistleblower issue, the Garda Síochána Ombudsman Commission issue and other related matters. The fact is the Minister will not confess up to that. He cannot 'fess up to it because if he did he would have to do the honourable thing. If the Minister was not prepared to do the honourable thing then his colleagues in government from the Labour Party would have no choice but to force him out. However, they are happy to hide behind the weak defence that the Minister has presented as well as the trumped-up charge.

We talk about the Bailey case and people being fitted-up for crimes that they did not or may not have committed. The Garda Commissioner has been fitted up for a crime that he had nothing whatsoever to do with. He did his duty and he did it well. He provided the information to the Minister but the Minister has still gone ahead. The Minister is not prepared to accept the facts or even give credit to the work that this man has done for over many decades. It is shameful and I believe in time the Minister will be found out for it.

**An Ceann Comhairle:** There is ten minutes left in this slot, with five minutes for each Deputy.

**Deputy Michael McGrath:** Several of the Minister's backbenchers have said tonight that this debate is about personality. It is absolutely not. The material that was sent to the Minister's home today is utterly reprehensible and our leader has dealt with that issue in his opening remarks. The issues that have emerged in recent months on penalty points, GSOC and Garda tapes have become so confusing and there is such a tangled web at this stage. Perhaps the management of these issues has perpetuated that confusion deliberately.

We are led to believe that the improper recording of telephone conversations at certain Garda stations exploded as an issue on Sunday, 23 March when the Attorney General briefed the Taoiseach and the suggestion was that it was something new or that there was a dramatic new revelation which had the potential to lead to the appalling vista of the doors of Irish prisons being opened up, with rapists and murderers walking free onto our streets. This issue was urgent and grave to the extent that the Taoiseach felt the need to dispatch the Secretary General of the Department of Justice and Equality to the Garda Commissioner's home, without consulting the

Minister, to convey those sentiments to him.

The problem with all of that is the Attorney General, who advises the Government, had been aware of the Garda telephone tape recording issue since the previous November. There has been precious little commentary on that. She was briefed by the Garda Commissioner in November last year. I am led to the conclusion that all of this is about political expediency. We have an Attorney General from the Labour Party family. We have a Fine Gael Minister for Justice and Equality. The Fine Gael message to the Labour Party in recent days has been quite clear: if the Labour Party comes looking for the head of the Minister for Justice and Equality, then the Labour Party had better be prepared to sacrifice the Attorney General as well. Of course, there had to be a head on a plate.

**Deputy Alan Shatter:** Deputy McGrath is living in a fantasy.

**Deputy Michael McGrath:** Someone had to go, because a head of steam had been building up since the previous Thursday, when the Minister for Transport, Tourism and Sport, Deputy Leo Varadkar, publicly called on the Garda Commissioner to withdraw his “disgusting” remark made at the Committee of Public Accounts. He was backed up by a succession of Ministers in the following days. Of course, the sacrificial lamb would be none other than the Garda Commissioner.

The Secretary General of the Department of Justice and Equality was sent to the home of the former Commissioner, Martin Callinan, to raise an issue that the Attorney General knew all about since the previous November and which the Department of Justice and Equality had known about for the previous two weeks. The Commissioner was told, apparently, that there was grave concern at Cabinet level about this issue, despite the fact that the Cabinet was not even aware of it until the following morning, by which time the Commissioner, Martin Callinan, had bowed to be inevitable and resigned. The Commissioner knew well the nature of the code of the visit from the Secretary General of the Department to his house after hours. The code was that the Government had lost confidence in the Garda Commissioner and that he had to go. He did go. There has been much playing with words in recent days to the effect that the letter was not received by the Minister or was not furnished to him. However, the content and the core message was indeed delivered and that has been confirmed.

The Minister’s colleagues will go through the motions of voting confidence in him this evening. However, I submit that they do not have confidence in him. His days are numbered because they know well that he is now a serious political liability for this coalition. The Minister should ask himself why the Taoiseach bypassed him for a critical 48-hour period when this issue was coming to a head. The Minister was absolutely and utterly bypassed because, I believe, the Taoiseach does not have full confidence in the Minister, nor do the members of the Garda Síochána, who have passed a motion of no confidence in an unprecedented way at the Garda Representative Association, GRA conference.

A more concerning development for the Government is not the lack of confidence in the Minister but the Taoiseach’s credibility and authority, which has been undermined fundamentally by his handling of this issue. When the Minister, Deputy Leo Varadkar, came out and made his comments to the effect that the Commissioner should withdraw the “disgusting” remark he was slapped down in a very public way by the Taoiseach. The Taoiseach said that Minister’s should raise those concerns at Cabinet level but his request was not acceded to. It was blatantly ignored by a line of Ministers in the following days who repeated that call for the



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Garda Commissioner to withdraw the remark. The reality is that considerable political capital has now been extended to protect the Minister and his colleagues know all about it. Anyway, the fundamental question which has not yet been answered is why the Garda Commissioner felt the need to resign.

**An Ceann Comhairle:** Thank you.

**Deputy Michael McGrath:** Why was he forced to go? There have been efforts to assassinate his character and good name.

**An Ceann Comhairle:** Sorry, you are taking time from Deputy Kelleher.

**Deputy Michael McGrath:** He is public is a public servant of the utmost integrity. I am left with the inescapable conclusion that the wrong man has gone.

**Deputy Billy Kelleher:** I wish to summarise some of the points that have been made. It is important to put the matter in context while we are discussing this motion of no confidence in the Minister for Justice and Equality. We need only think back a short period when the Minister for Transport, Tourism and Sport, Deputy Varadkar, made his public comments at a road safety conference. He said that the whistleblowers were distinguished. Not long before that the Minister for Justice and Equality had been asked on numerous occasions to withdraw his remarks on non-co-operation in the O'Mahony investigation. The Commissioner was under pressure given his use of the word "disgusting" at the Committee of Public Accounts meeting.

What happened was that the Garda Commissioner was minded to withdraw the "disgusting" remark made at the Committee of Public Accounts meeting but he was advised by the Department of Justice and Equality that this would not be the best course of action. I am keen to know whether the Minister ever advised the Commissioner on whether he should withdraw the remark. Did the Minister ever have a conversation with the Commissioner about this particular issue with regard to his performance at the Committee of Public Accounts? They were tied to the hip on this particular issue. Not only were the Minister and the Commissioner tied to the hip on the issue of the whistleblowers, but that was also the case on the issue of GSOC and a number of incidents that came to the public's attention over a period of time.

It is amazing that consistent briefings from sources close to Government and even some Ministers, which appeared again on the front page of *The Irish Times* today, have accused An Garda Síochána of perverting the course of justice and destroying evidence, namely, the tapes. Even the Minister for Transport, Tourism and Sport, Deputy Varadkar, made this allusion last week. To try to save the Minister's skin, the Government has decided to denigrate the position of the Garda Commissioner.

The timelines are critical, as are the process and the question of why the Minister was not consulted, but a definite fact is that the Taoiseach was informed on the Sunday night of problems regarding a particular case that would have broader implications. He decided to act because he knew that the political pressure had become almost unbearable and that some head needed to fall. The Attorney General was implicated. She was not only consulted by departmental officials, but also by the Garda Commissioner, who informed her of the issue of the tapes last November. If not, then the Dáil has been misled in recent days by the leader of the Minister's party, the Taoiseach. The Attorney General was informed last November, a working group was established within An Garda Síochána and there were constant discussions between the Garda and officials in the Minister's Department.

The Minister has made many claims about his ability. He sent out a 53-page document on his achievements. I am beginning to think that if he sent out a list of his failures, it would be even longer. He has undermined any credibility in the notion that a Minister should take responsibility and accept that if he or she has done wrong or acted in a way unbecoming of the office, he or she should resign honourably.

The bottom line is that the Minister has consistently undermined the whistleblowers and two Deputies for cheap political gain. He must get up every morning, look himself in the mirror and decide whether the Garda Commissioner was sacrificed to keep the Government intact. The Labour Party, which is consistently absent when issues of confidence in the Minister are being discussed, knew full well that, if it came-----

**Deputy Alan Shatter:** The Deputy was absent for an hour this day last week.

**Deputy Billy Kelleher:** -----looking for his head, someone on its side would have to fall. I am almost certain that, to take the pressure off the Government, the Taoiseach decided to sacrifice the Commissioner, Mr. Callinan. This is a shameful saga in the administration of justice and the Minister is culpable.

**Deputy Jerry Buttimer:** The Deputy has a short memory.

**Minister for Finance (Deputy Michael Noonan):** A confidence motion on a Minister should be pursued only when a Minister has done something improper or has been incompetent to the point of negligence. There is no question of either condition applying to the Minister for Justice and Equality, Deputy Shatter. He clearly has done nothing improper and his record over the past three years shows that he has outstanding competence.

The approach of the Opposition, particularly Fianna Fáil, which has moved the motion, is dishonest. All of the pretend outrage coming from the benches opposite does not hide that fact. Fianna Fáil is bereft of all credibility. It has not a single policy on any issue. Like a defeated team, it has decided to play the man, not the ball.

**Deputy Billy Kelleher:** The Minister should think back to 2002.

**Deputy Michael Noonan:** To even up the match, Fianna Fáil has organised a vicious assault on a star player on the opposing team, but that is not going to get it-----

**Deputy Michael Healy-Rae:** If he is the star, so much for the rest.

**Deputy Michael Noonan:** Fianna Fáil would like to put him out of the game, but that will get it nowhere.

**Deputy Jerry Buttimer:** Hear, hear.

**Deputy Michael Noonan:** For three years, Fianna Fáil has hoped to rebuild its party on the prospect of failure. It hoped that the Government, the economy and the country would fail.

**Deputy Michael McGrath:** That is not true, Minister. That is a despicable comment.

**Deputy Michael Noonan:** It is now clear that the Government is not failing. It is clear-----

**Deputy Tom Hayes:** The Minister is right.

*(Interruptions).*

**An Ceann Comhairle:** Deputies, please.

**Deputy Michael Noonan:** -----that the economy is growing and that thousands of people are returning to work. It is clear that the country is becoming more vibrant and that Fianna Fáil has been forced to resort to personal attacks on a Minister to retain any shred of relevance in the Dáil.

**Deputy Tom Hayes:** Dead right.

**Deputy Michael Noonan:** The Minister, Deputy Shatter, is a most competent Minister. The Government's amendment to the motion, which lists his legislative achievements, his successes in the battle against crime and his reforming zeal, is testimony to this. Most of the difficulties in the justice area in recent months arose from incidents that occurred when Fianna Fáil was in office. In this respect, Fianna Fáil has performed a major conjuring trick through which the people who caused the mess are blameless and the man who is cleaning it up is supposed to be at fault.

Several inquiries are in place to deal with the issues that have been debated in the Chamber in recent months. When the reports come to hand, they will be fully debated in the House. While all of these matters are important and must be fully investigated and those lessons that need to be learned must be learned, they are of a different order of priority than the latest revelations of conversations of telephone calls to and from Garda stations being recorded, a practice that occurred over a period of at least 20 years and on a widespread basis. Even before the commission of inquiry begins its work, it is clear that this revelation is a crystallising event and that Garda structures and systems must be changed radically and quickly.

This is why, on the proposal of the Taoiseach at last week's Cabinet meeting, a decision was taken to establish an independent policing authority. The work on this will proceed immediately and we are fortunate that we have Deputy Shatter as Minister for Justice and Equality-----

**Deputy Billy Kelleher:** The Government does not trust him.

**Deputy Michael Noonan:** -----to develop the structures and guide the enabling legislation through the House to put an independent policing authority in place. Issues such as the legal basis for taping conversations and the privacy issues that arise may also require a legislative, if not a constitutional, response.

This matter is not only confined to Ireland. A number of high-profile incidents in the past 12 months have underlined the importance of an adequate response. Employees of the *News of the World* accessed the telephones of many citizens in the UK. One aspect of that matter is being decided in a high-profile case before the courts in London. Mr. Edward Snowden's allegations are a recurring theme in the media. Issues such as US intelligence services monitoring the telephone calls of European leaders like Chancellor Angela Merkel are of serious concern. The Boston College tapes also raise a series of issues that Sinn Féin might see fit to address in the Dáil in due course.

My main point is that, while the issue of establishing a policing authority is of paramount importance and the Government must set about that task forthwith, other issues will arise. I look forward to Mr. Justice Nial Fennelly's report with interest.

Two aspects of the manner in which Deputy Shatter was pursued disturbed me deeply, the first of which was the exaggerated positions adopted by many Deputies. A Sinn Féin Deputy stated on television that she did not believe a word coming out of the Minister's mouth. When challenged on that, she claimed that she did not believe anything that the Government stated on this issue. Contrast that with her total belief in the statement from her leader that he was never a member of the IRA and that he had nothing to do with the Jean McConville disappearance or the other people who disappeared when the Boston tapes, to which I have referred, have fully recorded his place in that.

**Deputy Robert Dowds:** Sectarian murders in the North.

**Deputy Charlie McConalogue:** We have just heard from the Minister for Finance, Deputy Noonan, who opened his contribution by saying that Fianna Fáil was going for the man, not the ball before he had a go at our party. He proceeded to talk about anything and everything except what the Minister, Deputy Shatter, had been doing in recent months and his record in office.

**Deputy Tom Hayes:** The Deputy was not listening if that is the case.

**Deputy Charlie McConalogue:** The Minister, Deputy Noonan, "bigged up" the issue of the Garda telephone bugging by referring to US intelligence services. He referenced Mr. Snowden and the *News of the World* and had a go at the Opposition party beside mine.

**Deputy Brendan Howlin:** And Fianna Fáil.

**Deputy Charlie McConalogue:** He did everything to detract from the question at hand, which is whether the House and the country have confidence in the Minister, Deputy Shatter. What has been clearly outlined by many of the speakers who have spoken tonight is how he mishandled the whistleblowers and GSOC issues and how he was joined at the hip with the Garda Commissioner in terms of how he responded to those issues and how he treated the whistleblowers. Indeed, we also heard how there were efforts within the Department or elsewhere to prevent the Garda Commissioner from going back on his comments to the committee. Then something of which the Government, in the form of the Attorney General, was aware since November became such a big issue overnight that it justified an immediate commission of inquiry. We also see that it was used to get rid of the Garda Commissioner.

At the same time the Minister came to the House to apologise for the way he handled the whistleblower issue, after having refused either to correct the record of the House when he said they did not co-operate or to apologise to them for weeks in advance of that. If this was such a significant issue that justified the establishment of a commission of inquiry as soon as the Taoiseach became aware of it, why was the Taoiseach or the Minister not asking similar questions of the Attorney General who was aware of this issue since last November?

**Deputy James Reilly:** She was not.

**Deputy Charlie McConalogue:** If they believe it merited an immediate commission of inquiry, what questions are being asked about the fact that the Government was aware of it that long ago? What does it say about the communication between the Attorney General and the Minister for Justice and Equality that she did not discuss the matter with him immediately? What does it say about the Taoiseach's confidence in the Minister for Justice and Equality that he did not discuss the matter with the Minister immediately as well, once he became aware of it?

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Unfortunately, we have seen obfuscation in every attempt to try to get the Minister out of the hole in which he finds himself. Meanwhile, the number of inquiries and commissions ratchet up to the current number of four. Alongside this, there is the issue of the letter and when the Minister became aware of it. Very careful language has been used to cloud whether the Minister knew on the Monday or was briefed on what was in the letter and the fact that the Garda Commissioner had communicated it to his Department two weeks beforehand. Despite that, on the basis of the content referred to in that letter, the Taoiseach asked the Secretary General of the Department of Justice and Equality to make known to the Garda Commissioner his dissatisfaction with how the issue was handled. The Taoiseach said in the House yesterday that he should have known about that letter. It is incomprehensible that the Minister, Deputy Shatter, when engaging with his Secretary General and his officials would not ask questions such as, “Did we know about this before?” or “Has the Garda Commissioner ever asked us about this?”, or would not have checked and thought it relevant that the Attorney General knew about it since the previous November, which is a significant factor as well with regard to how the Taoiseach has confidence in her and in the way the Government handled the issue. Instead, a head had to be delivered and it was that of the former Garda Commissioner.

During the Minister’s term of office we have seen that whenever an issue in his Department becomes controversial he goes after the man. That happened with regard to the whistleblowers, the confidential recipient, Oliver Connolly, and the former Garda Commissioner. All of it is to protect the Minister. It is time that the person who should have been first to take responsibility and go because of the handling of these issues should now do so.

**Deputy Niall Collins:** There is no doubt that this debate has again seen an extraordinary display of arrogance by the government parties. Speaker after speaker has continued the farce that we have seen for two weeks in this Chamber, the farce of self-congratulation. The Government was ridiculed last night on the six o’clock news for that. If it had wanted us to engage in that type of debate we could have recounted to the Irish public, at length, the broken promises, U-turns, election lies and endless spin in which it engaged.

**Deputy Jerry Buttimer:** The Travers report.

**Deputy Brendan Howlin:** The Deputy would not do that.

**Deputy Niall Collins:** We could also recount how the Government crudely reminded the public, in respect of election promises, that it is what one does at election time and the promises are there to be broken. However, the public will be waiting in the long grass for the Government in that regard.

We were also treated to a good helping of the Government’s dismissive attitude to this Parliament and opposition Deputies. That dismissive attitude resonates with the public, and the Government has received a couple of warnings with the results of the referenda in which it engaged. It has lost plenty of them and they were fairly straightforward. Its outright policy of quelling any opposition, alternative or minority voice knows no bounds, and it will continue in that vein.

I wish to refute one aspect of this debate. The Minister knows well that I have never made a cheap personal remark against him inside or outside this Chamber. I do not know if the Minister could say the same with respect to me. No Deputy in my party has engaged in a personalised attack on the Minister throughout this debate. We have kept to the issue.

*(Interruptions).*

**Deputy Niall Collins:** Of course, when the Government is under pressure it seeks to rely on the age-old defence of playing the man rather than the ball. It does not wash on this occasion.

I condemn the attack on the Minister's private residence and I hope the people concerned are caught. However, every Deputy in this Chamber has received hate mail, so it is not relevant to this debate. The Taoiseach decided to insert it this morning.

Almost a year ago we tabled a motion of no confidence in the Minister. In the usual fashion the Minister came into the Chamber and described the opposition Deputies who spoke as character assassins. What about the whistleblowers and the members of GSOC? What about the confidential recipient, the Garda Commissioner and the two Independent Deputies behind me? Those were attempted character assassinations by the Minister and the Government and by the silence of the Deputies opposite. They are the character assassins. It is a case of everybody else except them.

Every opportunity has been afforded to the Government tonight and last night to address the issue of the departure of the former Garda Commissioner, but it has steadfastly refused to deal with his sacking. It is worthwhile to remind the Irish public of his career. He joined the force in 1973 and rose to the ranks of sergeant, inspector, superintendent, chief superintendent, assistant commissioner, deputy commissioner and Garda Commissioner. The Government extended his term as Garda Commissioner. He led the fight against organised crime, subversives and the IRA. The Government reached for him at every opportunity as a positive example. However, none of the government speakers in his or her contribution last night or tonight addressed why he was sacked and why he had to go prematurely. Shame on them. He was an outstanding public servant for 41 years and the Government extended his term, but none of the government speakers could address the elephant in the room. In fairness, Deputy Michelle Mulherin was the only speaker who could bring herself to do it. Yes, he made a mistake when he used the remark "disgusting", but his loyalty to the Minister and to the Government in that regard cost him his job. That is the point.

This morning, during Leaders' Questions, the Taoiseach continued to say he had grave concerns about the telephone recording. They may be grave in respect of the Bailey case, but there has not been a queue outside the High Court petitioning for miscarriages of justice. The rest of the graveness has not been explained; the Taoiseach has not taken the opportunity to explain it. It is quite clear that the Taoiseach betrayed the former Garda Commissioner and that he was involved in shafting him, but he kept the Minister, Deputy Shatter, out of the loop.

*9 o'clock*

The Government decided that a body had to be thrown under the bus, as it were, so they grabbed the Garda Commissioner and threw him under the bus. People are asking who will be next, because there will be someone next if we go by the pattern of events. The Taoiseach appointed the Minister and he is responsible for him, yet he chose not to involve the Minister in any of the major discussions when we follow through on the timeline of events. Is that a vote of confidence? I think it is not by his actions.

I do not know where the lads in the Labour Party and Fine Gael back benches stand.

**Deputy Helen McEntee:** What about the ladies?

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**Deputy Niall Collins:** We all know what is in it for the leaders of Fine Gael. The Kennys, Hogans, Shatters and Reillys will all hold on to power and to office. We all know what is in it for the leaders of the Labour Party.

**Deputy Tom Hayes:** Is that a prediction the Deputy is making?

**Deputy Niall Collins:** They will hold on to their power and they will clock up their pension credits, and it is doubtful whether they will face the music at the next election.

**Deputy Paul Kehoe:** What is in it for Deputy Martin?

**Deputy Niall Collins:** But what is in it for the rank and file in the back benches of the Labour Party? That is the question. They know in their hearts and souls that the public have called time on the Minister. Many of them never heard this Minister in opposition and what he said in various motions of no confidence. It would serve them well to go back and educate themselves on what he said and the personalised attacks he made when he stood on the Opposition side of House, before they say that the kettle is calling the pot black. They want to be complicit and they want to rubber-stamp the shafting of the Garda Commissioner. Shame on them. My party thanks the Garda Commissioner for his service, and we thank the members of An Garda Síochána for their success, in spite of the Minister's best efforts to place them in every single controversy which has arisen.

This is not personal. It is just business and it is time for the Minister to go.

**Deputy Paul Kehoe:** The Deputy was looking for the Commissioner's head a week ago.

**Deputy Niall Collins:** No, I was not.

**Deputy Paul Kehoe:** He was. Him and his leader. Both of them.

**An Ceann Comhairle:** Do you mind if I put the question?

Amendment put:

<i>The Dáil divided: Tá, 95; Níl, 51.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Adams, Gerry.</i>
<i>Barry, Tom.</i>	<i>Boyd Barrett, Richard.</i>
<i>Breen, Pat.</i>	<i>Broughan, Thomas P.</i>
<i>Bruton, Richard.</i>	<i>Browne, John.</i>
<i>Burton, Joan.</i>	<i>Calleary, Dara.</i>
<i>Butler, Ray.</i>	<i>Collins, Joan.</i>
<i>Buttimer, Jerry.</i>	<i>Collins, Niall.</i>
<i>Byrne, Catherine.</i>	<i>Colreavy, Michael.</i>
<i>Byrne, Eric.</i>	<i>Cowen, Barry.</i>
<i>Cannon, Ciarán.</i>	<i>Crowe, Seán.</i>
<i>Carey, Joe.</i>	<i>Daly, Clare.</i>
<i>Coffey, Paudie.</i>	<i>Doherty, Pearse.</i>
<i>Collins, Áine.</i>	<i>Dooley, Timmy.</i>

<i>Conaghan, Michael.</i>	<i>Ellis, Dessie.</i>
<i>Conlan, Seán.</i>	<i>Ferris, Martin.</i>
<i>Connaughton, Paul J.</i>	<i>Flanagan, Luke 'Ming'.</i>
<i>Conway, Ciara.</i>	<i>Fleming, Sean.</i>
<i>Coonan, Noel.</i>	<i>Fleming, Tom.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Grealish, Noel.</i>
<i>Creed, Michael.</i>	<i>Halligan, John.</i>
<i>Daly, Jim.</i>	<i>Healy, Seamus.</i>
<i>Deasy, John.</i>	<i>Healy-Rae, Michael.</i>
<i>Deenihan, Jimmy.</i>	<i>Higgins, Joe.</i>
<i>Deering, Pat.</i>	<i>Keaveney, Colm.</i>
<i>Doherty, Regina.</i>	<i>Kelleher, Billy.</i>
<i>Donohoe, Paschal.</i>	<i>Kirk, Seamus.</i>
<i>Dowds, Robert.</i>	<i>Kitt, Michael P.</i>
<i>Doyle, Andrew.</i>	<i>Lowry, Michael.</i>
<i>Durkan, Bernard J.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>English, Damien.</i>	<i>McConalogue, Charlie.</i>
<i>Farrell, Alan.</i>	<i>McDonald, Mary Lou.</i>
<i>Feighan, Frank.</i>	<i>McGrath, Finian.</i>
<i>Ferris, Anne.</i>	<i>McGrath, Michael.</i>
<i>Fitzgerald, Frances.</i>	<i>McGuinness, John.</i>
<i>Fitzpatrick, Peter.</i>	<i>McLellan, Sandra.</i>
<i>Flanagan, Charles.</i>	<i>Martin, Micheál.</i>
<i>Gilmore, Eamon.</i>	<i>Moynihan, Michael.</i>
<i>Griffin, Brendan.</i>	<i>Murphy, Catherine.</i>
<i>Hannigan, Dominic.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Harrington, Noel.</i>	<i>Ó Fearghail, Seán.</i>
<i>Harris, Simon.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Hayes, Brian.</i>	<i>O'Brien, Jonathan.</i>
<i>Hayes, Tom.</i>	<i>O'Dea, Willie.</i>
<i>Heydon, Martin.</i>	<i>O'Sullivan, Maureen.</i>
<i>Hogan, Phil.</i>	<i>Pringle, Thomas.</i>
<i>Howlin, Brendan.</i>	<i>Ross, Shane.</i>
<i>Humphreys, Kevin.</i>	<i>Shortall, Róisín.</i>
<i>Kehoe, Paul.</i>	<i>Smith, Brendan.</i>
<i>Kelly, Alan.</i>	<i>Stanley, Brian.</i>
<i>Kenny, Enda.</i>	<i>Tóibín, Peadar.</i>
<i>Kenny, Seán.</i>	<i>Wallace, Mick.</i>
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	



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

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

Amendment declared carried.

Question put: “That the motion, as amended, be agreed to.”

<i>The Dáil divided: Tá, 95; Níl, 51.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bannon, James.</i>	<i>Adams, Gerry.</i>
<i>Barry, Tom.</i>	<i>Boyd Barrett, Richard.</i>
<i>Breen, Pat.</i>	<i>Broughan, Thomas P.</i>
<i>Bruton, Richard.</i>	<i>Browne, John.</i>
<i>Burton, Joan.</i>	<i>Calleary, Dara.</i>
<i>Butler, Ray.</i>	<i>Collins, Joan.</i>
<i>Buttimer, Jerry.</i>	<i>Collins, Niall.</i>
<i>Byrne, Catherine.</i>	<i>Colreavy, Michael.</i>
<i>Byrne, Eric.</i>	<i>Cowen, Barry.</i>
<i>Cannon, Ciarán.</i>	<i>Crowe, Seán.</i>
<i>Carey, Joe.</i>	<i>Daly, Clare.</i>
<i>Coffey, Paudie.</i>	<i>Doherty, Pearse.</i>
<i>Collins, Áine.</i>	<i>Dooley, Timmy.</i>
<i>Conaghan, Michael.</i>	<i>Ellis, Dessie.</i>
<i>Conlan, Seán.</i>	<i>Ferris, Martin.</i>
<i>Connaughton, Paul J.</i>	<i>Flanagan, Luke ‘Ming’.</i>
<i>Conway, Ciara.</i>	<i>Fleming, Sean.</i>
<i>Coonan, Noel.</i>	<i>Fleming, Tom.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Grealish, Noel.</i>
<i>Creed, Michael.</i>	<i>Halligan, John.</i>
<i>Daly, Jim.</i>	<i>Healy, Seamus.</i>
<i>Deasy, John.</i>	<i>Healy-Rae, Michael.</i>
<i>Deenihan, Jimmy.</i>	<i>Higgins, Joe.</i>
<i>Deering, Pat.</i>	<i>Keaveney, Colm.</i>
<i>Doherty, Regina.</i>	<i>Kelleher, Billy.</i>
<i>Donohoe, Paschal.</i>	<i>Kirk, Seamus.</i>
<i>Dowds, Robert.</i>	<i>Kitt, Michael P.</i>
<i>Doyle, Andrew.</i>	<i>Lowry, Michael.</i>
<i>Durkan, Bernard J.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>English, Damien.</i>	<i>McConalogue, Charlie.</i>
<i>Farrell, Alan.</i>	<i>McDonald, Mary Lou.</i>
<i>Feighan, Frank.</i>	<i>McGrath, Finian.</i>
<i>Ferris, Anne.</i>	<i>McGrath, Michael.</i>
<i>Fitzgerald, Frances.</i>	<i>McGuinness, John.</i>
<i>Fitzpatrick, Peter.</i>	<i>McLellan, Sandra.</i>

<i>Flanagan, Charles.</i>	<i>Martin, Micheál.</i>
<i>Gilmore, Eamon.</i>	<i>Moynihan, Michael.</i>
<i>Griffin, Brendan.</i>	<i>Murphy, Catherine.</i>
<i>Hannigan, Dominic.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Harrington, Noel.</i>	<i>Ó Fearghail, Seán.</i>
<i>Harris, Simon.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Hayes, Brian.</i>	<i>O'Brien, Jonathan.</i>
<i>Hayes, Tom.</i>	<i>O'Dea, Willie.</i>
<i>Heydon, Martin.</i>	<i>O'Sullivan, Maureen.</i>
<i>Hogan, Phil.</i>	<i>Pringle, Thomas.</i>
<i>Howlin, Brendan.</i>	<i>Ross, Shane.</i>
<i>Humphreys, Kevin.</i>	<i>Shortall, Róisín.</i>
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<i>Kenny, Enda.</i>	<i>Tóibín, Peadar.</i>
<i>Kenny, Seán.</i>	<i>Wallace, Mick.</i>
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McHugh, Joe.</i>	
<i>McLoughlin, Tony.</i>	
<i>McNamara, Michael.</i>	
<i>Maloney, Eamonn.</i>	
<i>Mitchell, Olivia.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Murphy, Eoghan.</i>	
<i>Nash, Gerald.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Noonan, Michael.</i>	
<i>Ó Riordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Penrose, Willie.</i>	
<i>Perry, John.</i>	

*Dáil Éireann*

<i>Phelan, Ann.</i>	
<i>Phelan, John Paul.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	
<i>Sherlock, Sean.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Twomey, Liam.</i>	
<i>Varadkar, Leo.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

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

Question declared carried.

The Dáil adjourned at 9.25 p.m. until 9.30 a.m. on Thursday, 3 April 2014.