



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Dé Máirt, 9 Meitheamh 2015*

*Tuesday, 9 June 2015*

Chuaigh an Leas-Cheann Comhairle i gceannas ar 2 p.m.

*Paidir.*

*Prayer.*

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## Ceisteanna - Questions

### Priority Questions

#### Defence Forces Property

107. **Deputy Seán Ó Feargháil** asked the Minister for Defence if he will ensure that all current overholders at the Curragh in County Kildare may remain in their current residence for the duration of the current housing crisis; and if he will make a statement on the matter. [21737/15]

**Deputy Seán Ó Feargháil:** My question deals with the issue of overholders at the Curragh camp. A small number of overholders remain at the camp and my question focuses on the housing crisis that exists both nationally and in County Kildare. I ask if, at least for the duration of the housing crisis, the Minister and his Department will desist from pressurising people out of their homes on the Curragh camp.

**Minister for Defence (Deputy Simon Coveney):** Personnel who leave the Defence Forces or who vacate a married quarter property that had been assigned to them are required under regulations to return vacant possession of that property. Where the property is not vacated, those remaining in the property are overholding and, as they have no right under military regulations to hold or reside in military accommodation, the Department will in accordance with normal procedures continue to seek to recover possession from them. While each case of overholding is dealt with on an individual basis, it is important to remember that the Department does not have a role in the provision of housing accommodation for the general public. The Department does however assist in whatever way it can in order to resolve the cases of overholding without recourse to legal action, as it is preferable not to have to use legal means to obtain vacant possession of the properties concerned. If individuals are not in a position to secure housing in their own right, it may be the case that they qualify for social housing or that they qualify for

some level of housing assistance and, when requested to do so, the Department provides whatever documentation it can to support such applications.

The Deputy can be assured that my Department will deal with any overholders in a vulnerable position in a sensitive manner and will where possible work with the local authorities to help find solutions to the current overholding problem with due consideration. What I cannot do, though, is to give the Deputy a blanket commitment that everybody can stay in their property if they want to, until the pressures on housing demand ease. That is essentially saying that after people leave the Defence Forces, even in a military camp, they can stay in the accommodation they have been in while in the Defence Forces. There are all sorts of reasons we cannot do that.

**Deputy Seán Ó Fearghail:** I appreciate the Minister's goodwill on this matter. However, there is a certain irony, if not an element of the perverse, in what we see happening. The Minister responded very positively in respect of the national homelessness crisis in the aftermath of the death of Jonathan Corrie outside this House. I raised the issue with him at an Estimates meeting and he responded positively, stating that his Department would take action. In fact, he made St. Bricin's hospital available to deal with the homelessness situation. Is it not extraordinary that he has moved to deal with the homelessness situation in Dublin, while at the same time, during this crisis, his Department is forcing people out of properties in the Curragh Camp and thereby contributing to the homelessness problem in Kildare, where 6,500 people are on the waiting list and 250 people are currently homeless or at risk of homelessness? He is moving people out of these houses so that the houses can be knocked down or boarded up.

**Deputy Simon Coveney:** The Deputy will know that the housing challenges faced by Kildare County Council can hardly be put on me. We have tried to be as helpful as we can in respect of people who are still in properties they should legally have vacated a long time ago in most cases. They knew that when they joined the Defence Forces. They knew the rules. We are not putting anybody out of houses and onto the streets, so let us not allow that impression to get out. We have said that we will look at each case individually. If people are in a vulnerable position we will take that into account, as we have been doing. We will talk to Kildare County Council to try to prioritise housing if people want to go on the housing list. However, we cannot maintain a position whereby, because it is expensive or difficult to find a house, non-members of the Defence Forces can stay indefinitely in a barracks. Even for security reasons, there are issues with that. We will try to be as accommodating and helpful as we can, but we must recognise that the Department of Defence is not a housing organisation.

**Deputy Seán Ó Fearghail:** The people who have lived on the Curragh Camp, going back before the establishment of the State, were people who had an intrinsic connection with the Defence Forces. The camp was not just an army camp; it was a garrison settlement. The Minister's predecessors, including people from my party, were wrong when they signed up to a policy of depopulation of the Curragh Camp. We can have a lengthy debate about that some other time, but currently there is a shortage of houses in County Kildare. I accept that an economic contribution should be made to the Minister's Department by anybody occupying a house, but if the Minister forces people out of the accommodation they have in the Curragh they will inevitably move towards homelessness, because Kildare County Council has nothing to offer them, no matter how much the Minister talks to it. Homelessness is inevitable.

**Deputy Simon Coveney:** Just so that the facts are clear, of the 27 overholders in the Curragh, ten are not paying rent and five of those are not paying any electricity charges either. This

is a small number of people and properties. I will not be hounding people out of their homes. However, when people join the Defence Forces and move into married quarters, they know they are supposed to hand over that property within three weeks of leaving the Defence Forces. In many cases, we have gone way beyond that timeline. There is a difficulty in terms of finding alternative accommodation, and we have tried to be accommodating and understanding in that regard but there are limits, and I simply cannot give the impression here that we will ignore this reality for as long as it takes for there to be an improvement in the social housing lists in Kildare, which could be indefinite. I take on board what the Deputy is saying but he should not-----

**Deputy Seán Ó Fearghail:** The Minister is not very optimistic about that situation.

**An Leas-Cheann Comhairle:** I must call the next speaker.

**Deputy Simon Coveney:** -----ask me to do the impossible.

### **Naval Service Operations**

108. **Deputy Pádraig Mac Lochlainn** asked the Minister for Defence if he will report on the work done by the *LE Eithne* and its crew, since the ship was deployed to the Mediterranean; his plans to expand the role that the *LE Eithne* is fulfilling in the region, especially in relation to the recently agreed European Union naval force operation in the Mediterranean. [21693/15]

**Deputy Pádraig Mac Lochlainn:** Yesterday, the Irish Naval ship, the *LE Eithne*, left hundreds of refugees in an Italian port. I want to record the appreciation of the Irish people for the tremendous work they are doing, but there are concerns that we would be pulled into the EU-NAVFOR force and that our mission would move from one of search and rescue to something that would not be in the interests of the Irish State and the Irish people. Can the Minister clarify his plans for its role in the future?

**Deputy Simon Coveney:** A number of questions have been tabled on the operations in the Mediterranean and I thank colleagues for raising that issue. We made a decision a number of weeks ago to send a ship to the Mediterranean. It caused a few eyebrows to be raised at the time because this is the first overseas mission for the Naval Service. Most people would recognise now that it has been a very worthy mission and decision. Just under 1,200 people have been rescued from boats, some of which were sinking, others had run out of fuel and others, which had men, women, children and infants on board, had no water or food left. Commander Pearse O'Donnell and his crew on the *LE Eithne* are doing an extraordinarily professional and compassionate job in the Mediterranean and I want to put that on the record of the House. I thank them for the work they are doing on behalf of everybody here.

On the political point that the Deputy made, I want to give him some reassurance. We made a decision to send a ship for a search and rescue mission to partner on a bilateral basis with the Italian navy. That is what we are doing and that is what we had committed to do. If we were to do anything else in that area in terms of linking in with other missions or other political decisions, there would need to be a Government decision on that and, I assume, a debate on it in this House. Certainly, I will inform the House before I do anything like that. I expect the commitment we have made in respect of the *LE Eithne* will continue up to the end of September. The *LE Eithne* will probably be replaced by another ship in seven or eight weeks' time but we are

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committed to a search and rescue humanitarian mission which is why we did not, for example, have the triple-lock process applying to this decision. We intend to maintain that as a humanitarian search and rescue mission for the foreseeable future.

**Deputy Pádraig Mac Lochlainn:** I thank the Minister for his response. The Irish people are immensely proud of the search and rescue humanitarian mission. It fits in with Ireland being a neutral country but one that contributes proactively to humanitarian responses globally. I urge the Minister to ensure all this good work is not undermined by going down the road of a EUNAVFOR mission. I would have concerns around such a mission. It is dangerous and volatile for people fleeing war. I am particularly mindful of the catastrophe that is happening in Libya and, unfortunately, the international community has created an absolute mess there. That brings me on to the refugee issue, which I will deal with further at the next opportunity, and Ireland taking in a reasonable and fair share of refugees.

**Deputy Simon Coveney:** I attended a meeting of both Foreign Affairs and Defence Ministers at which this issue and how we can respond to it was discussed. It is very unusual to have such a combined meeting. A decision was made in principle to set up EUNAVFOR Med, which essentially has a number of phases to it, ranging from patrolling and rescue to trying to target and undermine some of the people trafficking gangs, which are operating and making a good deal of money out of creating human misery and putting people into very dangerous and vulnerable positions. Anything beyond search and rescue and assistance operations will require a UN Security Council resolution and the support of state actors, such as Libya, that have an interest in this. We are quite a ways from that, though. Ireland's focus is on doing what we can do practically and working through the Departments of Justice and Equality and Foreign Affairs and Trade in terms of humanitarian assistance. If the other mission gets set up on the back of a Security Council mandate, we will have to make a decision as to whether we want to be a part of that. At the moment, though, it is not on the table.

**Deputy Pádraig Mac Lochlainn:** Like me, the Minister would have been proud of the words of the President, Michael D. Higgins, when he was in Lebanon regarding Europe's failure to deal with the refugee crisis and the unacceptable catastrophe of thousands of people drowning in the Mediterranean. Italy and Malta cannot be expected to shoulder the responsibility. This is a European responsibility. I note that there has been confirmation from the Minister for Justice and Equality that we will receive 300 refugees, but we can do more. While this is not the Minister's area of responsibility, I suppose he will work in partnership with the Ministers for Justice and Equality and Foreign Affairs and Trade. I urge the three of them to ensure that Ireland does as much as it can and shoulders its part of the responsibility so that we can bring an end to this heartbreaking situation in which so many people have lost their lives in desperation. Consider our own history of emigration. We are the only country in the world that has a smaller population than we had in the early 1800s. Of all of the countries in Europe, one would imagine that we would do our best to support the effort to give safe refuge to people fleeing appalling scenarios.

**Deputy Simon Coveney:** It is important to state that what Ireland is doing in the Mediterranean forms part of a collective effort. The UK and Germany are also there and Italy is heavily involved in co-ordinating search and rescue operations, processing asylum applications and looking after people's needs, which are complex. Large numbers are involved. This is a major issue and will not go away any time soon, so there needs to be a significant focus in the EU on trying to assist in preventing the causes of mass migration in north Africa. There are multiple causes and, unfortunately, there is more conflict in much of the world now than there has been

for a long time.

Responsibility for making decisions on numbers lies with the Minister for Justice and Equality. She is considering this matter and I have discussed it with her. We have made clear that Ireland will, and wants to, do its fair share, but we must also recognise the size of our country in terms of what we can accommodate. What is not acceptable is allowing countries like Malta, Italy and, increasingly, Greece to deal with the problems in the Mediterranean on their own. So, I-----

**An Leas-Cheann Comhairle:** I am sorry, Minister, but I must call Deputy Clare Daly to ask her question. We are out of time.

### **Naval Service Operations**

109. **Deputy Clare Daly** asked the Minister for Defence his views regarding whether it is appropriate for the *LE Eithne* to take part in Operation Triton in view of the fact that it is primarily an exercise in border control rather than in humanitarian rescue; and if he will make a statement on the matter. [21536/15]

**Deputy Clare Daly:** This question is similar to that posed by Deputy Mac Lochlainn. While I agree with the Minister that there are multiple reasons for the large number of refugees, the predominant cause is Western-instigated wars and exploitation in countries such as Libya, Syria and Eritrea. While I am glad that the *LE Eithne* and the Naval Service have rescued people in the Mediterranean, we need to dig deeper. We must consider what happens to those people after they are rescued and our role therein, examine the conditions causing them to become refugees in the first place, and consider whether we have a role in that regard.

**Deputy Simon Coveney:** I will answer the question that was tabled and revert on the refugee issue. To be clear, the *LE Eithne* is not engaged in Operation Triton or in any form of border security operation as part of its deployment to the Mediterranean. Section 3 of the Defence (Amendment) Act 2006 permits, with the approval of the Government, the despatch of Naval Service vessels and personnel for humanitarian search and rescue tasks only. It does not permit the carrying out of border control-type tasks such as those undertaken by Operation Triton.

The deployment of the *LE Eithne*, following Government approval, supports those measures already taken by Italy and other EU states in the search for and rescue of migrants and the provision of humanitarian assistance as provided under international law. There is no international humanitarian search and rescue operation established by any decision of any international body or national authorities in the Mediterranean. The Naval Service deployment does not form part of any such operation. It involves the unilateral deployment by Ireland of a Naval Service vessel to the Mediterranean where it is undertaking humanitarian search and rescue tasks in accordance with the applicable provisions of international conventions governing search and rescue situations and in co-ordination with the Italian authorities.

The humanitarian crisis in the Mediterranean is of great concern to Ireland and its EU partners. The *LE Eithne* and its crew are providing an invaluable asset in assisting with the Mediterranean migrant crisis. I have given the numbers that have been rescued in an incredibly short period of time. This has been a very busy and testing mission. On the broader issues, Ireland needs to play its part as part of a European effort. This is what the conversation was all about

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at the last meeting of the Foreign Affairs and Defence Council. We will continue to do that. I hope we will play a part in sharing some of the burden with regard to the migrants and the assessment of their asylum applications.

**Deputy Clare Daly:** I am very glad that the Minister has stated clearly that our naval forces are not involved in Operation Triton. The reality is that they are operating side by side with that exercise, which is run under Frontex and the EU border control agency. We must consider that the humanitarian mission run by the Italians since 2013 under Operation Mare Nostrum, which they were pressurised by the EU to cease, succeeded in rescuing almost 150,000 people before it was replaced by Operation Triton, which is primarily an exercise in border control. While I appreciate the Minister's assurance that our forces are not involved in the new operation and are engaged in a purely humanitarian mission, that needs to be examined further. Are the people who are taken on board the *LE Eithne* not on Irish sovereign soil? Should they not be covered by the 1951 refugee convention? Should we not have an obligation to land them in Malta or Italy for a short period of time before bringing them back to Ireland, where we could consider a resettlement programme? It is a bit of a half-measure to have one without the other.

**Deputy Simon Coveney:** I do not know whether the Deputy is suggesting that the almost 1,200 people who have been rescued to date should have been brought back to Ireland. If we had to steam for four or five days to come back to Cork Harbour or somewhere else in Ireland, the practicalities of that would mean we could not be effective in the Mediterranean. We are trying to assist in a massive task. Thousands of people are looking to cross the Mediterranean in boats that are not fit to cross the River Liffey, never mind the Mediterranean. They are packed onto those boats with no life jackets or life rafts. In some cases, they do not have enough food, water or fuel. Essentially, we are trying to provide an emergency response capacity that does not solve all problems but solves part of the problem. We are using our expertise and professionalism through the Naval Service to rescue those people and take them on board. They are likely to stay on the *LE Eithne* for 12 hours or less, or maybe slightly more if we are steaming to an Italian port, before they are disembarked and looked after appropriately in terms of their medium-term medical needs and their asylum applications, etc. The legal provisions around that work were explored before we sent the ship to the Mediterranean so that we could do it efficiently.

**Deputy Clare Daly:** We have one of the worst records in Europe for accommodating refugees. I would have no problem whatsoever with the resettlement of 1,200 people, or many more, in Ireland. They would not have to be transported by the *LE Eithne*. Moving them to a direct provision centre in Italy or Malta is not the solution. Ireland has a part to play in that resettlement programme, way beyond what we have already offered. Whether we like it or not, we have been complicit in the making these people refugees in the first place by allowing the US military unlimited and unrestricted access to Shannon Airport, which has had a considerable destabilising impact on countries such as Libya, Syria, Iraq and Afghanistan.

Is there not an argument that once the refugees are on the *LE Eithne* they are covered by the UN convention on refugees and we should consider granting them asylum? Should we not consider taking many more? Do we expect Italy, Greece or Malta to take them all?

**Deputy Simon Coveney:** For the record, we are not disembarking any refugees in Malta. This is purely an agreement with Italy and it is very happy to have Ireland as part of the combined effort in the Mediterranean. It makes sense, however, to try to manage numbers in relatively few locations, rather than all over Europe.

The Deputy is right that there is a conversation under way, one that needs to be held, and decisions need to be made on the back of that conversation about how other countries across the EU can help to share the burden of accommodating successful asylum seekers in different parts of Europe. We need to be sure that whatever commitment we make we can follow through on in terms of available accommodation, support services and so on. We will be generous but realistic about what Ireland can do.

### **Defence Forces Properties**

110. **Deputy Seán Ó Feargháil** asked the Minister for Defence his plans for the sale of lands at Magee Barracks in Kildare town; and if he will make a statement on the matter. [21738/15]

**Deputy Seán Ó Feargháil:** In 1998 the then Minister for Defence, Michael Smith, announced the closure of Magee Barracks at Kildare town. In so doing he brought to an end the history of the town as a garrison that had originally accommodated the British Army and, since the foundation of the State, members of the Irish Army. Thankfully, all staff and personnel were moved up the road to the Curragh Camp. At that time, however, recognising the importance of this 62-acre site to Kildare, he gave a firm commitment, subsequently endorsed by most of his successors, that ten acres of the barracks, or the value thereof, would be transferred for the benefit of the local community. Is the Minister going to honour that commitment?

**Deputy Simon Coveney:** In July 1998, the Government approved a programme for the evacuation and sale of six Army barracks considered no longer necessary for military requirements. Magee Barracks was one of the barracks identified for closure and disposal. On 1 July 2003 the Government decided the former Magee Barracks in Kildare town would be among the State lands released to Kildare County Council for inclusion in the Sustaining Progress affordable housing initiative. On foot of this Government decision, Kildare County Council prepared a local area plan for the site which encompassed a range of uses, including community use. Following discussions between the Department, Kildare County Council and the then Department of the Environment, Heritage and Local Government, and in accordance with the terms of the housing initiative, it was agreed that the entire site would be transferred to Kildare County Council. A final contract for transfer was issued to Kildare County Council in January 2009. Subsequently, however, the council advised the Department that it no longer wished to take possession of the property.

Officials from my Department recently met with the chief executive officer and an official from Kildare County Council. The discussions centred on a number of issues, including the Department's future plans for Magee Barracks. It is proposed to dispose of the remaining circa 54 acres of the barracks by public auction later this year.

The local development plan for Kildare town for 2012 to 2018 has made provision for substantial community developments on the barracks site. Consequently, any buyer will be obliged to comply with these provisions, thereby ensuring that the local community will benefit directly from the sale.

The Department sought to transfer the entire site but Kildare County Council decided not to proceed with the proposal, which is fine. As a result of a local area plan, however, there will be a significant community value element to any future development at the site and it will be a matter for Kildare County Council to ensure this occurs.

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**Deputy Seán Ó Fearghaíl:** We find ourselves in an interesting position. The acquisition by the Department of Education and Skills of two sites for the development of an Educate Together school and a Gaelscoil is a positive and welcome development. However, transfer to a local authority is not the same as transfer to a community. The specific written commitment was that ten acres of land at the site or the value thereof would be made available to the community. Moreover, I inquired of Kildare County Council about its refusal in 2009 to accept the site in its entirety and officials informed me that, having searched the county council's files, they can find no record to indicate that the land was offered to the council. I put it to the Minister that someone is being disingenuous in reporting to me on this particular issue. How are we to get to the bottom of the matter? A specific transfer to the community of ten acres of land or moneys to an equivalent value is required.

**Deputy Simon Coveney:** Is it not the case that the local authority represents the community?

**Deputy Seán Ó Fearghaíl:** We all represent the community.

**Deputy Simon Coveney:** I am not sure to which entity the Deputy proposes that the land be transferred. I was not the Minister for Defence in 2009 but I will restate the position to clarify the matter: "Following discussions between the Department, Kildare County Council and the then Department of the Environment, Heritage and Local Government, and in accordance with the terms of the housing initiative, it was agreed that the entire site would be transferred to Kildare County Council." I would be very surprised if the Department was making up that statement. I will request a copy of the minutes of the relevant meetings and forward it to the Deputy.

When the Department is disposing of Army barracks it always seeks, first and foremost, to transfer them to other agencies of the State, whether the Garda Síochána, the Department of Education and Skills or a local authority, or considers them for community use, for example, by local sports clubs. We have always tried to prioritise securing public value in the disposal of lands or assets, including barracks. The Department has done this on many occasions and the case in Kildare is not any different. I believe there has been a misunderstanding on the part of Kildare County Council or it has changed its mind in respect of its involvement in this matter. I will-----

**An Leas-Cheann Comhairle:** I must interrupt to call Deputy Ó Fearghaíl. I ask Members to pay attention to the clock.

**Deputy Seán Ó Fearghaíl:** While I accept the Minister's goodwill in this matter, there is a dearth of community, sporting and other resources in County Kildare which could be addressed, at least in part, through the use of the ten acre site or the value thereof. If the property is to be sold, a methodology should be found to make the site or the value thereof available to the community. The use to which the remainder of the site is put is also of great importance given its central location in Kildare.

In the past two hours, senior officials in Kildare County Council have informed me that they have no record of the Department making it an offer of the lands in question. I am also informed by the elected representatives of the council that they were not consulted or informed at any stage in 2009 that the Department of Defence wanted to transfer the site of more than 62 acres *gratis* to the local authority. Someone, therefore, is wrong.

**Deputy Simon Coveney:** That is clearly the case. The local development plan for Kildare town designates certain use for the land in question.

**Deputy Seán Ó Feargháil:** That has nothing to do with the transfer of the land.

**Deputy Simon Coveney:** Clearly, Kildare County Council has been thinking about what this land would be used for. The issue as to whether people are now saying there were no conversations and no agreement to transfer the site is something about which we will have to go back and ask the officials involved as to who said what and when. I am not going to get into that with the Deputy now on the floor of the House. I would be very surprised if the official response I have to a parliamentary question was as inaccurate as the Deputy suggests it might be. That is unlikely to be the case, but we will certainly look into it.

### **Overseas Missions**

111. **Deputy Clare Daly** asked the Minister for Defence if he will provide an update on the continued presence of Defence Forces personnel in Afghanistan, with particular reference to the prospect of the extension of the North Atlantic Treaty Organisation mission there. [21537/15]

**Deputy Clare Daly:** This question is on the numbers and activities of our Defence Forces personnel who remain in Afghanistan given that they do so after the exodus of British troops and large numbers of US troops and the current and continuing destabilisation and insecurity that exists in that country. I am particularly concerned about this in light of the prospect of the extension of the NATO mission in the area and how our Defence Forces personnel feed into that or not.

**(Deputy Simon Coveney):** On 9 December 2014, the Government approved the participation of seven members of the Defence Forces in the new NATO-led Resolute Support mission in Afghanistan, which commenced on 1 January 2015 following the withdrawal of the International Security Assistance Force, or ISAF, mission from Afghanistan. Resolute Support is a non-combat training and advisory mission. It is designed to support and develop the capacity of the Afghan National Defence Forces to ensure the security of the Afghan population and their national Government institutions following the withdrawal of the ISAF mission. The United Nations Security Council welcomed the Resolute Support mission with the unanimous adoption on 12 December 2014 of Resolution 2189. This resolution underscores the importance of continued international support for the stability of Afghanistan.

There are seven Defence Forces personnel deployed to the mission. They are based at the mission headquarters in Kabul. These personnel are employed in training and advisory roles in operations, training and support appointments. As I indicated, this is not a combat mission. The work being carried out by the Defence Forces personnel represents an important if relatively small contribution to the overall mission. The Defence Forces continue to monitor the security situation in Afghanistan and Irish participation with the Resolute Support mission is subject to ongoing review. Any decision in relation to continued participation in the mission beyond December 2015 will be taken in the context of the situation pertaining at the time and will be subject to Government approval.

**Deputy Clare Daly:** Am I to take it from the Minister's response that the seven people who are there will remain there until the end of 2015? While the Minister says they are there

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to bring stability and support for Afghanistan, I put it to him that if that is their goal, it has been an abysmal failure.

**Deputy Simon Coveney:** They have only just begun there.

**Deputy Clare Daly:** If they have only just begun, let us look at why they are there. Thirteen years ago, the Bush Administration went into Afghanistan supposedly to quash al-Qaeda and drive out the Taliban. Later, we were told the exercise was to eradicate poppy growing and emancipate women. The statistics show the loss of hundreds of British troops, thousands of Americans and tens of thousands of Afghans. A Taliban has been developed which is not weaker than it was in 2001 and which has in fact morphed into ISIS. Last year saw the most bountiful crop of poppies in the history of Afghanistan, the rights of women have considerably regressed and \$100 billion has been spent on a country which is still one of the poorest, least developed and most corrupt in the world. How in God's name could anyone call that a success or want Ireland to have any part of it?

**Deputy Simon Coveney:** We are not talking about ISAF; that is the whole point. We are moving on from that. The mission Deputy Daly is talking about is no longer there.

**Deputy Clare Daly:** It has left a great legacy.

**Deputy Simon Coveney:** What we are talking about now is a non-combat support mission to help with governance and security which are primarily provided by local populations in Afghanistan. That is what is being supported by Ireland. We are supporting something that has been unanimously supported by the UN Security Council. We are providing seven people who have a specific training role and who are more than welcome both locally in Kabul and by the UN. A great many other countries are also participating in the Resolute Support mission. I do not have the exact figure, but it is more than 20 countries. This is a non-combat, non-military assistance programme whose aim is to help build domestic capacity in a country that has been torn apart and is trying to put itself back together over time. I am happy that Ireland is playing a small but real and significant role in those efforts.

**Deputy Clare Daly:** The Minister says this is moving on from the ISAF. It does not make any sense for the Minister to expect the same people who wreaked havoc and destroyed a country to be involved in rebuilding it. The Minister talks about helping governance and security and so on. The seven people may be very able, and I do not doubt their abilities or their intentions in any way, but really, what can they do? Is this not about Ireland playing the role of a complicit and obliging follower of the United States? It has been said that it may not be a coincidence that Ireland's involvement was linked with the re-emergence of our beef onto the American market. Is it the case that we are being rewarded for showing our compliance? The reality is that seven people cannot play that role, and seven people will not undo the devastation and destruction of 13 years of rape, pillage and instability in that country, no matter how good they are.

**Deputy Simon Coveney:** With respect, I think the Deputy knows that this has nothing to do with access to the US market for Irish beef. Our participation is a conscious decision by Ireland to try to play a constructive role in rebuilding a country that needs help, quite frankly, and it is getting that help from many other countries in a non-combat mission. It is trying to put itself back together. We have specific expertise in a number of areas, which is recognised internationally. I refer in particular to expertise in counter-IED training, which is a big problem

in Afghanistan. As a result of the conflicts, there are explosives everywhere. We have specific expertise in that regard as a result of our peacekeeping experience and our experience in training. We are offering valuable support to the overall Resolute Support mission, even if it is only seven people.

It is not just my opinion that this is the right thing to do; the UN has also said so. The international community has accepted that Resolute Support makes sense and they want to see it working. Ireland is part of the mission for now. Obviously we will keep our participation under review and we will make a decision at the end of the year as to whether we will maintain a presence there.

## **Other Questions**

### **Defence Forces Medicinal Products**

112. **Deputy Seán Ó Feargháil** asked the Minister for Defence if there has been any change in his Department's stance on the use of Lariam by members of the Defence Forces on certain overseas missions; and if he will make a statement on the matter. [21735/15]

**Deputy Seán Ó Feargháil:** The issue of the administration of Lariam to members of the Defence Forces travelling to countries where malaria is a problem has been raised in this House on a number of occasions. Deputy Pádraig Mac Lochlainn has raised it and I have raised it myself. I thought I had a certain sense from the Minister, when it was last raised, that he may have been slightly more open than his predecessor to looking at the impact of this drug. The stories I am hearing - I am hearing even more of them - are extremely alarming, to put it at its mildest, in terms of the impact of this drug on some people who use it.

**Deputy Simon Coveney:** I assure the Deputy that I have an open mind on this matter. The Deputy will be aware that malaria is a very serious disease which kills approximately 1 million people every year in sub-Saharan Africa alone. It is a grave threat to any military force operating in the area. In the decade of deployment to sub-Saharan Africa by the Defence Forces, not a single member of the Defence Forces has died from malaria. The anti-malaria regime in place in the Defence Forces, including the use of Lariam, is working. The Health Products Regulatory Authority, HPRA, formerly the Irish Medicines Board, is the statutory authority with responsibility for the quality, safety and efficacy of medicines in Ireland. The Defence Forces policy on the use of anti-malarial medication is in line with current HPRA guidelines.

The Defence Forces are fully aware of the range of reported side effects attached to all anti-malarial medications. Significant precautions are taken by the Medical Corps in assessing the medical suitability of members of the Defence Forces to take any of the anti-malarial medications. As the Deputy will be aware, there are three anti-malarial drugs, all licensed by the HPRA, in use by the Defence Forces: Lariam, Malarone and doxycycline. It is the policy of the Defence Forces that personnel are individually screened for fitness and medical suitability for service overseas, including a medical risk assessment for Lariam.

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Where malaria has been identified as a risk in a particular mission area, the choice of medication is dependent on a number of factors, including the type of malaria in the destination, its resistance to particular drugs, the profile of the traveller, and the duration of travel. The choice of medication is a medical decision made by medical officers in the Defence Forces, having regard to the specific circumstances of the mission and the individual member of the Defence Forces.

I can assure the Deputy that there is no loyalty to Lariam in the Defence Forces and that there is an open mind towards the use of alternatives, which we do use in many cases. The overarching priority has to be the safety of our Defence Forces personnel abroad in ensuring that they do not get malaria. We treat them accordingly, in line with medical advice.

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

Former Ministers for Defence have had the various allegations surrounding the use of Lariam investigated thoroughly and obtained the advice of leading medical experts, who concur with the prescribing practices followed by the Defence Forces. Anti-malarial medications, including Lariam, must remain in the formulary of medications prescribed by the Medical Corps for Defence Forces personnel on appropriate overseas missions, to ensure that our military personnel can have effective protection from the very serious risks posed by this highly dangerous disease.

**Deputy Seán Ó Fearghail:** I am glad to hear the Minister unambiguously express an open mind. His predecessor did not express that same openness. There has been group-think within the Defence Forces, which has given rise to almost unquestioning support of the use of Lariam. How would the Minister respond to Dr. Franz Humer, the chairman of Roche, which manufactures Lariam? As far back as 2007, at the annual general meeting of the company, he stated that Lariam used to be the most important drug in the fight against malaria. In the meantime, however, science has advanced, and more effective anti-malarials with better side-effect profiles are now available. Why, then, does Lariam continue to be the predominant drug used by our Defence Forces? Are Malarone or doxycycline used at all for people who are being dispatched to locations such as sub-Saharan Africa?

**Deputy Simon Coveney:** My understanding is that they are. It would be ridiculous for a Minister to be responding to Dr. Humer, as his statement would require a medical response from a trained doctor or from the Health Products Regulatory Authority. My function as Minister for Defence is to take all of the advice I can and then make decisions. Any decision we make about Lariam is a medical decision, not a political or commercial one.

My understanding is that we are open to using the three drugs I have outlined, depending on where personnel are going and the types of malaria in those areas. Different drugs may be more effective in different settings. The only basis for a decision is medical, in order to ensure that when our Defence Forces personnel are abroad, they do not get malaria. We have a screening process to ensure that the side effects that can sometimes be associated with Lariam are not allowed to cause serious problems.

**Deputy Seán Ó Fearghail:** Will the Minister publish the names of the members of his expert advisory panel? It would be very useful for all of us to know which people have been advising him and the Department of Defence. Does the Minister recall the 2013 “Prime Time” investigations unit exposé which suggested there was a three to five times increased risk of

suicide among Irish troops who were prescribed Lariam? I used Lariam myself on my first visit to Africa, to no obvious ill effect, it would appear. However, I have met people who have manifestly suffered as a result of using this drug.

I put it to the Minister that he, or someone who succeeds him, will end up standing up in this House and giving an account of why the Department of Defence continued to stand over the use of this drug long after there was proven international concern. Indeed, it is a concern which has been expressed by none other than the chairman of the company responsible for manufacturing the drug.

**Deputy Simon Coveney:** No one is suggesting there are not side effects but there are side effects to some of the other malaria drugs too. I have also used Lariam and I did not have any hallucinations or problems attached to it, I am glad to say, although maybe I was lucky.

It is important to say that the Defence Forces policy in regard to the use of antimalarial medication is in line with current HPRa guidelines. We follow those guidelines strictly and if we get a change in those guidelines, we will obviously respond to that. It is also worth repeating that not a single member of the Defence Forces who has been on peacekeeping missions in sub-Saharan Africa, and there have been many of them, has died from malaria. There has been a success here. Clearly, Lariam-----

**Deputy Seán Ó Feargháil:** Not if they died by suicide as a result of it.

**An Leas-Cheann Comhairle:** Order, please. We are out of time.

**Deputy Simon Coveney:** If I was Deputy Ó Feargháil, I would be careful in what I say in regard to people taking their own lives. This is a serious issue and we take it seriously. I have an open mind with regard to changing our approach here but I would change that approach on the back of medical advice as opposed to political questions.

**Deputy Pádraig Mac Lochlainn:** My concern on this issue, as with many other issues, is that the lawyers in the Department, or those advising the Department, will say that if the Minister changes tack at this stage, he admits liability in regard to cases that are before courts. The Minister repeatedly says that nobody has contracted malaria but, with respect, that is not the point. The point is that for people with pre-existing mental health issues, this drug allegedly exacerbates their conditions and has allegedly led to tragedy. As I said before to the Minister's predecessor, and possibility to the Minister himself, the United States army, which is obviously multiples the size of ours, stopped using this drug quite a long time ago. If it is a question of legal advice or that type of issue, I would ask that this would not be a barrier to doing what is right.

**Deputy Clare Daly:** There is now an overwhelming body of evidence in this regard. I wonder is the Minister aware of the fact the British Ministry of Defence in April of this year released information under freedom of information which showed 1,000 ex-servicemen and women from the British army are suffering severe psychiatric and mental health problems or are suicidal as a result of being prescribed Lariam. An investigation is taking place there. How long are we going to have to wait until we catch up here?

**Deputy Simon Coveney:** As I said, I am not making decisions on the basis of legal advice. My only interest is medical advice. We screen people and make choices as to which antimalarial drug we prescribe on the basis of where people are going and how long they are going to

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be staying. That is a very different profile, by the way, to the US, which does not really have a peacekeeping role, as such, for its defence forces in the way that we do. On the continent of Africa, certainly, the US does not have a significant presence from a peacekeeping point of view. I had a long conversation about this when I was in Mali over the St. Patrick's Day period, when I spoke to some German colleagues about their views on Lariam. It is not that we are not thinking about it; we are and I have an open mind on it. I do not want to make decisions because of statements people have made, unless there is a medical reason which shows that our personnel are safer using an alternative to Lariam, as opposed to using Lariam which has been very effective in certain circumstances. I will have no problem standing up here and changing my view on this on the basis of medical advice. That is the advice of which we will take note.

### Naval Service Operations

113. **Deputy Mick Wallace** asked the Minister for Defence if the Irish Defence Forces plan to take any role in the European Union Naval Force Operation in the Mediterranean, which received the approval of the European Union Foreign Affairs Council on Defence on 18 May 2015; and if he will make a statement on the matter. [21375/15]

**Deputy Mick Wallace:** On 18 May, the EU Foreign Affairs Council on Defence agreed to establish what the Council refers to as an EU military operation to break the business of smugglers and traffickers of people in the Mediterranean. We know the *LE Eithne* has been dispatched to assist with the migrant crisis in the Mediterranean and has done some good work. Can the Minister confirm that this vessel or any other Irish vessel will not become involved in any EU military operation in the Mediterranean? Would the Government advocate that no one else in Europe become involved in a military capacity in this area, given the fiasco of 2011 when there was so-called no-fly mission over Libya which resulted in the place being destroyed?

**Minister for Defence (Deputy Simon Coveney):** I do not think we are talking about a repeat of that. At the formal meeting of the Foreign Affairs Council with Ministers of Defence in Brussels on 18 May, a Council decision to establish a European Union military operation, EUNAVFOR Med, was adopted as part of a comprehensive approach to addressing the migration crisis in the south central Mediterranean. Operational planning for this naval operation is currently under way and it is anticipated that the launch of the operation may be on the agenda of the Foreign Affairs Council later this month.

It is intended that the mission's mandate will be implemented in sequential phases. The first phase of the operation will support the detection and monitoring of migration networks through information gathering and patrolling in accordance with international law. The second phase involves the targeting, seizure and possible destruction of the vessels and assets of human traffickers. The third phase is an operational-disruption phase to try to stop people traffickers. The second and third phase shall commence in accordance with any applicable UN Security Council resolution and-or the consent of Libya.

Consideration of participation by the Irish Defence Forces in EUNAVFOR Med will only occur if there is a UN Security Council resolution and the applicable national statutory requirements are met. I understand that discussions on a draft Security Council resolution are ongoing and the Deputy will appreciate that any further comment would be premature at this point, pending the outcome of that process. In the meantime Ireland, through its deployment of the *LE Eithne*, will continue to assist the Italian authorities in the humanitarian search and rescue

operation efforts to prevent further tragedy and loss of life at sea.

**Deputy Mick Wallace:** It is a bit worrying that the Minister has not answered either of my questions. Does he not think that we should play a neutral role and advocate for non-military action in the area? The idea that military action could in any way help things is ridiculous.

The EU was formed on the foundations built up after the Second World War and on the idea that inhumanity should not be tolerated. The idea that we would now use any type of measures to stop people coming to Europe is something I find hard to take, given the reasons that they want to come here. Sadly, we too have played a part. People want to come to Europe because we have gone to their countries and destroyed them. They are being driven out of their homes through economic policies, trade tariffs and military intervention.

*3 o'clock*

More than 33 million people have been displaced because of war, yet we continue to allow Shannon Airport to be used by the US military machine, the biggest one on the planet, to cause devastation in many of the countries in question. Syria and Afghanistan are in the top three countries for internally displaced people. Can we take an active role and say that enough is enough and that the arms industry and the militarisation of the planet are madness, causing untold misery?

**Deputy Simon Coveney:** I do not accept the premise that every conflict in north Africa or every conflict that is contributing to mass migration in that part of the world has been caused by European or Western intervention, which seems to be the basis of Deputy Wallace's case.

**Deputy Mick Wallace:** I did not say that.

**Deputy Simon Coveney:** It was agreed at the Foreign Affairs Council meeting that the European Union would make an effort to disrupt human trafficking on a massive scale, where organised crime is essentially feeding on people's misery and vulnerability. We have an obligation to disrupt that while, at the same time, we have an obligation to assist people who are fleeing persecution.

At the moment, Ireland's commitment is a much more straightforward and simple one. It is about search and rescue and emergency responses. That is a relatively straightforward task in comparison with the other, which is much more complicated. We cannot simply do nothing and allow organised and well resourced human traffickers to continue to move large numbers of people, piling them like cattle onto boats that are not fit to get more than 30 km out to sea. This is an issue on which the European Union should not sit idly by, and anything we do should have a UN mandate and international approval.

**Deputy Mick Wallace:** We argued here a few months back about how mad it was to stop the Mare Nostrum operation. Did the Irish Government object to the stopping of Mare Nostrum? The argument against it was that it was encouraging migrants by rescuing them, but in actual fact, when we stopped saving them, they drowned. Up to 1,800 people have drowned already this year. It is great that Ireland has paid played a role in rescuing some of them. However, several root causes of the problem are not being addressed. We do not seem to want to talk about the reasons people are risking their lives in such numbers. Most of the solutions from the EU are short-term, geared towards stopping these people from coming here. The Europeans - including ourselves, given that we have facilitated the US war machine through Shannon

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Airport - have a responsibility for some of these people.

Also, I did not say they were all displaced because of war. The Minister misquoted me. However, many of them have been, and 33 million is a lot of people. We have a responsibility to do something about this.

Ireland has agreed to take 300 of the so-called good immigrants who are in camps waiting to be given a placement somewhere. However, up to 200,000 people have arrived in Europe. Are we prepared to take some of these people in? I believe we have a responsibility. They cannot just stay in camps in Italy and Greece forever. As a country, given that we have been so fond of going all over the planet ourselves, we have got to take a more humanitarian approach to these people. Will Ireland consider taking in some of the 200,000 immigrants who have arrived in Europe already?

**Deputy Simon Coveney:** It is not true that Ireland and other countries are not discussing the causes of these problems. They are, but the solutions are complex. Deputy Wallace does not want any intervention, yet he wants solutions to the causes of many of these problems, as in Afghanistan, where he does not want any Irish involvement in helping to build capacity.

**Deputy Mick Wallace:** Absolutely not.

**Deputy Simon Coveney:** We are in the business of doing multiple things at the same time - namely, trying to save people who are at risk of drowning when trying to cross the Mediterranean because they are in a desperate and vulnerable situation. That is, however, just an emergency response. The deeper issue is how the European Union can use its influence in a peaceful way, primarily to bring stability to countries that can look after their own populations rather than facilitating or causing the movements of large numbers of people looking for a better life. We will not have the solution to this today or tomorrow, and this is the truth of it. In the meantime we need to ensure people do not drown, that they are treated with some dignity when they claim asylum and that there is a fair process to assess genuine asylum seekers. We also need to ensure Ireland, within reason, bears its fair share of the burden of accommodating some of these refugees. It will be up to the Government as a whole and, in particular the Minister, Deputy Fitzgerald, to decide the actual numbers involved.

### **Defence Forces Equipment**

114. **Deputy Bernard J. Durkan** asked the Minister for Defence the extent to which ongoing upgrading of military hardware continues, with particular reference to the need to ensure a regular modernisation of all Defence Forces equipment, including aircraft, sea-going vessels and computer systems, in line with best international practice; and if he will make a statement on the matter. [21329/15]

**Deputy Bernard J. Durkan:** This question relates to the ongoing need for the upgrading, improvement and modernisation of all military hardware throughout the Army, Naval Service and Air Corps, paying particular reference to the fact some branches of the Defence Forces serve overseas where their authority is challenged. We acknowledge the tremendous work by the commander and crew of *LE Eithne* for their humanitarian work in recent weeks.

**Deputy Simon Coveney:** I thank Deputy Durkan for raising this issue. The acquisition

of new equipment and equipment upgrades for the Defence Forces remains a focus for me as Minister for Defence and is a matter that is kept under constant review. The development of a new White Paper on defence is under way. The White Paper will provide the future policy framework for defence for the next decade. A key part of the development of the White Paper is the consideration of potential challenges arising in our future defence and security environment. Future capability requirements, including those in relation to overseas peace support missions, including the UN, are being considered in the drafting of the new White Paper. After this Question Time I will spend two hours with officials to finalise the first draft of the White Paper. This ongoing work on the White Paper will underpin recommendations regarding the future provision of military equipment to be deployed at home and overseas.

In many ways the type of equipment is changing all the time with regard to technology and potential threats. A threat such as cybersecurity was not even known to anybody 15 or 20 years ago, or perhaps ten years ago, whereas now it is a major part of the demands on any state to protect its citizens. For the present, decisions on new equipment, including aircraft, ships, information technology and computer systems and the upgrade of military equipment in operational use will continue to be made on a strictly prioritised basis within a restricted budget with a view to maintaining the capability of all roles assigned by Government to the Defence Forces.

**Deputy Bernard J. Durkan:** I thank the Minister for the reply. Is the Minister satisfied the technology available and likely to become available is state-of-the-art and comparable to that available to all other defence forces alongside which Irish troops may serve overseas? Is there a programme of ongoing upgrading in this regard?

**Deputy Simon Coveney:** There has been. Even under the constraints of recent budgets we have seen a steady upgrading of equipment to ensure our peacekeepers abroad are safe. There has been a fleet replacement programme in the Irish Naval Service, which essentially will see three new ships in three years, namely, the *LE Samuel Beckett*, the *LE James Joyce*, which will arrive in the coming weeks, and a third ship, which will arrive next year, although probably not in time for this Government. The commitment has been made and the construction project is well under way. The third boat will be very similar to the *LE James Joyce* and the *LE Samuel Beckett*. We are investing and will continue to do so. Our deployment overseas in missions, such as UNDOF on the Golan Heights, is because of the training, skill sets, expertise, professionalism and equipment, such as armoured vehicles and Mowags, to which the Irish Defence Forces have access.

We are well trained and well equipped but we need to keep upgrading our equipment to ensure our troops remain safe and effective. It is my job to make sure that happens.

**Deputy Bernard J. Durkan:** To what extent is the modernisation of aircraft and military hardware in the Air Corps continuing?

**Deputy Simon Coveney:** There is no provision for the acquisition of new aircraft for the Air Corps in 2015. However, a significant level of investment in new equipment for the Air Corps has taken place in recent years. The investment programme included the delivery of training aircraft, the acquisition of two light utility EC135s, six utility AW139 helicopters and a mid-life upgrade of the two CASA maritime patrol aircraft.

As I mentioned, the role of the Air Corps is part of the White Paper deliberations and the question of proceeding with any replacement aircraft programme for the Air Corps will be

considered in tandem with the White Paper, which we will hopefully see in the coming months.

### Naval Service Operations

115. **Deputy Clare Daly** asked the Minister for Defence the nature of the activities that the *LE Eithne* will be engaged in as part of Operation Triton. [21356/15]

**Deputy Clare Daly:** This is a continuation of the discussion we had earlier about the activities in the Mediterranean. The Minister has clarified that the *LE Eithne* is not involved in Operation Triton and is there on humanitarian grounds, but he also went into combat with a straw man by saying doing nothing was not an option when nobody was arguing for doing nothing. Operation Triton replaced the Mare Nostrum programme, which cost €9 million per month while Operation Triton costs €3 million. The EU has put up its borders and is making it more difficult for refugees. Should Ireland not be playing a more positive role? Being neutral is not the same as doing nothing.

**(Deputy Simon Coveney):** I am glad we agree that being neutral is not the same as doing nothing and we are doing a lot. This is, however, the first time an Irish naval vessel has ever gone overseas on a mission such as this. When the *LE Eithne* has gone overseas previously, it has essentially been on diplomatic missions, as opposed to a humanitarian mission like this. It is a new departure for the Naval Service and it is doing a really good job under quite difficult circumstances.

Most people would recognise that it was a mistake to downgrade Mare Nostrum in terms of what was being spent and in terms of providing capacity to assist migrants coming across the Mediterranean Sea. That is why we are seeing a significant increase in activity on humanitarian grounds. That is my focus and it is that of the Defence Forces and the Naval Service. If that should change, it could only be on the back of a UN Security Council resolution and, should we be asked to be part of something broader, the application of the triple lock. Our role has been highly effective in the past ten days and will continue to be effective through the summer. I suspect we will maintain a presence from the point of view of search and rescue and humanitarian activities at least until the end of September.

**Deputy Clare Daly:** Does the Minister agree with the words of President Michael D. Higgins that the failure at EU level has turned the Mediterranean into a graveyard? Given that the Minister said he did not agree with the downscaling of the Mare Nostrum operation, are we to take it that, at EU level, the Irish Government is arguing for search and rescue operations to be restored to that level rather than what has currently been embarked upon?

What is the Minister's attitude to the suspension of the Dublin Convention whereby people arriving in an EU country have to be processed for asylum in that country, which is causing major problems for Italy and Greece? Has he advanced the discussions about taking extra refugees? I do not know if the Minister saw the excellent letter by Ed Horgan, the famous peace activist in Limerick and former Irish officer, who made the point that on 11 April 2015 some 300 asylum seekers drowned in the Mediterranean. On the very same day the EU launched a spacecraft into space and recovered that piece of hardware from the ocean at a cost of €150 million. Is it not obscene that we would spend €150 million rescuing a piece of hardware and yet downgrade a rescue operation, putting the lives of hundreds of people at risk when we have been complicit in making them refugees in the first place?

The Minister said we had to look at it but that there was no immediate solution. We know that, but non-intervention would be a very good start. We could stop the flood of refugees by stopping the interference in their countries in the first place.

**Deputy Simon Coveney:** The Deputy has put a lot of questions and made a number of comments. I have dealt with most of them in previous questions. I said that most people would accept it was a mistake to reduce the resource level in terms of search and rescue and in terms of the assistance we give to migrants in the Mediterranean. The tragic drownings which happened in the past six weeks or so shocked many people. As a result, Ireland and other countries have dramatically increased resources which we are now applying to provide partial solutions to the problem, focusing at the moment on search and rescue and humanitarian assistance. That is a good thing. Rather than focusing on mistakes made in the past, we should focus on trying to solve the problems. Ireland wants to contribute to that effort and we are doing an excellent search and rescue job at the moment. We will contribute to the broader debate on how Europe, collectively, can help to address the reasons for mass migrations from Libya and north Africa.

### **Leaders' Questions**

**Deputy Micheál Martin:** Last Thursday week, 29 May, Deputy Catherine Murphy gave the background to her reasons for believing an independent commission of inquiry should be established relating to transactions in IBRC since 2009. Deputy Murphy had sources, which she believed were reliable and robust, who told her that very low interest rates had been given to Mr. O'Brien. Within minutes of this being reported, the shutters came down on almost all media outlets, preventing them from reporting what Deputy Murphy had said even though it was something which was in the public interest and was covered by absolute privilege under Article 15 of the Constitution. The national broadcaster was silenced, as was TV3, the radio stations and most of the newsprint outlets. Not all were silenced because *Broadsheet.ie* and *The Sunday Times* printed the material, but others were effectively silenced by threats and intimidatory action to the effect that this material was the subject of a court injunction.

The Taoiseach was also silent. For the entire five-day period in which the media were silent, he was silent too. He did not criticise the media blackout or defend the right of a Member of this House to raise issues of public interest. She was called a "liar" and a "thief" during the public debate that ensued. The Taoiseach went into hiding and many people across the country could not understand why the Taoiseach of the country would not come forward to support Dáil privilege, unequivocally and in public. Is it because Mr. Denis O'Brien was leading the legal challenge that he remained silent? Does the Taoiseach think Mr. O'Brien was right to do what he did, which is effectively to threaten legal action on media outlets to prevent them reporting what is said in this House? Is the Taoiseach scared of this individual? Was he afraid to confront the issue and the person? Why was he willing to remain silent and indifferent to attempts to stifle legitimate debate, to limit reporting of Dáil proceedings and not to respond to personal attacks against Dáil Deputies?

**The Taoiseach:** I had five public engagements on the Friday and the same on the Saturday and Sunday in other locations. The request made of me was to recall the Dáil. An injunction

was granted by the High Court. A case was before the High Court. This House could have met on the Sunday, Monday and Tuesday and talked itself around in circles. It had no authority and no function in interfering with the court case. Had I made any comment, either side could have used those comments in the intervening period until the judge clarified the intent of the injunction he gave. I was very happy to see the judge clarify exactly that the rights and privileges of elected Members of this House were vindicated, as protected under the Constitution. For that reason, it was not appropriate to have the House recalled. In fact, if anything were to be recalled, it would be the Committee on Procedure and Privileges, because if Members of the House wish to apply sanctions to other Members, they do so internally. While the privilege is constitutional, it is not unlimited and people who do make statements in the House have a responsibility to exercise that privilege in a proper and appropriate fashion. For that reason this House had no function attempting to direct or influence in any way a Justice of the High Court, who clarified, beyond yea or nay, that Members of this House have constitutional protection for what they say here, and they have a duty to use that privilege responsibly.

**Deputy Micheál Martin:** I believe Deputy Murphy used that privilege responsibly. Judging from the Taoiseach's remarks, he does not. He seems to be siding with Mr. O'Brien on that argument. I did not ask the Taoiseach about the recalling of the Dáil. I asked him why he remained silent on fundamental principles that go to the heart of a functioning parliamentary democracy, namely, the right of media to report on utterances made in this House, the right of Dáil Deputies to raise issues of legitimate public interest without being pilloried and called a liar and a thief. It is extremely sad that the Taoiseach could not at that time, as the leader of the country, come out publicly and say what was fundamentally correct and proper. For example, in the last few days, we have been treated to the Taoiseach's views on subjects as diverse as Sepp Blatter and bottle banks. With the greatest of respect, people are getting very fed up of this shallow, superficial politics.

*(Interruptions).*

**Deputy Paul Kehoe:** Look in the mirror.

**Deputy Micheál Martin:** I put it to the Taoiseach-----

**Deputy Paul Kehoe:** Look in the mirror.

**Deputy Micheál Martin:** I can remember four years ago when the Moriarty tribunal published its report. The Taoiseach ducked and dived on that occasion before he had to come in here and belatedly accept its findings. I do not know what it is.

**A Deputy:** Ask Averil Power.

**Deputy Micheál Martin:** The silence over the last week was unacceptable and unedifying. The Taoiseach's response to my question today was extraordinary. We did not need the judge to tell us we had absolute privilege under Article 15. It is extraordinary that the Taoiseach would come in and say that. The idea that both sides would use his arguments, somehow, in the ensuing court case, is bogus. He was opening hotels and pubs and doing whatever else on that Friday, while the rest of the country was debating this issue. The Taoiseach was deliberately absent, because when he wants to speak about something - whether it is a bottle bank, the launch of a football match, or whatever - he is there to do it. It is unacceptable that he remained so silent on an issue so fundamental to our parliamentary democracy. It was an absence of leadership on the Taoiseach's part.

**The Taoiseach:** It is not for Deputy Martin to put words in my mouth. He leads a party that was described in the past as being “slightly constitutional”.

**Deputy Billy Kelleher:** See what it says about the Taoiseach’s party.

**A Deputy:** A leader with no followers.

**Deputy Jerry Buttimer:** A leader with no followers.

**The Taoiseach:** Besides opening the facility for hygiene and all the rest of it, the Deputy forgot to mention I also launched the national carers’ strategy week and the absorption into Irish Rural Link of the structure for meals on wheels services around the country. These are matters that are as relevant to Deputy Martin as to anybody else.

**Deputy Finian McGrath:** The Taoiseach cut the respite care.

**Deputy Peter Mathews:** What about meals and deals?

**The Taoiseach:** If he thinks it is appropriate that these things not be commented on, then fair enough. It ill-behoves Deputy Martin to come in here speaking about leadership, because he did not do anything to further the cause of those who sought equality in marriage over the last month. In fact, the Yes Equality people-----

**Deputy Michael Healy-Rae:** How did we make this jump?

*(Interruptions).*

**The Taoiseach:** -----had to put up the Fianna Fáil posters down the west while his party-----

**Deputy Michael Healy-Rae:** The Taoiseach is the man who wanted to abolish the Seanad.

**The Taoiseach:** -----sneered and jeered at a Senator who was explaining the importance and the value of that vote.

**Deputy Micheál Martin:** I am the only party leader who debated the issue on the public airwaves. The Taoiseach did not. He refused to debate that too. He refused to go on the airwaves to debate.

**Deputy Michael Healy-Rae:** When the Taoiseach is in a hole, he should stop digging.

**Deputy Billy Kelleher:** Does the Taoiseach remember the time he pushed Ursula Halligan out of the way?

**The Taoiseach:** The Constitution is very clear about the privilege of Members elected to this House. It is unequivocal in its statement, which cannot be changed except by a referendum of the people. It was not for me to comment on the outcome of a court case-----

**Deputy Micheál Martin:** There was no court case-----

**The Taoiseach:** -----in which a Justice of the High Court was about to issue his clarification, which he did. In keeping with my views on this for many years, the judge clearly vindicated the rights of public representatives in this House and that what they say is under privilege-----

**Deputy Peter Mathews:** We knew that.

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**Deputy Michael Healy-Rae:** The Taoiseach did nothing to uphold it.

**The Taoiseach:** -----and that privilege should be used with responsibility. Deputy Martin's comments are not relevant. The situation that anybody could have taken comments from the Taoiseach about a court case pending either way-----

**Deputy Timmy Dooley:** It was about a Dáil procedure, not about a court case.

**The Taoiseach:** It was very clear that the Constitution was not changed and cannot be changed except by the will of the people and by a vote of the people.

**Deputy Robert Troy:** Why did the Taoiseach not come out and articulate that? Why did he not say that?

**The Taoiseach:** The right of every Member in this House, irrespective of who they represent, is clear in that Constitution.

**Deputy Robert Troy:** If it were anyone other than Denis O'Brien, he would have said it.

**The Taoiseach:** It does not behove the Deputy to come in with that kind of comment here.

**An Ceann Comhairle:** I call Deputy Adams.

**Deputy Bernard J. Durkan:** The Deputy cannot talk.

**Deputy Gerry Adams:** Míle buíochas, a Cheann Comhairle-----

**Deputy Billy Kelleher:** I do not think any of you were at the Moriarty Tribunal.

*(Interruptions).*

**An Ceann Comhairle:** Would Deputy Durkan please take his seat?

**Deputy Bernard J. Durkan:** I apologise.

**An Ceann Comhairle:** The Deputy is on his feet. Please show him some respect.

*(Interruptions).*

**Deputy Gerry Adams:** It would not have been necessary to establish a commission of investigation into certain matters pertaining to transactions entered into by IBRC if the Government had properly answered questions here in the Dáil. I have been asking these questions for over three years now. I will repeat some of them today. In 2012, an Teachta Pearse Doherty and I submitted a range of parliamentary questions about IBRC. The responses were deliberately vague and obstructive. Some of these questions related to IBRC hiring Blackstone to advise it on the sale of assets. As the Taoiseach well knows, Blackstone is an American vulture capital group, which was seeking to buy IBRC's loan book. Anybody could see the obvious conflict of interest at the heart of this arrangement, but the Minister and the Taoiseach indicated in their responses that they had no difficulties with any of this. The Taoiseach also refused to answer questions about the fees being paid to these advisers, as did the Minister. In November 2011, the Taoiseach met the head of Blackstone, Stephen Schwarzman, and his associate, Gerry Murphy. During this period, the Government appointed chair of NAMA's advisory board actually sought to appoint Gerry Murphy to this board. Again, the conflicts of interest are startling. This appointment was abandoned after Sinn Féin's parliamentary questions drew attention to

the matter, but we still did not get answers to the questions we raised. Will the Taoiseach tell the Dáil what he discussed with the head of Blackstone, Mr. Schwarzman or with Mr. Murphy? Did the Taoiseach raise concerns about the very obvious conflicts of interest in Blackstone taking on an advisory role with IBRC when it was already bidding for IBRC loans?

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

**Deputy Gerry Adams:** Tá mé ag críochnú anois.

**An Ceann Comhairle:** Go raibh maith agat.

**Deputy Gerry Adams:** In his response to questions from me during Leaders' Questions in 2012 about the relationship between the Department of Finance and IBRC, the Taoiseach refused to answer but he said that "the highest ethical standards will be employed". Does he still stand over this assertion?

**The Taoiseach:** I think I met the person the Deputy mentioned on two occasions. We discussed the general state of the economy and how things were moving in the right direction. It was not for me to discuss any individual company's business.

In regard to the standards the Deputy mentioned in respect of the Department of Finance, he is aware that the Minister for Finance met his party's deputy leader and the other spokespersons or leaders of the parties yesterday to hear their proposals in so far as the commission of investigation is concerned. The issue here is that the Government was very anxious to get all of the information out into the public domain and into this House as quickly as possible. The structure to do that was to ask the special liquidator to collate all of the files and present them to the Minister for Finance by the end of August to be sent to the Committee of Public Accounts and that on its examination, if it requested a further independent investigation, that the law would be changed to allow the Comptroller and Auditor General's office to do it. That strategy was overtaken by the events of the past fortnight, in particular in respect of the case in the court and also because of the range of allegations and assertions that were made. I stress that nothing has been proven against anybody in terms of wrongdoing here. That is why we are having a two-day debate now on the terms of reference, which were approved by the Cabinet this morning and which were contributed to both by the Deputy's party and the other parties opposite, in order that this matter can be dealt with authoritatively and independently by a judge to be nominated as a sole member in charge of this commission of investigation. The Minister has been very flexible in the terms of reference, as the Deputy will be aware. He has even gone so far as to say that if issues were being dealt with or contracted by IBRC before the special liquidator was appointed, the flexibility is there to follow those particular transactions through and, also, that if other particular issues arise, consideration will be given to them.

While the Members will have the opportunity over the next two days to contribute to the debate, the intention is that the commission of investigation will be properly resourced and will deal with all of the issues that are set out between 21 January 2009 and 7 February 2013, the date that IBRC was liquidated. The Government looks forward to hearing the propositions from the various Deputies here over the next period and we should let the commission get under way and do its work. That is in the public interest and it is something the Government supports very strongly.

**Deputy Gerry Adams:** I asked the Taoiseach the following question in February 2012:

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The Irish Bank Resolution Corporation, the bank formerly known as Anglo, has retained the services of the Blackstone Group to advise it on the sale of €30 billion of loans it has across Ireland and Britain... How come these vulture capitalists are advising on this loan but are not precluded from bidding for the debts? They are advising on the sale, but are bidding at the same time. Surely, this is a conflict of interest which runs totally contrary to the Taoiseach's election promises to straighten out these issues and make them transparent.

The Taoiseach, in his response, went on his rambles around Ireland. We never got a response to these issues and now he has said that his intention all the time was to get all the information out into the public domain. The Dáil record, with the contributions of Teachta Murphy, Teachta Pearse Doherty, and myself, shows the exact opposite to be the case.

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

**Deputy Gerry Adams:** When I asked the Taoiseach what he raised with Mr. Schwarzman and Mr. Murphy, he said it was not for him to raise any company's business. He is supposed to protect the taxpayers' interests. He is the Taoiseach and this is public money. The billions and millions we are talking about belong to the people. I ask him again to give some clarity on this. We do not need a commission of investigation; the Taoiseach met them, and he has said now that he met them on two occasions. What did he discuss with them?

**The Taoiseach:** The state of the Irish economy and the improvements in the economy. The review, as the Deputy knows full well, will consist of-----

**Deputy Gerry Adams:** I am not asking the Taoiseach that.

**The Taoiseach:** I am telling the Deputy-----

**Deputy Gerry Adams:** I have his terms of reference here.

**Deputy Timmy Dooley:** He has such respect for the Dáil that he is going to tell the Deputy about that.

**The Taoiseach:** -----that it will cover all transactions, activities and management decisions which occurred between 21 January 2009, which was the date of the nationalisation of IBRC, and 7 February 2013, the date of the appointment of the special liquidators to IBRC.

**Deputy Timmy Dooley:** The Deputy will have to get that under a freedom of information request.

**Deputy Gerry Adams:** On a point of order-----

**An Ceann Comhairle:** The Deputy cannot raise a point of order in respect of a reply to a question.

**Deputy Gerry Adams:** The Taoiseach is not answering the question.

**Deputy Peadar Tóibín:** This is what happened in this place in the first instance - questions were not answered.

*(Interruptions).*

**Deputy Timmy Dooley:** That is right; he has such respect for the Dáil.

**An Ceann Comhairle:** I cannot intervene in regard to answers to questions.

**The Taoiseach:** Deputy Murphy raised a number of issues in the Dáil and followed them through very consistently.

**Deputy Peadar Tóibín:** Because of prevarication.

**Deputy Timmy Dooley:** She needed to use freedom of information requests eventually to get the answers.

**The Taoiseach:** The response of the Government was to collate all of those files with the special liquidator and present them to the House and to the Committee of Public Accounts. Deputy Murphy made a very cogent argument in respect of a number of issues.

**Deputy Gerry Adams:** Will the Taoiseach answer the question?

**The Taoiseach:** Events have now transpired that we are having a commission of investigation where all of these matters can be discussed and dealt with.

**Deputy Gerry Adams:** Is there a minute of that meeting? Should I put in an freedom of information request?

**The Taoiseach:** Which meeting are you talking about?

**An Ceann Comhairle:** I ask that remarks be addressed through the Chair. Deputy Fleming is the next speaker.

**The Taoiseach:** As I said, we discussed the question of the improvement in the economy and the actions the Government was taking to drive that in the right direction. I must say that Deputy Murphy was very clear in her contribution here, that she had checked her sources-----

*(Interruptions).*

**Deputy Peter Mathews:** We know that.

**The Taoiseach:** -----on more than one occasion and stood by them. On that basis and on account of the issues that have transpired here, we now have a commission of investigation-----

**Deputy Gerry Adams:** They have not transpired.

**The Taoiseach:** -----with a broad and flexible set of terms of reference, which have been contributed to by all Members of the House and which will be debated over the next two days. It is in the interests of the public-----

**Deputy Peadar Tóibín:** That questions be answered.

**The Taoiseach:** -----and therefore the Government to have this commission of investigation, give the sole member proper resources to do his or her job and get on with that. The Minister for Finance will make the opening statement, I believe, at 5.30 p.m.

**Deputy Tom Fleming:** The legitimacy of the body politic has been undermined once more in this most recent sordid debacle in this country. The diligence and persistence through relevant questions by Deputy Catherine Murphy, in the interests of democracy and the people, has unearthed and exposed another web of the same old suspects, which are the banks and the big

businesses intertwined with the political system. It again begs the question of whether we have learned anything from the previous major banking scandals and the subsequent collapse of the economy. Serious concern and alarm has been raised among the public regarding the huge scale of write-down sanctioned by IBRC with a select group of 40 big businesses and a select group of individuals receiving a combined write-off of their debt of thousands of millions of euro which, it seems, could amount to anything up to €1.2 billion. Yet again the taxpayer is shouldering this back-breaking burden. This is in contrast to what is happening at the other end of the scale where tens of thousands of ordinary householders' mortgages are being sold off to vulture capitalists. These particular funds are being sold off by IBRC. These unfortunate householders have no mortgage protection as they are outside the control of the Central Bank. There is rough justice for some who are trying to keep a roof over their heads, which is in contrast to another soft landing for the elite and the preferential treatment for these people. How will the Taoiseach ensure that this commission of investigation does not become another multi-million euro burden on the taxpayer with no definite end to the investigation? Will the Government impose a timely deadline for the work's completion?

**The Taoiseach:** I thank the Deputy. He is aware, obviously, of the fact that Anglo Irish Bank and Irish Nationwide cost the taxpayer €34 billion, which was the real burden imposed on hundreds of thousands of people over that period throughout the country, when 300,000 jobs were lost and emigration became a factor in everyday life again. Obviously, with the decisions and the challenges faced up to by the people, we are now in a very different position economically, and we hope that by creating another 40,000 jobs this year and the same next year and in 2017, we will ensure that all of the jobs that were lost are recovered and the State will be approaching full employment.

The Government has restructured the banking system, getting rid of some banks and restructuring others. The Minister met recently with the main banks to discuss the question of a reduction in variable interest rates, which is of interest to hundreds of thousands of people.

Regarding the question that the Deputy raised about the commission of investigation, as I said earlier on, when the House and the Oireachtas sign off on the terms of reference for a commission of investigation, that commission of investigation then becomes the sole responsibility of the member who is conducting its business, and that member will conduct his or her business in the way that he or she sees fit within the context of the general terms of reference. Let me repeat that no Justice in this country is a pawn of any Minister and no Justice is a pawn of any Government.

**Deputy Billy Kelleher:** There might be plenty of pawns of Denis O'Brien over there.

**The Taoiseach:** It is not possible to politicise it. Otherwise, it does not work. One cannot give directions or diktats to a sole member who is handed the responsibility of running a commission of investigation in an authoritative, independent and objective way so that questions can be answered and the truth can be known, and that is what Government wishes in this case. So I cannot answer the question as to the person, persons or entities that may well take court cases during the course of the commission of investigation, but there is a period of six months to bring in a final report, and if for whatever reason that does not happen, a report of the work to that point will be brought forward. When we sign off here on the terms of reference, it then becomes a matter of responsibility for the member involved, and I am quite sure that the person who takes up that responsibility will run the commission of investigation in a very effective and competent fashion.

As Deputy Tom Fleming well knows, over the years when we had tribunals, they ran for ten years, for 12 years and for 14 years. This method of having commissions of investigation is far more effective-----

**Deputy Micheál Martin:** We told the Government that a month ago, but it voted us down.

**The Taoiseach:** -----and I have no doubt that this one will meet those rigorous high standards also. It is not a case of setting up a commission of investigation and then telling it how to do its work, when to do its work and what we want out of it. We cannot politicise this, and it is right to keep that distance and that objectivity there. I hope that the commission, when the terms of reference are approved by the Dáil and the Seanad, will be allowed to do its work in the way that we all want to see happen.

**Deputy Tom Fleming:** We could have been spared this inquiry if Deputy Catherine Murphy's questions had been answered at the outset in a fair and comprehensive manner. Unfortunately, that did not occur. This matter is best reflected in a statement by Mr. Justice Liam Hamilton regarding the beef tribunal: "I think that if the questions that were asked in the Dáil were answered in the way they are answered here, there would be no necessity for this inquiry and a lot of money and time would have been saved". That situation has been replicated in this instance.

A memo from a senior official in the Department of Finance reads: "[E]vents over the past few months have led me to question the effectiveness of the management team in IBRC ... I am concerned that the reputation of the IBRC and by extension the State has been damaged as a result of these events." Interestingly enough, according to a 2012 OECD perception report, Ireland had one of the lowest levels of public trust in the governance of State institutions.

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

**Deputy Tom Fleming:** According to the statistics, only 26% of Irish people had trust in the Government. Is is a revealing figure, given our recent and undistinguished history. That is why there is a need for a robust, forensic inquiry.

**An Ceann Comhairle:** I am sorry, Deputy, but we have gone way over time. Could you put your question, please?

**Deputy Tom Fleming:** It is coming. We will need a forensic inquiry to drill down and reveal the true facts. There is an urgent need to redeem public trust in the reform of post-crash Ireland and to restore our international reputation as being a trustworthy, transparent and fair country in which to set up business. Will the Taoiseach ensure that the investigation will give a breakdown of each individual transaction, the exposure and the types of write-down that were given so as to ensure full transparency?

**The Taoiseach:** First of all, I have been a supporter for a very long time of the idea that Dáil questions should be answered as fully and as completely as possible-----

*(Interruptions).*

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

**The Taoiseach:** I try to do that-----

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**Deputy Pádraig Mac Lochlainn:** It is an art form.

**Deputy Timmy Dooley:** Will the Government Deputies not give the Taoiseach a standing ovation?

**Deputy Bernard J. Durkan:** You are doing a great job standing over there, I can tell you. Remember when you were over here.

**Deputy Timmy Dooley:** Deputy Durkan should be feting the Taoiseach for that.

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

**The Taoiseach:** I try to do that with the questions that come into my own Department in so far as that is possible. I remind Deputy Tom Fleming that this Government restructured and reformed the freedom of information system, which allows Deputies to ask questions in respect of information they look for that is not handled by Ministers. There are particular personnel in every Department dealing with that, and I know that many Deputies have been able to get possibly more information, or certainly an extensive volume of information, out of which may come the particular or specific answer that they wish to get. It might be, I suppose, sometimes more appropriate if one were to work backwards or focus the question very precisely. With the volume of material that comes into some Departments, it is not as easy as it might seem.

**Deputy Róisín Shortall:** So it is Deputy Catherine Murphy's fault.

**Deputy Pádraig Mac Lochlainn:** A poor question.

**The Taoiseach:** Public figures and politicians the world over have never been in the higher echelons of public trust. I think the bankers were beneath the politicians there for some time. I am not sure where it is now.

**Deputy Róisín Shortall:** The Government is bringing trust down further.

**The Taoiseach:** Can I guarantee Deputy Fleming that he is going to get answers to all the questions here? What I want to say to him is that the terms of reference to be debated-----

**Deputy Robert Troy:** After the election.

**The Taoiseach:** -----and approved by the House will cover all transactions, activities and management decisions that occurred between 21 January 2009, which was the date of nationalisation of IBRC, and 7 February 2013, the date of the appointment of the special liquidators to IBRC, which dealt with particular matters. That will become a matter for the judge in question, Deputy. It is not for anybody in this House to attempt to interfere-----

**Deputy Róisín Shortall:** It is a matter for the terms of reference.

**The Taoiseach:** -----in the work of the sole member once the terms of reference have been signed off and approved.

**Deputy Peter Mathews:** The terms of reference should not be set in cement. We should debate them.

**Deputy Paul Kehoe:** That is what we are doing.

**The Taoiseach:** That person will run the business in the way that he or she sees fit, and do

a proper, competent, professional-----

**Deputy Peter Mathews:** What about the fraudulent interest charges before 2009?

**The Taoiseach:** -----and independent job. That, Deputy, I hope will deal with all of the issues that arise with regard to assertions and allegations about this person, that person, this entity and that entity so that clarity can be achieved, which is in the public interest and which the Government wants to see arising from this commission of investigation.

**Deputy Peter Mathews:** What about the fraudulent interest charges before 2009?

**Deputy James Bannon:** Listen to the banker.

**An Ceann Comhairle:** That completes Leaders' Questions. We will move on to questions to An Taoiseach.

**Deputy Róisín Shortall:** What of fraudulent deals since 2013?

**Deputy Paul Kehoe:** Deputy Mathews had his chance.

**Deputy Peter Mathews:** There were fraudulent interest charges from the 1990s.

**Deputy Paul Kehoe:** Deputy Mathews had his chance, but he left.

**Deputy Timmy Dooley:** Leave Deputy Mathews alone.

**Deputy Róisín Shortall:** The Government is limiting us.

**Deputy Paul Kehoe:** Deputy Mathews did not have the courage to stay. He could not stick the pace.

**Deputy Peter Mathews:** The Minister of State will hear the evidence later.

**Deputy Róisín Shortall:** What is that?

**Deputy Paul Kehoe:** I was not talking to Deputy Shortall.

**Deputy Róisín Shortall:** The Minister of State would stick anything. He would stand over anything. He will have to be prised out of that seat.

## **Ceisteanna - Questions (Resumed)**

### **Overseas Visits**

1. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on his attendance at the protest in Paris following the killings at the Charlie Hebdo offices; and if he will make a statement on the matter. [2169/15]

2. **Deputy Micheál Martin** asked the Taoiseach the position regarding his visit to Paris on

11 January 2015; and if he will make a statement on the matter. [2173/15]

3. **Deputy Micheál Martin** asked the Taoiseach the position regarding his meeting with the President of France, Mr. François Hollande, on 11 January 2015; and if he will make a statement on the matter. [2174/15]

4. **Deputy Micheál Martin** asked the Taoiseach if he had any bilateral meetings with other European Union leaders in Paris on 11 January 2015; and if he will make a statement on the matter. [2175/15]

5. **Deputy Joe Higgins** asked the Taoiseach if he will report on his meeting with the Prime Minister of Israel, Mr. Benjamin Netanyahu, on 11 January 2015. [2207/15]

6. **Deputy Joe Higgins** asked the Taoiseach if he will report on any meetings he had with Heads of Government of the European Union, in France in January 2015. [2208/15]

7. **Deputy Joe Higgins** asked the Taoiseach if he will report on any meetings he had with the President of France, Mr. François Hollande, in France in January 2015. [2209/15]

8. **Deputy Gerry Adams** asked the Taoiseach if he will report on his visit to Paris following the horrific attacks in January 2015; and if he will make a statement on the matter. [4311/15]

9. **Deputy Gerry Adams** asked the Taoiseach if he will report on his meeting with the President of France, Mr. François Hollande, in Paris in France in January 2015; and if he will make a statement on the matter. [4312/15]

10. **Deputy Micheál Martin** asked the Taoiseach if he has spoken to the Prime Minister of Denmark, Ms Helle Thorning-Schmidt, since the two fatal shootings in Copenhagen in Denmark on 15 February 2015; and if he will make a statement on the matter. [7710/15]

11. **Deputy Gerry Adams** asked the Taoiseach if he will report on his attendance in Paris at the protest following the attack on the Charlie Hebdo office; and if he will make a statement on the matter. [12799/15]

12. **Deputy Gerry Adams** asked the Taoiseach if he spoke to the Israeli Prime Minister, Mr. Benjamin Netanyahu, during his visit to Paris, France in January 2015; and if he will make a statement on the matter. [12800/15]

**The Taoiseach:** I propose to take Questions Nos. 1 to 12, inclusive, together.

On 11 January last, I travelled to Paris following the horrific attacks there to join over 40 other Heads of State and Government in leading a march of silent solidarity together with President François Hollande and the families and colleagues of the victims. As I said at the time, the killings were an assault on the fundamental right to free speech, which is a cornerstone of our democratic societies. They also were a brutal attack on the Parisian Jewish community. Leaders marched together that day to defend tolerance and humanity against the hatred and extremism that seek to dismantle and destroy them. Members of all the main religions and many strands of French society participated in an enormous march which continued late into the evening. The French authorities estimated that some 3.7 million people participated in events across France. There was also a global outpouring of support for the French people, including vigils across Ireland. The determination of the French people to stand firm against hate and terror was moving and inspiring.

While I did not have any formal bilateral meetings when I was in Paris, I engaged informally with many other Heads of State and Government from across Europe and beyond. Prime Minister Netanyahu was among the leaders I spoke with. I also spoke with and expressed my sympathies to several French politicians, including Prime Minister Valls, Secretary of State Matthias Fekl, former President Sarkozy and former Prime Ministers Fillon and Rocard. President Hollande greeted me on arrival at the Élysée Palace and I conveyed to him my personal condolences and the sympathies and deepest condolences of the Irish people to the families and friends of the victims of the attacks and to the French nation at a time of great loss and mourning. I had already written to President Hollande to express my condolences and to assure him of Ireland's full support and solidarity in fighting together against terrorism and extremism while preserving tolerance and inclusivity. Deputies will recall that the terrorist attack in Paris was condemned in the strongest terms during statements in this House on 14 January.

Following the further tragic shootings in Copenhagen in the middle of February, I was deeply saddened to send a similar letter of condolence and support to the Danish Prime Minister, Helle Thorning-Schmidt. When I met Prime Minister Valls during his visit to Dublin in April, I again expressed Ireland's deep solidarity with the French people and the need to defend our values. We spoke about France's deep appreciation for the support demonstrated throughout Ireland and the world in January. We also reflected that dealing with the threat of terrorism will continue to be a global challenge in the coming years. Together with all our EU partners, we continue to work towards preventing radicalisation and promoting counter-terrorism. Progress since the special European Council meeting on 12 February last will be reviewed at the forthcoming European Council meeting on 25 and 26 June.

**Deputy Richard Boyd Barrett:** The world was of course utterly appalled by the killing of 12 innocent people, ten of whom were journalists, at *Charlie Hebdo* earlier this year. I have to ask the Taoiseach about the attendance of the Israeli Prime Minister, Benjamin Netanyahu, at the demonstration he joined in the aftermath of those killings. Before I ask the Taoiseach about two aspects of this matter, I would like to mention something that might come as news to him. My main question is about Benjamin Netanyahu. The co-president of the French-Jewish Union for Peace, Pierre Stambul, was arrested at 1 a.m. last night in France. He was dragged out of his home, handcuffed and taken into police custody. I believe there is a connection between the arrest under France's anti-terror laws of a man who is part of a French-Jewish peace organisation and the fact that he was due to speak in Toulouse later today at a meeting promoting boycott, sanctions and divestment against Israel. I suggest that this man of Jewish origin was arrested under France's anti-terror laws because he was supporting the boycott of Israel in support of the Palestinian people. That follows a consistent pattern in France that pre-dates the *Charlie Hebdo* killings. For example, the French Government banned a number of pro-Palestinian or Palestinian solidarity demonstrations in France in July of last year, at a time when 2,300 Palestinians were being killed by Israel. Will the Taoiseach condemn such actions by the French Government against people who are legitimately expressing their opposition and outrage regarding the slaughter of thousands of Palestinians and calling for solidarity with the Palestinian people?

I would like to ask the Taoiseach about Benjamin Netanyahu. The Taoiseach has rightly said he was appalled and shocked by the *Charlie Hebdo* killings. He went so far as to join a mass street demonstration, which I do not think is something he has ever done before in my experience. He had certainly not done so previously during the term of office of this Government. He mentioned that he met Prime Minister Netanyahu on that occasion. Is the Taoiseach aware of the public statements made by Benjamin Netanyahu and several leading Ministers in his

Government, in which they have stated in the most brutal and cold-blooded terms their belief that it is legitimate to kill Palestinians, including innocent women and children? I will give a quick flavour of some of the statements that have been made. The Israeli Minister of Defence, Moshe Ya'alon, said a couple of weeks ago that Israel is "going to hurt Lebanese civilians to include kids of the family". He continued by saying that Israel "went through a very long deep discussion ... we did it then, we did it in [the] Gaza Strip, we are going to do it in any round of hostilities in the future." The military chief of staff, Benny Gantz, who headed up the last two military assaults on Gaza, has said that "the next round of violence will be worse and see this suffering increase". According to the Minister of Education in the Netanyahu Government, "there will never be a peace plan with the Palestinians... I will do everything in my power to make sure they never get a state". He has also said that "if you catch terrorists, you have to simply kill them ... I've killed lots of Arabs in my life and there's no problem with that". This is the Minister of Justice:

[Palestinians] are all enemy combatants... this also includes the mothers of the martyrs... they should follow their sons, nothing would be more just. They should go, as should the physical homes in which they raised the snakes. Otherwise, more little snakes will be raised there.

That was the Israeli Minister of Justice in the last few months. The Israeli deputy Minister of Defence has said that Palestinians "are beasts, they are not human".

**An Ceann Comhairle:** The Deputy should ask a question.

**Deputy Richard Boyd Barrett:** This is the last one. According to the Israeli Minister for Foreign Affairs, Tzipi Hotovely:

My position is that between the sea and the Jordan River, there needs to be one state only – the state of Israel... There is no place for an agreement of any kind that discusses the concession of Israeli sovereignty over lands conquered [in 1967].

These are the official statements of several Ministers of the current Government of Israel. In one case, the genocide of all Palestinians, including children, has actually been advocated and they have been referred to as "snakes". Does the Taoiseach agree that if we are defining terrorism, that is the language and thinking of terrorists? It is absolutely unacceptable in civilised politics and international relations for the Head of Government of a state with which we carry on normal relations to advocate those sorts of views, which we know have led to the deaths of thousands of innocent Palestinian men, women and children. Given that the Taoiseach met Mr. Netanyahu in Paris earlier this year, what does he have to say about the expression of such views by the Israeli Government?

**The Taoiseach:** The Deputy has read comments made by a number of Ministers in the Israeli Government. On the one hand, I suppose one might say they are all on-message. I find that message regrettable and most unhelpful. I do not agree with those statements. When I met Prime Minister Netanyahu briefly in Paris, I said to him that when I had an opportunity to go to Gaza a number of years ago with a delegation from here, I found the situation completely intolerable. I told him that I am a strong supporter of the two-state solution and that peace is always possible. I reminded him of the example offered by a small country like Ireland, where people were able to sit down and work out their differences after 30 years of violence, with the result that lives have been saved and a fragile but stable peace situation, which has to be worked

on constantly, has been put in place.

*4 o'clock*

I do not agree in any way with the statements Deputy Boyd Barrett has read out. They are not part of the philosophy of a democratic government working to bring about peace. That is what I think of those statements and that is what I said to the Prime Minister when I met him.

**Deputy Micheál Martin:** I welcome the fact that the Taoiseach visited France on that occasion, with other leaders, to show our solidarity in the face of the appalling murder of French journalists and cartoonists at the *Charlie Hebdo* offices. The world was truly appalled, not just by the senseless loss of life but also at the very fundamentalist interpretation of the world being imposed on them. The killing of the cartoonists and journalists also struck at the heart of freedom of speech, which is the most sacred freedom in a democracy. It is something we should cherish, nurture and preserve at all costs. That is why many people in developed Western democracies were truly appalled at the nature of the attack. Not only did it involve the murder of individuals who had families and a needless loss of life, but it struck at the heart of the concept and ideal of freedom of speech, the right of people to say things even if one does not like their saying it. That is why it was extremely important that the Taoiseach and others were there to show solidarity and to send a clear message to those who seek to wipe away centuries of progress, tolerance and respect for all religions and freedom of speech.

It is also very important in considering the role of ISIS and the Islamic fundamentalists, who use extraordinarily brutal means to advance their twisted ideology, that we send out a positive message to the Muslim population around the globe. There are approximately 1.8 billion Muslims in the world, many in democracies that work despite having very large populations. It is extremely important that proper signals go out to the Muslim population, the vast majority of whom have no truck with ISIS, Islamic fundamentalism or its methods. ISIS's reign of terror in Syria and Iraq and other countries represents a fundamental threat to stability in a region that is inherently unstable and has massive problems. It reveals frightening levels of daily brutality and repression that must be stopped and dealt with.

The right of a journalist to print satirical articles and to depict characters in cartoons on contentious issues, including religion and religious beliefs, is sacred to all of us, particularly to the French, with their ideal of the Republic, liberty and all of that. We have a longstanding relationship with France and imported several of those ideals of "Liberté, égalité, fraternité" in 1798 and in our republican tradition - ideals that sprang from the French Revolution. It is important that we were there to support that.

I accept Deputy Boyd Barrett's comment that the presence of Prime Minister Netanyahu, on behalf of the Israeli Government, does not send the right signal or message to the Muslim world, because many of the Muslims watching it, particularly those in Arab countries, would not understand it. While I acknowledge that all of our judgments and opinions are subjective, appalling atrocities have been perpetrated against Palestinians in several conflicts in recent years which, without question, amount to war crimes as reported by various UN panels. I recall, during my time as Minister for Foreign Affairs, following the attack on Gaza, the extraordinary pressure that was brought to bear on an independent international panel for daring to come to conclusions which indicted the Israeli Government for the murder of children, women and non-combatants. This speaks to a need for Governments, including ours and others in the European Union, to take a far different line with the Israeli Government from that which has

been taken before now. I know this Government was close to Netanyahu's government in its first phase. A new government has been formed. Europe has been very tolerant of flagrant abuses that have gone on for a long time, in the hope that it could influence a peaceful resolution of the problem by moving towards a two-state solution. We hear now that there is no commitment. There has been a denial of the whole idea of a two-state solution and a retreat from it in the election and the formation of the government, which is extremely hardline and seems hell-bent on beating Palestinians into submission on all fronts and creating a configuration that would make the creation of a Palestinian state almost unfeasible and unsustainable. That was an awful pity at the time.

I support the Taoiseach's presence at that gathering because it represented a coming together of leaders from across Europe and beyond to show solidarity with the murdered journalists and their families and with the ideal and concept of freedom of speech. Can the Taoiseach tell us whether he had any substantive discussion with President Hollande on that occasion and if, in the bilateral meetings he mentioned and the subsequent meetings, there has been any re-evaluation of the security threat to all EU member states from Islamic fundamentalists?

**The Taoiseach:** I think it was the right thing to do. We could have sent our very fine ambassador in Paris to represent us, but after speaking to her directly I concluded that, while President Hollande did not expect so many leaders to turn up, the issue was such that people wanted to express solidarity with the ideas the Deputy mentioned. It was much larger than people had imagined, in terms of both the number of Heads of State and Government who turned up and the number of the people of that great city, who turned out in their hundreds of thousands. It was quite a moment to have all the leaders linked across the big streets, walking in silent solidarity with the French people, and to see their reception of the symbolism of that march. This was an occasion of cold-blooded murder that sent out a chilling message about the lengths to which some elements and sectors will go.

I assume Mr. Netanyahu indicated his intention to travel to France. I told Deputy Boyd Barrett of my brief conversation with him. I think he later travelled to America after being invited by the Speaker of the House, which created tension between the Democrats and the Republicans, and while the US ambassador represented the United States, the Secretary of State did call very deliberately afterwards to express the abhorrence of the United States at what had happened.

Deputy Martin's comments on the Islamic world and Muslim community were accurate. Islam is a religion of peace. I met representatives of the Islamic community last week as part of the church-State dialogue and we discussed this issue and other issues that arise in this country.

Freedom of expression is fundamental to democracy. In France and a number of other countries, there has been a violent reaction to the expression of this freedom in particular forms. The occasion of my visit was an event that resulted from cold-blooded murder and sent out a message of solidarity with the French people.

It is too early to state what the Government of Israel will do in future. Very strong opinions were expressed before the Israeli general election and different opinions were expressed afterwards. It remains to be seen how serious the Israeli Government is about the Middle East peace process, which went off the rails and has been adrift since March 2014. The bedrock of the peace process has been the two-state solution, out of which, if the will is there, peace could come. Ireland has called for a fundamental review of EU policy on the Middle East to push

forward and rescue the peace process while it is still possible to do so. As the Deputy is aware, the position is very fraught.

The Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, reported to me on his trip to Gaza. Ireland contributed substantial funds for restoration and reconstruction efforts in Gaza, where the position is appalling. We pledged €2.5 million in assistance for Gaza, some of which was in the form of immediate aid while some was for longer-term assistance. Half of this total has been delivered, which is in line with the schedule we set out with the aid agencies in Palestine. The Minister's report, based on visual evidence, spelled out the horror of war and the destruction visited on people in Gaza.

There has been a significant increase this month in cement deliveries to Gaza from Israel as part of the process of reconstruction. I hope this will be sustained and a credible response will be allowed. We do not want a recurrence of the conflict. However, if the will is lacking to put the Middle East peace process back on track in order that discussions about a two-state solution can take place, the position will continue to be fraught with difficulty. I believe I have addressed most of the points raised by the Deputy.

**Deputy Gerry Adams:** Around this time last year, four people were killed in an attack on a Jewish museum in Brussels, and other attacks have since taken place in Denmark and Australia. As other Teachtaí and the Taoiseach noted, it was the assault on the offices of *Charlie Hebdo* in Paris on 7 January last which caused the greatest outrage. Five people died in a subsequent attack on a Jewish food shop and a police officer was also shot and killed. Much of this played out on our television screens. The Dáil united and extended sympathy and solidarity to all the victims in Paris and the people of France, while the Taoiseach quite properly represented us at a demonstration in Paris.

Since then, other attacks have occurred and some have been foiled, while the situation in the Middle East has significantly worsened. Almost half of Syria is now controlled by Islamic State and millions of refugees are living in horrendous conditions of poverty in neighbouring states. Among the tens of thousands of desperate migrants trying to reach Europe in search of work and asylum, there are many thousands of Syrians fleeing a war that has taken hundreds of thousands of lives. The response of the European Union has been far from adequate. The operation to stop people smugglers, especially on the Mediterranean Sea, has concentrated on detaining migrants and placing them in camps. Furthermore, the agreement reached on a quota system for European Union member states was short-lived. After it was rejected outright by the British Government, France and Spain withdrew their support for the agreement in recent weeks and their lead has been followed by other countries. What role can Ireland play and what role should the European Union play in this regard?

I commend the work of the crew of the *LE Eithne* since it departed Cork only three weeks ago. In recent days, they have rescued almost 400 men, women and children and have taken a total of more than 1,000 migrants from the sea. This great work has been done as part of a good initiative by the Government.

The problem of refugees will not go away. The governments of Europe cannot hide from their responsibilities in this regard, particularly those created by some EU states and the United States through wars and military adventures in Iraq, Afghanistan and Libya. Instead of dealing with the problem as a human rights issue and humanitarian crisis, the European Union is reducing its policy to one of military action against people smugglers. This carries with it a

significant risk that a boat or boats will be sunk with migrants on board.

It is against this background that attacks such as the attack on the offices of *Charlie Hebdo* occur. The latter resulted in millions of people in France and across the world taking part in public demonstrations and making a stand against fundamentalism. However, we must also get to grips with the core issues that have given rise to the growth of Islamic State and the violence it espouses. Whatever the colour of one's skin or whatever one's religion, race or gender, there can be no excuse for the actions that occurred in Paris and elsewhere. Wherever injustice, oppression, racism or attacks take place on religious minorities and wherever anti-Semitism, Islamophobia or sectarianism exist, they must be confronted and challenged. So too, however, must poverty, injustice, inequality, discrimination and racism.

The European Union must do more to help economic migrants and political refugees. Pro-active participation and initiatives are required to end the conflicts in Iraq, Syria and other parts of the Middle East. This specifically means pushing harder for a resolution of the Palestinian-Israeli conflict. What is the Government doing about this issue? We can ask such questions of the Taoiseach because he is in a position to take a leadership role on this issue. I have often argued that he should take leadership on this one issue during the Government's term. Given Ireland's history of colonialism, the success of our peace process and the general sense of goodwill towards it, we could play a much greater leadership role than the size of the country would indicate.

As reflected in the contributions of previous speakers, Prime Minister's Netanyahu's repudiation of the two-state solution has given rise to great concern. His new deputy foreign minister, Ms Tzipi Hotovely, made clear her position on illegal Israeli settlements on the West Bank when she cited the Bible to justify Israeli occupation of Palestinian land. She stated:

We expect as a matter of principle of the international community to recognise Israel's right to build homes for Jews in their homeland, everywhere.... This land is ours. All of it is ours. We did not come here to apologise for that.

The Government needs to have a strategy but I do not see one. Clearly, the Government has a position in support of the right of the Palestinian people to their own state. As such, why does it not move to formally and officially recognise the Palestinian state? It is that ongoing, deep-rooted and illegitimate occupation of Palestinian land that is at the centre and heart of what is happening elsewhere within the region. We could also consider the holding of a referendum as proposed by the Constitutional Convention on the removal of the blasphemy clause from the Constitution. Finally, will the Taoiseach bring proposals to the EU meeting shortly to tackle the migrant issue?

There are three points here. The first is our own policy as an Oireachtas and the Government's position on a two-state solution, which the Taoiseach has repeated here today. The second is a referendum as proposed by the Constitutional Convention on removing the blasphemy clause from the Constitution and the last one is whatever proposals the Taoiseach might want to share with the House and bring to the EU meeting on the issue of migrants.

**The Taoiseach:** What is going on in terms of ISIS and the Assad regime is absolutely appalling. I have seen some of the effects and read the reports and it is beyond words. The slaughter of Christians and the wanton and indiscriminate murder of people in various locations in order to set up the Caliphate of which people speak is an unspeakable brutality and an ideology of ab-

solite hatred. From that point of view, the conflict in Syria has had appalling consequences for the civilian population, 1 million of whom have gone to South Lebanon and 1 million to Jordan while others have fled across the Mediterranean. I share the view of Deputy Adams on the work of Naval Service personnel on the *LE Eithne*. It was an emotional moment for service personnel when they left Cork to head out on a humanitarian mission to work with the Italian Government and Navy. As we have discussed before, it is part of Ireland's history. There were similar drownings off Grosse-Île off the west coast of the Americas where people had inferior boats and no one to rescue them. At least, Ireland is contributing and playing its part here. The Minister for Defence answered questions on this subject on Question Time today. This matter will also be the subject of discussion at the European Council meeting on 26 June 2015. We will have the opportunity to reflect somewhat on that beforehand in pre-European Council statements. We will be looking at a number of options Ireland might put forward for consideration.

When I met with representatives of the Islamic community here last week, they raised the question of the recommendation of the Constitutional Convention on blasphemy. I indicated to the community that the Government accepted the recommendation of the Constitutional Convention that there should be a referendum on the blasphemy question but that it would not take place during the remainder of the lifetime of this Government. I indicated that it will be a matter considered in the course of the next Government.

This morning, the Government approved the taking in of a further 300 migrants, bringing the total to more than 522. Naval Service personnel have rescued more than 1,000 people in the last few days. The question of what the EU will do in this context has been the subject of a great deal of attention from High Representative Mogherini who, I suspect, will be presenting a report to leaders on 26 June. Between now and then, there will be quite a number of engagements and meetings to see if some positive approach can be taken. When one speaks to leaders of small countries like Malta and Cyprus and larger countries like Italy, one sees the extent of the consequences of conflict not just in this area of Middle East but also in terms of migrants from Africa coming through Libya and being put on inferior craft. In many cases, those craft have no capacity to reach the far shore, which is why we are making the best effort we can. We support very strongly the programme put forward by UN Secretary General Ban Ki-moon who visited here and met with me and other Ministers to discuss it. He has the full support of the UN special envoy Staffan de Mistura on finding ways to bring closure to this conflict. We have urged all regional and international agencies to support the UN's ongoing efforts to avoid a further deterioration in Syria and across the region. Whether it will be in any way successful is very hard to say. When one reads some of the reports on what is happening in different regions, it is obviously not an encouraging situation. We support a referral by the UN Security Council of the situation that applies in Syria to the International Criminal Court and recognise the need for accountability for the multiple war crimes that have been committed during the conflict. I hope that can be adopted.

At the end of March, the Minister of State, Deputy Sean Sherlock, attended at the humanitarian conference in Kuwait dealing with pledges for Syria. He announced that Ireland would provide a further €12 million in 2015 in funding and emergency supplies to help meet the stark and urgent needs of those affected by the Syrian conflict. That brings the total value of the Government's response to more than €41 million. We have responded to the plight of the victims of the Syrian conflict with a significant measure of humanitarian assistance for a country of our size, but then that is part of our nature and our history. It shows our ongoing commitment to responding to the humanitarian crisis in Syria and neighbouring countries for millions of the

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most vulnerable Syrians, including refugees and internally displaced persons. We have taken 128 Syrian refugees under the UNHCR's resettlement programme and agreed to take a further 220 in 2015 and 2016. The Minister for Justice and Equality, Deputy Frances Fitzgerald, proposed and received Government approval for the resettlement of an additional 300 refugees in 2015 and 2016 also. We have put in place a humanitarian initiative, the Syrian humanitarian admission programme, which offers temporary Irish residence to vulnerable persons in Syria or who have fled Syria to surrounding countries since the outbreak of the civil war and who have family members who reside in the State. That is of some small benefit.

As Deputy Adams said, the *LE Eithne* is deployed on the high seas in international waters between Sicily and Libya, which is where most of the migrant activity and search and rescue incidents have occurred. We are working in co-ordination with British, Italian and German naval forces. To date, the *LE Eithne* has rescued more than 1,100 migrants. As part of our contribution, the Minister for Justice and Equality has announced that Ireland will resettle an additional 300 vulnerable people who have been displaced by the crisis in Syria. In a further effort to assist, the Government allocated a further €2 million in humanitarian funding and support for NGO relief efforts in Syria and the wider region, which brings our total contribution in money terms to €41 million.

In reply to some of the issues raised by the Deputy, a referendum on blasphemy will be held but not in the lifetime of this Government. EU reforms and EU migrant issues are the subject of much discussion now and we can have a further reflection on that in the pre-European Council statements before 23 June.

**An Ceann Comhairle:** I call Deputy Boyd Barrett for a brief supplementary question. I would like to move on to the next group of questions.

**Deputy Richard Boyd Barrett:** We all agree that the *Charlie Hebdo* killings were appalling and are to be condemned outright. However, my question was trying to ascertain that unless we address the issue of double standards in foreign policy, the fuel that is driving the Middle Eastern and north African region towards extremes and towards intractable and perennial conflict will continue. At the very heart of that, and every survey and study shows that the people who have been radicalised and who have joined or given support to outfits like ISIS - this is not to justify it in any way because it should be condemned outright - is the fact that one of the key radicalising factors is the plight of the Palestinian people and the double standards of the Western world when it comes to continuing to ignore and allow Israel to persecute, kill and slaughter Palestinians with impunity and to deny and suppress in the most brutal fashion basic Palestinian human rights. One can add to that list what the Egyptian Government is doing to all of its opponents.

There is no consistency from the Western world in addressing these issues. To state the obvious, there is considerable double standards in that it would be inconceivable that a leading figure in Islamic State would have been invited to the demonstration in Paris. This State would not trade with Islamic State but, as I tried to demonstrate to the Taoiseach, Benjamin Netanyahu and his government are guilty of premeditated killing of Palestinians on the same scale and with the same vile ideology running behind it as we see from Islamic State. Yet, we still treat them as if they were a normal government; we trade and do business with them. The Taoiseach meets with them in Paris. That sends a message. The Taoiseach used very strong language, and rightly so, when he talked about ISIS and what it is doing in Syria. However, the same strength of language is not employed when it comes to the vile, sick language being used by the Israeli

Government. There is no other word for the sort of language and thinking that the Israeli Government is employing. It is sick and twisted. That has to be said and action has to follow. At what point do we say it has gone over the line and that it cannot be treated like a normal state? At a certain point the world said it would no longer deal with South Africa because apartheid was not acceptable any more. Have we not reached that point with Israel when its government uses such language and carries out the sort of actions and pursues the sort of policies that it is pursuing? When do we say, “This has gone too far now, these are not normal people”?

**The Taoiseach:** It has gone too far when politicians say that there will never be a peace brokered between these two regions. It has gone too far when it is said that the only thing to do is to kill them. That is not the talk or the debate of democrats who are prepared to take on challenges and sit down and work things through. The Prime Minister is well aware that in our country, with 30 years of troubles and terrorist activities and 3,000 people killed, maimed, blown up and disappeared, it was eventually possible with a lot of help for people to be able to sit down and work out a situation so that people could get on with their lives. It is much more complex in many ways between Gaza and between Palestine and Israel, but one cannot have a situation where that kind of violent language and that kind of threatening language is used behind a screen of pandering to the opportunity that presents itself of actually having peace.

These two things are not compatible. If we go back to the late 1940s and accept a two-state solution as the way forward, if that is the foundation on which to build, then one does not say the only thing to do is to kill people. Clearly, there are responsibilities on both sides in terms of the preservation of human life but at the same time there must be a focus on what one wants to do and work towards it. It is not easy and it will not be accomplished in any short term. I do not know how many more governments will come and go. However, if one believes in peace, then one must demonstrate a willingness to work for it. What I saw for myself in Gaza a number of years ago is certainly not very encouraging. In so far as we can help through the European Union and the work of the high representative and the governments, we must focus on this particular problem which is off-track since March last year and exacerbated now by the many other problems in the region where extreme violence has become evident in recent times. It is altogether a very sad affair.

### **Constitutional Convention Recommendations**

13. **Deputy Micheál Martin** asked the Taoiseach his views regarding the status of the Constitutional Convention; and if he will make a statement on the matter. [3269/15]

14. **Deputy Joe Higgins** asked the Taoiseach his views on the continuation of the Constitutional Convention; and if he will make a statement on the matter. [5465/15]

15. **Deputy Mary Lou McDonald** asked the Taoiseach his views on the recommendation from the Constitutional Convention to adopt constitutional guarantees on economic and social rights. [5785/15]

16. **Deputy Barry Cowen** asked the Taoiseach his plans to hold a referendum on whether to insert general economic, social, and cultural rights, and especially a right to housing, in the Constitution, as recommended by the Constitutional Convention in 2014; and if he will make a statement on the matter. [9017/15]

17. **Deputy Micheál Martin** asked the Taoiseach the position regarding the outstanding recommendations from the Constitutional Convention; and if he will make a statement on the matter. [12773/15]

18. **Deputy Micheál Martin** asked the Taoiseach the position regarding the recommendations of the Constitutional Convention, which his Department has the responsibility of coordinating, and which would require a referendum if they were accepted; and if he will make a statement on the matter. [12775/15]

19. **Deputy Gerry Adams** asked the Taoiseach his views on the Constitutional Convention; its status and outstanding reports; and if he will make a statement on the matter. [12803/15]

**The Taoiseach:** I propose to take Questions Nos. 13 to 19, inclusive, together.

On Friday, 22 May, the Government held two referendums on foot of recommendations from the Convention on the Constitution, on the age threshold for candidates in presidential elections and on marriage equality. As the House is aware, the referendum on marriage equality was passed by a decisive majority. This is the first time that a proposal for constitutional change put forward by a constitutional convention will have resulted in actual constitutional change. It will also be the first time that marriage equality was carried by popular vote and so marks an historic first for Ireland among the nations of the world.

As regards the convention's other reports, Ministers from the relevant Departments have already given the Government's response in the Dáil to five reports of the Convention on the Constitution: on 18 July 2013 to the first report on reducing the voting age and the presidential term; on 10 October 2013 to the second report on the role of women and women in politics; on 17 December 2013 to the third report on same-sex marriage; on 18 December 2014 to the fourth report on electoral reform; and on 2 October 2014 to the sixth report on blasphemy. In the process of responding to these reports of the convention, the Government has committed to establishing an electoral commission, as recommended in the convention's fourth report. The Government also accepted the convention's recommendations for referendums on four items: removing the offence of blasphemy from the Constitution; reducing the voting age to 16; reducing the age threshold for candidacy in presidential elections; and marriage equality. As I mentioned earlier, referendums on two of these, on reducing the age threshold for candidacy in presidential elections and on marriage equality, were held on Friday, 22 May 2015. The fifth report, about giving citizens resident outside the State the right to vote in Presidential elections was scheduled to be debated in the House two weeks ago but other business intervened. I expect the debate will be rescheduled shortly. However, Deputies will be aware that the Government made the point in its recent diaspora strategy that it is necessary to analyse the full range of practical and policy issues that would arise from any significant extension of the franchise before any decision could be made on the holding of a referendum. The analysis is being undertaken by the Minister for the Environment, Community and Local Government in co-operation with the Minister for Foreign Affairs and Trade and the Minister of State with responsibility for the diaspora.

Work is underway on the seventh, eighth and ninth reports, respectively, on Dáil reform, economic, social and cultural rights, including housing, and the convention's conclusions and recommendations. I expect that the Government's responses on these will be given in the Dáil shortly.

The future of the convention was one of the issues considered in the ninth report. While there was unanimous support for a second convention in the report, it was acknowledged that this is an exercise that can only be achieved once in the lifetime of any Dáil. The possibility of another Convention on the Constitution will be for the next Administration to determine. I am sure, however, that all sides of the House will join with me in congratulating and thanking the convention chairman, members, secretariat, expert panel and, indeed, all associated with the convention on their work on the unique project that it represented.

I should add that the Government has now held eight referendums in the four years since coming into office, namely, investigative powers for Oireachtas committees; judges' remuneration; the Fiscal Stability Treaty; children; abolition of the Seanad; the establishment of a Court of Appeal; marriage equality; and on the age threshold for candidates in Presidential elections. This is a much more intense programme of constitutional reform than has been carried out by any Government since 1937. The last Government, for example, held just two referendums. The Government does not propose to hold any further referendums during the remainder of its term, but I think the House will agree that the changes in our Constitution since 2011 have both improved and strengthened the fundamental law of our State.

**Deputy Micheál Martin:** I thank the Taoiseach for his reply. I pay tribute to Tom Arnold, the chairman of the Constitutional Convention, and all those who participated for their enthusiasm and commitment. However, I must say that the follow-through from the Government has been extremely disappointing. The Taoiseach might outline for me the cost of the entire exercise of establishing and hosting the Constitutional Convention.

Marriage equality aside, the issues the Government went for are surprising. Furthermore, the Taoiseach is being a bit disingenuous on marriage equality. Although it was considered by the Constitutional Convention, many political parties had committed to a referendum before the convention was established. Fianna Fáil formally adopted a position of support for a referendum prior to the convention's establishment, as did the Labour Party and Sinn Féin. The only party that did not was Fine Gael, which had not at that stage outlined a view. Although marriage equality was covered by the Constitutional Convention, it arguably did not have to go to the convention at all.

I have welcomed the overwhelming majority in support of the marriage equality referendum. I was glad to have the opportunity to debate the issue one-on-one with John Waters on TV3. I did not get the opportunity to debate on RTE, unfortunately. RTE could not facilitate me as it was reserved for Fine Gael and Labour Party Ministers. We got it in writing that we could not be facilitated.

**The Taoiseach:** How worrying.

**Deputy Micheál Martin:** "Morning Ireland" facilitated me at the eleventh hour, and Mr. Bruce Arnold also took part in the programme. Despite what the Taoiseach said earlier, I was glad to participate. Perhaps he was distracted by other issues when he made a comment he should not have made. I would have been glad to have participated in more debates if I had gotten the opportunity. However, it was a very emphatic win.

Most people, however, could not understand why the reduction in the age of eligibility to become President was prioritised over other issues. We have just discussed the Charlie Hebdo murders in Paris. What about blasphemy being taken out of the Constitution? What about re-

ducing the voting age from 18 to 16 or 17?

I have gone through the convention's report. The Government promised a lot - for example, that it would respond to every decision within four months. There is a long list, including the reduction of the Presidential term of office to five years, which the Government has committed to referring to the relevant Oireachtas committee for further consideration. Apparently, the Government committed to holding a referendum on reducing the voting age to 17, which did not take place. We could have had it instead of the Presidential age referendum. Most people on the doorsteps thought the one that was put to them was nonsensical. Although I supported it, the bottom line is that people thought there was more serious stuff.

The convention's report recommended an amendment to the clause on the role of women, and apparently a task force was established and was meant to have reported by 31 October 2014. The task force on increasing the participation of women in politics was also to report by 31 October. The Government's response to the proposed review of the Dáil electoral system was expected in spring 2014, as was its response to the recommendation on giving the right to vote in Presidential elections to citizens outside the State. As regards the removal of the offence of blasphemy from the Constitution, the Government's response was also expected in spring 2014. It was expected to respond to the recommendations on Dáil reform in 2014. Its response to the proposals on economic, social and cultural rights was expected in summer 2014.

We have not had any substantive responses from the Government on a host of issues considered by the convention, including the Office of the Ceann Comhairle, Dáil committees, various articles of the Constitution and political reform. It seems that, although the Government set up the convention, it ran out of enthusiasm fairly quickly afterwards and has not given the necessary substantive responses to the issues raised. The Government's prioritisation of issues was strange, particularly on the age questions and on blasphemy, which could have been put to the people.

**Deputy Gerry Adams:** Go raibh maith agat, a Cheann Comhairle. I also commend Tom Arnold, Art O'Leary, their teams and the respective experts who came forward. The convention, journalists, secretariat and, especially, the citizens who participated did an excellent job and produced a series of first class reports and recommendations. I attended every session of the convention except for one. It was a very uplifting experience and process, even though the convention as set up by the Government did not go as far as Sinn Féin had proposed.

As we have heard, the convention proposed serious constitutional changes, including extending voting rights to citizens in the North and in the diaspora for Presidential elections, as well as to those aged 16 and up. As I understand it, four outstanding reports have yet to be debated in the Dáil. I have been told at different times, most recently two weeks ago as well as in March and a few months before that, that these matters would be dealt with. If I understand the Taoiseach's remarks today, he is giving the commitment again that they will be dealt with before the summer recess.

**The Taoiseach:** Yes.

**Deputy Gerry Adams:** The decision to progress with the marriage equality referendum was the right one. The decision to hold a referendum on lowering the age at which candidates could stand for the Presidency was wrong, as it was not the most important issue.

All of the folks who came home to vote committed an illegality by voting, yet were lauded

by the Government and by me as well, of course. It is obvious that there are many citizens who are forced to live outside the State, yet who want to play their part in democratic processes here. The representation of the diaspora and of our citizens in the North is long overdue. It is in the programme for Government that Fine Gael and the Labour Party drew up and is a recommendation of the Constitutional Convention and yet the Government ignored it. I do not understand why it would do so. When we talk about this issue I am always reminded of the occasion when Tyrone was playing Armagh in an All-Ireland match in Croke Park, when Mary McAleese was the President. Neither the President nor any of the players had the right to vote, simply because they came from the northern part of the island. I note the Taoiseach has said he will not deal with this before the general election and we do not know whether he will have a chance to deal with it after the general election. It was a wonderful opportunity. There are other elements of this. I want to refer particularly to the final report which the convention proposed in March of last year. It recommended that the Government and the Oireachtas should empower another convention to continue the work of constitutional review and reform. I note the Taoiseach said this would not happen at this point. However, as we approach the centenary of 1916, a genuine dialogue, nationally and internationally with our own diaspora, on constitutional renewal as another step on the road to unity, peace and reconciliation would be a fitting tribute to the vision of the founders and signatories of the Proclamation. I am disappointed the Taoiseach has ruled this out and I ask him to review and reconsider that proposition.

**The Taoiseach:** I have given the House commitments before. The problem for me was that, when the convention reports came back, they were considered by Departments and sometimes by a number of Departments because of the issues that were being discussed. There were certainly some delays and I accept responsibility for not having been able to live up to the timeline we set for debates in the House. I would like to think we can have the remainder discussed here before the House rises for the summer recess.

In respect of the reduction in the age for presidential eligibility, the issue was not that people would be required to elect a person at 21 years of age but that a 21 year old would not be disallowed from competing for the highest office in the land. The question is would we elect somebody at 30, 34 or 29 years of age.

**Deputy Michael Healy-Rae:** Did the Taoiseach really think that was a good idea - a 21 year old President?

**The Taoiseach:** It was not a case of requiring that a 21 year old be elected but that nobody beyond the age of 21 should be debarred from competing for the office.

**Deputy Micheál Martin:** Did the Taoiseach know the Minister, Deputy Howlin was voting "No"? He voted "No".

**The Taoiseach:** If the Deputy was 21 again and was going to become the Taoiseach, there is no limitation upon him doing so and there is no limitation on him appointing Ministers, in that there is no age bar, whether at 35, 21 or 18 years. The convention voted against the five-year term and against aligning it with the term of MEPs.

The Government accepted the convention's recommendation to reduce the voting age to 16. We said we did not want to give dates for referendums, while accepting the principle to set out a date if possible. We have had eight referendums altogether.

On the role of women, the convention voted to modify the clause in Article 40.1.2° on the

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role of women in the home. It wanted to see more Government action to encourage greater participation by women and it voted very narrowly against this being provided for in the Constitution. The recommendation on same-sex marriage was carried.

On the review of the Dáil electoral system, the convention recommended retaining the PR-STV electoral system but recommended that constituency sizes be increased. The convention also recommended a number of election-related changes, including establishment of the electoral commission, and we accepted that. The Government rejected the recommendation to increase constituency sizes as it was of the view that the current constituency arrangement has served the State well since 1948.

The convention recommended that people outside the State would have the right to vote in presidential elections. The fifth report was scheduled and debated here two weeks ago and will come in, having been rescheduled. On blasphemy, we said that, yes, there will be a referendum under the next Administration, and we informed the Islamic community of that last week.

On Dáil reform, the convention made recommendations on the role, powers and election of the Ceann Comhairle, committee membership and powers, and the whip system, as well as the introduction of a Dáil reform committee in its own right. The Government is preparing that response. The position is similar in respect of economic, social and cultural rights.

Members have rightly expressed our thanks to Tom Arnold, Art O'Leary and all of the team, particularly the members of the public who were chosen in a very particular way to serve on the convention. They said to me, from the point of view of being civilians in our State, that it was a brilliant period in their lives, where they were able to discuss and make recommendations, one of which is now enshrined in our Constitution forever. I thank the Members for their contributions.

*Written Answers follow Adjournment.*

## **Order of Business**

**The Taoiseach:** It is proposed to take No. 16, motion re joint committees; No. 17, motion re ministerial rota for parliamentary questions; No. 18, motion re proposed approval by Dáil Éireann of the terms of the Statute of the International Renewable Energy Agency (IRENA) (back from committee); and No. 18a, motion re proposed approval by Dáil Éireann of the draft Commission of Investigation (Certain matters concerning transactions entered into by IBRC) Order 2015.

It is proposed, notwithstanding anything in Standing Orders, that: (1) the Dáil shall sit later than 9 p.m. tonight and shall adjourn not later than midnight; (2) Nos. 16, 17 and 18 shall be decided without debate; (3) the following arrangements shall apply in relation to No. 18a: (i) the speech of a Minister or Minister of State and of the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group, or a person nominated in their stead, who shall be called upon in that order, shall not exceed 20 minutes in each case, and such Members may share their time; (ii) the speech of each other Member called upon shall not exceed ten minutes in each case; and

(iii) a Minister or Minister of State shall be called upon to make a speech in reply which shall not exceed ten minutes; and (4) Topical Issues and Private Members' business shall not take place today.

Tomorrow's business after oral questions shall be: No. 18a, motion re proposed approval by Dáil Éireann of the draft Commission of Investigation (Certain matters concerning transactions entered into by IBRC) Order 2015 (resumed); No. 5, Industrial Relations (Amendment) Bill 2015 - Order for Second Stage and Second Stage; No. 6, Communications Regulation (Postal Services) (Amendment) Bill 2015 - Order for Second Stage and Second Stage; and No. 7, Urban Regeneration and Housing Bill 2015 - Order for Second Stage and Second Stage.

**An Ceann Comhairle:** There are four proposals to be put to the House. Is the proposal for dealing with the late sitting agreed to? Agreed. Is the proposal for dealing with Nos. 16, 17 and 18 agreed to? Agreed. Is the proposal for dealing with No. 18a agreed to? Agreed. Is the proposal regarding Topical Issues and Private Members' business agreed to?

**Deputy Micheál Martin:** No. I have been asked by a number of Members in my party to object to the fact Topical Issues has been removed from the Order of Business. I would point out that, over a 70 day period since Easter, the Dáil has only met on 18 days. Therefore, the time for Deputies to raise issues of significant concern has been extremely restricted and limited by dint of how the Government has ordered the affairs of the House in the past two months in particular, and this applies to Topical Issues, Leaders' Questions, Questions to the Taoiseach and so on. There has been, to a certain extent, a shutting down of the Dáil. I believe it is a deliberate strategy that the Taoiseach has been following for some time. The less time he spends in the Dáil, the better, from his and the Government's perspective in terms of media management, spinning and so on. That is my sense of it. Many Deputies wanted to raise Topical Issues and felt that provision should have been made for them in order to enable them to raise issues of topical concern.

**The Taoiseach:** There is a deliberate strategy here. This is a very important matter of public interest and we are having a commission of investigation. The terms of reference were set out by the Government in draft form because of the importance of this and because of the necessity to have a clear, independent authority deal with this matter. The Minister for Finance sat down with the leaders and spokespersons from the parties opposite and took their proposals into account. He has shown, in my view, flexibility and consideration of the views genuinely presented by Members of the other parties. These are included in the terms of reference and, because this is such an issue of public importance, as has been said-----

**Deputy Micheál Martin:** I am not talking about that.

*5 o'clock*

**The Taoiseach:** -----we have discussion today and tomorrow on it. For that reason, obviously, Deputy Martin and others will have the opportunity again on Topical Issues on many occasions.

Question put: "That the proposal regarding the Topical Issue debate and Private Members' business be agreed to."

<b><i>The Dáil divided: Tá, 85; Níl, 38.</i></b>	
<b><i>Tá</i></b>	<b><i>Níl</i></b>

<i>Adams, Gerry.</i>	<i>Aylward, Bobby.</i>
<i>Bannon, James.</i>	<i>Boyd Barrett, Richard.</i>
<i>Barry, Tom.</i>	<i>Broughan, Thomas P.</i>
<i>Breen, Pat.</i>	<i>Browne, John.</i>
<i>Bruton, Richard.</i>	<i>Calleary, Dara.</i>
<i>Butler, Ray.</i>	<i>Collins, Niall.</i>
<i>Buttimer, Jerry.</i>	<i>Creighton, Lucinda.</i>
<i>Byrne, Catherine.</i>	<i>Daly, Clare.</i>
<i>Cannon, Ciarán.</i>	<i>Donnelly, Stephen S.</i>
<i>Carey, Joe.</i>	<i>Dooley, Timmy.</i>
<i>Coffey, Paudie.</i>	<i>Fitzmaurice, Michael.</i>
<i>Colreavy, Michael.</i>	<i>Flanagan, Terence.</i>
<i>Conaghan, Michael.</i>	<i>Fleming, Tom.</i>
<i>Connaughton, Paul J.</i>	<i>Grealish, Noel.</i>
<i>Conway, Ciara.</i>	<i>Healy-Rae, Michael.</i>
<i>Coonan, Noel.</i>	<i>Keaveney, Colm.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Kelleher, Billy.</i>
<i>Costello, Joe.</i>	<i>Kirk, Seamus.</i>
<i>Creed, Michael.</i>	<i>Kitt, Michael P.</i>
<i>Daly, Jim.</i>	<i>McConalogue, Charlie.</i>
<i>Deasy, John.</i>	<i>McGrath, Finian.</i>
<i>Deering, Pat.</i>	<i>McGrath, Mattie.</i>
<i>Doherty, Pearse.</i>	<i>McGrath, Michael.</i>
<i>Doherty, Regina.</i>	<i>McGuinness, John.</i>
<i>Donohoe, Paschal.</i>	<i>Martin, Micheál.</i>
<i>Dowds, Robert.</i>	<i>Murphy, Paul.</i>
<i>Doyle, Andrew.</i>	<i>Naughten, Denis.</i>
<i>Durkan, Bernard J.</i>	<i>Ó Cuív, Éamon.</i>
<i>Ellis, Dessie.</i>	<i>Ó Fearghail, Seán.</i>
<i>Feighan, Frank.</i>	<i>O'Dea, Willie.</i>
<i>Ferris, Martin.</i>	<i>O'Sullivan, Maureen.</i>
<i>Fitzpatrick, Peter.</i>	<i>Pringle, Thomas.</i>
<i>Flanagan, Charles.</i>	<i>Ross, Shane.</i>
<i>Gilmore, Eamon.</i>	<i>Shortall, Róisín.</i>
<i>Hannigan, Dominic.</i>	<i>Smith, Brendan.</i>
<i>Harrington, Noel.</i>	<i>Timmins, Billy.</i>
<i>Heydon, Martin.</i>	<i>Troy, Robert.</i>
<i>Humphreys, Heather.</i>	<i>Wallace, Mick.</i>
<i>Humphreys, Kevin.</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>Lynch, Kathleen.</i>	
<i>Lyons, John.</i>	
<i>Mac Lochlainn, Pádraig.</i>	
<i>McCarthy, Michael.</i>	
<i>McDonald, Mary Lou.</i>	
<i>McEntee, Helen.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McHugh, Joe.</i>	
<i>McLoughlin, Tony.</i>	
<i>Maloney, Eamonn.</i>	
<i>Mitchell, Olivia.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Nash, Gerald.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Brien, Jonathan.</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>Phelan, Ann.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tóibín, Peadar.</i>	
<i>Tuffy, Joanna.</i>	
<i>Twomey, Liam.</i>	
<i>Varadkar, Leo.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	
<i>White, Alex.</i>	

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

Question declared.

**Deputy Micheál Martin:** On the extensive media coverage concerning a means tested grant to allow people to replace water pipes in their homes to decrease lead levels in their water supply, has the Government indicated when we can expect a water services Bill to implement that? What will be the average cost per household for this work? Can the Taoiseach outline the rationale as to why people will be charged for this pipe replacement while they will continue to be charged for water when lead levels are not safe? Does he agree water charges should be removed for those homes affected?

**The Taoiseach:** In respect of the strategy approved by the Government today arising from the water metering programme of Irish Water which discovered that there are significant numbers of houses with lead piping through which their water supply flows, most of these are pre-1960 builds. Some buildings affected were built between 1960 and 1970, including public buildings, schools and houses.

The regulator issued a ruling that where Irish Water was supplying water that was not drinkable or was not up to standard, then there would be no charge. For the majority of those cases where the water flowing through the pipe to the point mostly on the private residence where the lead pipe takes over to bring it through to a sink or a water tank, the Government has now introduced a grant assistance and a home improvement grant which has been in place but will be continued. The details of this were announced earlier by the Minister for the Environment, Community and Local Government.

In cases where water supplied by Irish Water is not drinkable, there is no charge as the regulator has ruled. Cases with the water coming through to the point where the lead begins is the issue. That is why the Government wants to support people to replace these pipes from the mains to the private accommodation where it actually applies.

**Deputy Micheál Martin:** I am not being facetious but they do not get to drink it when it is underground. Is it safe?

**The Taoiseach:** It has been going on for years, Deputy Martin.

**Deputy Mattie McGrath:** Get out the lead of your pencil.

**Deputy Bernard J. Durkan:** It was that way 12 years ago when Deputy Martin was in power.

**An Ceann Comhairle:** We cannot have a debate on this on the Order of Business.

**Deputy Gerry Adams:** This morning, the Cabinet agreed to take another 300 migrants between 2015 and 2016. I very much welcome that small easing of the burden and the plight of people affected, particularly arising from the conflict in Syria. It may be a pertinent time to ask

the Taoiseach about the international protection Bill and the report of the McMahon working group on direct provision.

A recent report from the Joint Committee on Public Service Oversight and Petitions on the direct provision system concluded that it is not fit for purpose. This report will be debated here on Friday. Two weeks ago, the Ombudsman for Children expressed concerns about children in the direct provision system. The special rapporteur on child protection has repeatedly raised his concerns that our State may well be in breach of human rights treaties because of the length of time children are held in the system. The Health Information and Quality Authority has produced a further disturbing report on the same issue. The Taoiseach informed me before that the report by Mr. Justice Bryan McMahon will be published by the end of May. It is now June. When will his report be published? Will the Taoiseach commit to holding a debate on it when it is published? When does he expect the international protection Bill to be published?

In the programme for Government, there is a commitment to introduce a reformed and consolidated domestic violence Bill to address all aspects of domestic violence, threatened violence and intimidation in a manner that protects victims. This echoes commitments from the election manifestoes of both the Fine Gael and Labour parties. Yet, with less than a year to go in its term, the Government has not signed up to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

**An Ceann Comhairle:** Sorry, Deputy, but we are short of time.

**Deputy Gerry Adams:** There is now a major crisis following the decision of Tusla to end funding for Rape Crisis Network Ireland. When will the Government produce the reformed and consolidated domestic violence Bill, finally honouring this commitment? Will the Government review the decision on funding for the Rape Crisis Network?

**The Taoiseach:** The heads of the domestic violence Bill are expected very shortly. The heads of the international protection Bill were cleared on 24 March, so it is on its way through the system and should not be too far away. The Minister informed the Government this morning that she expects to have the report from Mr. Justice Bryan McMahon in two weeks. That will be published and we will have a debate in the House on it.

**Deputy Gerry Adams:** Maith go leor.

**Deputy Peter Fitzpatrick:** The building control Bill, which will place Construction Industry Register Ireland, CIRI, on a statutory footing and thereby provide in law for the registration of builders, contractors and specialist subcontractors-----

**An Ceann Comhairle:** Sorry, Deputy. Just cut out the preamble and ask the question. There are only four minutes for everybody.

**Deputy Peter Fitzpatrick:** When will the legislation be published?

**The Taoiseach:** The heads of the Bill are being finalised at the moment and it is expected that it will be published later in the year.

**An Ceann Comhairle:** I call Deputy Healy-Rae. Please do not go on.

**Deputy Michael Healy-Rae:** It is very wrong-----

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**An Ceann Comhairle:** That is all grand, but what Bill are you talking about?

**Deputy Michael Healy-Rae:** The health information Bill. People are going blind waiting for cataract operations. What will the Department of Health do about it?

**An Ceann Comhairle:** What Bill are you talking about?

**Deputy Michael Healy-Rae:** The health information Bill.

**Deputy Finian McGrath:** Hear, hear.

**The Taoiseach:** The Bill will be later this year, but the presentation or publication of the Bill should not prevent the system from being able to treat people where they need treatment. The opticians and experts who work in the area of cataracts have quite a deal of work completed and have a very heavy work programme. The wait for the publication of a Bill should not stop people from getting the treatment they need.

**Deputy Róisín Shortall:** When the report of the Moriarty tribunal came out, the Taoiseach said it would not be left to gather dust. When I asked the Minister for Justice and Equality about the action she was taking to give effect to the recommendations in the report, she said that many of the recommendations were anticipated by the Tribunals of Inquiry Bill 2005, which is awaiting Report Stage in the Dáil. What is the reason for the undue delay in progressing the legislation and when can we expect Report Stage in the Dáil?

**The Taoiseach:** The recommendations of Moriarty were grouped into five categories, namely, political funding, company law, Revenue matters, regulation and tribunals of inquiry.

The Electoral (Amendment) (Political Funding) Act 2012 was enacted by the Oireachtas on 28 July 2012. It brought into force restrictions on corporate donations and considerable reductions in the maximum amount a political party or individual could accept as a political donation. The Standards in Public Office Commission, SIPO, has published guidelines for political parties on the steps to be taken in receiving donations and prohibited donations. It has also published guidelines for the register of corporate donors. Under the 2012 Act it is a requirement that political parties submit audited accounts to SIPO for publication. This requirement begins with regard to the 2015 accounts, which must be submitted to SIPO by mid-2016. Such requirements, which mandate that the income and expenditure of a political party be open to scrutiny, go beyond the recommendations of the Moriarty tribunal. In addition, the Oireachtas (Ministerial and Parliamentary Offices) (Amendment) Act 2014 reduced the levels of payment applicable to political leaders and Independent Members, and provides that Independent Members are now required to furnish to SIPO an annual statement of expenditure. Also relevant is the introduction of the Regulation of Lobbying Act 2015, to be commenced on 1 September this year. This will require a web-based register of lobbying to be implemented by SIPO, designed to bring far greater transparency in relation to those communicating with public officials and public policy matters. The register launched on 1 May this year.

On company law, Moriarty recommended that a provision similar to section 172 of the UK Companies Act 2006 be adopted in relation to directors' statutory duties. The Minister, Deputy Bruton, stated that he considered this to be covered by Part 5 of the Companies Act 2014, which came into force on 1 June last year and which provides for the codification of directors' duties.

On Revenue matters, section 101 of the Ministers and Secretaries Act placed on a statutory

footing the independence of the Revenue Commissioners in exercising the statutory functions provided to it under taxation and customs enactments. With regard to other recommendations on this issue, namely, representations to the Revenue Commissioners by officeholders and transmission to other agencies of information obtained by the Revenue Commissioners under bilateral arrangements, the Minister, Deputy Noonan, has stated that these matters have been considered and will be considered in the future.

On regulation, the Minister, Deputy Noonan, identified a number of specific actions. A new fitness and probity regime was introduced in accordance with the Central Bank Reform Act. The Central Bank (Supervision and Enforcement) Act 2013 attempts to strengthen the ability of the Central Bank to impose and supervise compliance with regulatory requirements and to undertake timely prudential interventions. A number of EU actions are cited as contributing to the improvement of the financial regime. Agreement was reached on the single supervisory mechanism in relation to the supervision by the ECB of systematic important banks within the Union.

The Moriarty tribunal made a number of observations about the operation of tribunals of inquiry. The Tribunals of Inquiry Bill 2005 awaits Report Stage debate in the Dáil. While it is not directly related to the operation of tribunals of inquiry alone, the introduction of the Protected Disclosures Act 2014 should be noted. It provides for a prohibition on penalising workers who make protected disclosures. It has been noted by Transparency International that a wide definition of “worker” has been provided in the legislation.

**An Ceann Comhairle:** I am afraid the time has expired.

**Deputy Róisín Shortall:** That is very helpful, but-----

**An Ceann Comhairle:** Sorry, Deputy. Please resume your seat.

**Deputy Róisín Shortall:** -----I did ask a specific question about the Tribunals of Inquiry Bill.

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

**Deputy Róisín Shortall:** What is the reason for the delay and when are we likely to see it?

**The Taoiseach:** I will bring the Deputy up to date on that.

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

**Deputy Robert Troy:** The Taoiseach is a great man for talking down the clock.

**An Ceann Comhairle:** I am afraid the time has expired for the Order of Business. I am afraid you will all have to come back again tomorrow.

**Deputy Robert Troy:** Will we get any answers tomorrow? That is the real question.

**An Ceann Comhairle:** That is not my job.

**Deputy Finian McGrath:** The Taoiseach likes clarity.

**Deputy Robert Troy:** Paddy likes to know.

## **Fiscal Responsibility (Amendment) Bill 2015: First Stage**

**Deputy Michael McGrath:** I move:

That leave be granted to introduce a Bill entitled an Act to amend the powers and functions of the Irish Fiscal Advisory Council in relation to the analysis of policy proposals of political parties; for that purpose, to amend the Fiscal Responsibility Act 2012; and to provide for related matters.

The purpose of the Bill is to establish a robust system for costing the election proposals of all political parties. It is our intention that the process would operate under the aegis of the Irish Fiscal Advisory Council and would be independent of the Department of Finance. I commend the Fiscal Advisory Council on the work it is doing in its current remit. Last week it made a number of very important points in response to the spring economic statement from the Government, including that forecasts for Government spending do not take account of the likely cost of demographic aging and that tax revenue forecasts do not reflect stated Government commitments to reduce taxes. It has gone about its work in a thorough and responsible manner since its establishment. With the provision of appropriate resources, it can expand its role to cover that of costing manifesto proposals. This is an important issue as we move into a general election period. While various promises have been made by the Government for the costing of policy proposals, particularly the manifestoes of the main parties, it has done nothing to facilitate this in practice. In fact, the Minister for Finance told me in reply to a recent parliamentary question that it was unlikely that such an office would be established in advance of the next general election.

Elections represent the opportunity for members of the public to pass their verdict on the policy platforms put in front of them. It is vital that members of the electorate, in making a choice on whom to select as their representatives and their Government, are afforded as much information as possible. In the months ahead, each of the parties and many Independents will publish position papers on a diverse range of issues. These will feed into their manifestoes for the election. Full transparency as to the cost of the cumulative impact of manifesto proposals would, in our view, greatly enhance the quality of debate in the run-up to the general election.

Our legislation would mandate the Fiscal Advisory Council to carry out analysis on behalf of qualifying political parties on the effect that manifesto proposals would, in the opinion of the council, have on the budgetary position of the State in advance of a general election. To ensure a fair and transparent process, we also propose that the process be extended to pre-budget proposals on an annual basis, with parties obliged to provide draft costings; that the Fiscal Council may publish its final analysis with the consent in writing of the political party in question; and that the council may publish all or part of its final analysis where it believes it is necessary to do so to correct any inaccurate statement made by the political party in question, or a member or representative of same.

The current process is entirely unsatisfactory. In advance of the last budget, Fianna Fáil submitted a large number of tax-related costings by means of parliamentary questions, as well as individual items, directly to the Department of Finance. In July 2014 we were advised by the Department that it would cost individual measures on their own merit and on a standalone basis and provide an individual cost or yield for each measure only. The Department also stated that, in contrast to the costing of the final budget package presented on budget day, no aggregate savings or yields would be provided in this costing exercise. It also stated the costing

exercise would not examine the interaction of individual measures with other tax or expenditure measures and that, therefore, no examination would be done of the second-round impacts of proposed measures, such as their positive or negative impact on economic growth, job creation or inflation or their impact on tax buoyancy. The establishment of a budget costing office under the fiscal council will provide for a full examination of proposals including how proposals interact with each other. The flaws in the current process are further highlighted by the fact that we have still not received replies in respect of a request, for example, for a costing of relatively straightforward changes to the regime for prescription charges, submitted a full nine months ago. The current system is inadequate and we are proposing a realistic way in which it can be changed. The public has demanded a change to how politics are conducted in this country and providing an independent source of information on the costing of election proposals would be a significant step in this direction. Above all else it would allow the general public to make informed decisions on proposals put forward by different political parties. I look forward to an opportunity to debate this further on Second Stage.

**An Leas-Cheann Comhairle:** Is the Bill opposed?

**The Taoiseach:** No.

Question put and agreed to.

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

**Deputy Michael McGrath:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

### **Central Bank (Variable Rate Mortgages) Bill 2015: First Stage**

**Deputy Michael McGrath:** I move:

That leave be granted to introduce a Bill entitled an Act to provide for measures to address market failures in the market for principal dwelling house mortgage loans, and to provide for related matters.

I propose this Bill in response to a situation in which the Irish mortgage market is simply not working for standard variable rate customers. Over 300,000 households are currently paying rates that are double the European average for equivalent mortgages. This is costing families hundreds of euro a month in additional interest payments. The margin earned by banks on variable rate loans in Ireland has grown dramatically as their cost of funds has fallen. Variable rates in Ireland are now so high that a customer with a €200,000 mortgage with 20 years left to run is paying €4,000 a year in additional interest when compared to a similar customer in other European countries. This is an unacceptable situation and as a parliament we are duty bound to act to protect the interests of consumers.

The recent report from the Central Bank on the influences on standard variable rate mortgage pricing in Ireland sheds important light on the nature of the mortgage market in Ireland

today. It clearly outlines the dysfunctionality which exists. I agree with the Central Bank's statement that greater transparency surrounding the variable interest rate policies operated by each bank would help in this regard. As it stands, customers have been left bewildered as to why they are paying a higher rate for their mortgages as ECB rates have fallen to record lows. It is doubtful, however, if the banks will actually voluntarily engage in such a process. While the data presented by the Central Bank is stark, I very much disagree with its conclusion that policy steps to interfere with the rates charged risk creating side effects. It is our belief that we are already living with the negative impact, both socially and economically, of excessive variable mortgage rates which are in fact twice the European average.

We cannot rely on moral pressure alone to solve this issue. The Minister for Finance, Deputy Michael Noonan, under considerable pressure from many quarters engaged in a series of meetings with the banks. While they have until 1 July to issue their formal response, the early signs are not good. For example, the Bank of Ireland has announced reductions to its fixed rate mortgage products but the point should be made by this House that a fixed rate mortgage product is not a substitute for a reduction in the standard variable mortgage rate. It is clear that the softly-softly approach adopted by the Government is simply not going to work and that a robust legislative framework is needed in relation to variable mortgage rates.

Fianna Fáil believes that this legislation represents a significant improvement in the level of protection available to mortgage holders. The legislation we are proposing is balanced between the obvious need for banks to be profitable and the rights of consumers to be treated fairly. The Central Bank would be given responsibility for monitoring the level of competition in the mortgage market and the fairness of rates charged. This would act as a strong deterrent to banks from charging excessive rates and would only necessitate Central Bank action where the evidence points to a clear market failure. It would empower the Central Bank with a range of tools to influence the standard variable rates charged, including directing a lender not to charge a rate which exceeds a specified maximum rate, a margin above that lender's cost of funds, a margin above the ECB rate or a proportion more than, for example, one third above the average variable rate charged in the market.

This process would also have the distinct advantage of protecting customers of smaller lenders and those families whose loans are sold to vulture funds. Currently there is nothing whatsoever to stop the buyers of these mortgages from increasing rates to 6%, 7% or even higher. The process would be supported by a system of sanctions for banks which failed to comply with a direction order from the Central Bank. We are also proposing a clause to protect existing customers from discrimination, which would require a bank to make the same product offering available to existing customers as is offered to new customers. Now is the time for mortgage fairness. Our legislation will help bring this about and again we look forward to a full debate on Second Stage.

**An Leas-Cheann Comhairle:** Is the Bill opposed?

**The Taoiseach:** No.

Question put and agreed to.

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

**Deputy Michael McGrath:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

### **Employment Equality (Amendment) Bill 2015: First Stage**

**Deputy Paul Murphy:** I move:

That leave be granted to introduce a Bill entitled an Act to provide equality for employees of education, medical and other services under the direction of religious organisations.

It is just over two weeks since the resounding “Yes” vote in the marriage equality referendum, a referendum which mobilised thousands of people who had not previously been engaged in politics, including young people and LGBTQ people, to demand equality and an end to discrimination and homophobia. It was a powerful demand and the fact that gay couples will shortly be able to marry is an important progressive step and a signal to many other parts of the world. It was more than just about marriage. It was about an end to all discrimination and LGBTQ people being fully accepted and not discriminated against in any aspect of our society and there is now a responsibility on the Dáil to eliminate all legal inequalities that still exist.

As part of that process the Anti-Austerity Alliance Deputies are introducing the Employment Equality (Amendment) Bill 2015, which would end the exemption in section 37 of the Employment Equality Act which permits discrimination against workers for the purposes of preserving a religious ethos. Our Bill extends the protections of the Employment Equality Act to all people employed in services run by religious organisations or under their direction. There are thousands of people employed in our education system, our health service, in charities and elsewhere who can be discriminated against because their lives do not match the outlook of a religious organisation as a result of being gay, transgender, divorced, separated or an atheist.

Section 37 currently has a major impact on workers employed in services run by religious organisations. We will shortly have a situation where LGBTQ teachers will be able to marry but will be held back from talking about that marriage in their staff room for fear of negative consequences for their employment or their promotion prospects or where they may not feel comfortable inviting their colleagues to their wedding. There is a chilling effect on LGBTQ issues in our schools where teachers are inhibited as a result of an ethos which describes LGBTQ people as “disordered”. How can a teacher seriously tackle homophobic or transphobic bullying and raise awareness and support for LGBTQ students within a school when this could be used against him or her in future promotion opportunities? It also has a chilling effect on sex and relationship education where teachers may feel unable to give full and comprehensive sex education due to religious control but are further inhibited by their employment prospects being put potentially at risk.

We know LGBTQ young people are seven times more likely to self harm or commit suicide. We need our teachers, our health workers and others in services currently run by religious organisations to be fully engaged and committed and not inhibited by religious ethos. The result of section 37 as it exists is horrific in terms of how gay people feel, particularly in the education services, in a supposedly modern democratic progressive society. Last year a number of testimonies were published by the *TheJournal.ie* telling of how a school principal became aware a teacher was gay and invited the teacher for what they described as “the chat” where the teacher

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was told they are not asking about his or her sexuality but want to make clear the school would not tolerate any promotion, discussion or open displays of a lifestyle not fully in keeping with its religious ethos. That was followed by the shunning of this teacher in a variety of ways. There are other stories in which people were turned down for promotion, were asked not to be in public with their partner as it might upset the children, or were told in a “nice” way that their lifestyle was not in keeping and that they could technically be fired.

This should not be happening to LGBTQ people working in schools, hospitals or elsewhere in this day and age. Our Bill acknowledges the right of religious organisations to run their own affairs, and under this Bill religious organisations could have allowed religion as a requirement for the employment of clergy or others with religious duties. However, any discrimination against teachers, health professionals or others should not be allowed. This is a modest step, which should be accepted by the Government. It is a step towards the complete separation of church and State, with all of our services being run democratically and open to all, regardless of religious background or ethos.

**An Leas-Cheann Comhairle:** Is the Bill being opposed?

**The Taoiseach:** No.

Question put and agreed to.

**An Leas-Cheann Comhairle:** Since this is a Private Members’ Bill, Second Stage must, under Standing Orders, be taken in Private Members’ time.

**Deputy Paul Murphy:** I move: “That the Bill be taken in Private Members’ time.”

Question put and agreed to.

### **Joint Committees: Motion**

**The Taoiseach:** I move:

That, notwithstanding anything in Standing Orders, two or more Joint Committees, in accordance with their orders of reference, may hold a joint meeting or meetings in this Dáil to consider the Transatlantic Trade and Investment Partnership (TTIP), an EU-US trade agreement currently under negotiation.

Question put and agreed to.

### **Ministerial Rota for Parliamentary Questions: Motion**

**The Taoiseach:** I move:

That, notwithstanding anything in the Order of the Dáil of 25 September 2014 setting out the rota in which questions to members of the Government are to be asked, questions for

oral answer, following those next set down to the Minister for Arts, Heritage and the Gaeltacht, shall be set down to Ministers in the following temporary sequence:

Minister for Finance

Tánaiste and Minister for Social Protection,

whereupon the sequence established by the Order of 25 September 2014 shall continue with questions to the Minister for Public Expenditure and Reform.

Question put and agreed to.

### **Proposed Approval by Dáil Éireann of the Terms of the Statute of the International Renewable Energy Agency: Motion**

**The Taoiseach:** I move:

That Dáil Éireann approves the terms of the Statute of the International Renewable Energy Agency (IRENA), done at Bonn, Germany, on 26 January 2009, a copy of which was laid before the Dáil on 6 May 2015.

Question put and agreed to.

### **Personal Explanation by Minister**

**An Leas-Cheann Comhairle:** The Minister for Finance has given notice to the Ceann Comhairle in writing that he wishes to make a personal explanation and the Ceann Comhairle has decided to permit a personal explanation by the Minister.

**Minister for Finance (Deputy Michael Noonan):** I would like to take this opportunity to correct statements I made in good faith to Dáil Éireann on 6 May 2015 during Private Members' business, and in response to Parliamentary Question No. 77 of 30 April 2015, following the discovery of new information.

First, I would like to correct the record in relation to statements I made during Private Members' business on 6 May 2015, in which I stated:

Following the introduction of the new relationship framework and operational framework, the board of IBRC commenced forwarding board packs and minutes of board meetings to the Department of Finance. The April 2012 board pack contained the minutes of the board meetings held on 20 March 2012, 21 March 2012, 28 March 2012 and 13 April 2012. However, there were no minutes included in the April board pack of the board meeting of 15 March 2012, at which we subsequently learned the sale of Siteserv had been approved. This pack of board documents, including minutes to which I referred, was the first pack of board documents and the first minutes forwarded to the Department of Finance under the new relationship framework. IBRC was previously not required to provide this informa-

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tion under the old relationship framework, which Deputy Martin approved when he was a Minister in government.

I would like to amend this statement with the following:

The minutes of the meeting of the board of IBRC from 15 March 2012, which we subsequently learned approved the sale of Siteserv, were included in the monthly board pack which the Department of Finance would have received.

I further stated that:

Following a thorough search of the records and correspondence received, I have been informed that the Department of Finance did not receive board packs or minutes of the IBRC board meetings prior to the introduction of the revised relationship framework that came into operation on 29 March 2012.

I would like to amend this statement with the following:

Following a thorough search of the records and correspondence received, I have been informed that the Department of Finance did receive board packs or minutes of the IBRC board meetings prior to the introduction of the revised relationship framework that came into operation on 29 March 2012.

I would also like to correct the record in relation to statements I made when answering Parliamentary Question No. 77 of 30 April 2015. In the second paragraph I stated:

The Department did not receive board packs or minutes of the IBRC board meetings prior to the introduction of the revised relationship framework that came into operation on the 29th of March 2012.

I would like to amend this statement, and paragraph 2 should now read in full:

The Department did receive board packs or minutes of the IBRC board meetings prior to the introduction of the revised relationship framework that came into operation on 29 March 2012.

In paragraphs 4 and 5, I further stated:

Following the introduction of the new relationship framework, the board of IBRC commenced forwarding board packs and minutes of board meetings. I wish to note that the April 2012 Board pack contained the minutes of the Board meetings held on 20 March 2012, 21 March 2012, 28 March 2012 and 13 April 2012; however there was no minutes included in the April Board pack of the Board meeting of 15 March 2012, which we subsequently learned approved the sale of Siteserv.

Following a thorough search of emails and documents held by the Department of Finance and discussions with the Department officials involved, I am informed that the first record relating to the sale of Siteserv is dated 23 March 2012 and was an email from a member of the public relating to media reports around the sale of Siteserv.

Again, I would like to amend this statement, and paragraph 4 and paragraph 5 should now read, in full:

Following searches of both soft copy data and hard copy files within the Department, discussions with former Department members of staff with responsibility for these matters and discussions with the special liquidators of IBRC, I am informed that officials were not aware of details of the Siteserv transaction until after it was approved by the board of IBRC on 15 March 2012.

I thank the Leas-Cheann Comhairle.

**Deputy Micheál Martin:** On a point of order, is there any intention to take questions on this specific item?

**An Leas-Cheann Comhairle:** No. My understanding is that personal explanations should not give rise to questions, debate or comment. It is without debate.

**Deputy Micheál Martin:** This relates to a parliamentary question I tabled. The reply I got was comprehensively wrong and misleading in a fundamental way. The Minister has now corrected the factual aspect, but has left many unanswered questions regarding, for example, the period before March 2012 and the whole issue of discontinued freedom of information, whatever that was about. That is the first mechanism by which this came to the attention of the Department of Finance officials, apparently. I have been here plenty of times in the past when, if there were such a substantial misleading of the House, Ministers would have been questioned about it.

**An Leas-Cheann Comhairle:** I have also been here a long time. Under Standing Orders, personal explanations do not give rise to debate.

**Deputy Micheál Martin:** That is the device being used by the Minister. Given the gravity of the issue - we are about to debate the establishment of a commission of inquiry - it is extraordinary that there would not be questions and answers on this issue, that the Minister would not volunteer to take questions on this issue, and that we would not get notice of this. In the past, people would have gone before committees. Is it envisaged that the Department of Finance will be going before any committee to shed further light on an extraordinary situation? One can see in the first half of the Minister's reply the very categorical statements made-----

**An Leas-Cheann Comhairle:** We are getting into debate.

**Deputy Micheál Martin:** -----and not just categorical but political presentation of the issues in a partisan way. We now learn that those were completely in error, yet there is to be no discussion of that. How did that happen? How was the Minister so wrongly advised? Is there any corporate memory of it? In the interest of the House, it is a very shoddy state of affairs that this is the mechanism by which this is being dealt with.

**An Leas-Cheann Comhairle:** We are not having a debate now. I am sure there is another way of raising it.

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## **Draft Commission of Investigation (Certain matters concerning transactions entered into by IBRC) Order 2015: Motion**

**An Leas-Cheann Comhairle:** Before I call the Minister, I wish to make a few remarks about the debate on the motion before the House. In debating the motion, the function of the House is to focus on the transactions, activities and management decisions which are proposed to be investigated in the commission's terms of reference. However, Members should not pre-judge the outcome of the commission's work or make allegations of wrongdoing against any individual. I call the Minister for Finance.

**Minister for Finance (Deputy Michael Noonan):** I move:

That Dáil Éireann:

— having regard to the specific matters considered by Government to be of significant public concern regarding transactions entered into by the Irish Bank Resolution Corporation (IBRC);

— noting that it is the opinion of the Government that these matters of significant public concern require, as the best method of addressing the issues involved and in the public interest, examination by the establishment of a Commission of Investigation; and

— further noting that a draft Order proposed to be made by the Government under the Commission of Investigation Act 2004 (No. 23 of 2004) has been duly laid before Dáil Éireann in respect of the foregoing matters referred to, together with a statement of reasons for establishing a Commission under that Act;

approves the draft Commission of Investigation (Certain matters concerning transactions entered into by IBRC) Order, 2015, copies of which were laid before Dáil Éireann on 9th June, 2015.

On 27 April 2015, in response to significant public concerns, I directed the special liquidator of IBRC to conduct a review into transactions undertaken by IBRC, with the assistance of an independent person, being retired High Court judge Iarfhlaith O'Neill and to report in a prompt and efficient manner no later than 30 August 2015.

However, since the review was established new allegations have been made which have increased public concern. Taking these developments into account and the perceived or potential conflict of interest, on 3 June 2015, in response to significant public concern, the Government decided in the public interest to establish a commission of investigation into certain decisions, transactions and activities entered into by the Irish Banking Resolution Corporation, known as IBRC, between the period 21 January 2009, the date the bank was nationalised, and 7 February 2013, the date IBRC was liquidated. The Taoiseach will be authorised to appoint the sole member of the commission of investigation.

The work of the commission of investigation will be focused on the areas where significant public concern has arisen. The draft terms of reference for the commission of investigation were published on 3 June 2015. In addition to their publication, I wrote to Deputies Michael Martin, Gerry Adams and Catherine Murphy seeking their observations and I met with Deputies Martin, McDonald and Deputy Catherine Murphy on 8 June 2015. I would like to thank the Deputies for their observations and I will address the issues that they raised throughout the

course of this statement.

The Government agreed this morning, 9 June 2015, the draft order establishing the commission, which incorporates the draft terms of reference and this has been laid before the Dáil along with a statement of reasons for the establishment of the commission.

The draft order and terms of reference provide for the performance of an investigation into certain activities of IBRC and the production of a report by 31 December 2015, in line with the Commissions of Investigation Act 2004. The commission will also have the authority to report on any other matters arising from the investigation and to make any further recommendations as the commission sees fit.

I will now deal with the scope of the review. The review will consider all transactions, activities and management decisions, other than those relating solely to the acquisition of assets by the National Asset Management Agency, which occurred between 21 January 2009, being the date of the nationalisation of IBRC, and 7 February 2013, being the date of the appointment of the special liquidators to IBRC, and which either: resulted in a capital loss to IBRC of at least €10 million during the relevant period, whether by consequence of a single transaction or of a series of transactions relating to the same borrower or entities controlled by the same borrower; or are specifically identified by the commission as giving rise or likely to give rise to potential public concern, in respect of the ultimate returns to the taxpayer.

The €10 million threshold will ensure that the investigation is focused on the largest transactions and that all transactions relating to small and medium enterprise, SME, loans or mortgages are not subject to the investigation. It is estimated at this time that approximately 30 to 40 transactions are in excess of this €10 million threshold. Any series of transactions relating to a single borrower or entity that resulted in a capital loss of €10 million is also included. However, the commission will also have the power to investigate any transaction that may have resulted in a smaller capital loss to IBRC, but gives rise to potential public concern. If Deputies are aware of potential public concerns about specific transactions below the level of the €10 million cap, they should bring these to the attention of the commission.

In effect, the judge will have two powers under the terms of reference. The first is a mandatory and relates to all transactions over €10 million - that is where the write-off is over €10 million. The second is an enabling provision that will empower the judge to investigate any transaction of any value below the threshold that gives rise to potential public concern.

Following consultation with the Opposition, the relevant period was broadened to include any situations where a contractual obligation was agreed prior to the liquidation of IBRC but was not executed until after the liquidation. Deputy Catherine Murphy raised the issue of transactions that were agreed by IBRC in the first instance but were not executed until after the liquidation of the bank. The inclusion of this additional provision will ensure the investigation can cover any such transactions.

The conclusion of the scope of the review at the date of liquidation is deemed necessary to focus the review on the transactions that have led to the significant public concerns.

It is worth recalling that the IBRC Act 2013 contained a number of safeguards to protect the interests of the Irish taxpayer, including the independent valuation of the loan books, transparent auction processes and the prohibition from selling the loan books for amounts less than their valuation. In addition, the special liquidators must meet significant legal obligation both pur-

suant to the Companies Act, the IBRC Act towards creditors generally and towards the State.

The scope of the review and report covers all transactions, activities and management decisions that fall within the parameters set out above. However, all Deputies consulted were concerned that certain transactions may inadvertently fall outside the scope of the review. For the avoidance of doubt, the terms of reference make clear that the amendments made to the terms and conditions of loans are included within the scope.

The review shall cover each such decision, transaction and activity within the scope and will investigate the following, and accordingly the commission's terms of reference extend to investigating: the processes, procedures and controls which were operated by IBRC in relation to the relevant write-offs to ascertain whether the appropriate internal IBRC governance procedures and controls were adhered to in respect of the transactions under review and whether the said procedures and controls were fit for purpose; whether there is *prima facie* evidence of material deficiencies in the performance of their functions by those acting on behalf of IBRC, including the IBRC board, directors, management, the staff of the wealth management unit and agents, in respect of any transactions, activities and management decisions identified above; whether it can be concluded from the information available within the IBRC and relevant evidence and witness testimony as appropriate that the transactions were not commercially sound in respect of the manner in which they were conducted, the decisions made and the outcomes achieved having regard to the purposes of the Irish Bank Resolution Corporation Act 2013 set out in section 3 thereof; whether the interest rates or any extension to interest rates or any periods for repayments were given by IBRC on preferential terms that were unduly favourable to any borrower, where those interest rates resulted in a differential of more than €4 million in interest due over the standard applicable interest rates for loans of that nature or where the amendments give rise to or are likely to give rise to potential public concerns; whether, in respect of any transaction under investigation, any unusual share trading occurred which would give rise to an inference that inside information was improperly provided to or used by any persons, and in the event that such an inference does arise whether any such information was actually improperly provided or used; and in relation to each transaction under investigation, whether the Minister for Finance or his Department was kept informed where appropriate in respect of the transactions concerned, and whether he, or officials on his behalf, took appropriate steps in respect of the information provided to them.

Following consultation, I would like to confirm that any reference to IBRC throughout the terms of reference shall be construed as including references to Anglo Irish Bank, Irish Nationwide Building Society and any subsidiary of IBRC, Anglo Irish Bank or Irish Nationwide Building Society. As a result the wealth management unit will be treated in the same manner as IBRC under the investigation. This was an issue of concern for all the Deputies I consulted with yesterday and, in particular, for Deputy Martin.

For clarity, on the issue of the threshold for the examination of whether any preferential interest rates and terms were given, the investigation is obliged to examine any situation which resulted in a differential of more than €4 million in interest due over the standard applicable interest rates.

*6 o'clock*

This provision will also specifically empower the commission to investigate any amendment made to the terms and conditions of loan transactions that gives rise to potential public

concern even where the €4 million threshold is not met. This was an area of concern for the three Deputies with whom I consulted, in particular Deputy McDonald.

The governance role of the Department and political oversight by my predecessor, the late Mr. Brian Lenihan, and I as the respective Ministers for Finance during the period under investigation was also discussed during the consultation. As outlined, the review will investigate, in respect of the transactions under review, whether the Minister or the Department was kept informed, where appropriate, and the steps taken in respect of the information provided. Therefore, the assessment of the response of the two Ministers and the Department will cover the same scope as the inquiry in general.

A final report to the Government no later than 31 December 2015, subject to section 6(6) of the Act, is envisaged. A report is to be produced in respect of the review. It is to set out the scope and findings of the review in fulfilment of the purposes, to respect commercial sensitivity and obligations of confidentiality where those are not incompatible with the public interest and to set out such recommendations as the commission sees fit.

While the date for the final report is four months later than the date by which I had directed the special liquidator to produce its review, it is deemed appropriate, bearing in mind the different nature of the review and its extended scope. A commission of investigation pursuant to the Commission of Investigation Act 2004 will have certain enhanced powers beyond those that were available to the special liquidators of IBRC. The most significant of these powers include the power to compel witnesses or evidence and to enter and inspect premises. The establishment of a commission of investigation will also facilitate a broader scope of inquiry and enable the interview of witnesses and the investigation of matters, such as the trading of shares, that cannot adequately be investigated based upon a review of the files held by IBRC. In addition, certain criminal offences apply in respect of the making of false statements to the commission or the destruction of evidence that would not apply in respect of the review proposed to be conducted by the special liquidators of IBRC.

The question of an interim or modular report focused on certain transactions was raised during consultations. It will be a matter for the judge to determine the nature, timing and sequencing of any part of the investigation. It is essential to give the judge full flexibility in this regard. In the event that the commission seeks an extension of time for the provision of its final report, an interim report will be provided in accordance with section 33(3) of the 2004 Act.

A number of the concerns of the three Deputies whom I consulted related to the need to clarify and define areas that were subject to the review. Paragraph 6 has been included in the terms of reference. I draw the attention of the House to the changes. The paragraph states:

In these terms of reference:

- (a) "IBRC" means Irish Bank Resolution Corporation Limited;
- (b) where a contractual obligation was agreed during the Relevant Period but not executed until after the Relevant Period then the contract and any resulting loss shall be regarded as having been made during the Relevant Period;
- (c) references to IBRC shall be construed as including references to Anglo Irish Bank or Irish Nationwide Building Society and any subsidiaries of IBRC, Anglo Irish Bank or Irish Nationwide Building Society;

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(d) for the avoidance of doubt, references to transactions, activities and management decisions shall be construed as including references to amendments made to the terms and conditions of loans.

The staffing requirements of the commission will reflect the scope of the terms of reference and the ambitious timescale involved. The exact requirements of the commission will become clearer once it is established and begins to scope out its work in more detail. The appointment of staff and their terms and conditions will be subject to approval by An Taoiseach, with the consent of the Minister for Public Expenditure and Reform. In addition to direct staffing costs, set-up and ongoing costs will arise from the establishment of the commission's office, ICT and administration, travel and subsistence, etc. I wish to inform the Dáil, as I did the Deputies to whom I spoke last night, that this commission of investigation will be able to obtain any necessary expert advice or assistance and it will be well resourced. Based on an initial assessment, a cost of €4 million is deemed a reasonable estimate for 2015 and it is proposed to provide for this from the Vote of the Department of the Taoiseach. This estimate is based on the assumption that the commission completes its work by the end of 2015, as specified in the terms of reference. If it is deemed necessary to extend the commission's work beyond that date, further staffing and other costs will, of course, arise.

In addition to salary and administration costs, third party costs are also likely to arise. In accordance with the provisions of the Act, following consultation with the commission and with the consent of the Minister for Public Expenditure and Reform, guidelines will be prepared concerning this matter. The extent and timing of any such cost are difficult to estimate at this stage.

The commission of investigation will bring an end to the review of certain transactions by the special liquidator. The special liquidator will be directed to cease its review. As all Deputies will be aware, the Government had committed, following the completion of the review in August, to facilitate an investigation by a relevant Oireachtas committee, a commission of investigation or any other action that the Oireachtas saw fit at that point to address public concerns. Throughout the course of the review, the special liquidator acted in the correct and appropriate manner. The recent High Court judgment of Mr. Justice Binchy in the case brought by IBRC, in special liquidation, justifies the actions taken by the special liquidators in attempting to safeguard its customers' rights to confidentiality.

It is now the purpose of the commission of investigation that we are establishing to review transactions, activities and management decisions at IBRC that have created significant losses or have given rise to potential public concern. While I maintain the view that the review would have been concluded competently in a prompt and efficient manner and have produced a report by 30 August, the significant public concerns and the change in circumstances that I outlined in my introduction led to the Government decision to establish a commission of investigation. I will, as part of my direction to the special liquidators under the IBRC Act, direct them to cooperate fully with the commission of investigation.

Given the scale of the banking crisis and the amount of taxpayer money involved, it is essential that the public concerns regarding certain transactions in, and issues raised relating to, IBRC are addressed in a comprehensive manner. Let me be clear, in that there is no evidence of any wrongdoing in the various transactions. However, I recognise that there are genuine public concerns, which have grown significantly in recent weeks. A well-resourced commission of investigation with targeted terms of reference and an ambitious timeline is the best way to ad-

dress public concerns.

I thank Deputy Catherine Murphy, her colleagues in the Technical Group, and Deputies Martin, Adams and McDonald for their oral and written observations. The Government has sought to address the observations in the terms of reference published today and I have outlined the rationale underpinning the decisions on the observations that are not being accepted.

**Deputy Michael McGrath:** I move amendment No. 3:

To insert the following after “Dáil Éireann on 9 June 2015”:

“Calls on the Government to amend the terms of reference for the Commission of Investigation into IBRC, as follows:

- The Commission of Inquiry will also examine governance within IBRC.
- The Taoiseach would request an interim report to be provided in October.”

I welcome the opportunity to respond to the Minister on this important motion to establish a commission of investigation into certain matters affecting IBRC. I welcome the fact that we are going to have a commission of investigation into certain matters relating to IBRC since its nationalisation. The establishment of this statutory investigation is, above all else, a rare victory for our parliamentary democracy. There would have been no investigation into IBRC were it not for the dogged pursuit of the Siteserv transaction over a prolonged period by Deputy Catherine Murphy. She deserves all of our praise for her tenacity in that regard and for the courage she has again shown in recent weeks. In the face of silence from the Government, in particular the Taoiseach, our party leader, Deputy Martin, has been to the fore in defending the constitutional privilege afforded to Members of this House and the right of the media to report freely on what is said in our national Parliament. These are rights that must not be impugned or compromised for anyone or at any price.

The review of KPMG transactions that was announced in April by the Minister, Deputy Noonan, was never going to meet the test of public confidence. It is simply incomprehensible that the Government failed to see the obvious contradiction in appointing KPMG to review a transaction to which it was party. Perhaps it chose to ignore it.

This commission of investigation must answer many questions. I would like to mention two fundamental questions. First, did any IBRC borrower receive preferential treatment in any shape or form? Were all decisions made for sound commercial reasons, with the best information available at the time? Second, what was the nature of the relationship between IBRC and the Department of Finance? Did the Department properly fulfil its oversight role? I will come back to the amendment I have moved concerning the issue of an interim report and governance issues within IBRC. If the Minister does not accept that amendment, we will support the Government’s proposal for this commission of investigation, albeit with some reservations, which we will outline during the course of the debate this evening and tomorrow.

We know from some media reports that approximately 40 IBRC borrowers - businesses and individuals - benefited from total write-downs of between €1 billion and €1.2 billion. According to a report in *The Sunday Business Post*, the borrowers apart from Siteserv, which is now owned by Denis O’Brien, that benefited from large debt write-downs included Calyx, which is a technology company; TV3; the family of Seán Quinn; a high net-worth syndicate assembled

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by Derek Quinlan; and Boundary Capital. A number of other borrowers are included in the list. The Minister has indicated that the overall number is between 30 and 40.

The key decisions that were made by IBRC in extending loan terms and changing interest rates require careful examination. The commission of investigation needs to examine whether all such decisions were fair, reasonable, had a commercial logic, went through the appropriate approval process and displayed consistency in the treatment of different borrowers. The reality is that ordinary people, including those who are paying sky-high interest rates on their mortgages, those who are struggling to get bank agreement to restructure their debts and small business owners who are being pursued for every cent they owe, will compare the stories emerging in the media about the deals secured by corporate borrowers from IBRC with how they continue to be treated by financial institutions.

The Government did not want to establish this commission of investigation. No one should be under any illusion in that regard. It is worth recalling that five weeks ago, the Government voted down a Fianna Fáil motion that sought to establish a commission of investigation. On that occasion, the Minister for Finance made a very ill-judged speech which was deeply political and partisan. Ultimately, as the Minister has acknowledged tonight, it was seriously misleading. The Minister's essential defence was that before the new relationship framework was put in place on 29 March 2012, the Department of Finance was kept in the dark about what was going on within IBRC. He suggested that he did not know what was happening in the bank because the 2009 relationship framework essentially failed to provide for a proper flow of information between the bank and the Department.

The Minister's defence has been blown wide open. He has had to correct the record of the Dáil. The Minister previously told the House that the first time the Department of Finance received a board pack and board minutes from IBRC was April 2012. This was not true. We now know from the letter the Minister sent to Deputy Martin last week that the Department was receiving board documents from IBRC management as far back as August 2011. Despite finding a schedule of board packs for the period between August 2011 and September 2012, the Department has been unable to find the actual board documents.

We need to get this straight. In 2011, IBRC was still a €60 billion bank, the Minister for Finance was the sole shareholder and the Minister and the Department were charged with overseeing the work of the board of the bank in winding down the bank on behalf of the State. After doing a trawl of the Department of Finance, the Minister told the House six weeks ago that no board documents were received until April 2012 because of the relationship framework agreement which was in place at that time. The Minister's officials discovered less than two weeks ago that they had been receiving board documents since August 2011. Presumably, they had forgotten about them. Now the Department cannot find the board documents it did not realise it had been receiving in the first place. The Department had to contact the special liquidator to get copies of these board documents. Despite all of this, the draft terms of reference published by the Minister last week did not mention the Department of Finance. Last Wednesday, the day he confirmed board documents had been received by the Department all along, the Minister published draft terms of reference that excluded the Department of Finance. I suggest that was extraordinarily bad judgment on his part.

All of this raises some fundamental questions about the Minister and his Department. Who in the Department of Finance was reviewing the IBRC board documents that had been coming in since at least August 2011? What did that person do with them? How did the Department

of Finance manage its relationship with the board of IBRC? Who in the Department was responsible for reading the minutes of IBRC board meetings? What action was taken at senior level within the Department on foot of these reports? Where were these board documents languishing all this time? How have they come to light now? More to the point, where are those documents now?

We need to know the full extent of the contact between the Department of Finance and IBRC during the years in question. The Minister's comments contrast sharply with those of the then chairman of the bank, Mr. Alan Dukes, who said there was ongoing and regular engagement between IBRC and the Department of Finance even prior to the putting in place of the new relationship framework agreement at the end of March 2012. Now that we know there was a regular flow of information from IBRC to the Department of Finance, we need to establish how this information was used and if concerns raised by the Department with IBRC were dealt with adequately. We can speculate but we may never know for sure whether issues relating to corporate governance at IBRC were a factor in the Government's decision to liquidate the bank in February 2013, rather than having the assets of the bank run down over a period of ten years as originally intended.

The wording that has been brought forward this evening with regard to the examination of the role of the Department and the Minister is not adequate. It is proposed that the commission of investigation will examine whether the Minister or the Department were "kept informed where appropriate in respect of the transactions concerned" and whether they "took appropriate steps in respect of the information provided to them". This is very carefully worded and is too narrow. What about the questions that the Minister or his officials should have been asking? What about the lack of follow-up on information that was in the public domain? What about the performance of the Department's wider role in the wind-down of the bank? We do not accept the basic premise underpinning the wording that has been put before us, which is that if the Minister and the officials were not told about a certain matter in IBRC, they had no responsibility whatsoever for that matter.

The fact that Siteserv, for example, was being sold was in the public domain from mid-January 2012. It was being reported in the media. At that stage, the sale of Siteserv had been on the cards for many months. Did the Department not know this? Is it the Minister's position that the Department had no responsibility in this regard, and therefore the commission of investigation should not be examining the Department's role prior to the transaction, because he was not officially informed of the sale until he received the March or April board pack? The Minister told the Dáil last month that "in June 2011, following an independent review of the strategic options for the business and the level of debt in the company, the IBRC credit committee approved Siteserv's commencement of an orderly process to sell itself". Were the credit committee minutes not in the board packs that were being received since by the Department of Finance from IBRC since August 2011 at least? What exactly was in the board packs that the Department had been receiving since August 2011? I presume the board minutes were included. I assume the minutes of key sub-committee meetings would also have been included. We cannot think of any more key sub-committee than the credit committee of the bank. These questions need to be answered. The Minister is continuing to hold the position that the first that he, his Department or his officials heard about the Siteserv transaction was when a member of the public e-mailed the Department of Finance on 23 March 2012.

The provenance of this investigation lies in a Siteserv transaction that involved a loss to the State of €119 million. The Siteserv transaction is undoubtedly the aspect of the IBRC saga

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which has most captured the public imagination. This may well be because a subsidiary firm was subsequently awarded the contract for the installation of water meters. In essence, two of the most politically potent events in Irish public life, the banking collapse and the introduction of water charges collided in a single story.

Since we last discussed the issue in this House, a number of new facts have emerged. We now know, courtesy of the misplaced board minutes, that the write-down on the Siteserv loan was in fact €119 million. This is some €10 million more than was previously believed. Were Ministers in possession of this information at the time of the Dáil debate on 6 May?

The Minister has said that the first the Department became aware of the Siteserv transaction was after the board approved the sale on 15 March 2012. This essentially means that the first time Siteserv was recorded in the minutes of an IBRC board meeting was at the meeting when the sale was approved, resulting in a loss of €119 million. That may well be the case. If that was indeed the first occasion Siteserv came to the IBRC board's attention, then presumably it was being dealt with over a number of months by the bank's credit committee. Were the minutes of the bank's credit committee sent to the Department of Finance since August 2011?

The sale process involving Siteserv raises serious questions which the commission must answer. A company that was massively in debt to IBRC and apparently on the brink of insolvency was allowed to drive and determine its own sale process. There were a number of alternative courses of action open to IBRC, including seeking the appointment of a receiver or selling on the loans it was owed by Siteserv, which was the main course of action the National Asset Management Agency, NAMA, took when disposing of debtors by selling the loans. There is a counter argument that any move against Siteserv by IBRC could have triggered a loss of confidence in the company among its clients and caused an even greater loss for the State. It is important that we get clarity on the appropriateness of the course of action taken, notwithstanding that we are now looking at it from three years' remove.

There are other specific issues of concern with regard to Siteserv, including the sudden upsurge in share sales in the month before IBRC began to receive the first bids for Siteserv as part of a confidential sale process. For example, in November 2011, 6.4 million shares were sold in the firm, compared with 121,000 in October 2011, and 4.76 million between January and October the same year. When the company was sold in March 2012, the 3.9 cent share price was 292% higher than that of 13 January 2012, the day before the potential sale of the company was confirmed to the Stock Exchange. Who were these investors and were any of these investors acting on insider information? Why were shareholders in Siteserv paid €5 million for an effectively insolvent company? Shareholders in Siteserv got a €5 million payment when the company was sold. Normally, shareholders get nothing if a firm is effectively insolvent. There has been no adequate explanation as to why this happened. The €5 million sweetener was recommended by Davy Stockbrokers which was Siteserv's adviser. Some of Davy's clients were also investors in Siteserv. Why were other bidders apparently excluded from the sale process? We still need answers to that question.

According to Alan Dukes there were approximately 50 expressions of interest in the sale but it was decided to exclude so-called "trade buyers" to avoid the company's being "upscuttled" by rivals merely seeking inside information.

We have read the 2004 Act and as far as we can see there is nothing to prevent the commission producing an interim report. In fact, the Siteserv aspect could, and in our view should, be

taken as discrete topic in itself and dealt with as a matter of priority. I listened to the Minister's comments tonight and he seems to believe it should be left entirely to the discretion of the judge to decide whether to publish an interim report would be published. In our view the Minister should be using the powers granted under section 33 of the 2004 Act to request that a report be provided by the end of October to deal with the Siteserv transaction on its own. We all wish to have the maximum amount of information put in the public domain but this should not be the price of delaying the publication of a report until the early part of next year or possibly later. The Taoiseach should make a commitment now that the investigation will be required to issue an interim report on the Siteserv transaction by the end of October.

Under the flawed KPMG model of inquiry, we would have had a report on Siteserv by the end of August, as the Minister has acknowledged. Notwithstanding the need for a more comprehensive and effective model of inquiry, we believe the judge overseeing the investigation should produce an interim report by the autumn on that aspect. We have seen from the experience of the Fennelly report experience that a timetable can quickly slip by not just weeks but months. The only persons who would benefit from an inordinate delay in this case are those who would prefer the full truth in relation to IBRC not to come into the public domain.

There has been considerable attention given to the issue of preferential interest rates given to certain large IBRC borrowers. Over the weekend, there were contradictory reports from former IBRC sources with some indicating that no rates of below 2% were offered to clients while other reports indicated that rates as low as 0.25% were available in some cases. Deputy Catherine Murphy claimed in this House that Denis O'Brien was paying a rate of 1.25% on some loans. It would be extraordinary if interest rates of this order were being charged by the bank. If this was the case, did such rates originate in loan agreements negotiated under the old Anglo Irish Bank or did they arise under the management of the nationalised bank? Questions that arise include: on what criteria was the practice of substantially discounting the interest rates based? How wide-spread was the practice? What was the cumulative revenue loss to IBRC from interest rate discounts? Was the Department of Finance advised of the revenue loss associated with the interest rate reduction? Interest rate reductions, however, are not the only form of concession that would be of material value to a large IBRC borrower. In order to ensure that the terms of reference are sufficiently robust to capture all relevant issues, we believe specific reference to revenue losses of €4 million due to interest rate concessions should be extended to cover other issues such as the rolling-up of interest, the extension of the loan period and changes to the collateral, including personal guarantees underpinning loans.

I note that in the terms of reference he published, the Minister has amended the definition of transactions or decisions to include changes to the commercial terms of loan agreements. That is an absolutely vital issue and we welcome that amendment because limiting it to distinct transactions resulting in a write-down or capital loss of €10 million is simply not sufficient. Very substantial benefits could be received by borrowers if there were key changes to the commercial terms attaching to loan agreements, including the expiry of a loan beyond the date originally provided for in the loan agreement. That must be explicitly provided for within the scope of this commission. It should also be established why certain loans were not transferred to NAMA by the IBRC when it was established. NAMA's rules were quite different to those of the IBRC in that they would not allow borrowers buy back loans at a discount. That was not prohibited in the IBRC legislation and the nationalisation, as we know, and that might have led to a different outcome.

We believe the Government has moved in the right direction on this issue, albeit in the face

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of sustained public and parliamentary pressure. It needs to reflect carefully on the comments of Deputies on all sides of this House tonight and during the debate tomorrow. The democratic process suffered a serious setback from the media blackout on reporting of Deputy Catherine Murphy's recent speech in this House. A genuinely engaged Government, listening to Opposition concerns, would go a long way to undoing that damage. We look forward to the debate tonight and tomorrow and we wish the commission of investigation all the very best in the serious challenge it faces in completing its work in a speedy time frame.

**Deputy Pearse Doherty:** I move amendment No. 2:

To insert the following after "under that Act":

"noting the deficiencies of the draft Order calls on the Government to amend No. 5 of the draft

Order to read:

— 'the Commission shall, subject to section 6(6) of the Act, submit to the Taoiseach its final report in relation to its investigation no later than 31 October 2015.'; and further notes the deficiencies in the schedule to the draft Order Commission of Investigation (Irish Bank Resolution Corporation) Order 2015 and suggests the Government adopts an amended schedule that should read:

—  
'SCHEDULE

Terms of Reference for Commission of Investigation Concerning Irish Bank Resolution Corporation Limited

The Commission is directed to investigate and to make a report to the Taoiseach in accordance with the provisions of section 32 of the Commissions of Investigation Act 2004 (No. 23 of 2004) on the following matters:

1. The Commission shall investigate all transactions, activities and management decisions, other than those relating solely to the acquisition of assets by the National Asset Management Agency, which occurred between 21 January 2009 (being the date of the nationalisation of IBRC) 12 March 2015 (being the date when the Progress Update Report prepared by KPMG and published by IBRC was released) (the "Relevant Period"); and which either:

(a) resulted in a capital loss to IBRC of at least €1,000,000 during the Relevant Period, whether in consequence of a single transaction or of a series of transactions relating to the same borrower or entities controlled by the same borrower ("Relevant Write-Offs"); or

(b) are specifically identified by the Commission as giving rise or likely to give rise to potential public concern, in respect of the ultimate returns to the taxpayer; and

(c) investigate the claims of verbal agreements in respect of the repayment, extension or roll-over of loans.

2. The purposes for which each such decision, transaction and activity referred to

in 1 above are to be investigated are the following (and accordingly the Commission's terms of reference extend to investigating):

(a) the processes, procedures and controls which were operated by IBRC in relation to the Relevant Write-Offs to ascertain whether the appropriate internal IBRC governance procedures and controls were adhered to in respect of the transactions under review and whether the said procedures and controls were fit for purpose,

(b) whether there is prima facie evidence of material deficiencies in the performance of their functions by those acting on behalf of IBRC, including the IBRC board, directors, management, the staff of the wealth management unit and agents, in respect of any transactions, activities and management decisions identified in 1. above,

(c) whether it can be concluded from the information available within the IBRC and relevant evidence and witness testimony as appropriate that the transactions were not commercially sound in respect of the manner in which they were conducted, the decisions made and the outcomes achieved having regard to the purposes of the Irish Bank Resolution Corporation Act 2013 set out in section 3 thereof,

(d) whether the interest rates or any extension to interest rates or any periods for re-payments were given by IBRC on preferential terms that were unduly favourable to any borrower, where those interest rates resulted in a differential of more than €4 million in interest due over the standard applicable interest rates for loans of that nature or where the amendments give rise to or are likely to give rise to potential public concerns,

(e) whether, in respect of any transaction under investigation, any unusual share trading occurred which would give rise to an inference that inside information was improperly provided to or used by any persons, and in the event that such an inference does arise whether any such information was actually improperly provided or used,

(f) in relation to each transaction under investigation, whether the Minister for Finance or his Department took appropriate action to safeguard the public interest by enforcing proper governance and accountability oversight in respect of the transactions concerned, and whether he, or officials on his behalf, including the role of public interest directors,

(g) the role of the external consultants, including, but not limited to Blackstone Group and KPMG,

(h) the role of the wealth management unit of IBRC,

(i) the beneficial owners of SiteServ shareholders.

3. The report to be made by the Commission in relation to the foregoing investigations shall:

(a) shall set out the scope and findings of the investigations in fulfilment of the purposes set out in 2. above;

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(b) respect obligations of confidentiality and to respect commercial sensitivity where those are not incompatible with the public interest; and

(c) set out such recommendations as the Commission sees fit.

4. The Commission shall report on any other matters of concern arising from its investigation of the above matters and make any further recommendations as the Commission sees fit.

5. The Commission shall exercise discretion in relation to the scope and intensity of the investigation as it considers necessary and appropriate, having regard to the general objectives of the investigation.

6. In these terms of reference:

(a) “IBRC” means Irish Bank Resolution Corporation Limited;

(b) where a contractual obligation was agreed during the Relevant Period but not executed until after the Relevant Period then the contract and any resulting loss shall be regarded as having been made during the Relevant Period;

(c) references to IBRC shall be construed as including references to Anglo Irish Bank or Irish Nationwide Building Society and any subsidiaries of IBRC, Anglo Irish Bank or Irish Nationwide Building Society; and

(d) for the avoidance of doubt, references to transactions, activities and management decisions shall be construed as including references to amendments made to the terms and conditions of loans.’.”

Ba mhaith liom an leasú atá curtha chun tosaigh ag Páirtí Shinn Féin a mholadh anseo. Mar is eol don Aire, níl ár bpáirtí sásta leis na téarmaí tagartha atá leagtha síos ag an Rialtas ó thaobh an choimisiúin fhiosrúcháin seo, agus is mór an trua é sin i ndiaidh cúpla iarracht fá choinne an fhírinne a theacht amach. Chuala muid an Taoiseach ar dtús ag caint faoin Comptroller and Auditor General. Ansin bhí fiosrúchán againn taobh istigh den Teach seo, ansin le KPMG le cuidiú ón mbreitheamh agus anois leis an gcoimisiún fiosrúcháin seo, ag deireadh thiar thall, atá molta ag an Rialtas. Ach ar an drochuair, níl an Rialtas go fóill ag éisteacht le tuairimí agus moltaí an Fhreasúra, go háirithe Páirtí Shinn Féin. Is mór an trua nár éist an tAire leis an méid a bhí le rá ag an Teachta Mary Lou McDonald inné nuair a bhí sí ag caint leis fa dtaobh de na téarmaí tagartha don choimisiún seo.

Ach tá leasú curtha chun tosaigh againn agus tá súil againn go mbeidh muid ábalta cur i bhfeidhm ar an Rialtas, má tá sé le tacaíocht iomlán na Tithe seo agus tacaíocht iomlán an phobail a fháil, go gcaithfidh sé éisteacht leis an méid atá muid ag cur síos inár leasú.

For weeks now, this controversy has rumbled on, with the Government stumbling from poor decision to poor decision. We have seen an unprecedented legal position in which most of the State’s media were afraid to report what a representative of the people said in Parliament. We have seen a Government in crisis failing to grasp the nettle time after time. We have seen an initial inside job, with KPMG in charge of the investigation, dropped after public anger forced the hand of the Minister and the Taoiseach. We have seen a blundering Taoiseach throwing out suggestions that were never practical or even legal, for example, asking the Comptroller and Auditor General to investigate these matters. Now we have this attempt to set up a new

investigation. Unfortunately, the terms of reference fall short of what is necessary to win public support and the support of Sinn Féin.

Yesterday, Deputy Mary Lou McDonald told the Minister for Finance that it was critical that the investigation be empowered to examine the dealings at the Irish Bank Resolution Corporation, IBRC, following its liquidation in February 2013. We are disappointed that the Minister did not listen and has not included this matter in the terms of reference. Sinn Féin has tabled an amendment to the motion and we hope to convince the Minister, in the course of the debate, of the need to accept it in order that the commission of investigation will enjoy the full support of the House and members of the public and will get to the truth in all matters. My colleagues will outline in greater detail some of my party's concerns about the terms of reference of the commission of investigation and other matters. I will concentrate on the reason the terms of reference need to be extended beyond 7 February 2013.

Three years ago, I asked the Minister why IBRC agreed to write down the debts of Siteserv by €100 million while, at the same time, ordinary shareholders were paid €4.96 million as part of a deal to sell the company. The Minister replied that it was a matter for the board and management to determine and implement such policy in their organisation and commercial decisions regarding IBRC were solely a matter for the bank. Since then, Sinn Féin has asked hundreds of parliamentary questions relating to the establishment, actions and liquidation of IBRC and the appointment of the special liquidators from KPMG. I have with me a file containing the many parliamentary questions we have asked the Minister about issues of public concern. Unfortunately, the answers received from the Department did not provide satisfaction on many of these issues.

Sinn Féin stated from the outset that IBRC was no ordinary bank. The public funding received by its core elements - Anglo Irish Bank and Irish Nationwide Building Society - meant that citizens deserved answers on its operations. It has taken the Minister all of this time to accept what was obvious then and now, namely, that there is a public interest element to IBRC. Thanks to Deputy Catherine Murphy and her pursuit of freedom of information requests, we have before the House the terms of reference for a commission of inquiry into certain aspects of IBRC.

It is important to point out at this juncture that I am not making any allegations of wrongdoing or incompetent governance at IBRC. I have no wish to pre-empt or prejudice in any way the findings of the proposed inquiry. What we have at the moment are facts. There are things that we know took place, although the conclusions we may draw from them are for another day. This is about asking legitimate questions and the facts on the ground serve to inform those questions. In this regard, it is important that we know the facts and they are placed on record to help frame the terms of reference of the proposed investigation.

The sale of Siteserv has generated much commentary both inside and outside the House. Concerns have been raised regarding the payment to shareholders, the size of the write-down received and the apparent exclusion of other bidders. The issue of Siteserv is covered by the terms of reference, as laid before the House today, because the decision on Siteserv deals with possible losses during the relevant period. However, management decisions made during the tenure of the liquidators that could have bestowed certain advantages on individual borrowers are not covered by the terms of reference, as they currently stand, beyond 7 February 2013. For example, existing loans and the extension of such loans can also in some cases give rise to certain advantages for individual borrowers. I will explain what I mean by that. In the case of

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a person whose loan has expired, the bank can put a call on the loan, thus requiring the borrower to pay the loan in full. Failure to pay the loan, for whatever reason, allows the financial institution to access the assets which underpin or are secured against the loan, whether these assets are company shares, physical infrastructure or personal guarantees. Since the financial crisis of 2008, we have become all too aware that financial institutions have pursued this avenue, leaving many individuals bankrupt and stripped of their companies, sometimes down to the family home. However, these types of management decisions which were made – or not made as the case may be - under the tenure of IBRC will not be covered by the inquiry if they were taken after 7 February 2013.

The inquiry should not be solely about losses and interest rates but should also be about processes and relationships. The ability to have a decision deferred, a loan extended or terms changed and amended is an area that is open to the possibility of obtaining advantage. I propose to cite some examples that demonstrate the need to have managerial decisions and client relationships covered by the commission of inquiry beyond 7 February 2013. Only last week, IBRC board minutes released by the Department showed that Mr. Richard Woodhouse, who managed Mr. Denis O'Brien's loans with IBRC, was present at meetings at which the sale of Siteserv was discussed. The former chairman of IBRC stated that Mr. Woodhouse played no part in the decision-making process around the sale of Siteserv.

In recent days, a series of documents has come into my possession which helps to give a more complete assessment of issues relating to IBRC, Siteserv and related matters. I will make these documents available to the Taoiseach with a request that he pass them on to the judge who is appointed to oversee the commission of investigation. They show that in 2012, Mr. Denis O'Brien, the eventual owner of Siteserv, had an agreement with IBRC whereby the bank "would receive 92.02% of all Digicel dividends in excess of 50 million dollars" as part of a loan repayment agreement. In the same year, Digicel made a one off dividend distribution of \$300 million. IBRC received a scheduled payment of €150 million, which equated to 65% of the dividend distribution. The balance was then used by Mr. O'Brien to pay down a Bank of Ireland facility which had been used to fund the Siteserv deal. This step was approved by the IBRC's group credit committee. In other words, we know that IBRC sold Siteserv to Denis O'Brien and Mr. O'Brien had major loans with IBRC and, it seems, the terms of a loan agreement with IBRC were used to pay down the loan he received from Bank of Ireland to purchase Siteserv in the first instance.

Other documents that I have seen lead me to ask legitimate questions of the way IBRC was being run in the public interest. For example, I have seen letters and documents which outline details of Mr. O'Brien's loans with IBRC, with four different proposals for an extension of these loans. In a letter dated 7 March 2013, Mr. O'Brien requested approval for a proposal to repay his facilities over a three-year period with a schedule of capital repayments. The request was discussed by the case team with the special liquidators of IBRC and, on 17 March 2013, an e-mail was sent to Mr. O'Brien which advised that facilities could only be extended for up to 12 months and only then if it was considered beneficial to do so in the context of asset protection and enhancement. This was rejection No. 1 for Denis O'Brien.

On 26 April 2013, Mr. O'Brien requested formal approval to extend his facilities for 12 months to 30 June 2014 with no capital repayments.

On 20 May, the group credit committee approved a 12 month extension subject to a €100 million capital repayment on or before 30 November 2013. This was a *de facto* second rejec-

tion of Denis O'Brien's proposals. On 21 June, the individual in question responded with a proposal for a one year extension on his loans with a capital repayment of €100 million in November 2013. This was rejected outright by the group credit committee on 4 July 2013. It was rejection No. 3. The loan facility had expired at this stage. With no new agreement in place and with his loan facility expired since 30 June 2013, it appears that Denis O'Brien faced the possibility of having his loan sold to a third party with no facility in place.

In August 2013, Denis O'Brien met with the case team and at this meeting the documents say he made it clear that he had a verbal agreement with Richard Woodhouse, who I mentioned previously in relation to the Siteserv deal, and with Michael Aynsley, which pre-dated the liquidation of IBRC. The documents say that Denis O'Brien said this verbal agreement allowed him to repay his loans over a three-year period beginning in 2012. It was his view, and the view of his lawyers, that this verbal agreement still stood even though the bank was now in liquidation. In September, Denis O'Brien and his advisers met with the special liquidator and made it clear that they would not commit to any capital repayment for a 12-month extension. The documents also say that Denis O'Brien made it known through his advisers that he was not prepared to enter the process of having his loans sold on with an expired loan facility and so was likely to issue protective legal proceedings seeking an order for specific performance which would require the bank to honour the alleged three-year term on his facilities.

Following these meetings and IBRC's views of the threats of legal action, Denis O'Brien made a fourth proposal to IBRC on 10 October 2013 for a 12-month extension with no capital repayments. This is the same proposal as the second proposal, which was rejected. According to the document I have, it was approved on 14 November 2013. This was for a loan in excess of €315 million with a margin interest rate of 3%, amounting to €10 million in interest per annum. The bank and special liquidators concluded that it was regrettable that it was not able to achieve consensual agreement from the borrower to maintain the expected repayment schedule by delivery of a further €100 million capital repayment given the impending loan sale and the bank's inability to extend the facility beyond 12 months.

These issues raise serious questions. How does a bank in liquidation extend a €315 million loan, which is the same thing as creating a new loan, which its group credit committee had rejected just a number of months earlier? Why did IBRC not place a call on the now expired loan? How did the verbal agreements between certain managers prior to liquidation outweigh the decision of the group credit committee? From documents I have seen, it appears that IBRC's former chief executive, Mike Aynsley, along with Richard Woodhouse, made a verbal agreement with Denis O'Brien to give him an additional three years to pay off his loans with the bank. This is the same Richard Woodhouse who was present during the discussion of the Siteserv sale. It is clear from the documents I have seen that Mr. O'Brien did not want his loans to be sold on to a third party but instead wanted a 12-month extension in order to work out the loan himself. Apart from Siteserv, all of this took place after 7 February 2013 and, as such, would not be covered by the terms of reference of the commission of investigation as presented by the Minister this evening to the House. This is just one example of why the terms of reference need to be expanded into the timeframe of the liquidation of IBRC. Let us be clear about it. This is a €315 million loan that was extended, which is the same as issuing a new loan on the basis of an apparent verbal agreement despite the rejection on three separate occasions by the group credit committee of a version of the same proposal. How is this not relevant to the inquiry? Nevertheless, it does not fall within the terms of reference. The Minister allows only for transactions that existed before the liquidation and which were executed afterwards.

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However, these management decisions are key.

There are many other areas that Sinn Féin has raised given concerns it has had over the years. These include: Blackstone; Blue Ocean; NAMA bonds; and *Racing Post*. I could talk to the Minister about the documents on Blue Ocean and I cannot understand the rationale behind the State not buying the NAMA bonds. The issue of the *Racing Post* has appeared in the British and Irish media and I raised it in the House a number of weeks ago. We will argue strongly that these issues should be included in the terms of reference of the commission of investigation. Not once, not twice but three times the Minister has made a mess of this. The Minister, Taoiseach and Tánaiste should note that the public deserve answers. They demand a full and complete investigation. The Government has fumbled and stumbled to this point. Public pressure and the work of the Opposition has brought it this far, but we are not there yet. Given all that I have just said, it is clear why Sinn Féin's amendment is necessary. Let us get this right once and for all. The commission must be allowed look at deals and issues post the liquidation of IBRC. The public interest does not stop in February 2013. We are talking about billions of euro of the people's money. My party wants the whole story to come out. We cannot say at some arbitrary point that the story end here. We must look at the whole story and that means examining some of the issues I have raised today, which are beyond doubt in the public interest.

I call on the Minister to support my party's amendment and to let every transaction of public interest be brought into the light. What we have before us is not good enough and will not satisfy the people's right to know what happened to their money. I encourage the Minister to allow the terms of reference to go beyond the night of the liquidation of IBRC. I have outlined issues to convince the Minister that they are of public interest. There may be other issues that should be investigated and, as such, the date should be extended, as Sinn Féin proposes in its amendment, to March 2015.

**Deputy Catherine Murphy:** We are often told that a week is a long time in politics and I can attest to that on this particular issue. I welcome the debate and the establishment of the commission of investigation, although I still have concerns about some of the terms of reference and I will deal with those in what I have to say. Twelve days ago I made a speech in the House which, apparently, rattled a few cages. I do not regret making the speech but I regret the fact that I felt I had no choice but to make it. The review that had been established was not fit for purpose. The Bill I was introducing sought to extend the role of the Comptroller and Auditor General to include IBRC in its terms of reference so that office could do the review. What I was looking for was an independent investigation and I am pleased we are getting to the point where we are going to get that, albeit in a different way.

There were a lot of references in the last few weeks to the media as the Fourth Estate, which refers to the fact that the media constitute one of the four pillars that makes up our democratic society. Access to information is essential for the health of a democracy. It not only informs but acts as a checking function to ensure that people in prominent positions are kept accountable. Indeed, one must at this stage consider that the extent of media ownership is an issue in this context. There can be no denying that the events of the last few weeks have most certainly highlighted a chilling effect on Irish public discourse and the threat of litigation which hung over the shoulders of journalists and editors. We know that in the last 12 years, 24 separate litigation cases have been taken by Denis O'Brien against publications and individual journalists in the State. With the notable exceptions of *Broadsheet.ie* and *The Sunday Times*, the response of the media to the most recent attempt to silence them was to take the safe option and not risk possible annihilation by deep pockets and large legal teams. The effect was to deny people their

constitutional right to know what was said in their national Parliament by their elected representatives. The clarification by the court six days after my speech was welcome and it has allowed media outlets to publish or broadcast without fear, which is what they should have been able to do always. For Mr. O'Brien or his lawyers to say that he never intended to interfere with Dáil privilege or the right of journalists to report on privileged statements is belied by the fact that his legal team specifically wrote to media outlets following my speech instructing them not to report it and to remove any reporting of it. They also wrote to me telling me I had breached an injunction by using privilege, so his intention was to stop privilege. That seems very clear to me.

In the same letter, Mr. O'Brien makes some serious allegations, including accusing me of knowingly using stolen information, stating that my information is materially inaccurate and claiming that I thought my interpretation of the public interest was to be favoured over that of the High Court. Let me put a few things to bed now. First, I have no knowledge of any information provided to me as having been stolen. Second, I wish to be very clear that I fully believe that the information provided to me was provided in good faith in the public interest and I have absolutely no reason to believe that it is anything other than accurate. Short of going in to IBRC and pulling out the original file, which I am not permitted to do, there is little else I can do to triple-check my information. Third, my interpretation of the public interest is very clear. I believe the public interest in revealing such matters lies squarely where there is a disadvantage to citizens to the benefit of some powerful interests. As Michael McDowell outlined in his excellent piece in *The Irish Times* on 30 May, the Irish people saw the absurd reality of Mr. O'Brien's spokesman accusing me of peddling lies while citizens were restricted from hearing or reading what I had said. How can that result in a balanced media that is informative in the way it should be in a functioning democracy? Dáil privilege is a necessary right, and I accept - as does every other Deputy - that it comes with a responsibility.

How did we get from the flawed review to a proper commission of investigation? How did these infamous missing minutes suddenly appear? It seems an uncanny coincidence that the minutes of the meeting of 15 March 2012 were found in the same week that the Government decided on a full commission of investigation. There is significant new information in those minutes and I wish to focus on three points, some of which have been mentioned already.

We have been told in the media on several occasions by the chairman of IBRC, Alan Dukes, that an individual, Mr. Woodhouse, was removed from any dealing with the Siteserv sale. We were told that this was because Mr. Woodhouse would have been the subject of a conflict due to his management of the accounts of Denis O'Brien, Siteserv and the CEO of Siteserv. The minutes show that not only was Mr. Woodhouse in attendance at that significant meeting, but he actively participated in the discussion regarding the sale of Siteserv.

The second issue I wish to mention is that we have been told all along, including in replies to parliamentary questions, some of which have been clarified tonight, that the loss to the State from the Siteserv deal was €110 million, when in fact the minutes show that it was €119 million. According to the minutes, this was €10 million in excess of the current impairment provision. In other words, it was €10 million more than they were prepared to lose, yet somehow they went ahead with that deal and there was a loss of €119 million. I fully accept that there were always going to be losses. Who made the final decision? The question as to who made the final decision needs to be investigated. In the information pack sent to prospective bidders for Siteserv in November 2011, it was outlined to bidders that they should assume that the company would be acquired on a debt-free and cash-free basis, yet I have had strong information, which I have put

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on the record of this House previously, that when Siteserv was sold to Island or Millington there was €10 million on the balance sheet, in a combination of cash and debtors. This is another significant issue that must be inquired into. If it accounts for the excess loss of €10 million then it raises even further concerns about the sales process. If potential bidders were assuming it was cash-free, then the information they were provided with was inaccurate and may have resulted in some of them underbidding.

From some of the research we have done, I know the bank had extended a credit line of about €10 million to the company in the months prior to the sale, but we are still unsure whether that credit line was actually taken up. That may well lead into what was on the balance sheet.

The third issue arising from the discovered minutes relates to the specific purchase price paid for Siteserv. The amount paid for the company is recorded in the minutes at €48 million. When the payment to shareholders is accounted for, the figure decreases to €44.3 million. We have been told all along that it was sold for €45.4 million and that this included the payment to the shareholders at just short of €5 million. I have been told by several sources that it was not the highest bid and that an approach was made to Island to increase the bid. I want the inquiry to investigate whether that did in fact happen and whether similar approaches were made to other bidders. If not, there is an issue of importance to be investigated.

When I met with the Minister yesterday I highlighted that my main concern was that the investigation should not end at the so-called prom night, 7 February, and that it should extend into the time when IBRC was in liquidation. I accept that the investigation might be curtailed, as there are many issues, and I acknowledge the changes in the terms of reference. However, I am concerned that it does not go far enough, for exactly the same reasons that Deputy Doherty outlined. It is more than just the individual transactions; there are other issues requiring investigation. The verbal agreements are referenced in some of the documents I have seen. It may be disputed whether these are actual contractual agreements. I have concerns that if the terms of reference are strictly adhered to they will not provide for that.

The purchaser of Siteserv was already significantly indebted to IBRC. We know that on 7 March 2013, one month post-liquidation, he wrote to the special liquidator seeking to reschedule his outstanding loans for a further three-year period. We know that he claims to have been allowed a similar extension by virtue of a verbal agreement he claims he had with the CEO of IBRC. We also know that according to IBRC the credit committee had never approved such a provision or a previous agreement, yet Mr. O'Brien maintains it was in place and he requested that the special liquidator be made to honour the verbal agreement. I ask the Minister to clarify that aspect of the terms of reference in advance of any vote taken in the House.

We know that the credit committee met on 23 May 2013, two months after Mr. O'Brien's approach to the special liquidator. At the time the outstanding balance owed to IBRC by Mr. O'Brien was in the region of €325 million. It is worth asking why someone so heavily indebted was allowed to make significant purchases from IBRC rather than being asked to pay down his outstanding loans. An article in the UK edition of *The Sunday Times* in January 2012 showed that in 2011 and 2012 IBRC refinanced some of Mr. O'Brien's loans and increased its security stake in some of his investments. It seems illogical that in the same period he should have been allowed to purchase other assets such as Siteserv.

I refer to an article in *The Sunday Times* last week written by Justine McCarthy and Mark Tighe.

*7 o'clock*

It stated that one of the central allegations made by Ms Murphy is that there were, as she says, unorthodox verbal agreements between Mr. O'Brien and IBRC. This statement - by Denis O'Brien's spokesperson - had accused Ms Murphy not merely of being factually inaccurate but of deliberately lying to the Dáil. As a Deputy it is difficult to imagine, in the political context, a more serious allegation. Indeed, this piece goes on to state that in the 2013 letter the judge refers to in his judgment records Mr. O'Brien himself asserted such a verbal agreement. The point here is that some of the documents I am referring to relate to the special liquidators era, hence the need for the period to be covered in the terms of reference in a much more comprehensive way.

In recent days, the chairman of IBRC, Mr. Dukes, has made much of the fact that the Central Bank conducted a review prior to July 2012 and apparently found there were no problems. Contradicting that assertion, however, is the relevant piece from the freedom of information documents from inside the Department of Finance, which states:

We are concerned that the Central Bank report compiled on the transaction vindicates their position. To be clear, we are concerned with a number of decisions taken by the bank in relation to this transaction.

These concerns were specified by the officials as follows: the decision to allow for the sale process to be run by Siteserv's advisers; the decision to exclude trade buyers from the process; the timing of the exclusivity period when there were other bids outstanding; and the payment of €5 million to existing shareholders. The Department then asks - remember this is after the Central Bank review of the Siteserv transaction - whether IBRC is satisfied that the transaction represented the best commercial outcome for the bank, and stated that it wanted an independent commercial assessment completed in respect of the transaction. It was not until I received, under freedom of information, a copy of the July 2012 internal Department memos, that we learned the Department officials were expressing serious concern over the effectiveness of the CEO and the management team, and that they had serious concern over the way a number of large transactions, including the Siteserv transaction, had been handled. It was at that time, in July 2012, that the Department officials recommended to the Minister that the chairman, Mr. Dukes, be instructed to conduct a full, independent review of the Siteserv transaction. That never happened.

While the war raged between the Department and the IBRC management team, on prom night, the night IBRC was suddenly and hurriedly wound down, the Minister, Deputy Michael Noonan, came into the Chamber and stated:

I wish to emphasise the reason these steps are being taken is entirely distinct from the performance or direction of the board or management of the IBRC. I wish to acknowledge, with much appreciation, the significant efforts the directors and staff of the IBRC have made to the stabilisation and maintenance of value in the IBRC.

Notwithstanding much of the very good work that did happen in IBRC, we were entitled to know that there was a dysfunctional or fractious relationship on that night. I believe it was an error not to have given us a very clear understanding that there was a difficulty. Reading the Minister's comments, there is no other conclusion one can draw but that everything was absolutely fine. Clearly, we know since then that it was not.

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Another significant issue that raised its head in some of the early reporting of this controversy, but which has since been replaced by other developments, is the share activity of Siteserv prior to its sale. Various sources of information have told me there was a lot of activity at the time it was being sold, although it was not very public that it was being sold. When I went to look at how to actually make a complaint about this, I got the run-around. I wrote to the Irish Stock Exchange, which advised me it was not within its remit and that I should talk to the Central Bank. I wrote to the Central Bank, which told me it was outside its remit. I then wrote to the Office of the Director of Corporate Enforcement, whose reply came back to me today that it does not appear to come within the remit of that office. Somebody has to have some responsibility for that because otherwise, there is no point in having the legislation if there is not the means of enforcing it. We do not need to wait for an investigation to reveal this; we can see already that there is a doubt.

I want to make it very clear that I do not doubt, and never have doubted, my sources, because people have been questioning me about that. In my speech on 28 May, I referred to loans held by Mr. O'Brien that were due to be repaid in full in 2011-2012. We know they were not repaid in the timeframe. Effectively, once the agreed term had expired, those loans were in default and they were callable on demand. IBRC's own terms and conditions allowed it to charge default interest rates, yet it chose not to do so in this case.

Many sources have come forward, both before and since the speech I made at the end of May, to say they had personal experience of both performing and non-performing loans. They told me they were treated very differently from what they are hearing in this regard. The questions for the investigation are whether the appropriate interest rate was applied to each borrower, whether it was fair and whether it was in keeping with what other borrowers were paying or what IBRC could have been charging. I recall the Irish Nationwide Building Society mortgage holders and the way in which they were treated. They feel even more aggrieved at this stage.

We should not need inquiries to learn some lessons about how to answer parliamentary questions. The Opposition and the Government have a role, as do Government backbenchers. We need to be respected and to be able to get the information that allows us to do our job. There was a lot of criticism of the Oireachtas in the pre-crash era in regard to people not asking difficult questions and about group-think. If we are to rebuild trust in politics, we must be allowed to do our job. There has to be a shift in culture and practice to allow that to occur at both political and administrative levels.

I cannot conclude without thanking Anne-Marie McNally and Eoin Wilson from my office, who worked on this issue for months on end and went above and beyond the call of duty. I want to put on record my deep appreciation of them and I think they will be very pleased if this investigation does justice to some of the work they have done. As regards the terms of reference, I am very happy that the investigation is being set up. I am generally happy with the terms of reference, although I think there is a significant and concerning issue, which has to be addressed, in respect of what the transition covers. It has to cover more than just transactions. That would be my major outstanding concern, and I hope the Minister will be able to address it.

**Minister for Jobs, Enterprise and Innovation (Deputy Richard Bruton):** I welcome the debate and thank the Minister for Finance, Deputy Michael Noonan, for establishing this inquiry. It is a very important investigation which should occur. We are entering the final acts of a saga that started well over 15 years ago in respect of Anglo Irish Bank. I remember that I sat on the Opposition benches over that period and saw this unfolding. It started with the refusal of

the then Government to establish a proper Central Bank and financial regulatory structure. We debated and opposed the regulatory structure it was introducing because of its simple refusal to stress-test it to see if it would be fit for purpose to manage the regulation of the banking system. That was blindly ignored and it pushed ahead with inadequately researched regulatory functions, which it forced upon the Dáil at that time. That was followed by repeated refusals to heed warnings issued by the IMF, the European Commission and, indeed, by the stability reports of the Central Bank. Those warnings stated that the model that was being pursued was unsustainable, with the Government relying on a property-based boom, driven by credit, which was fuelling its own revenue sources. That was amply set out for the Government at that time. What happened then was a terrible tragedy. In December 2008, the Government put €1.5 billion into Anglo Irish Bank and, at that stage, took over 75% of the shareholding. Within a month the Taoiseach came back and assured us the bank was solvent. Therefore, it is hard to listen to Fianna Fáil berating the inadequate supervision of banks by the Department of Finance, when that is the history of how we got to the sorry pass we are now in. It was left to the Minister for Finance, Deputy Noonan, to unwind the massive €35 billion burden that Anglo Irish Bank had left on the Irish taxpayer. That is what he has done and he deserves a great deal of credit.

I absolutely agree with those who say we need, in the public interest, to oversee the rollout of the final acts in regard to Anglo Irish Bank. The terms of reference are extremely strong. To be fair, I have sat here listening to Members debating the terms of reference of the investigation. Every time, there is always more and more to be added and, of course, what happens is that the investigations go on for ever and we do not reach conclusions in a timely way, which is what the House wants. There has to be a proper balance and the Minister has struck that balance by talking to the Opposition parties.

It is worth looking again at what is within the terms of reference. First, they deal with the procedures and controls operated by the IBRC in regard to relevant write-offs, so those policies that are at the heart of this debate are going to be scrutinised. Sometimes, when listening to the Opposition speak here today, one would swear there was not a good reason to execute write-downs. Executing write-downs was absolutely essential if we were to help the economy to recover, and this has been at the heart of what we have been trying to do in order to put the banking crisis behind us. We have had to exercise write-downs to allow businesses to recover and continue, and to protect jobs in businesses that can do so.

**Deputy Mary Lou McDonald:** Nobody said that. This is a distraction.

**Deputy Richard Bruton:** Equally, it is important that the way in which those write-downs are done is fair and is not giving undue favour to anyone, which is absolutely enshrined in these terms of reference.

Paragraph 2(b) of the terms of reference deals with material deficiencies in the performance of functions by those acting on behalf of IBRC. Again, this is going to look into the way in which individual accounts were dealt with to see whether they were properly dealt with. Paragraph 2(c) seeks to determine whether the transactions were commercially sound. The focus has mainly been on one deal, but the terms of reference seek to examine whether a commercially sound process was adopted in other cases. Paragraph 2(d) addresses the issue of whether preferential terms were given to some individuals rather than others, which is at the heart of the terms of reference. With regard to each transaction, there has been a lot of talk about the role played by the Department of Finance. It is very clear under paragraph 2(f), which states “in relation to each transaction under investigation, whether the Minister for Finance or his

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Department was kept informed where appropriate in respect of the transactions concerned,” that, again, this is being investigated. The terms of reference also state that “where a contractual obligation was agreed during the Relevant Period but not executed until after the Relevant Period,” that too can be investigated.

This is a very full and open inquiry. The Minister has carefully put together these terms of reference so the public can get to the bottom of this. I can understand, given that Anglo Irish has had such an impact on the lives of ordinary people, that there is an absolute expectation that when issues of public concern arise, as they have in this case, there would be full transparency. I believe that is what the Minister is providing here. It is part of a wider transparency that I am proud of in respect of this Government. We have pushed ahead and pushed out the boundaries of transparency, although that is often not recognised. We have moved a long way from where we were back in 2011. We now have the extension of the freedom of information provisions, legislation dealing with whistleblowers and lobbyists and powers of investigation for Oireachtas committees. Yes, we would like to go further, but the people in their wisdom decided in a referendum that this should not occur. We are increasingly seeing powerful bodies being held to account, whether by HIQA or by others. That is part of the new maturity of this country in its approach to holding authority to account.

I believe the approach taken by the Minister, Deputy Noonan, in this regard has been sound. He has steered us through the banking crisis that deluged this country, brought so many businesses, homes and people to their knees and saw so many dreams shattered. We have seen the liquidation of Anglo Irish Bank, which was the most rotten apple in the barrel. We see other banks now back in a position in which they are lending again. It is gratifying to see that, although the banks are not what we would want them to be, their refusal rate to small business has halved and there is at last some growth in credit coming from the banks.

I believe we have the basis on which to build our economy. Without the approach that the Minister, Deputy Noonan, has taken to the banks over recent years, we would not have 105,000 extra people back at work today, which is the real vindication of this strategy. When we ask what the main issue was in 2011 when we were forming a new Government, the issue was that people thought their job would be the next to go and that no business or job was secure. We have now reversed that. One must look at where we were expecting to be. I remember being accused from the benches opposite of being ridiculously optimistic when saying we would have 100,000 people back at work by 2016. It was said that this was not built on sound foundations, yet we have delivered it. The reason we did so is that we have pursued coherent strategies on the jobs front, the banking front and the public finances front, and we have brought the country through those difficulties.

This is a time to reflect on the profound factors that led to the Anglo Irish Bank situation and to make sure these never occur again. That will be the legacy, in that we now have a more open approach to challenging banks and challenging authority. The Minister, Deputy Noonan, has been at the heart of a strategy that has opened up greater accountability. This is the correct approach. As we enter the final acts in respect of Anglo Irish Bank, people can be reassured that taxpayers’ money has been properly handled, that the principles underpinning this have been fair and without discrimination, that proper professional standards have been applied and that this has been done in a proper and reasonable way.

I welcome the decision of the Government. I hope the terms of reference, which I believe are balanced and appropriate and will give us a result by the end of the year, are an approach

that will commend itself to the House.

**Deputy Micheál Martin:** I thank the Minister, Deputy Michael Noonan, for his earlier contribution. First, the issue of governance is included in the terms of reference in the form of specific issues but not at a macro level. I ask that the entire overall governance of IBRC be examined by this inquiry. When the Minister replies at the end of the debate, will he clarify that this will be the case?

Second, I ask that the general relationship between the Department of Finance and the bank also be considered. By this, I mean not just the various requests that were made in regard to specific deals but the overall relationship, given the placement of an official in IBRC. All of that is well documented in freedom of information documents.

Third, I am disappointed by how the wealth management unit is referenced here. I specifically asked that the interaction between the wealth management unit and the bank proper be investigated by the inquiry, and that the potential conflicts of interest that were raised, which occasioned the commissioning of the William Fry report into those potential conflicts of interest, be specifically covered. Can I get clarity before the debate ends that this overall issue is covered? It is mentioned in a very abstract way, which disappoints me, having read the Minister's earlier speech.

It is a longstanding tradition of this House that when the terms of reference of a formal inquiry are being discussed, Deputies address the context in which the inquiry is being established. It has been the practice of many inquiries to pay specific attention to concerns raised in Dáil Éireann when carrying out their work. It is in this spirit that I want to address the issue of why the commission of inquiry is needed and why the issues of concern go much further and include points fundamental to the future of our democracy.

This inquiry is not only needed, it has been delayed for far too long. It is some time since the Government became aware of concerns about the operation of IBRC. It is years since it was put on notice that there might be a failure to protect fully the public interest. Yet all we have seen are efforts to keep these concerns secret. Not only was nothing done to investigate failings, material which might bring these failings to the attention of the Oireachtas or the Irish people was hidden behind a concerted strategy of limited disclosure.

A quarter of a century after a tribunal explicitly attacked the failure of Ministers to be open in parliamentary questions, we have a Government which has used every conceivable device to avoid admitting that its officials have raised concerns about the possible loss of large amounts of public money. Only one month ago Fianna Fáil proposed the establishment of a commission of inquiry and it was voted down by Fine Gael and the Labour Party. They claimed that there was nothing involved which could not be addressed by a review of files by KPMG, a firm involved in some of the deals to be investigated.

The Government parties also did what they always do, namely, spend most of their time on political attacks. The Government's handling of this issue over the past number of years has been to keep the lid on it in every way possible. Ministers have gone to extraordinary lengths to avoid bringing it to the public's attention and once it was exposed they have twisted and turned to avoid an independent investigation. They have withheld information from parliamentary replies which the Minister of State, Deputy Simon Harris, defended by saying, "There is always FOI".

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They have voted down a motion to investigate problems identified by their own officials. They have refused to defend the right of the media to report Dáil debates or to publish information about possible lapses in a publicly financed institution. They have even gone into hiding to avoid having to respond to questions. Still this approach of “Move along, nothing to see here” keeps going. If we are to believe what the Government has been saying since its humiliating climb down last week, this is the first time in our history that an inquiry is being established because there is no evidence of any problems. Why have Fine Gael and the Labour Party gone to such extraordinary lengths to avoid this investigation? Why now are they eager to make sure that this much delayed investigation is stretched out beyond the general election?

Before it was sold Siteserv was a company with significant cash flow problems but it had the potential to recover some of its value. Yet, it was sold with a write-off to the State of at least €119 million. We know this from the recently published board minutes that went from IBRC to the Department of Finance at the time. Other bidders were excluded. The circumstances surrounding the sale were highlighted by at least one journalist at the time. This company is now generating major profits, as its subsidiary GMC Sierra has one of the contracts for the installation of water meters.

Everything about that sale gave preference to one bidder. There was a concerted rush to get Siteserv into the hands of a newly incorporated entity with no experience in the industry but a substantial understanding of the underlying value of the company. The idea that it was able to manipulate the process by threatening to walk away if anyone else was allowed even to examine the company is itself scandalous, as is the fact that people with no interest in seeking to maximise the return to the State were in charge of the process. It seems clear that the threat to walk away was a successful effort to ensure that others did not discover the high underlying value of Siteserv.

It certainly cannot be justified on the basis of commercial urgency, given that the sale was to a newly incorporated entity funded by borrowings from another State-owned bank. Why was a major debtor of IBRC given what, on the surface, appears to be the inside track on purchasing Siteserv? Why was that debtor’s personal contact in IBRC present at the board meeting where the sale was agreed? Why was he not asked to step out? Why did he actually speak to the board on the sale and show deep knowledge of issues we were told he was excluded from?

Mr. Denis O’Brien seems to confirm this in his article in *The Irish Times* on how these deals were done when he said, concerning the purchases of Siteserv, Topaz and the Beacon Hospital, “These were consensual deals with the founders, the management and lenders”. What does that statement actually mean? The lenders had obligations, the most fundamental of which were to the State, the taxpayer and the public, not necessarily to do consensual deals and certainly not to exclude trade buyers or others or to reward shareholders to the degree that they were rewarded in the Siteserv deal.

People should also understand that the issue of extending performing loans was a serious lapse in the governance of IBRC. IBRC’s job was to get back money from debtors as quickly as possible. If a debtor was in a position to repay a major loan then there was no justification for failing to have it repaid on time. By extending loans like this IBRC effectively enabled debtors to hold on to all of their assets and use other borrowings to purchase State assets. As to the issue of preferential rates, this should be examined thoroughly, as Deputy Murphy says her sources are reliable and robust. It is totally unacceptable that she was labelled a liar and a thief. If more preferable interest rates and extended loan times were given it is important that

the inquiry investigate the reasons and rationale behind such decisions.

The cost to the State of this money was the cost of the capital which was placed in IBRC. Equally, the repayment of major debts was essential for the State's overall debt exposure. Those who are defending IBRC keep ignoring the fundamental fact that this was not a private sector bank; it was a bank which had been rescued by the State and which was to be wound down. On the issue of confidentiality, many of the pleadings in the High Court represent a chilling attempt to limit the public's right to know about matters of legitimate public concern. It is a disgrace that the only State involvement in that case has been to fund the attempt of the special liquidator to stop media reports on IBRC's activities. The special liquidator's pleadings in the High Court said that to allow RTE to report on the handling of the debts of a major public figure would cause damage to the reputation and financing of IBRC. This is surreal. IBRC is in liquidation. It is being shut down. It has no reputation or long-term financing needs to protect.

As a society we have made slow but determined progress towards greater accountability and tackling exclusive circles. Yet, the evidence is that the Government is willing to assist actively in reducing accountability and supporting a greater concentration of media and business power than we have ever seen. Last weekend, the chairman of INM announced the group was planning to spend up to €100 million on acquiring more media companies in Ireland and the UK. This is a brief period after it had €140 million written off its debts, mostly by State backed banks. Such an expansion would have a negative impact on media diversity and plurality in Ireland. Why is this Government so determined to avoid saying anything which might upset or annoy Mr. Denis O'Brien?

It is also four years since the Moriarty tribunal report was published, which found serious problems with the awarding of the most valuable State licence in our history. In those four years the Government has been profoundly silent on this report. Let no one be in any doubt, Mr. O'Brien wants the Moriarty report buried and resents anyone even mentioning it. Sam Smyth wrote at the weekend that after Mr. O'Brien took over Today FM "[M]anagement instructed me not to discuss the Moriarty tribunal or the mobile phone licence that O'Brien won when Michael Lowry was minister for communications". Unlike the Government, I have not been willing to acquiesce to this behaviour and I will not, irrespective of the consequences.

Every citizen is entitled to equality before the law, but no citizen should be entitled to use his or her power and resources to silence legitimate public debate. Most of the media not owned by Mr. O'Brien has been effectively under siege as he has deployed his resources on a level not open to other citizens to shape coverage of him. The launching of 24 High Court actions against 42 named outlets is only one part of the ongoing campaign. It has been reported that 11 journalists have received legal letters from Mr O'Brien in the last few years.

The direct legal intimidation of journalists is a new and disturbing development which we must speak out against. Any journalist who wants a long-term future has been put on warning as to what might happen to them if they displease Mr. O'Brien. Some journalists who have in the past been critical of the new owner no longer work for his acquired companies. It should be a source of national shame that Sam Smyth, by some distance one of our most successful ever investigative reporters, was removed from his newspaper and radio employment.

This inquiry could have been avoided if the Minister had acted and listened to the concerns of his officials and if he had immediately intervened to guarantee that IBRC was maximising the return to the public in all of its work. Instead we got years of delay and a constant effort to

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provide as little information as possible. It is impossible to miss the link between the Government's actions on IBRC and its wider political agenda. This is an agenda which is indifferent to basic press and parliamentary freedoms and is putting all of its focus on the next election. It is a cynical and sinister agenda. It is one which must be stopped.

**Deputy Jim Daly:** I wish to share time with Deputy Connaughton.

**Acting Chairman (Deputy Derek Keating):** Is that agreed? Agreed.

**Deputy Jim Daly:** I put on record my appreciation for the opportunity to contribute to the debate. This is a long, difficult and winding saga that has many twists and turns. I would like to make a couple of points. I am somewhat bemused having listened to Deputy Martin's contribution. I wonder why it was not called a commission of inquiry into certain matters concerning transactions entered into by Denis O'Brien, because that seems to be the witch hunt that is taking place. I have never met Denis O'Brien. I do not know the man from Adam and have never had any dealings with him. However, I am at a loss as to why there is such an urgency about this matter. There are Opposition Members and many in the media who would have liked the commission to have been called that, to have seen it go after Denis O'Brien directly and to have forgotten about all the other ancillary issues that have been raised.

That is not, however, to take from the serious allegations that have been made in this debate. I, as a citizen and someone who is fortunate enough to represent many good citizens in west Cork, welcome this commission and the enhanced accountability that will undoubtedly result from it. I speak for every sane-minded individual when I say that a commission like this can only bring about good. When there is so much mud-slinging and so many agendas trying to be set, it is imperative on all of us, as the story has moved on, to settle for nothing less than a full commission to vindicate the many people in question.

I acknowledge and commend, as many have done before me, Deputy Catherine Murphy for her continued and dogged investigation into this matter. In her role as a public representative, she has been extremely responsible, a point acknowledged by Members from all sides of the House and to which I would like to add my voice. However, I have a difficulty with how this is emerging to be more about Denis O'Brien and the rich man versus the poor man. I also have a difficulty with how some, not all, Opposition politicians and more especially commentators outside of the House seem to be bringing in more agendas and have scores to settle. Deputy Martin's contribution was an affirmation of that, namely, there are many scores people want to settle against Denis O'Brien-----

**Deputy Timmy Dooley:** Like the Moriarty tribunal.

**Deputy Jim Daly:** -----and they are bringing the whole issue of IBRC, Irish Bank Resolution Corporation, into it.

Since time immemorial when assets are sold at a knockdown price, someone will always benefit from it. We have seen that the length and breadth of the country as a result of the extremely harsh recession this country has endured. Despite the financial hardship, there have been some extraordinary good deals - if that is what a businessperson would like to call them. That is how I would view it too. People have been at the receiving end of those deals. However, I am at a loss how we can criminalise the receiver - in other words, the person who purchases, for example, a hotel sold by a State-owned or other bank. I am at a loss how the person who has purchased that asset is in the wrong. Questions can be asked about the seller, as well

as the mode of selling it and the ethics involved but I am at a loss as to why the purchaser has come to be the criminal.

While there was much furore outside the House about the perceived threat to parliamentary privilege, but which turned out to be nothing, there was little talk either inside or outside the House about the rights of a private citizen, irrespective of who they are. I resent how this has become the story about an individual. There is a wider question that needs to be asked and addressed at this stage, namely, the right of any citizen to privacy in their banking affairs or anything else. If I were a businessperson and I secured a good deal by negotiation or by some other procedure, invariably it would be the person who gifts that sale to me, or who gifts whatever, would be open to question. As a private citizen, I should not have my banking affairs and my name sullied, irrespective of my means or otherwise, and not be allowed challenge that. This is an issue which I have not heard anyone address. Some perspective needs to be brought to the debate. There are certain matters that are serious and need to be dealt with. All the running off on tangents that many commentators and many Members have done and the personalising of this, making it about an individual, are not helpful to the process, to the State and its citizens. The citizens are at a loss when they talk about it. I spent last weekend knocking on doors in Clonakilty and Bandon. Nobody on the doorsteps raised this issue with me. If anybody referred to, it was referred to as the Denis O'Brien issue, which I think is regrettable, as opposed to an issue of re-examining the accountability of officers of the State who did deals on assets belonging to the State by default. That would be a more correct and appropriate way of doing this.

**Deputy Paul J. Connaughton:** I welcome the establishment of the commission of investigation. I only regret it was not established earlier. Significant questions have been raised in recent months concerning deals conducted by IBRC. The best and most transparent way to get the necessary answers both for the Government and the people of Ireland is through a commission of investigation. I commend the Minister for Finance, Deputy Michael Noonan, on the approach he has taken to the establishment of this commission. The proper consideration given to the set-up of this inquiry is reflected in its terms of reference which, while trying to get to the nub of the questions raised in recent weeks, also aim to limit the scope of the inquiry to the matters of significant public concern which should ensure the Government gets the commission's report in a timely manner.

The decision of the commission to report no later than the end of the year is welcome. It will ensure its work is carried out quickly and thoroughly and the matters do not drag on for years. A six-month timeframe is adequate and I have every confidence that this matter can be investigated properly in that timeframe.

The commission of inquiry faces many difficult decisions in the coming months. One of the most difficult decisions it will have to decide on is what represented good value for money both in terms of the sale of Siteserv and other transactions. When one is forced to sell in a fire-sale setting, it can be hard to comprehend the scale of the write-downs that occur. Property owners across the country have come to the hard realisation that the selling price for property is not always determined by the value for money consideration on the part of the vendor. For many forced to sell property at the height of the economic bust, the value achieved at sale was only a fraction of the real value of the property. Considerations which also influenced the sale price included public confidence, availability of investment funds, natural economic performance and outlook, as well as the availability of buyers with the interest, confidence and wherewithal to make the investment.

The need for this commission of investigation is prompted by the danger of a public perception that the big player in the market is always at an advantage over the smaller player. There is no doubt that those who have the money to purchase property at the lowest ebb of a recessionary cycle stand to make the most as an economy recovers. That is true all over the world. What this commission of investigation will have to decide is if an unfair advantage was given to any particular player at the expense of the Irish taxpayer. Accordingly, I welcome the elements in the terms of reference that make specific reference to preferential or unduly favourable interest rates and any unusual share trading. These are important questions which need to be answered in the report in six months' time.

It is only from the benefit of a few years remove that we are finally getting to grips with exactly how toxic Anglo Irish Bank was. The State aims to recover its investment in Bank of Ireland, AIB and Permanent TSB. However, there is no such happy ending in its involvement in Anglo Irish Bank. The Government has pledged to withdraw from its involvement in the banking market as soon as is practicable and as soon as Ireland has a properly functioning competitive banking sector which can serve the people's interests. The wind down of Anglo Irish Bank and Irish Nationwide Building Society was committed to after the 2011 general election. The vehicle used to achieve this wind down was IBRC. We must not equate Anglo Irish Bank with the IBRC but understand that IBRC's function was to achieve an orderly and timely wind down of the bank.

The lessons learned during the past decade must not be forgotten. The disaster that was light-touch banking regulation has cost this country dearly and has impacted on hundreds of thousands of citizens' lives. Lessons will continue to be learned and that is why I welcome the transparency offered by this commission of investigation. I look forward to the report that will be published as a result as it will provide information and clarity on some significant transactions and adjudicate whether or not they were conducted in the best interests of the public.

**Deputy Gerry Adams:** It would not have been necessary to establish a commission of investigation if the Taoiseach or the Minister for Finance had properly answered questions in the Dáil. The taxpayer may also have been saved hundreds of millions of euro, money which would have been better spent on health services, tackling poverty or building schools. Since 2012, Teachta Pearse Doherty and I, as well as other Sinn Féin Deputies and Opposition Members, have tabled a range of parliamentary questions about IBRC. The responses from the Minister for Finance were deliberately vague and obstructive. They were opaque.

Some of my questions related to IBRC's hiring of Blackstone, an American vulture capital group. At the time, Blackstone was also seeking to buy IBRC's loan book. This meant that IBRC was paying Blackstone for advice on the sale of assets whose buyer might be Blackstone itself. Any citizen could see the clear conflict of interest at the heart of this arrangement. Questions, which we asked incessantly, about fees paid to advisers were not answered. The impression given at the time by the Minister's responses was that he had no difficulty with any of this. At the time of my questions, the Department of Finance was in weekly contact with IBRC. The Taoiseach and the Minister for Finance met the head of Blackstone, Stephen Schwarzman, and his associate, Gerry Murphy, in November 2011. During this period, Michael Geoghegan, the Government-appointed chair of NAMA's advisory group, sought to appoint Gerry Murphy from Blackstone to the board. Had this happened it would have resulted in someone from Blackstone giving advice to NAMA on the sales of assets whose buyer might have been Blackstone itself. The conflicts of interest are startling, but there is nothing from the Government. It is a case of "move on, nothing to see".

The appointment of Mr. Murphy appears only to have been abandoned after Sinn Féin parliamentary questions drew attention to the matter. What the Minister, Deputy Noonan, failed to answer in 2012 was when he or the Department became aware that IBRC intended to commission Blackstone as an adviser on its loan sales. Will he tell us now? I doubt it. Were concerns raised by the Minister at any time about the very obvious conflicts of interest in Blackstone taking on an advisory role with IBRC when it was also bidding for IBRC loans? Did the Taoiseach or the Minister for Finance on the back of questions from Sinn Féin in 2012 investigate matters in IBRC? Does this explain the subsequent appointment of Mr. Neil Ryan from the Department of Finance to IBRC? Why did Neil Ryan leave IBRC and what was the nature of his departure?

There is no need to wait for the conclusions of the commission of investigation to get these answers. The Minister could speak up at any point during this debate or in his concluding remarks, and this is what he should do. As I have just said, if the Minister, Deputy Noonan, or the Taoiseach, had answered questions in the proper way in recent months, or since 2012, there would be no need for the commission. While the Taoiseach and the Minister plead ignorance now, they had the power to do something about it at the time. They were being asked to do so by Sinn Féin but they did nothing. They fobbed us off. What is clear is that the Government used the parliamentary process to obstruct, obscure and divert rather than explain, inform or account for its actions. The Taoiseach and the Minister, Deputy Noonan, failed to hold IBRC to account and sought to prevent the Dáil from holding the Government to account. This behaviour has exposed once again the shallowness of Fine Gael's high-flown rhetoric in 2011 about a democratic revolution and a new era of openness, transparency and accountability. Like the Irish Water fiasco, Fine Gael and the Labour Party treated the Dáil with complete contempt.

Disturbing information has emerged, not least as a result of the work of Teachta Catherine Murphy, whose commendable efforts let us all know that Denis O'Brien's company was not the highest bidder for Siteserv. It has also emerged that the Minister for Finance was briefed by Department of Finance officials about their concerns about this deal and other transactions involving IBRC. For example, €64 million was written off for Blue Ocean Associates before it was purchased by a consortium, also involving Denis O'Brien. I cannot make any real comment on this, but it was reported at the weekend that the total write-downs granted to big business by IBRC amount to more than €1 billion. When the Government was asked repeatedly to establish a commission of investigation it chose instead to appoint the special liquidators who had helped to close down IBRC. They were appointed to review all transactions of IBRC over €10 million. The liquidators are from KPMG auditors, the very people who oversaw the sale of Siteserv. If ever there was an insider review process, this is it.

The fundamental issues which gave rise to this extraordinary series of events have not been resolved and the commission of investigation the Minister is establishing is only part of the answer. The statement today by the Minister for Finance to correct the Dáil record totally contradicts earlier statements made by him. While I accept the Minister made the statements in good faith, I am sure he agrees it will do little to allay public concerns about the political oversight of IBRC, but the political oversight of IBRC is not even included in the terms of reference. Think of the tens of thousands of families struggling or unable to pay mortgages or who live under the threat of eviction, those small businesses which cannot get credit from banks and the elderly ladies, some of whom are over 100 years old, who end up on trolleys. Think of what this says to them about the Government's priorities, and there is ample evidence of its deferential treatment of the banks and the wealthy elites. It is an example of the toxic relationship that has long existed between big business and political parties such as Fine Gael and Fianna Fáil.

9 June 2015

In a letter I wrote last week to the Taoiseach and the Minister for Finance on behalf of Sinn Féin, I made a number of recommendations aimed at broadening the proposed terms of reference for a commission of investigation into IBRC transactions. Later, Deputy Mary Lou McDonald will outline in detail Sinn Féin's position on these revised terms of reference. I do not believe they deal comprehensively with all of the issues the commission of investigation needs to examine.

It is also important to state that concerns about IBRC are not confined to the bank. Similar concerns surround the operation of the National Asset Management Agency. NAMA has also been handing billions of euros in debt arising from the economic crash, mainly from the collapse of the construction industry. NAMA has been ordered to wind up faster than its 2020 remit demands. Sinn Féin is concerned this may result in a failure to get good value for the taxpayer and that NAMA is undertaking a fire sale of assets to meet an arbitrary deadline. The distinct impression that citizens are left with after weeks of exposure to the IBRC scandal is that a culture of secrecy exists at the heart of the Government. There is not even inclusion of an investigation into claims of alleged verbal agreements as part of some of the transactions undertaken by IBRC.

We had the spectacle of the Minister for Finance, and the Taoiseach again this morning, claiming that after three years of parliamentary questions he has adequately answered each one. This is an insult to the Teachtaí Dála here and, more importantly, to those citizens who have sent us here. The blatant and persistent withholding of information from the Dáil and citizens by senior members of the Government underlines the lack of genuine democracy here. This is the same political culture of cronyism and graft which the Government promised to do away with. This remains a Government of golden circles and insiders. I note the effort by Fianna Fáil to reinvent itself as the guardian of the Oireachtas and the right to Dáil privilege, unless of course it involves Teachta Mary Lou McDonald. It is show business and business as usual, but no amount of spin and bluster can disguise the toxic nature of the political culture that permeates the way the Governments here do their business, particularly concerning transactions entered into by IBRC.

**Minister for Health (Deputy Leo Varadkar):** I welcome the opportunity to speak in the debate this evening and support the proposed terms of reference for the commission of investigation. I welcome it because it is also an opportunity to put some context on how we got this point. As we all know, the Government faced many difficulties when coming into office four years ago, the most serious of which was the perilous state of our public finances and the banking sector following 14 years of misgovernment by Fianna Fáil. That Government left behind a broken economy, a record of growing unemployment, mass emigration and people locked in negative equity, in many cases far from where they envisaged they would spend their lives. The Members opposite speak in outraged terms of loan write-downs and losses on asset sales, without even a hint of acknowledgement there would have been no crisis, no need for bailouts of the banks and no haircuts on the value of loans or losses on the disposal of distressed properties or companies if they had managed the economy properly when they had the opportunity to do so. I make this point not to be partisan but, rather, to place it in the context of this debate and the forthcoming commission of investigation.

I welcome the proposed commission. There is a need for transparency on the winding down of IBRC. I say this not because I believe anything wrong was done - that is a matter for the commission and I do not want to prejudge the outcome of its deliberations - but because IBRC handled literally billions of euro and the public has a right to an assurance that it acted

appropriately. We live in a small country where people's lives and families are interconnected, whether through business, socially or through family. In Ireland, the saying that one is never more than six degrees of separation away from someone can often be reduced to two or three as everyone in Ireland knows somebody who knows someone and, in such a scenario, innuendo and conspiracy theories thrive.

This is all the more reason that we need robust systems of control and oversight. We hear of Chinese walls but in reality transparency is often the best tool for keeping everything above board. Meetings with officials present are better than chats on a golf course or in a Michelin-starred restaurant. Clear, open competitions with properly recorded reasons for decisions taken and a vigorous system of freedom of information help to reassure a justifiably concerned public. It is worth recalling that it was this Government, in particular the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, which restored and enhanced the system of freedom of information, so wilfully weakened and restricted by the previous Government.

It is also essential that we acknowledge the reality of what IBRC was. It was no normal bank but a structure into which two zombie banks, Anglo Irish Bank and Irish Nationwide, were placed. These were banks that had run wild in a banking and regulatory system overseen by many of the Members opposite, some of whom wish to return to this place. Both institutions became synonymous at home and abroad with the reckless management of our banking system. They became emblems of a culture of cronyism that undermined confidence in both our economy and our political system. They became a stain on our international reputation and a dent to our national pride. Peter Nyberg, in his investigation into the causes of our banking crisis, revealed that both institutions had abandoned traditional checks and balances and risk management procedures in the pursuit of even bigger short-term profits. They literally brought the country to its knees in doing so. Some €34.7 billion of borrowed money ended up being pumped into these banks and little of it will be recovered. That, of course, is in stark contrast to the banks recapitalised during the term of office of this Government, namely, AIB, Bank of Ireland and PTSB, from which we have recovered or will recover all the money invested.

People talk about the scandal of €5 million being given to shareholders in Siteserv or the €119 million loss on the transaction. I agree that these things should, as they will, be fully investigated. Let us await the outcome of the commission and not jump to hasty judgments. We do need to let light into the dark recesses of our recent past and further back and this Government has donated much energy to enabling people to have their voices heard and redress provided, whether in the case of child sex abuse, the Magdalen women, the women who underwent symphysiotomy or patients and their families who were not listened to in Portlaoise hospital. We need to ensure that, as we recover from the economic shambles left to us by others, we got the best for distressed assets from the two zombie banks. In making that judgment, we need to acknowledge that in deciding on the sale price the people in IBRC did not have perfect knowledge. They had to make an informed decision based on whatever facts were available and an assessment of the situation at the time, and not one based on the position perhaps two years later. The ability to make perfect judgments based on perfect knowledge and the gift of hindsight only takes place in dreams and movies.

We need to now delve into the detail of what went on in key transactions undertaken by IBRC to ensure the people of Ireland did not lose on the double, first losing the money pumped into Anglo and Nationwide by Fianna Fáil and then, perhaps, not getting back as much from the disposal of assets as we could have. We should, however, also remember what got us into the crisis, which was a total lack of financial management and poor regulatory oversight, years of

light-touch regulation and reckless, unsustainable expenditure which ended in the nightmare of huge bank bailouts and a massive budget deficit. We hear now, from the putative Fianna Fáil-Sinn Féin alliance opposite, nothing but plans for more public expenditure and the removal of charges and taxes which would narrow our tax base and potentially plunge our country back into crisis. This debate needs to be open and honest. False outrage from those who caused the crisis or contributed to it by their inadequate oversight is frankly difficult to take and is of no benefit as this commission now commences its work. Fianna Fáil complains about Department of Finance oversight of IBRC but the Department operated under a relationship framework with IBRC put in place by them when they were in Government, a framework which this Government, in particular this Minister for Finance, Deputy Michael Noonan, recognised quickly as being inadequate, replacing it with a tighter and much more robust version.

We need to get to the truth and that truth may well turn out to be stranger than fiction. I suspect that those in IBRC were often faced by almost impossible choices - a “damned if they did, damned if they did not” situation, particularly in the early years of its existence when the international and domestic confidence in the future of the economy was not what it is today and there were only a very small number of people and companies interested in investing in Irish companies and properties, let alone distressed loans or assets. In many cases IBRC was doing little more than selling on ghost estates and half-finished buildings for as much as it could get. In those days, projections of default were much more commonplace than the belief that the economy would recover and take off like a rocket in the way that it has.

I urge everyone to co-operate with the commission as a long, drawn-out process with regular trips down to the law courts will ultimately serve nobody’s interests and protect nobody’s reputation. I hold no candle for any individual or any institution but everyone has the right to put their position and to have it considered, even if some have not always been willing to grant others that same opportunity.

As a society we need answers and a greater sense of accountability around the events of the recent past. I do not want to intrude on the work or the judgments that may be reached elsewhere but I hope the commission can help in this process and I welcome its establishment.

**Deputy Stephen S. Donnelly:** I welcome today’s order establishing a commission of investigation concerning transactions entered into by IBRC and note that this is only occurring due to the excellent parliamentary work of Deputy Catherine Murphy. Had Deputy Murphy not pursued her own investigation, we would not know that Department of Finance officials had raised serious concerns in 2012 about large IBRC transactions. We would not know that Department of Finance officials raised numerous and specific concerns about the Siteserv transaction. We would not know that these concerns were not being shared with the Oireachtas, even in response to direct parliamentary questions.

As with the replies Deputy Murphy received to her parliamentary questions, the Minister’s speech is as notable for what it does not say as for what it does. The Minister references public concerns but there is no mention of departmental concerns, which are at the heart of this affair. The Minister references increased public concern but there is no mention of increased Oireachtas concern caused by the appointment of KPMG to investigate sales processes that KPMG was involved in running. The Minister makes no mention of this conflict of interest, a conflict raised by numerous Members of Dáil Éireann on the Opposition benches.

The absence of any mention by the Minister of the specific concerns raised by Department

of Finance officials is particularly worrying in setting out the terms of reference of this investigation. The departmental memo, secured only under FOI by Deputy Murphy, states the following:

We are concerned at the number of large transactions that have been poorly executed under the direction of the chief executive officer. The performance of management in executing these transactions raises the question of the effectiveness of the CEO. The poor management displayed in a number of these items, along with the increased level of public concern and political and media scrutiny that they commanded, is damaging the credibility of IBRC and, by extension, the State.

What was it about the performance of the CEO that concerned Department officials? Which large transactions were they concerned with? What damage might be caused to the State and at what cost? The Minister states that there are no allegations of wrongdoing. This was never about wrongdoing. It was about departmental concerns regarding low performance and poor corporate governance leading to a loss of public money. Now, because of how the Minister has dealt with the information he has received, it has also become about political governance.

*8 o'clock*

Section F in the terms of reference states that the commission of investigation will examine “whether [the Minister for Finance], or officials on his behalf, took appropriate steps in respect of the information provided to them”. The investigation must include whether appropriate steps were taken in respect of informing the Oireachtas about the information that was provided. The commission of investigation will, no doubt, focus on financial performance and corporate governance, but at the heart of the current controversy is a failure of democratic accountability for public money.

In 2012, Department of Finance officials wrote to the Minister for Finance, laying out serious concerns as I have already mentioned. They raised five key concerns specific to Siteserv: allowing the company to run the sales process, excluding trade buyers from the sales process, entering into exclusivity with one bidder, paying the shareholders in an insolvent company €5 million and not accepting the highest bid. The Department stated that it believed these issues “resulted in a less optimal return for the bank”. These concerns should have been brought to the Dáil in 2012, as the body constitutionally charged with accounting for public money. They were not. These concerns should have been brought to the Oireachtas in 2013, as part of the context of the liquidation of IBRC. They were not. In 2014, Deputy Catherine Murphy asked the Minister specifically, via a parliamentary question, whether he was satisfied with the disposal of Siteserv. I will read the Minister’s response on the record:

Notwithstanding the State’s ownership of the bank at the time, Irish Bank Resolution Corporation operated at an arm’s length capacity from the State in relation to commercial issues. It was a matter for the board and management to determine and implement such policy in their organisation. Therefore, commercial decisions in relation to IBRC were solely a decision for the bank.

The Minister continues with some technical details on the sale and concludes as follows:

I am advised that the Board of the bank at that time were satisfied that this was the case.

There was no mention in the Minister’s response of the numerous and specific concerns

raised by Department officials. These concerns were so serious that the officials believed they could damage the credibility of the State.

Deputy Murphy followed this up with numerous parliamentary questions and, again, not one mention was made of any of the Department's concerns by the Minister. In fact, only after freedom of information requests meant that the Department's concerns must come into the public domain did the Minister finally reference those concerns, months after Deputy Murphy's first question and years after the concerns were first raised with the Minister. Even now, the Minister maintains that there is no problem with any of this behaviour. On RTE "News" recently, he stated that he "answered questions, absolutely fully in the way questions are answered in the Dáil. They were full answers."

The following questions need to be investigated: why did the Minister not share departmental concerns with the Dáil? Why did the Minister not mention these concerns when he sought Dáil approval to liquidate IBRC? Why did the Minister not mention these concerns when asked specifically about them by Deputy Catherine Murphy? Why did the Minister only agree to an inquiry after Deputy Murphy uncovered the concerns via freedom of information? Why did the Minister appoint KPMG to conduct an inquiry in which it was obviously and blatantly conflicted? Why did the Minister only agree to a commission of inquiry or commission of investigation once additional information emerged? What other concerns have Department of Finance officials brought to the Minister that he has decided not to share with Dáil Éireann? What else has the Minister omitted from answers to parliamentary questions concerning vast sums of public money?

If the Minister's position was that he had made serious errors of judgment in his political governance of this affair, that he should have shared the information with the Oireachtas and that he had not answered parliamentary questions as they should have been answered, that would be one thing. That is not his position. His position is that he answered the questions fully and his speech today made no mention whatsoever of any errors of judgment. To the best of my knowledge, and I am open to correction, he has not referenced any errors of judgment in his conduct of this affair. Dáil Éireann is accountable for public money. Department of Finance officials wrote to the Minister stating that they were so concerned about what was going on with public money that they thought it could damage the credibility of the Republic. The Minister did not inform the Dáil of those concerns and he did not inform a Member of the Dáil when specifically asked about them. That is not an acceptable form of parliamentary oversight, it is not an acceptable form of executive conduct in this State and it is a matter for serious consideration and further debate in this House.

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Gerald Nash):** By now both the politicians and those who report on us have recovered from the bout of bank holiday giddiness that took hold the weekend before last. Talk of a constitutional crisis that threatened to put the organs of State at loggerheads was very quickly and calmly dispelled by a few quiet words from Mr. Justice Binchy. Like everybody in this House, I welcome the statement by Mr. Justice Binchy that it had never been his intention to restrict utterances in the Dáil or to restrict the reporting of the Dáil. That statement cleared the air and was very useful. That so-called crisis over, there remains serious work to be done. The Government has decided to establish this commission of investigation because it accepts there are matters of significant public concern that should be investigated.

The starting point is that IBRC is no ordinary bank. After the bank guarantee of 30 Septem-

ber 2008 and the subsequent nationalisation of Anglo Irish Bank, the debts and obligations of that bank became a burden on the State. We have poured €34.7 billion into IBRC. It has always been a matter of serious public concern that the bank is managed, and is seen to be managed, so as to minimise in so far as practicable the ultimate and unavoidable costs to the taxpayer. Anglo Irish Bank has been buried, and sent on its way with promissory notes.

At the best of times, banking is much more an art than a science and banking during a crisis is not governed by any conventional rule book. I have no doubt that if each of us were individually in charge of second-guessing the decisions of IBRC, we would very quickly have 166 separate judgments on the decisions it made. The idea that there is some conventional standard available, against which we can judge the wisdom of each and every settlement, is naive. We can only measure the general thrust of policy and the general professionalism of its execution.

I agree with the Minister for Finance that we have not as yet had any proof of wrongdoing. However, I also agree that there has been significant public concern. Sometimes inquiries discover proof of the wrongdoing we had all expected to see uncovered and sometimes they allay our misgivings and provide assurance that fears were misplaced. At this stage, I withhold judgment on what will be uncovered.

Mr. O'Brien swore in the High Court last April that:

I have extensive dealings with national and international institutions. My dealings with these institutions are confidential not only to me but also to the various institutions. To put it bluntly, I say and believe that these institutions would not like to see details of how they deal with customers such as me disclosed to the public domain. A belief on the part of these institutions that such eventuality was a possibility [...] would, I believe, impact on their willingness to engage with me and deal with me in relation to my personal, private and confidential banking arrangements.

On the face of it, it seems odd to assert that a bank like IBRC would have a particular problem in seeing disclosed the details of how they dealt with customers such as Denis O'Brien. It raises the immediate and natural question in the public mind as to what is so particular about the way in which, it is alleged, he was treated.

Did the bank deal with him, or indeed other major customers, in any way differently from its other customers and, if so, why?

In a paragraph from his own affidavit, Mr. O'Brien summed up what has become the central issue giving rise to public anxiety: the treatment of himself compared to other bank customers. For his part, Mr. Mike Aynsley, the former chief executive officer of IBRC, has denied all suggestions that relationships with key clients were not at arm's length and businesslike. He says that interactions with clients were "with the objective of obtaining as full recovery as possible with as little difficulty as possible". There is as yet no reason to doubt what Mr. Aynsley says. However, it seems that Mr. O'Brien asserted to the IBRC liquidator that he had a verbal agreement with the previous management in relation to the repayment of his loans, although, according to the High Court judgment, the former management of the bank has denied that its discussions with Mr. O'Brien resulted in any such agreement. Mr. Aynsley has sought to clarify matters. He has talked in general rather than specific terms about the potential for rescheduling of payments, about agreeing a strategy for approval by the bank's credit committee, about agreement to a phase one payment followed further negotiation on the balance once the phase

one target was met, about expectations that phase two approval might be automatic, and so on.

Yet when it came to Deputy Catherine Murphy's speech, Denis O'Brien's stated position was that she was "materially inaccurate" and "fundamentally wrong" and had used files that were allegedly tampered with, in an "attempt to damage [him] and to gain notoriety and political advantage for herself". Somewhere in all of this there is a coherent narrative, but the media will not extract it; nor will any Oireachtas committee. That is why we need a statutory investigation.

There are legitimate concerns about the continued accessibility of ordinary banking in accordance with the ordinary rules of banking, including client confidentiality. Being a very big customer is not of itself a ground for having details of one's dealings with a State-owned bank publicly aired. Having significant concentrations of media ownership and being quick to reach for one's writ are both, perhaps, traits that cause concern, but, again, they are not sufficient grounds for removing the normal legal protections for customer confidentiality. Therefore, a commission of investigation is the appropriate solution. The Government had already responded to significant public concerns regarding these transactions by directing the special liquidator to conduct a review. That review would have had the particular merit of speed, since the liquidator was on site and had access to all the available materials. However, the Government was right to take account of increased public concern and to appoint instead this statutory commission of investigation. There are two core issues: whether there was any significant loss to IBRC - that is, the taxpayer - and whether there was any improper favourable treatment.

At the heart of our approach as a Government to addressing these issues is the overarching principle of public accountability. When it was nationalised, the bank and its management became, in a broad sense, part of the public service. In managing assets and seeking to minimise liabilities on our behalf, they became public servants and trustees of the public interest. Accountability to the public is an automatic and inherent part of that mandate. I believe the course of action we are proposing to the Dáil today reflects the most appropriate and efficient way of ensuring that mandate is discharged.

We have been told as well that Mr. O'Brien intends to take fresh proceedings to ask the courts "to establish the demarcation between the respective roles of the courts and the Oireachtas". If this second case does go ahead, we should welcome it. I hope this House will ensure that Dáil Éireann is a full party to those proceedings and stands firm in defence of both the constitutionally guaranteed rights of its Members and of the media that report on it.

**Deputy Lucinda Creighton:** I move amendment No. 1:

To insert the following after "Dáil Éireann on 9th June, 2015":

"but calls on the Government that the following amendments be made to SI No. of 2015 Commission of Investigation (Irish Bank Resolution Corporation) Order 2015:

— the Commission of Investigation shall submit to An Taoiseach an interim report in relation to its investigation no later than 14th September, 2015 on the status and likely

conclusion date of its work;

— Dáil Éireann shall no later than 15th September, 2015 be recalled for a debate

on the interim report of the Commission of Investigation;

— the Minister for Finance resources and supports the Commission of Investigation in a manner that will ensure that it will issue a final report no later than 30th October, 2015”; and

after “SCHEDULE 2(f)”, new paragraph (g) be added:

— “In relation to each transaction under investigation, what protocols and controls the Minister for Finance and his Department had in place in respect of the transaction concerned, and whether sanction was given for the transaction to occur.”; and

by amending SCHEDULE 1(a) by deleting “€10,000,000” and inserting “€1,000,000”.

I welcome the opportunity to speak on this matter of some public concern and absolute public interest. I welcome the announcement of a commission of inquiry, but I am disappointed at the way in which the Government has gone about forming the terms of reference, particularly the fact that there has been so little regard for the serious concerns raised by members of the Opposition, including me and my party.

We have tabled an amendment to the motion calling on the Government to amend the terms of reference. We specifically call on the Government to ensure that the commission of investigation submits an interim report to the Taoiseach no later than 14 September 2015 on the status and likely date of conclusion of its work; that Dáil Éireann be recalled no later than 15 September 2015 for a debate on the interim report of the commission of investigation; and that a reference be included within the terms of reference to the provision by the Minister for Finance of all resources and supports which may be necessary to the commission of investigation to ensure that the final report is published no later than 30 October.

It is extraordinary that after all our years of tribunals of investigation, scandals in public life, stealth and cloak-and-dagger moves, we still have not mastered the art of investigating wrongdoing or issues of public concern in an expeditious fashion. I was accused by a Minister of State the other day of wanting to have my cake and eat it simply because I have asked the Government to conduct an expeditious inquiry and a thorough one. I do not believe the two are mutually exclusive, but that is what we are being told by a Government that is now so arrogant that it does believe it has to be accountable to anybody. We all know that this inquiry will not be concluded and that its report will not be in the public domain before the next general election. That is patently obvious. If we needed any evidence or proof of that intention, it is clear to us in the conduct of the Fennelly inquiry. That is extremely regrettable.

I reiterate my call to the Minister to put a tighter timeframe on this inquiry, to ensure that an interim report is produced after the summer which is aired and debated in Dáil Chamber, and to ensure we do not have to wait until after this Dáil has been dissolved and a new Parliament is in place after the next general election.

We have also called for a reduction in the capital threshold for this inquiry. A threshold of €10 million is the figure on which the Government has insisted. I am very suspicious of that. I have already expressed my concerns on the basis that I have information pertaining to write-downs in the region of €5 million. I do not know if they are accurate or otherwise but I want the inquiry to find that out. It is not fair to say that if something is raised with the inquiry and if something comes to light it will investigate it. If the threshold is so high, it will ensure that

many issues of concern may very well be excluded.

We also included in our amendment a provision to the effect that whatever transactions occurred, there is a requirement to understand clearly what protocols and controls the Minister for Finance and his Department had in respect of various transactions and whether sanction was given or whether there was knowledge of such transactions. Again, the dealings between IBRC and the Minister and the Department are effectively excluded from this inquiry, which makes it a pretty toothless dog.

A number of contradictions have emerged in recent weeks, and I want to touch on some of them because they are very pertinent to this issue. They relate to the Department of Finance, its role, its relevance and why it ought to be included in the terms of reference. In addressing the Joint Committee on Finance, Public Expenditure and Reform in October 2012, the then IBRC chief executive, Mike Aynsley, stated that the bank “does not have any debt forgiveness capacity”. Furthermore, he declared that IBRC had “a policy of not writing down loans for customers”. Mr. Aynsley was singing an entirely different tune last weekend in responding to the findings in *The Sunday Business Post* that 40 private individuals and businesses had received a combined debt write-off of more than €1 billion. He admitted that “the Irish taxpayer has effectively shouldered this burden”. That was an absolute U-turn by that individual.

My question to the Minister for Finance were he still in the Chamber - perhaps the Minister of State, Deputy Kevin Humphreys, will pass it on - would be on when these write-downs in IBRC began and why the general public was not told about them. Was the Minister aware that write-downs for customers were taking place? Does he stand by Mr. Mike Aynsley’s testimony to the Joint Committee on Finance, Public Expenditure and Reform in October 2012 that the bank had a policy of not writing down loans for customers?

In light of the Minister’s statement on 30 April of this year that there was “a professional working relationship between my Department and senior management of IBRC at all times”, it seems reasonable to believe that he had knowledge of the extremely favourable deals being conducted between the bank and the individuals concerned. If this is not the case, how can he justify a situation whereby large quantities of public money were effectively given away in sweetheart deals without the slightest element of parliamentary scrutiny or oversight? This question relates directly to the amendment that Renua Ireland has on this evening’s Order Paper. We are calling on the Government to include the Department of Finance. We need clarity on these issues and to know what was happening and who knew what, where and when.

What about Siteserv? In an interview that Mr. Aynsley gave to the *Sunday Business Post* on 26 April 2015, he stated that IBRC “drew specific comfort” from the exclusion of the bank’s head of specialised asset management, Mr. Richard Woodhouse, from the decision-making process, as he was also responsible for a performing client and potential bidder, one Mr. Denis O’Brien. Speaking on NewsTalk the day before Mr. Aynsley’s interview, the former IBRC chairman, Mr. Alan Dukes, stated that, as the bank expected Mr. O’Brien to be one of the bidders in Siteserv’s sale, Mr. Woodhouse was excluded from the decision-making to ensure that its processes were “robust and above board”.

Minutes that the Minister stated were lost but have now miraculously been found and published on his Department’s website show an IBRC board meeting on 15 March 2012 at which Mr. Woodhouse, who is supposed to have been excluded from the process, was minuted as stating that a “letter had been received from Virgo Capital attesting to the fairness of the sales

process which had been followed to date”. It was also minuted that Mr. Woodhouse responded to a question about the involvement of Mr. Dix in the process by noting the role that the latter played as a director of Siteserv while serving as a director of Quinn Group (ROI) Limited. We need answers to all of these issues. It is unclear from the terms of reference agreed by the Cabinet that any of this information will be aired.

In the same interview, Mr. Aynsley went on to say: “I don’t think it’s a secret that I don’t get on at all well with John.” The “John” to whom he was referring was the then Secretary General of the Department of Finance. Was it a secret to the Minister for Finance that his Secretary General did not get on with the CEO of a bank that was charged with disposing of €70 billion in State assets on behalf of taxpayers? It was certainly a secret to the general public and, as far as I am aware, the whole of the Oireachtas. When the liquidation of IBRC was announced, the Minister stated of the management of IBRC: “I wish to acknowledge, with much appreciation, the significant efforts the directors and staff of the IBRC have made to the stabilisation of and maintenance of value in the IBRC.” He was painting a picture that does not appear to have reflected the views of his Department. We are now well aware of the unease expressed and concerns held by Mr. John Moran and other senior departmental officials.

Unfortunately, due to the deliberately narrow scope of the inquiry’s terms of reference, we will not learn anything about that relationship or the concerns or otherwise held by the Minister, Deputy Noonan. We will learn nothing about the dysfunctional nature of the relationship between the Department and IBRC. This is not acceptable. I assure the Minister, Deputy White, that if the Government believes it can silence questions from this side of the House or prevent members of the Opposition from pursuing genuine questions on behalf of the Irish people by shunting this issue off to a toothless investigation until after the next general election, it is wrong. That will not happen and we will continue pursuing all of these issues.

**Minister for Communications, Energy and Natural Resources (Deputy Alex White):**

I thank the Acting Chairman for this opportunity to urge the House to support the Minister for Finance’s proposal and to approve the order, including the terms of reference set out for the commission of investigation.

I listened to a number of contributions, including that of Deputy Creighton. It does not seem that the commission of investigation under the Act will be anything remotely approaching something toothless. The commission of investigation has significant powers. The transactions, activities and decisions that are to be comprehended by the terms of reference and the investigation are considerable and cover significant ground - for example, the processes, procedures and controls which were operated by IBRC in relation to the relevant write-offs; whether there is *prima facie* evidence of material deficiencies in the performance of their functions by those acting on behalf of IBRC, including the IBRC board, directors, management and the staff of the wealth management unit; whether it can be concluded from the information available within the IBRC and relevant evidence and witness testimony as appropriate that the transactions were not commercially sound in respect of the manner in which they were conducted; whether the interest rates or any extension to interest rates or any periods for repayments were given by IBRC on preferential terms and all of the issues that have been raised inside and outside the House; and whether, in respect of any transaction under investigation, any unusual share trading occurred and so on.

It seems to me that the terms of reference and the matters that it is proposed that the commission of investigation will investigate are considerable and wide-ranging and fairly address

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the undoubted issues of concern that have been raised, for example, in this House by Deputy Catherine Murphy. As such, there is no basis for claiming that the commission of investigation will be toothless, nor does it evince an intention on the part of the Government to refuse to give an account or to refuse to ensure that an account is given for what occurred and the various matters that have concerned Deputies and others.

I do not criticise any Deputy for raising issues on the floor of the Dáil. I have no wish to see any Deputy silenced in any way, whether as suggested by Deputy Creighton or otherwise. It is important that, in our democracy, we have Houses of Parliament in which Deputies and Senators have a very wide latitude to raise issues. They should have that latitude. It is right that it is there; it is a matter of constitutional law that Members should have the freedom to raise issues without fear or favour on the floor of the Dáil or the Seanad.

Media freedoms are also critical. When the matter was raised in the courts, the judge in the case was quick to confirm the clear, manifest truth - frankly, it is difficult to see how it could have been concluded otherwise - that Deputy Catherine Murphy had the freedom to raise these issues in the Dáil and that the media had the freedom to report them. This is the correct position. I cannot remember the judge's exact words, but he said something in the order of it never having been his intent to constrain or restrict Deputies in their role as Members of this House and, critically, nor could it be. There is no wish to silence anyone.

I listened to Deputy Martin on this matter. He was critical of a series of High Court actions and so on that are being brought. I will not trespass on those. As the Deputy fairly stated, citizens have a right to bring actions in the courts. However, it is the courts that make the decisions. Actions can be brought, but we rely on the courts to make determinations in accordance with the law and in accordance with the Constitution. Any suggestion that the Government was in some way colluding or acquiescing in the denial of media freedom is absurd and quite false. We know this is a matter for media organisations, which are independent in the conduct of their editorial judgment and should remain so. I include the publicly owned media in that. We have seen the consequences of it being otherwise over many years, both here and elsewhere, when Governments or Ministers have taken it on themselves to intervene or interfere in some way in the conduct of editorial decision-making by broadcasters or print media in the public or private sectors.

I reject the suggestion that the Government was or could be in any way acquiescing in any restrictions on the media. Editorial freedom on the part of the media is critical. Frankly, the Government's role in these circumstances is not to step in and seek to put itself into the shoes of the media and go to court to defend the media. It is to ensure the legislative environment in which the media operates is sufficiently robust. I have not heard anything from Deputy Martin or others to suggest that the legislative environment is anything other than robust. It may well be that it is amenable to amendment or change. If so, we should hear what those proposals and criticisms are. Deputy Martin knows well enough that stepping into court to address those issues is not a matter for the Government or any Minister; it is a matter for the media organisations themselves to do so. That is what they did and it was correct that they should have done so. There is no suggestion of an attempt to silence the media.

For many years, and not just because of the position I currently hold, I have regarded the freedom of the broadcasting and print media as being of the highest and most critical importance in our democracy. If the laws are not sufficiently strong to deliver that, or to ensure that is the case, it is open to us as legislators to change the law. We changed the law last year by in-

roducing a particularly strong legislative provision, the Competition and Consumer Protection Act 2014, which contains a significant section relating to media mergers. Indeed, it is the first ever such Act in our jurisdiction. It sets out very clear criteria and a very clear basis on which the Minister can come to a conclusion in respect of media plurality and the undesirability of allowing any one undertaking to hold any significant interest within a sector, or across different sectors of the media business in the State. The legislation in question was debated on all Stages in this House last April. Deputy Martin's party was involved in the debate on it, but it made very little contribution to the debate on the media mergers aspect of it. I take it, therefore, that Deputy Martin and Fianna Fáil were in full agreement with the provisions of that legislation. It is right that they would be, given that for the first time we now have an opportunity for a Minister essentially to intervene in circumstances where there is a belief that there would be an adverse effect on the plurality of the media in this State arising from a particular media merger proposal. These decisions and proposals were brought to these Houses by this Government. They are reforming measures in the area of media.

My colleagues have addressed other areas of reform in the course of the past four years and more in areas such as freedom of information. Legislation dealing with lobbying has been introduced. The Oireachtas has agreed to these practical steps taken by the Government to ensure openness and transparency in our public affairs. None of these things was ever done by the party opposite during the many years it spent in government. It is appropriate now that we should ensure we understand what is our role here as legislators. We need to ensure a Member of the Dáil may raise issues here without fear or favour. The Government has a responsibility to ensure any public concerns are addressed properly, for example, in the form of a commission of investigation, as we are doing in this case. When the judge is appointed, we should allow him or her to get on with the work of investigating the matters put before him or her. He or she should then have an opportunity to report back on the findings in respect of the matters that have been raised. That is the role we have and the role the commission of investigation will have. We should allow the process to get under way now. We should ensure there is a timely response and a timely report, consistent with the opportunity and the necessity for the investigation to deal with each and every one of the matters before it.

**Deputy Colm Keaveney:** The sneering, arrogant and spin-addicted side of this Government has been on display over the past few weeks. It has unfolded around the Siteserv and IBRC issue, in particular. The contempt that has been shown to anybody in this House who has aired a difference with the Government or tried to secure accountability has been palpable. The Government treats Opposition Deputies by bringing them for a run around the block. Deputy Catherine Murphy had to ask the same parliamentary question 19 separate times before she got the answer she wanted at the outset.

Alternatively, the Government simply refuses to co-operate. I remind the House that the Taoiseach recently advised an Opposition Deputy in this House to "toddle along" and move on. Where has the Taoiseach been while the streets of this country have been occupied with a discussion around Siteserv and IBRC? The so-called leader of this country has been nowhere to be found with respect to this issue. His silence is either a sign of very poor leadership from a man who is acting under advice, or of a person who is simply refusing to comment on his deep friendship with a citizen of this country. Perhaps he is reflecting on the *laissez-faire* approach or attitude that is evident in the Labour Party, the views of which seemed to be best summed up when Deputy Costello, who is a former Minister of State, said it is up to the media to uphold the Constitution in the first instance.

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It is not up to the media to uphold the Constitution; it is up to this Parliament to do so. The Government seems to believe that securing the freedom of the press to report on matters of public interest, including the right to report what is said in this Parliament, has nothing to do with the Government or this Parliament. It seems to think it is a battle for the print media and the State broadcaster to establish this in the courts. Happily for the Taoiseach, the FAI upcycled a story about a €5 million payment and this became a bread-and-circus issue over the weekend. The €5 million scandal in the FAI was used as a significant whipped-up distraction from certain activities and from the debate about the €119 million write-down in Siteserv.

Cliff Taylor attempted to frame the context of this debate in *The Irish Times* on Saturday by categorising the scale of the grievance with a suggestion that the Government is responsible merely for “not closely enough” watching what was happening in the Department of Finance and IBRC. I do not agree with Cliff Taylor and *The Irish Times* in this instance. In fact, I think the concerns relate to a suspicion that there is a strong quiet political influence from Fine Gael in particular - or for some individuals within Fine Gael, but not all - with respect to one citizen in this country and the influence he has with respect to favours and becoming a favoured person within society.

Three weeks after he became the Taoiseach of this country, and in command of a self-proclaimed “democratic revolution”, the Taoiseach promised us an opportunity “to sever the links between politics and business once and for all and, in so doing, achieve three fundamental goals: stop the further pollution of our society; re-establish a moral code and order regarding public life” in this country. Against these three goals, the Taoiseach and the Government have failed abysmally. For the second time in our history, Fine Gael and Labour in government have enriched the same person. That was a decision made by this Government subsequent to 2011. Society has seen actions taken in the past repeated under this partnership Government.

There is a dangerous political nexus in this country of media and a political party or movement, with a significant effort on the part of one section of the media to support one political party. We have a concern with that because it ignores any negatives and accentuates the positives. The moral code and the order the Taoiseach spoke about in 2011 has been damaged by a cynical abandonment of commitments and promises made to the people prior to the general election in 2011. All of this has increased public cynicism and damaged the perception of politics in this country. People have become quite cynical about this Government, particularly in respect of the broken promises. It has been intertwined with someone who has been enriched a second time by the coalition. That cynicism reduces the Dáil to minimal authority when morally considering another commission of investigation.

Criminality was already uncovered by the Moriarty tribunal which confirmed the largest single act of public corruption in monetary terms. Where is the Garda investigation? Where is the Criminal Assets Bureau, CAB? Why is the Director of Public Prosecutions, DPP, not seeking to prosecute the criminality that was identified? The Moriarty tribunal found that Denis O’Brien, the man who cannot be named, had links to Fine Gael. A former Minister, who is a Member of this House, managed to secure meetings in the corridors of power with the current Taoiseach, Deputy Kenny, and with the current Minister for Jobs, Enterprise and Innovation, Deputy Bruton. Large sums of money went from Denis O’Brien to Michael Lowry and Fine Gael. That is fact yet we have the audacity to come into this House and discuss a new commission of investigation while the report of the Moriarty tribunal gathers dust.

The question arises of how we report this forthcoming commission. We will see a clamp

down on analysis and Oireachtas debate, as we see in respect of the Fennelly report. We cannot ask questions in this Chamber on that process. A blanket has been placed over it. The Government parties made noise in 2011 when they came in. Not long after the publication of the Moriarty tribunal report, the Government was engaging with one of the protagonists of a report in which criminality was defined. We were engaging with Siteserv. A month before the deal with Siteserv was done, the Taoiseach and Mr. O'Brien were photographed in New York ringing the stock exchange bell.

Since then, companies that Mr. O'Brien has interests in have secured debt write-offs and several Government contracts for the running of valuable municipal services. On 6 May, Fianna Fáil put forward a motion to ask for this commission of investigation but it was rejected by the Government and the Minister for Finance, Deputy Noonan, insisted that the special liquidators were best placed to get the answers. Since then, the Government has crawled back to a position where the special liquidator's only role is to do a scoping exercise. The engagement in this type of politics, particularly by Labour, has resulted in an ongoing virtuous blind eye. It is turning its back on issues of great public concern and holding onto Fine Gael's coat tail while continuing to look the other way.

The Government has botched this process. While the Minister for Finance supports the setting up of the commission, he has prejudiced its outcome by saying: "There is nothing to see here." The relationship between the Minister, the Department and IBRC needs to be examined. It is hard to accept the contention of the Minister of State at the Department of Finance, Deputy Harris, that the Minister, Deputy Noonan, was ignorant of the battle taking place between senior officials in the Department of Finance and the board of IBRC. There is an increasing amount of evidence in the public domain of a seriously dysfunctional relationship between the bank and the Department. If the Minister was ignorant of this, as the Minister of State contends, it raises significant concerns about the Minister's capacity with respect to his fiduciary responsibilities.

On the day the Taoiseach deigned to comment on Siteserv, he accused people in this House of hysteria. That was the same day that a 101 year old woman lay for 26 hours on a trolley in an accident and emergency unit. Due diligence with respect to €1 billion of write-offs of public moneys that directly impacts the delivery of public services is of significance and importance. The Taoiseach's failure to show any concern for IBRC, Siteserv or that vulnerable 101 year old woman who spent 26 hours on a trolley demonstrates the most striking failure of this Government.

**Deputy James Bannon:** Discussion in this House so far has been limited on the matter and therefore I am very pleased that we now have the opportunity to debate properly the commission of investigation into IBRC. This commission of investigation has dominated the national airwaves, print and social media in recent weeks. I firmly believe that the Government's recent decision to establish a full commission of investigation into IBRC is the right decision. It is a clear example that the Minister for Finance and the Cabinet are listening to the significant concerns of the public and this House. All of the decisions, transactions and activities entered into by IBRC between 21 January 2009 and 7 February 2013 will be fully investigated and scrutinised to the last detail. That is something I very much welcome. The fact that an independent person, a retired High Court judge, Mr. Justice O'Neill, has been appointed to assist the special liquidator is important as it adds to the transparency and credibility already present in the commission of investigation. I was pleased to read that the commission will also facilitate a broader scope of inquiry which will enable the interviewing of witnesses and the investigation of matters, such as the trading of shares, which cannot adequately be investigated based only on

a review of files held by the IBRC.

In recent days, a number of people have asked me why the Government did not take the decision to establish a commission of investigation before now. I believe the answer is a fairly straightforward one. Since the Minister asked for a review to take place, new allegations have been made which have increased public concern. Equally, the litigation arising from the publication of these allegations has perhaps added more fuel to the fire. Therefore, taking these new developments into account, the Government has rightly felt it necessary to establish a commission of investigation and it is right to do so. I fully agree with the Minister's recent remarks that the commission will be effective and allow Mr. Justice O'Neill to deal with all the issues that have been raised. After all, the investigation becomes the sole responsibility of Mr. Justice O'Neill, following the terms of reference being signed off by the Cabinet.

I also fully agree with the comments recently attributed to the Governor of the Central Bank, Professor Patrick Honohan, about burning Anglo Irish Bank junior bondholders and saving the taxpayer up to €300 million. Ordinary people felt the pain and suffering of the banking crisis and the people in the midlands, in Longford-Westmeath, probably felt it most. They cannot be made scapegoats for the greed of gamblers, bankers and those who frequented the Galway tent when it existed, and others who let them down. Professor Honohan has pointed out that the sum involved is not too big in the grand scheme and he believes it is worth a legal battle. He is correct and I urge the Minister to consider this advice as a course of action when the issue of junior bondholders arises.

I remember listening in this Chamber to the casual approach taken by Fianna Fáil Party Ministers and Deputies towards the banking crisis and the creation of the toxic Anglo Irish Bank, which became a symbol, both at home and abroad, of the reckless mismanagement of the banking system and wider economy under the watch of Fianna Fáil. It was this shrugging of shoulders attitude that resulted in the previous Government being required to pump €34 billion of taxpayers' money into Anglo Irish bank. Taxpayers will not see 1 cent of this money again. The haunting spectre of Anglo Irish Bank became a stain on our international reputation.

It is also important to note that, under the loose relationship framework introduced in 2009, there was no requirement for the Minister of Finance to be notified of deals such as the Siteserv arrangement. The Minister took the correct decision to replace this framework three years ago and, as a result, the revised relationship framework ensures the Minister now has greater oversight of IBRC activities.

I found it hard to listen to some of the contributions of Opposition Deputies for the reasons I have outlined.

**Deputy Niall Collins:** The Minister corrected the record on all those matters earlier.

**Deputy Seán Ó Fearghail:** The Deputy's scriptwriter is not keeping up.

**Deputy Niall Collins:** The script is a day out of date.

**Deputy James Bannon:** The Government embarked on the long road of reducing the costly legacy of Fianna Fáil, whose members buried their heads in the sand, as the Deputies opposite are trying to do again, about the nationalised Anglo Irish bank. Fianna Fáil Deputies have the neck to try to accuse the Government of not being close enough to IBRC and its workings. I am astonished by their short memories, particularly in the case of the former Minister, Deputy

Micheál Martin, who, for 12 years, was a member of Fianna Fáil-led Governments that wrecked the country.

**Deputy Seán Ó Feargháil:** I am astonished by the inaccuracy of Deputy Bannon's memory.

**Deputy Niall Collins:** The Deputy will be back in the House correcting the record, as the Minister for Finance did earlier.

**Acting Chairman (Deputy Frank Feighan):** Please allow the Deputy to continue without interruption.

**Deputy James Bannon:** I listened to Deputies Keaveney and Creighton speak about the arrogance of the Government.

**Deputy Niall Collins:** He should have listened to the Minister for Finance earlier.

**Deputy James Bannon:** The Deputies forgot to bring a mirror to the Chamber to take a look at themselves as they are probably the two most arrogant people on the globe.

It is a matter of public interest that taxpayers learn the full details of the transactions that were undertaken on their behalf by IBRC. The damage done by the toxic banks will take many years to undo. The Minister for Finance summed up the position when he stated: "We have essentially lost a decade in terms of economic growth and job creation." The Government's decision to establish a commission of investigation was a correct and responsible move. I look forward to the House being able to discuss the findings of the investigation when they are published.

**Deputy Mary Lou McDonald:** Is the Taoiseach or Tánaiste listed to speak this evening? Perhaps the Acting Chairman will illuminate Deputies as to whether they will speak tonight or tomorrow.

**Acting Chairman (Deputy Frank Feighan):** Neither of them is listed to speak this evening.

**Deputy Seán Ó Feargháil:** Perhaps there is a bottle bank to be opened.

**Deputy Mary Lou McDonald:** Is it not curious that neither the Taoiseach nor the Tánaiste will speak on the motion and terms of reference for the proposed commission of investigation this evening? We can only hope they will emerge from their silence and speak tomorrow.

The public interest lies at the core of all considerations relating to the establishment of a commission of investigation and the decision as to whether the terms of reference are adequate. When the Minister for Finance took to his feet this afternoon to set out his terms of reference, he underscored repeatedly the necessity to meet the public interest and settle public disquiet. Every Deputy who has spoken since has echoed that sentiment.

It is very clear that the only reason a commission of investigation is being established was the public outcry and public dissatisfaction that greeted the proposed KPMG review, which would have amounted to little more than an internal review. The only way we can judge the current terms of reference is to gauge whether they adequately meet the public interest and in their current form, they do not do so. I will set out the rationale for that view.

When I met the Minister for Finance yesterday evening, I raised with him the absence of any

reference in the draft terms of reference to the Department of Finance or the Minister. This was an astonishing omission. The Minister's position has moved somewhat and the terms of reference now contain a reference to the Department of Finance for the purposes of the commission of investigation. This is, however, completely inadequate and I would describe it as "passive", the reason being that it does not place an onus on the Department to have been active or vigorous in defending the public interest but simply asks that the investigation review those circumstances in which the Department was given information and what it did with such information.

This chimes with a point made by Deputy Bannon who spoke of the inadequacy of the relationship framework that existed from 2009. This inadequacy has been used by the Government, the Minister for Finance and departmental officials to try to explain away their failure to safeguard the public interest. A number of these officials appeared before the Committee of Public Accounts and to describe them as less than impressive in the account they gave of their actions and inaction would be an understatement. From the evidence I heard from them, I could only arrive at the conclusion that they took a hands-off, "see no evil, hear no evil, speak no evil" approach in respect of IBRC. That is simply not good enough. There was nothing in the original relationship framework to prevent the Department or Minister from demanding and obtaining information from IBRC and nothing in it would have prevented the type of rigorous oversight that was necessary. Both the Department and the Minister failed in that regard.

Rather than taking a passive approach, the terms of reference should, as proposed in the Sinn Féin amendment, ask the commission of investigation to examine in respect of "each transaction under investigation, whether the Minister for Finance or his Department took appropriate action to safeguard the public interest by enforcing proper governance and accountability oversight in respect of the transactions concerned". This is the correct way to investigate the role of the Department and the performance of the Minister but it is not what is prescribed in the proposed terms of reference. If the Minister imagines for one second that he will appease Opposition Deputies by simply making reference to the Department in the terms of reference, he is wrong.

The second core issue I raised with the Minister was the timeline for the commission of investigation. It is unacceptable that the terms of reference still only allow for investigation up to February 2013. Deputies Pearse Doherty, Catherine Murphy and others set out the many reasons the timeline must be extended at least until March 2015, the point at which KPMG issued its interim report. At that stage, €22 billion of loan sales and 64 separate transactions had been overseen by the special liquidator.

*9 o'clock*

In respect of one of those transactions, the *Racing Post*, issues and concerns have already been raised in the public domain by a bidder who was very critical of the *modus operandi* of the special liquidator. I have in my hand media reports from October 2014 that set out those concerns.

Of concern also to 13,000 mortgage holders was the sale of mortgage books to vulture funds. Those people want answers and reassurance in the public interest that the transaction was carried out in a proper and appropriate way. Professor Honohan was cited a few moments ago. It should be borne in mind that when that transaction was carried out, Professor Patrick Honohan and the Central Bank were very concerned at the sale of mortgage books to vulture funds. Nevertheless, the Minister turns his face away from that and chooses not to extend the

timeline to include specifically the issues that Deputy Pearse Doherty raised earlier this evening in the Dáil. He raised very serious issues around verbal agreements between IBRC management and Mr. Denis O'Brien. Why would the Minister exclude deliberately such a crucial matter of public importance from the scope of the investigation? If the Minister's narrative is that he has established the investigation because of public concerns and allegations that have come to light on the floor of the House, I suggest to him that he needs to revisit the terms of reference to make absolutely sure that any verbal agreements, understandings or gentleman's agreements that may have taken place fall squarely within them. To fail to include those matters raises a fundamental question for the commission itself and as to the Government's motives in excluding these matters.

**Deputy Michael Noonan:** What Deputy Doherty put on the record is covered by the terms of reference.

**Deputy Mary Lou McDonald:** That is not the case from our reading of the terms of reference.

**Deputy Michael Noonan:** I have taken legal advice in the last hour and it is covered.

**Deputy Mary Lou McDonald:** We regard it as a deliberate exclusion that the Minister has deliberately carried out by stopping the timeline and the clock at February 2013. If the Minister has legal advice to the contrary, he will have an opportunity to put that on the record.

The benchmark of €10 million in respect of capital write-down was raised with the Minister by Sinn Féin. I asked the Minister why arbitrarily he reached for the figure of €10 million. He said it was for the purposes of convenience or to aid the speedy completion of the investigation. I suggest to the Minister that it would be more appropriate for him as a mandatory matter for the commission to drop the threshold to the level of €1 million as suggested in the Sinn Féin amendment. That would facilitate public confidence and allow the judge to examine in a mandatory fashion each and every transaction within that threshold. It would certainly ease public anxiety that there has been attempt after attempt to avoid and dodge the core issues at the heart of these matters. The Taoiseach reached initially for the Committee on Public Accounts and the Comptroller and Auditor General even though that was not legally permissible. We then had the episode around the internal review by KPMG and we are now at this juncture. Even yet, we have in front of us terms of reference that simply do not provide for the scope and timeline required for a full investigation that can enjoy full public confidence.

**Minister for Arts, Heritage and the Gaeltacht (Deputy Heather Humphreys):** I welcome the establishment of the commission of investigation into transactions at IBRC. I welcome the fact that the Government has reacted to public concerns on the issue. A commission of investigation is the best way to establish the facts and outline the full details of transactions which were undertaken on taxpayers' behalf by IBRC. The commission of investigation will have a broad scope and will enable the interviewing of witnesses and the investigation of a range of matters including the trading of shares. It will shine a light on transactions at IBRC and, I hope, address outstanding public concerns. It is very important that the public knows the full details of transactions taken on their behalf. This is, I hope, something we can all agree on. However, it is important that we take a little step back and consider how we go to this point.

**Deputy Mary Lou McDonald:** I am sure the Minister does.

**Deputy Heather Humphreys:** It is important to consider that before we had IBRC, we had

Anglo Irish Bank. It is important to consider how this Government was left to clean up the mess of Anglo Irish Bank. It is important to remember how the previous Fianna Fáil Government pumped €34 billion of taxpayers' money into a dead bank and how the policies adopted by that Government allowed Anglo Irish Bank to get completely out of control. Indeed, it is even worth considering how that same Fianna Fáil Government deliberately set up the nationalised Anglo Irish Bank at an arm's length from Government. The Minister for Finance, Deputy Michael Noonan, decided that arm's length was a little too long and as a result of his concerns he revised the relationship framework with Anglo Irish Bank's replacement, IBRC. Deputy Michael Noonan has been taking painstaking steps to systematically clean up the mess left by the previous Government. As such, I find at best it a little rich for us to be taking lectures on this matter. It is almost ironic for Fianna Fáil to be demanding scrutiny now when it deliberately designed a framework to keep Government at a distance from the running of the bank. It is yet another example of history being rewritten by the previous Government. We are all still paying for reckless mistakes and this Government is certainly still cleaning up after it.

It was never going to be easy to unwind the toxic legacy. By liquidating Anglo Irish Bank, the Government consigned one of the worst elements of the crash to history. Anglo Irish Bank and Irish Nationwide Building Society were synonymous with the appalling approach taken by the Fianna Fáil-led Government to the banking crisis. It will take a long time to put right the damage done. The promissory note deal has been widely accepted as a key step in stabilising the public finances. Through a series of calculated steps, the Government has saved taxpayers tens of billions in borrowing requirements over the coming years. Throughout this process and as our banking system was rebuilt brick by brick, the Minister, Deputy Michael Noonan, has shown tremendous leadership. His eyes have always remained on the prize of putting this economy on a sustainable path and recovering as much money as possible for the taxpayer. At the end of this process, we want a thriving, competitive banking market, which delivers the best possible value for taxpayers.

None of this means that the transactions at IBRC should not be scrutinised. We must address the concerns raised inside and outside the House to ensure that we are getting the best possible deal for taxpayers. As we do so, however, we must remember where we have come from. We must remember why IBRC was set up in the first place and we must continue to ensure that the sacrifices made by the Irish people are not wasted.

**Deputy Clare Daly:** There is something incredibly shallow and underwhelming about this debate. I feel like groaning at the shocking, here-we-go-again nature of what is in front of us. It is yet another inquiry. It is yet another investigation into questionable practices at the highest levels. Yet more questions are being raised about the undue influence of a businessman over decisions that affect the public interest and cost the public purse money. My starting point is that the fact that we have a commission of investigation is not necessarily something about which we should be patting ourselves on the back. The Minister, Deputy Heather Humphreys, says the public has a right to know and this is the best way forward. The Government did not think this was the best way forward when people were giving out about it a week or two ago. I would say that the fact that this commission is taking place is, rather than a vindication of the greatness of the Minister for Finance, a huge indictment of him and of his Department that it has got to this stage.

I note in the statement of the reasons set out in the commission's terms of reference that it refers to new allegations being taken into account and the perceived or potential conflicts of interest that have been publicly raised. This is why the Government decided finally to give in

to the idea of a commission. Presumably this means that it saw no potential conflict of interest in appointing Kieran Wallace of KPMG in the first place, despite his role in the sale originally. The reason the Government is doing it now is that the conflicts of interest have been, as the Minister says, publicly raised. However, the entire public were giving out about this and realised that conflict. In fact, the members of the Government were the only ones who seemed to be ignoring it over the past period of time. What is probably more shocking in some ways, apart from the incredible ignorance of the Minister's behaviour at the moment, is that despite all of the noise and the pressure being piled on by Deputy Catherine Murphy and others about the conflicts of interest, her demands and demands from this side of the House were being relentlessly fobbed off by the Government. In fact, the only reason really that we are getting the commission of investigation is that the Government's friend, Denis O'Brien, probably after years of getting his own way by bullying and intimidating the media into silence, decided that he would overstep the mark and go too far so that even the Government could not cover up for its friendly oligarch. The rules had been broken. Denis O'Brien overstepped the mark and even the Government could not cover up that situation.

I am reminded of the words of Liam Hamilton with regard to the beef tribunal. He said at the time that if the parliamentary questions had been answered, there would have been no need for the expense of the tribunal. Here we are again with the same civil servant-speak, the same culture of not answering questions, of deliberately designing answers in a manner which conceals information rather than giving Deputies information. Why did it take Deputy Catherine Murphy 19 questions and a freedom of information request? Why did it take Deputy Wallace to be ignored last October when these issues were raised? Why does a culture of secrecy prevail within various Departments which seem to forget that they are there to serve the public and to do their job in the public interest? How is it that documents are found down the back of a filing cabinet which were not there before? This is an appalling indictment of our system. We have tribunals, investigations and inquiries, and we seem to keep coming up here. Information has to be extracted like blood from a stone and, at the end of it, nothing changes.

A cynical person would begin to think that these tribunals and investigations are not actually being undertaken to effect change but rather that they are being commissioned as a distraction. Most people would think that there is something incredibly tediously inevitable about the fact of question marks over the sale of Siteserv, the writing-off of €119 million of a debt by a nationalised bank. There is something inevitable about this being bound up with Irish Water and the awarding of public contracts for the installation of water meters. The reality is that it is incredibly tedious and obviously the Ministers find it so, but that is the way business is done in this country. This is the nature of how Irish capitalism is served by those at the top. There is no necessity for anybody to have to break the law in order to pick the public's pockets; it is perfectly easy and entirely legal and it has been going on for years. What is striking about the current situation is that the holier-than-thou merchants on that side of the House have spent years casting Fianna Fáil members off for their role in this and now they have been found out to be exactly the same as them. How sickening that must be for the Government. We have had to listen to Denis O'Brien talk about his good name but I do not think that is actually proven. In fact, I would say that as a result of the findings of the Moriarty tribunal, on evidence-based conclusive facts, we are entitled to say otherwise.

The protestations of Denis O'Brien that his great wealth and the origins of it lie in his entrepreneurial skills and risk-taking have been proven to be false. They lie in the corrupt payments that were at the heart of the tribunal and the corrupt payments to Deputy Michael Lowry. The

evidence stated quite clearly that the information passed on by the then Minister, Deputy Michael Lowry, to Denis O'Brien was of significant value and assistance to him in securing the Esat licence. It was not just the amount of money; it was the elaborate deception and the lengths they undertook to cover it up. That wealth was used as the basis of an empire which bought an excessive influence in Irish media outlets which has played a role in dictating public opinion by characterising, falsely in my opinion, dissent and opposition in this country and it has had a very serious effect. It is a mark of the brass neck of Denis O'Brien and of the Government's toothlessness in the area of media monopoly that Leslie Buckley announced at the Independent News and Media AGM last week that they plan to spend another €100 million on buying up media sector acquisitions in Ireland and the UK. They are not ruling out the possibility of buying TV3. In my view, this announcement would suggest that Denis O'Brien is putting it up to the Government while laughing behind his hand, confident that he will get an extension of his media influence, and why would he not be confident, based on everything that the Government has done thus far? He stood over a system whereby any gains from his private speculation were privatised and pocketed by him and the losses are socialised and paid for by the Irish public. It is a gambler's dream; heads they win, tails we lose. A banana republic would be proud of it.

There has been much talk from Denis O'Brien about his rights to privacy and the rights of the private citizen. I have heard Fine Gael Deputies argue the point here earlier tonight. Let us look at the rights of the private citizen. Let us look at the rights of citizen taxpayer. Those who have paid the price of these write-downs and these special deals are the home owners who cannot get a write-down, the people who cannot get a medical card, the people who cannot get an SNA for their young person. We were all told to tighten our belts but, guess what, some of us did not have to. In fact, if a person is well connected with the Government establishment not only does he or she not have to tighten their belt, but he or she can actually look forward to loosening the trouser button because that person will be very well looked after.

I welcome the fact that the over-zealousness of Denis O'Brien has got us to a place where we can look at the whole issue of parliamentary privilege. This Chamber has played a useful role in assisting the public and ordinary citizens to advance issues that are important to them. In this era of litigation where the powerful can use their influence and money, quite often ordinary citizens are silent. We had the exact same scenario with regard to the penalty points issue. When we tried to raise issues in this House, questions that were validly tabled were ruled out of order by the Ceann Comhairle and it was only by putting issues on the record of the House that the media was then able to take that issue and run with it. Parliamentary privilege is a very valid right but it is a bit rich of some people who are claiming to defend it now.

There is a very great irony about the role of the Labour Party in this situation. If the Labour Party was in opposition, the shrieks of the Tánaiste and Minister for Social Protection, Deputy Joan Burton, and the sneers of Deputy Pat Rabbitte would be heard by Denis O'Brien at home in Malta. There is no question about it. The Minister for Public Expenditure and Reform, Deputy Brendan Howlin, the great defender, used to be the champion of these commissions and of the unravelling of corruption wherever it raised its head in the past. The silence of these lambs is absolutely deafening. It is history repeating itself; although Dick Spring played a very good role early on in the beef tribunal, after the report was published he equivocated. He did not see it through because Labour was in power and its members wanted to look after themselves ahead of anybody else. They got their comeuppance that time and they will get it this time as well.

**Deputy Niall Collins:** I compliment Deputy Catherine Murphy on the diligence and professionalism with which she went about her work as a parliamentarian. She has shone a light into

an area of immense public importance and interest, and has brought us to the juncture we are at today with the establishment of a commission of investigation.

I also wish to acknowledge my own party leader, Deputy Micheál Martin, for the absolute support he gave across the public airwaves when there was abject silence from the Taoiseach and members of the Government. A chilling effect took place right across our media in terms of reporting the comments that Deputy Catherine Murphy made in this House. Deputy Martin stood up for the right of parliamentary democracy and must be acknowledged and complimented on that.

It is ironic that Deputies Micheál Martin and Catherine Murphy shared one aspect in common over the last days, which I found particularly disdainful, namely, the sustained and personalised attack they both faced from Denis O'Brien's proxy in the form of his spokesperson, James Morrissey. Deputy Catherine Murphy spoke earlier about what Mr. Morrissey said about her and how he set about trying to discredit her. What really struck me was the public comments which people made to me following the debate on the Claire Byrne radio programme between Mr. Morrissey and Micheál Martin. The vitriolic and personal attack that Mr. Morrissey made on my party leader was quite telling. It was just another example of Denis O'Brien trying to bludgeon my party leader and, by extension, our party into silence. Fortunately, he was not successful in that regard.

The problem the Fine Gael Party will not face up to is that Denis O'Brien is the elephant in the kitchen of this Government. Only a few weeks ago, Government Deputies ridiculed our Private Members' motion.

Back in the 1990s we had the awarding of the Esat licence to Denis O'Brien. We had a tribunal of inquiry and many of the actors who sat at Cabinet back then are at the Cabinet table today. Where is the Moriarty report? We are hearing nothing about it. It took the Taoiseach months to admit publicly that he accepted the findings of the Moriarty tribunal. Is it with the DPP, the Garda or Revenue? The public is entitled to know.

Rolling the clock forward to today, we have a major problem in respect of media ownership. The Government is not prepared to face up to Denis O'Brien. We have just heard the comments about what Leslie Buckley said at the annual general meeting. The product of all this is the significant chilling effect which is evident right across the media. Journalists were afraid to report what Deputy Catherine Murphy said when there is absolute privilege in this House. Proof of the chilling effect is what happened to Sam Smyth or Dr. Elaine Byrne, for example. An outstanding academic who has researched the areas of transparency and corruption, she is the subject of Denis O'Brien's legal threats. Up to 24 legal threats have been handed out over the last weeks and months, we are told. That is the issue and the public is right to be concerned.

When people look at Moriarty and Esat, at media ownership and domination and the chilling effect, and at the carry-on with Siteserv, which equals Irish Water and that whole debacle, they are right to ask questions. When we ask legitimate questions in this Parliament, we are ridiculed and told we are not entitled to ask questions on behalf of the public, yet out on the street every single day of the week, people are talking about Denis O'Brien and his undue influence on society and the running of the country. We have to face up to that.

I welcome the fact that a commission of investigation is being established. It is high time we had an independent inquiry into this affair. The issues about Denis O'Brien and his influ-

ence are now beginning to bubble to the top as a by-product of this debate and I welcome that also. We need to examine his dominance and the chilling effect on the media. If we do not have diversification within the media, they will be failing in their duty to hold the Government, in particular, to account.

**Deputy Seán Ó Fearghail:** I am glad to have a couple of minutes to contribute to this important debate. In so doing, I wish to echo the sentiments expressed by Deputy Niall Collins in recognising the role of our own party leader in promoting and advancing the public interest cause. I also wish to mention the vital role played by my north Kildare constituency colleague, Deputy Catherine Murphy, who has proven herself to be particularly tenacious in advancing the issues involved.

The freedom of information requests that Deputy Catherine Murphy and others submitted have indicated quite clearly that up to about four years ago, the Department of Finance was aware of the difficulties and the breakdown in the relationship between IBRC and the Department. One wonders why the Minister for Finance did not intervene at that stage. One presumes he was in regular contact with John Moran when he came to work at the Department, although I do not know what the relationship was between the Minister and Alan Dukes, my neighbour and former constituency colleague. One would assume that the Minister had a good relationship with John Moran at least and would have been in receipt of information from him. I am struck by the very emphatic and political statements the Minister made in this House five weeks ago, when a motion from Fianna Fáil calling for the establishment of a tribunal was proposed.

In the past week, we have heard comments from the Minister of State, Deputy Simon Harris, about the information Deputy Catherine Murphy was seeking by way of parliamentary questions, suggesting that one would not expect to get an awful lot by way of parliamentary questions and that if one submitted a freedom of information request, one might expect to get much more information. That is so denigrating of the House. As a senior Minister in that Department, the Minister, Deputy Noonan, has a particular responsibility to ensure that the primacy of this House is respected.

We did not see much respect for Deputy Clare Daly earlier when she was speaking. I would not agree with a lot of what she had to say but she is certainly entitled to be listened to. I wonder if the level of disrespect that the House observed while she was speaking is not symptomatic of the disrespect that exists for the House in its entirety.

Our party leader met with the Minister for Finance, and I thank the Minister for the invitation and respect the fact that he has engaged with the Opposition. Deputy Martin spoke to the Minister about governance at the IBRC and the relationship between the IBRC and the Department of Finance. He raised the wealth management unit with the Minister and, to a certain extent, those concerns are now reflected in the terms of reference that have been agreed. However, when the Minister and his colleagues seek to justify the establishment of the commission of inquiry now, having voted against it five weeks ago, they say they are doing so because there have been new allegations and there is a level of public concern. Let us ask ourselves what is that public concern. It is surely is that there may well have been an extraordinary level of preferential treatment meted out by a banking organisation under the control of the State to the super rich. This comes at the time when people in small businesses who are in arrears and others who are in mortgage difficulties are finding that the banks they are dealing with are screwing them to the wall. The other public concern that exists is whether there was some element of political knowledge or political collusion in respect of what was alleged to be going on in those

banks.

The Minister, Deputy Heather Humphreys, talked about history repeating itself. In 2011, we were promised a new way of doing politics. The public concern at present is about whether Fine Gael is doing politics as it did at the time of the Moriarty tribunal.

**Deputy Peadar Tóibín:** As the quote goes, nothing has changed but the faces and the hair-pieces. Both Government parties been dragged kicking and screaming to the point where they have accepted the Opposition demand for a commission of investigation. What we have seen is the politics of yesterday and a Government mess of today.

In 2012 my colleagues, Deputies Gerry Adams and Pearse Doherty, submitted hundreds of parliamentary questions highlighting numerous highly questionable decisions by IBRC, including the sales of Siteserv, Blue Ocean and Topaz, and the bank's startling relationship with Blackstone. As Deputy Ó Feargháil said, the fact none of those questions was answered properly not only shows a disrespect for this House but also a disrespect for the people each Deputy represents here. The €4 million cost of this commission of investigation is a cost of the Minister, Deputy Noonan's making, given he was not happy to answer the questions that were put to him during this whole process.

A fundamental truth is being sought from this commission of investigation, which is whether the public interest is being safeguarded. Yet, the fact the terms of reference are so narrow means it is impossible for us to know the answer to that question. Why is it that the Government is railing against full disclosure? What instinct is within the Government to continue with the murkiness of its current process and not have full transparency? This is why my party will not support the Government's terms of reference unless it supports our amendments.

The period under investigation must be extended to 12 March 2015 and must include decisions made by the bank's special liquidators, KPMG. The decisions of KPMG must be exposed to scrutiny. We need to know if the decisions made by the liquidators to defer, extend and change the terms of these significant loans were, first and foremost, made in the public interest. Capital losses of €1 million or more during this extended period must also be investigated. The fact the Government has increased this figure to €10 million is arbitrary and reflects the nonchalant attitude to the public interest and public moneys that permeates senior elements of this Government.

We have called for the commission to be empowered to investigate claims of verbal agreements in respect of the payment, extension and rollover of loans. Teachta Pearse Doherty has provided an astounding example of an existing loan worth a whopping €315 million which was essentially repackaged for the lender into a brand new loan on the basis of legal threats wrapped around an alleged verbal agreement with the bank's former management. If the Minister can stand over that not being properly investigated, there is major trouble ahead.

Sinn Féin has also sought to insert a provision that would enable the commission of investigation to work out whether the Minister for Finance and his officials took appropriate action to safeguard the public interest by enforcing good governance, accountability and oversight in respect of the transactions that occurred. It is mind-boggling that it has been left to the Opposition to demand that these be in the terms of reference.

As Sinn Féin has already demanded, this investigation should not be just about losses and interest rates; it should also be about processes and relationships. The banking inquiry is fo-

cusing on the nexus of relationships that existed between big business, developers, banks and politicians. This obviously brought down the country and is why most of our citizens are suffering in the way they are suffering today. The fact we are not willing to investigate that same nexus here is very troublesome. We want to see the role of external consultants examined, for example, Blackstone, KPMG, the wealth management unit of IBRC and the beneficial owners of the Siteserv shares. It is absolutely bonkers for the investigation to exclude these players. If the Government decides against their inclusion, big questions have to be asked with regard to the bona fides of the Government.

Attention has been focused on Denis O'Brien's relationship with IBRC and the bank's special liquidators, and while this attention has been warranted, there are other players in the field. It is important we are not completely distracted from a 360° view of what has happened here. Questions have repeatedly been raised about the dual role of Blackstone, an advisor to the bank on the very assets it sought to purchase. There is no other sector in the world I can think of where this kind of relationship would be considered right and proper.

Deputy Gerry Adams has highlighted what would be considered in any other sphere the deeply improper relationship between Blackstone, NAMA and the Government. In November 2011, the Taoiseach met with the head of Blackstone, Steven Shwarzman, and his associate, Gerry Murphy. The Government appointed chair of NAMA's advisory board sought to appoint Gerry Murphy to the board. This appointment did not come to pass when Deputy Adams pursued the matter with the Taoiseach in the Dáil.

On another massively important issue, there was a sixfold spike in Siteserv share trading in the run up to the sale of that company. This either happened by telepathy or by information shared - which is it? I had a look at the register for Siteserv shareholders to try to identify individuals who could have had information through IBRC but most of those shareholders were hidden behind brokerage firms or nominee companies. I turned to the KPMG guy who was sitting there and said that, surely, when KPMG is carrying out its review, its staff will be able to see what were the names of the individuals behind these nominee firms. He shook his head and said "No". Will we have an investigation where these individuals, possibly the beneficiaries of up to €5 million, are not made known to us? The shareholder payouts are also bonkers. To have a €119 million writedown with a shareholder payout is not normal business, and the questions on this must be answered.

There is then the role of the Minister for Finance and his officials. Did anybody raise an eyebrow when the very obvious conflicts of interest arose, for example, in regard to Blackstone taking on an advisory role with IBRC? Did the Minister's eyebrow ever raise with regard to that?

It is time for the Taoiseach and his Cabinet Ministers to put their money where their mouth is and to extend the terms of reference as set out by Sinn Féin. When you are in a hole, it is important to stop digging. The Government has failed to ensure the commission of investigation can deal with the many substantive issues that have been uncovered by the Opposition, despite the Government's best efforts to avoid them.

Má chuireann an Rialtas bac ar na téarmaí tagartha, beidh an pobal ag cur na ceiste "cén fáth an bhfuil an Rialtas ag iarraidh an bac sin a chur os comhair na ndaoine?". Cad atá an Rialtas ag iarraidh a chur faoi cheilt? Is ceist an-tábhachtach í sin agus tá dualgas ar an Aire seasamh suas ar thaobh na ndaoine agus an fhírinne iomlán a nocht.

This mess lies squarely at the Government's door. For the past four years I have been here it has pointed at the Fianna Fáil benches for every single mess in which it has found itself. This is a Fine Gael and Labour Party created mess. The Government has pursued a hands-off free-for-all policy in winding up IBRC and NAMA. It appears that safeguarding the public interest has been the last thing on its mind. It should be the first issue. First and foremost, every decision made in here should be made on the basis of how we can safeguard the citizen. The whole process has been undignified and distasteful.

I sat in a committee with the Minister, Deputy Noonan, a number of weeks ago during which we discussed the regulation of vulture funds which now own 18,000 IBRC mortgages. The fact that citizens who are trying to pay their mortgages have been left out on their own with unregulated firms after a number of years stands in stark contrast to how the rich elites, many of whom are friends of the Government, have been allowed write-downs.

There is a massive contrast in how this Government treats people, something which is at the heart of this debate. I ask the Minister to make sure that we are not back here in six months, a year or two years, trying to get answers to these questions, and to do the decent thing and accept the amendments tabled by my party.

**Deputy Mick Wallace:** We are discussing the terms of reference of an inquiry into the State's alleged preferential treatment of the private sector, in particular deals that may have cost the Irish taxpayer substantial sums of money. It is a bit like the US military holding an investigation into the causes of violence in the Middle East.

The Government is unashamedly neoliberal, as was the one before it. It is not a wild statement to say it has shown preferential treatment to the private sector at the expense of the taxpayer. The most straightforward definition of neoliberalism is putting the interests of big business and profit before those of the public and working towards abolishing the social state model and the notion of public services being a public good. To quote Dr. Julien Merceille of UCD: "[N]eoliberalism Irish-style' has borrowed elements of US neoliberalism, such as public-private partnerships, privatization of public services, low corporate and individual taxation, low level of government expenditures on social programmes and light regulation of the financial system."

I mentioned the honourable Denis O'Brien in this Chamber about nine times last year and I was nearly run out of the place when I did so, because it was bordering on illegal. On 9 October I raised the possibility with the Minister, Deputy Howlin, that things may not have been transparent and fair in terms of how Denis O'Brien purchased Siteserv and then got the water contract and that everything may not have been as clean as it should have been. The Minister said, "The Deputy is fundamentally, absolutely, completely and wholly wrong." When he was in opposition he was formidable and eager for power to be held to account, but he lost his taste for that when he got into power.

The next day *The Irish Times* and the *Irish Examiner* covered what I said in the Dáil, but I received a phone call that afternoon from a journalist who told me I would not read any more pieces about what I raised. He told me several news outlets had been contacted and warned that under no circumstances should they quote what I said again. I did not read any more about that in the newspapers, but I read an article the following Monday written by Mr. Dukes, a former Minister, who protested a little too much and said all decisions of IBRC were motivated by the mandate to secure the best possible return for the State and taxpayer from the management and disposal of its assets, and that I should withdraw my comments. This was all very interesting.

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It is to the great credit of Deputy Catherine Murphy that she was so obstinate and kept going for so long in the face of difficulty in trying to get to the bottom of what she was attempting to look into. We should be concerned that an Independent Deputy without a large amount of resources carried out the job she did while the media could not do so. What kind of media do we have in Ireland? Do they serve the public well? Do they hold power to account?

Dr. Julien Merceille, who I mentioned, did some research into how the media handled the issue of austerity. He examined two of the main broadsheets - a term that is probably too expansive now - *The Irish Times* and the *Irish Independent* and how, over a three year period, they dealt with austerity. It turned out that, of the opinion pieces and articles written on austerity over a three year period, only 3% of them thought that austerity was a bad idea and unfair. That is pretty scary.

The fact that the honourable Denis O'Brien has such control over the media has to be a worry for our Government. It should be a worry for any Government. A good, independent and strong media would be worth its weight in gold to this country because I do not believe we have one. It would make such a difference to how things are done in the public and private sectors. It would be brilliant. Given that it is very difficult for newspapers to make money today, we should consider sponsoring some independent media to give them a chance and not have them dependent on big business for advertising or the need to have 28 page property supplements. Such a policy could create media that would have the clout and power to hold power to account.

We are discussing the alleged preferential treatment of the private sector, in particular deals that may have cost Irish taxpayers startling sums of money. I worked in the business sector for most of my life. I probably have more information than I want on how things work in this country, including how the banks and big business works. I have many a tale to tell, which I will not start tonight. The number of people who have complained to me in the past couple of years about trying to buy assets from financial institutions controlled by the State, including NAMA and banks, but have not been able to do so despite being prepared to pay more than others, is frightening. I have some strong evidence of it which I am not going to reveal now. I was also shocked at how NAMA, the National Asset Management Agency, operated. I understood NAMA was going to hold assets until their value recovered and would not offload stressed assets for less than what they were worth. Some of the apartments I built have been sold for €100,000 which I could not have built for €200,000 even if I had got the land and the money for nothing.

Take for example some of the transactions in NAMA. A six-storey office on Mount Street was sold to a US fund, Northwood Investors, for €27 million in 2012. Northwood Investors then flipped it and sold it on for €42 million two years later. The Forum building in the IFSC was sold by NAMA to a US private equity firm, Atlas Capital, for €28 million in 2012. It flipped it two years later for €37.8 million. Dock Mill on Grand Canal Dock was sold by NAMA to Chris Jones developers for €1.3 million in 2013. From the company's own figures, it spent €1.4 million on this asset and sold it on for €13 million. NAMA sold company loans of the McGarrell Reilly group for €220 million in 2014 to Lone Star which flipped them this year for €350 million, a profit of €130 million in little over a year.

Deputy Clare Daly referred to Independent News and Media, INM, considering spending €100 million on an investment. This is the same Independent News and Media that got a write-down from the banks of €138 million last year, €60 million of which belonged to AIB which is owned by the taxpayer. How in God's name could the Government allow the State-owned

bank give a write-down of €60 million to Denis O'Brien's controlled INM when he is valued at approximately €5 billion? I would love the Government to explain that to me because I do not understand it.

**Deputy Billy Timmins:** Renua Ireland will not be supporting this motion unless our amendment is taken on board. There is one glaring and obvious weakness in this motion, namely the lack of Government accountability. I listened to Deputy Wallace outlining some figures. While they are concerning, the more concerning are those transactions which were turned over the next day or the next week.

At a time when we are struggling to move on from the past, it is regrettable that it is now necessary to establish a commission of investigation as outlined. The late Mr. Justice Hamilton in his beef tribunal report outlined how there would have been no necessity for such a tribunal if Dáil questions were answered at the time. That may well be the case here or it may not. However, it seems to be a practice by Ministers over time that they do not answer questions. I got a brief reply to a parliamentary question from the Minister for the Environment, Community and Local Government today. For the second week running, he did not answer my simple question. It shows complete disdain for this House. I will forward it to the Ceann Comhairle's office because I am tired of going back and forward to Ministers with parliamentary questions.

What is depressing is that we are here again talking about the damage that IBRC has done to the country and may still be doing to our reputation. It is not as if we did not know. In a Private Members' motion on the banking system in early 2009, in the context of the preparation of provisional legislation to nationalise the then Anglo Irish Bank, it was asked was it credible that the Minister for Finance and his Department were not tracking closely what was happening to Anglo's deposit base. It was also asked was it credible the Minister was not informed by his officials of an issue of this consequence. The Member who asked these questions said he could go on and on; so could I.

I refer to previous debates to demonstrate the concerns about what was going on at the then Anglo Irish Bank and how it should have ensured we got our house in order. In December 2011, in a similar debate, I opened my contribution by stating, "Misaligned interests in banking are what has got us into this difficulty." That misaligned interest is still at the heart of our problems today. In that same debate, I expressed concerns about the possible selling off of loan books from the then Anglo and AIB for a lower return. I requested that a loan book sale comparison between these two banks and Bank of Ireland should take place. I made the point that my information was that there was no mechanism in place to monitor sales. I concluded, "It is really important that we do so. It is not too late to stop the rot. I would like to see action in this regard on the part of the Minister for Finance."

In fairness to the then Minister of State, Brian Hayes, he gave a commitment to raise the matter in the Department of Finance. A day before Christmas Eve 2011, I received a telephone call from an official in the Department of Finance with respect to the matter. I outlined my concerns and the official sent correspondence to me in the new year. The information was very limited and was bound up in confidentiality. The Minister appointed an official from his Department to oversee operations in IBRC perhaps somewhere in and around February 2011. Will the Minister refer to this in his wrap-up speech?

I referred to the weakness at the heart of this motion. Renua Ireland has put down an amendment to this motion. It states:

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The commission of investigation shall submit to An Taoiseach an interim report in relation to its investigation no later than 14 September 2015 on the status and likely conclusion date of its work; Dáil Éireann shall no later than 15 September 2015 be recalled for a debate on the interim report of the commission of investigation; the Minister for Finance resources and supports the commission of investigation in a manner that will ensure that it will issue a final report no later than 30 October 2015.

This should not be difficult to do. We are not asking for the impossible. There are so many inquiries going on. One would think the Government would almost need an 11850 telephone number for the amount of inquiries. Every time I see the advertisements for 11850 with the two guys on the motorbike, I think of the limitless number of inquiries going on here. I could not actually name some of them or whether they have concluded or what happened to their reports. It all boils down to a lack of accountability, forthrightness and proper oversight.

The final part of our amendment calls for the inclusion of “each transaction under investigation, what protocols and controls the Minister for Finance and his Department had in place in respect of the transaction concerned, and whether sanction was given for the transaction to occur”. We also want the level of transactions to be investigated to be reduced from €10 million to €1 million.

In his speech the Minister stated, “As outlined, the review shall investigate, in relation to the transactions under review, whether the Minister or the Department were kept informed, where appropriate, and the steps taken in respect of the information provided.” The weakness of this is that it only refers to issues which were brought to the Minister’s attention. It is quite possible, although not likely, that no issue was brought to his attention. Surely, it was the responsibility of the Government to supervise what was happening at IBRC. It is not to examine what the Minister was or was not told. It is to examine what actually happened.

My understanding is that the Minister had an official in the bank, so he should have known everything that was happening there. If he did not, why did his Department not inform him? If we do not include that in this motion, we will be revisiting this issue either in a few months or even a few years from now looking for another inquiry. It is vitally important we examine the role of the Department of Finance and some of its officials during the period in question.

*10 o’clock*

Deputy Tóibín raised the issue of Blackstone. It gave advice to the Government but was also one of the bodies advising people on the purchase of assets from IBRC and NAMA. That role, and the relationship between it and the former Secretary General of the Department of Finance and the various officials involved in the banking sector of the Department of Finance, should be examined.

I do not buy into conspiracy theories in general, and it strikes me there was an ethos of moving on the loan books to get rid of all the stuff and value for money may not have been to the forefront of political or administrative thinking. Notwithstanding this, and allowing for the plausible explanations that can be put forward to address most, although not all, of the issues raised by Deputy Wallace, we must look at the relationship between the officials and Blackstone and the fact Blackstone later advised people who purchased many of the assets.

In previous parliamentary debates, the two separate entities in the organisation were mentioned. Confidence is not instilled because there is an impression among the people of insiders

and outsiders. Today, I spoke to an individual who had to redeem a €35,000 loan. He made a case for coming to an arrangement but he had no special treatment. It is very difficult for people like him to stand back and look at other arrangements perceived to have been in place. It is not possible for government and business to operate in parallel universes. Of course there will be interaction, but this means we must have systems in place to control and protect the public interest. We must especially have accountability because this is how we protect the public interest more than anything else.

I have to be honest, I do not know about the type of people I meet, but I have never met an individual who if he or she was offered a bank write-down or preferential interest rate loans from the bank would not take it willingly. I do not know anybody who would go back and say the deal was too good. We have misplaced the emphasis. I listened to Deputy Daly speak about the right to privacy and I empathise with much of it. Denis O'Brien seems to be to the forefront of Fianna Fáil's thinking. I met him on a few occasions. I do not know him as such; I just met him in casual conversation. We may be missing the target if we hone in on Denis O'Brien. I suspect he was one of many business people who were offered deals and availed of them. We should examine the fairness of them and how the procedures were carried out. I listened to the Minister, Deputy Bruton, speak about the write-down as part of getting our banking system back in operation. This may be so, but if it is we should ensure the public interest was protected. Politics will always cross business. I made reference to Sinn Féin and Blackstone. I heard its president make reference to the uneasy relationship Fianna Fáil and Fine Gael have with business. It is a little bit ironic that I saw a headline in a newspaper today about the more than €300,000 Sinn Féin picked up in the United States in donations from businesses. I do not know what type of relationship this might be. Perhaps there is different terminology for it across the Atlantic Ocean.

The Minister for Finance will wrap up tomorrow morning - I am not sure when the debate finishes. I ask him to take on board the issues Renua has raised in its amendment because if he does not, someone will be sitting in that seat initiating another inquiry.

**Deputy Michael Noonan:** I have not received the amendment yet.

**Deputy Billy Timmins:** We sent it at 3 p.m. or 4 p.m.

**Deputy Billy Kelleher:** I welcome the opportunity to speak on the motion before the Dáil. The reason we are here is because of the tenacity of a Deputy in pursuing an issue of public interest. Deputy Murphy pursued it through tabling numerous parliamentary questions. Unfortunately, they were not answered in accordance with what would be accepted standard norms, which is why we are having the debate this evening. Something happened in the Department on the Minister's watch, whereby questions were not answered to the satisfaction of the Deputy and she doggedly pursued the matter until such time as it was taken up by others. Eventually, after pretence and obfuscation in recent weeks, the Government was forced to establish a commission of inquiry into certain matters pertaining to IBRC and related matters. This is why we are here. The Minister knows well when one starts to untangle a web, people very quickly begin to express grave concerns about matters.

The Siteserv deal has caused much concern and numerous views have been expressed. The bottom line is that the Siteserv deal raises suspicions on its own. The fact there was a huge write-down, it was bought by Millington, a company owned by Denis O'Brien, and people involved in the purchase and sale had conflicting interests to say the very least raise suspicions,

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and rightly so. This in itself is a matter that should be investigated by the commission and we welcome the fact that it is specifically included in the terms of reference to ensure there is full detailed analysis of it.

Broader questions have been raised in recent weeks. I was driving home from Waterford last Thursday week when I heard that RTE could not report a statement made by Deputy Catherine Murphy in the Dáil while moving a Private Members' Bill to facilitate an investigation and give more legislative powers to the Comptroller and Auditor General to investigate certain matters. I was amazed and the fact that the national broadcaster felt unable to report the utterances of a Deputy in the House led me to believe that we were going down a very slippery slope very quickly. I wrote to the Ceann Comhairle that night when I arrived home and contacted his office the following morning. I was informed by the secretariat that under Standing Orders the Taoiseach was the only person who could recall the House. I was quite insistent that the House should be recalled as, I am quite sure, were many other Deputies because at that stage it looked like a gagging order was being placed on utterances of Members of the Dáil being reported by a national broadcaster. This in itself had a chilling effect throughout the media.

The idea that somehow it did not interfere with the freedom of Deputies to express a view is a pretence because it was clearly the opposite. Surely when Deputies speak in the House there should be unfettered media reportage with no fear of anybody being sued or libelled or being accused of defamation when reporting what happens in the Dáil. For spokespeople on behalf of Denis O'Brien to go on radio stations to say they never intended to quell the reporting of the Dáil is simply not the case because they were walking around Dublin presenting writs and court injunctions to media outlets to silence them. There was very much a deep chilling effect until the matter was clarified last week by the judge.

With regard to the recall of the Dáil, I cannot to this day understand why the Taoiseach could not have at least expressed a view to defend the Article 15 of the Constitution. That would not have interfered with the court case because he would only have been stating what the Constitution states. For the Taoiseach to hide and disappear over that week was completely unacceptable and it showed he had scant regard for the Constitution and the importance placed on Article 15 which gives Deputies the opportunity to stand up here and speak without fear of being sued because of what they say. Nobody can accuse Deputy Catherine Murphy of wild protestations or antics. She was simply raising questions which were inherently in the public interest, and the proof of this is that we are establishing a commission today to investigate the matters she raised. For all that has been stated, the way she was vilified and attacked was deeply disturbing and the silence from the Government was simply not good enough. Mr. O'Brien claims his right to privacy has been undermined and he took a court case seeking an injunction to protect his confidentiality in his dealings with the bank, which was granted. I can understand that the average person in this country would feel their dealings with a bank should remain private, but this was no ordinary bank. It was a bank that had been taken into State ownership and propped up by State finances. If write-offs were given to anybody, it would be the taxpayer who footed the bill. Mr. O'Brien has an entitlement to privacy, but in this context the public interest overrides his right to privacy. Let us be under no illusions - there are deep concerns about potential sweetheart deals, massive write-downs, companies being sold as going concerns even though they were bust, contracts being awarded simultaneously to subsidiaries of the same company and shareholders being paid €5 million to support the deal. It all leads to suspicion at the very least, and these matters should be clarified. The fact that we have been pilloried by some news outlets for raising this matter is of huge concern to me.

It took a long time for the Taoiseach to allow a debate on the report of the Moriarty tribunal and to acknowledge that he accepted the findings of the tribunal. This just leads to further presumptions on the part of the public that there is some form of cosiness between Mr. O'Brien and Fine Gael. This is not a case of Deputy Billy Kelleher or the Opposition making wild, outlandish allegations. It is clearly outlined in the report of Mr. Justice Moriarty that payments were made to Fine Gael, including one of £50,000, which was eventually handed back.

The granting of the mobile telephone licence was another event that occurred when Deputy Noonan and the current Taoiseach were in Cabinet. People have a certain amount of suspicion when they see these names cropping up on a constant basis. The Moriarty tribunal has been completely ignored by this Government. It was debated once in this House and we do not know what has happened to it since. I tabled some Dáil questions on the matter and was told it had been referred to the DPP and elsewhere. Four years later, nothing has happened - absolutely nothing. Questions will always be asked until such time as it is brought to a conclusion one way or another. The idea that we can spend huge sums of taxpayers' money and devote endless other resources to investigating a matter of public interest such as the granting of the second mobile phone licence, only for nothing to have happened four years later, leads to a belief among the general public - and sometimes they are right - that there is a cosy relationship between the upper echelons of business and the upper echelons of Government, as identified by the Moriarty tribunal among others.

We have to restore confidence in the body politic, and this commission of inquiry will go some way towards dealing with these issues. However, there are broader concerns that will not go away until the Government, which was elected in a so-called democratic revolution of openness, transparency and accountability, steps up to the plate, because its promise in opposition to clean things up has not been delivered on. The fact that the report of the Moriarty tribunal is gathering dust in the office of the DPP is something about which the public are very suspicious.

**Deputy Maureen O'Sullivan:** Ar dtús, ba mhaith liom aitheantas a thabhairt don Teachta Catherine Murphy as ucht an obair a dhein sí maidir leis an gceist atá á phlé againn inniu agus amárach. It is Deputy Murphy's tenacity, perseverance and never-give-up attitude that have brought us to where we are today.

Why, when Deputy Murphy first submitted her questions, were the Minister and his officials not alerted to the seriousness and importance of these issues, which appear to boil down to preferential treatment for certain individuals and groups in society? I would have thought alarm bells would ring over these questions of transparency, fairness, accountability and governance. As the questions continued to come in from Deputy Murphy, why did the alarm bells still not ring? They should have rung, especially when we see where we are now, with a commission of investigation into IBRC instead of just the one investigation into Siteserv.

Maybe I have a very simplistic view of politics, but I do think it is Government's role to lead in terms of fairness and transparency, so when the questions came in, why did the Government not take the proverbial bull by the horns and lead? Why did it not then instigate the commission of investigation, rather than simply reacting to what was later discovered by Deputy Murphy? If Deputy Murphy had not persisted, this issue would have continued unaddressed, unacknowledged and possibly unknown, and injustice would have prevailed. Why was someone of Deputy Murphy's standing and integrity doubted in the way she was? It was automatically assumed in some circles that she was being untruthful and vindictive and that she was making spurious claims based on rumour or innuendo, when we know she had absolute confidence in

her sources.

There are serious questions to be answered around Siteserv and other issues. I am on the board of a number of community and voluntary groups, as well as a primary school board of management. If we get a grant for any sort of project, including capital projects, we have to submit a number of tenders, and our bottom line is best value for money. I am talking about amounts of several thousand euro up to €100,000 - maybe more. When I look at the Siteserv deal, I see one procedure for that group and a different one for the groups such as those I have just mentioned. I know that many other people in this Chamber are also on such boards, and we are subject to meticulous scrutiny to ensure we get the best bid and the best value for Government money. I totally agree with that approach, but it appears there was a completely different scenario in respect of the way Siteserv was doing business. Other competitors were excluded, something which would not be allowed in any other process of bidding for tenders. There seems to have been an inordinate amount of concern for Siteserv as opposed to other businesses that were in trouble, such as small businesses that failed and went to the wall with job losses when much smaller amounts were involved.

It appears from a media report that one of the reasons Siteserv got preferential treatment is that expansion had got it into difficulties. Aspects of the business were sound and its contracts with other businesses had to be protected. I can only imagine how those involved in the other companies I mentioned, such as small builders and printing companies, must feel when they hear about this controversy in which preferential treatment was given to one company but not to them. There seems to have been an exclusivity with regard to Siteserv, which also applied to its shareholders, who were paid some €5 million, and much preferential treatment between bondholders and shareholders. Mr. Aynsley said the €5 million was “distasteful”, but it did not stop the deal going ahead.

There are issues around relationships between the Department of Finance and the IBRC and between the Minister and his officials, and there are questions around how much was known by these and others, including the NTMA and the Central Bank. How much was lost to the State and how much of this loss could have been avoided? How many other similar transactions were there which may have resulted in the loss of millions, possibly billions, to the State? IBRC has relations with a range of businesses, and it must be asked whether we will ever achieve a culture of ethical business, whereby businesses respect the principles of governance and accountability. It does seem that the bigger the company is and the more it owes, the softer it falls. How come the concerns of officials in the Department were not addressed properly and adequately? The Minister said, “Commercial decisions in relation to IBRC were solely a decision for the bank.” This is our country we are talking about. It is our citizens who have suffered so much because of poor decisions by banks but who do banks turn to when they are in trouble? It is not acceptable that anyone would do a Pontius Pilate on this. What does it say about parliamentary democracy and about governments being accountable to parliament that those concerns were not brought to the Dáil in an open way? Imagine if the Minister had come in unprompted, rather than because he was under pressure through Deputy Murphy’s persistent questioning. That would have been a victory for parliamentary democracy. It is incredible, if not downright ludicrous, that the initial investigation or inquiry into Siteserv will be conducted by the IBRC liquidator, a partner of KPMG. That is the same KPMG that ran the sales process of Siteserv. We have learned about loan repayments at low rates and about deferring and spreading out repayments. I think of mortgage holders, people who are in arrears or in negative equity, who are denied the benefits that other companies have got. It is important that we find out the truth on

this and other matters. For example, why the haste to sell off to vulture funds and not give opportunities to Irish people, Irish families and Irish businesses to buy or buy back? Were write-downs and preferential terms given to certain wealthy individuals and nobody else?

Regarding the role of parliamentarians and of the media to report on proceedings, I am not into abusing parliamentary privilege, and it does not sit easy with me that names can be mentioned here when those people are not here to have a right of reply. However, one of the individuals at the centre of this matter has so many media outlets at his disposal to present his case, and it is worrying that attempts were made to prevent reporting of Dáil proceedings. Dáil privilege brings responsibility and both have to be respected. This is not about just one individual. It is about a horrible culture of preferential treatment, where it is not about what one knows but about who one knows, which must be eradicated. I hope the commission is setting the scene for a new way of doing business and sending out a warning that practices allowed or facilitated in the past, which brought Ireland into recession and austerity, will be exposed in such a way they will not be worth embarking on by anyone else in future. Tonight's business is positive. The commission of investigation is comprehensive and it appears it will be adequately resourced. Resources have to mean there will be resources at the chair's disposal to go through the documents, to ask the relevant questions and to have the wherewithal to go where it is being led. I am not that interested in an interim date. The end date is much more important than an interim report.

I am on the Joint Committee on Foreign Affairs and Trade and I constantly ask when we are looking at aid to developing countries that we promote fairness in tax systems and that we conform to international human rights standards. Ireland is a leader when it comes to untied aid. We are a donor country. Since that aid is untied, our interventions are geared not to exacerbate inequality in the developing world. We try to have a rights-based approach to aid. We are saying that on one hand and yet we are doing the opposite in this country. That could damage our international reputation.

Deputy Wallace spoke about NAMA earlier. That could be the next investigation. I want to mention one issue in respect of NAMA, namely, Moore Street. We cannot get answers from NAMA as to what it intends doing in that area and the implications of the proposed sell-off of the Chartered Land Holdings and the national monument in the middle of that.

The terms of reference must be set in the ordinary world and not just in the business world. Getting to the truth is the kernel. The question must always be what is in the best interests of our country and our people. That also brings in the question of how politicians can be trusted to act for the interests of Ireland and not the interests of that golden circle, which is by now well and truly tarnished.

**Deputy John McGuinness:** Listening to the debate, I cannot help but think of that quotation:

Oh, what a tangled web we weave

When first we practise to deceive!

Many of the Members in this debate have put forward their take on why we are here this evening debating this, how it happened and what the response should be. My take on it is that we are here because there is no political leadership. The Government was elected on the promise of reform and doing things differently. The country responded to its manifesto and

its declaration that we were heading for a new Ireland and that we were going to be open and transparent but the opposite is the case. When it got into office, it showed no real political leadership. There has been no change in how politics is done. That is why we are here today.

The Department of Finance, in particular, which was involved in giving advice in the lead-up to the banking crisis, has proved already to have been weak in its position at the very least. In the context of the lead-in to this issue and IBRC, it showed no leadership whatsoever. It is a Department that was not driven politically to ensure that the civil servants in turn did what they were supposed to do. If all of them had done their job, the minutes would have been examined, analysed and filed appropriately. Bearing in mind that this is a Department that misplaced €3.6 billion at one stage, I am not surprised that it lost a few documents and still cannot find them. That is not good enough. The Department is charged with doing a job on behalf of the State and it was charged with ensuring there was a relationship, regardless of what understanding was there. It should have been there, looking after the interests of the State. It is my opinion, having listened to the debate and having had an exchange with the officials at the Committee of Public Accounts, that those in the Department did anything but. They left it to those they thought were going to do the business and who they thought knew more than they did and they ignored their responsibility in this, which was to look after the value for money issues and the governance issues the State relied on them to handle.

The other issue that comes across clearly in this matter is the work of this Parliament. It is not the first time that we have had a debate about the powers of this House and its response to issues. When those in government were on this side of the House, its members, particularly the Labour Party Deputies, constantly complained through the Whip to the Ceann Comhairle about the quality of the replies to parliamentary question and that one simply could not get information from parliamentary questions. It is not just this Government but a whole series of previous Governments that allowed that to happen and allowed this House to become totally irrelevant. There is now a corruption within the system that allows this to happen and allows individuals to get away. The only thing that is ever blamed is the system - that is, there has been a system failure here. In all the scandals in this State, I have never seen an official identified and sanctioned or fired. Every single Thursday, before the Committee of Public Accounts, there is a litany of failure of the State to look after its assets, to behave in a way that would save money for the taxpayer and to endeavour to get value for money for the taxpayer. This is a typical example of a State that is out of control and of systems that are simply corrupt and do not deliver on behalf of the citizens of this country. While that is happening, the Government is at war with the citizens. It is bullying the citizens of this country through various Departments and agencies. We all know this. We can go to the special investigations unit in the Department of Agriculture, Food and the Marine, take account of IBRC and how it has dealt with its clients and we can take a look at NAMA. I read the correspondence that comes before me and the one word that has been written in most of those letters of complaint is the word "bullying". The bullying and the harassment that the people who are dealing with NAMA are put through is simply unacceptable and it should be stopped if real political leadership is being given by the Government relative to the interest and protection of citizens who are trying to get back on their feet after the greatest collapse we have seen in the history of this State. The banks have been helped out and now we have this issue with IBRC, and it is all taxpayers' money, but what about the individual mortgage holder or the individual in business who was distracted from his or her core business? What about the small and medium enterprises, SMEs, within IBRC? They have received no opportunity to debate or to have a conversation about their difficulties in order to get back into the game and be productive again for the economy. We owe it them to explain what this cor-

ruption is all about. What is happening in the Irish Administration that leads us to this point of an inquiry time and again? The issue of the answers given to parliamentary questions has been repeatedly stated. That issue might seem insignificant on the scale of what is happening with IBRC, but if this House were meaningful and we were getting replies, and were able to hold people to account, the need for an inquiry might not have arisen in the first place. Ministers might have officials who took politics in this country seriously. They might have politicians in government who took their position seriously.

Deputy Doherty raised a matter this evening and I would like the Minister to clarify it. Is the issue the Deputy raised part of this inquiry or is it not?

**Deputy Michael Noonan:** It is within the terms of reference.

**Deputy John McGuinness:** It is within them.

Another issue I have concerning the inquiry is that while it is ongoing - it is not that I want to have a number of inquiries under way at the same time - this House should not be shut down because it is ongoing. Parliamentary questions and the work of committees should be allowed to continue. If material is uncovered by them that is relevant to the inquiry, by all means it can be taken by the inquiry. We need to get serious about our position and the fact that we represent the Irish people. That is what we are here for. We do not represent any single or powerful group. Furthermore, the civil servants work for this State.

Today we had the Secretary General of the Department of Public Expenditure and Reform, under the Minister, Deputy Howlin, reminding Secretaries General - accounting officers- that they should respond to queries they receive from the Committee of Public Accounts much earlier than they do. I would have thought it was a matter of fact that they should not ignore what was going on, that they should reply and that the Ministers, as the political leadership in the country through the Government, should insist that it happens, not only in this term but that it should be continued. We are only guardians of the democratic process in this House and we have let it down and we have let down the people, but the Ministers have let them down more than anybody else because they are the political leaders. They are the ones who promised the reform the people did not get. As we debate this motion, we cannot ignore the fact that people's lives have been torn asunder because of the economic crash and we have not allowed them to rebuild their lives in any meaningful way. They are watching this debate and watching others being able to put things together again and get back into business. It cannot be one rule for one class of people and another rule for another. That is what the Ministers have done in their term in government.

**Deputy Pádraig Mac Lochlainn:** It has been a remarkable number of weeks and it has been even more remarkable to hear Ministers, the Taoiseach and Government backbenchers downplaying the seriousness of the attempt by Denis O'Brien to silence our media in this State and prevent them from reporting a speech by Deputy Catherine Murphy in this Chamber.

I took a look at the profile Denis O'Brien likes to give to the world. It is a profile from his Digicel Group and it states that he founded Digicel in 2001 and that it operates in the Caribbean and in Haiti, which I will go into in more detail; that he founded the Esat Telecom Group and built it throughout the 1990s until its sale to British Telecom for €2.4 billion; that he chaired the Special Olympics World Summer Games; and that he is a special ambassador for Haiti. That is the image he wishes to project to the world.

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In terms of Haiti, Digicel represents the biggest external investment of any company he owns. Jean-Bertrand Aristide was the first democratically elected president of the people of Haiti in 1990. Within a year, he was driven out of office in a coup, backed by the Bush Administration in the United States. He later came back into his country but was forced out again. Throughout that period, the will of the IMF and of Western corporate interests was enforced upon the people of Haiti. They were forced to privatise their resources and to resist policies such as the introduction of a minimum wage and so on, of which Aristide was strongly in support. Then in came the bould Denis O'Brien and he invested in that type of opportunity, created by profoundly anti-democratic practices, following two separate coups which removed a democratically elected president. Yet he was able to present himself as the champion of the people of Haiti when they were impacted by the earthquake.

In Ireland, when he sold Esat to BT and made a fortune out of the sale, he was able to walk away from having to pay capital gains tax by taking up Portuguese residence, and now he is in Malta, but what did we do in Ireland? We made him chairman of the Special Olympics. We had him in front of the world as our moral leader. That is what we have done again and again with Denis O'Brien.

We have a culture of fear in our media, mostly in this city, where people are afraid to utter a word for fear they will have a lawyer's writ on their desk the next morning. It is that culture of fear that made Denis O'Brien believe, having seen the back of people such as Sam Smith and having attempted to silence people such as Elaine Byrne, that he could silence this House. It is no wonder he believed that, because every time he did what he did we promoted him as a goodwill ambassador, a human rights ambassador, a moral leader for our people. I hope that thanks to the decision in the High Court, which was predictable, this is a turning point. How any solicitor could have advised a media company not to report or how the Constitution could be interpreted in any way other than that Dáil privilege is absolute and can be reported upon is remarkable. I hope that we will start to send a clear message to our people. Hundreds and hundreds of families are before the courts in cases involving the repossession of their homes, yet they are reading about Denis O'Brien getting favourable interest rates and being able to purchase Siteserv in the way that it happened while being the wealthiest person in Ireland. He is wealthier than major international figures, with an estimated €6.8 billion, but he was getting favourable deals as if he was about to go bankrupt. This is what the people at home are sickened about. I hope that all the bullying and intimidation our journalists in this city have been put under can come to an end once and for all and that we can have a true narrative about Mr. Denis O'Brien that his powerful friends would seek not to have. He wishes to portray a profile of his company but, in the fullness of time, his will not be a memory among our people that he would like to it to be. I hope his reign will soon come to an end in this State and that we can have a properly functioning democracy as well as a properly functioning media that feel they can report accurately what happens, hold big business to account and deal with white collar crime in order that we can cleanse ourselves of the culture that has bankrupted and crippled our State and our people.

**Deputy Caoimhghín Ó Caoláin:** In recent weeks, we have seen an unprecedented silencing of Dáil Éireann. Thankfully, reporting of statements made in this Chamber has resumed. This basic element of democracy, of course, must be protected.

We need to look at what brought us this far. In 2012, Mr. Denis O'Brien's Millington bought Siteserv for €45.4 million. The deal saw State-owned IBRC write off €110 million of Siteserv's €150 million debt. We now know that a Siteserv subsidiary was awarded a contract

for the installation of water meters for Irish Water.

In April, Independent Deputy Catherine Murphy retrieved documents under freedom of information legislation that revealed official concern over the deal. The former chairman of IBRC, Mr. Alan Dukes, denied anything inappropriate had taken place. The Government then announced a review of IBRC deals, including that involving Siteserv. We also read reports of a spike in Siteserv shares in the period prior to its sale. Deputy Catherine Murphy suggested under Dáil privilege that insider trading may have played a role in the rise of Siteserv share prices.

Last month, Mr. O'Brien and IBRC won court injunctions against RTE preventing the broadcast of a report on Mr. O'Brien's banking affairs. We then heard, though many citizens were denied the chance to hear, suggestions by Deputy Catherine Murphy that Mr. O'Brien had been preferentially treated. Mr. O'Brien has claimed that this is false and that making these statements in this Chamber was an abuse of Dáil privilege.

While the Government agreed to an inquiry, in its first drafting it was totally inadequate. The inquiry is now to focus on the sale of Siteserv by IBRC to a company controlled by Mr. O'Brien, which involved a write-down of €119 million as well as other substantial write-downs. The Minister, Deputy Noonan, met Opposition representatives last night and has agreed to some changes but has remained opposed to others. I understand he is unwilling to accommodate some of the key changes sought - for example, bringing the deadline date forward to October, with December his preference, and allowing the investigation of sums of less than €10 million. I understand the Minister is not willing to reduce the write-down threshold from €10 million to €1 million as my party has sought. I ask him to explain his reasoning for this in full. The inquiry is also to look at the suggestion by Deputy Catherine Murphy, revealed under Dáil privilege, that Mr. O'Brien benefited from preferential interest rates.

The question of balance between public interest and private banking business has been discussed at length throughout the State. In this case, where an individual of massive personal wealth has significant control of a myriad of media outlets, the balance must be in favour of the public interest. When such an individual has an interest in several companies that are involved in working for the State on politically contentious projects, this must be particularly so.

This inquiry must also have an interim report, especially when the Government may dissolve the Dáil without findings of the investigation being made public. I am most disappointed that the current Government has decided that the inquiry's scope will not go beyond the liquidation of the bank in 2013 and, therefore, not cover more recent deals involving the bank's liquidators.

Why did the Government refuse to recall the Dáil to discuss this last week? That is a reasonable question. It has told us at every turn that it represents a different kind of politics to previous Governments, but at every turn it fails to show an appetite to break with the old grubby connections between big business and politics. This affair has also shown a lack of leadership from the Taoiseach. We had a self-enforced silence from An Taoiseach and then a spectacular U-turn that a judge-led investigation was needed.

I am also concerned at the fact that the Dáil has been undermined, in my view, after incomplete parliamentary answers were given about IBRC and the apparent admission by the Minister of State, Deputy Harris, that freedom of information requests must also be submitted to ensure full disclosure. Will the Minister, Deputy Noonan, clarify if this is now Government policy? It is clearly his policy, as revealed by his answers to questioning by Mr. Bryan Dobson

on RTE news last week, a matter that is of great concern not only to Members here but also to members of the public.

As my leader, Deputy Adams, mentioned in this Chamber earlier, the commission of investigation would not have been necessary if the Government had answered questions about IBRC over the past three years. The Minister and the Government must now address our very reasonable concerns in the setting up of this inquiry. If faith in the inquiry into such serious matters is lost, the silencing of Dáil Éireann might fall into the ha'penny place by comparison.

**Deputy Paul Murphy:** The Minister, Deputy Noonan, stated that the Government was launching the commission due to issues of serious public concern, but we should first consider how we got here and some of the questions that arise as a result.

The commission is not the result of the Minister's worry about public concerns. This commission has been dragged out of the Government. In fact, the Minister has engaged in deliberate attempts to bury the issue. For the past six months over the course of the famous 19 questions, he claimed that there was nothing wrong with the Siteserv deal and that the board of IBRC was happy, but he never mentioned that his Department had questions. We now know that he attended a meeting in July 2012 between the Department and the board of IBRC where the sale was discussed and, furthermore, that his Department had raised serious concerns about the way Siteserv was sold.

This raises two important issues. If the Minister now considers the issues at IBRC to be of public concern, why did he not order an inquiry a couple of years ago when he knew all about them? Considering the fact that the taxpayer has pumped €30 billion into the bank, everything and every deal done at that bank is of major public concern. Minutes show that his confidence in the board at that stage was "wearing thin".

The Minister undermined the limited democracy we have in the Dáil when he failed to answer fully the questions that were put to him with of the information he had. After he had been found out, he attempted to justify this by saying that Dáil questions got "precise" answers while freedom of information requests were for getting "background" information. The Taoiseach then tried to claim there were issues with how the questions were phrased. This is an insult to the representatives who are elected to the Dáil and those who elect them. The Minister was consciously engaged in a process of limiting the amount of information that would be released on this issue. This raises many questions about the so-called democratic revolution. The commission will investigate the role of the Minister - he should be the star witness in the case - but the Dáil should investigate how questions are answered in light of this. The arrogance and attempts to suffocate this issue by the Government are a national disgrace.

The cover-up stepped up a gear with the announcement of an inquiry, an inside job, with the special liquidator of IBRC, Mr. Kieran Wallace of KPMG, investigating the sale of Siteserv to Mr. O'Brien from IBRC in which Mr. Wallace's own company played an advisory role. In fact, he was the liquidator of Siteserv itself. He later joined the court attempt by Mr. O'Brien to block the release of a letter between himself and Mr. O'Brien that still has not been reported on. That inquiry was, according to the Tánaiste a week before its announcement, going to be an independent and "competent authority". Transparency International raised issues with it. Even Alan Dukes thought it was a step too far for KPMG to investigate KPMG. We would still be having this inquiry if it had not been for the subsequent court cases and Government embarrassment. *The Sunday Business Post* quoted a Government source as saying that it would probably

have gotten away with the KPMG investigation, but this was the only way to calm things down.

On the same day that the Government announced the establishment of a commission of investigation, the minutes of the 15 March meeting during which the sale of Siteserv was discussed amazingly appeared out of nowhere. Where were they? We know there were serious concerns in the Department about the sale. Surely information about an important meeting like this would have been kept and pored over. The Minister told the Dáil some weeks ago that a “thorough search of e-mails and documents” had not returned anything. He informed us that the taxpayers’ bill was €9 million more than we had been told. More importantly, the statements of Mike Aynsley and Alan Dukes, who said that Richard Woodhouse, who looked after Denis O’Brien’s accounts, had been moved away from the sale of Siteserv as they knew that Mr. O’Brien would bid, were contradicted. According to the minutes, Mr. Woodhouse was at this meeting. Is this a coincidence?

While the commission of investigation will look at approximately 40 different transactions at IBRC, we cannot and should not get away from the sale of Siteserv. The taxpayer picked up a bill for €119 million. Denis O’Brien bought a licence to print money through the imposition of water meters on communities and people who clearly oppose the meters and the charges. We need to go deeper into this sale. The board of Siteserv was allowed to conduct the sale of the company instead of IBRC, which was were tasked with getting the best return for the State. The board decided to exclude trade sales and instead entered into an exclusivity deal with one buyer, Denis O’Brien. The board of Siteserv decided to reject higher bids for the company. Siteserv’s shareholders got a €5 million pay-out for a bankrupt company. Many of the directors of the company who conducted the sale were also shareholders. Arthur Cox acted for both the buyer and the seller in the deal. KPMG and Davy Stockbrokers acted as advisers to the sale despite many of the Siteserv board having links to KPMG, and many of the shareholders who got the €5 million being clients of Davy Stockbrokers.

The IBRC board and the board of Siteserv were keen to get this deal finished as quickly as possible. Were they trying to get the deal through before the new framework agreement came into place? There was a spike in the price of shares in Siteserv a few months before the sale. Would people buy shares in a bust company if they did not know there was a deal on the cards in which shareholders would get a pay-off? Why did Denis O’Brien buy a bust company in a field in which he has no experience? Was the water meter contract the reason he bought it? Bord Gáis, which was responsible for the decision in relation to water meters, told the Government it was unnecessary to install water meters before the charge came in. Nevertheless, the Fine Gael Minister, Phil Hogan, decided to push ahead with meters. Is Denis O’Brien the luckiest man in the world, given that he bought a company for a song and then won massive State contracts under a Fine Gael Government? We had the situation where people protesting against Denis O’Brien’s company, GMC Sierra, installing water meters were jailed at his behest for breaking an injunction saying that they could not go within 20 m of a water meter installation. Incredibly, when other water charge protesters protested against the jailing of those people, the barriers used by the Garda were provided by Denis O’Brien’s company at the expense of the State. Whatever way it works, this man wins and wins again. Now it has come to the fore that he was getting a special deal on his massive loans from IBRC. This was another subsidy from the taxpayer, who was hit twice after picking up the tab for his purchase of Siteserv.

The Moriarty tribunal report was finally published within a month of this Government coming to power. At that time, we were supposedly at the beginning of the so-called “democratic revolution” heralded by the Taoiseach. We were told the report would not “gather dust”. In-

stead, it was supposed to become the springboard “to sever the links between politics and business once and for all and, in so doing, achieve three fundamental goals: stop the further pollution of our society; re-establish a moral code and order regarding public life; and, through that, restore public confidence in politics and government”. Four years on, nothing has happened with the report. One of the central figures from the scandal that was the subject of the report, Denis O’Brien, is back in the middle of another scandal involving Fine Gael. Are we to be surprised?

While the Moriarty report sat on a shelf in the Taoiseach’s office, Fine Gael went on a mission to publicly rehabilitate the image of Denis O’Brien. The Taoiseach was pictured with him at the New York Stock Exchange in March 2012. The Government then invited him to the Irish Economic Forum in 2013. This time last year, the Taoiseach took up an invitation from Denis O’Brien to speak at a broadband commission. The Tánaiste beat her chest about this in the Dáil, but funnily she then received a letter from Denis O’Brien querying her Dáil reaction given that she greeted him warmly when she met him in New York. Is this a severing of the links between politics and business? In light of what Mr. Justice Moriarty characterised as “clandestine” payments, and given that we are launching a commission of investigation, can we really say the links between politics and business have been severed? Ireland’s richest man got a deal on Siteserv. Like a vulture, he has also swooped in also buy other assets, including the Beacon Hospital and Topaz. This is an indication, just as Denis O’Brien is a personification, of how austerity has worked for the 1%. Not only has he tried to silence the parts of the media he does not own in order to protect his own interests, but he also attempted - relatively successfully for a period - to silence the Dáil itself.

The terms of reference for the commission of investigation leave much to be desired. They do not meet the public demand to know what happened. The roles of the Minister and his Department must be examined carefully. Specifically, the Minister’s role in how this scandal has evolved should be looked at. We need to know exactly what the Minister knew about the battle between senior figures in his Department and the bank. How much did he know about it? Did he fail to act in the public interest? Was the Minister aware of the role of Blackstone, which is a vulture capitalist fund that acted as an adviser to IBRC while at the same time buying some assets? Was he aware that protocol was breached in how it was hired? Will the Minister get the Central Bank to release its report on Siteserv and other assets, which has not been released?

RTE is gagged by Denis O’Brien and Kieran Wallace from reporting on a letter in which Denis O’Brien says he had a verbal agreement about preferential treatment from IBRC because it falls outside of the timeframe of the investigation. The terms of reference have to go beyond the date in February 2013. They should be expanded to 2015, when KPMG issued its report on the liquidation. The €10 million limit is worrying. The taxpayer has picked up a bill of over €1 billion in write-offs from IBRC. We need to see every write-off as this would potentially cover people of public interest, including politicians, judges and celebrities, who had debts written off without anything being heard of it. Similarly, the €4 million limit on favourable interest rates is too high. Any deal where a special interest rate or longer-term deal was made should be looked at.

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

**Deputy Paul Murphy:** I will conclude by saying the absence of Government backbench Deputies participating in this debate or even sitting in the Chamber at this hour is an illustration of the Government’s interest in this issue and speaks volumes about the so-called “democratic

revolution”, which we have not had.

**Deputy Róisín Shortall:** This debate is taking place in the particular context of this country’s history of corruption and the dodgy dealing that is a feature of the way much business is practised here. Clearly, this results from failings in corporate governance and significant shortcomings in political probity and oversight. If anybody doubts that, I would refer them back to the reports of the beef tribunal, the planning tribunal and the Moriarty tribunal. It is worth reminding ourselves of some of the most pertinent quotes from the Moriarty tribunal. It is most appropriate in the current circumstances to note that the tribunal found it was “beyond doubt” that Deputy Michael Lowry “imparted substantive information” to Denis O’Brien which was “of significant value and assistance to him in securing the licence”. Given that the person who assisted Denis O’Brien, according to the Moriarty tribunal, was a party and Cabinet colleague of the current Minister for Finance, that puts a particular responsibility on the Minister, Deputy Noonan, to act on foot of the findings of the tribunal. Fifteen years later, with some €50 million having been spent, the tribunal found that significant “clandestine” money transfers and “corrupt” payments were made.

*11 o’clock*

One would imagine in the circumstances, given that this happened on the Minister’s and his party’s watch, he would be very keen to deal appropriately with it and that swift action would be taken on foot of Moriarty’s many recommendations. When he received the report in March 2011, the Taoiseach promised us all that it would not gather dust. That is why it is really disappointing but maybe not surprising that the Minister for Justice and Equality, in her reply to a parliamentary question from me last month on the progress made in implementing Moriarty’s recommendations, said that the Tribunals of Inquiry Bill 2005 awaits Report Stage in the Dáil. When I queried that further the Minister told me the tribunals Bill was under consideration in her Department. Detailed consideration is being given to “the full suites of recommendations” etc. She went on to say:

The review will be completed as soon as possible, but is dependent on other legislative priorities. Accordingly, the likely timeframe cannot be indicated with any certainty at this point.

I can also advise the Deputy that following the examination by An Garda Síochána of the report of Moriarty Tribunal, the advice of the Director of Public Prosecution [*sic*] was sought with a view to determining whether or not a full Garda investigation should be commenced. This advice is awaited.

Four years later there is no sense of urgency whatsoever in respect of implementing the report that the Taoiseach promised us would not gather dust. It is quite clear that it is gathering dust and there is no political will to tackle it.

I want to raise the role of the Minister for Finance in this entire debacle. No Minister should enjoy political immunity, least of all the most important Minister in the Cabinet. That is exactly what the Taoiseach has afforded the Minister for Finance. He has sailed through a litany of mistakes on the Siteserv issue while the Taoiseach stands idly by. The Minister did not provide full answers to questions from Deputy Catherine Murphy and created an impression which simply was not true. He has been extremely disingenuous in the manner in which he has responded to concerns raised by Deputy Murphy and indeed the public concern that has ensued.

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It is only because of Deputy Murphy's tenacity and the resultant public concern that any action has been taken on this. It seems the Minister would have been quite happy to bury the whole issue if Deputy Murphy had not made the freedom of information requests. We should remind the Minister of the words of Mr. Justice Hamilton in the beef tribunal when he said that if questions had been answered properly in the Dáil there would not have been a need for a tribunal. It seems no lessons were learnt from the past and history, unfortunately, is repeating itself. The Minister casually accepted the word of an ex-party and ex-Cabinet colleague, Alan Dukes, and his colleague, Mike Aynsley, when senior officials in the Department of Finance raised serious concerns about poor management in IBRC. Over a protracted period senior officials raised serious concerns with the Minister about poor management in IBRC and the Minister went to the management and accepted its word for it. One would imagine, given the history of the behaviour of the then Minister, Deputy Lowry, and the involvement of the Fine Gael Party in that regard, that this Fine Gael-led Government would have been particularly careful and anxious to ensure that everything was above board and conducted properly. Yet again, he accepts the word of an ex-colleague.

The Minister tried to fob us all off and make out that some kind of internal review run by the very insider involved in this, the special liquidator, whose company had been involved in the sale of Siteserv, would suffice. If it was not so serious it would be laughable. The Minister also refused to establish a commission of investigation up to the point where that position became completely untenable. That is the only reason we are now having this commission of investigation. It was nothing to do with judgment or this Government doing the right thing. It was because it got to the point where it had no choice but to do the right thing. The Minister gave incorrect information to the Dáil on the key IBRC board meetings where the decision was taken on the Siteserv sale while board papers mysteriously appeared just last week.

As Minister for Finance he has responsibility for oversight of the spending of public money and that leaves a lot to be desired. Has the Taoiseach even asked for an apology from the Minister? Could he not have insisted on a commission of investigation from the very start if he was providing leadership from the front? Where is the ministerial score card? Does the Minister remember the Taoiseach talking about that? It is just as well he dropped that idea. I believe the Minister failed in respect of his duty to be accountable to the Dáil. He failed to provide accurate answers and through the inaccurate answers he provided he misrepresented the actual situation. I believe the Minister failed adequately to oversee the spending of public money and was therefore not doing his duty as Minister for Finance. The Government often boasts about its hard work to restore Ireland's reputation internationally following the mess that Fianna Fáil made but this type of golden circle politics is straight out of the old Fianna Fáil handbook. The silence from the Labour Party is deafening.

The Minister's performance is only the latest in a series of senior Cabinet Ministers failing in their responsibility, Phil Hogan, Deputies James Reilly and Alan Shatter, and now, Deputy Michael Noonan, all of whom have caused serious problems within their respective Departments and the other three certainly left big messes behind them. The Taoiseach seems to have set the bar so low that anything goes. This is a Taoiseach who is leading from the rear, not just in this whole debacle but on whistleblowers, the McNulty affair, the Shatter and Garda Commissioner affair and now Siteserv. A Taoiseach who leads from the rear does not lead at all. That is what is wrong with this Government.

**Deputy Dara Calleary:** "This was a democratic revolution at the ballot box...The chasm opened between people and government has to be rebuilt." Those were the words of the Tao-

iseach on the night of the general election in 2011. Tonight we can officially declare that revolution dead. Those who were handed responsibility for seeing it through have failed rather spectacularly and the commission of inquiry being established will serve as a post mortem on the Taoiseach's 2011 revolution. The democratic revolution died from the start in every Department. As Deputy Shortall and several other speakers on this side of the House said, because this is where most of the speakers are, this Minister and his colleagues do not provide answers to parliamentary questions and do not give information at Question Time. Today we have what the Government sees as holding itself to account, a series of statements that do not allow for questions. We have had the same on Aer Lingus and many other issues, day-long statements where the business gets cleared, a smoke screen of accountability with no questions answered. I pay tribute to Deputy Catherine Murphy because she has shown all Deputies, particularly those on the Opposition benches, that we must persevere if we are to obtain answers. Deputies who table parliamentary questions frequently do not get the answers they are looking for from many Ministers, regardless of how tightly they frame the question. This may not be the fault of Ministers, but they sign off on the replies, the authors of which go to great lengths to deliberately not answer the question asked. In this case, the Minister believed that Deputy Murphy would go away and he would get away with it. It is to the Deputy's credit that she did not go away, because we are having this debate as a result of her intervention and the work she has done.

Credit is also due to my party leader, Deputy Micheál Martin, who has done a great deal of work on this issue in recent days. He took on vested interests in media and radio broadcasts when he challenged people who had been sent out to speak on behalf of some of the individuals involved in this case and in doing so threw around names and allegations and failed to address the substantive issue. Deputy Martin deserves credit for standing up to that behaviour.

It is very disappointing that, during a nine-day period when the privilege of the House and the responsibility that comes with that were under attack, Members who used this privilege to impart important political information in a responsible manner were not defended by the father of the House. The longest-serving Member of the House has a particular responsibility to the traditions and privileges of the House, yet he went silent when one of the most basic requirements of parliamentarians came under threat. It is to the Taoiseach's shame that he would not stand up and defend parliamentary privilege and instead effectively hid for nine days without commenting. He has yet to give a substantive defence of his position during that time.

The appointment of the chairman of the commission of inquiry will be very important. The Government must appoint a judge with experience of the commercial courts, one who understands the practices involved in such complex transactions and systems. Unless somebody with experience in managing these matters is appointed to head up the commission of inquiry, it will be weakened from the start, notwithstanding my belief that it will get nowhere in any case.

The Minister is a long-serving Member of the Oireachtas. If he has any respect for the House, he must ensure the commission of inquiry furnishes an interim report. By their absence from the Chamber in the hours since this debate commenced, it is clear that many of the Minister's colleagues hope and assume that the report will not be published until after the general election, at which point we will be told, as we were when the Moriarty report was published, that everything will change. The report will be sent to various Departments, the Director of Public Prosecutions and the Office of the Director of Corporate Enforcement and nothing will be done. If the Minister believes he is doing the right thing - although I am not convinced he believes that - he will provide for the publication of an interim report in September. This is not too much to ask, given the level of resources he is placing at the disposal of the report team.

What do various people following this debate think? What do customers of Anglo Irish Bank, the Irish Bank Resolution Corporation and other banks who adhered to their loan agreements or lost their businesses after being pursued by the banks think when they hear some of the contributions made in this debate and learn of some of the information that is entering the public domain? What do those who have been waiting for 18 months for the Government to extend the terms of the credit guarantee scheme, to allow them to use the scheme and stop banks from closing down their businesses, think when they see the extraordinary lengths to which the Government has gone to try to stop information from coming out? What do people who have lost their homes or businesses following bank foreclosures think when they see the details of this case emerge? Where is the democratic revolution for them? It is nowhere to be found. What has been exposed and dragged out in this Chamber though this debate is that there is one law for the rich, the elite of this country, and another law for everyone else. While some people lost their businesses and suffered the strain of recent years, others appear to have been given *carte blanche* to do as they pleased.

If the Minister, I or anybody else were to argue that we had a verbal agreement with our bank to do X, Y or Z, we would be laughed out of court and would lose our business, home or job. Banks consistently tell Deputies making representations on behalf of constituents that agreements must be in writing. In the case of businesses whose loans have been sold to investment funds, even where they have a written agreement, the purchasers of the loans have sought time and again to use the terms of their contracts to breach the loan terms and get their hands on important assets. No verbal agreement is good enough to extend the terms of such loans, and no pat on the back, handshake or nod and wink was good enough to prevent a large number of people from losing their assets.

What must former employees of Anglo Irish Bank who were not involved in management and in cutting deals think? Many of them are still waiting, as creditors, for redundancy payments and other payments due to them. What do they think when they see the deals that were done to suit management and particular customers of the bank? These deals were done when the bank had public interest directors. After what we have heard this evening, even before the commission of investigation commences, how are we to define the role of public interest directors?

Many of the questions that arise from this debate need to be directed at the Department. The Minister must stand back and examine these issues. The reorganisation of the Department of Finance and the decision to place its expenditure and public service elements in the new Department of Public Expenditure and Reform were meant to prevent a repetition of the types of decision that preceded the economic crisis and free up one side of the Department for banking, taxation and revenue functions, while shifting expenditure and public service reform functions to a new Department. Despite his having a much smaller workload than many of his predecessors, the events we are discussing occurred on the Minister's watch. That one of the Government's most important relationships in the area of banking policy was allowed to deteriorate to such an extent, that so many balls were dropped in this relationship and that the Minister has put up his hands and stated he was not aware of or did not understand the full extent of the deterioration is not good enough. As the person who is in charge of a Department, including a specific relationship that had important consequences for the economy, he should have been on top of every aspect of this relationship. He should have had Alan Dukes in his office every month to try to understand what was taking place in IBRC, given that Mr. Dukes was the public interest director and it is the Minister's job to protect the public interest. For some reason,

however, the relationship deteriorated to the point that the Department did not appear to believe it was sufficiently important to record minutes. The Minister was hung out to dry by statements he made to the Dáil on the basis of advice he had received. None of this reflects a functioning relationship and it is not good enough. The Minister must ensure that whoever dropped the ball and ensured that information was not given and write-downs not accounted for must pay with his or her job. Many others outside the political system have paid with their jobs as the banks closed down their businesses or foreclosed on their homes. They did not have the relationship with their banks that some people appear to have had with theirs.

**Deputy Jonathan O'Brien:** Most of the statements made in this debate will be repeated by various speakers before midnight or when the debate resumes tomorrow. While it is worthwhile to listen to some of the contributions, much of the information we have heard is already in the public domain. The developments of recent weeks have been extraordinary to say the least. Deputy Catherine Murphy, speaking on the First Stage of a Private Members' Bill, made a number of statements which were not reported by the media because they feared an injunction that had been taken out previously by Mr. Denis O'Brien. Anyone looking at the issue from the outside would have realised that Deputy Murphy's contribution was being discussed on social media outlets, in pubs, homes and GAA clubs, yet the media was reluctant to report on the matter.

The outcome of the High Court case was to be expected. Anyone would know and any legal advice those media outlets received would have stated that Dáil privilege is absolute and can be reported on.

It is the responsibility not just of the Opposition Members of the House to protect and articulate the position of absolute privilege when it comes to utterances within the Chamber, it is also the responsibility of the Government, including members of the Cabinet like the Minister for Finance and the other two Ministers in the House and backbenchers. Not to come out over the period of time and robustly defend the rights of Members of the House to make speeches and be reported on in a fair and accurate manner was a failing of the Government.

I remember my very first contribution in the Chamber in 2011. We were discussing the recommendations of the Moriarty tribunal. I remember it because my phone rang two minutes into my contribution and as I was speaking about Denis O'Brien and the acquisition of the licences. I thought it was ironic at the time.

**Deputy Peter Mathews:** It was his lawyers.

**Deputy Jonathan O'Brien:** It probably was. That was the very first contribution I made in the Chamber and here I am four years later and we are still discussing the same individual and his business dealings. Given the fact we were discussing the recommendations of the Moriarty tribunal as far back as March and April 2011, it says a lot about the democratic revolution the Government promised that those recommendations still have not been implemented in 2015. In fact, I remember the Taoiseach saying at the time that he would break the culture between politics and business and that never again would this be allowed to happen. We had spent €50 million on a tribunal and it was public money. We had an obligation as legislators to ensure that we cleaned up our act. The fact the recommendations are still sitting on a shelf in the Taoiseach's office says a great deal.

Many people have spoken about things in relation to Denis O'Brien, Siteserv and IBRC, but

this motion is about the terms of reference of the commission. The Minister for Finance met with Opposition party leaders and Deputy Mary Lou McDonald to get their input. While he has taken on board some of their concerns, he has not addressed all of them. I want to touch on one or two and state why I, as a Member of the House, believe the Minister should reconsider.

On the ability to look at a capital loss of €10 million, the Minister will say he has given the judge scope to look at transactions below that threshold if need be and if it is in the public interest. However, there is no obligation on the judge to do so. That is something which should be reviewed. In our amendment to the terms of reference, we have put a figure of €1 million on it. That would be a far more appropriate figure. Another issue is in relation to the role of the Minister and that of the Department. I am led to believe that under the terms of reference, the commission will look at whether the Minister for Finance was kept informed of the dealings within IBRC. It needs to go beyond that because we are dealing with public money. We must also look at the fact officials within the Department of Finance had raised concerns and the Minister sought to downplay them by way of discussions with the relevant individuals concerned. The Minister took their word over that of the officials who were raising these very grave concerns within his own Department. We need to look not only in terms of being kept informed but at the role of the Department and that of the Minister to see whether appropriate action was taken. Given his responsibility for ensuring that public money is protected and spent properly, was the Minister proactively ensuring that was the case? There was a responsibility not just to keep himself informed by way of discussions, but also to take steps to ensure that there was proper governance and accountability within IBRC at board level. That is something that needs to be looked at and, as such, Deputy Doherty has included it in our amendment.

If the commission of investigation is to have any credibility, it must produce an interim report. We have mentioned October as a possible date for that. There is a public perception, rightly or wrongly, that this has been put on the long finger and that the interim report date of 31 December 2015 is too far away. If this commission of investigation is to have public confidence as well as the confidence of all Members of the House, we must look at the commission being able to report sooner than proposed in the terms of reference. There is no doubt that there is a disconnect between the body politic and the public at the moment. It is something we all have a responsibility to rectify. The commission of investigation is critically important not only to get to the root of what it is due to investigate, but also to look at the processes and relationships between all of the various stakeholders, including IBRC, the Department of Finance, the Minister and the special liquidators. That needs to be taken into account.

My final point relates to the proposed cut-off date in the terms of reference. It states that the commission will consider matters from 2009 right up to the night of the liquidation. That is not adequate. We need to look at transactions and dealings post the night of the liquidation. We need to be looking at matters right up to the current day. In order to have any public confidence in the commission of investigation and to ensure that all of the facts are investigated in a timely and proper manner, we need to extend that deadline. We need to be able to go beyond the night of the liquidation to look at other areas.

**Deputy Thomas Pringle:** I start by paying tribute to Deputy Catherine Murphy on the work she has done over the last number of months in helping to bring this issue to the fore. This is my first opportunity to congratulate her on the record of the Dáil. There is no doubt that we would not be having this debate this evening were it not for her work. We would not have seen the commission of investigation being launched today by the Government. In the last ten to 12 days, we have seen very serious attacks on the use of privilege by Members of the Dáil. It

is very important that it has been cleared up. I commend RTE and *The Irish Times* for going to court to clarify that it was not the court's intention at any stage to stifle the privilege of Dáil Members. It is interesting to see that the biggest media group in the State, Independent News and Media, did not deem it necessary to go to court to have that right established. We all know the reason is that the group is largely owned by the individual who is the subject of the questions, Denis O'Brien, who is the reason we are here tonight.

I refer to Leaders' Questions today when the Taoiseach was asked why he showed a lack of leadership and did not defend the rights of Members of the Dáil to raise questions in the House when the situation was up in the air and we awaited clarification from the court. The Taoiseach's only response was that a recall of the Dáil would be to allow the Committee on Procedure and Privileges to decide whether the Member should be reprimanded for abusing the privilege rather than defending a Member's right to make statements and to represent the public interest in the House.

The reason we are here today is because of the lack of replies to parliamentary questions. Deputy Tom Fleming and other Members referred to Mr. Justice Hamilton's remarks with regard to the beef tribunal when he said that if parliamentary questions had been answered as openly in the Dáil as they were at the tribunal, there would have been no need for the tribunal. This is a very telling statement. I refer to the tenacity of Deputy Murphy who continued asking questions. Her 19 questions were followed by a freedom of information request before she discovered that the Department of Finance had serious misgivings about how IBRC was being managed and the deals it was doing. Those concerns were not being expressed and were not dealt with in replies to parliamentary questions. All Deputies submit questions to Departments and we should wonder whether we are getting answers. When I came to the House in 2011 it may have been naive of me to believe that parliamentary questions were a good way of getting information from Departments and of finding out what was happening within government and how decisions were made. However, one must question the answers we have all received over the past number of years. Some of us did not have the tenacity of Deputy Murphy to keep looking for answers. The House may have been misled on many other issues or we may have overlooked them or not appreciated the significance of the responses we received.

The Minister made a personal statement to make a series of corrections to contributions he made on behalf of the Department. I ask why this was a personal statement because when the Minister speaks in the House, he is representing his Department and the corporate body of the Department rather than his own personal interests. I would have thought that personal statements would relate solely to the personal matters of an individual. Why could the corrections to the record relating to the Department not be teased out further so that questions could be asked about the misleading answers that were given over a number of months? We discovered that the Department had the information and the minutes of the meeting to hand but it chose not to answer the questions. That is the very serious aspect of this debacle. The commission of investigation should examine the role of the Department by its acts of omission in misleading this House and its role in facilitating what was happening in IBRC. While it may have had concerns, I ask what was it doing about those concerns when these issues were arising. This needs to be investigated and dealt with.

There is no doubt that IBRC has worked very favourable dealings with certain individuals. It points to what is obvious to everybody that it depends on who one is in this country as to how one is dealt with. That is the case in all aspects of government business and public life. It is a very telling and sad reflection on the state of our country, of our nation and of our public bod-

ies. An individual who has huge personal wealth and is deemed to have personal power and close links with the major Government party can get preferential and favourable treatment. A very wealthy individual can have a verbal arrangement with the CEO of a bank and have loan arrangements decided on the basis of that conversation. All he needs to do is to remind the bank's receiver of this conversation, even though I understand the former CEO has disputed the situation.

The commission of investigation will need to examine all the transactions to discover what other individuals and companies benefited from the largesse of the taxpayer by having their debts written off by means of favourable agreements and favourable interest rates. It has been shown that individuals and citizens who are struggling cannot even have a discussion with a bank about favourable terms. The banks will not talk to those people and they are left high and dry.

The commission of investigation will need to expose the web of conflicts of interest that permeate every aspect of business in this State. The Siteserv sale has highlighted that the businesses, companies, legal advisers and accountancy firms advised both parties to a sale. This is a complete conflict of interest. The companies should have excused themselves from that process and allowed another company to take their place. I would never advise that a solicitor should act for both parties in a transaction, yet this is what happens at the level of top business in this country. We hear all this talk of Chinese walls but the Chinese walls would have to be as big as the Great Wall of China to protect the interests of the State with regard to the practices in these businesses.

The commission of investigation should examine what has happened after the liquidation of IBRC, because significant decisions were made at that stage. I refer in particular to the sale of mortgages from the former IBRC. A total of 12,700 mortgages were sold off to venture capital funds - vulture capitalists, as they are commonly called. These mortgages had a face value of €1.8 billion but we do not know what the loss has been to the taxpayer because neither the Department nor the receiver will reveal it. We do not know the selling price of these mortgages. An examination would show how different people are treated in this society. From dealing with individual mortgage holders I know that some of them would have been in a position to buy out their mortgages from IBRC if permitted, but when they asked to do this, they were shot down by the receiver and their mortgages were packaged up and sold off to vulture funds who are now calling in the full face value of the amount owed on those mortgages. Those people were not given favourable agreements or treatment from IBRC because they were neither wealthy enough nor well connected.

**Deputy Éamon Ó Cuív:** I am delighted to have an opportunity to speak on this motion. I am glad that the Government at last has come a small piece of the way to dealing with this issue. However, the very establishment of this inquiry, which is very urgently needed, raises many serious issues. I hope that when the Minister replies to the debate he will give me information on one issue. When the parliamentary replies were being given, did the Minister look at those replies and did he, for example, ever comment that he thought maybe the Department was not being as forthcoming as it should have been in those replies? When I was Minister for Community, Rural and Gaeltacht Affairs, I used to check any policy answer given by the Department. It was difficult to read every answer when I was Minister for Social Protection for obvious reasons in that most questions related to individual social welfare claimants but I always read answers on policy issues. In a smaller Department, such as the Department of Finance, which receives fewer parliamentary questions, I would have read every reply. If I thought the De-

partment was not forthcoming with the full information, I used to send it back and say that the Deputy was entitled to the full information and there should be no attempt to hold back. Did the Minister, Deputy Noonan, personally read these replies and, at any stage, did he go back to his officials and say he was not very clear as to whether the full information was being given? If he was not clear, the Deputy who asked the question must have been less clear. It seems there has been a policy here, which is common in Departments, to give as little information as possible in parliamentary replies. I have never agreed with this, either as a Minister or as an opposition Deputy. I call it the mushroom treatment - keep them in the dark and heap as much manure as possible on the matter.

I hope there are no thoughts in this Government of using the setting up of this commission as some way of kicking the issue beyond the next election. The least we are owed as parliamentarians is an interim progress report in October.

Deputy Pringle made a fair point about the way in which the Government is operating. There seems to be one rule for the rich and one for the poor. Since I was Minister for Social Protection, I have had constant dealings with an organisation based in the midlands called the Phoenix Project, which deals with people with distressed mortgages. Time and again, it has made suggestions to the Government as to how it could ensure fair play for people who are getting constant hassle from banks in respect of mortgages. If even a part of the allegations being thrown around about preferential interest rates, deals and sales is true for people who are powerful and wealthy, it is worth contrasting that with the treatment of ordinary citizens. The Phoenix Project and I have cases on our desks of very ordinary people who have hit hard times and are managing at great personal cost to pay all of the interest and some of the capital to lenders that are charging outrageous rates of interest. These mortgage holders are still being pursued by the banks for repossession of their property. No wonder people are cynical about what is happening. Proposals have been made to the Department of Finance and to the Taoiseach as to how we could protect these small people.

We will know more when the commission report comes out, but the facts we know now call into question the Minister for Finance's approach to the handling of the large portfolios entrusted to him in March 2011. I will mention three of them: NAMA, IBRC and AIB-Bank of Ireland. The Minister was entrusted with these, running to billions and billions of potential assets. With very little explanation, he has rushed the sale of NAMA assets and I suspect that the issues arising in IBRC will also arise in the way the NAMA assets are being handled. For some reason best known to himself, the Minister is not maximising the State's take on behalf of the people. The whole idea of setting up NAMA was that one could play it along the market over a long period, through both rental and sales, to recoup the money. The Minister then went into a rushed liquidation of IBRC, and we will leave it to the commission to start working over the entrails. I believe we are likely to find that we could have achieved a lot more value. Instead of saying to the bankers, "You made a mess and we are going to get our money back before you get your hands on it, if ever," we are in a rush sale. The Minister has already sold most of Bank of Ireland and now he is in some crazy rush to sell AIB.

I have always believed that at the end of the day, our investments in the bank should, taking an aggregate of the totality, be used to recoup our full money. One way of teaching the bankers not to mess around with the people again was to hold on to the assets, at least until we had recouped all our investments in them. I do not go along with the theory that we should not have ensured that we defend the depositors through the guarantee. It was a question of the best tactic in the short term for stopping a run on the bank. Whatever way we did it, in the long term, we

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should recoup all the money from the investment in the bank.

AIB, for example, is returning to profit, yet just as it is beginning to give a return on its investment, the Government is trying to get rid of it. It is worthy of note that Irish Life, in its original form, was taken over way back because it ran into financial trouble, and we held on to that company for years and made massive profits for the State by holding on to it. As I remember, it did not stop operating as quite a good life insurance company just because the shareholder happened to be the State.

We need to look at each of the transactions to see whether the Minister for Finance has kept oversight over the operation of NAMA, the IBRC and AIB. We also must question the Government's macro policy, which seems to be to sell the goose that lays the golden eggs. We know what happened the guy who killed the goose that laid the golden egg - he got no more eggs.

**Deputy Michael Noonan:** The goose was dead when I got in.

**Deputy Éamon Ó Cuív:** The Minister spoke without interruption.

The fact of the matter is that all the macro plans the Minister followed were put in place by us. All he had to do was to follow them but he has managed to go in and make some very bad decisions. Furthermore, I ask the Minister, Deputy Alan Kelly, since he is responsible for housing, how the Labour Party concluded that it was a good idea to get rid of the mortgage interest supplement, which was specifically mentioned in the four-year plan as not only to be retained but to be strengthened? Why did he take that away as a safety net for the citizens? I do not know if any Government Deputy will speak tonight, because I notice it is opposition Deputies who are speaking. If he replies, I hope the Minister, Deputy Kelly, will explain why he and his colleague, the Tánaiste, took away that fantastic safety net just when it was most needed by the plain people of Ireland. Of course, the Minister, Deputy Kelly, is helping the big boys and doing the small ones.

**Deputy Mattie McGrath:** I am pleased to be able to speak tonight on this tangled web.

**Deputy Peter Mathews:** Excuse me. I ask the Acting Chairman whether I am listed to speak.

**Acting Chairman (Deputy Bernard J. Durkan):** Deputy McGrath is next.

**Deputy Peter Mathews:** Am I further down the list?

**Acting Chairman (Deputy Bernard J. Durkan):** You are.

**Deputy Peter Mathews:** Apologies.

**Deputy Mattie McGrath:** I am replacing Deputy Finian McGrath. It is like the banks in that there are all kinds of lists and we do not know where we are with anything.

I am delighted the Minister is here tonight. I know he has tried hard since he came into government to sort out the banking mess but huge question marks have arisen. I have some questions for the Minister as well.

In March 2012, an O'Brien special purpose vehicle, Millington Limited, was bidding €50 million in cash for Siteserv, the company we hear so much about today. The Minister should not look so perplexed. I have some questions that I have-----

**Acting Chairman (Deputy Bernard J. Durkan):** I warn the Deputy that I do not want the debate to drift into what is the subject matter of the origins of the debate. Just because issues are in the public domain does not mean I want new issues and new material brought into it. The House should always be aware that Members have absolute privilege and they can exercise that absolute privilege. However, that does not stop a member of the public outside from taking an action against the Houses.

**Deputy Mattie McGrath:** I did not say it could, so I hope the Chair will allow me my time. I do not know whether we are here to thrash this out.

**Acting Chairman (Deputy Bernard J. Durkan):** The Deputy knows the rules of the House.

**Deputy Mattie McGrath:** I know the rules of the House and that was upheld by my good learned colleague from Tipperary last week in the High Court. This is what is going on. Given that Mr. X - we all know who he is - owed €500 million to IBRC in March 2012, why did that bank not ask him to pay down his debt by €50 million rather than giving him money to purchase Siteserv? It is a simple question. Given that Mr. X owed €500 million to IBRC, was IBRC not concerned that Mr. X was funding the purchase with yet more debt from other banks, making IBRC's lending position unsustainable? These are simple questions. What steps were taken by the board of IBRC to gain a full picture of Mr. X's Irish and international borrowings before the entry into the Siteserv deal? If the Acting Chairman, the Minister, Deputy Noonan, or I walked into the bank and we owed it €10,000 and wanted a loan of €4,000, we would hardly be asked the questions. There are two levels here, two different rules, given other IBRC customers were being put out of business for tiny bits and pieces.

All these accounts were based on the annual returns under the companies Act 2006, and we know where they are, that is, at Barclays Bank. What is more worrying is an internal e-mail that I have in my possession from two senior managers in IBRC, although I will not name them as the Chair has asked me not to. The content of the e-mail is strange:

You want to send me over your one non nama (if you did one for it) and I will lash them out later - have a quick read of [Mr. X] too - there will be fire works!!

This was internal. The Minister said he could not find them but they are all there. I have them here and I can hand them to him, and the documents to go with them. This is the fireworks that are going on now. The taxpayer is picking up the fireworks and they are scorched red raw from paying for this criminal activity, or what is bordering criminal activity, that went on in our banking system.

You cannot blame it all on the last Government. This is all on your watch and on the watch of the other Minister who only came into the House lately.

**Acting Chairman (Deputy Bernard J. Durkan):** The Deputy should speak through the Chair.

**Deputy Mattie McGrath:** I am talking through the Chair. Relax, Acting Chairman.

**Acting Chairman (Deputy Bernard J. Durkan):** I am totally relaxed, I can assure the Deputy. Speakers are always advised to speak through the Chair to avoid aggravation.

**Deputy Mattie McGrath:** The Acting Chairman is taking up my time.

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**Acting Chairman (Deputy Bernard J. Durkan):** I have no wish to take up the Deputy's time but I have every right to remind the Deputy.

**Deputy Mattie McGrath:** Of course. I will not forget. Do not worry. Relax.

**Acting Chairman (Deputy Bernard J. Durkan):** I am totally relaxed.

**Deputy Mattie McGrath:** Mr. Dukes and Mr. Aynsley failed to file an up-to-date statement of affairs up to the date of liquidation of IBRC and they were taken to court by former customers. I was there in the court that same day. A letter from the Minister for Finance - I will not name him but we all know him - was handed to the High Court judge, Ms Justice Laffoy, that day from the Minister himself. Was this the correct procedure - the Executive writing to a judge in open court? That happened, and the Minister's records will show that. Mr. Dukes and others were, as far as I am concerned, allowed to operate outside the law.

Is this a cosy Fine Gael cartel? That is my challenge here. The Minister can heap whatever he wants on previous Government but the ordinary people are being persecuted. They were told the Government would burn the bondholders. I sat here and listened to the former Tánaiste, Deputy Gilmore, tell us the fire was going to be so hot that hell's fire would not be a patch on it. Where are we now? We have all this going on under our noses. What about the common people, the plain people and, moreover, the people who are being evicted every day of the week? What about the business people I know of, whom the Minister's Oireachtas colleagues bring to him but whom he tells to go away because he does not want to know about it? These are the people who are being persecuted and downtrodden. What about the lady in Cashel in Tipperary who is being intimidated and bullied by NAMA after her husband committed suicide?

We will be here again in ten years' time or sooner. I might not be here but there will be people elected to this House who will enquire into NAMA. The Minister knows this better than I do. They will be here as sure as Deputy Durkan is sitting in the Chair tonight and reminding me of my responsibilities. We all have responsibilities to the people who elected us not to have this charade that is going on under our noses.

The Government has been forced into this. Where is the Taoiseach, Deputy Kenny? Where is the Tánaiste, Deputy Burton? I do not see them listed to speak, although maybe they will speak tomorrow or maybe they will be saved by the bell. I was listening to Oliver Callan the other day, who was portraying the Minister of State, Deputy Ring, looking for the Taoiseach. He was going to the Garda station to report he was missing for two weeks and could not be found. He can be found opening bottle banks in Mayo but he will not deal with the substantive issues.

There is a cosy cartel here that extends right around Fine Gael and goes back a long time. It goes back to where they came from and where they were conceived - some of the people and the party. They are all looking after themselves, not the ordinary people. They never looked after them. They are looking after the big people - big business and big bankers. That is who they are looking after, or, as Deputy Bannon would say, the men of the big houses with the dapper little lines running up the avenues to them.

I know what they are looking after when there is a write-down of €119 million for Siteserv. The whole process of the sale of Siteserv was despicable. The shareholders got €5 million for a thing that was bankrupt. We would not read it in a thriller. If it was not so serious, anyone would think it was comedy. A black comedy is what it is.

I say this to the Minister, Deputy Noonan, the Minister for Justice and Equality, Deputy Fitzgerald, and the Minister for the Environment, Community and Local Government, Deputy Kelly, who will tell us how to get a lead out of pipes next. It is a magician he is going to be, when we know that every town and village in my county has lead pipes all over the streets and running into houses as well. We are now going to bully them in legislation that the Government forced through here. The former Minister, big Phil the enforcer, forced it through. Household-ers heard this morning that, by law, they are going to have to change their pipes inside. God knows what they will give them in the water next to put them to sleep altogether and make them comatose. It is the Ministers who are in a coma for the past four years and they think the people do not know about it. It is disgusting in the extreme what has gone on here.

The Minister for Justice and Equality may turn and say something to the Minister, Deputy Kelly, but I do not mind what she says. I am just telling the truth as the ordinary people know it. What is going on is a rotten stinking cesspit for the big people. I had business people in the House last week, having brought them here and there trying to get some kind of solace. Many of them are put to the pin of their collar, suicidal and forced to go in when they will not get a penny of social welfare. I salute the social welfare officers who have tried to help them because they are being terrorised. A cosy deal done and cosy cartels; it has not changed. You were going to have openness, transparency and NewERA, but you looked after your friends first and fooled the people and coddled the people. You are not fooling the people any longer.

Whoever the judge is, I wish him time, patience and endurance. I hope he will have the resources to investigate this fully because the people smell the rot. It is like the blight in the potatoes, it is spreading so fast. The members of this Government will not escape. They cannot escape because they looked over this, they ignored it, and they actually supported it in many ways.

We know former taoisigh were on the board of IBRC and they were not from a certain party either but from a certain distinguished line. They had to have the blue blood to be in certain places. The Minister should be ashamed of himself. He got away lightly. He has the Midas touch and I wish him well, and in his health as well. To my near neighbour, I do not like saying this to him but he has dirt on his fingers on this. The people will be the final judge. As I said, we will be back here, in ten years time or whenever, dealing with the skulduggery and the corruption that is going on in NAMA, not to mention the corruption in this issue, not to mention the corruption in Irish Water. It is a corrupt organisation set up by this Government and forced through this House. I had 90 year old woman from Clonmel contact me tonight and she has been ringing me all day today-----

**Acting Chairman (Deputy Bernard J. Durkan):** I want to bring to your attention-----

**Deputy Mattie McGrath:** Your are wasting more time. Let me finish. I am nearly finished.

**Acting Chairman (Deputy Bernard J. Durkan):** I am not wasting time. I am bringing to your attention that you cannot allege corruption-----

**Deputy Mattie McGrath:** It is blatantly corrupt.

*12 o'clock*

**Acting Chairman (Deputy Bernard J. Durkan):** Let me remind you once again, Deputy-----

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**Deputy Mattie McGrath:** It is blatantly corrupt.

**Acting Chairman (Deputy Bernard J. Durkan):** I am sorry. That is not your function at all. That is for a court of law. Deputy, you have concluded.

**Deputy Mattie McGrath:** Sorry, I am not finished. The Acting Chairman took at least half a minute off me.

**Acting Chairman (Deputy Bernard J. Durkan):** You had concluded.

**Deputy Mattie McGrath:** I did not conclude. I sat down when the Acting Chairman was speaking.

**Acting Chairman (Deputy Bernard J. Durkan):** Deputy, you will resume your seat because you are out of order.

**Deputy Mattie McGrath:** I did not conclude.

**Acting Chairman (Deputy Bernard J. Durkan):** You are out of order.

**Deputy Mattie McGrath:** I am not out of order.

**Acting Chairman (Deputy Bernard J. Durkan):** Resume your seat. Deputy Peter Mathews is the next speaker.

**Deputy Mattie McGrath:** The Acting Chairman stopped me. I had at least 30 seconds. The Acting Chairman stopped me three times.

**Acting Chairman (Deputy Bernard J. Durkan):** You are out of order and you refused to accept my advice.

**Deputy Mattie McGrath:** I accepted the advice. I will put on the record what I want to put on it and I will continue. We will not be silenced.

**Acting Chairman (Deputy Bernard J. Durkan):** I am sorry, Deputy. The debate is adjourned.

Debate adjourned.

### **Message from Select Sub-Committee**

**Acting Chairman (Deputy Bernard J. Durkan):** The Select Sub-Committee on Environment, Community and Local Government has completed its consideration of the Climate Action and Low Carbon Development Bill 2015 and has made no amendment thereto.

The Dáil adjourned at 12 midnight until 9.30 a.m. on Wednesday, 10 June 2015.