



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé hAoine, 11 Iúil 2014

Friday, 11 July 2014

Chuaigh an Leas-Cheann Comhairle i gceannas ar 10 a.m.

Paidir.

Prayer.

Electoral (Amendment) (No. 4) Bill 2014: Second and Subsequent Stages

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I move: “That the Bill be now read a Second Time.”

The purpose of the Bill before the House today is to provide that the Clerk Assistant of the Dáil will perform the functions of the Clerk of the Dáil under the electoral Acts whenever the post of Clerk of the Dáil is vacant or the Clerk is not available through illness, absence or other cause. The Bill provides likewise in respect of the office of Clerk of the Seanad.

The electoral Acts provide in many sections that where the office of Clerk of the Dáil is vacant, the Clerk Assistant of the Dáil shall perform the duties of the Clerk of the Dáil. For example, section 39 of the Electoral Act 1992, which deals with the issue and return of writs at Dáil elections, provides that the Clerk Assistant of the Dáil shall carry out the duties of the Clerk of the Dáil if the office of Clerk of the Dáil is vacant or the Clerk is unable to fulfil the duties through illness, absence or other cause. Another example is in Rule 101 of the Second Schedule to the European Parliament Elections Act 1997. That rule provides that the Clerk Assistant of the Dáil shall perform the functions of the Clerk of the Dáil in respect of the filling of casual vacancies in the European Parliament whenever the office of Clerk of the Dáil is vacant or the Clerk is unable to fulfil the relevant duties through illness, absence or other cause. The electoral Acts are not, however, consistent in making such provision and this short technical Bill addresses this anomaly in the electoral Acts.

The anomaly came to notice when consideration was being given to the making of the by-election order to fill the vacancy in the Seanad arising from the election of Senator Deirdre Clune to the European Parliament in May. The vacancy has arisen in the Oireachtas Sub-Panel of the Cultural and Educational Panel. The legislative provisions on filling the vacancy are set out in Part 5 of the Seanad Electoral (Panel Members) Act 1947. The Act requires the Clerk of the Dáil to perform specific functions in the by-election process. These include sending to the Seanad returning officer a “statement of the names, addresses and descriptions of all the members of the Dáil who are then entitled to sit and vote in that House”. On receipt of that

statement, the Seanad returning officer prepares a list which forms part of the electoral roll for the by-election.

As the office of Clerk of the Dáil is vacant and as there is no provision in the 1947 Act for a person other than the Clerk of the Dáil to furnish the necessary statement to the Seanad returning officer in respect of the electoral role, the by-election could not proceed in accordance with the Act. This anomaly came to light when I received notice last month under section 55 of the Seanad Electoral (Panel Members) Act 1947 of the casual vacancy in the Seanad arising from Senator Clune's election to the European Parliament. This is an unsatisfactory and anomalous situation which is addressed in the Bill before the House today.

Rather than just dealing with the immediate difficulty of the Seanad by-election, the Government decided to examine the issue more widely. Therefore, the Bill addresses the entire electoral code where similar difficulties could arise in the future, in respect of both the Clerk of the Dáil and the Clerk of the Seanad. The Bill provides that in certain circumstances, the Clerk Assistant of the Dáil will perform the functions of the Clerk of the Dáil and the Clerk Assistant of the Seanad will perform the functions of the Clerk of the Seanad. Those circumstances arise where either the office of Clerk of the Dáil or the office of Clerk of the Seanad is vacant or the Clerk is unable through illness, absence or other cause to fulfil duties under the electoral Acts and no provision is made for another person to perform the relevant functions.

I will now outline the details of the Bill. Section 1(1) provides that if and so long as the office of Clerk of Dáil Éireann is vacant or the holder of that office is unable through illness, absence or other cause to perform his or her functions under the relevant statutory provisions, the Clerk Assistant of Dáil Éireann shall perform those functions. Section 1(2) lists the "relevant Acts" and "relevant statutory provisions" referred to in section 1(1). The functions are those functions in the electoral Acts which are the duty of the Clerk of the Dáil and where no provision is made for any other person to fulfil the duties in the absence of the Clerk. Section 2(1) of the Bill makes similar provisions for the Seanad. It provides that if and so long as the office of Clerk of Seanad Éireann is vacant or the holder of that office is unable through illness, absence or other cause to perform his or her functions under the relevant statutory provisions, the Clerk Assistant of Seanad Éireann shall perform those functions. Section 2(2) lists the "relevant Acts" and "relevant statutory provisions" referred to in section 2(1). The functions are those functions in the electoral Acts which are the duty of the Clerk of the Seanad and where no provision is made for any other person to fulfil the duties in the absence of the Clerk. Section 3 of the Bill contains standard provisions dealing with Short Title, construction and collective citations.

This is a short technical Bill. The goal is to ensure that Dáil and Seanad elections can proceed in accordance with the legislative provisions and requirements when there is a vacancy in the office of Clerk of the Dáil or Clerk of the Seanad or the Clerk is absent for one reason or another. The Bill takes a sensible and pragmatic approach to addressing the inconsistencies in the electoral Acts on this point, and I commend it to the House.

Deputy Barry Cowen: Fianna Fáil supports this Bill. However, as the Minister has explained, it is essentially a stopgap piece of legislation while the position of Clerk of the Dáil is resolved. Unfortunately, it does not reflect very well on the day-to-day running of the Dáil, and it is vital that the independence and the integrity of the Oireachtas are fully maintained in appointing such a critical member of staff on a permanent basis.

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As the Minister explained, the Government is facing a by-election to the Seanad to replace the recently elected MEP, Deirdre Clune. This by-election cannot take place until the functions of the Clerk are adequately filled, which this legislation will achieve. The Bill does raise the question of why the Government is prevaricating on appointing a person to the permanent position of Clerk of the Dáil. The key issue at stake is what is the best system to attract and appoint key members of staff to run the Oireachtas. It is essential that this appointment be made, that it be brought to a conclusion and that we have an open Oireachtas where we can have open accountability and maybe meet the demands the Government placed on itself when it said, among many other things, that it would have a democratic revolution.

Fianna Fáil supports an open and transparent process, with the final appointment ultimately being passed by the Dáil. This will ensure a broad pool of talent is drawn into the Oireachtas with fresh ideas and experience. I know the Government stated previously that it will utilise the Top Level Appointments Committee, TLAC, system to appoint the positions in the future, but it has not taken action in this regard. The TLAC incorporates nomination by boards comprising a majority of members from the private sector with specific skills in management and human resources. That format provides considerable opportunities for new blood to be introduced into organisations throughout the public service. This has been mirrored by the introduction by the Government of a senior public service mobility programme. The precedent has been set in the Houses of the Oireachtas Service at assistant secretary level. The use of such a system should be subject to a vote of the House to ensure the role of elected Members is not diminished and the Government is not able to exploit the process for its own benefit.

The Houses of the Oireachtas Commission has backed the proposal for a new, open process to underpin future opportunities and I implore the Minister in his final days to move on this issue among many others.

In the meantime, the Bill will help to ensure the Oireachtas can function effectively in the absence of a permanent Clerk of the Dáil. This should not be used by the Government as an excuse for inaction on the substantive issue or in bringing forward a new suitable process for such a high level appointment. We support the Bill but we want to be loud and clear that it is stopgap legislation. A new system should be introduced for the appointment to be made on a permanent basis in order that the Parliament can be run effectively and not be faced with having to pass legislation such as this to get over the hump that exists because of the prevarication over a long number of months. We support the legislation and its intent.

Deputy Brian Stanley: I welcome the opportunity to contribute to the debate. The Bill listed on the clár was the Electoral (Amendment) (No. 2) Bill 2014, not the Electoral (Amendment) (No. 4) Bill. A mistake was made in this regard.

Nevertheless this is a short, technical Bill and it is common sense to allow the assistant clerk to act up. We have no issue with that.

Deputy Cowen highlighted a number of issues to the Minister in his final days, although he has not gone away yet.

Deputy Phil Hogan: The Deputy will miss me.

Deputy Brian Stanley: I presume the next hour or two will reveal all. I would like to highlight the issue of the register of electors in the context of the electoral process.

Anybody who canvassed during the recent local and European elections will know people are on the register two or three times at different addresses. We must move away from registering people by their address and PPS numbers should be used.

The Minister made one good change during his term of office by sorting out the problem in Graiguecullen, County Carlow. This needed to be resolved because it had been hanging there for a number of years. The electoral boundary between Laois-Offaly and Carlow-Kilkenny caused significant confusion in elections in the area. The issue has been addressed and it made everything much easier during the recent local elections. It will be better in the future that the electoral boundary reflects the county boundary, as it does for football and hurling. That was a welcome move.

Someone will have to grasp the nettle on the register of electors and try to sort it out.

An Leas-Cheann Comhairle: The Deputy should not stray into county boundaries and so on.

Deputy Brian Stanley: I ask the Chair to bear with me.

I welcome that the Government has lowered the voting age to 17 but we advocate that people should be able to vote at 16 and the electoral process should become an integral part of the CPSE course at second level in the context of political and electoral education.

We must move away from the current system of registration to reduce the possibility of fraud. The electoral register might have been okay decades ago when rent and rates collectors called to every house. This went on until 1979 but that will never happen again because of electronic transfers and so on. In addition, town councillors were in office until recently. One of the useful functions they performed was they knew where most people lived in their area because they were dealing with smaller electoral areas. They had local knowledge and they could add people to the register who should have been registered and highlight to council officials when they noticed others were on the register twice. Sinn Féin wants to make sure we have an accurate electoral register. Town councillors and rent and rates collectors monitored it locally along with the local authority's field workers. That role has been reduced because local authorities have had to cut back due to staff shortages.

There are two other important factors, one of which is mobility in the housing market. One would see a different picture if one read a telephone book from 20 years ago. Groups of families lived in certain areas and there was not much movement. Nowadays, that has changed and officials need to take on board the increased mobility in the housing market as people buy, rent and lease property. It is difficult to keep track of them. There is a much more flexible housing market than 30, 40 or 50 years ago. We have not adapted to the 21st century. We are trying to use a method that was used in the early and middle part of the 20th century and we cannot continue with that.

The final factor is jobs. Few people work around the corner from where they live and if they do, they are lucky. Many people live a distance away from their workplace and they must travel to work and they change jobs more frequently than in the past. There is also inward and outward migration. The only way to maintain an accurate register of electors is to use a system based on PPS numbers.

On polling day for the 2009 local elections, I met people in Portlaoise looking for Railway

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Street as they tried to find the polling station. They were supposed to be living in the town. If they lived in the town, they should have known where Railway Street is. They had polling cards in their hands but that told me they were not living in the town.

Deputy Phil Hogan: There are a good few Northern accents around the place.

An Leas-Cheann Comhairle: The Deputy has had a good innings but this legislation relates to the clerks assistant of the Dáil and Seanad.

Deputy Brian Stanley: Fine Gael and Fianna Fáil will have no problem supporting me regarding the accuracy of the electoral register.

I support the Bill. If it means a smoother process in the aftermath of elections, we will have no problem with that. I will support its passage.

Deputy Catherine Murphy: This has been described as technical legislation to assist in changes to functions to enable a by-election to be held but it will be a by-election without a popular democratic mandate and I have a problem with that. The people had an opportunity to speak on the abolition of the Seanad, a proposal I supported because these institutions need to be reformed and not because useful work is not done in that House. I do not think there is any prospect of radical reform of the Seanad with the defeat of the referendum. The most we can expect is the expansion of the university panels to other institutions, in respect of which legislation is in hand.

The Constitution envisaged something very different for the Seanad and how it should relate to the Dáil. This goes to the heart of the Bill's facilitation of by-elections. The intention was to foster the healthy tension evident in other bicameral systems. However, the Seanad is instead the plaything of the larger political parties. It does not provide the expertise envisaged for the system of vocational panels through which 43 of the 60 Senators are elected on the basis of a limited franchise. Even though the results in the 2009 election indicated that 16% were not aligned with the larger parties, this was not reflected in the composition of that Seanad. It has grown substantially since.

The Bill facilitates changes to staffing and the authority of certain roles, but it also facilitates a greater degree of certainty because people have lost the Whip and there is a finer balance in votes. It is not such a bad thing to lose votes on occasion because it can make the Government revisit its decisions. It is normal in other parts of the world to have dissent on proposals that do not work. The Taoiseach's nominees cannot always be relied upon. I applaud the Taoiseach for his imaginative choices in the case of certain nominees, but that has not always been the case. Some of them took principled positions on legislation, which is how it should be. The over-reliance on the Whip system is offensive to those who want to have the prospect of independent thought and action among Members. This has been dumbed down in favour of a culture in which compliance is rewarded with promotion, which is not a healthy way to run a democracy.

Deputy Brian Stanley spoke about geography and counties. I am not fixated on the British shiring of parts of the country which led to the county system. It is amusing that an instrument of the Crown should be adopted by a party that is ----

Deputy Anthony Lawlor: I hope the Deputy is not slagging County Kildare.

Deputy Catherine Murphy: If the Deputy does not mind, I am making my contribution. It

is amusing that an instrument of the Crown should be adopted so readily by Sinn Féin, despite its resistance to other aspects. It is entitled to do so, but that point always amuses me.

An Leas-Cheann Comhairle: I will have to resist the Deputy in going on a tour of counties.

Deputy Catherine Murphy: I am not going on a tour of counties, but they have a significant influence on how we designed the electoral system and the composition of the Seanad. The organisation of local government has a direct input into the way in which 43 of the 60 Senators are elected. Up to now, there was a definite rural bias in favour of less populated areas because the value of a vote at local level had a variable of approximately 10 to one between Fingal at the high end and County Leitrim at the low end. Even within that system there was inequality in representation and, as a primarily urban county, Kildare did very poorly as a result.

I am not going to call a vote on the Bill, but we should see it for what it is. It will facilitate the smooth arrangement between the Dáil and the Seanad and ensure there will be a majority for the Government in order that it can have complete certainty in passing legislation. That is not good for democracy.

Deputy Phil Hogan: Surely it is good for democracy that the Government has a majority. Is that not democracy?

Deputy Catherine Murphy: I think the public feel conned by the claim that the Government needed a huge majority to give it the strength it needed to introduce radical change. We did not have the promised democratic revolution.

Deputy Phil Hogan: The people said “No” to the abolition of the Seanad.

Deputy Catherine Murphy: We got a group of backbenchers who were tightly controlled. If they do not like to go along with decisions, they are chucked out and there is little impact on the Government which can continue on its merry way because of the size of its majority.

Deputy Phil Hogan: We will have 159 Independent Deputies next time.

An Leas-Cheann Comhairle: We are straying from the Bill.

Deputy Catherine Murphy: The public has learned a lesson about big governments and how they do not necessarily act in the people’s interests. That is not an unfair comment.

Deputy Phil Hogan: We are in a minority in the Seanad.

An Leas-Cheann Comhairle: I ask Deputy Catherine Murphy to speak to the Bill.

Deputy Catherine Murphy: This is technical legislation aimed at facilitating a system that is utterly flawed. It will not make a major difference because the margins are tight, but we need to grow up and realise it is not a catastrophe to lose a vote in a democratic system. The Government does not have to control everything.

Deputy Brian Stanley: On a point of order, regarding the situation to which I referred in Graiguecullen, I do not have a hang up with shires or county boundaries. The problem arose for the housing estates in question because there were two sets of boundaries in Graiguecullen. There are different boundaries for local and general elections, as a result of which people were left in the middle. They could vote for Carlow councillors, but those councillors had no control

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over the budget after the elections took place because each county council took over responsibility. The situation needed to be remedied.

Deputy Anthony Lawlor: I welcome the opportunity to speak on what is probably the final occasion on which the Minister will bring legislation before the House. I thank him not only for the Bill but also for a number of things he did for the country in terms of electoral reform and for my county of Kildare. We have had a number of water treatment plants to ensure they continue developing within the county. In my area, Kerdiffstown, the Minister continues to provide funding through the EPA, and plenty of funding has been provided for communities across the county.

Deputy Barry Cowen: It is a lap of honour.

Deputy Phil Hogan: Someone has to tell the truth.

Deputy Anthony Lawlor: The Minister has engaged in electoral reform, which continues with the Bill before the House, to enable a Senator to be replaced in the Seanad. Electoral reform has seen the consolidation of counties. As a proud Kildare man, I am glad to see my county maintain its status. I wish the Minister well in his forthcoming trips abroad and look forward to working with him in future.

Deputy Seán Kyne: I support the Bill. As we have seen with recent by-elections, it is important to provide that all seats can be filled quickly. It is important that the Seanad has full representation. When one considers the appointment by the Government of so many independent-minded Senators, it is clear that we are not trying simply to obtain a majority. It is important that all seats are filled as quickly as possible as provided for in the Bill. I commend the Minister in respect of whatever happens into the future as well as on the work he has been doing. There is a headline in my local paper about lack of investment in the west. I assure the House that there has been plenty of investment in the west under the Minister, Deputy Hogan. We have seen progress on sewerage treatment plants across Connemara at Clifden, Oughterard, Claregalway, Milltown, Kinvara, and, in the east, the Cashla regional water supply scheme and Tonabrocky reservoir, as well as progress on a number of other schemes. We have seen progress on a very important fire station for south Connemara under Deputy Hogan, whereas for a long number of years there was a failure to make any provision.

I thank the Minister for his support over the last number of years. I wish him well in respect of whatever happens in future. It has been a pleasure working with him.

Deputy Phil Hogan: I assure Deputy Catherine Murphy that we are not making any big deal about this legislation.

Deputy Catherine Murphy: I am sure the Minister is not.

Deputy Phil Hogan: It is a technical Bill and the Deputy has made more of it than is deserved. We have set out clearly that we are facilitating the filling of vacancies for the future. The Deputy might be satisfied to have those particular measures in place when there are 158 Independents in the Dáil. We will see how coherently business can be organised then.

Since taking office in 2011, the Government has introduced radical and significant reforms to the operation and financing of the political system, which Deputy Murphy failed to realise and acknowledge. The constituency and local electoral area boundaries have been reviewed

and revised for local, European and Dáil elections, thereby improving the representational balance across the State for all elections. We have had a very busy programme of political reform, continuing with the general scheme of the Seanad electoral (university members) (amendment) Bill, which will provide for the election of six university Senators on a more democratic basis. That Bill was published recently for consultation. The Electoral (Amendment) Act 2014 repealed the provisions in the Electoral Act 1992 and the European Parliament Elections Act 1997 which disqualified undischarged bankrupts from eligibility for election to or membership of the Dáil and European Parliament.

In 2010, the Group of States Against Corruption, known as GRECO, published a report on political party funding in Ireland. In December 2013, a final report on the implementation of the recommendations of GRECO was published. It recognised that the regulation and transparency of political funding in Ireland had greatly improved and stated that virtually all concerns raised by GRECO had been taken on board. In February 2014, the first EU anti-corruption report was published by the European Commission. It noted that Ireland had tightened the rules on the financing of political parties and promoted greater transparency as regards party accounts. The report also acknowledged the positive assessment given by the Council of Europe Group of States Against Corruption.

The Electoral (Amendment) Act 2011, enacted in July 2011, provided for a reduction in the number of Dáil Deputies to 158 at the next election. It further provided that the writ for a Dáil by-election must now be issued within six months of a vacancy occurring rather than continuing the position in the past whereby such vacancies were rarely filled. During the lifetime of the previous Dáil there were many delays in the calling of by-elections. The spending limits for presidential elections have also been reduced from €1.3 million to €750,000, while the maximum reimbursement payment to candidates was reduced from €260,000 to €200,000. The Electoral (Amendment) (Political Funding) Act 2012 brought into force restrictions on corporate donations and considerable reductions in the maximum amount a political party or individual can accept as a political donation, reduced the donation reporting thresholds, and banned the receipt of all cash donations over €200. The Act introduced a new requirement that to qualify for full State funding, a party must meet a certain gender condition. Qualifying political parties must have at least 30% female candidates as well as 30% male candidates in the next general election, which will rise to 40% after seven years. If a party does not meet these thresholds, its funding will be halved.

In relation to concerns that Deputy Cowen and Deputy Stanley raised on the register of electors and other matters, we are examining the establishment of an electoral commission. I expect that to be in place between now and the next general election. The use of PPS numbers is one of the initiatives that is often suggested as a means to improve the register. It has been recommended by the joint committee. While PPS numbers and other unique identifiers could assist the registration authorities in ensuring the register of electors is as accurate as possible, there are a number of issues we should take into account. It is unlikely that the existing PPS database could populate the electoral register with PPS numbers due to the lack of matching identifiers between the two databases. There are approximately 7 million PPS numbers in the State, whereas the population is 4.5 million. There is a problem there. The PPS system does not necessarily capture the current residence of a voter or a person's citizenship status, which are essential for electoral registration purposes. However, it does make a contribution to the accuracy of the electoral register. The need to make the electoral registration process more accurate and up to date is a bone of contention on all sides of the House. We must find a way to do

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it, in which regard the Government is open to suggestions from across the House to maximise the accuracy of the electoral register and to ensure the issues identified by Deputy Stanley are actually dealt with. I hope they will not all have Northern accents going around Portlaoise at election time. We would not do that, would we?

Deputy Brian Stanley: No chance.

Deputy Phil Hogan: I thank the Members of the House for their understanding in relation to this basic, technical legislation, which facilitates business at the occasional time when the Clerk of the Dáil or Seanad is not available to perform the role envisaged under the 1947 Act. I thank all Members for their kindness and co-operation over the last three and a half years.

An Leas-Cheann Comhairle: I thank the Minister and offer him my own good wishes.

Question put and agreed to.

Bill reported without amendment, received for final consideration and passed.

Irish Human Rights and Equality Commission Bill 2014: From the Seanad

The Dáil went into Committee to consider amendments from the Seanad.

An Leas-Cheann Comhairle: Amendments Nos. 1 and 8 form a composite proposal and will be discussed together.

Seanad amendment No. 1:

Section 10: In page 11, between lines 8 and 9, to insert the following:

“(i) to be the body designated for the purposes of Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers;”.

Minister for Justice and Equality (Deputy Frances Fitzgerald): I want to inform the House about a small number of amendments to the Irish Human Rights and Equality Commission Bill that were discussed and agreed in the Seanad. I propose to outline these amendments and the reasoning behind their acceptance. These are technical amendments which need to be made in two places – in section 10 and in the Long Title to the Bill - and to transpose into Irish law the EU Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers.

The substantive EU directive that eliminates discrimination against migrant EU workers is contained in an earlier EU regulation dating to 2011, Regulation (EU) No. 492/2011, which we have already fully transposed in our employment equality legislation. There is one new provision for us in this new directive, which is that the designated national body should act as a contact point *vis-à-vis* other national bodies. The Equality Authority is the designated body for the purpose of the other EU equality related directives and is already part of the European network of equality bodies. This is not a new role in practice. However, it has not been referred to in legislation previously. Article 8 of the directive requires that the directive be referenced in national transposing legislation. All the other provisions of this directive have equivalents in our equality legislation and no new rights are created, so the opportunity is being taken to

make this amendment to the Irish Human Rights and Equality Commission Bill, which is all we need to do by way of legislation for the transposition to be complete. I recommend acceptance of the amendment.

Seanad amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 2, and 4 to 7, inclusive, are related and may be discussed together.

Seanad amendment No. 2:

Section 28: In page 22, line 9, after “under” to insert “*subsection (5)* of”.

Deputy Frances Fitzgerald: This deals with the duties of public bodies and the cross-referencing needed as a result of the changes agreed in the Seanad. Amendment No. 5 is based on a proposal originally introduced by Senators Zappone and van Turnhout in the Seanad and I wish to acknowledge their work. The other amendments are mainly consequential changes in cross-references. The proposed amendments add something valuable to section 42, which introduces a positive duty on public bodies to have due regard to human rights and equality and reflects a commitment in the Government’s programme for national recovery 2011-16, which states: “We will require all public bodies to take due note of equality and human rights in carrying out their functions.”

The commission will assist public bodies to comply with the positive duty, including by producing guidelines and codes of practice as outlined in section 31. The Seanad amendment allows the commission, in situations where it is justified and reasonable to do so, to invite a public body to undertake a review or develop and implement an action plan in respect of a failure by that public body to comply with its statutory human rights or equal treatment obligations. This new provision has the potential to allow the commission and public bodies to work together in a positive way to solve problems before they become crisis situations. The assistance the commission can offer includes training and both the existing bodies, the Equality Authority and the Human Rights Commission, have been active and successful in the area of training. I pay tribute to the work of both bodies. This allows them to work with bodies where a problem has been identified. The organisation must have good reason to decide to do so but it offers potential for positive engagement to deal with an issue where it is identified by the body or the commission and put in place a proper equality plan.

Seanad amendment agreed to.

Seanad amendment No. 3:

Section 31: In page 25, to delete line 17 and substitute the following:

“(4) A code of practice under section 56 of the Act of 1998 in operation immediately before the commencement of this section shall—

(a) remain in operation after such commencement, and

(b) be deemed to be an approved code of practice for the purposes of this section, and may be amended or revoked by order of the Minister.

(5) A code of practice standing approved under this section (including a code of practice

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to which *subsection (4)* applies) shall be admissible in evidence—

(a) in proceedings before a court, or

(b) in the case of proceedings under Part VII of the Act of 1998 or Part III of the Act of 2000, before the Labour Court, the Labour Relations Commission, the Employment Appeals Tribunal, the Director of the Equality Tribunal, or a rights commissioner.”.

Deputy Frances Fitzgerald: This is also a technical amendment. It is being included for sake of consistency with the approach in the workplace relations Bill, which was approved by Government this week. The amendment does not make any substantive change in the text from a strict legal perspective, but it spells out in detail what the existing text - “judicial notice shall be taken” - means and, on that basis, it is useful in making the text more accessible to the reader and avoiding any doubt about the intention. Put briefly, the intention is that a code of practice, once signed into law by the Minister of the day, can be relied upon by employers, or employees, or any group of the public as a definitive guide to how to deal with particular issues or stay out of trouble and then can be relied upon in court if a dispute arises on that issue.

Seanad amendment agreed to.

Seanad amendment No. 4:

Section 42: In page 34, line 6, to delete “these” and substitute “those”.

Seanad amendment agreed to.

Seanad amendment No. 5:

Section 42: In page 34, between lines 19 and 20, to insert the following:

“(5) Where the Commission considers that there is evidence of a failure by a public body to perform its functions in a manner consistent with *subsection (1)* and that it is appropriate in all the circumstances to do so, the Commission may invite the public body to—

(a) carry out a review in relation to the performance by that body of its functions having regard to *subsection (1)*, or

(b) prepare and implement an action plan in relation to the performance by that body of its functions having regard to *subsection (1)*, or both.

(6) A review or an action plan under *subsection (5)** may relate to—

(a) equality of opportunity or human rights generally, or

(b) a particular aspect of human rights or discrimination, in the public body concerned.”.

Seanad amendment agreed to.

Seanad amendment No. 6:

Section 42: In page 34, line 22, to delete “this section” and substitute “*subsection (5)*”.

Seanad amendment agreed to.

Seanad amendment No. 7:

Section 42: In page 34, line 24, to delete “this section” and substitute “*subsection (5)*”.

Seanad amendment agreed to.

Seanad amendment No. 8:

Title: In page 5, line 10, after “body;” where it secondly occurs to insert the following:

“to provide that the said body is the body designated for the purposes of Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers;”.

Seanad amendment agreed to.

Seanad amendments reported.

An Leas-Cheann Comhairle: A message will be sent to Seanad Éireann acquainting it accordingly.

Deputy Alan Shatter: Before leaving the Bill, I want to say a few words on its completion. This is an important item of legislation and substantial work was undertaken on the legislation during my time in the Department. Over two years of work went into it and I particularly thank Mr. Deaglán Ó Briain, who did enormous work in the Department liaising with international and local bodies to ensure the best possible item of legislation came before both Houses. I thank my former special adviser, Mr. Tom Cooney, who was a prominent member of the Irish Council for Civil Liberties and who carried out substantial work. I particularly thank the review group that came together representing the Equality Authority and the Irish Human Rights Commission.

This is an important day in human rights legislation. We now have an enhanced Irish Human Rights and Equality Commission, with broader powers than the individual powers of the disparate bodies in the original form when the Government came into office. It is a day worth celebrating for those in non-governmental organisations and for the current members of the commission in that the legislative process is finally complete. I note the small number of amendments made in the Seanad and I particularly agree with the amendment tabled by Senators Katherine Zappone and Jillian van Turnhout, which improves the Bill. It is always important we take on board constructive proposals to improve and enhance legislation.

I will send out an invitation to the Irish Human Rights and Equality Commission on one particular matter. I do not want to labour the issue in the context of this Bill. In a speech I made in this House, which both the Government and the Opposition chose to ignore, I raised the failure to comply with basic fair procedures, constitutional justice and natural justice in the manner in which Mr. Sean Guerin, SC, did his work in the Guerin report.

Deputy Pádraig Mac Lochlainn: Is this in order?

Deputy Alan Shatter: I invite the Irish Human Rights and Equality Commission, which has prominent members, to examine from a human rights perspective-----

Deputy Pádraig Mac Lochlainn: Is this in order?

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Deputy Alan Shatter: -----how that matter was dealt with.

Deputy Pádraig Mac Lochlainn: On a point of order, if the Ceann Comhairle was in the Chair he would not tolerate a member of the Opposition using the concluding debate on a Bill to settle old scores. It would not be allowed. I ask the Leas-Cheann Comhairle to rule on that. The Minister is present. It is the Minister's job to conclude the debate on a Bill, not the former Minister.

An Leas-Cheann Comhairle: The Minister will do that. I will call the Deputy also.

Deputy Alan Shatter: The Deputy is discomfited by the knowledge that that matter should-----

Deputy Pádraig Mac Lochlainn: Have a bit of humility for once in your life.

Deputy Alan Shatter: It is political point scoring.

An Leas-Cheann Comhairle: Please-----

Deputy Alan Shatter: The Deputy has no interest in human rights of any description.

An Leas-Cheann Comhairle: Deputy Shatter, have you concluded?

Deputy Alan Shatter: I have.

Minister for Justice and Equality (Deputy Frances Fitzgerald): I take this opportunity to pay tribute to all Members of the Oireachtas who contributed to the informed debate on this important legislation. It is particularly appropriate in view of the fact that Ireland will present its case on human rights to the UN Committee on Human Rights on Monday in Geneva. As Deputy Shatter said, this is a critical part of the infrastructure of human rights. As I have done previously in this House and in the Seanad, I pay tribute to the former Minister, Deputy Alan Shatter, for the pivotal role he played in developing this legislation and his contribution to it.

I have emphasised the importance of the Bill in the context of our commitment to strengthening human rights and equality infrastructure. I was glad I was able to accept the amendments in the Seanad to strengthen it further and ensure there will be even more mechanisms for the new human rights commission to intervene where bodies and institutions are not meeting their obligations relating to equality. It is important those bodies have that extra opportunity to be able to intervene and work proactively with organisations.

The merger has been a long time in the making. I know the commissioners designate and the staff of both the Human Rights Commission and the Equality Authority are keen to have a reformed and solid legislative base in place for their work. I believe that both bodies coming together will give us a strengthened body. I wish it well in its work ahead and the important job it has to do.

I take this opportunity to pay tribute to the bodies when they were operating as the Equality Authority under Niall Crowley and the Human Rights Commission under Dr. Maurice Manning. I thank Deputies on all sides of the House for their contributions to the debates on the Bill in both Houses and I wish the new body the very best in terms of its workload and the difference it will make to human rights in this country.

Deputy Pádraig Mac Lochlainn: A Leas-Cheann Comhairle, I indicated that I wanted to

speak.

An Leas-Cheann Comhairle: I am sorry. I call Deputy Mac Lochlainn.

Deputy Pádraig Mac Lochlainn: As I have said through the different Stages on this Bill, we had an Irish Human Rights Commission that did important work. The Equality Authority is doing important work also. A number of years ago the chairman of the Equality Authority had to resign because its budget was cut by 35% and he felt he was not in a position to fulfil his responsibilities on behalf of the citizens to hold Government to account. In recent weeks significant issues have arisen to do with the failure of the Government to meet its human rights responsibility. That will be raised with the Human Rights Council.

This is not a great day for human rights in Ireland. This is the amalgamation of two authorities that were doing excellent work. It is about a consolidation. It undermines the Good Friday Agreement. How can we lecture Unionists in the North about the need for a human rights Bill and strengthening human rights infrastructure when we undermine ours and amalgamate the two authorities? I cannot accept that, particularly the lectures from the former Minister on this issue. We will be calling a vote on it. This is not a good day for human rights. There has been an undermining of the excellent work done by people who were undermined and faced budgetary cuts and setbacks throughout that period.

An Leas-Cheann Comhairle: I am advised by the Clerk that this legislation has been through the Seanad and that the Dáil will not vote on it.

Deputy Pádraig Mac Lochlainn: That is fair enough.

An Leas-Cheann Comhairle: That concludes the debate.

Legal Services Regulation Bill 2011: Report Stage

An Leas-Cheann Comhairle: Amendment No. 1 is in the name of the Minister. Amendments Nos. 1, 23 to 26, inclusive, and 36 to 38, inclusive, are related. Amendment No. 37 is a logical alternative to amendment No. 36, therefore, amendments Nos. 1, 23 to 26, inclusive, and 36 to 38, inclusive, will be discussed together.

Minister for Justice and Equality (Deputy Frances Fitzgerald): I move amendment No. 1:

In page 10, to delete lines 9 and 10 and substitute the following:

““code of practice” means a code of practice issued under *section 20**, and includes part of such a code;”.

The Government amendments being tabled relate to Parts 1 and 2 of the Bill. These will deal with key definitions and terminology, as well as the Legal Services Regulatory Authority’s oversight and review of codes of practice applicable to solicitors and barristers in the State.

It is my intention to bring forward further amendments to the Bill for the resumption of the Dáil Report Stage after the summer recess, and I would also anticipate that this will happen for the ensuing Seanad Stages. This will be done to provide Members with more ample opportunity to consider the amendments concerned.

It is the Government’s overall intention that the Bill should complete all Stages for enact-

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ment by the end of November so the new regulatory authority can become operational early in 2015.

Deputies will also wish to be aware that, along with officials of my Department, I will be availing of the period following today's deliberations to progress further the ongoing consultation process with the Bill's stakeholders, including the legal professional bodies, and to consider those submissions that continue to be received. This has been a very consultative process to date with various amendments being accepted on Committee Stage, as Deputies will be aware, and that will continue.

That process will also provide an opportunity to deal with the remaining key issues of concern some of which continue to be aired by Members of both Houses and by the interested parties concerned. I will, therefore, be coming back to the Houses on any key remaining issues such as the proposed new legal services models, including legal partnerships and multidisciplinary partnerships, as well the possible introduction of limited liability partnerships. This is a process I have undertaken since my taking up of the justice and equality ministerial portfolio as I am anxious to hear the various views on this important and reforming Bill. This is a working approach that can meet with the approval of all sides of the House. Detailed work on the Bill continues on that basis, including with the Offices of the Attorney General and of Parliamentary Counsel.

I want to turn specifically to our first amendment. This concerns the definition of a code of practice. This is part of a suite of amendments relating to codes of practice on which I will elaborate further when we reach the relevant provisions. This particular new definition, like others, for consideration sets the basis upon which the Bill will be applied. Deputies can be assured therefore that because these and other definitions have fundamental and cross-cutting implications for the entire Bill, they will be kept under review right up to the Bill's completion. As Deputies will appreciate, further amendments may arise as we work through the Bill and depending on the various amendments tabled it may well be necessary to return to some of these definitions.

I will be happy to consider any ongoing views the Deputies may have in this regard so that we can ensure that the relevant definitions mean what we want them to say and that the Bill does precisely what we want it to achieve.

The amendment provides for a change in terminology from code of conduct to code of practice. This is an outcome of further consideration of the Bill with the Parliamentary Counsel. There are various forms of code currently applied in regard to the legal professions, so we have to comprehend them in the Bill. For example, under the new and independent professional conduct regime of the Bill, reliance will be placed on such codes where they prove to be of relevance. In this first amendment the relevant definition is in the form of a simple and linked reference to section 20, that being one of the sections which we will later consider under a separate amendment.

11 o'clock

It is intended that in adopting this particular amendment and the one to follow on the definition and application of codes, the Bill will distinguish between two types of codes governing the practices and behaviour of legal practitioners, namely, the "codes of practice" of this amendment which will be new codes published by the legal services regulatory authority under

section 20 and the parallel “professional codes” which we will also define by amendment as those codes that are drawn up, for example, by the Law Society and the Bar Council, but which may be amended by the authority under section 21. This revised approach meets a number of concerns expressed previously by Deputies and some stakeholders about the clarity and application of this part of the Bill.

Splitting the provisions in this way between two distinct types of code is a mechanism that can help ensure there is no confusion between the codes that may be produced by the authority in the future and the codes that have already be drawn up or may be drawn up in the future by the legal professional bodies – the latter, it should be noted, are not being erased by the Bill.

Although for technical reasons it is part of the next grouping and we can speak about it again, Members will see we have also provided for a revised and expanded definition of a “professional code”. This was found to be necessary when it was pointed out to us by the Law Society that there is a wide range of documents that currently govern and guide the behaviour of lawyers. As the legal professional bodies use a variety of titles and descriptions for these professional codes, the term has to be defined adequately in order to comprehend them as necessary for the purposes of the Bill and its regulatory functions. As the various forms of code govern how lawyers both conduct their business and are held to account, it is essential that they be in the frame of this provision.

It is proposed, under Government amendments Nos. 36 and 38, to delete the current section 20 of the Bill entitled “Codes of Practice” in its entirety and to replace it with two newly drafted sections on the same topic. Having read some of the Opposition amendments being proposed today, the main elements of this new and amended approach will be welcomed.

These main elements are as follows. As I have already highlighted, by way of clarifying the new codes regime under the Bill, the amendments to this section distinguish between “codes of practice” of the new legal services regulatory authority and the “professional codes” emanating from the legal professional bodies themselves.

Reflecting the Government’s previous public undertaking in response to initial concerns expressed at the time of publication of the Bill about the independence of the new regulatory authority, there will no longer be any ministerial role under the amended provisions in the processing or approval of codes. This meets the previously iterated concerns of the professional bodies, Members and other stakeholders. It arose because in initially drafting the Bill under the very tight deadline of the troika programme a routine statutory formula for the ministerial approval of standards was used. However, I am glad to say that this amendment puts the independence of the oversight and application of codes, from any ministerial interference, beyond doubt.

It is important to note that the existing codes of the legal professions are not being wiped out by the new Bill but are being left in place subject to their being compliant with the objectives of the Bill when enacted.

Rather than create a cumbersome and costly approvals structure for each and every code already in place in the professional bodies, the amendments provide that the bodies will furnish the new authority with copies of all of their existing codes within one month of the authority’s establishment – in any event, under section 12 of the Bill the authority has a general function of keeping these codes under review.

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While leaving the existing codes of the professional bodies in place subject to the provisions of the Bill, the proposed new sections will provide that the legal services regulatory authority will have the power to issue new “codes of practice” for the purpose of setting or improving standards for the provision of legal services in the State and that the authority will have the power to amend or revoke such codes. New or amended codes will be published in *Iris Oifigiúil*.

Section 21, should it be accepted today, will allow the authority to issue a notice to a legal professional body to amend one of its own “professional codes”, should it be of the opinion that it would operate to hinder a legal practitioner from complying with an obligation under the Act, that it would frustrate a key objective of the authority set out in section 12, or that the issuing of such a notice is otherwise necessary for the maintenance or improvement of standards in the provision of a legal service.

In its oversight of the codes applicable to legal practitioners, the Legal Services Regulatory Authority will be able to make distinctions between different classes of legal practitioner, such as solicitors, barristers who are members of the Law Library and other barristers who choose to base their practise outside of the Law Library.

While the underlying principle will be that the codes of practice issued by the legal services regulatory authority should take precedence, consultation with the legal professional bodies and other interested parties will be a prerequisite for the issuing of new codes and such parties will also have recourse to the High Court to seek an amendment to, or revocation of, a code in the event that the code under question is considered to be “oppressive, unreasonable or unnecessary”. That provision for recourse to the High Court is there should it prove necessary.

It should also be noted that in our configuration of the regulatory regime on codes we are doing no more than that being done under the comparator legislation in England and Wales where the Legal Services Board has similar powers of intervention in relation to the compliance of codes with the objectives of the legal services legislation in that jurisdiction. That is an interesting point for us to note. The reach of the board in this regard extends right down into the authorised bodies for the regulation of solicitors and solicitors and includes resort to the High Court.

The original section 20 of the Bill has, therefore, been found wanting in a number of ways, not least of which has been the need to remove any ministerial consents, and that is now being met by the amendments being put forward today. The amendments I am tabling to section 20 today, in the form of the two new sections which will replace it, have been carefully crafted in the intervening period - I acknowledge the debate on this that took place on Committee Stage - since the publication of the Bill with the assistance of advisory and Parliamentary Counsel. The amendments take account of the various legal, policy and drafting concerns to achieve a workable balance in relation to the authority’s functions as an independent legal services regulator to draft and amend codes on the one hand, and the legal professional bodies ongoing application of their own historical codes on the other. This represents a key intersection between the new authority and the legal professional bodies and I believe the right balance is now being struck in the proposed new language of these amendments.

I assure Members that the regime relating to the codes will not be arbitrary or indiscriminate in its application. The new provisions have firmly rooted this power of the authority to deal with professional codes by reference to the specified objectives of section 12 of the Bill

in furtherance of the authority's obligations to regulate the provision of legal services and to ensure the maintenance and improvement of standards in the provision of such services.

As regards the remaining Opposition amendments Nos. 23 to 26, inclusive, and 37, in light of the comprehensive approach now being taken by the Bill on codes and the substantive amendments that have now been introduced to enhance this aspect of the Bill, and my belief that the issues that were raised on Committee Stage have been dealt with, I do not see the merit in or value of these amendments.

Deputy Niall Collins: The Minister has said a lot there. In her response, I ask that she clarify why it was necessary to replace the code of practice with the code of conduct and to define the difference between a code of practice and a code of conduct and what the effect of that will mean to the legal practitioners.

Deputy Pádraig Mac Lochlainn: My fear is the same. Perhaps we will let the Minister respond to Deputy Collins and I will come in then.

An Leas-Cheann Comhairle: The only problem, Deputy, is that because it is Report Stage the Minister only has two minutes on a second reply.

Deputy Pádraig Mac Lochlainn: I want to be fair to the Minister and allow her to consult her briefing note before I come in with my point.

Deputy Frances Fitzgerald: The amendment provides for a change in terminology from "code of conduct" to "code of practice". This is an outcome of further consideration of the Bill with the Parliamentary Counsel. There are various codes currently applied in respect of the legal professions and we have to comprehend them in the Bill. For example, under the new and independent professional conduct regime, reliance would be placed on such codes where they may prove to be of relevance. In amendment No. 1 the relevant definition is in the form of a simple and linked reference to section 20, which is one of the sections we will consider later under a separate amendment. It is intended in adopting this amendment and the one to follow that the Bill will distinguish between the two codes governing the practice and behaviour of the legal professions. The code of practice in this amendment will be the new code published by the legal services regulatory authority under section 20. The parallel professional codes will be defined by amendment as those codes drawn up by the Law Society of Ireland and the Bar Council of Ireland. The point is to distinguish those drawn up by the regulatory authority and the professional bodies.

Deputy Pádraig Mac Lochlainn: The issue is that the Law Society and the Bar Council wish to continue to have their codes of practice along with that of the new authority. This is linked to their indemnity insurance. As bodies corporate they need to be able to stand over their codes of practice. The concern is that there is a change of language in the first amendment from code of conduct to code of practice yet the new section refers to a code of conduct. There seems to be some confusion around the definitions. Perhaps during the recess the Minister could consult with the Law Society and the Bar Council to clarify these issues.

My next question is on a linked matter. Is it the Minister's intention to accept the proposals of the Law Society and the Bar Council to the effect that they would be able to continue to have their codes of practice in parallel with the new authority? Is that the intention? There is some confusion about the matter.

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Deputy Frances Fitzgerald: It is clear from what I have said already that the codes of practice in place at present will continue. However, given that we are introducing a new independent regulatory authority and given the functions the new authority will have, it is also clear that the new authority will have a function in respect of codes of practice. I think I have spelled that out. If an area of major concern and disagreement arose between the regulatory authority and the bodies there is recourse, at the end of the day, to the High Court on both sides. Effectively, this is a recognition that we will have an independent authority. One would expect in the context of the power that is being given to and the remit of the new independent regulatory authority that it would have a role in respect of codes of practice. It has been accepted that within a month of the authority being established the codes of practice will be given to the authority and they will continue.

Of course as the work of the legal authority carries on it will make its views known if certain issues arise, for example, in respect of standards or other issues. I believe I spelled this out when I spoke earlier. Likewise, one can assume that there will be changes over time in the codes of practice of the Bar Council and the solicitors' body. Of course they are perfectly free to continue to develop their codes of practice. The section points out that there is a role for the regulatory authority. It is carefully dealt with and is in no way arbitrary. It provides for a situation where the regulatory authority might have a concern or wish to have further discussions in respect of some aspect that may emerge about which there could be a concern.

Deputy Pádraig Mac Lochlainn: The Law Society circulated its observations on the Minister's amendments. The Minister probably got a copy of the document as well. Clarification is required on the matter. I appreciate we are debating amendment No. 1 but it is linked to the removal of section 20 and its replacement. What the Minister is proposing is far broader in terms of a code of practice and oversight.

We are not going to deal with the replacement of section 20 today; we will do so after the summer recess. Will the Minister avail of the summer recess to engage in dialogue with the Law Society and the Bar Council on these matters to clarify them? I appreciate that the Minister wants to ensure that new regulatory authority has oversight and can ensure that professionalism and standards are maintained. The Minister must ensure that but I am asking for a balance to be struck with the needs of the two bodies corporate to deal with indemnity insurance and to demonstrate, as any body must, that their standards are at a level that protects them. This balance needs to be struck. This is a reasonable point made by the two groups. I call on the Minister clarify these matters during the summer recess.

Deputy Alan Shatter: I welcome the amendments the Minister has proposed and I note what she has said in her opening comments. It is important to put on the record of the House that there has been substantial engagement with the two professional bodies as well as with others in the context of this Bill and this has led to a substantial number of amendments being made on Committee Stage. This is an important point because I note that many of the contributions of Members opposite tend to be based on their briefings by the Bar Council and the Law Society. There is nothing wrong with that. It is perfectly correct that the views of the two professional bodies be taken account of. It is perfectly correct for them to have an input into ensuring that we have, at the end of the day, effective and good legislation which achieves its objectives. However, there is a risk of our focusing too much on the vested interests and ignoring the public interest. The public interest requires substantial reforms in this area. The public interest is on occasion not in accord with the cases made by the vested interest groups. As a practising lawyer I have been well aware of this over the years. There have been suggestions

made in some quarters that I have some animus, in some shape or form, to the Bar Council, for example. Of course I do not; that is nonsense. The Bar Council operates under the motto *nolumus mutari*, that is, no change or nothing should ever change. I can recall in this House the considerable resistance to the possible appointment of solicitors to the High Court and Supreme Court. It was predicted that civilisation as we know it would collapse. A rearguard action was fought against that reform. Yet, it has been in place for many years and the administration of justice has continued.

Following the Minister's opening comments I wish to make the point that there must be consultation. It is a difficult issue. However, in the context of the public interest, reducing legal costs, providing greater competition, providing for the public greater access to legal assistance and providing new business mechanisms to allow Irish legal practitioners to compete internally and externally, there are vital reforms in this legislation to which there is resilient opposition, in particular from the Bar Council.

I note that following recent changes there has been some suggestion that we are now in a new era of relationships with the Bar Council. I and my officials had an amount of engagement with the Bar and with great regularity we briefed the Bar Council on the reforms. However, if these reforms are to be implemented, backbone is required to stand up to vested interests. I have a concern - I do not expect we will reach it today - about the first sign of the Bar Council contaminating the provisions of the Bill and undermining reforms or amendments, in particular amendment No. 48. One could debate whether amendment No. 47 was required also but particularly amendment No. 48 which deals with a public interest issue. We will come to it at a later stage.

Before the Leas-Cheann Comhairle rules me out of order, I wish to deal specifically with the code of practice and code of conduct issues. There are, as the Minister properly said, different provisions in place that apply both to the solicitors' profession and the Bar in respect of codes of practice and codes of conduct, or whatever one may wish to refer to them as. It is clear from my work in this area that the codes are deficient. I do not want to take up the time of the House today by going into areas the legal services regulatory authority may address when it is put in place in the context of codes of practice, but it is important to draw attention to some provisions - I am using this as an example - in the code of conduct for the Bar Council of Ireland which was adopted on 25 July 2011 and contains a number of key provisions. I want to illustrate briefly some of the numbers and then the gap. That is why the amendments the Minister is tabling are important.

It is important that, where codes of conduct or codes of practice of the professional bodies are deficient, this issue can be addressed by the legal services regulatory authority. For example, in the context of the code of conduct I have mentioned - I do not want to go on at great length about this - it effectively provides for barristers a code of conduct largely focused on their engagement in court proceedings, their representing of individuals before the courts and giving advice. In that context, there are a number of key provisions, one of which - I intend only to refer to about four - is the duty to be independent and free from influence, especially such as may arise from their personal interests, or external pressure in the discharge of professional duties. They have a duty to ensure that, in the context of their legal practice, barristers shall at all times uphold the standards set out in the code of conduct and the dignity and high standing of the profession and their standing as members. That is all of what I describe as general application.

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There is also a particular provision in the code of conduct that applies particularly to court cases which states barristers may be justified in refusing to accept instructions where a conflict of interest arises or is likely to arise or where they possess relevant or confidential information or where there are other special circumstances. The only point I want to make and the reason for raising it is that the code of conduct, as one goes through it - I do not want to detain Members of the House - is, as I said, primarily about court proceedings and court actions and giving individuals, as appropriate, advice about their individual circumstances, but curiously it does not deal with something else, or, if it does, I have not been able to identify where. Whereas the code of conduct elaborately deals with court issues, it does not deal with, although I presume it is implicit in it, the conduct of barristers when they are asked to conduct inquiries into matters where court proceedings are not involved. I expect it is implicit that, where there is a conflict of interest, a barrister should not take instructions to conduct an inquiry into a particular matter. I presume this is understood. Where there is a conflict of interest, there are elaborate laws that state anyone who cannot just be subjectively unbiased, but also where there could be the appearance of bias should not adjudicate on matters. That applies, of course, to members of the Judiciary and administrative tribunals. It is my understanding that it applies to statutory and non-statutory inquiries conducted by judges and barristers.

Why am I raising this issue? Because of the number of occasions on which people are requested to engage in the conduct of inquiries, it is important that the code of conduct set out very clearly what the obligations are in that context. I am very conscious that, in the context of representations received during my time in the Department on the legal services Bill, one of the most active groups within the Bar in making representations on the Bill, through the chairman of the Bar Council - I recall one member of this committee being present at meetings I held in the Department - was the professional practice committee. It was absolutely clear that members of the professional practice committee were resolutely opposed to practically all of the reforms contained in the Bill that would impact on the Bar. They were not happy with the idea that disciplinary matters would be dealt with by an independent legal services authority. They are certainly not happy with multidisciplinary practices. They are not happy with the idea that one might have barrister partnerships. There is a specific provision in the code of conduct relating to the Bar that, for example, prohibits a barrister from operating out of an office within a firm of solicitors. The vision of the Bill of providing alternative business structures for delivering legal services is one to which members of the professional practice committee are opposed.

My concern about all of this derives from the fact that I find it extraordinary that a member of the professional practice committee should have taken it upon himself to pronounce judgment in the Guerin report, something that has affected me personally. It is something I am concerned should not happen in the future because I do not think it is compatible with an objective review or inquiry into any matter that an individual who is opposed to legislation that a Minister is processing through the House be placed in a position in which he effectively make a pronouncement. Even if there is no subjective bias - I am not suggesting there is - there is the appearance of it and a conflict of interest of a nature that should have resulted in Mr. Guerin concluding it was inappropriate for him to take that position.

It is important in the context of the codes of conduct that the codes that apply cover all issues where there could be conflicts of interest and where, in the context of members of either profession, there are provisions in place which could act as a barrier to the objectives of the Bill being complied with. This is a public interest issue and it is important, given all of the lobbying that takes place behind the scenes and some of the commentary engaged in by some of those

with a vested interest, which diverges substantially from dealing with the technicality of the Bill and heads towards being of a personalised nature, that Members of the House stand back from it and look at the public interest. The public interest lies in greater competition for legal services, alternative business structures through which they can be provided and which are being developed in various other countries and ensuring, regarding those who have a vested interest in maintaining the legal profession in the architecture we inherited in 1922 and who resist any reform or change, it is always remembered. It is not. I appreciate that there is a desire to avoid controversy and that there may be a desire to ensure criticisms are not publicly voiced.

I am well aware that in the past six weeks or so the Bar Council, in particular, has gone into overdrive to turn the clock back to 2011 and to try to effectively oppose every substantial reforming measure that could change the manner in which barristers undertake their work. I know there are senior members of the Bar who go to any length to achieve that objective. I also know that among the junior members of the Bar there are many individuals supportive of this reform, but because of the nature of the Bar and the fact that they do not want to be on the wrong side of their seniors, they will not put their head above the parapet and say so. However, they would say this is a public interest issue, and if it comes to a question of vested interests or the public interest, it is of crucial importance that we stand by the public interest.

Deputy Michael McNamara: When I came into the Chamber I had not intended to speak on these amendments, but much of what Deputy Shatter said has prompted me to speak. The Deputy addressed the specific and the general in his contribution. I might agree with much of what he said with regard to the general. I support the Bill, as I expect all my colleagues on the Government backbenches will, the objectives of it and the reality that it is time for reform of legal services provided in the State by solicitors and members of the Bar. The effect that some of the reforms proposed in the Bill will have has been greatly exaggerated. There are many at the Bar who are opposed to these proposed reforms. They have been very vocal in their opposition to them, as they are entitled to be. Equally, there are many at the Bar who are less opposed and even supportive of some of the proposals. I would not like to impute support for all of the proposals to very many, but certainly they support some of them. I support the proposals, although with reservations about multidisciplinary practices, simply because we do not know what will happen and it may be better not to make decisions until we know what will happen. I would not like to impute support or opposition to this Bill to all members of the-----

An Ceann Comhairle: We are dealing with Report Stage, which is confined to the amendments, not to the general principle.

Deputy Michael McNamara: I am also replying to what-----

An Ceann Comhairle: No. One does not reply on Report Stage; one must speak to amendments.

Deputy Michael McNamara: I will speak to an amendment regarding-----

Deputy Pádraig Mac Lochlainn: It is a pity the same approach was not taken five minutes ago.

An Ceann Comhairle: I was not here. I am only in the Chair now.

Deputy Pádraig Mac Lochlainn: I am glad to see the Ceann Comhairle back in the Chair.

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Deputy Michael McNamara: Fairly serious points were made. On the code of practice and on the specifics, there is an important rule of law, *nemo iudex in causa sua*, that nobody should be a judge in his or her own case. It is very difficult to be objective about one's own case. Regardless of Mr. Guerin's report, we must bear in mind that Mr. Guerin was appointed by the Government, not by himself, and the Government set out his terms of reference - he did not set them out. If there is a problem with his appointment or terms of reference, it is a problem that the Government should be called upon to address. It is slightly unfair to make those points about him in this Chamber when he accepted an appointment to do a job-----

An Ceann Comhairle: The Deputy cannot make a Second Stage speech on this; he must stick to the amendments. We are not talking about appointments.

Deputy Michael McNamara: I am replying to fairly serious points that were made in the Chamber.

An Ceann Comhairle: I am sorry; the Deputy is not entitled to do that on Report Stage.

Deputy Michael McNamara: Very good. Then I cannot say anything further.

An Ceann Comhairle: Okay. I am sorry about that, but the Deputy must understand that we are dealing with amendments on Report Stage which are entirely separate.

Deputy Michael McNamara: Everybody is clear about what we are dealing with, but unfortunately latitude was-----

An Ceann Comhairle: I am sorry, but I cannot comment on that. I can only deal with the position as it stands in accordance with the Order of the House. Does any other Member wish to speak to the amendments?

Deputy Frances Fitzgerald: I will reply unless somebody else wishes to contribute.

Deputy Pádraig Mac Lochlainn: It is the-----

An Ceann Comhairle: I have been told that the Deputy has spoken twice already. I am afraid that is his number.

Deputy Pádraig Mac Lochlainn: If the Ceann Comhairle is going by the minutes-----

An Ceann Comhairle: If I am going by the rules, I have to stick by the rules.

Deputy Pádraig Mac Lochlainn: -----I would not be in the ha'penny place compared to my esteemed former ministerial colleague.

An Ceann Comhairle: The Deputy is allowed to speak only twice on Report Stage.

Deputy Pádraig Mac Lochlainn: That is fair enough.

An Ceann Comhairle: I call the Minister.

Deputy Frances Fitzgerald: I thank Deputies for their contributions. I repeat that there are a number of critical elements within in the provisions I am proposing in the form of codes. I want to make the point again about balance. We are discussing the role of the new independent regulatory authority in regard to the professions. What I am proposing in order to achieve the type of balance about which Deputies are speaking is that, for example, there will be redress to

the High Court for people affected. It is important that this be included as a provision.

There is a consultation process on codes. The codes that the Bar Council and solicitors have will continue, but the codes of the new statutory body take precedence, and that is essential. If we are serious about independent regulation and a regulatory authority, that precedence must be there, and it is there. There is a system of High Court redress if it needs to be used. I put it to the Opposition that I do not see this balance in its amendments, and I would question that because its amendments seem to be predicated on self-regulation and maintaining the *status quo*. In the amendments I put forward today there are powers for the authority and a balance that respects the integrity of the professional groups, the importance of their role in Irish society and the importance of the work they do, but also give strength and empowerment to the new independent legal authority, which is essential. The balance that has been described in the amendments does that, and that is what we want to achieve today. We are establishing a new independent regulatory authority, and that authority must have powers. Those powers must respect the integrity, the standards and the professional codes that are in place already and that will be developed, but the new authority must take precedence.

I want to make it clear also that public interest is what we are talking about here. That is critical. It is about the public interest. Deputies on all sides of the House are aware of that, as I am. It is also about the effectiveness and efficiency of regulatory oversight of the legal professions, and that is the dominant theme of this legislation. Those are the themes I fully intend to see through to the enactment of the Bill. Any consultations that will continue over the next few weeks and months before final enactment are merely to carry through to a final and fair conclusion the consultations that have already commenced. I certainly will continue those. The Bill has gained from the consultations that have already taken place, which have been substantial, as was pointed out by the former Minister. There have been many discussions and changes on Committee Stage. Opposition Deputies made many points and they will note from the amendment I brought forward today on the role of the Minister, which was a critical and key discussion, that substantial changes have been made in the amendment to ensure the independence of the new legal regulatory authority. That independence is clearly very important. The balance that is struck in the amendment in regard to the codes of practice is the right one. Deputy Mac Lochlainn has asked me to reconsider it. I repeat that I believe the balance in the amendments today is the right one. We are not in an era of self-regulation but an era in which we are establishing this new independent body, which must have the appropriate powers. As I have said, I do not believe the amendment the Deputy has put forward recognises that we are beyond that era of self-regulation. The Government amendment recognises that balance. If there is to be a new regulatory authority, clearly it must, as set out in the title, have authority and powers that will make a difference in the public interest. This is what we are striving to achieve by way of these amendments and this discussion. I hope there is clarity following this discussion in regard to the role of the independent legal authority with regard to codes of practice and the ongoing work of the relevant legal professions on their own codes of practice. The amendments set out clearly that where a disagreement or an issue arises in regard to standards or if there is ambiguity and the legal authority feels it necessary to intervene, it has the authority to do so. There is still in place a mechanism such that where disagreement arises there is recourse to the High Court. I believe the Government amendment seeks to put in place the right variety of balances.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 2 to 6, inclusive, are related and will be discussed together by agreement.

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Deputy Frances Fitzgerald: I move amendment No. 2:

In page 10, between lines 25 and 26, to insert the following:

“ “legal advice” means any oral or written advice—

(a) on the application of the law (whether the law of the State, another state or the European Union, international law, or a combination of these) to any particular circumstances that have arisen or may arise in relation to a person, and

(b) as to any actions that might appropriately be taken by or on behalf of a person (whether the person referred to in *paragraph (a)* or another person) having regard to the application of the law to those circumstances,

but does not include an opinion on the application of the law provided by a person to another person in the course of—

(i) lecturing in or teaching an area of the law, as part of a course of education or training,

(ii) writing or editing a book, report or article, or

(iii) carrying out research in an area of the law, for the purpose of enhancing the other person’s knowledge of the area concerned;”.

Government amendments Nos. 2 to 6, inclusive, provide for the definitions of “legal advice”, “practising barrister” and “qualified barrister”, which are, like most of the definitions under this Bill, inextricably linked in defining the scope of the new regulatory regime and should not be read in isolation. Together they converge by way of defining the scope of the Bill. This is an objective we must achieve in a manner that is not so broad as to bluntly implicate anyone who has a legal qualification or a barrister at law degree, or so narrow as to omit persons who are offering legal services and need to be regulated and held accountable for reasons of public interest, or those who might be qualified but seek to avoid regulation by passive or more creative means.

While this is the first time we are regulating barristers under statute in this jurisdiction, other common law countries have similarly sought to define the legal professions and the parameters of the provision of legal services for regulatory purposes. In the development of our definitions in a way that best suits the needs of regulation in this country, we have examined those similar measures that have emerged in jurisdictions such as those of the UK, Australia, New Zealand, the USA and Canada.

Amendment No. 2 is a new provision which sets out the parameters of what is to be considered “legal advice” for the purposes of the Bill. This is important in ensuring that there is clarity about what type of legal advice is covered by the Bill, whether it be provided by a solicitor or barrister or in a partnership setting. At the same time, the definition excludes certain ancillary areas of legal advice provided, for example, in the context of lecturing or teaching; writing or editing a book, report or article; or carrying out research for the enhancement of knowledge. This definition is among those, including “legal services” and “qualified barrister”, contained in this Part of the Bill which have now been carefully crafted to ensure that any person who is a qualified legal practitioner, be that a solicitor or a barrister, or offers legal services such as the drafting of legal documents, advocacy or litigation will be subject to regulation under the Bill.

The proposed amendments relating to legal services clarify that these are services provided by a person, whether as a solicitor or a barrister. Again, this is an important baseline for the governance of the provision of legal services under the Bill which covers both professions. This is obviously one of those areas that we will have to ensure is carefully monitored in the progression of the Bill to enactment. For example, it would be an essential demarcation where lawyers are providing legal services alongside non-lawyers providing other services in a multidisciplinary partnership.

The amendment providing for a new definition of “practising barrister” again reminds us that the governance of the barristers’ profession has not been the subject of legislation up to now, unlike the solicitors’ profession which has been subject to the Solicitors Acts. This amendment offers to replace the existing definition in the Bill. In so doing, it seeks to further clarify what constitutes a practising barrister under the Bill and is, understandably, predicated on the related definition of what is a qualified barrister. I will refer to that one in due course.

I have already outlined in the previous grouping the two types of code that will be comprehended by the Bill. For technical reasons, the definition of “professional code” sits with this grouping. Suffice it to say that the existing definition in the Bill is too narrow as it does not encompass everything that would normally be taken into account in deciding what might constitute appropriate or inappropriate behaviour by a lawyer. The revised definition seeks to remedy that shortcoming and, therefore, replaces the earlier definition of “professional code” with one that is sufficient to give the legal services regulatory authority the scope it requires to set and improve standards in the provision of legal services or to discipline a legal practitioner where this is found, under the relevant procedures, to be necessary.

Returning to barristers, currently there are a number of different types of practitioner who consider themselves to be providing the services of a barrister. Some of these are members of the Law Library, thereby coming under the aegis of the Bar Council, while others, even though they might be called to the Bar, do not choose to work from the Law Library. By means of this amendment and other related definitions, it is intended to comprehend those who are considered to be qualified barristers and who practise or hold themselves out to do so. Under the Bill, therefore, in addition to those barristers who operate under the Law Library-Bar Council framework, those who operate outside it and meet the requirements of the Bill will also be regulated. At the same time, this provides an alternative to the more traditional Law Library model which had been considered, in competition terms, to be restrictive and conducive to market concentration in the provision of legal services.

I should remind Deputies at this point that the Bill makes it an offence to practice as a barrister outside the stated parameters. This will place the profession of barrister on a similar footing to that which already applies to solicitors under the Solicitors Acts, where a statutory offence is similarly in place. Again, in the amendment providing for a definition of “qualified barrister”, we are comprehending those duly qualified barristers who provide legal services to the public, whether that be within the traditional Law Library model or outside it. At the same time, the proposed text excludes certain persons from so acting - for example, a person who has been struck off or disbarred.

Deputy Niall Collins: As in the case of other organisations, the Law Society of Ireland has briefed the Opposition on this legislation. One of the points made by it is that the new definition is overly prescriptive and may lead to difficulties. Perhaps the Minister will clarify the purpose and effect of the new definition and whether it will have a knock-on consequence for the provi-

sion of legal services and advice for the proposed multidisciplinary practices.

Deputy Michael McNamara: I support what the Minister is trying to achieve by way of these amendments, but I would like clarification on one matter. Amendment No. 6(4)(b) states: “a person provides legal services as a barrister where he or she does one or more of the following:”. While the functions on the list are regularly provided by barristers, they are also services regularly provided by solicitors. Solicitors regularly appear in relation to proceedings before a court, tribunal or forum for arbitration, whether in the State or in another jurisdiction, or the Personal Injuries Assessment Board. They regularly represent another person before these courts, tribunals, fora or boards. They regularly prosecute or defend proceedings on behalf of another person, advise people on the conduct of proceedings and represent and advise other persons for the purpose of arriving at a settlement. They regularly draft documents for other persons in contemplation of litigation and they provide legal advice. They draft legal documents and represent or act for another person in circumstances where legal rights or obligations of a person are being or are likely to be created or in dispute. I appreciate that the intention of the legislation is quite clear but I wonder whether the wording is such that a solicitor providing these services is doing so as a barrister. All solicitors are persons so, when they are before a court, tribunal or other forum representing clients, are they providing legal services as barristers given the definition that is being introduced? I accept that this is not what the Minister seeks to have happen but it seems from the wording it is being achieved inadvertently. I would like clarification on it.

Deputy Frances Fitzgerald: I will answer Deputy Collins’s question first. It became apparent since the publication of the Bill in 2011 that there was a lack of clarity on the persons to whom the Bill should apply. We needed to set out who, among all the people in the State who have legal qualifications, ought to be subject to the authority’s regulatory regime and be subject to the payment of the levy that will fund the new bodies. We do not want the Bill to apply to legal academics, such as writers, but we want it to apply to those barristers who are taking new and innovative approaches to their practice, which may be outside the Law Library. For those reasons, this set of amendments on key definitions is necessary.

Deputy McNamara’s question highlights the point that we have not had definitions and regulation in regard to barristers. That is why they are set out in this Bill. They are already set out for solicitors under the solicitors legislation. However, we are setting them out now for the first time in respect of barristers. That is why this section is specific but, clearly, it applies to both.

Deputy Michael McNamara: I have no objection whatsoever to what the Minister seeks to achieve with this legislation. I agree entirely with it but the simple reality is that “a person” provides legal services as a barrister when doing one or more of the specified tasks. The last time I checked, I had never met a solicitor who was not a person. When a solicitor provides the listed services in accordance with the definition in the Minister’s amendments, he or she is providing legal services as a barrister. The legislation does not refer to “a person who is not a solicitor” providing legal services as a barrister; that is not the definition included. I appreciate that there is absolutely no possibility of what I am saying being considered by the Minister or her officials — they are discussing this — but my argument is that the amendments refer not to “a person who is not a solicitor” or “a qualified barrister” but *simpliciter* to “a person”. This will cause difficulty in the future unless there is an amendment or unless the Minister can explain why it will not.

Deputy Frances Fitzgerald: The point is that, in regard to solicitors, the matter is already

long defined. There was no question of unravelling that definition, which is in the Acts already. The definitions we are including today on barristers are consequent to our having examined the legislation in quite a number of other countries. This is not unique to Ireland. What is to be included is a straightforward definition of the work barristers do. We are saying solicitors are already dealt with in legislation and there is no need to repeat the definitions pertaining to them. It is long-established practice that, where an issue is already covered in legislation, it is not repeated in new legislation.

The Deputy's points highlight that there have not been definitions or regulation in regard to the role of barristers in this country. That is what this Bill is achieving. It ensures independent legal regulation by an independent authority. That is the essence of the Bill. It is in the public interest and in the interest of setting out the independent authority. The definitions are necessary because they had not been included in legislation before. The definitions pertaining to solicitors are well established under the solicitors Acts.

Deputy Michael McNamara: On a point of order-----

An Ceann Comhairle: There is no point of order allowed in replying.

Deputy Michael McNamara: I am not replying but making a point of order. The Minister is introducing an entirely new definition of what it is to be a barrister. I support her entirely in that but, as she said, it is novel. This is being done on Report Stage. Should this section not be recommitted to Committee Stage in order to insert something entirely new that has not already been dealt with?

An Ceann Comhairle: That is not a matter for the Chair. This matter has been ruled in order and it arises from Committee Stage proceedings. It is in order from that point of view.

Amendment agreed to.

Debate adjourned.

Court of Appeal Bill 2014: Second Stage

Minister for Justice and Equality (Deputy Frances Fitzgerald): I move: "That the Bill be now read a Second Time."

Deputies will recall that the programme for Government indicated that the necessary steps to create a permanent court of appeal would be taken during the lifetime of the Government. On foot of that commitment, a referendum was held on 4 October 2013 and the proposal to establish a court of appeal was agreed to by the people. During the course of the referendum campaign, it was made clear that, if the proposal were agreed, the Government would move very quickly to enact the implementation legislation for the new court.

Section 5 of the Bill provides that the Government shall appoint a day to be the establishment day for the purposes of the Act, and I envisage that the court will be operational by autumn 2014, which is the start of the new legal term.

Given the technical nature of the general scheme of the Bill, it was not considered suitable for pre-legislative scrutiny. However, the scheme was made available to the Joint Committee on Justice, Defence and Equality so as to facilitate that committee in providing any views it deemed appropriate.

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Under our Constitution, the judicial power is one of the three fundamental pillars upon which the institutions of our State rest. Our courts have a pivotal role in this society. This derives from the fact that the establishment and maintenance of an independent courts system is a critical element in upholding the regime of checks and balances, which is a fundamental attribute of the doctrine of the separation of powers. That separation of powers protects citizens against the potential abuse of public power, and also promotes the smooth and efficient functioning of the State. In this context, the courts have a particularly significant responsibility in terms of interpreting and applying the law to disputes between individuals and the State in addition to disputes that are wholly private in nature. They provide the ultimate forum in which such disputes can be resolved.

A properly functioning courts system provides certainty for the parties in individual cases and, where appropriate, offers a public explanation of the law to those who are not involved in the case in question. It helps to provide a legal framework within which individuals and businesses can arrange their affairs with a degree of confidence and security.

12 o'clock

In the commercial sphere, in particular, legal certainty is essential and helps to underpin the confidence commercial entities must have that they are acting in a lawful manner and that their actions will not attract unwarranted legal criticism or challenge. Legal certainty simplifies the commercial decision-making process and allows for the clear and considered assessment of the advantages or disadvantages of a proposed course of action. The relative relevance of security against abuse of power, speedy and efficient dispute resolution and legal certainty varies from case to case, but it cannot be denied that in all scenarios a properly resourced and efficiently running courts system is essential.

The case for the establishment of a court of appeal has been well documented. The previous Government established a working group on a court of appeal in 2006. The group which published its report in August 2009 was chaired by the current Chief Justice, Ms Susan Denham, and comprised members of the Judiciary, representatives of the Bar Council of Ireland and the Law Society of Ireland and senior officials from the Attorney General's office, the Department of the Taoiseach and my Department. The report included a comprehensive analysis of the situation then prevailing in the Supreme Court, both in terms of the cases coming before that court and the length of time it took for such cases to be brought to a conclusion. It also reviewed the position in other common law countries where the existence of an intermediate court of appeal was the norm and set out a path towards possible reform.

An Ceann Comhairle: Will Members, please, leave the Chamber if they are not prepared to engage in the debate? I do not know what all of the anticipation is about, but we are getting on with the business that was ordered yesterday. I ask Members to stop talking and give the Minister their attention.

Deputy Frances Fitzgerald: The reform proposals were favoured by those who engaged in the consultation process on the issue. They will also ensure the Supreme Court will only hear cases that merit its attention and make certain that there is coherence to the courts architecture, which is not the case currently.

It is worth recalling that there has been continuing growth in High Court litigation, which has seen the number of High Court judges increase from seven in 1961 to 36 today. By contrast,

in the same period the increase in the number of Supreme Court judges has been from five to ten, following the appointment of two additional Supreme Court judges in October 2013. This has enabled the Supreme Court to sit in two panels on a continuing basis which has certainly assisted in the rate of disposal of cases. However, the backlog that has accumulated in the Supreme Court in the past few years requires a more fundamental reform to bring about a more efficient appeals system.

There is no point in having a situation where gains in High Court efficiency are being lost at appeal stage because there is only one court to which an appeal may lie. The absence of a court of appeal has led to a huge volume of cases being referred to the Supreme Court, compared to the situation in other similar common law jurisdictions. In consequence, a considerable proportion of Supreme Court time is being spent in correcting errors of law, rather than in developing the law in a reasoned fashion. As the volume, duration and complexity of appeals continue to grow, the Supreme Court's case load is becoming increasingly unsustainable. Cases are taking longer to hear, with the average waiting time for cases to be heard currently at 48 months. That means that, in the absence of a court of appeal, somebody lodging an appeal with the Supreme Court today might not have his or her case decided before 2018. Even cases with a priority listing are taking up to 12 months to come to hearing.

Litigants have a right to a fair and speedy trial. As well as being a matter of natural justice, this right is recognised in Article 6 of the European Convention on Human Rights. It will be recalled that Ireland has already had to pay compensation to individuals who have successfully taken cases to the European Court of Human Rights in respect of delay. Apart from the impact on individual litigants, the delays being experienced have economic consequences which might influence external investment decisions and act as a barrier to growth. They also have implications for our ability to honour international obligations which may give rise to reputational damage and financial penalties. Today's international business world works best where the law is clear, where the judiciary is independent and where those who find themselves either asserting their rights or defending their actions before the courts can expect to have a final determination without undue delay. If all other things are equal, international investors will favour a country with an efficient and effective legal system which is capable of dealing with the administration of justice in a reasonable timescale over a country without such a system.

Before discussing the Bill before the House, I pay tribute to my predecessor as Minister for Justice and Equality, Deputy Alan Shatter, who did a great deal of valuable work in steering both the constitutional referendum and this Bill to the point we have reached.

The establishment of the court of appeal requires the enactment of an implementation Bill which will provide for the establishment of the court, the appointment of judges, their remuneration and a number of other issues. The Court of Appeal Bill is technical in nature and contains a large number of provisions aimed at amending existing legislation in order to accommodate the new court within the architecture of the existing courts structure. Given that policy in this area was essentially fixed by last year's referendum, the Bill does not give rise to significant policy issues. However, it addresses important legal considerations as to how best to reflect the constitutional provisions which relate to the new court and regulate the relationship between it and the Supreme Court.

In the normal course, it would be usual to go through the Bill on a section by section basis, explaining each section. In this instance, however, and given the nature of the Bill, I propose to focus, first, on a specific number of topics, after which I will deal with other stand-alone issues.

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Section 6 provides for the establishment of a court of appeal in accordance with the terms of Article 34A of the Constitution and the appointment to that court of a president and nine ordinary judges. Section 13 sets out the remuneration of the president and ordinary judges of the court of appeal. In this regard, following consultation with my colleague, the Minister for Public Expenditure and Reform, it has been agreed that the president of the court of appeal shall be paid €200,000 per annum and that the salary of an ordinary judge of that court shall be €177,803 per annum. These figures have regard to the revised rates of judicial pay set by the Department of Public Expenditure and Reform in June 2013, following the enactment of the Financial Emergency Measures in the Public Interest Bill 2013 and the reductions applied by virtue of that Act to judges' pay on foot of the twenty-ninth amendment to the Constitution concerning judicial remuneration which was approved in 2011. The rates of remuneration envisaged also have regard to the rates paid to the Chief Justice and ordinary judges of the Supreme Court and the President of the High Court and ordinary judges of that court.

With regard to pensions, the legislation recognises the fact that for any serving judge who may be appointed to the court of appeal and was appointed to judicial office prior to 1 January 2013, it will be necessary to maintain the existing pension provisions which are complex and spread over a number of Acts. This is provided for in sections 14 to 16, inclusive. For serving judges appointed on or after 1 January 2013 or appointees who are not serving judges, the single public service pension scheme will apply and no special provision is required in the Bill in respect of such persons.

Section 17 provides that, in the main, the age of retirement of a judge of the Court of Appeal shall be 70 years. This section also specifies that, as an exception to the general rule, a judge of the Court of Appeal who is already a judge of another court and who is entitled to retire at the age of 72, shall continue to be entitled to retire at that age.

In relation to the appointment of judges to the Court of Appeal, Deputies will recall that the Government has announced Mr. Justice Seán Ryan as president-designate of that court. The tenure of a President of the Court of Appeal will be for a period of seven years, as is the case with other presiding judges.

Sections 10 and 11 make the necessary amendments to provide that the Judicial Appointments Advisory Board, JAAB, will have a role as regards the appointment of ordinary judges of the Court of Appeal, except of course in relation to serving judges who do not go through the JAAB process.

On a more general note, Deputies will be aware that a major review of the judicial appointments process is under way to ensure that it reflects current best practice, is open, transparent and accountable and promotes diversity while also protecting the independence of the Judiciary.

My Department is currently examining submissions which have been received and I am most anxious that if reforms are to be made they derive from a considered consultative process, including public debate.

To give Deputies a flavour of the submissions, the most significant theme emerging is the need to make the Judicial Appointments Advisory Board more central to the process and, by the same token, to make the process less political. I envisage that I will be in a position to bring proposals for reform to the Government later this year.

Following the current practice, provision is made in section 6 for the Chief Justice and Pres-

ident of the High Court to be *ex officio* additional judges of the Court of Appeal. That section also provides that the President of the Court of Appeal shall be *ex officio* an additional judge of the other superior courts.

Furthermore, ordinary judges of the Supreme Court or the High Court may sit as additional judges of the Court of Appeal when, because of illness or for other reasons, there are insufficient judges available to transact the business of the Court of Appeal. In this regard, analogous provisions are to be found in section 31 with regard to the High Court, and section 42 which concerns the Supreme Court.

Section 8 of the Bill sets out the jurisdiction of the Court of Appeal which, of course, flows directly from the Constitution itself. The Courts (Supplemental Provisions) Act is amended by the insertion of a new section 7A which provides that the Court of Appeal shall be a superior court of record. In broad terms, the Court of Appeal will have the jurisdiction which, immediately before the establishment day, was vested in or capable of being exercised by, the Supreme Court, the Court of Criminal Appeal and the Courts-Martial Appeal Court.

The Court of Appeal may sit in divisions of three judges, which divisions may sit simultaneously. The section also provides that interlocutory applications may be heard either by the President of the Court of Appeal sitting alone, or by another judge sitting alone who has been nominated for that purpose.

There are certain provisions towards the end of the Bill which also have a jurisdictional import. Section 68 deals by way of general amendment with the numerous references which at present exist in a variety of enactments in relation to appeals to the Supreme Court, including proceedings by way of cases stated to that court. For ease of reference, Schedule 2 deals with those Acts where consequential textual amendments are required.

Section 69 contains a provision in respect of decisions of the High Court in respect of which further appeal is possible in certain circumstances. This provision, which is general in nature, is to the effect that where there is a limitation in legislation on an appeal from the High Court to the Supreme Court, the limitation shall be read as being without prejudice to the provisions of Article 34.5.4o of the Constitution to the effect that the Supreme Court shall have appellate jurisdiction from decisions of the High Court in exceptional circumstances.

A similar provision in respect of decisions of the High Court which are final and not subject to further appeal is to be found in section 70. A further related provision is set out in section 9 of the Bill which amends the Courts (Supplemental Provisions) Act 1961 by inserting a new section 7B. That section 7B provides that the Court of Appeal may, in certain circumstances, stay proceedings before it in respect of an appeal from a decision of the High Court. The purpose of this would be to enable the applicant to apply to the Supreme Court for leave to appeal the decision of the High Court under Article 34.5.4o of the Constitution.

An issue which obviously arises on the establishment of the Court of Appeal is how to deal with appeals to the Supreme Court which have not yet been heard at the time the new court is established. Essentially what is envisaged is that the Chief Justice may, if satisfied that it is in the interests of the administration of justice and the efficient determination of appeals to do so, and with the concurrence of the other judges of the Supreme Court, give a direction that appeals falling within a certain class of appeal, which are pending before the Supreme Court shall be heard and determined by the Court of Appeal.

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On application by any of the parties to an appeal, the Supreme Court may, if it is satisfied that it is just to do so, cancel or vary the effect of that direction in so far as it relates to that appeal. Specific provision is not made in this Bill, given the detailed arrangements which are set out in the Thirty-third Amendment of the Constitution (Court of Appeal) Act 2013.

As a consequence of the establishment of the Court of Appeal, both the Court of Criminal Appeal and the Courts-Martial Appeal Court will be abolished. Section 8 amends the Courts Supplemental (Provisions Act) 1961 to provide that, subject to the transitional provisions to which I shall return shortly, the jurisdiction of the Court of Criminal Appeal and the Courts-Martial Appeal Court shall be vested in the Court of Appeal.

Section 67 repeals a number of relevant provisions which touch upon those courts, while section 72 puts in place transitional arrangements for cases which are in being before those courts on the day of the establishment of the Court of Appeal. Essentially, what is envisaged here is that where an appeal to either the Court of Criminal Appeal or the Courts-Martial Appeal Court has been initiated and heard, either in full or in part by either of those courts, that those courts will retain their appellate jurisdiction in relation to the case in question.

The establishment of the Court of Appeal requires certain adaptations in both the civil and criminal legal aid regime and these are to be found in sections 44 and 51, respectively. Associated provisions which have a bearing on the courts-martial appeal legal aid regime are to be found in sections 47 and 48 of this Bill.

Deputies will be aware that the Court of Criminal Appeal currently sits on an *ad hoc* basis, relying on a combination of Supreme Court and High Court judges. Approximately 570 cases are currently lodged before that court. While section 18 provides that it shall be the function of the President of the Court of Appeal to arrange the distribution and allocation of the business of the court, and to arrange the divisions which are referred to in section 8, I anticipate that the Court of Appeal will have a dedicated criminal panel, at least in the initial stages, until such time as the current backlog of cases before the Court of Criminal Appeal has been addressed.

Section 8 provides for a single judgment rule in criminal appeal cases heard by the Court of Appeal, as is the practice in both the Court of Criminal Appeal and the Special Criminal Court at the moment.

It is not every day that we move to establish a new court and, in recognition of the fact that some issues in the future may require attention, section 3 gives a broad power to make regulations to deal with unanticipated difficulties which might arise in bringing provisions of the Act or of specified articles of the Constitution into operation. The provision applies for a two-year period and, if any regulations need to be made under the section, they will be subject to an approval resolution by each House of the Oireachtas. While a provision of this nature is not commonplace it is not without precedent and a similar provision can, for instance, be found in the Local Government Reform Act 2014.

Deputies may also be interested in matters concerning where the new Court of Appeal will sit. Appeals in civil matters will be heard by the court sitting in the Four Courts campus, while sittings relating to criminal matters will be heard in the Criminal Courts of Justice. The Office of the Registrar of the Court of Appeal and its staff will be located in Áras Uí Dhálaigh, which is part of the Four Courts complex. The creation of the Court of Appeal provides an opportunity for the courts and the Courts Service to explore new ways of doing business. In particular, it

presents an opportunity for reform of some of the practices and procedures which are currently in place in the Supreme Court and the putting in place of appropriate case management structures in both the Supreme Court and the Court of Appeal. I want to place on record my own and the Government's appreciation of the leadership provided by Chief Justice Denham both in respect of this project and in her management of the Supreme Court list.

While case management in the Supreme Court is currently conducted on a non-statutory basis, I consider it appropriate that statutory backing be provided to underpin the reforms which I know the Judiciary is keen to embark upon. Therefore, I will move an amendment on Committee Stage which will provide that the Chief Justice and the President of the Court of Appeal, as appropriate, may issue practice directions in respect of appeals or applications made to those courts. It is envisaged that such practice directions may relate to both civil and criminal proceedings.

Turning now to some of the other provisions of the Bill, the precedence of the judges of the new court *vis-a-vis* the judges of the existing courts is set out in section 27. Section 19 concerns the President or ordinary judge of the Court of Appeal travelling with, and sitting as part of, the High Court on circuit. Section 20 provides for the making of rules of court in respect of the Court of Appeal while sections 23 and 24 provide for the establishment of the Office of Registrar of the Court of Appeal, the appointment of the Registrar of that Court and the appointment of deputies for the Registrar of the Court of Appeal. The provisions relating to that office mirror those which apply to the Supreme Court.

Part 3 of the Bill contains amendments to a range of Acts to take account of the establishment of the Court of Appeal. For example, section 39 amends the Seanad Electoral (Panel Members) Act 1947 to allow a judge of the Court of Appeal to be chairman of the appeal board which hears appeals from decisions of the Seanad returning officer under that Act. A further example relates to section 49, which amends the Ethics in Public Office Act 1995 to allow a judge or former judge of the Court of Appeal to be appointed chairperson of the Standards in Public Office Commission. Provision is also made to put in place the arrangements necessary should a chairperson of the commission who is a judge of the Court of Appeal be temporarily unable to act and for the continuation in office as chairperson of a person who ceases to be a judge of the Court of Appeal and who is not appointed to another judicial office.

In conclusion, the Bill provides for the establishment of the Court of Appeal in accordance with the terms of Article 34A of the Constitution. Furthermore, important legal considerations as to how best to reflect the constitutional provisions which relate to the new court and which regulate the relationship between it and the Supreme Court are set out in the Bill. I am of the view that a modern and complex society such as our own which has undergone, and indeed continues to undergo, rapid change places many demands on our legal structures and it is right that those structures should be examined and, if necessary, reformed to reflect the changing face of society. In this instance the establishment of the Court of Appeal will address many of the challenges and demands which face our court system and should result in a more positive experience than heretofore for all those who interact with it. I look forward to hearing the views of Deputies on the proposals contained in this Bill and I commend this Bill to the House.

Deputy Niall Collins: I reaffirm the support of Fianna Fáil for this Bill. We welcome the Bill as the implementation Bill facilitating the establishment of a new court of appeal for Ireland. The people of Ireland endorsed the creation of a court of appeal in the referendum in October 2013. It is our wish and that of Members in this House and the people of Ireland that

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the creation of a new court of appeal will alleviate the extremely heavy workload placed on the Supreme Court and the significant delays encountered there. The current estimated time of reaching the Supreme Court on appeal is approximately four and a half years. This waiting time is simply unacceptable and certainly undermines the ability of citizens to access justice in a manner we would see as fitting in a 21st-century republic.

The creation of a court of appeal was advocated by Fianna Fáil in its 2011 election manifesto and the original report on this matter was commissioned when my party was previously in government. That report sought to establish a new court that would eliminate undue delays in processing appeals, create an appeals structure that would be cost-effective and enhance the administration of justice in the superior courts. I believe the structures of the Court of Appeal as outlined in this legislation will address these issues in a comprehensive manner. We have previously discussed Chief Justice Denham's warning with regard to the delays currently being experienced in our legal system. We all agree that the failure to address the problem of delays in Ireland's appeal court system could damage our society and the economy. The serious delays of up to four and half years in the Supreme Court are having a negative impact on our economy and Ireland's international reputation as a place to do business.

Our original legal infrastructure was established in the 1937 Constitution and confirmed in the Courts Act 1961. Much has changed in that time. The massive increase in litigation and population since then has generated significant challenges for our legal system's structure. Our population saw an increase of almost 2 million people between 1961 and 2011. The nature of modern litigation has resulted in an increased number of cases being brought before the courts which are often more complex as a result of increased legislative provisions. Our courts have had to adjust to the massive increase in legislative regulations and directives from the EU which have had a major impact on every aspect of our lives and our countries. Yet the constitutional constraints placed upon the Supreme Court led to it remaining stationary in the face of the pressing need to adapt to new demands.

The number of High Court judges has expanded from seven to 36 while the number in the Supreme Court has expanded from five to only 11 in the same period, creating a major gulf in capacity. While progress had been made in the establishment of a commercial court to fast track disputes, appeals from this court were still subject to the same delays before the Supreme Court. It is important to say, however, that the Judiciary and the Courts Service must be commended in many ways on how they have handled the increasing number and complexity of cases which have come before them with the limited resources they have. This Bill should assist the Courts Service and Judiciary in delivering a better service to all our citizens.

Unlike the Supreme Courts in the US or the UK, which hear fewer than 100 cases a year, the Irish Supreme Court cannot filter out all but cases of exceptional constitutional and public importance, resulting in a waiting list of up to four and a half years. The onerous delays in Supreme Court judgments jeopardises Ireland's international obligations. As previously referenced in this House, under the European Convention on Human Rights, member states are obliged to ensure that excessive delay does not occur in domestic proceedings within their courts. Ireland is also a signatory to a Council of Europe protocol which states that everyone convicted of a criminal offence has the right to have his or her conviction or sentence reviewed. The Chief Justice, Mrs. Justice Denham, has said that the situation in the Supreme Court was "unsustainable, untenable and it cannot be defended". Appeals lodged today may not be heard until 2018. A speedy resolution of disputes is important in any successful economy where the rule of law applies fairly, ensuring swift access to justice for all. Hopefully, this legislation will

go some way in rectifying that. I hope the Minister has remained in regular contact with the Chief Justice to ensure that once the court of appeal is established there will be a smooth transition from the previous legal architecture to the new structures. The resources, staff and judges must be in place to ensure a smooth transition happens.

It has been stated that initial capital costs to establish the court of appeal are estimated to be €2 million, with ongoing annual costs of between €2.5 million and €3 million. The Minister might outline to the House when she believes the first cases will begin to be heard by the court.

It is important in a 21st century republic that the justice system not only deals with cases effectively, but, above all, is accessible to all citizens who seek to utilise it, regardless of means. The high cost of legal services continues to pose problems for the country. Legal costs are still prohibiting people from accessing justice through our courts. The European Commission has raised concerns about these costs restricting economic growth, especially for SMEs. The cost of legal services remains 12.1% above 2006 levels, according to the Commission. This contrasts markedly with the post-crisis development of other services.

I remain unconvinced that the Legal Services Regulation Bill 2011 in its current form will result in dramatically reduced costs in the legal sector. The Minister might consider carrying out an impact assessment on the legislation on costs in that sector 12 months after its passage to see how effective the legislation has been.

Fianna Fáil will vote in favour of this necessary reform of the court structure in Ireland and hopes to offer constructive amendments as the Bill passes through the Oireachtas.

Deputy Pádraig Mac Lochlainn: A referendum was required to make the necessary constitutional provision for the establishment of the Court of Appeal. The referendum took place on 4 October 2013 and it was carried by 65% of the people. The new court will hear appeals from the High Court and the Supreme Court, cases on appeal from the Court of Appeal and, in exceptional circumstances, from the High Court. This reform will bring about a major change in the courts system and ease the four year backlog of cases at the Supreme Court, which will in future take only appeals on constitutional issues or cases of major importance. Currently, important cases of a constitutional nature must wait for three and four years to be heard. This should not be the case; it is simply not acceptable. I welcome that this legislation seeks to resolve this important challenge.

I refer to the issue of judicial appointments, which is linked to these changes. I launched the Reform of Judicial Appointments Procedures Bill 2013 early this year and it was debated in this Chamber. I launched it in the hope that it would put an end to the system of political appointees being made judges. Our Bill would amend the way in which the JAAB operates to increase transparency and accountability in judicial appointments, which is badly needed. Confidence in the justice system is contingent on a Judiciary that is free from political appointment or bias. It is essential that there be an independent and impartial Judiciary, which is representative of the community it serves. Future judicial appointments should be drawn from a wider pool of qualified candidates, which, in turn, would enhance confidence in the justice system.

For too long we have all been aware of stories the length and breadth of the State of judges being appointed with a wink and nod after demonstrating their loyalty to whichever major party was in government at the time. The days of the old boys and girls club that dominates the legal and political spheres in Ireland must come to an end. Such an approach has failed our people.

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The sheer number of politically affiliated judges adds to an embedded public perception of the Judiciary, which is that it is an elite to whom the law of the land does not apply equally. I appreciate the Minister has put in place the review process. The reform group is led by one of the most respected members of the Judiciary, the Chief Justice, Ms Susan Denham. She said shortlists lead to the perception of politically influenced appointments and such a perception undermines the Judiciary. That is important coming from somebody of her standing and character. Even if our Bill, which is almost identical to the proposition put forward by the Chief Justice, is not taken, her proposition must be.

We are calling for the establishment of a fair and accountable appointment and removal process for the Judiciary, which involves meaningful lay participation representative of the public interest. Sinn Féin believes that judicial independence is undermined by the current appointment process. The JAAB was established in the wake of the controversial appointment of Harry Whelehan as President of the High Court in 1994 and was meant to have removed sole discretion for judicial appointments from Government. However, there is still political involvement in the appointment of the Judiciary, as the JAAB merely provides a list of seven qualified candidates to the Government, which then makes the appointments of judicial office holders. The appointment procedures should be transparent to enhance public confidence in the process. The shortlist should be reduced to three and the reason for appointment should be outlined.

Fine Gael and the Labour Party promised a reforming government and an end to the “jobs for the boys and girls” culture but it is clear from their judicial appointments so far, many of their political friends, unfortunately, have been elevated. A report by Dearbhail McDonald in the *Irish Independent* a while back highlighted that one third of judicial appointees had a background in political parties in government at the time of their appointment.

I refer to the cost to the people taking such cases. Access to the courts and to justice is a constitutional right, yet the expense of cases can run into high figures, thereby acting as a barrier to people seeking to exercise this right. If cases move faster, the chance of reducing costs is better. The plan envisages that the new court of appeal will deal with most cases that are currently dealt with by the Supreme Court, which would, therefore, reduce the higher court’s workload and allow it to focus on the development of the law. Cost is the issue that drove the Legal Services Regulation Bill 2011 from the perspective of the troika and our international partners. However, we have discussed the heads of the mediation Bill and if that proceeds through the Oireachtas, that will have a greater impact on costs. We want people in family law and civil law cases to go down the road of mediation. The first instinct in a dispute is to go to a solicitor and cases drag on whereas trained mediators can prevent significant, unnecessary costs. I will work with the Minister to advance that legislation.

There will be two tests to decide what type of appeals the Supreme Court will hear: that they are of “public importance” or where that it is “in the interests of justice” that the appeal be heard by the highest court in the State. In “exceptional circumstances”, where these tests of public interest and “the interests of justice” are met, the Supreme Court will hear appeals directly from the High Court. The Supreme Court, unlike equivalent institutions in other common law jurisdictions, is the court of final appeal, not only for constitutional matters but for all appeals from the lower courts. Figures published last year by the Courts Service show that the court had received 605 appeals in the previous year, a 21% increase on the figure for 2011, and that it had given judgments in 121 cases, compared to 64 in the United States Supreme Court and 85 in the Supreme Court in London. I welcome the creation of a new court which will allow proceedings to take place within a reasonable time. An inefficient court system is costly

because runaway legal costs hamper even small businesses and I welcome the initiative to end them. I offer my support and that of my party for the Bill and ask the Minister to take on board some of the concerns I have highlighted.

Deputy Finian McGrath: I propose to share time with Deputy Mattie McGrath.

An Ceann Comhairle: Is that agreed? Agreed.

Deputy Finian McGrath: I welcome the opportunity to speak about the Court of Appeal Bill 2014. I welcome the Bill and the broader debate on the courts and the smooth operation of the justice system based on democratic principles of equality, justice and human rights. It is important to make this point, given the decision of the people in the referendum. In recent months the crisis in the justice system has demonstrated the urgent need for reform and accountability. We must maintain the trust and respect of the people in and for the system of justice. Above all, the courts have to be fair, open and accountable in serving justice. I support the Bill because it is part of a reform agenda.

The purpose of the Bill is to put the legislative arrangements in place to facilitate the establishment of a court of appeal at a level between the High Court and the Supreme Court, as agreed to in the referendum on 4 October 2013. The financial implications of the Bill are significant and must be examined. It is envisaged that the initial capital costs involved in establishing the court of appeal will be of the order of €2 million, with ongoing annual costs of €2.5 million to €3 million. Establishment of the court will have positive implications for our ability to honour international obligations which would otherwise give rise to reputational damage and financial penalties and may have a positive influence on external investment decisions. From a value for money perspective, every cent we spend should be examined carefully. However, compared to the hundreds of million of euro that have been wasted during the years, a light goes on in my head when I see a figure of €2.5 to €3 million. The Bill offers value for money.

On the subject of small sums of money, an excellent preschool creche in Darndale could do with €100,000 in the coming week. I urge the Minister, Deputy Frances Fitzgerald, to support the Minister for Children and Youth Affairs in funding that creche.

An Ceann Comhairle: I urge the Deputy to speak to the Bill.

Deputy Finian McGrath: It is important that we mention these matters when we are discussing money.

An Ceann Comhairle: It is important to stick to the subject matter. This is not Ballymagash.

Deputy Timmy Dooley: One less Topical Issue matter.

Deputy Finian McGrath: It is important that we raise these issues in the broader context of justice and equality.

An Ceann Comhairle: The Deputy may think so, but the rules do not allow it.

Deputy Finian McGrath: I support the legislation. The Oireachtas Joint Committee on Justice, Defence and Equality also does excellent work in this regard. Yesterday it launched three excellent reports on community courts, the heads of the Children and Family Relationships Bill and the heads of the Criminal Justice (Community Sanctions) Bill, respectively. These reports were prepared by a cross-party group of Deputies and Senators. That is the kind

of valuable work we need to do in other areas.

The Bill is essentially technical in nature and involves amendments to a number of Courts Acts and related legislation in order to ensure the court of appeal will slot appropriately into the existing courts system. The court of appeal will be an intermediate court between the High Court and the Supreme Court and will deal with civil and criminal matters. It is anticipated that the new court will bring about real efficiencies in the administration of justice. However, efficiency should never be confused with short cuts. We must ensure a high quality and professional justice system which is fair and accountable. The court of appeal will allow the Supreme Court to concentrate on work that is relevant to that body such as developing the law in a principled and rational way. It is intended that the court of appeal will be operational by October. For this objective to be realised, it is necessary that the Bill be enacted during the current session.

I will address the specific sections of the Bill. Section 49 allows a judge or a former judge of the court of appeal to be appointed as chairperson of the Standards in Public Office Commission. Provision is also made to put in place the arrangements necessary should a chairperson of the commission who is a judge of the court of appeal be temporarily unable to act and for the continuation in office as chairperson of a person who ceases to be a judge of the court of appeal and is not appointed to another judicial office. It is important to recognise the valuable work done by the Standards in Public Office Commission because it is part of the new politics of the country and the reform agenda.

Section 52 relates to the membership of the Constituency Commission which is provided for in the Electoral Act 1997 and the arrangements which apply when the chairperson of the commission becomes unable to act or ceases to hold office as a judge.

Section 53 includes a judge of the court of appeal and a specialist judge of the Circuit Court within the definition of member of the Judiciary for the purposes of exempting certain allowances from income tax.

Section 56 makes provision to address the consequences of the president or an ordinary judge of the court of appeal being appointed as chairperson of the Human Rights Commission and for related and consequential matters. That is very important because when we consider the broader issues, we must not forget justice, trust and human rights. In this regard, section 59 allows the court of appeal, in addition to the High Court and the Supreme Court, to make a declaration that a statutory provision or rule of law is incompatible with the State's obligations under convention provisions.

Section 61 allows for the appointment of a judge of the court of appeal to inquire into the conduct of designated officers of the Garda Síochána Ombudsman Commission. This is an important section because anyone who works as a public servant must be accountable. I will be supporting the Bill because it forms part of a reform agenda and will create accountability and efficiency in the justice system.

Deputy Mattie McGrath: I am delighted to have an opportunity to speak about this important legislation and thank Deputy Finian McGrath for sharing time with me. I note that the Bill will give effect to the referendum decision on the court of appeal. While I do not want to question the outcome of the referendum, I have criticised the manner in which it was simply added on to the children's rights referendum with little debate. The media found it difficult to find anyone who was prepared to speak in support or against the proposal. We did not have

sufficient notice or engagement on the proposal, which is not good for our democracy. The legislation will place a new layer of judges between the High Court and the Supreme Court, which is important in itself. At the time of the referendum, there was no indication from the Government or the independent commission what duties would be involved. That is what we are now talking about in the enabling legislation. I acknowledge that it is difficult, but the broad parameters should have been discussed in the debate and available to people to facilitate their understanding and participation in the vote. As we have heard from the Minister herself and other speakers, the delays in the courts are enormous and have been for years. Justice delayed is justice denied. It is unacceptable to have to wait four and a half years for a case to be heard. A great deal of change can occur in that time. Litigants and counter-litigants may die or their circumstances may change. Chief Justice Susan Denham has rightly voiced her opinion about this issue on a number of occasions and it is important that she be listened to. It is vital that justice be done and seen to be done in a timely fashion.

There was no explanation of the costs involved. I now see that the estimated establishment costs are €2 million annually, perhaps moving to €3 million. We cannot have an open cheque-book. There must be accountability and proper control of the costs that will be incurred. I am delighted the Minister is here, as she was previously the Minister for Children and Youth Affairs. I have referred countless times to the importance of the House and everyone else listening to the courts when they decide cases, especially when it is a unanimous decision of the Supreme Court. I note the Supreme Court decision on the way in which moneys voted by the House were expended by the independent commission and Government on the other referendum that was held on the same day. I have asked countless times for the Ceann Comhairle's indulgence in respect of a debate on that and an indication of when we are going to act.

An Ceann Comhairle: I cannot give the Deputy my indulgence on that.

Deputy Frances Fitzgerald: The matter is before the courts.

Deputy Mattie McGrath: I do not mean today. I make the point that the referendum was held on the same day. It is pointless to set up new courts of appeal and other court structures if Government is going to ignore their decisions. I have raised the matter so many times here that my next course of action is to make a complaint to An Garda Síochána. It is a matter for another day and one with which the new Minister will have to deal.

It is important that we put the enabling legislation under discussion in place. We are told it will be implemented by the autumn of this year. I look forward to that. We must see a programme of work set out regarding cases and the rate of productivity we will see. I understand that it is not a conveyor belt, but we cannot just set up a new court of appeal while continuing to allow cases to be held up and to fail to deliver justice in a timely fashion. My criticism continues to be that we do not see any aspiration with regard to the length of time cases will take and the speed with which people can gain access to the courts. It is very unfair and imprudent in these times of financial hardship and cutbacks that we should just set up our new system, appoint our layer of judicial appointments and have them sitting without a specific workload and timeframe for cases. That is not a personal criticism of the judges. We have no confirmation of what may take place. Others have compared our system with the US and other supreme court systems and said ours is pretty quick by comparison. It is not a good enough answer. We cannot wait three and a half or four years for a case to be determined. We must ensure that the new court of appeal has a proper legislative framework and timelines. There will have to be speedy outcomes.

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Section 37 of the Bill states that a judge of the court of appeal may be appointed as a chairperson or deputy chairperson of the Irish Financial Services Appeals Tribunal. It is very important that there is clarity in this regard. We hope there will be independent, fair and proper chairing and oversight of what goes on in those areas.

I also note something that is close to my own heart in section 41, which provides for the amendment of section 50 of the Greyhound Industry Act 1958. Section 41 permits a judge of the court of appeal to be chairman of the appeals committee hearing appeals in relation to the refusal of licences, permits, etc., under the 1958 Act. It is perhaps a pity we could not have had somebody appointed to deal with the musical events dominating the headlines today to sort them out to the satisfaction of society in general.

I look forward to the debate. I hope the legislation makes for speedier and more timely resolutions for parties who go to court. Hopefully they can go to the court of appeal rather than be left wondering what their destiny will be.

Debate adjourned.

Sitting suspended at 1 p.m. and resumed at 1.05 p.m.

1 o'clock

Business of Dáil

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): It is proposed, notwithstanding anything in Standing Orders or the Order of the Dáil of 10 July, that the Dáil shall suspend now for 15 minutes, and the business to be transacted then shall be as follows: No. 12a - nomination of members of the Government, for which the following arrangements shall apply: the speeches of the Taoiseach, the Tánaiste and the leaders of Fianna Fáil, Sinn Féin and the Technical Group, or persons nominated in their stead, who shall be called upon in that order, shall not exceed 20 minutes in each case; Members may share time; and the Taoiseach shall be called upon to make a speech in reply which shall not exceed ten minutes; on the conclusion of this, the sitting shall be suspended until 5.30 p.m., whereupon the Court of Appeal Bill 2014 - Second Stage (resumed) shall be taken and the House shall adjourn no later than 8 p.m.

An Leas-Cheann Comhairle: Is that agreed?

Deputies: Not agreed.

Deputy Seán Ó Feargháil: I do not want to rain on anyone's parade, but the time allocated is hopelessly inadequate. We indicated to the Government Chief Whip that the leaders of the Opposition parties need at least half an hour to contribute on this important issue and all Members of the House should be given the opportunity to contribute on the issue of the Government's new priorities. The Taoiseach and the Tánaiste have spent a week deliberating on these issues and the least the Members of the House deserve is to have an opportunity to contribute.

Deputy Aengus Ó Snodaigh: Sinn Féin also objects to the time allocation. We are sitting on a Friday, and we have no problem with that. We have a problem with the fact that most of the Members of the House will not have the opportunity to have their say on the proposal the

Government will put before us, the supposedly new direction and the new Cabinet. Twenty minutes for each party leader is inadequate. There should be more time for leaders and for all Members, including those of the Government parties, some of whom have been waiting to find out why there was such a debacle this morning.

Deputy Joe Higgins: The Government dares to come in with this pitiful amount of time to debate what we are told is to be a radical new policy direction and an almost new Government. The Labour Party had a full six weeks to discuss the disastrous perdition into which it has put our country over the past three years in terms of austerity and to discuss the leader on whose back they might pull themselves out of the hole. It has been a full week since the coronation of the Minister for Social Protection as Tánaiste. My concern over that time is not for the whole raft of wannabee Ministers on the Government backbenches, who have been reduced to nervous wrecks over the past week, but, more importantly, the vital documents - so we have been told - on crucial policies such as the massive housing crisis and the crisis of low pay which the Labour Party has discovered after three and a half years in government.

Deputy Robert Dowds: Rubbish.

Deputy Joe Higgins: So radical is the Labour Party's approach that its members think it will save them from the gates of perdition at the next election. We have not had sight of that, yet we are supposed to speak in an informed manner on it.

Deputy John Lyons: It is always the same speech.

Deputy Joe Higgins: I am asking for more time for all Members who wish to contribute, and also that we be given the documents so that we can have 15 minutes to see the policy proposals that are supposed to turn around the ship and its disastrous course of austerity that has been inflicted on people over three and a half years. That is only fair.

Deputy Finian McGrath: Hear, hear.

An Leas-Cheann Comhairle: The Minister of State-----

Deputy Billy Timmins: A Leas-Cheann Comhairle-----

An Leas-Cheann Comhairle: I am sorry, no.

Deputy Billy Timmins: On a point of order, a Leas-Cheann Comhairle-----

An Leas-Cheann Comhairle: Yes, on a point of order. I hope it is a point of order.

Deputy Billy Timmins: -----perhaps I misheard the Chief Whip, but I did not hear any reference to the group known as others, which represents-----

Deputy Pat Deering: The group has no leader.

(Interruptions).

Deputy Billy Timmins: Half of the Government Members want to get rid of their leader after the changes today, so they might well do that. This group represents almost 10% of the Members, and the Ceann Comhairle has clearly indicated to the Taoiseach and the Chief Whip that a number of Members of the House are being unfairly treated. I ask the Chief Whip if he can show a little bit of magnanimity and courtesy to Members of the House. We are not disput-

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ing the amount of time; we have no time whatsoever.

An Leas-Cheann Comhairle: We will deal with that matter later.

Deputy Billy Timmins: I would like you to respond now, not later.

Deputy Paul Kehoe: To respond to the Deputy's point, if he talks to his party leader or party Whip, they might be able to advise if there is an opportunity-----

Deputy Billy Timmins: I take that as an invitation from the Whips of the other groups to attend meetings of the Whips from here on.

An Leas-Cheann Comhairle: Please, Deputy.

Deputy Billy Timmins: When the others do turn up, I hope the Minister of State will not close the door on us.

An Leas-Cheann Comhairle: The Minister of State has the floor.

Deputy Paul Kehoe: When the Deputy puts himself into a position-----

A Deputy: Who is the Whip, Billy?

Deputy Paul Kehoe: I do not want to be dragged-----

Deputy Billy Timmins: And we do not want an announcement from the Taoiseach.

Deputy Michael Ring: He wants you back, Billy.

Deputy Billy Timmins: It would be more generous of him not to put-----

Deputy Timmy Dooley: This is great fun.

An Leas-Cheann Comhairle: Order, please. We are dealing with a proposal from the Minister of State.

Deputy Paul Kehoe: To address members of the Opposition, we are basing the time schedule on precedent. When reshuffles took place previously, the same amount of time was allocated.

(Interruptions).

Deputy Mattie McGrath: Garth Brooks will be here before we know it.

Deputy Paul Kehoe: I assure Deputies opposite that I will prioritise the allocation of time to enable the new Ministers to outline the policy direction to be taken in their respective Departments. It would be more appropriate for each Minister to outline his or her policies and priorities.

An Leas-Cheann Comhairle: We have a proposal-----

Deputy Micheál Martin: On a point of order-----

An Leas-Cheann Comhairle: No, I am sorry, Deputy, but I cannot take a point of order.

Question put: "That No. 12a be agreed to."

| <i>The Dáil divided: Tá, 76; Níl, 40.</i> | |
|---|--------------------------------|
| <i>Tá</i> | <i>Níl</i> |
| <i>Bannon, James.</i> | <i>Broughan, Thomas P.</i> |
| <i>Barry, Tom.</i> | <i>Browne, John.</i> |
| <i>Breen, Pat.</i> | <i>Calleary, Dara.</i> |
| <i>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>Coppinger, Ruth.</i> |
| <i>Cannon, Ciarán.</i> | <i>Cowen, Barry.</i> |
| <i>Carey, Joe.</i> | <i>Creighton, Lucinda.</i> |
| <i>Coffey, Paudie.</i> | <i>Daly, Clare.</i> |
| <i>Collins, Áine.</i> | <i>Doherty, Pearse.</i> |
| <i>Conaghan, Michael.</i> | <i>Donnelly, Stephen S.</i> |
| <i>Conlan, Seán.</i> | <i>Dooley, Timmy.</i> |
| <i>Connaughton, Paul J.</i> | <i>Ellis, Dessie.</i> |
| <i>Conway, Ciara.</i> | <i>Ferris, Martin.</i> |
| <i>Coonan, Noel.</i> | <i>Halligan, John.</i> |
| <i>Corcoran Kennedy, Marcella.</i> | <i>Higgins, Joe.</i> |
| <i>Costello, Joe.</i> | <i>Keaveney, Colm.</i> |
| <i>Deasy, John.</i> | <i>Kelleher, Billy.</i> |
| <i>Deenihan, Jimmy.</i> | <i>Kirk, Seamus.</i> |
| <i>Deering, Pat.</i> | <i>Kitt, Michael P.</i> |
| <i>Doherty, Regina.</i> | <i>Lowry, Michael.</i> |
| <i>Dowds, Robert.</i> | <i>Mac Lochlainn, Pádraig.</i> |
| <i>Doyle, Andrew.</i> | <i>McGrath, Finian.</i> |
| <i>Durkan, Bernard J.</i> | <i>McGrath, Mattie.</i> |
| <i>English, Damien.</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>Gilmore, Eamon.</i> | <i>Moynihan, Michael.</i> |
| <i>Griffin, Brendan.</i> | <i>Murphy, Catherine.</i> |
| <i>Hannigan, Dominic.</i> | <i>Ó Fearghail, Seán.</i> |
| <i>Harrington, Noel.</i> | <i>Ó Snodaigh, Aengus.</i> |
| <i>Harris, Simon.</i> | <i>O'Brien, Jonathan.</i> |
| <i>Hayes, Tom.</i> | <i>Ross, Shane.</i> |
| <i>Heydon, Martin.</i> | <i>Shortall, Róisín.</i> |
| <i>Hogan, Phil.</i> | <i>Smith, Brendan.</i> |
| <i>Keating, Derek.</i> | <i>Timmins, Billy.</i> |
| <i>Kenny, Seán.</i> | <i>Troy, Robert.</i> |

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| <i>Kyne, Seán.</i> | <i>Wallace, Mick.</i> |
|---------------------------------|-----------------------|
| <i>Lawlor, Anthony.</i> | |
| <i>Lyons, John.</i> | |
| <i>McCarthy, Michael.</i> | |
| <i>McFadden, Gabrielle.</i> | |
| <i>McGinley, Dinny.</i> | |
| <i>McHugh, Joe.</i> | |
| <i>McNamara, Michael.</i> | |
| <i>Maloney, Eamonn.</i> | |
| <i>Mitchell O'Connor, Mary.</i> | |
| <i>Mulherin, Michelle.</i> | |
| <i>Murphy, Dara.</i> | |
| <i>Murphy, Eoghan.</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>Perry, John.</i> | |
| <i>Phelan, Ann.</i> | |
| <i>Phelan, John Paul.</i> | |
| <i>Quinn, Ruairí.</i> | |
| <i>Rabbitte, Pat.</i> | |
| <i>Ring, Michael.</i> | |
| <i>Ryan, Brendan.</i> | |
| <i>Shatter, Alan.</i> | |
| <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> | |

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

Question declared carried.

Sitting suspended at 1.25 p.m. and resumed at 1.40 p.m.

Nomination of Members of the Government: Motion

The Taoiseach: I move:

That Dáil Éireann approves the nominations by the Taoiseach of Minister of State, Deputy Paschal Donohoe, Deputy Heather Humphreys, and Ministers of State, Deputies Alan Kelly, Jan O'Sullivan and Alex White for appointment by the President as members of the Government.

I wish to inform the House that the President, acting on my advice, has accepted the resignations of Deputies Pat Rabbitte, Ruairí Quinn, Eamon Gilmore, Phil Hogan and Jimmy Deenihan as members of the Government.

I also wish to inform the House that I am nominating Deputy Phil Hogan as Ireland's next member of the European Commission. I intend to nominate Deputy Ged Nash for appointment as Minister of State attending the Government and Minister of State at the Department of Jobs, Enterprise and Innovation with responsibility for business and employment. I confirm to the House that Deputy Paul Kehoe will continue to attend Government as Minister of State in my Department and at the Department of Defence and Government Chief Whip. I also intend to propose to the Government the appointment of Deputy Jimmy Deenihan as Minister of State at my Department and at the Department of Foreign Affairs with special responsibility for the Irish diaspora. Further appointments of Ministers of State will be made by the Government in the near future.

I intend to assign the following responsibilities to the members of Government: the Department of Defence to Deputy Simon Coveney, in addition to his current responsibilities; the Department of Transport, Tourism and Sport to Deputy Paschal Donohoe; the Department of Education and Skills to Deputy Jan O'Sullivan; the Department of Communications, Energy and Natural Resources to Deputy Alex White; the Department of Foreign Affairs to Deputy Charlie Flanagan; the Department of the Environment and Local Government to Deputy Alan Kelly; the Department of Children and Youth Affairs to Deputy James Reilly; the Department of Health to Deputy Leo Varadkar; and the Department of Arts, Heritage and Gaeltacht to Deputy Heather Humphreys.

I thank the outgoing members of the Cabinet for their service during what have been difficult times for our country. Individually and collectively, these former Ministers have played a major part in creating those all-important jobs for our people and in securing Ireland's economic recovery.

I already publicly and deeply thanked the former Tánaiste, Deputy Eamon Gilmore. As Tánaiste, over the last three years, he has been outstanding in the service of his country and of the Irish people. As Minister for Foreign Affairs and Trade, he has been central to restoring Ireland's international reputation, a restoration that has been vital for generating investor confidence and creating jobs.

Deputies: Hear, hear.

The Taoiseach: The former Minister, Deputy Pat Rabbitte's upgrading of broadband infrastructure has seen our country move up the international league table for high-speed connectivity, with all the attendant benefits for business, investment and jobs. Right now, high-speed broadband is being installed in all secondary schools, with plans in place for new investment

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across 1,100 towns and villages in rural areas.

The former Minister, Deputy Ruairí Quinn's passion for reform was an outstanding example of a ministerial career in various Governments. He took FÁS and transformed it into a new service for training and further education that will help many jobseekers get back into work. I wish him well in his retirement from politics. He will be missed.

The former Minister, Deputy Phil Hogan, introduced some of the biggest reforms of Government during his tenure that will have lasting benefits long into the future. I refer to such issues as local government reform, the effective banning of corporate donations, new building regulations, a new water service and dealing with ground water pollution from septic tanks and climate change. His record of implementing difficult, but necessary, change will stand to him as EU Commissioner, and I wish him well in his new role.

The former Minister, Deputy Jimmy Deenihan's tenure began what will be a successful decade of commemorations marking Ireland's path to independence. He made major progress on the inherited and long-ignored issues of protection of the environment, including the national bogs. Here, he negotiated with considerable sensitivity the plan to fulfil our environmental responsibilities while offering good solutions to landowners and turf cutters. I look forward to working closely with him in his important new role in connecting with the extensive Irish diaspora throughout the world. I congratulate the new members who are proposed for appointment as Ministers. This is a great day for them and their families and I look forward to working with each of them as we build on the progress made by Government over the past three years.

When this Government came to office rescuing Ireland's economy and restoring its reputation were our top priorities. We were a Government of national recovery and, through our carefully-assembled plan, we have achieved this. Crucially, our reputation as a safe bet for inward investment has been restored. Last December, thanks to the hard work and considerable sacrifice of the people, a sacrifice that at times they must have thought would never end, we exited the EU-IMF bailout. The clean exit of the bailout, without requiring a precautionary credit line or a second bailout, as predicted by many, has improved Ireland's standing and has allowed us to raise new funds so that we can safeguard the public services that our people depend upon in their lives on a day-to-day basis. With new policies to encourage job creation throughout the economy and with competitiveness high on our agenda we have seen encouraging progress in our stated aim, that is, to get our country working again. Last year alone saw 61,000 new jobs. That is not only over 1,000 jobs a week for men and women all over the country it is the highest employment growth rate in Europe. Through our ambitious but necessary reforms of the social welfare system, led by the Tánaiste, we are ensuring that we help the long-term unemployed back into work, where our hardworking and dignified men and women want to be.

For sure in these difficult years for our country we have not got everything right - in the circumstances I believe that no Government could - but over the three years we made the difficult but necessary decisions because we were determined that with this Government it would be people and country first and that we would, at last, get our country moving again in the right direction.

Since we exited the EU-IMF bailout, I am pleased to say that the economy has continued to recover strongly. Vital though this is and was, I emphasise that economic recovery was never the end in itself. Economic recovery is about creating the kind of environment where enterprise and jobs can thrive, where we can provide people with the kind of public services they deserve,

where they can put a decent roof over their heads and where we can give people confidence and security in their lives so that they can see from day to day that the great sacrifices they have made for the recovery will have been all worthwhile.

I am pleased to say that some people are beginning to experience this already. For them at last confidence is creeping in, life has improved and when I meet them I can see the relief and new hope in their faces and attitude. However, many more people are not yet experiencing the upturn. They have yet to see and measure the benefits of the recovery in their lives. I assure the people that their efforts and sacrifices to date will neither be taken for granted nor squandered by this Government. The resources we have at hand will be used to promote ever more job creation. It is by returning our country to full employment that we can best reach our goal of making Ireland the best small country in the world in which to do business, raise a family and grow old with dignity and respect.

As we enter this new phase of recovery let me pay tribute to the workers of Ireland. Despite waves of economic instability they got out and got to work, and, because they did, they got us and the country back on track. Today, we owe our workers our recovery. On every trade mission I have the privilege to attend on and at every meeting with foreign investors, I hear the lavish praise for the skill, commitment and dedication of our workers. Today, I say to them, particularly to the middle-income and low earners, that I know it has been galling and tough and I know that at times the anxiety has been very difficult. The Government has already removed 330,000 earners from the universal social charge. The introduction of that charge by a previous Government brought the top rate of tax to 52% for individuals and families on average incomes. This is neither right or tolerable for them nor sustainable for the country. The Government wants to make work pay for Ireland's families. Now especially we want to make their lives that bit better and easier.

The objective of Government should always be to create the conditions and supports to allow families to thrive, prosper and reach their full potential. A plan to make work pay will be a major part of our priorities for the remainder of this Government. Fairness and job creation go hand in hand. Everyone should have the opportunity to work and live their lives at home. The changes at Cabinet today reflect the best team to take that recovery forward. There is still so much to do and all of it is so urgent. The new Ministers will bring a new approach and energy to job creation and to ensuring that the recovery, for which people sacrificed so much, reaches every family in Ireland.

In the remaining months of this Government there will be a relentless focus on restoring our domestic economy so that we have rapid job growth on the scale needed to return our country to full employment. In addition to the Action Plan for Jobs we will target specific sectors of the economy for particular attention. Agrifood possesses great potential for Ireland. The agrifood sector is one of the biggest and best domestic industries. With the right supports, we estimate 25,000 new jobs can be created in this sector in the next seven years. The construction sector is another part of the domestic economy that has a critical role to play in our recovery and in creating new jobs. Right now, this sector is too small for the needs of our growing economy. We need high-quality business space to attract in new investment. The negative impact of the lack of housing supply in the capital is un-missable and unacceptable. To bring construction back to a sustainable position we have a clear plan to create 60,000 new jobs. One sector that has shown encouraging signs of growth since the Government introduced new measures within 100 days of entering office is tourism. Last year's The Gathering was a major success. This week the Government published a new tourism strategy to add 50,000 new jobs over the next

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decade. This year has also seen a shake-up in how local government will support local businesses. Now there are 31 new local enterprise offices nationwide to provide advice and support to people starting businesses at local level. To further help Irish retailers win new business this year the Government is targeting 1,000 outlets to start trading online by way of a new voucher scheme. By helping small Irish businesses trade online we expect 3,200 new jobs to be created in this area over the next two years. As the economy begins to recover we must value, protect and nurture our hard-won competitiveness gains. Creating a competitive business environment to support an increase in exports is essential to ensure Ireland achieves growth and, crucially, gets more of our people back to work.

These are just some examples of the hard work and the agenda that lies ahead. Each Minister will outline how he or she, in their portfolio, will promote jobs and better support our working families. In addition, shortly the Government will publish a statement of priorities for the remainder of our term of office. As we return to better or more normal times this document will outline how we intend to give a hand to working families and low and middle-income workers. We intend to ensure that recovery is deeply felt in every city, town and village throughout the country. It is true that Ireland has been through the wars. There is not a family in any part of the country that has not been affected. However, my message today is that we are already in recovery, things are beginning to get better and we intend now to ensure that they get better for every person. We know that the people are impatient to see and feel this recovery in their lives. They are impatient to see and feel the change for which they have made such sacrifices and the Government is every bit as impatient as they are.

I have a strong belief for our country. I have a great sense of faith in our people. In the time I have been privileged to be Taoiseach I have travelled all over the country. I have spoken to all manner of people and listened to their stories, sometimes of great loss or anxiety. I have learned that despite this, belief, fragile as it is, exists deep in our people. We can say we have learned from the difficult past only if we make sure not to repeat it. With the actions and decisions that the Government has taken, as bitter and unwelcome as many of them have been, I believe we will not repeat that past.

2 o'clock

Rather, there is both the will and the possibility now to move forward, rebuild, renew and recreate. There is a chance for change - a welcome and overdue change. We are not just gritting our teeth and keeping the head down and surviving, but also hoping we can get to live our lives in the way people would expect. In government we will give every help, opportunity and support to make that happen. It is both our intention and our duty to do so.

Tánaiste and Minister for Social Protection (Deputy Joan Burton): Many individuals, families and communities have experienced the worst of times since the economic crisis first struck seven years ago, but I am optimistic that the best of times are still ahead of us because a window of opportunity has opened for the country. Today, the Government is setting out how it will avail of that window to ensure the recovery improves living standards for every person, family and community. In other words, we will deliver social recovery to accompany the economic recovery firmly under way to ensure the recovery works for the many, not just the few, and the burden borne by the people has not been carried in vain. This means an unrelenting focus on jobs, increased living standards and affordable homes for the people. I look forward to working with the Taoiseach and our coalition partners to make this social recovery happen.

When the Government took office, the economy was on the brink of collapse and threatening to bring down social cohesion with it. Now, it is clear that considerable progress has been made in the job of economic repair. The economy grew by a healthy 2.7% in the first quarter of the year. Unemployment has fallen for 24 months in a row and down to its lowest level since 2009. Exports are at an all time high and Government borrowing is falling rapidly.

In a little over three and a half years, the Labour Party and Fine Gael in government have restored financial stability, ensured Ireland's successful exit from the EU-IMF bailout programme and overseen a return to economic growth. In that regard, I thank the former Tánaiste and Minister for Foreign Affairs and Trade, Deputy Eamon Gilmore, for his principled leadership and unyielding resolve to put Ireland on the road to recovery.

Deputy Mattie McGrath: After shafting him.

Deputy Joan Burton: I also thank the former Minister for Education and Skills, Deputy Ruairí Quinn, and the former Minister for Communications, Energy and Natural Resources, Deputy Pat Rabbitte-----

Deputy Mattie McGrath: Where is he?

Deputy Joan Burton: -----for their immense contributions, not alone to the Government's work but also to public life. Eamon, Ruairí and Pat have always fought-----

Deputy Mattie McGrath: Tom, Pat and Mary.

Deputy Joan Burton: -----for progressive change in the best interests of the people and will continue to do so.

Deputy Mattie McGrath: Where is Pat?

Deputy Joan Burton: The progress we have made in economic recovery has created the conditions to place an equal emphasis on social repair. I am confident that, through the statement of priorities we are publishing today and the Government's determination to see these priorities achieved, we will successfully deliver social and economic recovery.

Social recovery starts with jobs because secure work is the single best protection against poverty. As such, the Government will continue to strengthen the domestic economy and implement policies that fuel growth and prioritise new jobs for the unemployed through the Pathways to Work strategy. Helping small and medium-sized businesses to prosper again will be crucial to increasing employment. The Government will establish the strategic bank to channel billions of euro of much-needed finance to small to medium-sized enterprises, SMEs, in the next four years. In turn, this will create thousands of new jobs, but they must be jobs that pay decent wages in order that people do not need to fall back on welfare.

One of the first actions I took on becoming Minister for Social Protection was to restore the minimum wage to €8.65 per hour. Today, I am pleased to announce that the Government will establish a low pay commission on a statutory basis as an independent body to make annual recommendations to the Government on the appropriate level of the minimum wage and related matters. By taking politics out of the issue of low pay, we will ensure there will be no more attacks on low-paid workers to suit short-term whims. We will also prioritise the enactment of the collective bargaining legislation as approved by the Government to protect and further enhance workers' rights. I am delighted that a Cabinet super junior Minister with responsibility

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for SMEs, collective bargaining and the low pay commission is being appointed to the Department of Jobs, Enterprise and Innovation to ensure delivery of these priorities.

Deputy Mattie McGrath: Will we have a bit of the cake?

Deputy Joan Burton: If we are to raise living standards, pay and conditions are only part of the solution. The Government has broadened the tax base and put it on a sustainable foundation in order that there will be no repeat of the collapse of the public finances that occurred when the crisis struck. That work will gradually allow us to reform the income tax system for low and middle income workers, the people who often have to cope with everything, to reduce the amount they pay and allow them to share in the recovery. This is in keeping with the work the Government has already done in removing 330,000 low paid workers from the universal social charge net.

Building social recovery for workers and their families also means building homes for them in which to live. We have moved from a situation where we were building far too many houses in the wrong areas to one where we are building far too few in the right areas, particularly in Dublin.

Deputy Dessie Ellis: There are no wrong areas.

Deputy Joan Burton: This is reflected in significant upward house price pressure and an increase in rents, which is having a disproportionate impact on low income families. It is imperative that we move urgently to improve the supply of housing for both home purchasers and those renting. In recent weeks I made it abundantly clear that a Labour Party priority in the remainder of the Government's term would be to deliver a major social and affordable housing programme. Housing will be the No. 1 priority of the Department of the Environment, Community and Local Government for the remainder of that term. We will set in train a construction programme to triple the number of houses built to 25,000 a year by 2020. We will also explore creative ways of funding social housing provision and task NAMA to maximise its potential to deliver homes for families. Currently, 80,000 construction workers are unemployed. Such a programme would create a virtuous circle, helping them back to work, while providing homes for families. Helping people back to work creates a second virtuous circle - it improves the public finances and creates room for investment in quality public services which are absolutely essential to the task of reducing inequality in society. It is through quality public services that every child receives an education, regardless of his or her parents' income. It is through quality public services that everyone has access to health care, regardless of income. When people have little or no income, quality public services ensure a strong welfare safety net to protect them. Public services will be central to the task of social repair ahead of us. Those who work in and devote themselves to public service will be central to fulfilling this mandate on behalf of the people.

We will put education at the front and centre in the new cycle of investment because the Government cherishes and values education. We have demonstrated that in the programme of new school buildings and refurbishment delivered in every part of the country by the former Minister, Deputy Ruairi Quinn.

Deputy Mattie McGrath: With the closing of rural schools.

Deputy Joan Burton: We have a window of opportunity now to build a social recovery, and by making education central to that social recovery, we can deliver a world of opportunity

for all of our children.

This Government will also embark on a new cycle of political reform to restore trust in our institutions and public life. My colleague, the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, has done a huge amount of work in this area, introducing groundbreaking legislation to protect whistleblowers and he has restored the Freedom of Information Act, among numerous other measures introduced by the Government. However, we can and must go further and by the end of this year we will introduce an independent Garda authority to restore confidence and accountability in our policing system. We will also complete a review of the operation of the judicial appointments system to ensure an appointments system that is open, transparent and accountable, and we will enact the lobbyists Bill. Next year, we will bring forward legislation to establish an electoral commission to ensure best practice and probity in our election processes. We will hold a number of referendums on the recommendations made by the Constitutional Convention to improve our public life. We will also hold a referendum on marriage equality next spring and I look forward to working with the Taoiseach to win that referendum and to win the approval and consent of the Irish people to change our Constitution. It is their decision but I hope that many, if not all, of the parties in this House will support the electorate in reaching that choice.

I want to see an all-island recovery and that means working together, North and South, on investment, jobs and growth to deliver prosperity to all the people on the island. Essential to that task is preserving the peace and ensuring political stability in Northern Ireland. I fervently hope that dialogue can resume and that violence can be avoided during the parades season. The Government will continue to work closely with the British Government, the US Administration and the parties in the Executive to break the political deadlock and ensure we preserve the hard-won peace, and continue on the road to all-island prosperity. We will also work with our counterparts in Europe to ensure the EU prioritises the social recovery too by focusing on jobs, investment, growth and equality. We also have unfinished business on our legacy bank debt and we will continue to work through diplomatic channels to build international support for measures to reduce that debt burden on the Irish people.

Today, this Government has set out a very ambitious agenda recognising the opportunity that now exists to build the social recovery, and our commitment to delivering it. This vital window of opportunity must not be lost because the people of this country suffered hugely as a result of a crisis they did not cause, endured while this Government implemented the necessary policies to end it, and now must feel the benefits of the recovery in their lives. That is our task, and we will work with head and heart to deliver it.

Deputy Micheál Martin: Caithfidh polasaithe an Rialtais agus a Airí a bheith mar threoir bhunúsach nuair a dhéantar aon athrú ar mBinse Tosaigh. Is é seo croílár na hoibre inniu. Gan amhras, caithfear a thuiscint agus a chur san áireamh cé chomh tábhachtach is atá an lá inniu do Theachtaí Dála áirithe. Tá sé mar shólás acu siúd atá ag fágáil an Rialtais go raibh sé de phribhléid acu freastal ar mhuintir na hÉireann ag an leibhéal ab airde. Tá cúis mhór acu siúd atá le ceapadh mar Airí Sinsearach a bheith bródúil as an méid atá bainte amach acu agus as an ardú céime seo inniu.

On behalf of my party, I would like to congratulate those who have been promoted. I know that each of them has behind them family, friends and supporters who have the right to be proud of their nominations to serve in government and also of their roles in helping them reach this day.

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Our new Tánaiste, Deputy Burton, secured an overwhelming endorsement from the activists of the Labour Party to lead her party.

Deputy Mattie McGrath: God bless them.

Deputy Micheál Martin: This is the pinnacle of a long career. It is absolutely clear that she has benefited from the exceptional support and encouragement of her family. We extend to her our congratulations on her achievement again.

It is natural that much of the coverage of today's reshuffle will be about personalities. The winners and losers will be raked over and undoubtedly stories will emerge of deep arguments and disappointments; we have heard some already. However, this must not distract us from the substance. It is not the personalities that matter but the policies they implement. All the evidence is that very little will change because of this reshuffle. It is a bit like cosmetic surgery - nothing major has changed. The public want a new direction not just new faces, but they have not got that new direction.

As the Taoiseach and Tánaiste have just said, they believe that they have been fundamentally correct in the past three and a half years. Yet today they are publishing a new policy document, or will do so shortly as the Taoiseach said, after spending the last few days essentially tinkering around the edges of the programme for Government rather than making any significant policy changes.

The Taoiseach: The Deputy has not read it yet.

Deputy Micheál Martin: They think that they may have communicated badly, they may have made a few mistakes, but they do not see what the rest of the country sees, a Government which has been deeply unfair and which has created a two-tiered recovery-----

Deputy Mattie McGrath: Hear, hear.

Deputy Micheál Martin: -----a Government which abandoned most of its promises on the day after the election-----

Deputy Arthur Spring: The Deputy's party abandoned the country.

Deputy Brendan Howlin: With its partisan policies.

Deputy Micheál Martin: -----and a Government which has put politics first in everything it does. According to them, they are unpopular because of tough decisions. This is nonsense.

Deputy Mattie McGrath: They are out of touch.

Deputy Micheál Martin: They are unpopular because so many of their decisions have been unfair, have caused avoidable damage and have been about managing the news cycle rather than shaping a better future for all parts of our society.

If we look back at the budgets and major announcements of this Government, we find a constant effort to make claims which were the direct opposite of the truth. Every one of them has been sold as being fair, protecting the weakest, spreading recovery, decisive and visionary. To be fair to the Government, its emphasis on spin has often succeeded in terms of headlines and commentary. However, this immense campaign of spin has rebounded on the Government.

Deputy Arthur Spring: Look at the facts. That is rubbish.

Deputy Micheál Martin: The people who claim to have delivered a democratic revolution while at the same time actively and significantly tightening Government control over the Oireachtas are not being listened to by a public which has grown cynical of everything it says.

Deputy Aodhán Ó Ríordáin: Just like Garth Brooks did.

Deputy Micheál Martin: The long list of issues which the Taoiseach and Tánaiste have sought to claim credit for in their speeches is yet more of the same.

As the OECD recently reported, the overwhelming reason for improvements in the economy has been a combination of international circumstances and the long-term strengths of the Irish economy, particularly the skills of our people. Public finances have benefited from a series of major changes in European Union policies, particularly interest rate cuts negotiated by other countries and extended automatically to Ireland. The OECD, in a report requested by the Government, exposed the spin when it said-----

Deputy Arthur Spring: What was the rate when the Deputy left office?

Deputy Micheál Martin: -----that it could not point to a specific effect the Government's jobs plans have had on employment.

Deputy Brendan Howlin: Seventy thousands jobs.

Deputy Mattie McGrath: In Canada.

Deputy Micheál Martin: That was a diplomatic way of saying "don't try and use us to back up your claims to have created thousands of jobs."

However both Irish and international studies agree that Fine Gael and the Labour Party have had a significant impact in one area; they have made fiscal policy dramatically more regressive. They replaced a policy of putting the biggest burden on those with the most to one of putting the biggest burden on those with the least.

Deputy Arthur Spring: Says the guy who wanted more cuts in social protection, did he tell the people that?

Deputy Patrick O'Donovan: The Deputy's party landed us with a bill for €60 billion.

(Interruptions).

An Leas-Cheann Comhairle: Deputy Martin has the floor, please allow him to continue without interruption.

Deputy Micheál Martin: I would like to point out that I allowed the Taoiseach and Tánaiste their opportunity to speak without any interruption.

Deputy Arthur Spring: They were factual.

Deputy Micheál Martin: I would like if we could have some gesture towards democracy-----

Deputy Arthur Spring: Say that again.

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Deputy Micheál Martin: -----from the very rattled Labour Party backbenchers who are looking more rattled by the day.

The facts are so clear that this year, for the first time in 20 years, the budget documentation did not include figures on the impact of changes on different income levels. As new taxes and charges mount, we should remember there were ten new tax increases in 2012, 20 in 2013, and a further ten in 2014. This was the Government's commitment to workers over the past three years in terms of its budgets and comments in relation to taxation.

Fine Gael and the Labour Party issued hundreds of press releases claiming to be fair and to be helping the coping classes while trying to hide the details of yet another regressive budget last October. For three and a half years many in government were living in denial, operating under the belief that the public would give them credit for every positive development, whether or not they had made it happen. They also hoped it could continue running its speeches of the last election so that people would blame the previous Government for everything negative, regardless of how much the policies were linked to decisions of Labour Party and Fine Gael Ministers. In May, this strategy came to a crashing halt. For the first time even Government's most uncritical and naive supporters understand that the public is angry with this Government. The public does not just want a change of faces; it wants a major change of direction. However, that is not what it is getting.

Deputy Mattie McGrath: Paddy knows.

Deputy Micheál Martin: As confirmed last Monday by the Minister, Deputy Noonan, all the public is getting is another public relations campaign. He let the cat out of the bag when he said that all that was being discussed was a nuancing of the programme for Government agreed three and a half years ago.

Deputy Mattie McGrath: Paddy found out.

Deputy Micheál Martin: There will be an effort to show some concern on a handful of issues, but the core policy programme remains the same. The Tánaiste has talked at length over the past month about a new approach to the Labour Party's participation in this Government. She has implied that major changes are on the way. The detail of what has been announced shows this to be more empty rhetoric.

Deputy Brendan Howlin: Deputy Martin's speech was written before the announcement.

Deputy Micheál Martin: The Tánaiste sought the Commissioner position for Deputy Gilmore and ministerial responsibility for the Department of Jobs, Enterprise and Innovation, but all she has successfully negotiated responsibility for is the property tax and water charges by securing ministerial responsibility for the Department for the Environment, Community and Local Government.

(Interruptions).

An Leas-Cheann Comhairle: Order, please.

Deputy Micheál Martin: These were two major issues which the Labour Party opposed in opposition and said they would not implement.

Deputy Arthur Spring: The late Brian Lenihan signed off on that.

(Interruptions).

Deputy Micheál Martin: How often does the Labour Party have to roll over in this Government?

Deputy Emmet Stagg: Fianna Fáil proposed to introduce a water tax of €400 per household.

Deputies: Hear, hear.

Deputy Micheál Martin: It is incredible what it has negotiated versus what it sought in advance of the negotiations on the reshuffle of the Cabinet. What is most striking is that the Tánaiste has identified as priorities areas in which she personally played a significant role in creating problems.

Deputy Michael Noonan: It is no wonder Brian Crowley left.

Deputy Brendan Howlin: It was the one seat Fianna Fáil had left.

Deputy Micheál Martin: Since the election, the Tánaiste has specialised in a major conjuring trick of both being part of the Government and distancing herself from it. Deputy Howlin would know all about that.

Most journalists have at some point printed articles about how unhappy the Tánaiste has been with the Labour Party's performance in government. She has encouraged the idea that the worst policies would never have happened if she had been in control. In her record as Minister for Social Protection, the false claim that she has been a lone fighter for greater fairness is exposed. Time after time she has implemented changes and cuts while trying to pretend that they were socially progressive when they were the exact opposite. Not only has she agreed policies at Cabinet that imposed new charges and taxes on people below the living wage; she has led the charge in her own Department. While missing from the speeches we have just heard, the sheer scale of the Tánaiste's targeting of low-income groups includes cuts in child benefit, jobseeker's allowance for young people, maternity benefit and the back-to-school footwear and clothing allowance, and the abolition of the cost of education allowance. She is also responsible for the cut in the respite care grant, the abolition of the redundancy rebate, the slashing of the household benefits package, the abolition of the telephone allowance and the cut to jobseeker's benefit and disability allowance for young people, although this was reversed under pressure. She also cut the fuel allowance and the one-parent family allowance, undermined farm assist and abolished the bereavement grant. Whatever the Tánaiste has been in this Government, a dissident from its unfair policies is not one of them.

Last Tuesday, the Society of St. Vincent de Paul, in a presentation to Fianna Fáil, told us that households with children and lone-parent families are now top of the queue in looking for its help and assistance. There is a sense of despair and hopelessness out there which blights life for many who are unable to see a better future for themselves or their families.

Deputy Bernard J. Durkan: It was crafted by Fianna Fáil.

Deputy Micheál Martin: We have been told that social housing is to be a new priority for the Labour Party.

Deputy Robert Dowds: Fianna Fáil was responsible for houses built in all the wrong places.

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Deputy Micheál Martin: There is no doubt that there is currently a major social housing crisis, which has escalated dramatically in the past year.

Deputy Bernard J. Durkan: Fianna Fáil has done nothing about it for the past 15 years.

An Leas-Cheann Comhairle: Order, please.

Deputy Finian McGrath: Fine Gael and the Labour Party are in government.

Deputy Micheál Martin: The truth hurts. As every Deputy knows, the biggest driver of this has been the restriction of the rent supplement scheme introduced by the Tánaiste. Every day new cases emerge of families being forced into critical situations. The Minister who proposed and implemented this policy is now Tánaiste and is now telling us how concerned she is about social housing.

Deputy Derek Nolan: Nobody is listening to the Deputy.

Deputy Micheál Martin: We are told now that the Labour Party is taking over responsibility for the Department of the Environment, Community and Local Government to control the housing agenda. This must be a great surprise to Deputies Penrose and Jan O'Sullivan, who have held responsibility for housing at Cabinet for the past three and a half years. Who do people think they are coddling? The Labour Party has had responsibility for housing policy for the past three and a half years, as the former Minister of State, Deputy Jan O'Sullivan, is well aware.

Deputy Mattie McGrath: And Paddy knows it.

(Interruptions).

An Leas-Cheann Comhairle: Order, please.

Deputy Micheál Martin: If the Government was sincere about social housing, the first thing it would do is to abandon its policy on rent allowance.

Deputy Aodhán Ó Ríordáin: Fianna Fáil did nothing about social housing.

Deputy Bernard J. Durkan: It should abandon its policies.

(Interruptions).

Deputy Micheál Martin: The first thing the Government should do is abandon-----

Deputy Aodhán Ó Ríordáin: The whole social fabric of-----

An Leas-Cheann Comhairle: Deputy Ó Ríordáin, please.

Deputy Micheál Martin: -----its policy on rent allowance, which is causing huge problems. Government members can shout and heckle all they like.

Deputy Finian McGrath: Hear, hear.

Deputy Micheál Martin: Anybody who knows anything knows it is a real issue. The rent allowance changes are forcing people into squalor and away from their communities. That is the bottom line and the truth.

Deputy Bernard J. Durkan: Created by Fianna Fáil.

Deputy Micheál Martin: This is the same Government that introduced the property tax and is doubling it this year despite the fact that more than 93,000 mortgages have been in arrears for over three months and 35,314 homeowners have not been able to pay their mortgages for over two years.

Deputy Arthur Spring: That is Fianna Fáil's legacy.

Deputy Michael Noonan: Not a word yet about the future.

Deputy Micheál Martin: Despite this, Fine Gael and the Labour Party, rather than introducing an independent mortgage resolution office, as suggested over three years ago by Fianna Fáil, insist that the mortgage issue should be left in the hands of the banks.

Deputy Brendan Howlin: No such thing.

Deputy Micheál Martin: The much heralded insolvency legislation has not delivered tangible benefits. At the end of March, only four insolvency arrangements had been concluded.

Deputy Brendan Howlin: It has only started.

Deputy Micheál Martin: This brings into clear focus the warning made by Fianna Fáil when that legislation was going through the Dáil.

Deputy Mattie McGrath: The eviction Bill.

Deputy Micheál Martin: The Tánaiste may well have stored her "Gilmore for Taoiseach" posters in the garden shed, but she has no such alibi for the large and still growing list of broken promises and unfair decisions for which she and her colleagues have been responsible.

Deputy Michael Noonan: The Deputy has been speaking for 20 minutes and has not said a word about the future.

Deputy Micheál Martin: One of the great challenges remains not just the creation of jobs but the creation of decent and sustainable jobs.

Deputy Arthur Spring: Where is Fianna Fáil's plan?

Deputy Ciara Conway: Where is its vision?

An Leas-Cheann Comhairle: Deputies, please.

Deputy Micheál Martin: The Government's jobs policy to date has been about claiming credit for jobs rather than actually making an impact. This is the Government that closed enterprise centres throughout the country so that they could be renamed and reopened with a fanfare.

Deputy Brendan Howlin: What did Fianna Fáil do in 14 years?

Deputy Micheál Martin: The same has happened with many enterprise and innovation initiatives. The most recent Government report on action on jobs goes as far as to claim as a new action research centres that have been open for over a decade.

Deputy Brendan Howlin: Seventy thousand jobs have been created.

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Deputy Mattie McGrath: In Canada.

Deputy Micheál Martin: We need a Minister who puts aside the spin and gets serious about the crisis still faced by SMEs. They have no access to finance, face punitive charges and are tired of a Government that claims everything is fine when it manifestly is not.

Deputy Brendan Howlin: Does Deputy Martin have anything positive to say?

Deputy Micheál Martin: The two-tier recovery will be entrenched unless our SMEs are supported, and it is significant that this is not a priority for the reshuffled Government.

Deputy Arthur Spring: Read the document.

Deputy Micheál Martin: Retailers and business in towns across Ireland are in deep trouble and no radical change in direction has been heralded for them.

Deputy Brendan Howlin: The Deputy has not read the document.

Deputy Micheál Martin: I wish the former Minister of State, Deputy Alan Kelly, well in his new role.

Deputy Mattie McGrath: Hear, hear.

(Interruptions).

An Leas-Cheann Comhairle: Order, please.

Deputy Micheál Martin: He has already set himself the goal of reorganising and rebuilding the Labour Party organisation and announced his own elevation to Cabinet. Perhaps some of this energy will show itself in his new Department.

Deputy Ciara Conway: That is number one ticked off the list.

Deputy Micheál Martin: The Tánaiste served as deputy leader of the Labour Party for the past seven years. I am sure she will be looking forward to Deputy Kelly carrying out his function and providing her with the support on which Deputy Gilmore relied.

Deputy Mattie McGrath: I am not so sure.

Deputy Paudie Coffey: Just like Deputy Éamon Ó Cuív.

Deputy Dominic Hannigan: When is the Fianna Fáil reshuffle?

Deputy Micheál Martin: The former Minister for Health, Deputy Reilly, has every right to be annoyed at being presented as the scapegoat for a health sector which is engulfed in crisis at every level. The policies he implemented, against which there has rightly been a growing public backlash, were Government policies, not his alone, although he must also bear significant responsibility for them. When the campaign to remove medical cards was cranked up, it was on the orders of the Government, particularly the Minister for Public Expenditure and Reform, Deputy Brendan Howlin.

Deputy Finian McGrath: A Labour man.

Deputy Micheál Martin: When hospitals were given unsustainable budgets, it was on the

orders of the Government. When scarce resources were diverted to damaging reforms, it was to implement agreed Fine Gael and Labour Party policy.

Deputy Brendan Howlin: Is there any word of positivity?

Deputy Micheál Martin: When 1 million health insurance policies were hiked, it was not the Minister for Health, Deputy James Reilly, alone who did it; it was a Government that claimed it was hitting only “gold-plated policies”. This year’s funding crisis has at its core a decision taken by other Ministers to censor the HSE’s annual plan by insisting that services be maintained, even where funding was being withdrawn. A system which had been delivering major improvements in services and doing so within budget has been undermined by a Government that will not even acknowledge the cutbacks it is imposing.

The announcement on Wednesday of introducing free GP cards for the over-70s, while, at the same time, removing full medical cards from the same age group just because they were slightly above the new income criteria that the Government introduced, was deeply cynical. The Taoiseach and the Tánaiste have not announced any new direction in health policy. They have not announced the abandonment of the compulsory insurance system or made any credible commitment to protect services.

We also need a new direction in the education sector where cutbacks and ill-judged changes are causing real damage. In education the Labour Party did not just break its promises; it did the exact opposite of what it stated it would do.

Deputy Aodhán Ó Ríordáin: Total nonsense.

Deputy Micheál Martin: Its first cutbacks were in services for disadvantaged pupils and special needs children. Then it hiked third level fees and abolished grants for postgraduates. Incredibly, it even abolished all dedicated support for guidance and counselling services in schools. Is it proud of this?

Deputy John Lyons: Children were in prefabs for years.

Deputy Micheál Martin: That was an appalling decision, making young people vulnerable in an ever challenging, complex world.

Deputy John Lyons: Fianna Fáil sat there-----

Deputy Micheál Martin: I love the democratic input of Labour Party backbenchers who do not even have the courtesy to allow others to address the House in the time allotted.

The bottom line is that it was deeply cynical and appalling to get rid of guidance and counselling services from schools. Young people face many challenges in a complex world and the Government has denied them the valuable resource they require. No other sector has so consistently shown an ability to deliver major improvements and no sector needs as badly a Government which believes in respecting professionals.

We also need a new direction in policy on Northern Ireland. For nearly three years I have been repeatedly warning about the impact of the disengagement of the Government and the British Government. They have adhered to a policy of leaving everything to Sinn Féin and the DUP and hoping things will work out. Last year the Government even nodded in agreement as Sinn Féin and the DUP went to London to launch a blueprint for the economic future of North-

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ern Ireland which made no mention of any cross-Border or whole-island dimension. We need a Minister for foreign affairs in Northern Ireland who understands this and will start to show a real commitment to the process of peace, reconciliation and development.

The need for a new direction in Europe is more obvious than ever.

Deputy Patrick O'Donovan: Does Fianna Fáil have an MEP?

Deputy Micheál Martin: Simply standing to the side and hoping everything works out has not worked and will not. The Taoiseach has yet to outline how he and the Government believe the European Union should be reformed to allow it to emerge from the austere policies of the last six years. Ireland has not received full justice for its case in the Union and the Government has yet to begin articulating a demand, let alone push for it. Following agreement at the June 2012 European Council meeting, the Taoiseach and the then Tánaiste spoke about the game changer on how Irish banking debt would be dealt with, but two years later there has been no movement whatsoever. The Tánaiste's speech confirmed it was indeed Frankfurt's way, not Labour's way, that was ruling the roost.

Elements in Fine Gael briefed the media earlier this week that they wanted the Ministry for education because of the threat to small schools. They did this three years after the former Minister, Deputy Ruairí Quinn, had made it clear that he saw small rural schools as inefficient and ripe for rationalisation. They did it after the campaign to close rural Garda stations and the justice system had been nearly shattered because of the decisions of the former Minister, Deputy Alan Shatter, who had refused to listen to the people's concerns.

With regard to agriculture and food and the needs of rural Ireland, rural communities need sustainability. This has to be continued through the pillars of the CAP and central Exchequer funding.

In the midst of all of the pictures and stories today about new faces, there is no commitment to a new direction. The policies that have so angered the public, the deep unfairness of most major decisions and the two-tier recovery which even today the Government has hailed as its greatest achievement still remain. All we have been offered are a few sound bites intended to resurrect the political and electoral fortunes of Fine Gael and the Labour Party but which reveal the decision to double down on the policies of the past three and a half years. There is no point in the Government talking about giving relief to hard-pressed-families when it is pushing ahead with deeply regressive and unfair water and property taxes. There is no point in talking about social housing when it is leaving in place rent allowance restrictions which are at the core of the crisis. There is no point in claiming to care about health and education when it is continuing with changes which are delivering chaos and undermining services. The Government has stated it wants this to be a "reset" moment for it, but it is nothing of the sort. It is changing some of the faces, but the core strategy, the core unfairness and the core reality of spin and broken promises remain unchanged.

Deputy Brendan Howlin: Nothing positive.

Deputy Timmy Dooley: The only positive aspect is that Deputy Brendan Howlin is still in the Cabinet. That is good for us. His attention is positive for us.

Deputy Gerry Adams: Gabhaim comhghairdeas leis na Teachtaí a bhfuair postanna nua agus a dteaghláigh. Mo chomhbhrón leis na Teachtaí a chaill anseo.

This morning I returned to the speech the Taoiseach made on 9 March 2011 on the nomination of his Government. Three years is a long time in politics. In that time all his fine words have faded. Mar a deireann an seanfhocal, “Is maith an scéalaí an aimsir.” He may remember that he then told us that “We are on the threshold of a new era of achievement, prosperity and potential.” He talked about how the Republic had been betrayed and how people were frightened about losing their homes. He stated: “Parents are rendered speechless at the sight of their children boarding planes to countries [here he waxed lyrically] where spring is autumn and our today is their tomorrow.” He went on about workers praying for invisibility as they queued for the dole and the worry that neighbours might see the representative of the Society of St. Vincent de Paul calling at the door. He promised that what had been done would “most certainly not be done again.” He committed to “create a new Ireland that works and is fair and honest.” He spoke about a covenant with the people. He promised “to close the gap between politics and the people, between Government and the governed.” He has done none of these things. In truth, he has done the opposite. The people are not stupid. That is why the Government parties did so badly in the recent elections. Citizens kept a report card on the Government and marked it clearly; they marked it with the word “Failure”.

In his speech in March 2011 the Taoiseach did not mention the North. Under his watch, the peace process is facing fresh challenges. The anti-Agreement elements are renewing efforts to undermine and destroy the power-sharing and all-Ireland political institutions. While I welcome the comments of the Tánaiste on the peace process, in his speech today, as in 2011, the Taoiseach did not mention the North. The Government needs to be seized by the urgency of the current situation. There is an onus on it to take a lead in defending the peace process and ensuring the necessary momentum for change is reinvigorated. In its term the North has generally been mentioned by Fine Gael, the Labour Party and Fianna Fáil in a futile attempt to attack Sinn Féin. That is no way to deal with the partition of the island and its consequences and the necessary job of building good relations with our Unionist neighbours, nor is it the way to get the British Government to adhere to its obligations under the Good Friday Agreement. This forms no part of the priorities set out today, which is not good enough. The Taoiseach is a co-equal guarantor of the Good Friday Agreement and it is time the Government lived up to that responsibility. It should do so not only on the day before 12 July but every day.

The Taoiseach had the opportunity to change political direction in his announcements so as to be socially conscious and fair and make the rhetoric of his speech in March 2011 a reality, even belatedly. Theip air é seo a dhéanamh. Tá daoine fós ag fulaingt. For struggling families, a Cabinet reshuffle is of no consequence whatsoever unless it can bring positive change in their daily lives. The new Cabinet the Taoiseach has announced is no different in political outlook or approach from the outgoing Cabinet. It is, in turn, no different from that of his Fianna Fáil predecessors. That has been the tragic record of politics for decades in this State. Three years ago, the Taoiseach’s rhetoric was all about a democratic revolution, but that is not what happened. The Government has broken one election promise after another.

When the troika was here the Taoiseach dishonestly blamed it for his decisions, even though he embraced and continues to embrace austerity with a passion. His Government has been the EU’s good little boys and girls, doing it Frankfurt’s way by giving the people’s money to the banks and heaping private banking debt on long-suffering families. However, since the troika left, even though its mentality is alive and well in the Cabinet room, he has steadily lost control of political events, as his Government stumbles from one embarrassing debacle to another. The time of the stumble was when the big boys left.

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This is probably best represented by his handling of the crisis in the justice system and in the Garda. The Taoiseach spent months defending a dysfunctional system and attacked the Opposition for asking entirely legitimate questions. He strongly rejected suggestions that the Minister for Justice and Equality should resign in the face of mounting scandals. He adopted the same attitude in respect of the Garda Commissioner before he had to go. The Taoiseach ignored, dismissed and ridiculed warnings from Sinn Féin and others about the way his Government was reacting to these serious issues.

Arrogance has crept into the way this Government does its business. That arrogance is evident in the appointment of political cronies to State boards in the run up to today's Cabinet reshuffle. In the dying days of the last Government, Fianna Fáil packed State boards with its cronies, and it was loudly and rightly criticised at the time by the Taoiseach. Now, however, the Taoiseach is doing the same thing. He also sought to retain control over the banking inquiry by stacking it with Government Deputies and Senators. His Ministers have favoured their own constituencies for funding. The Taoiseach also said he would not cut child benefit or supports for citizens with disabilities, but he has done both. He said he would get a deal on the banking debt, but he failed to get such a deal. What the Taoiseach has delivered is cuts to living standards and vital public services, an unsustainable banking debt for decades to come, ten people - mainly young people - emigrating every hour, hundreds of thousands of families in mortgage distress, a homelessness crisis, a crumbling health service, a family home tax and water charges - buille ina dhiadh buille tubaisteach eile dírithe ar ghnáth daoine an Stáit seo.

Sin an fadhb mór leis an Rialtais seo - thug sé cosaint don ciorcal órga. There is plenty of money for consultants, investors, bankers and politicians, but little for children with disabilities. The number of special needs assistants has been cut back and senior citizens have been hit by the Government again and again.

Most citizens understand that people must shoulder their share of the burden of recovery, given the way Fianna Fail left the country. People know that, but they resent the unfair way this is being done by a Government which is clearly ruling in the interests of the elites. I have met parents, and I am sure the Taoiseach has too, whose children have all emigrated. They are the Skype generation, the scattering. These people and their families know exactly who is responsible for their forced emigration.

Today's Cabinet reshuffle changes none of this. Being in government is about making choices. This Government could have made different choices. Tá bealach níos fearr ann. Last October, Sinn Féin put forward budgetary proposals based on fairness. These would have reduced the deficit, reduced tax on families, protected public services and invested in jobs. The Government chose a different route which has led to hardship for ordinary citizens. It is time that this Government gave ordinary families a break, rather than rhetoric. October's budget must give something back. It must ease the tax burden on working people and distribute the burden of recovery more fairly. However, people have lost any hope that the Government will do this.

Since the last elections, Fine Gael and the Labour Party have said they will subject Sinn Féin's economic policies to greater scrutiny. I welcome that. There is a need for an honest, forthright and genuine discussion about a different economic approach. However, the Government's view of the economy is based on its core political values. If one supports privatisation and does not believe in the right to public services, one will have a particular view. That view is best represented by this Government's austerity policies. However, if one believes in a real

republic, a citizen-centred, rights-based society, the right to a home, the right to universal health services and access to education, the right to freedom and equality and if one believes, most important, in solidarity, that will shape one's economic policy. That is the ground on which Sinn Féin stands.

During the period of the Celtic tiger economy, Sinn Féin pointed out the dangers of the developing property bubble and the potential for an economic crash. We warned about the over-reliance on taxes from the property sector, the over-dependency on construction and the danger of auction politics. We argued for the wealth of that economy to be invested in real, sustainable jobs, public services and infrastructure. We were ridiculed by the same people whose flawed, greedy, self-serving policies collapsed the economy, forcing hundreds of thousands out of work and almost half a million of our young people overseas. Sinn Féin was right then and Sinn Féin is right now.

We believe that it is possible to make the necessary deficit adjustments without harming families or front-line services. The Cabinet made the decisions, not individual Ministers. Time and again, we have been told that each decision was a Cabinet decision. It is possible to create real jobs. It is possible, although the Government might consider this a strange thing to hear, to ask the wealthiest to pay more. What is wrong with that?

Deputy Simon Coveney: They do.

Deputy Gerry Adams: It is possible to cut waste in public spending. The property tax, water tax, removal of medical cards, mortgage distress and lack of social housing have pushed people to the limit. The Members opposite are bound to know that. They do not need me to point it out. They all represent people in their constituencies, so they must know it.

Let us see some scrutiny not only of the policies of Sinn Féin but also of the policies of Fine Gael, the Labour Party and Fianna Fáil, which state that for decades to come our children and grandchildren should be forced to pay for the greed of the bankers, developers and corrupt politicians. That is not right or fair, and the Taoiseach should have put a stop to it. The reality is that there is no real difference between the leadership of Fine Gael and the leadership of Fianna Fáil on economic matters. Athnaíonn ciaróg ciaróg eile mar a deirfeá. They are two sides of the same economic coin.

However, the Labour Party should be different, and could be different. When will the Labour Party wake up to the unmistakable message delivered by the voters in May? When will the Labour leadership end its fatal embrace of Fine Gael? The Labour Party must decide, while it still has time, on a radical change of strategy. That will mean more than changing the party leader who, in fairness, sacrificed himself. He fell on his sword rather than involve the party in an internal feud, which he probably would have defeated. The party has time to get it right.

Deputy Ciara Conway: It is a democracy.

Deputy Gerry Adams: This reshuffle is a mediocre piece of political drama that will have no positive outcome for the people of Louth, although Louth now has two Ministers of State.

Deputy Ciara Conway: One is a super junior Minister.

Deputy Gerry Adams: Comhghairdeachas. Is it a bird or an aeroplane? No, it is a super Minister. However, the working people of Louth, Dublin, Mayo or, dare I say, Derry, Antrim or

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Armagh will not see any difference.

Deputy Brendan Howlin: The Deputy's party is running that part of the island.

Deputy Gerry Adams: It is different folks, but the same strokes. In keeping with the Government's record, there is little of substance in today's manoeuvre. However, I welcome the appointment of a Minister of State with responsibility for the diaspora, which was a Sinn Féin proposal.

We are the servants of the people. We are sent here by the people. What citizens need and what they clearly voted for in May, as they did in the 2011 general election, is political change. The Government has not delivered this, however. The Government has let the people down. The Taoiseach has no mandate whatsoever for what he is doing. Therefore, instead of shuffling the jokers in the pack and reshuffling his Cabinet, the Taoiseach should let Paddy and Patricia have their say. He should call a general election, go to the people and let them decide.

An Leas-Cheann Comhairle: Deputy Catherine Murphy is sharing time with Deputies John Halligan, Richard Boyd Barrett, Ruth Coppinger, Shane Ross, Finian McGrath and Joe Higgins. They will have three minutes each. Is that agreed? Agreed.

Deputy Catherine Murphy: As others have said, changes in personnel will really mean nothing unless it makes a real change in people's lives. In order to make that change, it would have been necessary to have a new vision.

I wish all of those who have been elevated well and I know that on a personal level this is a very important day for them. There is no doubt, however, that this is still the same Government that was elected in 2011. To mix metaphors, this is a game of two halves, and when the Government was elected, it came in with a fair wind. As regards the second half, however - irrespective of how long it will run for - one cannot say it will have a fair wind. That is because in the local and European elections the people very definitely said that they needed a radical change in direction.

In the last general election there were a number of big issues, including debt, which was a primary issue for citizens. It was the crux of their concerns. This year, we will spend in excess of €8 billion servicing the national debt, which is the same amount we will spend on our entire education system. That continues to be the difference between having and not having hope for the future.

There was supposed to be radical reform and a democratic revolution. There was also supposed to be major institutional reform. Unfortunately, the political reform has been superficial, while institutional reform has been a code for cuts in health and education services. Very often we look at such institutions and think this country is stuck together with sellotape. It is not the reform that people had a right to expect.

The banks were to be taken in hand and made to function. We will say as little as possible about that, but there is no better example of there being two Irelands. The same personnel are in the Bank of Ireland, with the same big pay-offs for those at the helm. That is not lost on people.

As I said, this is very much a game of two halves, but there is no fair wind this half, so those taking up their new portfolios today will have a major task. At a recent conference on the economist William Beveridge, Professor Tony Fahey said that a revolutionary moment in

world history is a time for revolutionary actions, not for patching up. We have seen too much patching up occurring to date. I would hope that the new people in Cabinet, although we have yet to hear from those Ministers, will actually deliver something a lot more challenging. The one thing I do welcome, however, is the initiative on housing.

Deputy John Halligan: I genuinely wish all the Ministers well, including those who have resigned or are being replaced. I notice there has been a purge of my former comrades from the Democratic Left and the Workers' Party, in what might be regarded as a reverse takeover.

There is often a media tendency to over-hype the impact of reshuffles, but history shows that they have little discernible effect on the lives of many people. I cannot see how a few fresh faces will get over problems such as the massive public distrust of the current Administration. More than 700,000 people, including at least 200,000 children, are living in poverty. Hundreds of thousands of people are on the live register. One in four children is now growing up in a home where no one has a job. People do not believe the Taoiseach will make the changes. They are deeply sceptical that he can manage the economy and the public finances. It is not that voters are apathetic, indifferent or lazy. It is that they know from long experience that the identity of Ministers in charge makes only the slightest dent in departmental policy. What difference will any of this make to single mothers, given that 58% of lone parents will lose a proportion of their income shortly? What difference will it make to the thousands of unemployed husbands and wives in this country? What difference will it make to hundreds of thousands of workers earning well below the liveable wage? What difference will it make to a young mother carrying a foetus with fatal foetal abnormalities? Because of a brutal and uncompromising system, supported by this Government, she will be forced to go abroad for a procedure. As has happened in the past, she will probably come back with the remains of the child she loves in a box in the back of a car. It is outrageous and appalling. Irreparable damage has already been done to the lives of many women and children. Jobs, homes and people's dignity have been lost and, in many cases, people's lives have been lost also.

During the week, I met a member of the Government for whom I have respect. I had a coffee with him and asked him what he really thought. He said: "People have already made up their minds about this Government. It's too late." He added: "It's like a person on the *Titanic*. It doesn't matter which way they turn, left or right, they're heading towards the iceberg."

Deputy Micheál Martin: I wonder if the Minister is still there.

Deputy Mattie McGrath: Until October, I would say.

Deputy Richard Boyd Barrett: While the Taoiseach was announcing the new ministerial positions, I was attending a protest with about 20 families who are on the housing list. They are either homeless or about to be made homeless, or they have been on the waiting list for ten or 15 years. All of them are in dire straits. They are just a small example of the hundreds of thousands of families who are suffering cruelly. Frankly, the sham drama of this Cabinet reshuffle will mean absolutely nothing to them unless it signifies a radical shift in policy. We should remember that the reason this reshuffle is happening is that the Government, particularly the Labour Party, took a hammering in the local and European elections. They took a hammering because of property tax, water charges, cruel and savage cuts to some of the most vulnerable sectors of our society, and an unprecedented housing and homelessness crisis that is the worst we have seen in the State's modern history. The new Labour Party leader has her fingerprints all over some of those cuts. They include the cuts to rent allowance, which have resulted in

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the housing crisis, and cuts in the back-to-school clothing and footwear allowance, the fuel allowance and child benefit. Those cuts have directly contributed to the suffering of families out there. They want to know if the new guard will do anything about those things. Will they abolish the unfair and regressive property tax? Will they abandon plans for water charges? Will they reverse the cruel cuts imposed on the young, the old, the disabled, the homeless or those threatened with homelessness? There is nothing in today's discussion that has alluded to the need for urgent and radical action to deal with those things. That is all that matters to people.

I do not see any sign of a commitment to policy change to shift the burden away from those who are suffering and cannot take any more. If the Government does not address the inequality and unfairness that have been the products of this brutal austerity regime, then all of this means nothing, and it will not save the Labour Party or Fine Gael from further electoral devastation at a future poll.

3 o'clock

That is the challenge. That is what people are interested in. All of this is just pure theatre. I take no pleasure in saying that but one comes away from families who are suffering. I know of a member of one family who has just been taken to hospital because there are 14 people in a two-bedroom house. The mother has just been taken to hospital, a child is sick and the family has been on the list for 12 or 15 years. That is what the Government needs to address.

Deputy Ruth Coppinger: The Taoiseach seems to have learned nothing after his reshuffle today. On 23 May 2014, his Government took a hammering of Brazil v. Germany proportions but instead of apologising and taking full responsibility for that as Luiz Felipe Scolari did, we are seeing a continuation of the same tactics. In case the Taoiseach is confused, the message the electorate delivered was that it wanted a lifting of austerity and did not believe in the Government's fake recovery yet the Taoiseach did not mention the word "austerity" once in his speech nor did the Tánaiste.

The Taoiseach did not announce one policy change. We have seen a few new faces and the rejigging of a few new Departments. However, the strongest message the electorate delivered was to the Labour Party. We have a new leader and a new Tánaiste. She mentions the buzz words "low and middle-income earners" - working-class people that she and her party betrayed in the election. She discovered last weekend that there is a housing crisis and that there is a problem with low pay. Today, she announced that the Labour Party has full control of the Department of the Environment, Community and Local Government. Is there any chance of an actual house being built any time soon for the people out there? The Tánaiste spoke about increasing supply by 2020. There are people in her constituency contacting my office who are living in cars and tents in other people's gardens. What is she going to do about that or is it all just window dressing like the Threshold help line the Government set up recently? Following questioning, I discovered that this helpline has helped six people in three weeks. The Tánaiste seems to be continuing the same policy.

Has Labour got anything to say about Big Phil who is off to Europe with his big fat salary having inflicted the hated property tax on tens of thousands of workers in this country?

An Leas-Cheann Comhairle: We usually use the term "Minister".

Deputy Ruth Coppinger: I apologise. He is no longer a Minister.

An Leas-Cheann Comhairle: Former Minister.

Deputy Ruth Coppinger: It is absolutely galling for people to see him being promoted for what he has done. In his wake, he is leaving Labour in charge of the water charges so it does have a chance of accepting the message delivered by the electorate and announcing the abolition of water charges.

The Tánaiste announced that there would be a low pay commission. We do not need a commission on low pay. It should be obvious to the Tánaiste that workers need a minimum wage of at least €11 per hour and the undoing of the pay cuts that the Minister for Public Expenditure and Reform introduced. Will the Tánaiste stop encouraging the race to the bottom in which her Government is engaged?

The Taoiseach said that people have been through the wars. He is right. They have been through a class war. Warren Buffett, one of the richest men in the world, spoke about a class war and we all know which class is winning. Even now, the Government has a last chance to stop paying €8 billion this year in bondholder debt which it is taking from the pockets of working people and giving to the bondholders. That is the most significant announcement the Government could make today - to lift austerity and create public investment to create jobs and build the houses we need.

Deputy Shane Ross: I join with all other speakers in congratulating all those who have been promoted to the Cabinet or been moved to different positions in the Cabinet. It is a great pleasure for them and their families except possibly for Deputy Varadkar who has been moved from a very successful ministry into a political swamp that would intimidate anybody but I wish him well.

Having congratulated everybody on what they have done and achieved, I wonder what they have been talking about. Having read the Taoiseach's and Tánaiste's speeches, I wonder what they have been talking about and doing for the past five days because there is virtually nothing new in what they have to say, as every speaker from this side of the House has said. We can only conclude that the policies which they must have agreed so early caused very little difficulty because there are no new policies in these statements and that the juxtaposition of the Cabinet positions was what was important. When one adds that to the obvious imperative of spin and timing that does not coincide with important things like a concert being played in Croke Park, one realises how this Government is actually being run. That is worrying. This could all have been done by Monday or Tuesday but it was not done by Monday or Tuesday for frivolous reasons and for reasons the Government prioritises over things that are important. I am disappointed.

Deputy Ruairí Quinn: Is this based on the Deputy's vast personal experience?

Deputy Shane Ross: I was going to pay tribute to Deputy Quinn but I will not do so now. Unfortunately, I do not have time. We should pay tribute to the former Minister for Education and Skills for the great work he has done. He will now be in a position to interrupt other speakers from that side of the House.

We expect Fine Gael to resist new policies because that seems to be its business in Government but the measures announced by the Tánaiste today as some sort of new departure are all familiar in this House. She spoke about a low pay commission. That is new but we know that commissions are the graveyard of political policies. That is why they are there. They are there

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to delay it. If the Government was serious about low pay, it would do something about it and not have a low pay commission. That is not going to work and it certainly will not work in the next 18 months. It is not going to happen. She spoke about an independent Garda authority. This was announced many months ago and it was announced again by the Minister for Justice and Equality in this House the other day. The Tánaiste spoke about a judicial appointments system, something that was also announced by Deputy Shatter when he was Minister for Justice and Equality. There is nothing new there. She spoke about a lobbyists Bill. We knew about this long ago as well. This particular change in government has changed nothing.

Deputy Finian McGrath: I congratulate all the new Ministers. I think this is the first time we got an opportunity to wish the Tánaiste well. It is a very important day and a great day for the new Ministers and their families. Regardless of our political differences, and I have strong political differences with many of them, it is always a great honour to be elected to this House but also to be nominated by the Taoiseach to be a Minister. It is a special day for the Ministers and their families and I wish them well. Regardless of political differences, it is a very important day so they should enjoy it before they roll up their sleeves and get stuck into the hard work over the next couple of days.

It is very important that if one is coming in as a new Minister, one should sit down, pick two or three key things in one's Department and come up with three or four new ideas to try to turn the country around. After the local and European elections, people have told us that they want real reform, real change and new policies, particularly in respect of job creation. They also want new ideas in education and sensible reforms. That is what people are talking about. We are all looking for a new vision so there is an opportunity for new Ministers to come in, try out new ideas and try to come up with new solutions. The new Ministers should look at the issues of reform, change, accountability and investment because they are the way forward as well.

The Taoiseach had an opportunity to look seriously at creating a full-time senior post for disability. I know we have a junior Minister. There are 595,355 people with a disability in Ireland. This is 13% of the population. There was an opportunity to do something about that. I know the new Minister for Health will be dealing with this issue as well. I say to him that it is very important not to forget that 45% of people with disabilities experience income poverty and 36% experience other forms of poverty. Will the Minister ensure that everyone with a disability is guaranteed a high quality service as a right and prioritise funding for disability services in line with the Taoiseach and the former Tánaiste's pre-election commitments on disabilities? These are sensible ideas that should be listened to by all Members.

The Government needs to up its game on the economy and tax and fiscal policy. The SME sector should be focused on as a way of developing the economy and getting us out of the current mess.

I wish all the new Ministers well.

Deputy Joe Higgins: This Fine Gael-Labour Party Government was tried, convicted and condemned by the ordinary people of this State at the ballot box on 23 May. Today, however, instead of expressions of remorse and a declaration of major changes to take us away from the disastrous austerity policy, we got rhetoric as usual and a continuation of destructive austerity that has wreaked havoc on our society in order to salvage the European financial market system and a sick European capitalism from crisis. This system is built on speculation, profiteering and naked greed.

Working people, pensioners and the poor continue to pay dearly. The Tánaiste and Labour Party leader had the nerve to stand up and pretend to be a champion for low-paid workers in the same week that Greyhound refuse collection workers had a blunderbuss put to their heads to take a 35% wage cut. This is legal in an Ireland that has had a supposed labour party in power for the past three and a half years. It is a little late for it to be reincarnated as a champion.

The water tax constitutes the next most serious attack on living standards of our people. The Taoiseach admitted in the House that it would be €580 per household on average when the policy of so-called full cost recovery is implemented in a few years' time. Hatred for the water tax was a major factor in the Labour Party's annihilation in the local and European elections. Today, in what must be an act of supreme arrogance, the Labour Party took direct ministerial responsibility for the implementation of this regressive bondholder's tax. What happened to the limits of austerity that the Tánaiste has been preaching about for the past few months? Today it is clear that it is austerity as usual.

Fine Gael and particularly the Labour Party should prepare for a major revolt of people power when they try to implement their water tax and for the disappearance of what little support they salvaged in the local and European elections. James Connolly and Jim Larkin set out to build a mass political movement for working-class people in this country and for the socialist transformation of society. That goal has been betrayed by generations of right-wing Labour Party leaders. The task is nevertheless as urgent as it ever was, and working people, socialists and the left will undertake that task in the teeth of what the Labour Party is doing.

The Taoiseach: I have listened to many speeches in the House over the years on the appointments of Governments and reshuffles of various kinds, and this has been, from an Opposition perspective, the worst performance I have ever heard. It was based purely on the old classic attitude of everything is a failure and nothing works, and it is all regressive and anti-progress. There was not a single word from an Opposition Member, with one exception, about what should happen for the future. Deputy Finian McGrath on the Independent benches advised Ministers when they sit behind their desks for the first time to decide two or three priorities that they can go after and have a strategy and a structure to the work within their Departments. That was the only constructive suggestion made by the Opposition.

I do not know who wrote Deputy Martin's speech, but it was a classic speech that one would hear from the back of a trailer down in Newport on a wet Saturday morning when nobody wants to listen.

Deputy Micheál Martin: The Taoiseach would know all about the back of a trailer in Roscommon.

The Taoiseach: I liked the engagement between Deputy Ross and the former Minister, Deputy Quinn. At least Deputy Ross has the experience to be courteous in understanding how these interactions happen.

Deputy Adams made reference to what the Government is not doing and its interest in affairs North of the Border. The Minister for Foreign Affairs, Deputy Charles Flanagan, has a keen interest and long experience in engaging in issues across the Border, on this side of the Border and on the Northern side of the Border, as has the new Minister for Arts, Heritage and the Gaeltacht, who is a Border Deputy with long experience of engagement with minorities North and South. In her capacity as chairperson of the centenary commission, she will send a

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powerful signal about inclusiveness and how it should be comprehensive, fair and so on.

Perhaps we live in different places, but did I hear this morning that 70,000 new cars had been bought this year and that for 24 consecutive months there has been a drop in the live register? Do I hear in places I visit around the country that employment is increasing and small firms are taking on new people? Do Members opposite not understand that we listened to the messages of the electorate in the elections and that we have heard that message? That is why the new position given to the Minister of State, Deputy Nash, assisting the Minister for Jobs, Enterprise and Innovation will be to deal with SMEs and access to credit, local employment offices and the opportunity to give people the information they need to expand their business and take on new workers. That is where the future lies, but I regret that not a single constructive suggestion, with one exception, was based on the future, which is what we all have to deal with.

Deputy Richard Boyd Barrett: What about our proposal about social housing?

The Taoiseach: The Deputy comes in with his serial rant about destructiveness.

Deputy John Halligan: All the people in Tuam were wrong.

The Taoiseach: As for the Socialist Party, do its members not understand that when they turn on the tap, somebody has to pay for that? We have not had the capacity for years to invest in infrastructure for people in Deputy Higgins's constituency who want the opportunity to work. We cannot have infrastructure unless we have an entity that can borrow money and provide it to business, industry and consumers

If the Sinn Féin line is followed, a wealth tax should be introduced, property and water charges should be abolished, every other charge one can imagine should be abolished, and we can live in a Utopian land where everything is free.

Deputy Ruairí Quinn: It is called the Willy Wonka factory.

The Taoiseach: I understand Deputy Adams has abandoned his wealth tax and his 82% tax rate. He will abandon everything else as it is scrutinised, as it will be in the run up to the next election, which is just over 20 months away.

Deputy Mary Lou McDonald: Not by the Taoiseach. Unless it is in a script.

The Taoiseach: I want the Deputies opposite to understand that this Government, with new faces and some changes of emphasis, has heard the message of the people and listened to it. I will not waste any more time here. There is a great deal of work to be done by the Government and the junior Ministers who will be appointed over the next period. Our job is to fulfil the mandate given to us by the people and to listen to how that message can be delivered. That mandate was to sort out our public finances and put our country back to work.

Deputy Richard Boyd Barrett: I never heard that phrase on the doorsteps and I bet the Taoiseach did not either.

The Taoiseach: In due course, the people will have their opportunity to adjudicate as to whether the Government parties have fulfilled that mandate. If the projections regarding the potential growth of the economy, the continued drop in the live register, the continued rise in employment and investment in SMEs for exports and the strong line of investment into the country are fulfilled, these are all signs that the country is heading in the right direction. From

our point of view, I have admitted that we did not get everything right but we hope over the next 20 months to work exceptionally hard in the interest of our country and its people because it is for the sake of the future and the future for those young people coming behind us that this Government applies its priorities. At the end of that time, everybody with a democratic mandate and the wheels of democracy that turn will have an opportunity to be judged. For our part, the Tánaiste and I commit to heading a Government that will work exceptionally hard in the interest of our people and our country and, hopefully from our perspective of dealing with that mandate, we will improve the position in 20 months' time so that people look back and say that the sacrifices were very hard but they were worth it in that the country is on the road back to prosperity.

This is a day of enjoyment and excitement for new Ministers and those who may have changed responsibilities. It is also a day of disappointment for those who moved out and moved on, and for people who cannot be chosen because of constitutional restrictions on numbers. The party opposite used to have 20 or 21 Ministers of State in order to keep the temperature down. This is always a difficulty but people understand that choices have to be made in putting these positions together. Government is about choices, not personalities or jobs for people. We are moving the country forward so that our people have opportunities.

I am willing to accept the challenge on behalf of Government that we will work exceptionally hard over the next 20 months. We will continue to implement our mandate and the document to be produced, which I do not think Members have yet read, will be endorsed shortly by the Government and will set out the economic statement and strategy, following from the Government having developed a strategy to exit the bailout programme and filling in the signposts for the years ahead on low paid and middle income workers and the opportunities that present for the Government to continue to make decisions that benefit our country and our people. I know the signs are out there. I feel the signs of that confidence but I want to see the people being able to appreciate that what they have done is paying dividends for their lives, their incomes, their careers, their homes, their families and their opportunities. Therefore, I commend to the House the motion on the nominations for appointments to Cabinet by the President.

Question put:

| <i>The Dáil divided: Tá, 93; Níl, 33.</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>Coppinger, Ruth.</i> |
| <i>Cannon, Ciarán.</i> | <i>Cowen, Barry.</i> |
| <i>Carey, Joe.</i> | <i>Doherty, Pearse.</i> |
| <i>Coffey, Paudie.</i> | <i>Dooley, Timmy.</i> |

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| <i>Collins, Áine.</i> | <i>Ellis, Dessie.</i> |
| <i>Conaghan, Michael.</i> | <i>Halligan, John.</i> |
| <i>Conlan, Seán.</i> | <i>Higgins, Joe.</i> |
| <i>Connaughton, Paul J.</i> | <i>Kirk, Seamus.</i> |
| <i>Conway, Ciara.</i> | <i>Kitt, Michael P.</i> |
| <i>Coonan, Noel.</i> | <i>McDonald, Mary Lou.</i> |
| <i>Corcoran Kennedy, Marcella.</i> | <i>McGrath, Finian.</i> |
| <i>Costello, Joe.</i> | <i>McGrath, Mattie.</i> |
| <i>Coveney, Simon.</i> | <i>McGuinness, John.</i> |
| <i>Deenihan, Jimmy.</i> | <i>McLellan, Sandra.</i> |
| <i>Deering, Pat.</i> | <i>Martin, Micheál.</i> |
| <i>Doherty, Regina.</i> | <i>Moynihan, Michael.</i> |
| <i>Donnelly, Stephen S.</i> | <i>Murphy, Catherine.</i> |
| <i>Donohoe, Paschal.</i> | <i>Ó Feargháil, Seán.</i> |
| <i>Dowds, Robert.</i> | <i>Ó Snodaigh, Aengus.</i> |
| <i>Doyle, Andrew.</i> | <i>O'Brien, Jonathan.</i> |
| <i>Durkan, Bernard J.</i> | <i>Ross, Shane.</i> |
| <i>English, Damien.</i> | <i>Shortall, Róisín.</i> |
| <i>Farrell, Alan.</i> | <i>Smith, Brendan.</i> |
| <i>Feighan, Frank.</i> | <i>Tóibín, Peadar.</i> |
| <i>Ferris, Anne.</i> | <i>Troy, Robert.</i> |
| <i>Fitzgerald, Frances.</i> | |
| <i>Flanagan, Charles.</i> | |
| <i>Gilmore, Eamon.</i> | |
| <i>Griffin, Brendan.</i> | |
| <i>Hannigan, Dominic.</i> | |
| <i>Harrington, Noel.</i> | |
| <i>Harris, Simon.</i> | |
| <i>Hayes, Tom.</i> | |
| <i>Heydon, Martin.</i> | |
| <i>Hogan, Phil.</i> | |
| <i>Howlin, Brendan.</i> | |
| <i>Humphreys, Heather.</i> | |
| <i>Keating, Derek.</i> | |
| <i>Kehoe, Paul.</i> | |
| <i>Kelly, Alan.</i> | |
| <i>Kenny, Enda.</i> | |
| <i>Kenny, Seán.</i> | |
| <i>Kyne, Seán.</i> | |
| <i>Lawlor, Anthony.</i> | |
| <i>Lowry, Michael.</i> | |
| <i>Lyons, John.</i> | |
| <i>McCarthy, Michael.</i> | |

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| <i>McFadden, Gabrielle.</i> | |
| <i>McGinley, Dinny.</i> | |
| <i>McHugh, Joe.</i> | |
| <i>McNamara, Michael.</i> | |
| <i>Maloney, Eamonn.</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>Reilly, James.</i> | |
| <i>Ring, Michael.</i> | |
| <i>Ryan, Brendan.</i> | |
| <i>Shatter, Alan.</i> | |
| <i>Sherlock, Sean.</i> | |
| <i>Spring, Arthur.</i> | |
| <i>Stagg, Emmet.</i> | |
| <i>Stanton, David.</i> | |
| <i>Tuffy, Joanna.</i> | |
| <i>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 Aengus Ó Snodaigh and Seán Ó Fearghail.

Question declared carried.

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Sitting suspended at 3.45 p.m. and resumed at 5.30 p.m.

Court of Appeal Bill 2014: Second Stage (Resumed)

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

Deputy Simon Harris: I propose to share time Deputy John Paul Phelan. I welcome the opportunity to speak on the Court of Appeal Bill 2014 and I congratulate the Minister on getting the legislation to this stage. I also congratulate the Minister for Justice and Equality on her continuation in office. It is appropriate that, on this day, there is another justice reform being progressed by a Government that has made more reforms in this Department, and so many others, than the last crowd did in its 14 years in office.

The Bill is technical in nature and we all know how we got to this point. The Bill follows a referendum in October 2013 and gives effect to the decision, bringing the country in line with best international practice in having a court of appeal. We know the phrase that justice delayed is justice denied and a backlog in the Supreme Court means many people face substantial delays in having cases heard by the Supreme Court. It is not an adequate situation. The Court of Appeal was mooted for many years and the previous Government established a working group on the issue. The working group reported in 2009 and was chaired by the current Chief Justice, Ms Susan Denham. That we have arrived at this point is welcome, as is the commitment of the Minister, earlier today, that the court will be in place for the commencement of the new legal term in the autumn.

I will use this opportunity to comment on greater matters concerning the Judiciary, some of which is linked to the Bill. Looking at the gender balance on the High Court and Supreme Court, the list on the Courts Service website shows that three of our Supreme Court justices are women. The Chief Justice is one of those. The High Court has six women out of 36 judges. It is an appallingly low rate on a day when the Cabinet doubled its representation of women. This amounts to the highest number of women ever in Cabinet although it is still quite low. We must ask ourselves about gender balance in our court system, particularly the High Court where women represent six out of 36 or one sixth. It is an interesting and a worrying statistic.

The Minister referred to judicial appointments in her speech on Second Stage. There have been controversies about appointments in general. I am not sure there is ever a perfect system and a significant amount of work is being done on this. One of the themes of the review is the potential for the Judicial Appointments Advisory Board and this is welcome. As well as the board, we should look at the criteria for judges. Gender is a factor that should be considered. We need the Judicial Appointments Advisory Board to complement the reforms the Minister is making in introducing this new court.

There is a question of who judges the judges. I have come across this in my constituency. Judges are human beings and can make mistakes. It is very important to have separation of powers, which I strongly support and respect as essential in a democracy. There must also be a degree of judicial oversight, something that has been talked about for many years. Are we really saying that impeachment is the only way to address a matter if a judge makes a genuine error or if there is an allegation of wrongdoing? I came across a family law case recently where a judge had given an oral verdict on custody, access and other issues. The order produced by the registrar did not mirror what the judge said in court, in the eyes of one of the parties. Under current rules, I cannot write to the Minister about it, which is proper order given judicial inde-

pendence. I cannot write to a judge, nor should I. The court registrar does not seem to have a role in this. If there is a genuine error, are we telling families in family court case that they must return to court? There must be a process that allows the errors that occur in all our lives to be quicker and easier to remedy without putting substantial new costs on people who are already struggling with the high cost of the law in this country. I ask the Minister to examine this matter in respect of typos in judgments. Typos can make a big difference where, for example, the first Saturday of every month is replaced with the second Saturday of every month. I have seen an extensive exchange of correspondence between my constituents and the Courts Service and it seems the only option open to the family is to return to court, join the waiting list, get a hearing and run up more legal fees. We must examine this.

We must also examine our free legal aid system and resourcing it. The Minister is aware of the report released this week or last week on the number of people using free legal aid in respect of personal debt. This is due to the economic situation the country found itself in and people finding themselves in this situation has placed an additional burden on our free legal aid structures. This must be examined and we cannot have a situation where someone is up against a bank in court for mortgage arrears or to protect a property and is entitled to free legal aid but cannot access it in time.

This legislation arises in the context of giving effect to a decision in a referendum. A commitment in the programme for Government refers to having an electoral commission. It does not come under the responsibility of the Minister for Justice and Equality but I appeal to her, as a member of the Cabinet, to fulfil the commitment in the programme for Government. The former Minister for the Environment, Community and Local Government, Deputy Phil Hogan, did substantial work on it. We will have a series of referendums in this country. It is inefficient to set up a referendum commission every time because we can do so much in respect of voter education, voter registration and providing people with information. There is a commitment about the electoral commission in the programme for Government. The referendum commission did a good job in terms of providing people with information about the Court of Appeal referendum. Considering a court of appeal is of such benefit, it was quite difficult for the referendum to get the hearing it deserved because it was run on the same day as the referendum on the Seanad. I welcome the establishment of the new Court of Appeal and I welcome the fact that we are at this point. I welcome that the court structures will be in place by autumn. I ask the Minister to examine gender in judicial appointments, judicial oversight, and the broader issue of how we conduct referendums and provide people with information in the run-up to a referendum.

Deputy John Paul Phelan: I am glad to have the opportunity to make some brief points on the Court of Appeal Bill, which I welcome and support. I saw only part of the Minister's contribution in which she outlined that she hopes to have the court in operation by the start of the next legal term.

This is an issue that has been waiting to be resolved for a number of years and the introduction of this legislation follows on from the referendum last year to introduce a court of appeal. I will not rehash the points made by previous speakers but there are massive delays in our legal system that have an immediate impact on families, individuals and businesses because of the absence of a court of appeal. The Supreme Court, which is the ultimate appellate court, has been clogged in recent years and focusing more of its time than was originally intended when the Constitution was drafted hearing appeals from decisions of the High Court.

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It is interesting to examine some of the information on the establishment of the Court of Appeal. In the 1960s there were five Supreme Court judges and now there are ten. There were seven High Court judges; I did not realise the number was so low. I understand there are now 36.

We have seen a huge increase in the workload of the Supreme Court and the High Court, and in the Circuit and District Courts. The role of the Supreme Court has changed substantially from what was originally envisaged, namely, to examine matters such as legislation referred by the President after consultation with the Council of State, the constitutionality of legislation passed by the Oireachtas, and other such matters. It was a deliberative court set-up but in recent years much of its time has been taken up hearing appeals from the High Court, which was not to be its main function.

Appeals will continue to be heard by the Supreme Court in a limited number of instances. That is necessary and important, but it is hoped that the establishment of the Court of Appeal will see the end of delays of three or four years in hearing appeals. Deputy Harris is correct that justice delayed is justice denied. It is a bit of a cliché but it is the truth, and in this instance it is apt to what we are discussing. That is why I am delighted the Minister is in a position to establish the court before the next legal term begins.

I apologise for not hearing the Minister's entire contribution but on the construction of the new Court of Appeal, how is it envisaged to deal with cases either currently before the Court of Criminal Appeal or in the system? What will be the transitional arrangement? The Minister might outline in her concluding comments the way those cases will be dealt with.

I echo the points Deputy Harris made on the free legal aid system. As politicians, we often get complaints in that regard. It is a tricky situation in the sense that the general public often correctly believes it is inappropriate that people with multiple convictions continuously avail of free legal aid at the expense of the taxpayer. The overriding purpose of our legal system must be to ensure that those people who cannot afford to defend themselves have the right to put up a defence in court. They are two conflicting positions. While the rates paid to lawyers under the free legal aid system as it currently operates have been reduced, that service is essential. People who find themselves in court may lose their liberty for a long period of time, and they have a right to a defence. I support the free legal aid service.

On the issue of family law matters, I welcome Deputy Harris's reference to the number of reforms the Government introduced in the Department of Justice and Equality in particular but also in the courts. Access is being given, partially at least, to reporting some of the judgments of the family law courts and I understand written judgments are now coming into play in the family law courts where a series of inconsistencies that may have existed in the past will not, hopefully, prevail in the future.

I agree with the point the Deputy made on the case in question. It seems harsh that a family member would have to go back into court, under order of the court, because of an error in drafting. The changes initiated by the Minister's predecessor on lifting the veil on some of the operations of the family law courts will lead to more consistency in terms of judgments. The fact that judgments are being reported upon and written judgments handed down should lead to more consistency, and under that proposal it is hoped the situation Deputy Harris outlined will not happen in the future. The Minister might correct me if I am wrong about that but I understood that was the case following some of the legislative changes introduced by the former

Minister, Deputy Shatter.

The Minister might outline the current position with regard to cases before the Court of Criminal Appeal in the transitional period. I fully welcome this important legislation, as I am sure do all the absent Members of the House.

Minister for Justice and Equality (Deputy Frances Fitzgerald): I thank all the Deputies who contributed to this debate. Some of them will have been in the House this time last year. If they checked their diaries from that time they will have seen it is precisely one year to the day when the Second Stage debate on the Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013 took place. At that time it was indicated that an establishment Bill would be required and that the timetable for that foresaw enactment of that Bill before the end of July 2014. I am very pleased that we are on track to adhere to that timetable and I fully acknowledge the co-operation of Deputies on all sides of the House, which is reflected in their willingness to give time to this Bill now and over the coming days to make sure it is enacted before the end of this Dáil term.

In bringing this Bill before the Oireachtas at this time, the Government is fulfilling its commitment to introduce the relevant legislation in such time as to enable the new court to be established by the autumn of this year. That is what is intended. The structures being put in place in preparation for establishment will facilitate the court system in meeting the demands placed on it in this ever-changing environment, as the Deputies present noted. The objective is to provide a first class service to judges, practitioners, court staff and, most importantly of all, the users of the court system.

In this context I note that as well as the public consultation process undertaken by way of last year's referendum, a Courts Service Implementation Committee has been set up to consider the organisational structure, staffing, accommodation and operational requirements of the new court. The Judiciary has also set up a committee of superior court judges to prepare for the establishment of the court.

Frequently we are critical, and rightly so, of introducing new layers into pre-existing structures. However, in this instance it is clear there is considerable merit in the establishment of an intermediate court between the High Court and the Supreme Court. I am confident that the establishment of the Court of Appeal will have the beneficial effect of increasing overall efficiency in processing appeals in the superior courts. It will also ensure that the Supreme Court will be facilitated in developing the law in a principled and considered way and that its stature as the pre-eminent court within our courts system will be enhanced.

There should also be a positive effect for individual litigants, as a substantial decrease is anticipated in the average waiting time for cases to be heard. As both Deputy Harris and Deputy John Paul Phelan stated today, that is critical in terms of access to justice. In addition, the establishment of the Court of Appeal may have positive consequences for the wider economy. This is because the attraction for foreign investors of a courts system which is functioning to its optimal level should not be underestimated. Equally, commercial operators with a domestic base should also benefit from the new efficiencies.

The Government's commitment to the establishment of the new court is evidenced by the financial provision made by it in these difficult economic times. Sufficient resources will be available to the court and to its staff so as to ensure it can operate in an efficient and effective

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manner and evolve in a dynamic fashion. Indications are that additional expenditure of the order of €2.5 million will be incurred each year in the running of the Court of Appeal. In addition, one-off costs of the order of €2 million will be incurred in providing accommodation and facilities for judges and staff, including €900,000 on IT hardware, the installation of digital audio recording facilities and the development of a new case management system. This is substantial investment to ensure that we have an effective and efficient court of appeal.

The Government has agreed to appoint ten judges, including the President to the Court of Appeal. A benefit of appointing such a number of judges is that the Court of Appeal may sit in divisions of three judges. Those divisions will be constituted in such a way as to take account of the volume and range of business to be transacted in the court at any time. In addition, the president or another judge of the court may hear and determine interlocutory applications while the divisions are sitting.

While appointing a lesser number of judges to the Court of Appeal would have had a reduced impact on Exchequer finances, the expenditure incurred has to be balanced against the positive effects of appointing a sufficient number of judges to address, in a realistic fashion, the current backlog of cases which is before the Supreme Court and the likely flow of appeals from decisions given in cases before the other courts. We are a litigious society and it may safely be said that the volume of business coming before our courts is unlikely to diminish in the coming years.

In the course of their examination of the Bill, Deputies may have noted that no particular measures are to be put in place to provide for enforcement of and compliance with the provisions of the Bill on its enactment. It will be a matter for the Superior Courts Rules Committee to develop and apply appropriate rules of court which will facilitate the new arrangements. Furthermore, the nature of the Bill is such that it does not contain a provision for its review. The critical criterion for success is the establishment of a court of appeal which meets the needs of users and practitioners. In this regard a key performance indicator for the new court is a substantial reduction in the waiting time for an appeal to be heard and determined.

In the course of the debate, Deputies referred to a range of issues which relate to our courts system. They also raised various aspects of the operation of the courts system. I want to reply to some of those.

Deputy John Paul Phelan asked about the cases before the Court of Criminal Appeal. These will continue to be heard by that court. Those pending but not heard will be dealt with by the new court.

In response to Deputy Harris, work is ongoing on the judicial council Bill which will address many of the issues which he raised in his contribution. We hope to have that important Bill ready later this year. I hope it will be published in September.

Deputy Niall Collins referred to the fact that it had taken a number of years to bring this ambitious project to fruition and that many parties have collaborated in order to bring us to the point where we are today. He referred specifically to the Commercial Court and the problems faced by the fact that the prompt way in which that court dealt with cases before it cannot through no fault of its own be matched by equal promptness on the part of the Supreme Court. It is precisely this bottleneck that we intend to address with the establishment of the new Court of Appeal.

Deputy Mac Lochlainn referred to the need to reform the judicial appointments process. As he acknowledged, and as I stated, we are undertaking a review of that process. That review will consider how best to ensure and protect the principle of judicial independence and includes the consideration of issues, such as the appointments process, eligibility criteria for the role of the judicial appointments advisory board, which Deputy Harris also raised, and the need to promote equality and diversity. I take the points Deputy Harris made in relation to gender as well.

The judicial council Bill, which as I stated is being prepared, will establish the judicial council of all judges to promote high standards of conduct among judges and supports for judges. Central to the Bill is provision for effective remedies for complaints about judicial behaviour. The provisions, which are under ongoing consideration, include the establishment of a judicial conduct committee with lay participation in the investigation and consideration of complaints. It will also facilitate the formal establishment of the judicial council and the ongoing support and education of judges through the Judicial Studies Institute.

I thank all Deputies who contributed to the debate. While the Bill is essentially technical in nature, it is, nonetheless, critical legislation in terms of giving effect to the decision of the people that a new court of appeal should be established. In overseeing the legislative building blocks of a new court, we are participating in a truly historic moment. For that reason, notwithstanding its somewhat specialist character, this is a very significant Bill to bring before the House and everyone can be proud of the part we all are playing in the establishment of this new court.

Question put and agreed to.

Acting Chairman (Deputy Joanna Tuffy): When is it proposed to take Committee Stage?

Deputy Frances Fitzgerald: On Tuesday next.

Committee Stage ordered for Tuesday, 15 July 2014.

The Dáil adjourned at 5.58 p.m. until 2 p.m. on Tuesday, 15 July 2014.