



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Céadaoin, 17 Meitheamh 2015

Wednesday, 17 June 2015

Chuaigh an Leas-Cheann Comhairle i gceannas ar 9.30 a.m.

Paidir.

Prayer.

Ceisteanna - Questions

Priority Questions

Dublin City Centre Transport Study

1. **Deputy Timmy Dooley** asked the Minister for Transport, Tourism and Sport his views on the changes to transport in the centre of Dublin proposed by Dublin City Council and the National Transport Authority in the Dublin city centre transport study; his further views on the proposals to ban private cars from key central routes within the city centre; and if he will make a statement on the matter. [23835/15]

Deputy Timmy Dooley: The Minister will be aware that the National Transport Authority has prepared a report that seeks to ban private cars, including taxis, from key central routes in Dublin city centre. Will he outline his views on the report to the House?

Minister for Transport, Tourism and Sport (Deputy Paschal Donohoe): Before I reply to the Deputy's question, I add my voice to the voices of those who spoke in the Dáil yesterday about the awful tragedy and loss of life in Berkeley. My thoughts, like those of everyone else, are with the families of those involved and everyone else who has been affected by this incident.

The Dublin city transport study which was recently published jointly by the National Transport Authority and Dublin City Council comprises a set of proposals to enhance overall movement in the city and cater for increased usage. It seeks to address the imminent transport issues facing the core city centre area, to facilitate the implementation of the Dublin City Council development plan and to safeguard the future growth of the city. A public consultation process is being carried out on the study. Anyone who wishes to make a submission on the study can do so online at www.dublincity.ie/transportstudy. The closing date for receipt of submissions is Thursday, 16 July.

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As the study is the subject of a public consultation process, it would not be appropriate for me to comment on individual proposals. Decisions on specific traffic management measures are the responsibility of the local authority and will be matters for Dublin City Council to progress when the consultation process is complete. Councillors will have to decide whether to include the various recommendations, some of which are controversial, in its next development plan. I confirm that the general thrust of the proposals is in line with my Department's overall strategic policy for sustainable urban transport. I do not doubt that in the public consultation process we will hear from city centre business interests who believe private cars should form part of the transport mix, for example, to allow city centre shoppers to purchase large and bulky items. A key objective of transport policy is to ensure investment is targeted in the most effective way that encourages people to leave the car at home, where possible, and to walk, cycle or avail of public transport. The study will play a role in seeking to determine the most appropriate way to make progress with that agenda, taking account of all stakeholder views.

Deputy Timmy Dooley: I am disappointed that the Minister is not in a position to put his views clearly into the public realm. I accept the statutory position he is in. It would be highly unusual if, as the Minister with responsibility for transport, he felt precluded from offering his views on this matter. If he were to offer them, I do not think it would conflict in any way with the roles of Dublin City Council or the National Transport Authority as set out in statute. Given that the total ban faced by private motorists on College Green and parts of the quays needs to be addressed in advance, I suggest the Minister set out his views as part of the process of public consultation. I totally believe in the concept of improving the movement of buses, trams, cyclists and pedestrians as part of the National Transport Authority's plan to cope with the expected 20% increase in commuter numbers. As the Minister knows, the report points out that O'Connell Bridge is used by approximately 70,000 vehicles each day, or approximately 60% of the number of vehicles that use the M50 each day. These are startling figures. It is right and appropriate that an approach be taken to ameliorate the expected increase in order that everybody can go about his or her business. Mr. Conor Faughnan of AA Ireland has suggested there has been a belief for some time that four wheels are bad and two wheels are good. Unfortunately, that attitude is starting to find a level of acceptance in certain State agencies. We need to look at everything on its merits. The greater the number of people who involve themselves in the discourse during this process - that includes the Minister - the more helpful and beneficial it will be to whatever is the final draft. We have to look at the importance of the motorist, especially in the light of what he or she contributes to the economy generally.

Deputy Paschal Donohoe: A recognition of the role played by Dublin City Council in this respect, as well as the powers afforded to the council under law and the use made of these powers, needs to be at the heart of the discussion. The council is looking to hear the views of the people of the city and beyond on its proposals. While that consultation process is ongoing, it would be inappropriate for me to become publicly involved in a draft plan that is out for consultation. As I said to the Deputy, I support the overall objectives of the plan. It is essential that we find the right transport mix to deal with the huge increased demand for road space in the future owing to the recovering economy. In the past five years the Government has made funding of approximately €97 million available via the National Transport Authority for improvements in transport infrastructure in this area. The Government is also investing almost €370 million in the cross-city Luas line which will be operational in 2017.

Deputy Timmy Dooley: The Minister is well aware of how well pedestrian zones work in cities throughout the world. It is, undoubtedly, fantastic that they improve the living space and

allow people to get around, but they have to be developed in harmony with people's ability to gain access to such locations by means of private cars or public transport. There is a delicate and fine balance between the two. On the basis of what I have read so far, I am concerned that the broader exclusion of the car from the city centre almost has the potential to make a park out of that zone. If access to the city centre is restricted and the volume of people is reduced, there will be no level of activity there. It will become a no-go zone for people who will choose to do their business elsewhere. We should have learned from experience around the world when city centres started to be hollowed out. Much of that happened as a result of people's decisions to move to commuter belts and live on the outskirts of cities. If a business district is created in the city centre and cars are removed, it could potentially have a really damaging effect on the economic life of the city. For that reason, I hope people's views will be listened to as part of a broader consultation process. The consultation process on this report should not be mere window-dressing that will allow Dublin City Council and the National Transport Authority to drive ahead with this agenda.

Deputy Paschal Donohoe: Nobody involved in the process has the objective of seeking to turn our city centre into a no-go zone or to get to a point at which our city is hollowed out. The objective of the proposals the city council is putting forward is the opposite of this. It wants to create a more vibrant and sustainable city centre balancing the huge number of people passing through it with the needs of the business community and the growing residential community. This is fully recognised by the Government, which is why we are investing in the Luas cross-city project and why we have invested more than €97 million in recent years. We will support good plans for the area depending on the funding available to us. I agree with the Deputy we need a good consultation process and this is under way. I will make comment, and the Department will become involved, at the end of this process when everybody has had an opportunity to make known his or her views.

Irish Airlines Superannuation Scheme

2. **Deputy Dessie Ellis** asked the Minister for Transport, Tourism and Sport if he will commit to providing a portion of the proceeds from any sale of Aer Lingus to protect the pensions of deferred members of the Irish Airlines (general employees) superannuation scheme who worked for Aer Lingus. [23234/15]

Deputy Dessie Ellis: This question is on the possible sale of Aer Lingus and the possible use of the money for the deferred members of the pension scheme. As the Minister knows, a huge issue has arisen in this regard. He has made decisions in the past but I plead once again for something to be done to address the injustice which took place.

Deputy Paschal Donohoe: An agreed solution was implemented at the start of this year to address the funding difficulties in the Irish airlines (general employees) superannuation scheme, IASS. This agreed solution is a matter for the trustee, the companies participating in the scheme and the scheme members and the Pensions Authority. Under the agreed solution, the total contribution proposed by the IASS employers towards resolving the IASS difficulties now amounts to over €260 million. This includes adding a further €20 million to the €40 million already being made available for deferred members, bringing the full amount for this group to €60 million. The trustee has confirmed these measures are in the overall best interest of the members of the IASS as a whole. The solution will continue to be implemented in compliance

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with national and EU law irrespective of the ownership of Aer Lingus. I am very conscious that the agreed solution has a significant impact on many members of the scheme, but as I have said in the House, these risks would have arisen for all members, the companies involved and the wider economy if this solution had not been implemented.

Any proceeds from the sale of the State's minority shareholding in Aer Lingus will be paid into the Exchequer, and the Government has decided that such proceeds should be used to establish a new connectivity fund as a sub-portfolio of the Ireland Strategic Investment Fund. Under EUROSTAT rules, the proceeds arising from the sale of the State's shares in Aer Lingus represent the sale of a financial asset and will have no beneficial impact on Ireland's general Government balance, GGB. Accordingly, the money received will not provide any capacity for additional Government expenditure on a GGB-neutral basis. It is for this reason the proceeds will be allocated to this special fund, which will operate on a commercial basis.

Additional information not given on the floor of the House

Therefore, they will not constitute Government expenditure but will facilitate the re-use of the proceeds for productive purposes within the economy, on a GGB-neutral basis. For this reason, the moneys generated by the sale cannot be used for the reasons proposed by the Deputy.

Deputy Dessie Ellis: Once again, this is very disappointing for the deferred members, many of whom have suffered huge losses. When the State airport Bill was brought forward those who paid a heavy price were the deferred members. We all know this. A terrible injustice was done to them whereby some of them lost between 30% and 50% of their pension. This is not right. It is within the gift of the Minister to re-examine this and push the Cabinet to re-examine it. To come in and say the Government has done a deal and put in so much money, and mention the trustee and what was done, is not good enough. There is room if this goes ahead and the Government gets extra money. The Minister mentioned the Ireland Strategic Investment Fund. From a basic point of humanity and the injustice done to these people, something can and should be done.

Deputy Paschal Donohoe: I am fully aware of the hardship caused to people as a result of what happened to the pension fund. The pension fund faced a huge deficit. The one thing on which I am very clear is if I had gone against the wishes of the trustee, the person whose job it is to administer and run the fund, the Deputy would be the first person in the Dáil Chamber to criticise me for doing so.

I am getting very confused about where the Deputy stands on the sale of Aer Lingus. Is he for the disposal taking place or is he against it? He came into the Dáil for a number of weeks saying he was against the sale happening, but now he has come in here stating he wants the proceeds of the sale to be used in a particular way. The rules in place mean if the stake were to be sold we would not be able to use any funding for current Government expenditure. It can only be used for commercial purposes.

Deputy Dessie Ellis: It is very clear we are against the sale of Aer Lingus. I do not even know the status of what is going on behind the scenes and to where it has progressed. We have been against it for many reasons including connectivity, jobs and the fact the tourism industry has been doing very well with numbers increasing. We are selling off a going concern. I have addressed this. The Government has voted to sell off Aer Lingus. I am looking at the reality of the fund of whatever money the Government will potentially get. It is all well and good talking

about the role of the trustee. This is an issue of a serious injustice. Will the Minister ask his Government colleagues to make an exception and look at the deferred pensioners once again? This is all I am asking, on the basis the Government will get this money. Perhaps the Minister will give us an update on where we are with regard to the Aer Lingus situation. Has there been any further news?

Deputy Paschal Donohoe: It is good to hear the Deputy acknowledge the success we are having in tourism. He also opposed many of the measures put in place to deliver this success. He opposed the way we needed to fund the lower VAT rate, which is the very measure supporting Irish tourism and supporting hotels, cafes and restaurants in delivering affordable prices to tourists to get them to visit our country. The measures the Deputy opposed now contribute to the success seen in Irish tourism. I take this opportunity to recognise again everybody working in tourism for the great job they do for our country. The Minister of State, Deputy Ring, is at pains to acknowledge this all of the time.

Deputy Ellis stated it is all well and good about the trustee. The trustee is the individual with the legal responsibility for the maintenance of the fund. If I had gone against what the trustee wanted to do to try to bring solvency and stability to the largest pension fund in the country, which had a deficit of hundreds of millions of euro, Deputy Ellis and his colleagues would have been in the Chamber opposing me for doing so. I am aware of the huge difficulty people have faced and I have explained to the House that the accounting rules in place mean it is not possible to use the proceeds of any sale for current expenditure.

Road Improvement Schemes

3. **Deputy Catherine Murphy** asked the Minister for Transport, Tourism and Sport if he is satisfied the route proposed for the M7 upgrade in County Kildare is the most beneficial and cost effective; the timescale as to when the upgrade will be completed; the public consultation which has taken place to date on the project; and if he will make a statement on the matter. [23837/15]

Deputy Catherine Murphy: This relates to the upgrade of the M7 Naas to Newbridge bypass upgrade scheme. Is the only impediment funding? What priority does it have?

Deputy Paschal Donohoe: I must point out again that, while I have responsibility for overall policy and funding for the national roads programme, the construction, improvement and maintenance of individual national roads are matters for the National Roads Authority, NRA, in conjunction with the local authorities concerned. I understand the proposed M7 Naas bypass widening scheme which follows the alignment of the motorway has been progressed in compliance with the NRA's project management guidelines. Kildare County Council advertised the scheme in local and national newspapers and a public consultation process began and was left on open display for two weeks. An Bord Pleanála approved the scheme in August 2014 after an oral hearing.

Unfortunately, the financial realities are that capital funding will continue to be tight for the next number of years, limiting the scope for progressing additional new projects over and above the PPP schemes already in place. I know that it is important to restore capital funding for the transport sector over time, to ensure land transport infrastructure is maintained and renewed to support economic development. While I have, I hope, stabilised the funding position, the scope

for new projects depends on the availability of additional capital funding in the future. Once that is clear to me, the Government will publish a plan to address particular bottlenecks and challenges within the country.

Deputy Catherine Murphy: I am looking to find out when it will be clear to the Minister. This is local to County Kildare, but it is also a national primary route. There are three lanes to the point where it narrows, where there is a significant bottleneck and a high number of accidents. Many years ago cost-benefit analyses were carried out which looked at fatality rates. Accident rates were also factored in. I would hate to think that is the reason a scheme will have a higher priority when we can already predict a significant problem. The functioning of the economy will be dependent on the ability to manufacture and deliver goods and services. This is one of the most densely populated parts of the country and the route is the artery between Dublin and two of our major cities. I would like to know where the scheme stands in the list of priorities.

Deputy Paschal Donohoe: I agree with the Deputy that the maintenance and, where necessary, the creation of good national roads are crucial to how the economy moves and our ability to move goods and services throughout the country. It is also crucial to make sure the national finances continue to improve and that if we commit to a project, we have the ability to fund it. The Deputy will be aware that a condition of the planning permission granted for the millennium business park was that an interchange be built at Osberstown. If that scheme was executed in isolation, the consequence would be an addition of 8% to the volume of traffic on the M7 motorway, which is already operating at a very high level of capacity and exceptionally busy. To deal with this issue in a comprehensive way, we need to deliver a number of projects in the area, including widening the road at Naas, funding the interchange and carrying out work at Sallins. The total cost of all these projects is €110 million. We can only commit to a project if we are confident that we can fund it. The group of projects has a high priority, but in order for it to go ahead, I have to be confident that I can fund it and that the State will be in a position to afford it in the future.

Deputy Catherine Murphy: I agree with the Minister that the projects are linked. The problem is that, in the absence of being able to get traffic to and from the park and providing entry and exit points for developments such as the big new development of the Kerry Group, the millennium business park is stuck in an environment in which it was never planned to be in. It is very well located, which is why the Kerry Group development took place there, but it is being constrained in expansion because of this impediment. While a very large amount of money is involved, it has the potential to bring about a decent return also.

Deputy Paschal Donohoe: The Deputy acknowledges that this is a very significant amount of money from the taxpayer. It is easily comparable to, if not greater than, the private sector investment put into the millennium business park and the surrounding area. It is receiving priority for the future, provided funding is available, because of how busy the existing roads in the area, in particular the M7, are and because access to the millennium business park will become extremely difficult if we do not find a way to alleviate the problem. That is why this group of projects has been proposed. My challenge is to ensure the total amount of money, in excess of €100 million, can be secured to support the investment and job creation under way, but we can only go ahead with the scheme if we have the money and can be sure money will be available in the future. Otherwise we risk repeating the mistakes which have cost us so dear already.

National Roads Authority Projects

4. **Deputy Timmy Dooley** asked the Minister for Transport, Tourism and Sport the reason he decided to refuse the proposed motorway between counties Cork and Limerick, in view of the fact that the National Roads Authority has identified the project as one of the country's priority road investments. [23836/15]

Deputy Timmy Dooley: This follows the announcement made by the Minister that he was not going to proceed with a project to have a motorway between Cork and Limerick. Given that it was a priority for the National Roads Authority, will he outline why he has decided to shelve the project at this time?

Deputy Paschal Donohoe: As Minister for Transport, Tourism and Sport, I have responsibility for overall policy and funding for the national roads programme. The planning, design and implementation of individual road projects, including the M20, are matters for the National Roads Authority, NRA, under the Roads Acts. 1993 to 2007, in conjunction with the local authorities concerned. Given the national financial position, there have been very large reductions in roads expenditure in the past few years. The reality is that the available funds do not match the amount of work which could be undertaken. For this reason, it has not been possible to progress a range of worthwhile projects and the main focus has had to be on the maintenance and repair of roads.

In 2011 my predecessor indicated to the NRA that it should withdraw its application to An Bord Pleanála for the M20 Cork to Limerick route. I understand the then Minister, Deputy Leo Varadkar, was concerned that proceeding any further with the scheme to build the M20 would have exposed the NRA to significant costs arising from a consequent requirement to purchase the compulsorily purchased land within a limited timeframe. This would have had to be done without the reasonable prospect of proceeding to construction stage quickly. Unfortunately, there is no escaping the reality that road budgets have reduced radically in recent years and will most likely remain tight for the next few years. Given the scale of this project, at an estimated cost in excess of €800 million, I am not in a position to review the decision. I am, however, continuing to examine if there is any possibility of alleviating some of the bottlenecks on the existing N20, although this will only be possible if funding is made available for said projects. Furthermore, my continued preference is to use certain funds available to maintain the existing network, rather than build new roads that we would then have the responsibility to maintain into the future.

Deputy Timmy Dooley: The current connection between Limerick and Cork is an appalling stretch of road. It stretches for 80 km and the proposed motorway would significantly cut the travelling time between the two locations.

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It would also reduce congestion in towns and the number of deaths and injuries that take place on that stretch of road which is a connection between the second and third largest cities in the State. As the Minister is well aware, 25% of Ireland's economic activity is generated in the mid-west and south-west regions. Limerick and Cork alone account for about one third of the population outside Dublin. Limerick and the mid-west region generally are recognised as attractive locations in which to invest and do business. Unfortunately, without the appropriate infrastructure between the two cities, it becomes unattractive to do so from an investment point

of view, on top of protecting what is in place and reducing the numbers of deaths and injuries on the roads. If the Government is to do anything more than pay lip-service to the notion of having balanced regional development, it is appropriate that this funding be set aside to invest in the regions. That would allow people to live, work and remain in them, rather than crowding everybody into the Dublin region. Infrastructure needs to be provided. Why not try to be a little more balanced in how the funding is spent?

Deputy Paschal Donohoe: The total cost of the project is in excess of €800 million. The land cost alone will be approximately €100 million. Deputy Catherine Murphy spoke about this issue earlier. The total cost of delivering all of the projects we discussed is just over €100 million. The main challenge I face in a project of this scale is that funding cannot be secured; we are instead trying to progress projects the length and breadth of the country which make a contribution to road safety and support the ability of communities to get to and from work and around the country safely. I want this project to go ahead at some point in the future, but there is a lack of funding. If the Deputy is committed to the project, perhaps he might tell me where he would secure the €800 million required to deliver it, while also delivering all of the other Government projects he supports.

Deputy Timmy Dooley: It comes back to what one fundamentally believes in. If one's view is that infrastructure will only be provided in certain sections on the east coast, investment will be concentrated on the east coast, people will move there and the Minister's burden of responsibility will increase in providing infrastructure after the event. It is no surprise that Kerry Group, to which Deputy Catherine Murphy referred, located in Naas because the infrastructure was available. This is creating a further intolerable burden on existing infrastructure which needs further investment. If one was to invest in the regions, Kerry Group might locate in Munster, rather than finding it necessary to locate in Naas. I am not suggesting this is the only reason it is based there, but we need to be serious about providing for balanced regional development. I want to see development take place on the east coast and it is right that it does, but it has to be balanced against the future growth of the regions, if the Government is serious about providing for this. The appropriate approach to take is to invest and further investment will follow.

Deputy Paschal Donohoe: The Government is committed to providing for balanced regional development, which is why we have invested in tourism and made great progress in attracting foreign direct investment in many parts of the country. We appreciate the need for investment and employment to be generated across the island. On the contribution of transport, we are continuing to support the maintenance of the local and regional road network. I go back to the original point I made to the Deputy, namely, this is a project that will cost in excess of €800 million. As much as I want to see a project like it happen, my challenge is to find funding for it and, if it is available, to ask whether it could be spent in other ways that would deliver balanced regional development and improve the ability of commuters and residents to get around the country. I have to note that I asked the Deputy the simple question of where he would secure the €800 million necessary, while supporting everything else the Government was doing. He was not able to answer that question.

Deputy Timmy Dooley: When I have access to the Minister's Department, I will gladly provide him with the answer.

Rail Network Expansion

5. **Deputy Catherine Murphy** asked the Minister for Transport, Tourism and Sport his plans for the Dublin Area Rapid Transit underground project, the railway procurement order for which expires in September 2015; the revised options for the project he is considering; the new timeline proposed for completion of the project; and if he will make a statement on the matter. [23838/15]

Deputy Catherine Murphy: Some 28% of the population now live in Dublin. According to the last census, more people are living in Dublin than in Munster. We will keep on arguing for increased road capacity and car parks if we do not do something about public transport. The DART underground project would be a game changer, but the railway order runs out in September. It is important, therefore, that we know what the plan of action is.

Deputy Paschal Donohoe: I am conscious that a decision on whether to proceed with the DART underground project under the current railway order must be made by September if the CPO conditions applicable to the order are to be met. The National Transport Authority has been carrying out technical reviews of all the greater Dublin area public transport projects and I am awaiting delivery of its report and recommendations. It anticipates delivering this work to me by the end of June. Following my receipt and assessment of it, I will make my decision on public transport investment priorities in the greater Dublin area by the end of the summer and in advance of the September deadline for issuing the CPO notices to treat relating to the DART underground project.

Deputy Catherine Murphy: This is a very large and expensive project, but it would be a game changer. It was estimated that it would increase the number of passenger journeys by something like 100 million a year. It would be a driver of the recovery of the capital city in efficiency terms. When the rules changed regarding how EU funding would be allocated in the mid-1990s, it was based on themes. One of the reasons we have the Luas and other public transport projects is the Government made an argument that Dublin was inefficient as a result of congestion. It is now estimated that in the next five or six years an additional 50 million extra people will travel in and out of the city every day. We are back to the future and there is a point at which a decision has to be made on this issue. Perhaps European funds could be leveraged for the project.

Deputy Paschal Donohoe: On the Deputy's latter point, I expect that once we decide on the projects to be progressed in the short to medium term, we will be able to apply for and, I hope, receive European funding for such projects as happened in the case of similar projects in the past. Public transport projects are under way, including the Luas cross-city project which has been in receipt of support from European bodies.

As it was designed, this project would have a major impact on the ability of the rail network to perform within Dublin, Leinster and along the east coast. The Deputy has made reference to the potential cost, which would be many billions of euro. The decision I have to make involves weighing up that cost versus the cost of meeting other transport needs. I need to consider whether we could do other things in the existing rail network that would increase capacity and whether we should examine alternatives such as light rail, not to mention road project options such as those mentioned by Deputy Timmy Dooley in other parts of the country.

Deputy Catherine Murphy: I presume congestion costs form part of what the Minister is

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considering in terms of the overall picture and the decision he will have to make. We will all make arguments about how much longer it takes to get from A to B. When one factors in goods and services, one finds that using the roads becomes very inefficient as they are clogged up with people who have no reason to be on them. We need to move people from them, not just cars, vans and trucks. Dealing with the movement of people is the real missing link in the capital city and has been for a very long time.

Deputy Paschal Donohoe: It is precisely because we want to make a contribution to making it easier for people to get around that we are funding and putting in place Luas Cross City. It will deliver an additional 10 million journeys per year on our Luas network to take the number from approximately 30 million to approximately 40 million. While that will make a contribution to movement within the city, the Deputy is also asking me about how we get people to the city. Of course, that is why a project like DART underground could make a significant contribution to increasing substantially the capacity on our rail network by allowing more services to run to our main city centre train stations.

While the Deputy is correct that congestion is imposing a growing cost on the economy, of which I am well aware, the hard funding must be secured to deliver projects. While this is a project that would make a contribution as currently designed, it has an associated cost of many billions of euro and, as such, I must weigh it up directly against, for example, the road project Deputy Catherine Murphy was pressing me for earlier to support the growth of the Millennium Business Park. We have to make choices about what can be done.

Other Questions

Services for People with Disabilities

6. **Deputy Mattie McGrath** asked the Minister for Transport, Tourism and Sport the measures that are being taken to improve travel and transport facilities for persons with a disability; his assessment of the Government's commitments to the travel needs of persons with a disability; and if he will make a statement on the matter. [23242/15]

Deputy Mattie McGrath: The Minister confirmed to me last October that despite commitments of 100% wheelchair accessibility for the Bus Éireann public service obligation, or PSO, coach fleet by 2015, the proportion will reach a mere 60% by the end of 2015 from a current level of 56%. At that rate of going, it will take up to ten years to meet the commitment.

Deputy Paschal Donohoe: Accessibility improvements to public transport services are being advanced in the context of Transport for All, which is my Department's sectoral plan pursuant to the Disability Act 2005. The plan promotes the principle of mainstreaming by requiring accessibility to be an integral element of public transport services and sets out a series of policy objectives and targets for all modes of public transport to make them more accessible to people with mobility, sensory and cognitive impairments. The plan was first published in 2006 and reviewed in 2008. The latest edition was published in 2013 following approval by both Houses of the Oireachtas. It provides a roadmap for further advances in public transport accessibility improvements and aims to build on the progress already achieved. As was the case with previous versions, the plan was prepared following an extensive consultation process with all

stakeholders.

To date there has been a significant increase in the number of accessible vehicles together with improved access to much of the public transport infrastructure. Many targets have already been achieved and significant progress has been made towards the realisation of several others. For example, close to 60% of Irish Rail's stations have received significant accessibility upgrades while urban bus fleets in Dublin, Cork, Galway, Limerick, Waterford and Sligo are 100% wheelchair accessible. While 56% of Bus Éireann's coach fleet is wheelchair accessible, I recognise that an accessible service is only available on a limited number of routes. Work needs to be done and that work is ongoing. The targets in Transport Access for All are also reflected in the national disability strategy implementation plan which provides for a whole-of-Government approach to improving public service provision generally for people with disabilities. Both plans contain monitoring and evaluation mechanisms which involve groups representing people with disabilities.

Deputy Mattie McGrath: Given that the plan was published in 2006, reviewed in 2008 and remains a plan, it is not acceptable that by the end of the 2015 deadline, less than 60% of the fleet will be accessible. I asked this question of the Minister having become aware that there is no daily bus service from Clonmel designed to accommodate wheelchair users. According to Bus Éireann's own information, its current selection of accessible coaches only have one wheelchair space per bus, which means it cannot be guaranteed that a space will be available. Surely, that is not meeting any obligation or plan. The Minister mentioned Dublin and Cork, but I am talking about the fleet in rural Ireland. Bus Éireann also requests that wheelchair users notify their local bus stations by telephone of an intention to travel 24 hours in advance. If that is not discrimination, I do not know what it is. The Minister can talk about all the equality legislation he wants, but that is blatant discrimination against disabled people and those who have to use wheelchairs. They have to telephone up 24 hours in advance and there will be only one seat available on the bus. It is a lottery system and that is not public transport.

Deputy Paschal Donohoe: It is public transport. It is transport on a public bus fleet being provided to try to meet the needs of residents. I want to see all forms of public transport being made available and being accessible to everybody in the country, but I note that €74 million has been spent since 2006 by this and previous Governments to make our public transport more accessible for everybody. If I look at what has happened in 2015, new lifts have been put in place in Connolly Station and wheelchair accessibility measures have been undertaken at a further five railway stations.

Deputy Mattie McGrath: I am talking about Tipperary. Ireland does not end at the Naas Road.

Deputy Paschal Donohoe: I am answering the Deputy's question in regard to the overall fleet.

Deputy Mattie McGrath: The Minister is not.

Deputy Paschal Donohoe: Many services from across the country go to Connolly Station as the Deputy well knows and if those measures were not in Connolly he would, understandably, criticise me. In 2015 alone, 40 additional wheelchair accessible bus stops were made available in 20 towns across the country.

Deputy Mattie McGrath: There is no seat on the bus.

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Deputy Paschal Donohoe: A grant of up to €10,000 per vehicle has been proposed and is available to make taxis and hackney vehicles more accessible.

Deputy Mattie McGrath: It is not all about Dublin where the Minister's constituency is located. Money has been pumped into Dublin and the fleets in Dublin, Galway, Waterford and Sligo have been made 100% accessible. I am talking about Tipperary, which I represent in case the Minister does not know. This is a scenario that cannot be allowed. The Minister can talk about his new bus shelters, but when the bus comes one may not get a space on it. That is farcical as the Minister knows better than me. Wheelchair users in Tipperary have legitimate expectations around being able to access suitable public transport. Even those modest expectations are years away from being a reality, which is deeply frustrating to say the least. While his Minister of State, Deputy Tom Hayes, may not tell him, the Minister has a responsibility to the disabled public of Tipperary as well as to Dublin, Connolly Station, the Luas and God knows what he will have underground. It is not all about Dublin. Ireland does not end at the M50 and it is time the Government realised that.

Deputy Paschal Donohoe: In his rush to make his point to me, the Deputy clearly did not listen to a single word I said.

Deputy Mattie McGrath: I did in respect of Tipperary.

Deputy Paschal Donohoe: In my contribution, I made it very clear that measures have taken place in Dublin and also in Cork, Galway, Limerick, Waterford and Sligo.

Deputy Mattie McGrath: I am talking about Tiobraid Árann.

Deputy Paschal Donohoe: I also made it very clear that we have put 40 schemes in place in 20 towns across the country.

Deputy Mattie McGrath: I ask the Leas-Cheann Comhairle to ask the Minister to answer my question. I am talking about Tipperary but he is giving me a Bord Fáilte tour of the country.

Deputy Paschal Donohoe: The very reason these measures have been put in place is that I am fully aware of my national responsibility.

Deputy Mattie McGrath: The Minister is aware but he is not living up to it.

Deputy Paschal Donohoe: That is why this and previous Governments have invested over €70 million to make public transport more accessible.

Deputy Mattie McGrath: There is no room on the bus and there will be no room on the paper for the Minister.

Deputy Paschal Donohoe: We are doing this to put in place with the limited funding we have all the measures we can afford and that are available to us to make public transport as accessible as possible.

Cycling Policy

7. **Deputy Denis Naughten** asked the Minister for Transport, Tourism and Sport the steps he is taking to resolve the concerns of owners of land between Athlone in County Westmeath

and Aughrim in County Galway relating to the routing of the new Dublin-Galway cycleway; and if he will make a statement on the matter. [23245/15]

Deputy Denis Naughten: At the outset, I note that I support the principle of a coast-to-coast greenway. However, the Minister and his officials have gone about this the wrong way. They have taken the wrong approach and the wrong attitude and, as a result, stopped any progress on this project. I want to know why the NRA looked to lands in public ownership between Dublin and the River Shannon, but adopted a completely different attitude once they crossed it in regard to both the assessment criteria and the lands to be used for the route.

Minister of State at the Department of Transport, Tourism and Sport (Deputy Michael Ring): I assure the Deputy that I am fully aware of the concerns of landowners along the proposed route of the Dublin to Galway greenway. In an effort to investigate how these concerns can be allayed and a mutually agreeable solution reached, my ministerial colleague, Deputy Paschal Donohoe, and I met with Oireachtas members from east Galway, landowners and their representatives along with representatives of Galway County Council and the National Roads Authority. At this meeting it was agreed that members of the project team in Galway County Council should begin a process of engagement with the affected landowners. The object of the exercise is to seek a better understanding of their concerns and to establish whether it is possible to identify a broadly acceptable route for the greenway. This consultation is now under way. Given the number of landowners involved, the process is expected to take up to three months.

The delivery of this project is a priority for my Department in the delivery of a national cycle network for Ireland. The Dublin to Galway greenway corridor was identified as the ideal corridor to progress first for a number of reasons, the main one being that the extensive route when completed would make sense in its own right and also form part of the Eurovelo cycle route network, which provides ready-made branding for the project that will assist in attracting overseas visitors. That aside, it is and always has been the wish of my Department to deliver these projects in co-operation and agreement with local communities to ensure the long term success of initiatives which are delivered with substantial Exchequer investment.

Deputy Denis Naughten: I thank the Minister of State for his reply. How does he intend to get the cyclists from Athlone to Ballinasloe if he is not prepared to engage with either the Oireachtas Members or the landowners between Athlone and Ballinasloe? He might clarify, for the record, that some Oireachtas Members in County Galway have been invited to meetings. As he knows, at least two Oireachtas Members through whose parishes the greenway is going have been excluded to date from these discussions. Why has the Minister of State not looked at using the existing public lands between Dublin and Galway - the Bord na Móna lands, the Coillte lands, the National Parks and Wildlife Services lands, and the existing public rights of way that are currently disused - and start from that basis to develop the project? Specifically regarding the route between Athlone and Ballinasloe, it is my understanding that Bord na Móna is vetoing the use of its lands for this greenway on the basis that it is in active production. Surely the same applies to farmland.

Deputy Michael Ring: As far as I am aware, the elected representatives were invited and a number of them were there. The farmers were also invited and brought along their representatives. Where possible, the State is going to use public lands. We are going to use Coillte land and Bord na Móna land. The difficulty is particularly at the Galway end of it. Some 809 farmers are involved. Six officials from Galway County Council will call to every one of these farms and see if we can get agreement from the majority. I was glad to hear Deputy Naughten

saying he is supportive of the greenways. I was very much involved in negotiations with farmers in my own county. The Deputy is, of course, right that we have to talk to farmers. We have to bring the farmers on board and accommodate them where possible. We have the process in place. It will take three months. Six officials from the county council will meet every landowner in the area to see what agreement we have before progressing this any further.

Deputy Denis Naughten: Not all of the Oireachtas Members were invited. I am sure that if the Chair were free to speak, he could clarify that for himself. One cannot get to County Galway without engaging with landowners in County Roscommon first, or do the officials in the Department need a lesson in geography? It is possible, by using Bord na Móna lands and existing disused rights of way and by having a segregated route between Ballinasloe and Aughrim on the old N6, to bring the greenway as far as there without any disruption of farmland. Yet that has not been given the consideration it merits. What is the situation regarding Bord na Móna? Has it vetoed access to its lands on the basis of active production? If the rule applies for Bord na Móna, it should also apply to farmland.

Deputy Michael Ring: Fáilte Ireland has assessed this line and has decided that the proposed line is the most scenic and most beautiful one to bring people into. I have made clear to the Deputy that any available State land, where suitable, will be looked at.

Deputy Denis Naughten: Where suitable.

Deputy Michael Ring: We are going to look at all options. The Minister, Deputy Donohoe, and I have a very serious problem. We have people from all over the country, every day, looking for money for greenways, in my own county and every other county. Everybody is looking for them now. We want to implement this but we want to implement it with the goodwill of the farmers and the landowners in the area and we will have to do that-----

Deputy Denis Naughten: And exclude their own public representatives

Deputy Michael Ring: We are speaking to everybody.

Deputy Denis Naughten: They are not.

Deputy Michael Ring: We will speak to everybody. Deputy Naughten cannot say on one hand that he is in favour of it and on the other hand putting every obstacle in its way. We are going to sit down with the farmers and we do need their co-operation. I speak as someone who knows about greenways and knows how to deal with farmers, because we did it in the west and without the farmers it would not happen.

Deputy Denis Naughten: And their representatives. It would not have happened without them.

Deputy Michael Ring: It would not happen without their goodwill, their co-operation and we are going to sit down with those farmers, see if we can get their co-operation, and then we will adjudicate.

Harbour Authorities

8. **Deputy Timmy Dooley** asked the Minister for Transport, Tourism and Sport his views on concerns over corporate governance standards at Dún Laoghaire Harbour Company in County Dublin, and the financial viability of a €67.5 million plan to revitalise the harbour; and if he will

make a statement on the matter. [23474/15]

Deputy Timmy Dooley: In light of recent revelations in the Sunday Business Post obtained through freedom of information requests relating to the financial viability of a €67.5 million plan to revitalise the harbour at Dún Laoghaire and other concerns raised by people in the Minister's Department about the corporate governance of that entity, could he provide us with the background to that story and whatever information he might have?

Deputy Paschal Donohoe: I have a number of statutory responsibilities as regards corporate governance oversight of our State commercial port companies under both the harbours Acts and the code of practice for the governance of State bodies. These include the requirements in the Acts that a company seek ministerial consent in relation to certain specific activities, such as the establishment of any subsidiary company; borrowings; and certain investments in undertakings, other than a subsidiary, greater than €1.27 million. In addition, the code of practice requires ministerial consent for any "action which would extend or change significantly the nature, scope or scale of activities in which it ... engages" and also where any joint venture is proposed.

As the Deputy has noted, as part of its development masterplan, Dún Laoghaire Harbour Company has a number of projects at different stages of conception or delivery, some of which require ministerial consent and some of which do not. Both my predecessor and I have previously raised concerns in regard to the company's timely adherence to their obligations in this regard. However, I recently had a constructive meeting with members of the board of the company in which I outlined clearly my position on these projects and I have subsequently written to the company highlighting its reporting obligations in respect of them.

Deputy Timmy Dooley: The Minister is confirming what we already know through freedom of information letters, which disclosed that the Dún Laoghaire harbour board had failed to obtain ministerial consent for certain activities prior to commencement. Can we take it as a fact that the Minister or his predecessor has refused to give consent for certain activities?

Could the Minister also advise regarding an issue that was flagged by a civil servant in October 2014, namely, concerns around the sustainability of the company's corporate plan, which included a €50 million diaspora centre, a cruise-liner berth at a price tag of €15 million and a €2.5 million urban beach? I will quote from that letter, which said that "our consideration of this latest revised plan has increased departmental concerns as regards the company's approach towards managing the short- and medium-term sustainability of the company as a whole". Could the Minister bring us up to date on those revelations? He has stated that he has met with certain directors or certain people in the company. Is he now happy that the proposals the Dún Laoghaire Harbour Company has in place are sustainable and viable? Is he happy that the appropriate corporate governance is in place and being adhered to?

Deputy Paschal Donohoe: I have met the officers of the management team and board in Dún Laoghaire on a number of occasions to discuss matters of interest to my Department and matters in which we have a very clearly defined role.

With regard to the Deputy's specific question on the nature of my ministerial consent, which question I want to answer, I have written to the chairman of Dún Laoghaire Harbour Company and informed him that my consent for what is known as the St. Michael's plaza project is not forthcoming based on how the project is currently presented to me. The port faces very

changed circumstances as a result of the withdrawal of operators and other issues. What we are doing is engaging with the company on its corporate plan. There are a number of projects in that plan. Some require my ministerial consent and others do not. I have made clear our position on the St. Michael's plaza project and I am now engaging with the company on other projects it is proposing.

Deputy Timmy Dooley: I recognise what the Minister is saying, namely, that there are aspects of the company's plan that require ministerial consent and others that do not, and that the company can proceed as it so wishes. Let me ask the Minister an embracing question in this regard. In light of his discussions with the board of management and his recognition of what he can and cannot do regarding decisions or consent, is he happy in general with the state of operations at Dún Laoghaire Harbour? Is he happy with the approach of management and his engagement with the board? Does he feel comfortable with the board's understanding of his concerns? Is management taking the appropriate action to ensure the viability of the operation? Is the Minister assured that management's approach to corporate governance is adequate? Does he believe the relationship between the Department and the company is what it should be based on the role he has outlined?

Deputy Paschal Donohoe: The Deputy referred to other projects and I want to outline the position on these in the interest of clarity. With regard to the urban beach project, my ministerial consent is not required. Similarly, it is not required for developments for the cruise facilities. My consent is required for the diaspora centre and I have already told the Deputy my views on St. Michael's pier. These are the various building blocks of the key projects that are under way.

On the Deputy's broad question on whether I am happy with Dún Laoghaire Port, the team in the port, let alone my Department, is facing great challenges and is working hard to come up with a plan for the sustainable development of the port. That is why I meet the team regularly.

On the questions the Deputy asked, I am very confident that the company is extremely clear about my views on the future development of the port, where my consent is needed and the role of my Department in projects the port is considering. I am satisfied that the company is very clear on the feedback and on how we will seek to work together in the future.

Tourism Promotion

9. **Deputy Denis Naughten** asked the Minister for Transport, Tourism and Sport the steps he is taking to try to secure direct flights from China to Ireland; and if he will make a statement on the matter. [23231/15]

Deputy Denis Naughten: Almost 110 Chinese tourists per day visited Ireland last year. The number is estimated to grow by one fifth by 2017. Some 120 million Chinese are to travel abroad this year and are to spend a total of approximately \$100 billion. Despite this, we do not have any direct flights from China to Ireland. Is it not about time the Government put strategies in place to try to attract direct flights to this country?

Deputy Paschal Donohoe: The strategies are in place. The Government and its agencies are working very hard to establish direct air services to China to underpin further the growing tourism and trade relations between the two countries.

The House will recall that the Chinese Premier visited Ireland along with a number of other Chinese Ministers in May. In his meeting with Premier Li, the Taoiseach welcomed efforts to improve connectivity between Ireland and China and indicated his desire to see direct flights.

The legal framework for the operation of international air services is laid down in bilateral air transport agreements. Both Ireland and China signed such an agreement in 1998 to facilitate the establishment of direct air services. However, the setting up of such a service is ultimately a commercial decision for the airlines concerned.

There are ongoing contacts between my Department and the Civil Aviation Administration of China. The Irish airports and Tourism Ireland also have attractive incentive and marketing programmes available to help support new services.

Last week, Tourism Ireland led a five-day sales mission to China. A delegation of 14 tourism enterprises from the island of Ireland took part in the targeted travel trade mission in a bid to increase our share of this rapidly growing tourism market. Initiatives such as this help to raise Ireland's profile with the Chinese travel trade and population more generally and I hope that airlines will see the potential demand for services increase as a result and be encouraged to establish new direct routes.

Deputy Denis Naughten: More than 300,000 Chinese tourists visited New Zealand last year. New Zealand has a population pretty much the same as that of Ireland but it is actually farther from China than Ireland. However, there are direct flights.

In light of the strong ties between Shannon Airport and senior political figures in China, should we not now try to build upon that and bring high-spending Chinese tourists to Ireland? On average, each Chinese tourist in New Zealand spends approximately €2,600.

Specifically, what measures are being put in place to make available funds and a marketing budget to attract an airline to fly directly between China and Shannon? This would allow access to the western seaboard and the midlands, where there is considerable potential to develop tourism.

Deputy Paschal Donohoe: All this work is actively under way already. We are enjoying a growing tourism relationship with China. This is one of the reasons we introduced a new visa programme along with the United Kingdom. Under the programme, a potential visitor to Ireland from China can use the same visa to go to the United Kingdom and *vice versa*. VisitBritain and Tourism Ireland are working together and are to target long-haul visitors to come to both countries on the same visa. This is the very reason we had a five-day mission last week led by Tourism Ireland. It was to determine how we could generate demand to sustain direct flights between both countries. That is the reason Tourism Ireland has a presence in four Chinese cities, including Shanghai and Beijing. We are doing all this work to generate demand sufficient to sustain a direct service between Ireland and China. As the Deputy will appreciate, I am not in a position to direct a company the State does not own to provide a flight between both countries. However, we are working very hard to establish an environment in which such a service could be launched.

Deputy Denis Naughten: The problem with the visa is that it is a single-entry visa. Therefore, a Chinese visitor who visits Ireland after having visited the United Kingdom cannot return to the United Kingdom before returning home. This anomaly needs to be addressed because it is causing a barrier.

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Owing to the very close relationship the Minister now has with IAG, surely he could telephone Willie Walsh and have a chat with him about the possibility of putting flights in place. As the Minister knows, since the exclusive arrangement for US visa preclearance at Shannon may not continue, it will undermine the role of the airport. There is huge potential to use the political capital that has been built up as an anchor to bring direct flights to Shannon, the midwest region, the west and the midlands. Will the Minister put together a working group composed of the Chinese community here, tourism agencies, his Department and public representatives from the wider catchment area, both Government and Opposition, to see how we can develop and market this as a whole?

Deputy Paschal Donohoe: All of the work the Deputy calls for is taking place. This is why a mission to China took place last week and why we have had such contact at a senior level between Chinese political figures, Government Ministers and Irish politicians to put in place an arrangement where certain services can be launched. The Deputy knows that for a service to be either launched or maintained, the demand from either tourists or investors has to be there. Through measures like the visa programme, which is proving to be a huge success, and our contact with the Chinese civil aviation authority and the Chinese Government, the Government is putting strong measures in place and working, hopefully, to land such a link in the future. A really important development is taking place this weekend when we will have the first direct access between Ireland and Africa. I know that all of the figures that have been involved in making this happen are working as hard in making the Ireland-China route happen at a point in the future.

Cycling Facilities Provision

10. **Deputy Catherine Murphy** asked the Minister for Transport, Tourism and Sport if his Department is in a position to support the Naas neighbourhood greenway project in County Kildare either in part or in full; the consultation his Department has had relating to the proposal; the advice and support that has been offered; and if he will make a statement on the matter. [23485/15]

Deputy Catherine Murphy: My question relates to a greenway. Although my question is specific, I am also trying to find out what the Department's general approach is to the development of greenways. Clearly, we must change habits. The initiatives by local communities like this one need to be encouraged and helped to develop.

Deputy Paschal Donohoe: The National Transport Authority, NTA, is the body that is responsible for the delivery of cycling infrastructure in the greater Dublin area in co-operation with the relevant local authorities. I have consulted with the NTA on the Deputy's question. Perhaps she might be able to clarify this for me in the supplementary. I will then revert with the information. The NTA informed me that no approach has been made to it by a project referred to as the Naas neighbourhood greenway project. If the Deputy lets me know whether the project has a different name, I will find out whether such contact has occurred. I am not in a position to comment on the exact nature of the project. However, the NTA's current understanding is that while the project is being described as a greenway, it may be more of a local cycle network within the town which might include elements of what we would describe as a "greenway" along the canal. I have requested the NTA to give me more information about this project but if the Deputy could tell me more about the contact she believes to be happening, the

NTA will get back to her with a specific update on that project within ten working days.

Deputy Catherine Murphy: I know it as the Naas neighbourhood greenway project but I will go back to it and ask it. I know the tow path on the canal is very much part of it but the plan is much wider and would cover the entire town. Clearly, the local authority will have a function and the like of the Leader project is being looked at so there may be a number of different mechanisms. I really want to know what the approach is and whether this is the kind of thing that forms part of the sectoral plans we will see. It is low-cost but high-return in terms of changing behaviour so I am really looking to find out information about the mechanism. The Minister is telling me that the NTA has a function. I will certainly gather some more information and possibly provide it to the Department.

Deputy Paschal Donohoe: I will update the Deputy about the kind of activity that is under way via the NTA in her county and constituency. The NTA is in the process of putting together a town cycle network for Naas with Kildare County Council. This will be provided as part of the greater Dublin area cycle network plan. Routes contained in it include the Grand Canal greenway through Sallins with a spur to Naas, Kill-Johnstown-Dublin Road-Main Street-Newbridge Road, Sallins Road, Blessington Road, Caragh Road, South Ring and Ballycane Road, N6 Monread Road-Millennium Park-Newbridge Road, the N7 Link through Lakelands Estate between Kilcullen Road and Blessington Road and a further link at Corbins Lane in the town centre. That is the nature of the network being developed by the NTA and Kildare County Council. I have been informed that they are marked on a map that is available and are being funded through the greater Dublin area cycle network plan. If the Deputy gives me more detail about the specific project to which she referred, I will find out where it stands.

An Leas-Cheann Comhairle: Deputy Lawlor has a brief question.

Deputy Anthony Lawlor: I appreciate the fact that Kildare County Council and the NTA provided €50,000 for the development of the cycle way along the canal from Sallins as far as Naas. I was at the launch of that project at the weekend. The Royal Canal seems to be prioritised as a greenway. The link from Naas to Sallins links to the Grand Canal. Does the Minister intend to provide funding so we can develop that Grand Canal route as well?

Deputy Paschal Donohoe: From what the NTA has told me, the Grand Canal greenway, which will run through Sallins with a spur to Naas, forms part of the town network map that has been developed for the Naas area between the NTA and Kildare County Council. With the funding that is available, I am trying to progress projects like that. As the Minister of State, Deputy Ring, said in response to an earlier question, we face a real challenge because there is now massive demand for greenways across the country following the success of a certain number of greenways. We are trying to help with the design of those projects. At a point in the future, when they are designed the way they need to be designed in order to be high quality cycle networks, hopefully, we will be in a position to do things like that on a phased basis.

Written Answers follow Adjournment.

Message from Seanad

An Leas-Cheann Comhairle: Seanad Éireann has passed the Health (General Practitioner Service) Bill 2015 without amendment.

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Consumer Protection (Regulation of Credit Servicing Firms) Bill 2015: Order for Report Stage

Minister for Finance (Deputy Michael Noonan): I move: “That Report Stage be taken now.”

Question put and agreed to.

Consumer Protection (Regulation of Credit Servicing Firms) Bill 2015: Report and Final Stages

Acting Chairman (Deputy Joe O'Reilly): Amendment No. 1 has been ruled out of order.

Amendment No. 1 not moved.

Acting Chairman (Deputy Joe O'Reilly): Amendments Nos. 2, 4 and 5 are related and will be discussed together.

Deputy Sean Fleming: I move amendment No. 2:

In page 4, line 18, after “restructuring” to insert “where the credit agreement is in financial difficulty”.

We had a discussion on this and several other amendments tabled by Fianna Fáil on Committee Stage. There is merit in the Bill in so far as it goes and nobody disagrees with the contents of the Bill. The main thrust of our amendments was to extend its provisions further and to include some items that should have been included. We discussed our various amendments at length on Committee Stage so I will not repeat what is already on the Dáil record. When the Minister of State at the Department of Finance, Deputy Harris, was summing up on Committee Stage he argued that this Bill was a first step and that if some of the issues I had raised needed to be dealt with, that would be done on another day. He agreed that those issues could be looked at down the road but said that it was important to get this legislation through the Houses as quickly as possible, notwithstanding the shortcomings I highlighted on Committee Stage.

We have not tabled all of the amendments that we discussed on Committee Stage again, even though some of the discussion on them was not concluded to our satisfaction. We have submitted just a couple of amendments on Report Stage, one of which is amendment No. 2. This follows on from the Committee Stage debate and seeks to insert “where the credit agreement is in financial difficulty”. Amendment No. 4, in the name of Deputy Naughten, is related, as is amendment No. 5 in the name of my party colleague, Deputy Michael McGrath. The essence of this Bill is to protect mortgage holders and that point cannot be over-stressed. However, an issue arises where loan books are being sold off which include loans to the small and medium business sector. The Minister knows that this is an issue which needs to be addressed although he may argue that he cannot do so with this legislation. I believe it is the perfect vehicle for so doing but if the Minister is not agreeable to doing it here today, he might agree to addressing it separately at a future date.

An issue arises where an investment organisation similar to Goldman Sachs buys a loan book from one of the banks to which we have been referring. We have discussed the issue of mortgage books in some depth but I am referring now to loan books with performing loans be-

longing to the small and medium business sector. Some vulture funds can come into the market and actually trigger a default. We have seen high profile court cases dealing with this issue and some of the biggest clients in NAMA have taken the agency to court in this regard. There have been various discussions and court rulings on the matter. The essential issue is that under the terms of many loan agreements the loan provider can call in the loan within 14, seven or even one day's notice. I have criticised anyone who ever signed up to such a loan but people were told that such terms were standard and would never be invoked. However, that power is being invoked.

There are many cases of vulture funds coming into the market, examining the underlying asset value of loans and calling in the loan in order to seize the assets. They are not here to finance the business that is trading and using those assets. Vulture funds do this even where loans are performing. They have the ability, under the loan agreements, to trigger a mechanism demanding that the loan be paid in full in 24 hours or seven days. Obviously companies which may be performing in terms of paying their loans and trading profitably do not have the ability to clear the loan at such short notice. That puts small and medium businesses in Ireland at an enormous disadvantage. The bigger companies can fight their corner and might have the resources to mount a challenge in court. Indeed, some cases have been taken to court, especially in the NAMA context.

Will the Minister accept the principle of this amendment? It covers mortgages, where such mortgages are performing and the credit agreement is not in financial difficulty. The issue is that a default can be manufactured when investors take an aggressive approach to the loan in an effort to seize the underlying assets, regardless of the consequences. Many of these investment companies are not based in this State. While they are operating here, they are not regulated to the extent that they should be and that can have a detrimental effect on many businesses and mortgage holders. I ask the Minister to take that into account and I look forward to his response.

Deputy Denis Naughten: I support Deputy Fleming's comments on amendments Nos. 2 and 5 in the name of his party colleague, Deputy Michael McGrath. The objective of amendments Nos. 2, 4 and 5 is to broaden the application of this Bill. The economy is improving at the moment and dramatically so in Dublin, but one of the downsides of that is the fact that capital assets, including commercial property and family homes, are increasing dramatically in price. As they increase in price, the holders of the loans against those properties are in a position to cash in. The banks are in this economy for the long term. If a loan is performing or can perform in the future and the banks can, in the longer term, be repaid, they will probably stick with it. The difficulty with vulture funds is that when they can see that there is a quick buck to be made, they will grab it. That is the enormous downside of the improving economy, particularly the improving price of property.

The greatest fear for people in this country is that they will lose their family home and they will do everything and anything to retain it. As the Minister knows, the latest figures show that four family homes are being repossessed in this country every day. Homes are being sold off to investors for less, in many cases, than people could afford to pay if they were given reasonable solutions to their financial difficulties. Home owners are ending up out on the street, dependent on their local authorities which have overflowing housing waiting lists.

I am disappointed that amendments Nos. 1 and 8 were ruled out of order. I tabled those amendments specifically to deal with vulture funds. One can reasonably deal with most of lending institutions in this country, with only one or two exceptions. I am dealing with a case

at the moment involving a widow whose husband died only a few weeks ago. Her family home is under threat because a business went to the wall due to her husband's ill health. She has two school-going children. Her mortgage was taken out with a company that operated in this jurisdiction but that company sold on the loan to a vulture fund. That vulture fund is going to put that woman out on the street. If her mortgage was with any of the major banks in this country, a deal would be done to ensure that she could remain in her own home. However, because we are talking about a vulture fund, we do not have the same level of leverage. That fund is only looking at the bottom line, at the quick buck it can make and at turning around that portfolio as quickly as possible.

11 o'clock

On Committee Stage, Deputy Tóibín gave the example of a constituent who had offered 30 cent in the euro for a loan and yet it was sold off by a bank for 15 cent in the euro to a vulture fund. Once that property increases in price to the equivalent of 20 cent in the euro, the property will be sold and the vulture fund will make a profit, but that family will be turfed out on the street.

I tabled the amendment to ensure families cannot be put out on the street without having adequate provision for accommodation. We are in a very serious housing crisis that will not be solved easily and the Government alone cannot solve it. The worst thing we could do would be to put fuel on that fire by putting people out on the road and leaving them homeless. Housing lists are increasing daily. It is not a question of whether someone can afford private rented accommodation; it just cannot be got at any price at the moment.

It is encouraging vulture funds to sell these properties. Investors see an opportunity for them to rent that property out. It is a seller's market at the moment. Families are being put out on the street when their homes are bought by an investor. It is put on the rental market at €200 or €250 a month in excess of the rent allowance cap, meaning that the family cannot afford to rent that house and they have no short-term accommodation. We need to put a safety net in place, particularly when it comes to these vulture funds and credit companies outside the jurisdiction that are not operating here on a day-to-day basis. They are not concerned about brand reputation and are only concerned about turning that money around.

I urge the Minister to consider my amendment No. 8, if not in this legislation then in forthcoming legislation, to ensure the courts have the power to refuse repossession of a family home where the family does not have the resources available to access the private rental sector or where the family cannot get access to local authority housing. The vast majority of families at the moment are throwing in the towel. They are not going to court to contest the repossessions. The lack of engagement with the lending institutions before they get as far as court means there is no point trying to make a case. If this provision were put into legislation to allow the safety net that a repossession could not proceed without consideration being given to the family's housing situation, it would be an additional tool in helping to support families in a housing crisis.

When responding, will the Minister clarify a matter I raised in the House last week regarding IBRC? At present IBRC is not honouring bonds taken out by developers for the completion of housing estates. A number of housing estates throughout the country have been left half-completed----

Acting Chairman (Deputy Joe O'Reilly): I ask the Deputy to bring his contribution to a

conclusion.

Deputy Denis Naughten: -----some of them in an unsafe situation. Will the Minister engage with the receivers to ensure those bonds are upheld in order that the resources are given to the local authorities to complete those estates?

Deputy Dara Calleary: I wish to speak to amendments Nos. 2 and 5. The purpose of these amendments is to highlight the serious situation involving private equity interests that purchase loans sold by Irish banks.

I have met a range of company owners, some of whom have had the ability to go to court and win their case, but most do not have that ability. They have described in detail the position their successful businesses were put in after loans with Irish-based and headquartered banks were sold to private equity funds, one backed by Goldman Sachs, but this would not be unique to that organisation.

I wish to quote from correspondence from one firm outlining its experience with a private equity fund:

It has become increasingly apparent that the acquisition of our loan was not done with a view to honouring the facility agreements, but instead with a view - we believe - to enforcing security in respect of our loan, so that the asset itself will become available to the private equity acquirers of our loan. A 'loan to own' strategy.

The purchaser of the loan insisted on a consultant attending board meetings, sought to have an outside consultant appointed at a cost to the company to review the business and engaged in a very aggressive manner in its communications with the business. This is line with what was reported by Tomlinson when he investigated similar practices involving RBS in the UK. His report stated:

1. The bank artificially distresses an otherwise viable business and through their actions puts them on a journey towards administration, receivership and liquidation.
2. Once transferred into the business support division of the bank the business is not supported in a manner consistent with good turnaround practice and this has a catalytic effect on the business' journey to insolvency.

This has an impact on employment and on SMEs. At the moment, Ulster Bank is involved in an aggressive sale of its loan portfolio, especially of small loans to outside capital companies. These are small companies employing ten, 20 or 30 people with no protection. It is no wonder we are such a target for these US investment funds when there is no protection for the people whose loans they are buying. We need to ensure we have the maximum protection available. It is all very fine for those with the ability and resources to go to the High Court to defend their right. They should not have to in any event. However, most companies do not have that ability and those companies that have the ability want to spend that money on something far more productive that might expand their business and increase employment. At the moment we are forcing them to go the High Court.

I appeal to the Minister to look at the amendment or give some indication that the Government is working on giving protection for those loans that are being sold down the Swanee. We have spoken about the extension of the credit guarantee scheme to allow for this, but that seems

to be parked up. Therefore, we are looking for legislative protection to protect business people and, more importantly, their employees.

Deputy Peadar Tóibín: I mentioned this the last day and an Teachta Naughten referred to it. There are examples of firms that are doing their best to function and provide a service, employing workers in a fair and decent manner. If given an opportunity, they would trade out of the difficulties they are in.

On Committee Stage I gave the Minister the example of a firm in County Meath that is seeking to negotiate a fair resolution of its debt. However, that debt has been sold to a company that was not even registered on the day the sale took place which adds further complication. It is alleged that the staff of the particular company, the new company, are former members of the original company and yet the details cannot be found. The names are opaque and it is murky. We are told the debt ended up being sold at a discount to even what the business owner was trying to negotiate. The view would be that a liquidation process would commence and the assets would be sold off.

Here we have the dismantling of a functioning business for the purpose of firms selling off the constituent aspects of the business as scrap. Ideally, the State should orientate all of its laws to ensure we have functioning, productive businesses that add significantly to the State. If this is happening to the particular gentleman in County Meath, there is no doubt that it is also happening to people in other counties. Given that most of the damage done to the State is the result of the murky opaque nature of relationships in the past, I cannot understand why any Minister for Finance would not want to make the system as clear as crystal in order that everybody would know exactly who was operating where and what the process being undertaken was. I ask the Minister to take this into consideration when dealing with these issues.

Also, one in six mortgage holders in my county-----

Acting Chairman (Deputy Joe O'Reilly): As the Deputy's time has expired and much of what he is saying is relevant to amendment No. 8 which has been ruled out of order, I must ask him to conclude.

Deputy Peadar Tóibín: Okay.

Minister for Finance (Deputy Michael Noonan): I thank Deputies Michael McGrath and Denis Naughten for tabling these amendments and all of the Deputies who have contributed to the debate thus far.

On amendment No. 2, I understand the Deputy's intention is to impose regulation on firms which take an active role in managing their relationships with borrowers, even when a borrower is not in financial difficulty. However, I am glad to be able to inform him that the amendment is unnecessary because the definition of credit servicing is broad enough to capture what is proposed. What we all want to do is strengthen protection for consumers whose loans are with unregulated entities by restoring them to the position they were in before the loans were sold.

We have been careful to ensure clarity in the Bill on what is and is not credit servicing. There is a specific set of activities outlined in the Bill which, if performed, are considered to be credit servicing. If a firm is carrying out any one or all of these activities on behalf of an unregulated owner, it must be authorised as a credit servicing firm. The definition of credit servicing is deliberately broad and means "managing or administering the credit agreement".

It includes a non-exhaustive list of specific actions which are credit servicing, one of which is managing or administering any alternative arrangement for repayment or other restructuring. In addition, owners of loan books who deal directly with relevant borrowers, namely, those servicing their own loan books, will be regulated. Otherwise, they can have the loan book serviced by a regulated credit servicing firm. A situation could also arise where an owner appoints a regulated credit servicer but is also actively involved in managing or administering the loan and, therefore, needs to be authorised. The transfer of a loan from one entity to another does not change the terms of the contract and the borrower's rights and obligations under the contract cannot be changed without agreement. Enforcement of security on a loan is subject to the conditions of the contract and can only happen in accordance with it. The sale of the loan book does not impact on this.

On page 4, lines 17 and 18, of the Bill credit servicing is specified as any alternative arrangement for repayment or other restructuring. What the Deputy is suggesting is that this be limited to situations where a credit agreement was in financial difficulty. If the proposed amendment were to be accepted, it would restrict the action of managing or administering any alternative arrangement for repayment or other restructuring to those restructuring arrangements which resulted from financial difficulties. This would have the unintended consequence of managing or administering any alternative arrangement for repayment or other restructuring in respect of an agreement that was not in financial difficulties not being included in the definition. Therefore, it could be argued that this activity was not credit servicing and did not need to be authorised because it was not a regulated activity. That would weaken the position of the borrower. We want to ensure borrowers, whether in financial difficulty, retain their current protections. The Bill, as drafted, provides for this. I am unable to accept the amendment because it would not strengthen the position of the borrower, as appears to be the intention.

Similar arguments apply to amendment No. 5. Enforcement only arises where a lender goes to court for failure to comply with the terms of a credit agreement. As I have said, the transfer of a loan from one entity to another does not change the terms of the contract and the borrower's rights and obligations under it cannot be changed without the agreement of both sides. We have deliberately left only a limited number of actions which an owner can perform without requiring authorisation. These can only be performed if they would not amount to a prescribed contravention if performed by a regulated entity.

We have also strengthened the protections for borrowers by way of inclusion of the new statutory obligation in section 5 which prevents an owner from instructing a credit servicing firm to do anything that would be a prescribed contravention and also prevents the credit servicing firm from carrying out such an instruction. Essentially, we have cornered owners on this issue in that they must be regulated or appoint a regulated credit servicing firm to service their loans. On this basis, I am unable to accept the amendments.

Deputy Sean Fleming: I understand the Minister's point about the impact of what is proposed in a situation where a credit agreement is not in financial difficulty but is restructured for business development purposes. However, the point I made was related specifically to the original loan agreement. I am aware that it is not possible to vary a loan agreement without agreement. Often, despite the fact that people have read the conditions outlined in the small print, they will have missed the point that a loan can be recalled at short notice, which is regularly the case. Most people, to their detriment, sign agreements in the belief that while this is standard banking practice, once they meet the conditions of their loan this punitive provision will not be implemented. In the normal course of events it will not be implemented and banks

are happy to have loans repaid in the normal way taking into account the fact that if they get a bad name, they will not get new customers.

My concern is that, notwithstanding the conditions attached to the original loan, some of the vulture funds acquiring these loans books are doing so in order to take ownership of assets. In many situations, because loans are being written down by a figure of 50% to 70%, the asset value is greater than the discounted value of the loan. These vulture funds have no interest in the loan being repaid. All they are interested in is seizing the assets as quickly as they can, which they may be entitled to do by law under the original agreement, resulting in the closure of the business. This is an unsatisfactory consequence of the sale of loan books to people who have no vested long-term interest in the economy.

Deputy Denis Naughten: The Minister might come back to me at some stage on the IBRC issue.

On amendment No. 4, the fundamental difference between a vulture fund and a bank or other credit institution operating in Ireland is that the latter is here for the long term, bearing in mind the need to maintain brand reputation. In the case of a vulture fund, as soon as house prices increase, as is the case, a bubble is created in the market, thereby providing a financial incentive for it to cash in and put people out on the street. The purpose of my amendments is to put in place an additional safety net to ensure that, as part of the repossession process, families would not be faced with homelessness or having to secure temporary accommodation. It is important it be stated in law that where a family home is to be repossessed, a court must give due consideration to whether the family has the financial resources required to find private rented accommodation in what is a very challenging market or an assurance from a local authority that it can provide them with accommodation. This additional tool would be beneficial towards ensuring that vulture funds, in particular, do not put the squeeze on families, repossess their property, sell it off to an investor and cash in and get out of the country. It would ensure there would be consideration for the long-term impact they have on the particular family and the economy as a whole.

Deputy Michael Noonan: I thank the Deputies for their contributions. Going back to first principles, the purpose of the Bill when it becomes law is to ensure that if loan books are sold from a regulated entity to a non-regulated entity that we extend the regulation mandate to the non-regulated purchaser. The Bill fulfils that purpose.

Some issues have arisen in regard to the Bill. One is the belief among many people that the new owner of the loan book can vary the terms of the contract. The new owners cannot do that. When they buy the loan book, they must comply with the terms of the original contract and there is no variation on that. In regard to the question on bonds, when bonds fell, insolvent companies were not able to finish estates and contracts because the bond was not available. Now, the liquidator is working his way through the assets and it appears quite clear that he will be in surplus once he deals with all the creditors. When he has worked through, there will be a residue of creditors such as local authorities. Therefore, it is the local authorities that will be at a loss where the bond lapses. However, it appears now there will be sufficient moneys to repay the local authorities if they are an unsecured creditor, because the funds available now are sufficient to cover unsecured creditors. The same will apply, for example, to credit unions which invested. Some 14 or 15 credit unions invested moneys and they are unsecured creditors. It appears now they will get their money back, but it is up to the liquidator to work his way through the process.

The ideas in the Deputy's amendment do not really run from the Bill. They are certainly a subject for debate, but they do not constitute an amendment for this Bill. Perhaps they should be included in a Private Members' Bill or some such mechanism.

Deputy Denis Naughten: I was trying to flush out the Minister's view on them.

Deputy Michael Noonan: There are some interesting ideas there.

Amendment put and declared lost.

Deputy Michael Noonan: I move amendment No. 3:

In page 5, line 9, to delete "to which credit has been provided" and substitute the following:

"but only to the extent that the credit granted to it under the credit agreement concerned was provided".

The aim of this part of the Bill is to ensure that SMEs which have borrowed from regulated firms maintain the protection they had. It was never the intention to capture SMEs which borrowed from legitimately unregulated firms. These firms are an important source of funding for SMEs and we do not wish to restrict the flow of funds to SMEs in any way. Therefore, this amendment is largely technical in nature and serves to ensure the definition of the SME credit covered by this Bill is as intended. This is done by amending the definition of relevant borrower to restrict it to credit provided by a regulated financial service provider.

This amendment restricts the definition to ensure that where credit has been granted to an SME by a number of providers, both regulated and unregulated, it is only the credit that was originally provided by an authorised or regulated financial service provider that is covered by this Bill. The amendment is intended to ensure that SME credit which is sold by regulated entities is protected without impacting on other SME credit. Therefore, the amendment ensures that SMEs will continue to enjoy the protections they currently have when they borrow from regulated lenders, for example, the code of conduct for business lending to small and medium enterprises, but we are not extending the remit.

Amendment agreed to.

Amendments Nos. 4 and 5 not moved.

Deputy Sean Fleming: I move amendment No. 6:

In page 6, between lines 10 and 11, to insert the following:

"(2) Section 33A of the Central Bank Act 1997 is amended by inserting the following subsection after subsection (5):

"(6) The Bank shall also impose, on a debt management firm and or a credit servicing firm, a condition that a customer shall, within 30 days of his or her credit agreement being sold be—

(a) advised of the terms on which his or her credit agreement was sold,

(b) advised on any material change to the terms under which the credit agreement is ser-

vised,

(c) advised whether the loan was sold at a discount, and

(d) provided with details of his or her rights under—

(i) the Code of Conduct on Mortgage Arrears 2013, and

(ii) the Financial Services Ombudsman.”.”.

This amendment arises from Committee Stage debate and concerns the provision of information. We suggest that when a loan is being managed by a credit servicing organisation, the bank shall also impose on the debt management firm or credit servicing firm, a number of conditions to be fulfilled within 30 days of their appointment advising them to advise the customer of the terms on which his or her credit agreement was sold and advising of any material change to the terms under which the credit agreement is serviced.

The Minister will probably say there cannot be changes to the agreement as the original loan had been sold. Therefore, perhaps subsection (b) may not apply - material change to the terms under which the credit agreement is serviced. The customer should be advised whether the loan was sold at a discount and provided with details of his or her rights under the Code of Conduct on Mortgage Arrears 2013 and on the responsibilities of the Financial Services Ombudsman.

The essence of this amendment is that if a person's loan is being sold on, that person is entitled to know whether it was sold at a discount. For example, take the case of somebody who borrowed €1 million from a bank and that loan was sold off, although the customer had been prepared to pay a discounted rate for it but that was rejected. The banks, through laziness - they should not be facilitated for laziness - bundles a group of loans and sells a package of 50 or so loans at a discount of 80%, despite the fact some of those loans will perform better and some worse than that. Rather than work through the agreements individually, the banks sell them off as a bundle so that they do not have to bother working through the details, having earned interest on the loans up to the time of their sale.

If a person's loan is being sold, he or she is entitled to know that. If I had a mortgage of €300,000 on a house and was in financial difficulty and my loan was sold off as part of a bundle, with a 50% discount given on it to the person taking over the new agreement, while I was willing to pay 80%, I should be entitled to know that. People are entitled to know whether their loans are sold at a discount. We must get back to basics on this. While there is some merit in this legislation, it does not go far enough. I believe that when a bundle of loans is being sold off, the borrowers should be notified in advance it is intended to sell the bundle including their loan and they should be entitled to submit an offer to buy their loan at a discount. Ultimately, the Irish taxpayers will benefit if distressed borrowers are willing to remortgage and buy their loans at 80% or 90% and have some of the arrears written off. That option should be available to them, rather than the loan book being sold over their heads.

I know the Minister will say it was always part of the original agreement that loan books could be sold off, but I believe that because of the impact the financial crisis has had on society, people should be informed of the sale value of their loan. If the bank is willing to accept a 50% write-down on a loan by selling it off to a third party, why would it not go at least some way towards dealing with the borrower who lives in the house? That would be the sensible route. I believe everybody would agree with this solution and see nothing wrong with the principle.

This might cause some work for the banks. Perhaps they should be forced to do some work and to disaggregate some of these bundles. They are just taking the lazy approach. One of the problems we have had coming out of the recession is that some of the banks did not do their job when they gave out the loans initially, but they should be forced to do their job when it comes to dealing with the difficult loans they gave out in the first place. Facilitating them by allowing them to bundle 500, 1,000 or 10,000 mortgages in one big lazy bundle is a reward for the banks for laziness. I have a fundamental problem with that.

People are entitled to know if their mortgage has been sold at a discount and they should be given to first option to buy it. That is the essence of the amendment. Even if people are not given the option, they should be told their loan has been sold and what the discount was because it puts them in a strong position. When the company comes back to a person to enforce repayment of a €300,000 mortgage, or whatever is the nominal value of the mortgage, he or she will be in a strong position to say the bank has paid only €150,000 for it and that is an acceptance that it is the fair value of the mortgage, which puts the borrower in a much stronger negotiating position. As we come out of the recession we do not want to further weaken the bargaining position of borrowers who might be able to make a better contribution than the discounted value of the loan, which would ultimately be to the benefit of the taxpayer. Everyone would agree with such a principle. It would be a pity to take such an approach. It is one of the shortcomings of the legislation that it did not take that into account.

Deputy Peadar Tóibín: Aontaím go huile agus go hiomlán leis an leasú seo. Why should a home owner or business person not know everything about the loan that pertains to their property? Given modern technology, there is nothing to stop the bank from barcoding and individualising loans to ascertain the details and to manage the loan and disaggregate it for management purposes.

I have dealt in my office with approximately 150 distressed mortgages in the past two to three years. At least 50 of the cases involved difficulties created by the lack of effort by the banks in dealing with citizens. The citizen should be at the heart of the process. Unfortunately, the way the Bill has developed ensures the citizen is not at the heart of the process, it is the bank, financial institution or vulture funds.

Deputy Michael Noonan: I appreciate the aim of Deputy McGrath's amendment is to ensure the consumer is correctly informed and protected, but I am not accepting the amendment because the consumer is already sufficiently protected under the terms of the Bill. Essentially, the amendment seeks to impose obligations on credit servicing and other terms in relation to credit which is sold. The first set of obligations concern commercial information on the deal to sell the credit, that is, the terms on which it was sold and whether the loans were sold at a discount. However, the terms of the individual's contract with the lender are not changed by the sale of the loan. It is therefore difficult to see any benefit in making this information known to the borrower, as it essentially concerns the contract of sale between the two private entities. The terms of the contract do not impact the borrower's contract with the person who owns the mortgage and so their obligations under such a contract remain the same. For example, even if the overall loan book is sold at a discount, the amount owed by the individual borrower is not changed nor are the other terms and conditions governing the loan.

It is also worth remembering that usually the loans are bundled for sale at an aggregate price and individual loans are not separately priced, making it difficult for the customer to be advised of the exact terms or price under which his or her loan was sold. The bundles are often

made up of non-performing loans as well as performing loans, so the overall price of sale takes into account such factors. In any event, the price at which a loan is sold does not change the circumstances of the borrower because the amount they owe on the loan, which is of course the bottom line, remains the same, and it is not affected by the sale.

The second set of obligations mentioned in the amendment concern a borrower's rights under the code of conduct on mortgage arrears and access to the Financial Services Ombudsman. Following the enactment of the Bill, the rights of a borrower under the code of conduct on mortgage arrears and the right of access to the Financial Services Ombudsman will be the exact same as when the loan was with the originating bank and are not changed by the sale of the loan book. Therefore, I do not consider it necessary that the borrower be given an additional reminder of their rights in light of the fact that they have not changed. In fact, such a reminder may serve to frighten the borrower into assuming their circumstances have changed when the rights they had before their loan books were sold remain the same after the sale is completed.

Deputy Sean Fleming: The Minister's answer confirms my original allegation that we are rewarding banks for being lazy. The Minister said it would be difficult to disaggregate loans as they are sold as a bundle. Let us put a bit of difficulty on the banks. They are paid well enough and they should be able to do a difficult job. If the essence of what the Department of Finance says is that it would not want ever to do anything that would make life difficult for a bank, then we have lost the plot entirely. We should do everything possible to assist the banks in helping the economy but we should assist them to help the public as well.

I accept loans are sold as a bundle but the people who are buying them will look at the loan book and take an estimate of how many are non-performing and where they will get very little. They will look at the loans that are performing very well and they will come in with an aggregate price. Even though the loans are not individually priced, the people who are buying them and selling them have worked out some rule of thumb as to what each of the individual loans are worth because they are not buying them just in the hope that they will make a profit. Let us put a bit of difficulty on the banks. Let us force them to disaggregate loans into much smaller groups and give individuals the opportunity to bid. The banks should put the loans out for open tender and not just as one job lot and let people make an offer. If the offer is not acceptable, at least people have been given the opportunity.

I contrast the treatment with the way NAMA has been treated. When it bought a loan at a discount, for example, in the case of a loan sold to NAMA for €35 million, it would boast forever and a day if it got €40 million for the loan and made a profit. NAMA does not go after the full original value of a loan. It is happy if it gets above the discounted value it paid for it, and it brags that it made a profit. The same principle should apply to mortgage loans. Let us make life a little bit difficult for the banks when it comes to dealing with customers because they are the ones who pay and they are entitled to be treated as individuals, not as a job lot.

Amendment put and declared lost.

Deputy Sean Fleming: I move amendment No. 7:

In page 7, between lines 13 and 14, to insert the following:

“(3) A person who carries on the business of credit servicing exclusively for an already regulated financial service provider shall be required to be regulated under this Act.”.

I discussed the issue at length on Committee Stage so we will not go through all the points again. Essentially, we wish to include in the Bill reference to: “A person who carries on the business of credit servicing exclusively for an already regulated financial service provider shall be required to be regulated under this Act.”

On Committee Stage the view of the Minister was that either the owner of the loan or the financial service provider is regulated. However, there should be no reason both could not be regulated. The owner of the loan and the person to whom I refer as the local agent - the person who engages with the individual borrower – should also be regulated. I made the point on Second Stage that I am concerned that it would suit some banks or regulated Irish financial institutions to sell a bundle of troublesome loans and make an exclusive deal with a financial service provider to manage a particular set of loans. I refer to situations where a bank would sell 1,000 or 2,000 troublesome loans. The Minister’s position is that because the bank is regulated and it has an exclusive deal with one company whose sole purpose is to service the loans and deal with the customers, the service provider does not require to be regulated because the original owner of the loan is regulated. It is essential that while the owner of a loan should be regulated, in all circumstances the person responsible for the provision of financial services should also be regulated specifically in those areas. There is a lacuna in the legislation whereby this particular group of financial services providers are being let off the hook of regulation because they have an exclusive agreement with the original loan provider. This lacuna should be closed off.

Deputy Peadar Tóibín: Human nature and business being what they are, people in business often have an incentive to use the system to their own benefit and to ensure gaps that arise can be used to reduce costs or improve profit. It is human nature and how business works. This is why it is important the Government ensure such gaps do not exist. Decent, fair regulation is a good thing. The absence of decent regulation has been the cause of many of the woes we have experienced in this generation during the lost decade that has just passed. What is the difficulty with ensuring all players are properly regulated? What would the exact cost be? On the other side of the fence, business people often say over-regulation is a cost to their businesses. Do we know what the cost would be if we included all players under this regulation umbrella?

Deputy Michael Noonan: I thank Deputy Michael McGrath for tabling the amendment and Deputies Sean Fleming and Tóibín for speaking to it. Although the issue was discussed fully on Committee Stage, I am glad to have the opportunity to reassure the House again on the matter. The model which currently operates for regulation by the Central Bank is that a single entity is responsible and answerable to the bank for actions it undertakes or which are undertaken on its behalf. Given that the model works well, there is no reason to change it here, with the single exception of the need to address loan books which are sold. If a firm is undertaking credit servicing solely or exclusively for a firm which is already regulated, such as a bank based in Ireland, it does not need to be regulated itself. The regulated firm is answerable to the Central Bank for any actions it takes or that are undertaken on its behalf. The regulated financial service provider must ensure firms undertaking services on its behalf follow all relevant regulations. In this scenario, the borrower is adequately protected given that there is always one regulated entity dealing with its loan and, therefore, subject to Central Bank supervision. As such, I do not consider that the amendment is needed.

One might, therefore, ask why we do not regulate the owner outside Ireland that purchases new loans. I have already outlined that the policy decision was taken to regulate the credit servicing firm rather than the owner. This was considered to be the best way to protect the consumer given that it is the credit servicing firm that is interacting with the consumer. I fully

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appreciate that the model is different where the loan book is sold and the new owner does not have to be regulated if the servicing is undertaken by a regulated credit servicing firm. This reflects the new scenario of loans being sold and the new owner not necessarily needing to get involved in the relevant regulation unless it becomes actively involved in managing the loan. It is likely that firms which are credit servicing exclusively for a regulated firm, and therefore do not need to be regulated, may nonetheless decide to seek Central Bank authorisation in order possibly to expand their customer bases.

In section 5 of the Bill, which was added on Committee Stage, there is a statutory obligation which strengthens borrowers' protections again. It will ensure that a credit servicing firm cannot do something, or fail to do something, which would be a prescribed contravention if performed or not performed by a regulated retail credit firm. This obligation also prevents the owner of credit from instructing a regulated credit firm to perform such an action. Under the terms of the amendment, if the unregulated owner instructs the credit servicing firm to do something which would be a prescribed contravention if undertaken by a retail credit firm, the credit servicing firm cannot implement such a decision. It is an offence by the unregulated owner to instruct the credit servicing firm to do this. For those reasons, I am not accepting the amendment.

Amendment put and declared lost.

Amendment No. 8 not moved.

Bill reported with amendment and received for final consideration.

Question proposed: "That the Bill do now pass."

Deputy Sean Fleming: As I have said consistently, there is some merit in the Bill and it contains elements which are important and which we support. On that basis, we are better having the legislation on the Statute Book than not. However, some issues should have been incorporated during the debate and we may return to those issues through further legislation, maybe from our side of the House. The issues are vulture funds which want to buy a loan in order to own an asset, walk in and close it down after seven days or at very short notice. The legislation should have provided for people whose loans are being sold at a discount to be given first opportunity to buy or to be made aware of it. Amendment No. 7 was defeated. Even if the owner of a loan is regulated, a credit servicing firm where there is an exclusive arrangement should be regulated. We may draft Private Members' Bills on those particular aspects. While there are some defects in the legislation, it is better to have it on the Statute Book than not.

Deputy Peadar Tóibín: Is dul chun cinn é an Bille seo, gan dabht. Bhí sé dochreidte gur fhágadh iadsan le morgáistí ón IBRC amuigh san fhuacht go dtí seo mar gheall ar rialachán morgáiste. Is fadhb uafásach mhór í fós an ghéarchéim morgáiste sa tír seo. Tá duine as seisear i mo chontae féin i bponc mar gheall ar a mhorgáiste. Is fadhb mhór fós í fiachas a bhaineann le gnóthaí thart timpeall na tíre. Tá an rud a tharla d'iadsan le morgáistí ón IBRC dochreidte, go háirithe i gcodarsnacht le daoine ar nós Denis O'Brien agus le Siteserv. Ní bhfuair siad aon íslíú fiachais ná aon íslíú sa ráta úis ar chor ar bith. Caitheadh amach iad sa cheantar, gan rialachán. Fuair na gnóthaí móra, iad siúd leis an airgead agus a chruthaigh na fadhbanna móra a chur an tír seo i ngéarchéim i dtús, gach cabhair ón IBRC agus ón Rialtas. Iarraim ar an Aire iarracht a dhéanamh as seo amach agus é i mbun na hoibre seo gach duine a chur ar an leibhéal céanna.

Question put and agreed to.

Topical Issue Matters

Acting Chairman (Deputy Joe O'Reilly): I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputies Mary Lou McDonald, Michael Conaghan, Dara Calleary, Joe Costello and Eamonn Maloney - the closure of Clerys department store and provisions being made to assist workers; (2) Deputy Brian Stanley - autism services in County Laois; (3) Deputy Thomas P. Broughan - the need to provide support and funding to St. Michael's House for appropriate premises; (4) Deputies Brendan Smith, Gerry Adams and Pádraig Mac Lochlainn - British collusion with loyalist paramilitary forces following a recent television documentary; (5) Deputy Lucinda Creighton - the need to examine capital acquisitions tax and the issues surrounding the inheritance tax trap; (6) Deputies Fergus O'Dowd and Éamon Ó Cuív - the detection of BSE on a farm in County Louth; (7) Deputy Colm Keaveney - the recent HIQA inspection reports into services for people with disabilities and the actions that will be taken; (8) Deputy Pat Deering - the need to review the income threshold for the mortgage to rent scheme; (9) Deputy Seán Ó Feargháil - the sale of paintings by the Beit Foundation; (10) Deputy Niall Collins - the need to address the plight of those suffering sexual violence here; (11) Deputy Dan Neville - the admission of children to adult psychiatric beds as reported in the recent Mental Health Commission annual report; (12) Deputy Sandra McLellan - concerns over recent reports of the 2012 internal HSE investigation into the mother and baby home at Bessboro; (13) Deputy Regina Doherty - the progress of pyrite resolution funding and outstanding issues of C1 and C2 houses; (14) Deputy Dessie Ellis - the cut in funding for the Rape Crisis Centre and the impact on services to survivors of sexual violence; (15) Deputy Billy Kelleher - the actions planned to reduce waiting lists at Waterford University Hospital; (16) Deputy Joan Collins - the cut in funding for the Rape Crisis Centre and the impact on services to survivors of sexual violence; (17) Deputy Thomas Pringle - the need for a new building for St. Mary's National School, Stranorlar, County Donegal; (18) Deputy Bobby Aylward - the use of banks rather than post offices for social welfare payments; (19) Deputy Clare Daly - the cut in funding for the Rape Crisis Centre and the impact on services to survivors of sexual violence; (20) Deputy Mick Wallace - correspondence from councillors in Dublin local authorities regarding housing standards; (21) Deputy Richard Boyd Barrett - the delay in relocation of Gaelscoil Phadraig, Ballybrack, County Dublin to a new building; and (22) Deputy Mattie McGrath - the plans to address areas and counties with low take up of the under-six free GP care plan.

The matters raised Deputies Fergus O'Dowd and Eamon Ó Cuív; Pat Deering; Brendan Smith, Gerry Adams and Pádraig Mac Lochlainn; and Mary Lou McDonald, Michael Conaghan, Dara Calleary, Joe Costello and Eamonn Maloney have been selected for discussion.

12 o'clock

Sitting suspended at 11.50 a.m. and resumed at noon.

Leaders' Questions

Deputy Micheál Martin: Every Irish family is thinking about the families of the students

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who were tragically killed in Berkeley yesterday. A further seven students were injured and are receiving care in various hospitals. They were young people who were full of the joys of life. They were talented, outgoing, caring and global in their outlook, as revealed this morning by the principal of one of the students. The bereaved parents are either on their way or have arrived in Berkeley to identify their loved ones. I acknowledge the excellent work being done by the Minister for Foreign Affairs and Trade and his officials in the Department of Foreign Affairs and Trade who have a long tradition of looking after Irish people abroad when the need arises. They will continue to go beyond the call of duty to support the families of the deceased, Eimear Walsh, Eoghan Culligan, Ashley Donohoe, Niccolai Schuster, Olivia Burke and Lorcan Miller. That is the way it should be.

The US ambassador, Mr. Kevin O'Malley, has described the J1 programme as an essential ingredient of the unique and flourishing relationship between Ireland and the United States. That is why our consul general in San Francisco, Mr. Philip Grant, stated yesterday that people were frozen with shock, disbelief and a profound sadness at what had occurred. In that context, it is important that other students with J1 visas be given access to support and counselling. More than one third of the 8,000 students with J1 visas are in California. I was glad to hear the president of UCD confirm this morning that the university's office in San Francisco was in contact with students.

It is important in the coming period, after the initial shock and sadness pass, that support, including the exceptional supports the Minister and his Department are providing, continue to be offered. It is particularly important that the medical needs of those who were injured and are in hospital be monitored. As a state, we must ensure every possible assistance is given to the families of those who were injured and are in need of medical care. In the weeks and months ahead that support will continue to be necessary. May I take it that the exceptional support given thus far by the Department and the universities will endure over a longer period in order that everyone will be looked after to the greatest extent possible?

The Taoiseach: I thank the Deputy for his comments and the proposal he made this morning. The flags of the country are flying at half mast as a mark of respect and sympathy to the families of the bereaved. I hope that on the Order of Business we can hear brief comments from the leaders before suspending the sitting of the House as a mark of respect. When we look at the newspapers this morning, do we not see the faces of our own sons and daughters as they start the great adventure of life? This tragedy could have happened in Cahersiveen, Wexford, Monaghan or anywhere else, but it happened so far away. It impacted on the immediate families, young people and the many thousands of J1 visa holders to whom the Deputy referred.

I thank the Deputy for his comments about the Minister, Deputy Charles Flanagan. The support provided through the Department of Foreign Affairs and Trade will continue and specialist counselling and support will be provided, where necessary. I propose to send the Minister of State at the Department of Foreign Affairs and Trade with responsibility for the diaspora, Deputy Jimmy Deenihan, to Berkeley as a symbol of solidarity with the people of Ireland. This is not in any way intended to overlook the great work being done by the consul general in San Francisco, Mr. Philip Grant, in providing a presence for the Government.

As Deputy Micheál Martin pointed out, the families of the six young people whose lives were tragically taken in this accident are in our thoughts and prayers. With the indulgence of the House, after I propose the Order of Business, we might hear short comments from the leaders and then suspend the sitting of the House for a period of time.

Deputy Micheál Martin: I thank the Taoiseach for his reply and welcome his decision to ask the Minister of State, Deputy Jimmy Deenihan, to travel to the United States to show our solidarity and support, as well as to convey our gratitude to the emergency personnel for their work. As this is not a day on which to have normal engagement, I will leave the questions I raised earlier with the Taoiseach because I know that they will receive the attention they deserve in the light of the exceptional commitment and support shown by the Government and the Department of Foreign Affairs and Trade thus far. I again thank the Taoiseach for his reply.

The Taoiseach: These efforts will continue. I thank the Deputy for his comments.

Deputy Gerry Adams: I concur with the remarks of Deputy Micheál Martin and the Taoiseach on this terrible tragedy and appreciate that I will have the opportunity to speak about it later. For the present, I want to return to the issue of what the Taoiseach described as the grossly insensitive and appalling treatment of Clerys workers and concession holders. Boston based vulture capitalists, Gordon Brothers, purchased Clerys in 2012 for what was believed to be a sum of €12 million. The sale was made possible because Bank of Ireland wrote off €10 million of Clerys debts and lent the same amount to Gordon Brothers. In July 2013, 80 staff were let go at Clerys, whereas it is believed Gordon Brothers received €14 million in insurance moneys for flood damage. Gordon Brothers separated Clerys' retail business from its property assets by setting up two firms, OCS Operations and OCS Properties, before selling the latter for €29 million to Natrium Limited last week. Natrium Limited was only incorporated on 27 May as a vehicle for the purchase of Clerys' assets. It is a joint venture between Cheney Capital Management and D2 Private. A senior executive at Cheney Capital Management is a former NAMA executive. D2 Private is run by a former KPMG employee. KPMG is also the special liquidator of Clerys. The Taoiseach will recall that KPMG also featured in the IBRC scandal and the sale of that bank's assets. Clerys' retail business, now OCS Operations, was placed in liquidation before the property assets were sold off. There was no provision made for redundancy, holiday pay or other staff related costs such as pensions. There is no fairness for employees and concession holders. This is entirely legal under the Government's watch, but it is also sharp practice. It is clear that the legislation needs to be amended. Deputy Peadar Tóibín has published a Bill to that effect. Will the Taoiseach support it?

The Taoiseach: We referred yesterday to the insensitive treatment of the workers in Clerys, some of whom have given over four decades of loyal service to the company or companies over those years. I understand the Tánaiste is meeting with a number of Clerys workers. The Minister of State, Deputy Nash, in his role as Minister with responsibility for business, has met with the liquidator. He has pointed out the duty and responsibility he has to ensure that representatives of the new company will meet directly with the workers.

Deputy Adams mentioned the Bill prepared by Deputy Tóibín on behalf of Sinn Féin. As I pointed out yesterday, the Government has strengthened the laws in this area with the new Consolidated Companies Act which was enacted last year. It had been going on for about a decade and included over 1,000 amendments. It is up to creditors to seek legal advice on whether the provisions in the updated Companies Act could be relevant to the present position. I have asked the Minister of State, Deputy Nash, to prepare a report on the evolution of the circumstances here. The Minister for Jobs, Enterprise and Innovation, Deputy Bruton, will consider whether it would be useful or appropriate to have the Company Law Review Group examine this issue, and whether it might be appropriate to make changes in respect of the way this particular situation evolved so as to prevent such a situation recurring. I would temper that, however, by saying that the range of company law can be complex.

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This morning, I spoke to somebody who has a commission in Clerys. Some of these companies are able to move their now redundant staff from Clerys to their other premises, but some are not. There is clearly an issue here that needs to be resolved quickly. On the direction of the Tánaiste, the Department of Social Protection has assembled a team of people to meet and advise the now redundant workers on their rights and entitlements, including job seekers' payments and secondary payments such as rent supplement and future options for education, training or alternative employment. However, that does not deal with the issue that happened so insensitively when this meeting was called.

The Deputy is aware that SIPTU has made arrangements for Liberty Hall to be available for the workers today. It is better to have that facility so that everybody can have access to the fullest range of information arising from this. The Department of Social Protection will see to it that there is absolutely no delay in processing payments due under the redundancy protection scheme for workers. That means that they can be paid and claimed quickly, due to the suddenness of this situation.

As regards the Bill prepared by Deputy Tóibín, on behalf of Deputy Adams' party, I think it would be more appropriate for the Company Law Review Group to look at the circumstances. The Minister, Deputy Bruton, will advise on that in due course.

Deputy Gerry Adams: With respect, I do not think it is good enough. The fact is the Taoiseach is dealing with the aftermath of the problem, not the problem itself. The problem is that there is a culture which allows for golden circles and insiders, and which actually foments inequality.

If we look at this, I mentioned D2.

An Ceann Comhairle: I am sorry but we should not get into the area of apportioning blame. This is a private development and we cannot name people-----

Deputy Gerry Adams: I am not blaming anyone.

An Ceann Comhairle: -----or semi-accuse people of wrongdoing.

Deputy Gerry Adams: I have made it clear that there is nothing illegal in what is going on-----

An Ceann Comhairle: Thank you.

Deputy Gerry Adams: -----but D2 investors have included Seán FitzPatrick of Anglo Irish Bank and a former Fine Gael Attorney General. Liquidators KPMG have also worked as auditors for D2 Private, so Clerys' liquidators also worked for the purchaser. Are there not clear conflicts of interest there?

If one scrutinises the companies registration office, it lists a man called Rafael Klotz as a director both of OCS Operations and OCS Properties. This gentleman is also the senior managing director of Gordon Brothers. The Bill put forward by an Teachta Tóibín seeks to correct the anomaly which allows unscrupulous employers not to protect their employees' rights. I am making this accusation: this is a perfect example of a few rogue employers severing the legal personality of a company from its directors, thus protecting them from the liability of business obligations to its employees in the case of tactical insolvency. This is a case of tactical insolvency.

An Ceann Comhairle: I am sorry, Deputy, but we are over time.

Deputy Gerry Adams: It should be remembered that Gordon Brothers left Dublin after shafting the concession holders and workers with an extraordinary profit of €19 million. It is all about golden circles, insiders and networks within networks. It is all legal under the company law which this Government introduced. I am asking the Taoiseach to commit to allowing the passage of legislation to rectify this matter before he leaves office.

The Taoiseach: As I said, the Government introduced a strengthened company law Act last year, which was in gestation over the last decade when a number of governments were in office. I do commit that the Company Law Review Group, which is headed by an eminent person, should examine this issue to see whether it is appropriate that some changes be made to the law, as enacted, in order to prevent this kind of situation arising again. I must stress that company law, in its entirety, is complex. I do undertake, however, that the Company Law Review Group, under the direction of the Minister, Deputy Bruton, following the report by the Minister of State, Deputy Nash, will examine the situation and will report to the House on that.

Deputy Tom Fleming: On behalf of the Dáil Technical Group, I wish to express our sincere sympathy and condolences to the parents, relatives and friends of the victims of the tragedy in Berkeley, California. Our thoughts and prayers are very much with those people at this time, as are the thoughts of the nation.

Primary education is under-staffed, under-funded and under-resourced. We have the largest class sizes in the EU. Every day approximately 550,000 children receive their education in the largest classes in Europe. Some 85% of Irish children are in classes greater than the European average of 21, and one in five is in a class of more than 30 children. Distressingly, fewer than 10% of Irish children are in classes which other EU countries call the norm. The consequences are obvious. Simply put, not every child in this State is getting the attention or time they deserve. The knock-on effect is twofold. Our teachers are not maximising their abilities and our children are losing ground through a system that fails to properly resource and nurture talent.

Irish teachers are among the most productive in the EU considering that they teach much bigger classes. Irish teachers have four times more students in their classes than their European counterparts. I am sure that the Taoiseach, as a former teacher himself, would acknowledge that we have to stand up for education. This means three things, namely, smaller classes, better funding and support for principals and teachers.

In a world that is changing rapidly, including constant changes to the needs of industry, we must ensure that our children have the proper foundations for their education. We need to be more ambitious for our children, in addition to acknowledging the transformative nature of properly funded education. At all times, education has the ability to break down the inequalities that exist in society. Investment at that stage in a child's life will pay dividends in the long term both for the children and the general economy in future.

Will the Taoiseach and the Government set out a plan to reduce class sizes to the EU average, starting this year and to be fully achieved in a reasonable timeframe, let us say, over the lifetime of the next Government? I appeal to the Government not to forget to reverse the staffing cuts to pupils with special needs. They are not proper in a civilised society and it was certainly abnormal in the context of international standards to allow that to happen. Will the Government support school teachers by doubling the release time for teaching principals, pay-

ing the outstanding parity awards and building a middle management tier as well as ensuring a structure for primary and secondary level schools on parity?

The Taoiseach: I thank Deputy Fleming for his comments. Someone once said that the future of civilisation is being written in the classrooms. There is no question of the importance and priority being attached to education. Deputy Fleming mentioned three aspects, namely, smaller classes, better funding and support for teachers. We do not have all the money that we would like to invest in the education system, in primary, secondary, third level and fourth level. However, I believe serious progress is being made. It is true there are classes with too many pupils in many places in the country. On the other side, there are classes with too few pupils because of the drop in numbers in some of the schools. If we were to equalise them throughout the country we would probably have an average but that is not physically possible.

It is important to say that the programme and strategy set out by the Minister for Education and Skills is to eliminate all the prefabs over a period. The next bundle of schools has already been sent out to the public private partnership process to build and provide accommodation. The new facilities being provided for schools, particularly in the private sector, are exceptional, as is the impact of the summer works scheme, which allows great work to be done in a short period with necessary improvements in places throughout the country.

It is equally important for us to understand that there are few influences on the life and mind of a young person like a teacher who has the interest, motivation and capacity to inspire young minds. In many of the places I visit throughout the country in industry and in business we see our young people who have come through the education system. They are the envy of so many others. While the situation is not perfect, it is one that allows for people to reach their best. For those who, for one reason or another, have a challenge it is necessary to continue to supply special needs assistants and resource teachers.

Opportunity is given to schools to have greater devolved power to make choices in the subjects they wish to teach, be it short courses in secondary schools or whatever. There have been changes in the curriculum. The voluntary movement of CoderDojo, for instance, enables young children of six and seven years of age to understand the writing of code that drives the computers that change the frontiers up ahead. This is evident in many places throughout the country. The Minister for Education and Skills will consider the question of class sizes in the context of the forthcoming budget in October. These decisions cost money. I remember on the first occasion I took classes many years ago I think I had 65 in two classes. In such circumstances it is an impossibility to do the job properly, as Deputies will know.

I would like to think that we can have a system where we have competition within the class. Peer competition is important. In the context of the forthcoming budget the Minister will look at the question and the opportunity that might present itself to deal with the question Deputy Fleming has raised.

Deputy Tom Fleming: I welcome the Taoiseach's positive approach to addressing class sizes. This is further to the work of Deputy Finian McGrath, who informed me a minute ago that in his talks with the Minister for Education and Skills, Deputy Jan O'Sullivan, she has also acknowledged the anomaly referred to. I am sure the Taoiseach will give her full support in sorting out the exercise and initiative to get that under way in the forthcoming announcements and budgets, etc.

Primary education is the foundation of the education system and the bedrock on which everything else is built. It is imperative that we give our primary school children a proper chance. No matter how much investment we deliver further up in the education system, it will never solve the problems that are sown by the short-changing and under-funding of the primary school system and our younger children. It is evident in many parts of our primary school system that Government funding does not cover ancillary costs, such as heating, lighting, information and communications technology, offices, etc. In many cases the parents and principals at local level have to sacrifice many things to make up the deficit - classroom equipment falls under this area as well - and that is not right. Vital equipment is being short-funded and this places considerable stress on the system, on parents, naturally, and on the principal as well. On top of this we have voluntary boards of management.

An Ceann Comhairle: Sorry, Deputy.

Deputy Tom Fleming: They need more training and supports to bring up efficiency levels etc. It is only right that they can perform their job to satisfaction. The situation is also a deterrent to many people in respect of their participation in boards of management. They are reluctant to get involved. It is only fair that we bring them along on equal terms in the improvement of our education system.

I will make a comparison with Northern Ireland.

An Ceann Comhairle: No, Deputy. You are way over time. I have given you a fair bit of latitude.

Deputy Tom Fleming: A principal of a three or four-teacher school gets 16 days a year to carry out his administrative, managerial and leadership roles, which is totally inadequate. In the North, for example, a teaching principal in a primary school gets one day a week free of class teaching to do the work. We need to give some concessions on this side of the Border.

The Taoiseach: Deputy Fleming has pointed out a number of issues that are of importance. Boards of management are the employers of the teachers. In most cases they are purely voluntary people. If difficulties arise in school situations it can be very trying for boards of management to make decisions to sort them out. Of course, people who work in the administration for particular schools work exceptionally hard for lower wages. However, I believe that the Minister has set out a clear strategy, particularly in respect of the primary system, both in respect of the support for teachers and support for schools. I acknowledge the exceptional commitment of so many people who fund-raise and do work in schools for sport, music, choirs and so on as a compliment while their children are moving through that system. I also recognise that where the State has been in a position to provide new and proper facilities for the primary system there are exceptional buildings, but that is all they are: buildings. More important is the potential and the opportunity for the teachers and the teaching staff to really bring their students on and bring out the best in them, irrespective of what level that is.

I go to schools that are twinned with schools in the United States, Australia, New Zealand or wherever. I see children given the opportunity to contact their peers in other countries to talk about their music, culture, sport and what it is they do. This gives them, as part of the Irish nation, an understanding of our place in the world.

The Minister, Deputy O'Sullivan, will meet with the Minister for Public Expenditure and Reform, Deputy Howlin, and the Minister for Finance in the preparation for the forthcoming

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budget. I have no doubt that the issues Deputy Fleming has raised will feature as part of those discussions and I hope that they can be progressed somewhat.

Business of Dáil

An Ceann Comhairle: Before proceeding to the Order of Business, I notify the House of a change in the running order of the matters selected for the Topical Issue debate. The matters raised by Deputy Pat Deering; Deputies Brendan Smith, Gerry Adams and Pádraig Mac Lochlainn; Deputies Mary Lou McDonald, Michael Conaghan, Dara Calleary, Joe Costello and Eamonn Maloney; and Deputies Fergus O'Dowd and Éamon Ó Cuív will be taken in that order.

Order of Business

The Taoiseach: It is proposed to take No. 38, Teaching Council (Amendment) Bill 2015 - Order for Report, Report and Final Stages; No. 1, Children (Amendment) Bill 2015 [*Seanad*] - Second Stage; No. 15, motion re Offences against the State (Amendment) Act 1998; and No. 16, motion re Criminal Justice (Amendment) Act 2009.

It is proposed, notwithstanding anything in Standing Orders, that, in the event that a division is in progress at the time fixed for taking Private Members' business, the Dáil shall sit later than 9 p.m. and adjourn at the conclusion of Private Members' business which shall be No. 71, Employment Equality (Amendment) Bill 2015 – Second Stage (resumed), and which shall, if not previously concluded, be brought to a conclusion after 90 minutes; Nos. 15 and 16 shall be taken at 6.15 p.m., shall be debated together and shall, if not previously concluded, be brought to a conclusion after one hour and 15 minutes and that the following arrangements shall apply: the speech of a Minister or a Minister of State and the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group who shall be called on in that order and may share time shall not exceed ten minutes in each case; the speech of each other Member called on shall not exceed ten minutes in each case and such Members may share time; and a Minister or a Minister of State shall be called on to make a speech in reply which shall not exceed five minutes; and immediately following these proposals on the Order of Business, the Taoiseach, the Tánaiste and the leaders of Fianna Fáil, Sinn Féin and the Technical Group, or a Member nominated in their stead, shall be called on to make a brief statement on the Berkeley tragedy, following which the sitting shall be suspended until 2.30 p.m.

An Ceann Comhairle: There are three 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. 15 and 16 agreed to? Agreed. Is the proposal for dealing with statements on the Berkeley tragedy agreed to? Agreed.

Deaths of Irish students in California: Statements

The Taoiseach: We are all shocked by the loss of life and injuries in Berkeley yesterday. It is shocking to think such beautiful young people, full of joy, excitement and hope, who had only recently set off on a summer's adventure, died so tragically. Our thoughts and prayers are with the families and friends of Ashley Donohoe, Olivia Burke, Eimear Walsh, Lorcán Miller,

Niccolai Schuster and Eoghan Culligan. Seven young people remain in hospital, some of them critically injured.

Yesterday the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, established a consular emergency centre, which dealt with almost 500 calls. This morning a team of officials is at Dublin Airport to assist the families who are travelling, while the emergency response telephone line remains open to provide support, advice and assistance for concerned families. The families of the deceased and injured will be met on arrival in San Francisco Airport by our local consular team which will assist and support them, together with a number of volunteers who will offer assistance. The Department was in touch with each of the families of the deceased and injured yesterday and each has been assigned a designated liaison officer to help with the practical aspects of the very difficult and emotional journey ahead.

In San Francisco the Irish consul general in the area, Mr. Philip Grant, has been extremely active in liaising with families, supporting students and working with the local police and authorities. He has established an incident centre at the city hall in Berkeley with the assistance of local authorities and local Irish community groups. Additional staff have been provided by the Irish consuls in Boston and New York for families who travel through these cities. A number of hospitals have organised grief counsellors who will be available at the incident centre at Berkeley city hall.

It is terrible to have such a serious and sad incident take place at the beginning of the summer's activity and an opportunity of which so many young people avail via the J1 visa programme in the United States. I encourage families who have remaining concerns about loved ones who might be affected by this terrible tragedy to make contact with the Department of Foreign Affairs and Trade's consular response team, the telephone number of which is (353) (01) 4180200.

I thank the leaders of the various parties in the House for their support in this matter and solidarity with the families and friends of the deceased and injured. As I indicated, I propose to dispatch the Minister of State with responsibility for the diaspora to act a Government presence in solidarity with the families and young people in San Francisco.

Tánaiste and Minister for Social Protection (Deputy Joan Burton): For the families who have lost sons and daughters in Berkeley, there are no words. Words wash away like water. This tragedy brings us together, as families and as a community, both here and in America, to mourn the loss of these wonderful, beautiful young people. On behalf of the Government and the Labour Party, I express my deepest sympathy to the families and friends of Olivia Burke, Lorcán Miller, Eimear Walsh, Eoghan Culligan, Ashley Donohoe and Niccolai Schuster. We are also thinking of those students who were injured in Berkeley and their families and friends. We pray that they will recover from their injuries.

The consul general in San Francisco will provide every possible support and assistance for the families. As the Taoiseach said, the Government and all parties in the House stand ready to assist in any way we can. The Minister for Foreign Affairs and Trade, Deputy Charles Flanagan; the Minister of State, Deputy Sean Sherlock; our ambassador in the United States, H.E. Anne Anderson, and the consular staff are doing everything to put dedicated services in place which may be of some assistance to the families and friends of the deceased and injured at this difficult time.

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I still recall the excitement of travelling to the United States for the summer as a student with a J1 visa. I know what the experience is meant to be and so many people who have had it, including family members, relatives and friends. Such a trip is meant to be a rite of passage, an opportunity to gain valuable life and cultural experience in a country, the United States, that is dear to all our hearts. For a lot of young people, it is a summer of love and fun. When we look at the faces of the deceased in the snapshots on social media and in the newspapers, it brings home to everybody what those days are meant to be.

Today six families are heartbroken, their children wrenched away from them in the most dreadful of circumstances. They all received that terrible telephone call during the night or day when, presumably, just before their children had been texting to say how well they and their friends were getting on. Since learning about what happened, I cannot help but think of the W. B. Yeats poem which reflects on old age and begins as follows:

When you are old and grey and full of sleep,
And nodding by the fire, take down this book,
And slowly read, and dream of the soft look
Your eyes had once, and of their shadows deep

It is the utmost tragedy that six young people's lives have been lost when their eyes, as we see from the photographs, were still soft and their promise so great. We will do whatever we can to support their families in these circumstances.

Deputy Micheál Martin: As I said earlier, every Irish family is thinking about the families of the students who were killed so tragically in Berkeley yesterday and the families of those who were injured. In that context, it is important that the national Parliament reflect the sense of deep grief and sadness felt across the country and overseas where Irish communities reside. It is also important that the Parliament would adjourn for a period as a mark of respect to the deceased and as an important demonstration of solidarity with their families, friends and communities. It is a demonstration of solidarity with the young people of our country as well. The J1 programme is essentially a programme for young people. It brings to mind opportunity, a summer of fun and happiness, the beckoning of new eras, relationships and so forth. That is why it has such a resonance among young people in this country and overseas and among those who were on J1 programmes in the past and who will be on them in the future. It is important that our Parliament reflects that and has the capacity to show understanding and empathy with our young people who are grieving at the consequences of yesterday's tragedy.

It is an exceptional tragedy in the sense that it brings to mind the unique relationship between Ireland and the United States, which has had different manifestations down through the decades and centuries. As the US ambassador so eloquently put it, the J1 programme in the modern era is perhaps the essential ingredient of the continuing nurturing and flourishing of the unique relationship between Ireland and the United States. It is important that our Parliament reflects that.

Déanaim comhbhrón le tuismitheoirí na ndaoine óga a fuair bás inné. Tá an náisiún faoi bhrón. Is ceart agus is cóir go léireodh an Dáil é sin go soiléir. Ar dheis Dé go raibh a n-anamacha.

Deputy Gerry Adams: Déanaim comhbhrón ó chroí le teaghlaigh na ndaoine a fuair bás agus atá gortaithe. Táimid uilig ar fud an oileáin seo agus ar fud na Stát Aontaithe faoi an-bhrón. I extend on my behalf and that of Sinn Féin our deepest sympathy and condolences to the families of the six students who were killed and the seven others who were injured when a balcony collapsed in Berkeley. Five of the victims, Niccolai Schuster, Eoghan Culligan, Eimear Walsh, Olivia Burke and Lorcán Miller, all 21 years of age, had travelled to the United States on a J1 summer visa. The sixth victim, Irish-American Ashley Donohoe, was from Santa Rosa in the Bay Area of San Francisco. She and Olivia Burke were cousins. These students and their friends were in an apartment celebrating a 21st birthday. It is easy to imagine the energy, fun and excitement at that event before the disaster struck. The suddenness of the accident and the extent of the tragedy has shocked people in Ireland and the United States. It is a dreadful and stark reminder of the fragility and uncertainty of life, especially when the victims were so young, vibrant and full of possibility and potential. It is little wonder that there has been an outpouring of grief, sympathy and solidarity for all those affected. It is cliché to say it, but this tragedy is a parent's worst nightmare.

Some of the parents of the students who died or were injured arrived in San Francisco on Tuesday night. More may have arrived by now. I welcome and commend the efforts and support of the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, and his Department. I also commend the work of our consul general in San Francisco, Mr. Philip Grant, who, along with his staff, is providing support for the injured and the bereaved families. I wish to acknowledge the work of the Irish community and our diaspora in the Bay Area. It is an area with which I am familiar. I visited Berkeley some time ago. Our community has wrapped its arms around our young people there and their families. It is also important to acknowledge the support of the US ambassador to Ireland, Mr. Kevin O'Malley. I welcome very much and commend the Taoiseach's initiative in sending the Minister of State with responsibility for the diaspora to represent us all.

Once again, I extend our condolences to the families and friends of all those who died and were injured. Thar ceann Shinn Féin, ba mhaith liom mo bhrón a léiriú d'achan duine atá bainteach leis an tragóid seo.

Deputy Finian McGrath: On behalf of the Technical Group, I offer my deepest sympathy and support to the families of the young people who died tragically in Berkeley, California. It is a very sad day for their parents and families as well as for Ireland. Our hearts were broken when we heard this story. When the news broke yesterday, the first reaction of many of us, particularly those of us living in the north side of Dublin, was that it was a reminder of the Stardust tragedy. The same feeling came across as that following the Stardust fire tragedy many years ago. We think of young people who were taken away in a flash by an horrific incident. Many of us felt strongly for those families. It is difficult to respond and to deal with and feel the heartbreak. The loss of someone close is a difficult thing in anyone's life. The loss of a young person in a matter of seconds is every parent's nightmare. Many of us feel that today.

I commend the Minister for Foreign Affairs and Trade and the foreign affairs consular staff who do an excellent job. I was in Lisbon recently where I saw another family in a crisis situation, which did not make the headlines, and the excellent work the consular staff did in Lisbon for the family. This goes on all the time although it might not make the headlines. I thank those people. They have been great support and very professional. It is important the Government ensures to give them the maximum support.

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Six young people are gone from us in a matter of seconds. It is so sad for the parents. We all feel the hurt and pain. I welcome the suspension of the Dáil and the fact that the Minister of State with responsibility for the diaspora will travel to the USA to assist those families in their 40 or 50 hours of crisis. The situation, which will involve hanging around hospitals and all that process, will be a nightmare for them. Eimear Walsh, Niccolai Schuster, Lorcán Miller, Olivia Burke, Eoghan Culligan and Ashley Donohoe are the young people who died. Their parents are suffering. Let us also remember those who have been severely injured, especially the seven young people. Many of them have very severe injuries. There is also the people who were at the party, who are experiencing a massive trauma. It is important that there is unity in this House and the country to back these families. Life and young people are very important. On behalf of the Technical Group, I offer the parents our deepest sympathy and all of our support.

An Ceann Comhairle: I call Deputy Creighton to speak on behalf of the non-aligned group.

Deputy Lucinda Creighton: On my behalf and that of Renua Ireland, I join those who have spoken in utter sympathy and deep condolence with the families of Ashley Donohoe, Olivia Burke, Eimear Walsh, Eoghan Culligan, Niccolai Schuster and Lorcán Miller. It is fair to say that these young people went to the United States a few weeks ago expecting to live the dream. Tragically, yesterday, the dream turned into a nightmare. It is a nightmare for the individuals who so tragically lost their lives, their families, those injured, their friends and loved ones and everyone connected. We offer our deepest sympathy. I hope the families will feel some sense of solace from the genuine outpouring of grief across the country. It really is heartfelt. We have all experienced it. I commend the response of the Government, the Minister for Foreign Affairs and Trade and everyone in his Department, who have been so professional, in particular, Mr. Philip Grant and his team in San Francisco. I am sure their work is giving some comfort to the families of the deceased and injured.

An Ceann Comhairle: Before we stand for a minute's silence, I wish to make a suggestion that could be considered by the Whips. It would be nice if we joined our colleagues from the Seanad and held a short, ecumenical service in this Chamber. It would be a fitting way for Members of the Oireachtas to express their sympathy together. Perhaps Members would consider such an ecumenical service. It would be nice to hold it in this Chamber and to be joined by our colleagues in the Seanad.

Members rose.

Sitting suspended at 12.50 p.m. and resumed at 2.30 p.m.

Topical Issue Debate

Mortgage to Rent Scheme Eligibility

Deputy Pat Deering: I thank the Ceann Comhairle for selecting this issue and the Minister of State with responsibility for housing for his attendance. It is an important issue.

Unfortunately, one of the legacy issues of the Celtic tiger economy is the many people in mortgage distress and mortgage arrears. Recent figures show that 38,000 are in mortgage arrears for two years or more, a very difficult situation for them. The priority of Government policy, with which everybody agrees, has been to keep people in their own homes in so far as

possible. That is important.

I welcome the changes made in recent weeks to the mortgage-to-rent scheme which is one of the best methods of ensuring people can remain in their homes when they get into mortgage difficulties. The changes announced, including the flexibility provided for and the increase in the valuation, have been helpful in that regard. However, there are still anomalies in the system. I can offer the example of a case brought to my office recently, although there are a number of cases that must be addressed in this context. The individual concerned, Jason, has a wife and two children. He borrowed in excess of €300,000 to buy a house that is now worth €150,000. It is an ordinary, three bedroom semi-detached house. He ticks almost all of the boxes in respect of eligibility for the mortgage-to-rent scheme. He owns the house and the valuation is under €180,000. The one box he does not tick is that he does not qualify for social housing. Previously, he had a job that guaranteed an income of €60,000 per year. Unfortunately, like many others, he lost his job, but, unlike some, he had to get up and go to find another job, although it only gives him an income of €35,000 per year. The cut-off point for eligibility for the mortgage-to-rent scheme and social housing qualification in County Carlow is €27,500 for a man, his wife and two children. Therefore, he does not qualify for the mortgage-to-rent scheme. It is the only box he does not tick. There must be flexibility on an individual basis in this regard. He believes that if he were to give up his job, stay at home and become a burden on the State, he would qualify for the scheme and thereby let it look after him. He was prepared to try to get his life going again, but he is not in a position to pay his mortgage, although he is in a position to stay in his home, if possible. If he loses his house in the morning which is an unfortunate possibility for him, he will have to rent private accommodation. It is impossible to rent a property in the Carlow region for less than €700 per month and he would not be in a position to pay that amount.

I urge the Minister to examine the mortgage-to-rent scheme again. There are anomalies in the system that must be addressed. This is one that could be addressed on an individual basis. I am not asking the Minister to open the doors completely for social housing qualification, but where somebody is in mortgage difficulty and qualifies in every other regard for the mortgage-to-rent scheme other than in this respect, it should be reviewed.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Paudie Coffey): I thank the Deputy for raising this important issue. There are two mortgage-to-rent schemes in operation through my Department. There is a scheme whereby a local authority can acquire ownership of properties with unsustainable local authority mortgages, thus enabling the household to remain in their home as a social housing tenant. The other scheme provides for an approved housing body, AHB, to acquire ownership of a property with an unsustainable private mortgage, which also enables the household to remain in their home as a social housing tenant. It is the latter scheme to which the Deputy is referring. This scheme is designed to assist families with income difficulties whose mortgages are unsustainable and where there is little or no prospect of a significant change in circumstances in the foreseeable future.

To be eligible for the AHB mortgage-to-rent scheme, a household must have had their mortgage position deemed unsustainable under the mortgage arrears resolution process, agree to the voluntary surrender of their home, be in negative equity and deemed eligible for social housing in accordance with section 20 of the Housing (Miscellaneous Provisions) Act, 2009. In that context, income thresholds that are applied to be eligible for the scheme are the income thresholds for social housing generally. It is important to remember that the income thresholds

for social housing which can be up to €35,000 per year for a household with a single adult are based on net household income after taxes and social insurance payments. In addition, there are further allowances for each child. These amounts are in line with the general housing needs assessment guidelines applicable to all social housing tenants to be deemed eligible for social housing and are considered reasonable in respect of the income bracket targeted by the scheme.

While we are making progress with it, it has been acknowledged that take-up of this scheme overall has been slow. In that context, the Government recently announced changes to the mortgage-to-rent scheme as part of a broader package of measures to deal with mortgage arrears. The changes being made will make the scheme more flexible and accessible and are designed to enable more properties to qualify for the scheme. The key measure proposed in this package is that the valuation threshold for properties will be increased in line with the acquisition thresholds for social housing generally. These new measures are due to be in place by end of this month.

Deputy Pat Deering: The Minister of State makes the same points I made in my initial contribution. I very much welcome the changes to the scheme announced a few weeks ago, particularly with regard to the valuation. They have been helpful.

The Minister of State referred to the financial eligibility criteria. In the case I outlined the individual in question would be better off staying at home on the dole, as he would qualify for the scheme. He is barely over the threshold, which is €27,500 in the area in which he lives. He has a wife and two children and they live in a three bedroom house. The sum of €27,500 is a hard and fast figure and there is no flexibility in that regard in the area in which he lives. He has no choice and I am sure he is not alone in this situation. There must be flexibility on the figure of €27,500, or whatever the figure might be for any other individual, depending on the area involved. The most simple solution is for this man to be able to stay in his home, look after his children and pay what he can to a voluntary housing body or the local authority, as the case may be. It would be far cheaper for the State if he could do this rather than have him give up work, stay at home and qualify in that way. I ask that section 20 of the housing Act be reviewed to take account of the issues I have outlined where the mortgage is unsustainable, as it is in this and other cases, in order to qualify for social housing.

Deputy Paudie Coffey: The operation of the scheme is closely monitored on an ongoing basis by the Department and the Housing Agency which are also in regular contact with approved housing bodies and financial institutions. To date, a total of 2,865 cases have been submitted under the approved housing bodies mortgage-to-rent scheme. Of these, 2,036 were deemed ineligible or terminated during the process. Of the remaining 829 cases submitted, 97 have been completed. In a further 44 the sale could not be agreed. A total of 115 are with the lenders, with the remaining 573 being actively progressed.

There has been an increase in the number of cases being progressed through the scheme in recent months. The new protocol endeavours to ensure certainty is provided as early as possible in the process to minimise uncertainty and late withdrawals from the scheme. In addition, the recently announced package of measures will bring more flexibility to the scheme and enable more properties to qualify. In that context, I expect approximately 250 mortgage-to-rent transactions to be completed this year.

I am keeping the scheme under review. This will give me an opportunity to address some of the Deputy's concerns and give them due consideration.

Dáil Éireann
Northern Ireland Issues

Deputy Brendan Smith: I appreciate that the Minister for Foreign Affairs and Trade, Deputy Flanagan, is present to take this important issue.

RTE did a good public service with its “Prime Time” documentary on collusion between British State forces and loyalist paramilitary groups. Most of us would probably have been aware of most of the incidents outlined in the programme but the actual screening and presentation of those horrific events was absolutely chilling. Monday night’s documentary followed on from the recent BBC “Panorama” programme “Britain’s Secret Terror Deals”, which examined the extent of British security forces’ collusion with republican and loyalist paramilitary groups. Among the cases covered in Monday’s documentary were the Dublin-Monaghan bombings, the murder of Pat Finucane, the murderous behaviour of the Glennane gang and the atrocities of the Mount Vernon UVF gang. These documentaries follow on from the very valuable work carried out by Anne Cadwallader in her book *Lethal Allies* and the very important comments of the former Police Ombudsman for Northern Ireland, Nuala O’Loan, who spoke on the BBC and RTE documentaries about the hundreds of deaths that happened in Northern Ireland as a result of security forces collusion. Those comments are very significant coming from a retired distinguished official.

We need in this House, at an early date, a full and comprehensive debate on all of these issues involving the treacherous behaviour of British State forces in collusion with groups classed as republican and loyalist paramilitaries. The information that has become available clearly demonstrates the absolute need to establish a full and independent investigation involving all the groups, and this is a necessary part of the reconciliation process.

“Panorama”, “Spotlight” and RTE documentaries expose the level of violence unleashed through British State collusion with vicious paramilitary groups. It is imperative that those involved be brought to justice. We need a full inquiry into this policy, including the release of all papers relating to the Dublin-Monaghan bombings. For real reconciliation, the full truth must be revealed. Monday night’s documentary was a harrowing reminder of the depth and scale of the carnage that was visited upon citizens in the North and in the Republic by men and women of violence. The horror of the troubles inflicted by the provisional IRA, other republican paramilitaries, loyalist paramilitaries and agents of the British security forces must be fully exposed and those involved must be brought to justice.

Deputy Gerry Adams: Táim fíor-bhuíoch don Leas-Cheann Comhairle as an seans a thabhairt dom labhairt ar an ábhar tábhachtach seo. Táim an-sásta go bhfuil an tAire, an Teachta Charlie Flanagan, anseo linn.

Monday’s RTE documentary on collusion brought into sharp focus the shameful role of the British State, from its highest political level, in the planning, ordering and sanctioning of state murder on a massive scale, including against citizens in this State. Much of what it contained was not new. For citizens in the North, collusion has been part of the political landscape for decades. It took 30 years for RTE to make this programme. For many citizens here, it was the first real opportunity to see the reality of Britain’s dirty war in Ireland. The policy of state-sponsored collusion between British State forces and unionist death squads was part and parcel of British policy.

Successive Irish Governments - any debate here should include this very important issue -

failed to uphold the rights of hundreds of Irish citizens who were killed or the thousands more who were injured, imprisoned or tortured as a consequence of British policy. The most obvious examples of this are the 33 victims of the Dublin–Monaghan bombings and the human rights lawyer Pat Finucane. In this State also, there were the deaths of Councillor Eddie Fullerton, Jack Rooney and Hugh Watters - the latter two were killed in Dundalk - and Seamus Ludlow and many others.

Is it not long past time for the Government to make every effort to secure truth and justice for all the families? Will the Government commit to using its full political and diplomatic resources to demand from the British Government the long-denied files on the Dublin–Monaghan bombings and the establishment of the Pat Finucane inquiry. Furthermore, the two governments should proceed with the protocols and establish the bodies as agreed in the Stormont House agreement for dealing with legacy issues. Whatever difficulties exist currently in the institutions are the responsibility of both Governments. The Irish Government should not delay. That means the Irish Government taking leadership on this issue.

Deputy Pádraig Mac Lochlainn: The documentary on RTE on Monday night was very welcome following the excellent exposé in the book *Lethal Allies* by Anne Cadwallader. If the Minister has not read it, I strongly recommend that he do so. The documentary took the viewers through decades of systemic collusion between British State forces and agents of the British State. Reference has been made to republican organisations. There were some agents within those organisations but let us be very clear that the loyalist paramilitary organisations in some cases were reformed by the British State agents. They were controlled by them throughout the decades in question, they were armed by them, they were directed to people's houses, and they were used as a strategic part of the war against republicans, who were resisting their strategy in our country. That is why it is so vital that the Minister, on behalf of our Government, engage robustly with the British Government on the issues that were brought into the public domain last Monday night, but not for the first time.

I am particularly mindful of the case of Eddie Fullerton. The amount of intelligence involved in that assassination was remarkable. The failure by on Garda Síochána to investigate that matter properly and the lack of interest on the part of governments since then are truly remarkable. I will return to this matter in the next few days. I cannot think of any other jurisdiction in Europe where the assassination of a much-loved elected representative by state agents would be met with complete disinterest and apathy for so many years. I hope the documentary will remind the Government of its responsibilities in the case of Eddie Fullerton and all those others who lost their lives at the hands of the British State.

Minister for Foreign Affairs and Trade (Deputy Charles Flanagan): This week's RTE documentary, which I watched, presented a shocking account of allegations of collusion that spanned over three decades. In the first instance, my thoughts are with the families and relatives of those who were murdered in these events and for whom the documentary must have been deeply upsetting. The hurt caused by their loved ones being murdered in such vicious circumstances is compounded by the knowledge that elements of the British security forces colluded in the perpetration of such callous crimes. That collusion occurred during the Troubles between British State forces and paramilitaries is a matter of public record. However, concerns remain that the extent and scale of such collusion is not accepted.

Successive Irish Governments have raised the issue of collusion with the British Government; we continue to do so, including in regard to a number of individual cases of long-standing

concern, such as the Dublin-Monaghan bombings and the case of the late solicitor Pat Finucane. I have raised both of these cases on a number of occasions with the Secretary of State for Northern Ireland and have done so again since Ms Villiers, MP, was reappointed to that office a few weeks ago. I expect that these concerns will also be discussed when the Taoiseach meets Prime Minister Cameron in London tomorrow.

With regard to the Dublin and Monaghan bombings, the Government continues to press the British Government to respond in a positive way to the reasonable demand of the all-party motions passed in this House in 2008 and 2011 that an independent international judicial figure be given access to all material held by the British Government on these terrible atrocities. The Secretary of State is actively considering this matter and I hope we will see some progress being made in this regard in the near future. In 2001, it was accepted by both governments at Weston Park that certain cases from the past remained a source of grave public concern, particularly those giving rise to serious allegations of collusion by the security forces in each of our jurisdictions.

Both governments at that time committed to undertake a thorough investigation of allegations of collusion in the cases of the murders of Chief Superintendent Harry Breen, Superintendent Bob Buchanan, Pat Finucane, Lord Justice and Lady Gibson, Robert Hamill, Rosemary Nelson and Billy Wright. This remains a matter of serious concern to the Government and indeed more generally to the people. More than 3,500 people died during the Troubles. The suffering of their relatives and friends endures to this day. There is no hierarchy of loss or grief for all these families. As part of the Government's approach to finding a better way of dealing with the legacy of the past, we will continue to work on the implementation of a comprehensive framework for dealing with the legacy of the past, as envisaged in the Stormont House Agreement.

The full implementation of the provisions of the agreement relating to the setting up of the institutions of the past remains a priority for this Government. These institutions include an historical investigations unit to take forward investigations into Troubles related deaths as well as an independent commission on information retrieval to enable victims and survivors to seek and privately receive information about Troubles related deaths. A measure of good progress has been made on the setting up of these institutions which will assist all victims, including the victims of collusion, in their quest for truth and justice.

Deputy Brendan Smith: I thank the Minister for his reply. We know that the day of the Dublin-Monaghan bombings was the day of the greatest carnage during the period known as the Troubles. On that day, we witnessed the death of 33 innocent people and injuries caused to 300 innocent people. In replies to parliamentary questions I have consistently tabled, the Minister has indicated very strongly to me that he has raised at every opportunity with the Secretary of State, Theresa Villiers, the need for the British Government to respond positively to the unanimous motions passed in this House in May 2008 and 2011. I had the opportunity to speak on both occasions when those motions were put before this House. They requested the British Government to give an eminent independent judicial figure access to the papers and files pertaining to the Dublin-Monaghan bombings. It is reprehensible that the British Government over so many years has not responded to the unanimous request of a sovereign Parliament for access to those papers. As the Minister said and as other Members and I have often said in the House, the very least the victims of the Troubles - the victims of those desperate atrocities - deserve is the truth. It behoves every government and every public agency to ensure everything is done to advance towards achieving the truth for those victims.

Deputy Gerry Adams: I thank the Minister for his response but I must say respectfully that it is not good enough simply to raise these issues with the British Government. Imagine if it emerged that the Government in England had authorised the killing of a human rights lawyer, councillors or other politicians or hundreds of citizens in Scotland. Imagine what would happen if that emerged? That is what happened here. It is now a matter of record. The Minister, the British Prime Minister and everyone knows it. The Government has a very clear responsibility to put in place a strategy. I have asked the Taoiseach and Minister numerous times to bring together our international friends and use our diplomatic capacity to get the British Government to do what it is obliged to do under the Good Friday Agreement and other agreements. Even if our Government was not a co-equal guarantor of the Good Friday Agreement, it still has a responsibility to act on these matters. However, the Government is a co-equal guarantor and it must act accordingly.

I also ask the Minister to facilitate a meeting between the Taoiseach and the relatives in the justice support group and ask him whether he will commit to supporting a debate in the Dáil before the summer recess dedicated to the issue of collusion. As the Minister noted in his remarks, the Stormont House Agreement contains propositions for institutions to be put in place, including the historical investigations unit and other commissions, to deal with legacy issues. There is no reason the two governments cannot proceed to fully implement those proposals.

Deputy Pádraig Mac Lochlainn: The difficulty is that the British Government has never acknowledged the full extent of its role in the conflict. This was alluded to in the documentary and since then. The British Government has been dragged kicking and screaming - sometimes after decades of investigation - into acknowledging some incidents where it was responsible. That is the missing element. It has been the missing element in the peace process and it is certainly the missing element in the Minister's engagement with the British Government. The Government is co-guarantor of these various agreements. It is not a silent partner or minority stakeholder or shareholder. It is long overdue for it to have a frank and open conversation with the British Government to acknowledge the full extent of its role. This involved controlling and arming loyalist paramilitaries throughout all the decades of the conflict in targeted murders and assassinations of innocent civilians, human rights lawyers, GAA officials, Sinn Féin elected representatives and so on. That is what we are talking about. The British Government has never accepted its full responsibility and the Minister has never ensured it does. Will the Minister do this and will there be a debate before the summer recess on the issue of British state collusion? Will the Minister look at an extensive and comprehensive international examination of these matters?

Deputy Charles Flanagan: No one who is prepared to deal in any objective way with the facts can be in any doubt about the seriousness and gravity of collusion and the content of that programme and others mentioned by Deputy Smith. I do not dispute anything that has been said by Deputy Smith or Deputy Adams about this issue. The wounds inflicted by collusion, which threaten to destroy trust in the state's most fundamental responsibility, namely, protecting its citizens, are deep and slow to heal. For many, the most serious doubts remain. Where doubts persist, it is difficult to achieve true and lasting reconciliation.

I assure the House that I will continue to raise the issues surrounding the Dublin-Monaghan bombings with the British Government in every possible arena. I do not have a difficulty with any of the points put forward by Deputy Adams in this regard. It is my belief, as I have said before in this House, that such cases must be addressed in a meaningful way if we are to achieve a genuinely reconciled society. In respect of the Pat Finucane case, I recently had the oppor-

tunity to meet members of the Pat Finucane Centre. I acknowledge their work. I also had the opportunity recently of meeting representatives from Justice for the Forgotten.

In respect of the Pat Finucane case, the House will be aware that the outcome of a judicial review hearing in the High Court in Belfast is pending. Therefore, I do not wish to comment in detail at this stage. However, I assure the Deputies that the position of the Irish Government remains clear and unambiguous, like that of the family of Mr. Finucane. We want the commitment made by both Governments at Weston Park in 2001 to establish a public inquiry to be honoured in full. We will continue to raise this issue and I expect that the issue will be on the agenda tomorrow when the Taoiseach meets the British Prime Minister. I will have the opportunity over the next few days to raise this issue once again. I acknowledge the recent utterance by the Secretary of State, Theresa Villiers, when she said that she expected progress to be made on this issue. I will keep the House fully informed.

Deputy Adams is right when he says that the Stormont House Agreement provides for new ways to investigate the past and facilitate information recovered for victims and survivors to share their experiences. I agree with Deputy Smith and I acknowledge the support of the Opposition benches in this regard. I assure the Deputies that the Government continues to prioritise the full implementation of the agreement, not least because those who suffered the loss of loved ones or who were themselves victims of violence during the Troubles deserve the best possible means of dealing with the legacy of the past. In this, they continue to have the total commitment and full support of the Government.

3 o'clock

Industrial Relations

Deputy Mary Lou McDonald: I want to raise the issue of the closure of Clerys and the unceremonious dumping of 130 direct employees and some 430 others who worked within the store. The Taoiseach has described the manner in which all this happened as “insensitive” but that is the wrong word. The manner in which all this happened is absolutely scandalous and the righteous anger of the workers and, more broadly, of the public was in plain view outside the store yesterday where workers met to assert their fundamental right to respect at work and to protest at the manner in which Clerys was closed and their livelihoods snatched from them.

As the Tánaiste knows, the workers were given no notice, no explanation and deserved, apparently, no regard or consideration, despite that many of them had given literally their entire working lives to Clerys. What is most scandalous in this whole scenario is that all these events were planned and did not happen by accident. I have heard some say that it would have taken a month, possibly, for management and owners to manoeuvre and choreograph the sequence of events and, more scandalously again, all of this, it seems, was entirely legal. We have a scenario where Gordon Brothers, vulture capitalists from Boston, walk away with their pockets full to the tune of €29 million while workers and the State are left to pick up the pieces.

I have three specific issues I wish to raise with the Tánaiste. First, for the workers in the here and now, I ask her to outline the situation with regard to the processing of their individual claims, that is, their right to back pay, holiday pay and their redundancy entitlements. Second, as far as I am aware, Natrium Limited, which has acquired Clerys, continues to refuse to meet the workers or their representatives. Third, and most importantly in the long term, will the

Tánaiste outline her plans to amend legislation or introduce new legislation to ensure scandals such as this are squarely illegal and workers are fully protected?

Deputy Dara Calleary: I thank the Ceann Comhairle's Office for allowing us to raise this matter. Deputy McDonald has already covered many of the issues I wished to raise. It is extraordinary that people who have given 40 years' service would get less than five minutes' notice, if even that, if they happened to be at work at 5 o'clock on Friday last. If they were not at work, they heard about losing their job through Facebook or via text messages from colleagues. Deputy McDonald was being generous with the timeline she spoke about. This took months to plan. Finance had to be put in place, a sequence of events had to be put in place, professionals had to be appointed, advice had to be sought and paid for - very dearly - to allow the parties to do this, to allow them to circumvent both company and employment law to try to achieve their objectives. I refer in particular to section 224 of the new companies Bill which puts the responsibility of company directors to employees on a par with other duties and makes that responsibility equally enforceable. On the basis of that section, I would ask that the Office of the Director of Corporate Enforcement be asked to look at the sequence of events that led to the scenario that unfolded at 5 o'clock last Friday. In particular, the office should look at the events in the preceding 24 hours, where a company was sold and OCS Operations was put into liquidation with no regard for employees. Surely if the aforementioned section of the Companies Bill is to mean anything, we should be able to utilise it now.

I acknowledge the response of the Department of Social Protection in terms of making officials available to the workers today at Liberty Hall. Will the Tánaiste clarify that those redundancy payments will be dealt with as soon as possible and that the standard delays one would expect will not arise given the very specific circumstances of this case?

Deputy Joe Costello: I too raise the circumstances surrounding the closure of the most famous store in Ireland and the sacking of 460 employees, 130 of whom were employed directly with the remainder employed by concession holders. I am very concerned at the manner in which this closure took place. A company came in, made a sale to another company which then divided its purchase into two legal entities, with a 100% profit being made on one entity and the other going straight into liquidation. This all took place in very secretive circumstances and would have required collusion over a period of months to bring about that legal course of action. It involved both manipulation and exploitation. There was a total lack of concern for the loyal workforce who had provided great service to Clerys for many years.

This matter must be addressed and redressed in a robust fashion. The Tánaiste has already dealt with the first aspect of it, namely, the workers. She has met the workers, along with the Minister of State at the Department of Jobs, Enterprise and Innovation, Deputy Nash. There has also been engagement with the liquidators and the trade unions representing the workers, including SIPTU and Mandate. The Minister made a team available today in Liberty Hall to deal with the entitlements of the workforce. All that is absolutely essential and is being done expeditiously. The second aspect of this is that we must take whatever steps are necessary to rebalance company law in order that such ruthless vulture capital transactions cannot take place in the future. Clearly the law at present is heavily weighted in favour of the business and employer and leaves the workforce entirely vulnerable.

I note that the Taoiseach has the Minister of State, Deputy Nash, to provide a report to him and I hope that will be done in a very timely fashion. I also hope that any report on dealing with these abominable transactions which were carried out in such an underhand fashion will

be forwarded to the company law review group. I also hope that all this will be done expeditiously in order that whatever measures are needed to ensure it does not happen again will be put in place urgently.

Deputy Eamonn Maloney: In common with my colleagues in the House and with the wider public in Dublin and throughout the country, I am appalled at the treatment of the Clerys workers. For many people it is reminiscent of what happened in this city just over 100 years ago. It is nothing short of disgraceful, for want of a better word, and it highlights the shortcomings of our legislation. The people involved were too smart by far in terms of abusing the existing company law in this jurisdiction. Deputies know we cannot rewrite law and make it effective retrospectively so we should not mislead the Clerys workers in this regard. Fortunately, we should be grateful it is not the sort of case that happens too often here. Notwithstanding that, it highlights that we, as legislators, have to do things that would prevent this sort of thing happening to workers in any industry. It is an appalling situation. I have received representations, as no doubt have all Members of the House. I commend the Tánaiste on the speed with which the Department of Social Protection has dealt with these people who have been dealt a low blow. Everybody believes in loyalty to the place where they work but there was no loyalty shown in this case.

People talk about the iconic building. Some of us who come from a particular political tradition do not associate the building so much with Clerys. Some of us have images of Jim Larkin on the balcony at the top of that building when it was the Imperial Hotel, partly owned by William Martin Murphy. While he may be gone, there is a bit of his legacy hanging around and these people are exercising that legacy.

Tánaiste and Minister for Social Protection (Deputy Joan Burton): I thank the Deputies for raising this very important issue. This is an incredibly difficult time for the staff of Clerys who gave so much to the company and who have been treated appallingly. I hope the business owners involved in these transactions have some sense of business ethics, propriety and fair play, particularly for the workers, the employees of the concessionaires, the concessionaires themselves and the creditors of the company. At first glance, there are many questions to be answered here.

Prior to the termination of employment, there is an entitlement to minimum notice under the Minimum Notice and Terms of Employment Acts. This basic entitlement was not afforded to the Clerys workers. I consider it imperative that workers are treated properly at all times and that they and their representatives are consulted on matters affecting their employment. It is totally unsatisfactory, inappropriate and unacceptable that entities involved in this transaction did not respect this concept. My Department and the Department of Jobs, Enterprise and Innovation will examine whether all aspects of the relevant legislation have been complied with, whether that legislation needs to be strengthened and if so how.

In the first instance, my thoughts are with the workers. I met with several workers this morning at a briefing session hosted by my Department to tell them of the welfare and employment supports we can provide. At briefings of this type, officials from the Department advise the employees who have lost their jobs on the Intreo process, jobseeker payments and redundancy and insolvency entitlements. They also provide information on other schemes, including rent supplement to which they may wish to have recourse. Information is also given on options and assistance available relating to work, and on the short-term enterprise allowance, as well as training and education options.

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The Department will ensure that jobseeker's claims will not be delayed pending resolving individual issues on any leave accrued but not yet taken. This means that jobseeker's claims can be paid quickly, subject to usual criteria, and reconciled as required at a future date. The Department is informing its network of local offices in the greater Dublin area of these developments to ensure that claims from affected workers are processed in a speedy and sensitive manner.

I express my gratitude to SIPTU and Mandate for their excellent support in this regard. Normally the services of the Department would be made available on the company's premises, as people will recall with the closure of Mount Carmel Hospital. In this case, as we saw in the pictures, the locks were put on the doors. I am thankful to SIPTU for making its premises available to us near the workers' place of employment and also facilitating the liquidators to be there this morning. A significant number of the workers were there today. This engagement will provide information to all workers, including those employed by concession holders.

The primary focus of my Department at this time is to ensure the efficient and prompt taking of claims for jobseeker's benefit to ensure that the workers get their entitlements at the earliest possible opportunity. In addition to the range of information and advice being provided by the Department of Social Protection, officials from the National Employment Rights Authority and representatives of the liquidators, KPMG, attended to provide information to the affected workers.

A representative of the liquidator has verbally advised the Department of Social Protection that all staff have been made redundant and that P45s will issue this week. I understand it is possible that one or two staff from the payroll area in Clerys may be retained temporarily to assist with the liquidation. The liquidator will seek, on behalf of workers, payment from the insolvency payments scheme in respect of unpaid wages, accrued but untaken leave, and payment in lieu of statutory notice and statutory redundancy under the redundancy payments scheme. It is intended that individual meetings will be held between the liquidator and the workers affected to determine, on an individual basis, the extent of liabilities. The Department will deal promptly with individual applications submitted in respect of the insolvency payments scheme by the liquidator.

I hope that is helpful, particularly to the workers involved, to whom I explained much of this in person this morning. They were accompanied by various union officials and shop stewards who had been working in Clerys. I met people who had more than 40 years' service and whose life was wrapped up in the store. As somebody who is a lifelong customer of the store, as are members of my family, like many Dubliners, I am personally knowledgeable of the kind of service this shop has given. We will seek to ensure workers obtain all their entitlements as quickly as possible.

Deputy Mary Lou McDonald: I acknowledge the interaction between the Department of Social Protection and the workers. I can only imagine how utterly depressing it has been notwithstanding the Tánaiste's efforts for these workers. As she said, many of them have very long service. In truth many of them feel they will not be returning to work and the damage is done. It seems that we cannot in any way recover the lost ground for these workers. They are left with what amounts to the bare minimum. These workers have been placed in a most degrading position. As legislators, we cannot miss the depth of anger and the sense of degradation and disrespect these workers quite correctly feel.

Having acknowledged the efforts and interaction of the Department of Social Protection, I cannot help but be left with the sense that in respect of the bigger picture, the Government is again kicking the can down the road. Albeit that Clerys is different in its specifics, we have been down this road before and not in the dim and distant past. We have seen Waterford Crystal, Vita Cortex, and La Senza. There is a long list of scenarios in which rogue employers very cynically trod all over their workforce. We know the law needs to change. We need to hear from the Government on when that legislative change will be made to ensure the sense of degradation being experienced by the former Clerys workers will not be visited on any other worker in the future.

Deputy Dara Calleary: I thank the Tánaiste for her response. It strikes me that the differences between the domestic economy and the multinational sector are pointed up in this instance. There were reports in the media for many months on the sale of Clerys. If there was speculation about the future of a multinational that employed 600 or so people, the early warning unit of the Department of Jobs, Enterprise and Employment would be on top of the issue straightaway in an effort to find out what was happening. That does not appear to have happened in this case. It is difficult to get one's head around the fact that this asset, located in the middle of O'Connell Street, is worth approximately €30 million and that the directors and faceless people have walked away, leaving the taxpayer to meet the redundancy bills and workers bereft of dignity and self-respect. Surely, there is some mechanism by which we can put a lean on the money derived from the sale of the building to ensure we get the taxpayers' money back.

The Tánaiste has mentioned that she and her family were customers of Clerys. What has happened again points to the need for an examination of the future of the retail sector. People are not engaging with the retail industry in the same way as they used to. It is too major an employer to be left to the vagaries of technology and online purchasing. We need a retail strategy to protect employment and allow retail space to increase. The following is a quotation from an article in the *Irish Independent* on 10 May, the author of which I will not name, on the sale of Clerys:

It's good news for the capital: The fact that there is interest in something like Clerys is a good indication of domestic economic recovery.

I again ask what kind of recovery is it?

Deputy Joe Costello: I welcome the Tánaiste's speedy and comprehensive response in meeting the needs of the workers and thank her for providing them with information to enable them to deal expeditiously with their entitlements. I also welcome her commitment to investigate the reason minimum notice was not provided in accordance with the employment Acts. I would like to see that issue fully investigated, with the appropriate sanctions applied.

In the broader context of the collapse of the economy in recent times and given the resultant huge number of impaired assets, many of which have been sold by NAMA to vulture capitalists, there is a danger that a number of these vulture capitalists who are anxious to make a quick buck will re-enter the Irish market, discarding workers and imposing redundancy and welfare payments on the State, rather than meet the costs themselves. For this reason, it is extremely important that we revisit the relevant legislation as rapidly as possible to ensure what has happened in this instance will not happen again. We must also ensure the recovery taking place in the economy is based on respect for the workforce and a sense of fairness. We do not want to witness this type of vulture capitalist approach which is ruthless and profit driven, with no

concern for the workforce which makes all businesses in the country profitable. We need to act swiftly in terms of ensuring something of this nature will not recur. We also need to ensure domestic companies and employers will stand apart and make it clear that they will have nothing to do with this practice.

Deputy Eamonn Maloney: I too thank the Tánaiste for her comprehensive response. I agree with her comments on the role of the two trade unions involved in dealing with this debacle. I was outside Clerys yesterday evening for some time and know that the workers genuinely appreciate the role played by the trade unions in this matter. It is lucky for them, despite the shortcomings, that they are members of trade unions. As stated by other speakers, they appreciate the speed with which the Department of Social Protection and the Tánaiste have progressed matters. Whatever about people like me criticising the slow pace at which labour law in this country changes, I am sure we will all agree on the need for change. Many former and current Members of the House criticised the introduction of regulations in the business sector. This case is a classic example of the need for regulation in the context of company law.

Deputy Joan Burton: I again thank Deputies Mary Lou McDonald, Dara Calleary, Joe Costello and Eamonn Maloney for raising this issue. Many of the people concerned have been employed in Clerys for all of their working lives, in many cases alongside family members. Among the group of people I met this morning was a man who had more than 40 years service and who told me that Clerys was his family. We can all appreciate the level of commitment of the staff.

The people who are shamed and disgraced by what has happened in this case are those who took part in the arrangements to do this, not Clerys' workers. Respect for the workers is exceptionally high among the people of Dublin and Ireland. There are many good employers in the country who must be appalled at what has happened to a group of workers in an entirely undeserved way. There has been a huge amount of positive contact between trade unions and employer organisations to ensure we will have a level of decency and regulation to provide workers with decent terms and conditions. Further measures are also being introduced. There is legislation before the Dáil on collective bargaining which has been sought by the trade unions for many decades and that I am confident will have the support of most Members and parties.

The people who should be ashamed of themselves are those who set out to approach this issue in a particularly technical manner. We do not yet know the full details of what happened. We have read in the newspapers about various stratagems that were employed. As I said, we will be examining all of the issues involved. I know that my colleagues, the Minister for Jobs, Enterprise and Employment, Deputy Richard Bruton, and the Minister of State, Deputy Gerald Nash, will be extremely concerned that legislation introduced by that Department could be used in this way to circumvent people's genuine rights. As Minister for Social Protection, I am concerned about the implications in terms of the social insurance fund, to which everybody who pays PRSI contributes, in order that it will be available when needed. We will be examining this matter to see whether all aspects of the relevant legislation have been complied with and whether that legislation needs to be strengthened.

I agree with Deputy Joe Costello that it is important this not be allowed to happen again. We will have to examine what happened in this case. We will, for example, need to examine the tax position to see whether over-aggressive taxation measures were involved. I have heard it suggested this might have been arranged, perhaps in secret - almost certainly so - over a number of months. I do not know whether that is correct because we do not yet have all of the informa-

tion. My Department was informed informally today by the mediators that all of the staff had been made redundant and that P45s would issue this week. Those here who have had some involvement in labour law and this type of situation will know this initial information allows for the issuing of the redundancy notices, all of which are part of a process, in terms of the legislation, in the Department of Jobs, Enterprise and Innovation. I undertake that all of the matters will be addressed as quickly as possible in accordance with the law. It is now possible, with all the reforms we have made in the Intreo system, to pay people relatively quickly. That was not always possible, but we can now do that as a result of the new systems. I hope the Department will be able to do this over the next few days.

We will liaise closely with the Department of Jobs, Enterprise and Innovation, but our Department pays out the redundancy payments. Reference was made to Vita Cortex and other cases. In the case of Vita Cortex, once the Department of Social Protection got the required information and once the relevant requirements were complied with, the workers were paid within a very short period. Hopefully in this case, if the requirements are met as quickly as possible, we can make arrangements to meet the entitlements of the workers in regard to redundancy as quickly as possible.

Animal Diseases

Deputy Fergus O'Dowd: I welcome the Minister to the House. I am aware of his commitment to ensuring the transparency and accountability of the Department in regard to BSE. I welcome the clarity he has brought to the detection of a possible case of BSE in my county of Louth. I am aware of how isolated this case is and that its detection indicates the checks and balances in our system are robust and stand up to transparent investigation. This is important because of the huge importance of the beef industry for the country. I understand that of the 139,000 farms we have, over 110,000 are involved in rearing cattle. The beef industry is worth over €2 billion to our economy annually and beef is a hugely valuable export. It is vital the Food Safety Authority remains happy with the standards, processes and procedures in place and that Ireland maintains the most robust standards in ensuring the quality of our beef is second to none and ensures no health issues arise. Will the Minister give us an update on the progress within his Department so far on this important matter?

Deputy Éamon Ó Cuív: I thank the Minister for coming to the House today to take this question. We all appreciate that the worst news a Minister in the Department of Agriculture, Food and the Marine can get is the news that some food issue has arisen. The message we can all take from this today is that it is because we have such strict regulation and procedures that an issue like this is picked up. Having looked at some comments in the newspapers, I believe we need to keep repeating that there is zero risk to human health in this regard, because of the excellent systems that have been put in place by many Governments over many years.

The precautionary testing of the cattle turned up this case. This animal would never have got into the food chain. Apart from that, we do not put risk material into the human food chain. Therefore, even if an animal was found subsequently to have had BSE, there would be no risk to human health. It is important that we get the message abroad that we are open for business and that our standards are as high as ever and although there is a possible case of BSE here, we are investigating it through all means available. Please God, the Department will detect the cause of this case, because there are unusual aspects to it.

The positive message from this case is that the check system works and picks up the issues. We are more likely to pick up issues because we have a good check system. The great thing is that nothing escapes and because of that Irish food is probably the safest food of anywhere in the world. Our processes are very good and this case in no way impairs the standard or quality of Irish beef or any other animal product on the market. I look forward to getting an update from the Minister on what has happened in the past week. I am sure he hopes, as I do, that we find the cause. The Minister can then deal with the cause and we can move on.

Minister for Agriculture, Food and the Marine (Deputy Simon Coveney): I thank both Deputies for withdrawing their question yesterday and resubmitting it today, because I was in Luxembourg yesterday and was unable to deal with it but I wanted to deal with it personally. I also thank Opposition spokespersons and Deputy O'Dowd for their patience and sensible comments on this issue and for not trying to gain political advantage from it, which would have been counterproductive and unnecessary.

As the House is aware, a cow on a farm in County Louth has tested positive for BSE. I emphasise that the animal was not presented for slaughter and did not enter the food chain. The case was identified through the ongoing surveillance system of the Department. This surveillance system is part of the overall control systems in place to protect the food and feed chain. On the basis of the assessment of these controls and their application by Ireland over a number of years, the OIE, the world animal health organisation, with the agreement of the member country delegates at the general assembly in May 2008, awarded Ireland the category of "controlled risk" for BSE in accordance with Article 11.5.4 of the OIE terrestrial animal health code. These controls have been systematically and rigorously applied over the years.

A series of confirmatory tests are now being undertaken and the final results will be available shortly. If confirmed, this will be the first BSE case found in Ireland since 2013. Prior to that, we had three cases in 2012, three in 2011 and two in 2010. Ireland's BSE surveillance and controls are effective and consistent with legal requirements and best international practice. The identification of this case is proof of that, and this is further evidenced by the dramatic reduction in the prevalence of BSE, from a peak of 333 cases in 2002. While it is disappointing to identify this case now, it is not wholly unexpected that an occasional case of BSE could arise.

In May of this year, Ireland was recognised by the general delegates of the OIE as a country posing a "negligible risk" for BSE in accordance with the 2015 terrestrial animal health code. A country can be recognised as posing a "negligible" BSE risk when, in addition to the continued application of a range of controls, similar to those mentioned earlier, every indigenous case identified was born more than 11 years ago. Unfortunately, should the current case be confirmed as being the classic type of BSE, Ireland would no longer fulfil the requirements of the terrestrial code for "negligible risk status" for BSE. It is likely therefore that Ireland may revert to "controlled risk status" for a further number of years, with the current range of existing controls remaining in place.

The OIE has this week stated that it very much respects the integrity and transparency demonstrated by Ireland in providing preliminary information on this suspect case. It further commends the commitment to the protection of animal and human health as demonstrated by the effectiveness of the ongoing BSE surveillance programme and the controls in place that prevented any part of the animal from entering the human food or animal feed chain.

In accordance with normal procedure, cases of BSE are subject to a full epidemiological

investigation. The investigation of this particular case is now under way. While it is recognised that atypical types of BSE may arise sporadically from time to time, in the case of classical type BSE, the risk period for infection is now accepted to be in the first months of life. As the animal in question here was born in 2010, a large part of the epidemiological investigation is focused on events of five to six years ago and may take some time to complete. The birth cohort, animals born and reared in the herd of birth, around the same time as the positive animal and progeny of the infected animal have been traced and will be removed from the food chain and tested as a precaution.

As a country which exports more than 90% of the beef we produce, we know that our reputation as a producer of safe sustainable beef is paramount and our regulatory and food safety systems are there to provide those assurances. The discovery of this BSE case is evidence of the effectiveness of the controls and surveillance system we have in place and those controls were a key factor in securing market access for Irish beef in many of the new markets in recent years.

As I said last week and the previous week, I have full confidence in our systems. Irish beef is the safest and most sustainable beef in the world and it continues to be, despite the case last week. I look forward to giving further details on the investigation to Deputies who seek it, when it is complete.

Deputy Fergus O'Dowd: The Minister's hands-on approach to such issues provides the necessary leadership and clarity in this matter. I look forward to the circulation by him of further details when they become available to him.

Deputy Éamon Ó Cuív: One of the great benefits of the situation is that it was announced by the Department as a suspected case of BSE right from the beginning and there was not a rumour machine. The information was made known. That proves the processes are in place to pick up any issue that will arise, which is a good thing.

Have the results of the second test come back? I presume that will be the next stage of information, and following that the epidemiological studies will be carried out and over time we might get more clarity on the possible cause. Has the second test proved positive or when will we be likely to get the information?

Deputy Simon Coveney: The tests that are being carried out are not back yet but they should be back shortly, either at the end of this week or the start of next week. People in this House have put the situation into context, which is important. Deputy Ferris, as an Opposition spokesperson, has also been very responsible in terms of how he has responded to the situation as well. The context is that when a country such as Ireland has dealt comprehensively with a historical BSE problem, there will be the odd, isolated case, which is what seems to have happened here. We are now seeking to explain how that happened. It is proof that we have a rigorous testing system that tests every bovine animal over 48 months that dies on a farm in order that we can ensure that if there is any animal with BSE out there, we will find it and it will not find its way through the net. If we do find something, even when it is a preliminary suspected case, we will be upfront, transparent and open about it to all our trade partners, the industry here and to anyone else who is interested. That is what has happened in this case. It is because we have been upfront, for which the World Organisation for Animal Health, OIE, wrote to thank us this week, that we saw the headlines that emerged last week. It is because of that level of transparency that markets for Irish beef are very calm. There has been no impact on beef prices since this happened last week and we are pretty confident that all the new markets we have

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opened and the ambition we have for growth in those markets this year and into next year can still move ahead as planned. However, let us wait and see what the result of the investigation will be. Openness and transparency are key and that will continue through the process.

Teaching Council (Amendment) Bill 2015: Order for Report Stage

Minister for Education and Skills (Deputy Jan O’Sullivan): I move: “That Report Stage be taken now.”

Question put and agreed to.

Teaching Council (Amendment) Bill 2015: Report and Final Stages

Deputy Richard Boyd Barrett: I move amendment No. 1:

In page 6, line 18, after “Oireachtas” to insert “and if in employment in a recognised school, shall be informed in writing immediately”.

The first amendment relates to the section of the Bill which amends section 30 of the principal Act and concerns cases where a person is taken off the register of the Teaching Council, which results in them not being paid by the Oireachtas. While I accept that people should be registered and that their subscriptions would be up to date, in many cases it can and has happened that people do not know they have been taken off the register and they continue to work and only discover subsequently that they have not been paid. I believe some cases are before, or have been before, rights commissioners in the context of the Payment of Wages Act where people are contesting loss of income for periods during which they worked but because their subscription to the Teaching Council had lapsed, they were deregistered but were unaware that was the case.

There is no dispute about the need for people to be up to date with their subscriptions to the Teaching Council to be on the register, but they should be notified if their salary is to be suspended in order that they can move immediately to rectify the situation. That is the purpose of the amendment. We discussed the issue on Committee Stage but it is a fair amendment and the Government should take it on board.

Minister for Education and Skills (Deputy Jan O’Sullivan): Before I deal with amendment No. 1, I wish to make the House aware that there is a number of matters on which I am considering amendments. They are largely by way of further technical changes or amendments designed to bring further coherence to the overall approach to registration, fitness to teach and vetting throughout the Act. I intend to progress them on Committee Stage in the Seanad but I just wished to inform this House. While moving the Bill on Second Stage and on Committee Stage, I also indicated my intention to provide for the conduct of disciplinary hearings in public and I intend to bring forward amendments on the issue on Committee Stage in the Seanad following the finalisation of drafting, having considered the views of stakeholders and Members of this House on Second Stage, Committee Stage and Report Stage. I accept we will deal with this matter in a later amendment.

With regard to the current amendment, section 30 of the 2001 Act provides that a person

who is employed as a teacher in a recognised school shall not, subject to certain limited exceptions, be paid from Oireachtas funds where he or she is not a registered teacher and where he or she stands removed or suspended from the register. An extensive communication campaign took place in preparation for the commencement of section 30 in 2014 in order that all teachers would be well aware of the requirement to be registered and the implications of non-registration. While it appears that the intention behind the amendment is to ensure a teacher's salary would not be discontinued without the teacher being informed, there are appropriate provisions elsewhere within the Bill that address the issue. Requirements in relation to the council notifying teachers of decisions made in respect of initial registration, renewal of registration and in relation to fitness to teach inquiries are already in place. Therefore, teachers will, under the amended Act, be notified of decisions in relation to their registration status, including any decision to remove or suspend registration and which impact on payment of salary. However, given that the Teaching Council is not directly involved in teachers' employment or payment and may not even be aware that a teacher is employed, it would not be in a position to notify teachers of specific changes in the payment of their salaries in accordance with the amendment proposed.

The Teaching Council writes to each registered teacher annually to remind him or her of his or her registration renewal. In this letter it also reminds teachers that only registered teachers may be paid salaries from State funds and urges them not to let their registration lapse. Where a teacher fails to apply to renew his or her registration, the council is required to give him or her one month's notice in writing that his or her registration will not be renewed unless the application and renewal fee are submitted within a month. Again, this notice reminds teachers that only registered teachers may be paid salaries from State funds and urges them not to let their registration lapse. In regulated professions the onus is on the practitioner to ensure his or her registration is in place and up to date. This should also be true of teachers. The Teaching Council has put in place simple measures by which teachers can check their registration status at any time. It also takes all reasonable steps to remind teachers that their renewal date is imminent. In this context, it is important that teachers inform the council of any change to their contact details. The legislative and operational measures in place are sufficient. Therefore, I do not propose to accept the amendment.

Deputy Richard Boyd Barrett: Life is difficult and stressful for all of us. It is difficult to keep up with all of the correspondence we receive, the bills we have to pay, the forms we have to fill in and cope with all of the stresses, strains and complications in getting through the week. I am sure the Minister knows all about this, as I do, and it is no different for teachers. As the Minister said, people might change addresses, have family crises, be away for a few weeks or there could be an illness in the family. There could be all sorts of reasons somebody who generally keeps up his or her payments and ensures he or she is on the register might, even once in a lifetime, let his or her registration lapse by failing to make payment. It seems rough that a person who has been working away, believing he or she will be paid, will discover that he or she is not going to be paid, forfeit a few thousand euro and have to fight to recover a salary for work he or she has done. I do not see why there is a problem in going the extra mile by including in the legislation a requirement that if somebody has been suspended from the register and consequently will not be paid, he or she would be told immediately, giving him or her the opportunity to rectify the matter at the earliest opportunity. This is reasonable and teachers have raised the matter with me. As I mentioned, although I do not know the details, there are cases in which people have had to go to rights commissioners to contest the issue and fight to receive money owed to them. The amendment is fair and reasonable and I do not see why the Minister cannot include it in the Bill.

Deputy Jan O’Sullivan: As I explained, teachers are reminded of their obligation to register. If they do not renew their registration, they are reminded again. There are checks and balances and repeated reminders. While I appreciate that teachers, like the rest of us, endure many pressures, the Teaching Council issues plenty of reminders. As I said, given that the council is not the body that pays teachers’ salaries, it would not be appropriate for it to be responsible for dealing with the issue. I hope that even by debating it, we will send the message again to teachers that they can check their registration very simply, that they receive a reminder every year and another if they do not register. While the Teaching Council knows whether a person is registered as a teacher, it may not be aware whether he or she is working. Therefore, it would be unreasonable to expect it to do what the Deputy suggests. I am not accepting the amendment.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 2:

In page 6, line 26, to delete “fit and proper” and substitute “qualified”.

The amendment relates to the circumstances in which the Teaching Council would not admit a teacher to the register. A teacher must meet certain criteria, including the council being satisfied that he or she is a “fit and proper” person to be admitted to the register. My amendment proposes to delete this provision and replace it with the word “qualified”. The reason is that the term “fit and proper” is too vague, amorphous, subjective and open to interpretation and implies a desire for homogeneity of teachers, that we want robot teachers. We do not. The rest of the section deals in great detail with the need for vetting and vetting disclosure, all of which is entirely legitimate. There is no question but that teachers should be properly vetted in order that they are not a danger to the children they teach. Why, when all of that is in place, does one have to throw in a term such as “fit and proper”, given its subjectivity?

Arguably, the best teachers are those who are not very proper. During my school days some of my best teachers were the improper ones. I will never forget an English teacher I had, Mr. Kelleher, who inspired my love of English literature such that English became my favourite subject. He used to do crazy things such as jump up and down like a chimpanzee on the teacher’s desk to get the attention of students and make a point. He did all sorts of funny, humorous and odd things that one might describe as a little improper. It was often the improper and slightly quirky teachers who captured the imagination of students and inspired them, rather than those who might be thought of as “fit and proper”. The term is too vague, amorphous and subjective and smacks too much of conformity, which is not necessarily a good qualification for teaching. This is the basis on which I propose we remove it and insert the more precise term, “qualified”.

Deputy Jan O’Sullivan: I agree with one thing the Deputy said. We do not want teachers to be homogenous and all conform exactly to some picture of what somebody else might think a teacher should be. We have all had great teachers who were different in many ways. The wording states teachers should be fit and proper to be admitted to the register. The word “proper” is not used in the sense of somebody being prim and proper but being proper to be admitted to the register.

4 o’clock

Amendments Nos. 2 and 3 would replace the term “fit and proper” with “qualified person”. The Bill’s provisions on the council being satisfied that an applicant is a fit and proper person to be registered enable it to consider whether he or she is suitable to be registered, including from

a child protection perspective. The reference to an assessment of whether a person is fit and proper replaces the current wording in the Act which provides for the council to seek evidence of character for the purpose of registering a person. We could debate whether the term “evidence of character” should be replaced. Under the existing Act, the council requests evidence of character from applicants as part of its assessment of an application for registration. Under its current procedures for assessing such evidence, it publishes details of the evidence requested and the considerations taken into account in assessing the evidence. This includes Garda vetting and declarations or references from higher education institutes or regulators in other jurisdictions, as appropriate. This change in wording will set out more clearly the steps the council may take to request evidence from an applicant for the purpose of determining an application for registration, including whether the applicant is a fit and proper person to be registered. The changed wording will not alter the approach or practice already in place.

The term “fit and proper” is commonly used in legislation concerned with ensuring a person is suitable for particular roles or to be registered for a profession. For example, the Health and Social Care Professionals Act 2005 which deals with the registration of professionals such as social workers and psychologists contains a similar provision. The Bill places Garda vetting for initial teacher registration on a statutory basis, thereby ensuring any person who is not considered by the Teaching Council as fit and proper to be registered from a child protection perspective will not be registered as a teacher in the first instance. I indicated on Committee Stage that if amendments Nos. 2 and 3 were accepted, the council would only be able to assess a Garda vetting disclosure for the purpose of determining whether a person was qualified to be admitted to the register. This is clearly not the intended purpose of a vetting disclosure.

On whether a person is qualified to be registered, the Bill makes separate provision for the Teaching Council to set out requirements in respect of the professional and educational qualifications a person must obtain in order to register. For the reasons outlined, I am satisfied that the term “fit and proper” is appropriate. Therefore, I do not propose to accept the amendments.

Deputy Richard Boyd Barrett: I will not labour the point because we discussed these amendments on Committee Stage. Even the word “suitable” which the Minister used would be preferable to “fit and proper”. As I noted when first proposing the amendment, there is no question of challenging the validity of the vetting process. We need to ensure those who are registered with the Teaching Council are properly vetted and suitable to work with children. However, the term “fit and proper” is inappropriate language. I suspect use of the term elsewhere in legislation dates back to an earlier era when notions of hierarchy and propriety prevailed. It is archaic language which carries the wrong connotations and, more importantly, is too vague and amorphous as a criterion for determining whether an individual is suitable and qualified to be a teacher. The Minister’s response does not address my concerns about the terminology and its connotations. Something more precise is required.

Deputy Jan O’Sullivan: The Act to which I referred was introduced in 2005. It is, therefore, relatively recent. If we were to substitute the word “qualified”, the Teaching Council would only investigate whether an applicant was qualified, whereas it needs to ensure he or she has been vetted and deemed appropriate to work with children.

Deputy Richard Boyd Barrett: “Appropriate” is a good word.

Deputy Jan O’Sullivan: The word “qualified”, as proposed by the Deputy, would not necessarily mean the applicant was fit, proper or suitable. I am not accepting the amendments.

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Deputy Richard Boyd Barrett: I am open to alternatives if the Minister is willing to consider them when the Bill goes before the Seanad.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 3:

In page 7, line 4, to delete “fit and proper” and substitute “qualified”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 4:

In page 9, to delete lines 19 and 20.

The Bill provides for a matter that is more suited to the industrial relations sphere, namely, the requirement that teachers complete programmes of continuing education and development. This matter deserves greater consultation with teachers instead of making it mandatory for them to engage in continuing professional development. Teachers recognise the need for professional development, but the question of whether training programmes are relevant and useful needs to be discussed in greater detail with them. Teachers have already been forced to work additional hours under the Haddington Road agreement and have lost approximately 20% of their pay. There should be further discussion with them and their union representatives before we introduce an ill-defined requirement for them to complete further work under the guise of continuing professional development. We should not be imposing it on them by law. That is the reason for my amendment which proposes to remove the relevant section. I am interested in hearing the Minister’s response, but the amendment is reasonable.

Deputy Jan O’Sullivan: This concerns what regulations the council may make. The Teaching Council Acts of 2001 to 2012 provide that the council may make regulations to require a teacher to satisfactorily complete a programme of continuing professional development accredited by the council as a condition of renewing registration. Section 39 of the Teaching Council Act, which has not been commenced, enables the council to review and accredit programmes of continuing professional development. The Teaching Council’s policy on the continuum of education, which was adopted by the council in 2011 following a comprehensive consultation process, states that engagement in ongoing professional learning-continuing professional development is both a right and a responsibility of registered teachers.

The council intends to work towards a position, following the adoption of a coherent national framework for teachers’ continuing professional development, where renewal of registration with the Teaching Council will be subject to evidence of ongoing learning. Last year, the council began a comprehensive open consultation on this matter. Every registered teacher and all education stakeholders have had an opportunity to participate and have their views heard. I understand that over 3,000 teachers have availed of this opportunity.

Following the initial phase of consultation the council has published a draft framework called Cosán. Cosán reflects the wide variety of formal and non-formal professional learning that our teachers can and do engage in. The council will further develop the framework in the coming months. The framework will offer reassurance to the profession and the public that teachers are engaging in a range of quality learning activities for their benefit and that of their students.

The enabling provision that allows the council to regulate for continuing professional development as a feature of ongoing registration underpins the already high standard of professionalism among teachers. The final framework remains to be seen but I have every confidence that it will reflect both the existing commitment of teachers to developing their practice, as well as an understanding of a reasonable level of engagement by them with ongoing learning. Ministerial consent will be required for any regulations that the council might intend to make concerning requirements for renewal of registration. I look forward to engaging with the council further at that stage.

I believe the existence of this provision in the Act will serve as a hallmark of quality for our teaching profession and I do not intend to accept the proposed amendment to remove it.

Deputy Ruth Coppinger: I have one area of concern. The Minister is saying that in order for someone to renew their registration as a teacher, they would have to show they have completed in-service training and continuing education, which is not specified. What exactly does the Minister mean? Has any teacher refused to go on in-service training? Is this an issue or a problem? My own experience in teaching is that it was very difficult to be allowed out for in-service training because if a teacher went, somebody had to replace them. Due to all the shortages there were bigger class sizes and a lack of substitute teachers. Teachers had to apply for in-service training but were often not allowed to go. That has been my experience. Is the Minister going to start disciplining and refusing to re-register teachers who have not had the opportunity of in-service training because they were not released by their principals? Ultimately, school principals have the power.

Many teachers are female and leave the profession for a period of years to have children and so on. Before they resume teaching and obtain the Teaching Council registration, will they have to attend a series of new courses? How would they do that? Is there such a programme? The Minister seems to have inserted something onerous in the Bill. It has been my experience that there are difficulties in getting to do training.

Most teachers end up having to pay for all of these things themselves. Since I was elected to the Dáil, I have not heard a peep from the Minister about the one-in-four secondary teachers who do not have permanent jobs. They do not have the money to pay for courses. Many of them are better qualified than the Minister or I because they have had to do masters courses for less pay. I am concerned that this burden will be placed on people.

Most teachers are part-time and work in McDonalds or Lidl at the weekends. That is the reality, yet the Minister expects them to be able to engage in all these extra educational activities. Most teachers do spend a lot of time doing such courses, funded from their own private money. The courses include special needs education, literacy and other elements. I am surprised, however, that the Minister is not detailing exactly what she means. I would have thought that most teachers would love to attend such courses but it might not be possible for them to do so.

Deputy Jan O'Sullivan: This is an enabling provision and it would be by way of a regulation that would have to be approved by the Minister. It is not something that is coming in tomorrow, but it is under discussion and consultation through the Teaching Council. In my experience, teachers do engage in continuous professional development, CPD, and seek it. I agree with Deputy Coppinger on that. At primary level there are three days' extra personal vacation annually for short study undertaken during the summer holidays. At post-primary level the personal leave available is not necessarily linked to study. Having said that, there are occasional

teachers who do not particularly want to do that, but we want them all to do so. We want to ensure that teachers are upskilling themselves and are taking the opportunity to engage in CPD. As the Deputy knows, extensive CPD is organised for teachers. This provision, however, is to enable the Teaching Council to make it a requirement, if and when it believes it is necessary. It is an enabling provision.

With regard to teachers not having permanence and many of them having insecurity in their employment, I accepted the recommendations of the Ward report which was presented to me several months ago. I have indicated that we will be implementing it from September. It will mean that a teacher who has been teaching for two years can get a contract of indefinite duration, whereas currently it is after three years. I accept that there is a lot of insecurity for many teachers but we are moving to address that issue.

Acting Chairman (Deputy Bernard J. Durkan): Does Deputy Boyd Barrett wish to make a final comment?

Deputy Richard Boyd Barrett: I think the argument has largely been made. As the Minister said, there had been a consultation about the whole framework, although it has not been agreed or finalised. It is a bit of a pig in a poke in terms of what is actually required. This signs it into law and then makes something that is ill-defined into a mandatory requirement. If teachers do not match up they could be de-registered, but I do not think that is the right way to approach these matters.

As I said, and Deputy Coppinger has underlined the point, there is no doubt that teachers are committed to the idea of CPD. However, there are questions about what, where and when it is, as well as what conditions are attached to it. In addition, is it useful and relevant? Teachers have relayed stories to me about things they have been required to do which were ridiculous and patronising. They were of no benefit whatsoever in terms of what they had to do in the classroom.

Teachers are very committed to meaningful CPD but how and what it is needs to be agreed with the teachers themselves. They will then no doubt embrace it enthusiastically. It is pre-emptive to put it in the Bill as a requirement when we do not know what “it” really is.

Deputy Ruth Coppinger: I have a question following what the Minister said. I was an insecurely employed teacher for a long time before I got a permanent job. I would welcome any improvement, but when will the Ward report be fully enacted? It was talked about a year ago and a draft report was mentioned on one of the union websites back in March. It seems to me that everything that is discussed regarding teaching concerns how can we sack them and get rid of them. Will the Minister bring forward something about how we can actually give teachers a little security in order that they can get a mortgage, find a house to live in or pay their rent, which is the big problem facing most teachers at the moment? Will the Minister indicate the dates when that will be brought forward?

Deputy Jan O’Sullivan: It will be from the start of the next school year. I was in a school in County Offaly some days ago and I met a teacher there. He specifically told me that he would benefit from this because he would get his contract of indefinite duration from September, and otherwise he would not have got it. It will be in place from the next school year.

I wish to address some of the other issues. Consultation is ongoing in respect of the framework. As I have said, some 3,000 teachers have engaged with it already. I fully recognise that

teachers engage in continuing professional development. The intention is that there would be a variety of ways, formal and non-formal, in which they could engage in CPD, but we are keen to ensure the debate is ongoing with the Teaching Council.

The Teaching Council has teachers on it. It has representation from the teaching profession as well as other people. It is intended to be an organisation that very much supports the teaching profession. That is the way in which it operates. It is in the interests of all teachers that we have legislation that continues to give the public confidence in teachers. We have a very good teaching profession but we are keen to ensure that continues and that is why we are ensuring the Teaching Council has these powers. That is why the profession has the kind of reputation it continues to have.

Amendment put and declared lost.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 5 to 7, inclusive, are related and may be discussed together by agreement.

Deputy Richard Boyd Barrett: I move amendment No. 5:

In page 15, line 21, after “constitutes” to insert “serious”.

This group of amendments and the next group are the most serious ones. In fact, they revolve around the word “serious”. The thinking behind this amendment was not simply dreamt up by me. It arises out of a judgment in the Supreme Court, the Corbally judgment. In that case a doctor, Dr. Corbally, was admonished by the Medical Council but appealed the decision of the Medical Council to the Supreme Court. The judge made a ruling in favour of Dr. Corbally and there is a connection to this amendment and those which follow this group. The judge was absolutely clear in saying that only serious cases should be brought to fitness-to-practise hearings. He said that qualification needed to be included in the types of cases involving hearings about people’s fitness to do their job.

It is fairly obvious why this should be the case, because there is of course potential for trivial, vexatious, unjustified or disingenuous complaints or allegations to be made. That is not to say we should not also have something that is receptive to real, serious, genuine and legitimate allegations or complaints. There is an important balance to be made in this regard. Certainly, we want to exclude cases that are obviously trivial or lacking in seriousness. The particular language the Supreme Court judge used was that it had to be serious.

The Bill has simply not reflected the important caveat put in by the Supreme Court. Indeed, it could make this legislation possibly open to legal challenge as a result. Any hearings that arise from the legislation could be open to legal challenge because it does not have the important qualification about complaints being serious or being about serious misconduct.

This series of amendments attempts to rectify this weakness in the legislation. I did not get a chance to attend the relevant meeting but I understand the ASTI, the INTO and the TUI were in the House yesterday making similar points, although they have proposed somewhat differently worded amendments, which will come up in the Seanad. They address precisely the same issue and require the condition of seriousness when it comes to complaints being made.

I am keen to hear what the Minister has to say. I believe this is important. Certainly, the teachers and their representatives believe this is an important amendment and that it is required

in the Bill.

Deputy Ruth Coppinger: I support the amendments. I thank Deputy Boyd Barrett for tabling them because they would not have been raised otherwise. Let us consider the definitions listed in section 42 of the principal Act. They can mean many different things to many different people. We need far more definition of what constitutes the subject of a complaint. Let us consider “poor professional performance”. What does that mean? Does it mean after a week, a month or six months? No time limit is put on it. Any person, for example, Deputies, could have poor professional performance, but at least they have a period of five years to get their act together and raise their performance. There should be some time ongoing. Numerous other words could have been inserted to make clear what the Minister means. “Poor professional performance” could involve a teacher showing up late for a week or not preparing for classes for a week when she has a child in hospital or a relative who has died. She could be going through something else. The idea that these grounds would be the subject of a complaint in and of themselves makes no sense. We need tighter definitions in this section. Let us consider the proposed section 42(1)(b), which refers to professional misconduct. Again, there is huge variety of interpretation within that. At least the word “serious” puts some kind of onus on school management to take a complaint seriously.

Another subsection refers to a teacher being medically unfit to teach. I would have expected a raft of subsections in addition to that clause. Again, it is open. Does a teacher come in with a doctor’s note, stating she is suffering from depression? There is a stigma around that. The language is very lax and leaves *carte blanche* to vexatious parents, for example, or school principals.

Let us be clear. I have nothing against school principals and there are many brilliant school principals, but they have considerable power in schools. When I was a branch secretary in the ASTI, I encountered umpteen cases of disputes in schools between principals and teachers. Any principal could use any of those conditions to put a teacher’s job in jeopardy. There should be a tightening-up of the provision in terms of what is meant by having a complaint.

We should bear in mind that where a complaint is made against a teacher, it will go on his or her record. Teaching jobs are hard to come by at the moment because of the huge cutbacks in education funding, which have seen a significant reduction in the number of teaching posts. Even if a complaint against a teacher does not stand up, this is a small country and it might well be raised at interview. As it stands, this provision is shabby and unfair. It requires a huge amount of additional detail to ensure fair treatment for teachers. I have seen ongoing disputes between principals, boards of management and individual teachers where the teacher was disliked for whatever reason. This provision will facilitate complaints being made and acted upon, given that it is usually the principal and board of management who decide whether they will be pursued. I am disappointed that this provision has not been tightened up. The inclusion of the word “serious” would at least raise the bar to some extent.

Deputy Jan O’Sullivan: We are talking here about the decision as to whether a case will be investigated. The question of whether to include an additional descriptor in the provision to the effect that professional misconduct or poor professional performance must be “serious” before a complaint against a teacher can be investigated was fully considered during the drafting of the legislation. Legal advice was obtained to assist in the Bill’s preparation with regard to this specific issue. Arising from this consideration and our consultation with the Attorney General’s office, it is my view that it is neither necessary nor appropriate to include the word “serious” as

proposed in the amendment. Moreover, the current wording is in line with similar provisions in other regulatory legislation.

There are several stages to the fitness-to-teach process, which will provide protection against less serious matters proceeding to the stage of an inquiry. This was a point we debated in some detail in committee. It will fall to the council, as the self-regulator of the profession, to determine which cases proceed and how they are managed. However, in doing so, the council has the benefit of established case law and the experience of other professional regulators, which make clear there must be a level of seriousness in any conduct or performance issue before a decision can be made to proceed to an inquiry and before consequential sanctions can be made against the teacher. In addition, the Bill provides for appeal to the High Court on foot of decisions made following a fitness-to-teach inquiry. I am satisfied, therefore, that the wording as set out in the Bill is appropriate. As I said, we have consulted with the Office of the Attorney General on the matter and taken into consideration corresponding provisions in existing regulatory legislation.

Deputy Richard Boyd Barrett: Having listened to all the arguments, I am not satisfied with the Minister's response. If she acknowledges the point we are making, then she should accept the amendments. The Corbally case in the Supreme Court underlines the need for a requirement that any complaint in such cases be serious in nature. It is an important threshold which a complainant should have to meet. Any reasonable person will acknowledge there is a potential in a profession like teaching for vexatious, trivial and unjustified complaints. As Deputy Coppinger noted, "poor professional performance" is a very broad term and one that is much too subjective. Unless it is qualified significantly, we will have a situation where all the onus is on the teacher for failures that are not his or hers.

As I understand it, the Supreme Court found in the Corbally case that systems failures had to be taken into consideration in adjudicating on any complaint, that is, issues such as the resources available, management issues and all types of other factors that could potentially contribute to instances of poor performance which are not, in fact, the fault of the person against whom the complaint is made. Otherwise, the subject of the complaint might become the fall guy. Against the background of swingeing cutbacks and austerity policies which have led to overcrowded classrooms, special needs assistant caps and so on, the potential for teachers to be accused of poor professional performance when the problem at hand is not really their fault is considerable. Deputy Coppinger, who has direct experience in this regard, has underlined that point clearly.

There is an overwhelming argument, backed up by the Supreme Court, that we need to be much tighter, more precise and fairer in dealing with teachers in situations where serious allegations which could be very damaging to their reputation, character and future career are at stake. We must be much more precise as to the thresholds that have to be met for making a complaint which might lead to a fitness-to-practise inquiry. The amendments I am proposing are fair and reasonable and would provide some safeguard for teachers by introducing that threshold of seriousness. I reiterate that all the teacher unions, the ASTI, the INTO and the TUI, have made similar points. The wording they propose for discussion in the Seanad will probably be slightly different from mine but the intention will be the same. I am obliged to mark the Minister's card on this because it is a serious issue. I hope she will reconsider this proposal.

Deputy Ruth Coppinger: It was a poor professional performance on my part not to submit amendments on this section. The provision is so broad as to be clearly open to abuse by princi-

pals and boards of management. A psychologist friend of mine tells me that the greatest number of cases she deals with concerning workplace issues involve teachers. That is because principals, in particular, have a huge level of power to hire, fire, demote and withhold promotion. I am not being anti-principal in saying this, but there must be safeguards for teachers. There have been many instances, as I am sure the Minister is aware, of teachers being bullied by principals, other teachers or students. A case in Wicklow some years ago involved two female teachers who were subjected to sexist treatment in an all-boys school on an ongoing basis. When the board of management failed to act, the teachers took a legal case.

There are many ways in which the blame can be placed on teachers for difficult situations in classrooms. Most people do not have a clue how difficult it can be to maintain discipline, particularly in certain areas where students face a range of social and economic difficulties. Often, teachers are struggling to maintain good order without any back-up from school management boards which do not want to know about the difficulties those teachers are facing. A situation can arise where a teacher is not able to cope, as I have seen happen in schools, and will have a queue of students sitting outside his or her office at the end of every school day. Principals do not like to see that and will blame teachers without offering any type of assistance to them in their work.

When it comes to adjudicating on whether there has been poor professional performance or professional misconduct, safeguards should be included which explain exactly what is meant by those terms. What is the timescale pertaining to this misconduct or performance? Did it go on over a period of time? Was it just one week?

This is very disappointing. When the Teaching Council was set up, I was teaching myself. Everyone thought the council would protect teachers and advance the cause of the teaching profession but it is becoming the exact opposite. It is becoming a vehicle for disciplining and sacking teachers. It has done nothing about the downgrading of teaching. We have two-tier pay systems, with new teachers getting paid 15% less. “Yellow pack” teachers are sitting in staff rooms waiting on subbing work. The council says nothing about that situation. Instead of protecting teachers, most of whom are good, it seems to be concerned solely with picking on teachers and joining in this popular - hatred would be too strong a word - antipathy towards teachers in Ireland. This Bill is jumping on that bandwagon.

Deputy Jan O’Sullivan: That is not what the Bill is about at all. The Bill is about the Teaching Council and its specific role with regard to fitness to practise and vetting. It has nothing to do with the celebration of teachers because the vast majority of teachers do a great job. This relates to a tiny minority of teachers who are causing concern and who may come to the attention of the Teaching Council and then be subject to the fitness to teach process. It has nothing to do with the general atmosphere in schools. I condemn any bullying of teachers and a number of actions are being taken in respect of bullying in schools, be it of teachers or students.

Deputy Ruth Coppinger: Does the Minister want me to talk about bullying of teachers?

Deputy Jan O’Sullivan: The vast majority of teachers do a great job. I have said that in many places where I have spoken publicly. This is simply about the regulation of the profession, which we have in other professions such as the medical profession. In the tiny minority of cases where there is a problem, a process will be put in place by the Teaching Council. The council was set up to ensure we support teachers and that the professionalism of teachers is upheld and provided for in legislation. I absolutely support that. Neither is this about bringing

a case against a teacher where he or she is not at fault. There is absolutely no question that a person's fitness to teach could be questioned in respect of something that is not his or her fault.

Deputy Ruth Coppinger: Really?

Deputy Jan O'Sullivan: That is the case, Deputy Coppinger. This only concerns cases that are brought to investigation. It will only apply in cases where it is appropriate that they would be brought to investigation. There are then a number of stages to the fitness to teach process within the Teaching Council before it would get to a hearing. It would not get to a hearing unless it was sufficiently serious. I use the word "serious" because that is the word Deputy Boyd Barrett uses in his proposed amendments. Our legal advice is that this is implicit in the definitions and the fitness to teach process. Any complaint that gets to the point of a hearing will be a serious complaint. If one reads the legislation and examines the role of the Teaching Council, it is clear that in order to get to the point of a hearing there will be an examination of the complaint. If it is frivolous or something that is not the teacher's fault, the complaint will not get to the point of a hearing. That is clear in the legislation and the fitness to teach process.

Deputy Richard Boyd Barrett: As Deputy Coppinger just pointed out to me informally, there is a certain irony in the Minister for Education and Skills saying that only serious complaints will be looked at but the Minister does not want to put in-----

Deputy Jan O'Sullivan: Will get to the point of a hearing is what I said.

Deputy Richard Boyd Barrett: If the Minister can use that phrase and sees the necessity for such complaints to be serious, I see no reason for that not to be provided for in the legislation.

The Minister has not really responded to the point on the Corbally judgment. I do not know about the legislation governing the Medical Council but I presume the same promises and commitments about it applying to serious complaints only were made, yet it still managed to happen. The issue had to go to the Supreme Court to be rectified and the judge was very clear about the matter. The word he used was "serious". He said these things had to be serious to get to hearing. That was the threshold that had to be met. If it required the Supreme Court to state and assert that requirement, is it not logical for the Minister to insert that qualification or threshold? Otherwise we may end up with cases like the Corbally case where this could be challenged legally. We may end up with an uncertainty that could lead to hearings on things that are not really meeting the threshold of seriousness and the resultant damage that could cause to someone's career, reputation and so on. Everyone is asking for this qualification in the legislation and I do not see why the Minister will not insert it.

Nor do I accept the point made on other factors that are outside a teacher's control and that a teacher could not be, under certain circumstances, scapegoated for other issues such as system failures that go beyond them. In fact I would say it happens all the time. Perhaps not all the time. That is too strong, but I would say it happens quite a lot. It is likely to happen more frequently when there are big resource and funding shortages, overcrowded classrooms and resultant stresses. We all know they exist but it is not just about whether they exist now. At any time in the future factors can come into play. They can cause big problems and individuals can be scapegoated because someone does not like them. Someone wrongly blames them for things that are not their fault. They might consider it very serious but any independent observer would say it is clearly not their fault.

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It is very reasonable to put in a threshold or qualification requiring the matter to be serious. The contraventions or instances of professional misconduct should have to be serious. The whole issue needs to be addressed in a much more precise and qualified manner. It is far too open and vague.

I will press the amendment. I know the Minister will not accept it but we will press it. Similar amendments are being tabled in the Seanad. Those amendments will have been worded by people more eminent in legal matters than myself I suspect - probably senior counsel who represent the unions. I hope that if the Minister is not going to accept the amendment that we will press now, she will accept it in the Seanad.

Deputy Jan O’Sullivan: I do not have anything to add except to say again that case law such as the Corbally case will be available to the Teaching Council in terms of any cases which comes before it to be investigated. As I say, proceeding to a hearing is a different matter in terms of going through the processes within the Teaching Council.

Amendment put and declared lost.

Acting Chairman (Deputy Bernard J. Durkan): Amendment No. 6, which is also in the name of Deputy Richard Boyd Barrett, arises out of Committee Stage proceedings and was already discussed with amendment No. 5.

Deputy Richard Boyd Barrett: I move amendment No. 6:

In page 15, line 22, before “poor” to insert “serious”.

Amendment put:

<i>The Dáil divided: Tá, 15; Níl, 95.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Boyd Barrett, Richard.</i>	<i>Adams, Gerry.</i>
<i>Broughan, Thomas P.</i>	<i>Aylward, Bobby.</i>
<i>Coppinger, Ruth.</i>	<i>Bannon, James.</i>
<i>Daly, Clare.</i>	<i>Barry, Tom.</i>
<i>Fitzmaurice, Michael.</i>	<i>Breen, Pat.</i>
<i>Fleming, Tom.</i>	<i>Butler, Ray.</i>
<i>Halligan, John.</i>	<i>Buttimer, Jerry.</i>
<i>Healy, Seamus.</i>	<i>Byrne, Catherine.</i>
<i>McGrath, Finian.</i>	<i>Byrne, Eric.</i>
<i>Murphy, Catherine.</i>	<i>Cannon, Ciarán.</i>
<i>Murphy, Paul.</i>	<i>Carey, Joe.</i>
<i>Pringle, Thomas.</i>	<i>Coffey, Paudie.</i>
<i>Ross, Shane.</i>	<i>Collins, Áine.</i>
<i>Shortall, Róisín.</i>	<i>Conlan, Seán.</i>
<i>Wallace, Mick.</i>	<i>Connaughton, Paul J.</i>
	<i>Conway, Ciara.</i>
	<i>Costello, Joe.</i>
	<i>Cowen, Barry.</i>

	<i>Creighton, Lucinda.</i>
	<i>Daly, Jim.</i>
	<i>Deenihan, Jimmy.</i>
	<i>Deering, Pat.</i>
	<i>Donohoe, Paschal.</i>
	<i>Dooley, Timmy.</i>
	<i>Dowds, Robert.</i>
	<i>Doyle, Andrew.</i>
	<i>Durkan, Bernard J.</i>
	<i>Ellis, Dessie.</i>
	<i>Farrell, Alan.</i>
	<i>Feighan, Frank.</i>
	<i>Ferris, Martin.</i>
	<i>Fitzgerald, Frances.</i>
	<i>Fitzpatrick, Peter.</i>
	<i>Flanagan, Terence.</i>
	<i>Fleming, Sean.</i>
	<i>Harrington, Noel.</i>
	<i>Healy-Rae, Michael.</i>
	<i>Heydon, Martin.</i>
	<i>Howlin, Brendan.</i>
	<i>Humphreys, Kevin.</i>
	<i>Keating, Derek.</i>
	<i>Keaveney, Colm.</i>
	<i>Kehoe, Paul.</i>
	<i>Kelleher, Billy.</i>
	<i>Kenny, Seán.</i>
	<i>Kirk, Seamus.</i>
	<i>Kitt, Michael P.</i>
	<i>Kyne, Seán.</i>
	<i>Lawlor, Anthony.</i>
	<i>Lynch, Kathleen.</i>
	<i>Lyons, John.</i>
	<i>McCarthy, Michael.</i>
	<i>McConalogue, Charlie.</i>
	<i>McDonald, Mary Lou.</i>
	<i>McEntee, Helen.</i>
	<i>McFadden, Gabrielle.</i>
	<i>McGinley, Dinny.</i>
	<i>McGrath, Mattie.</i>
	<i>McGuinness, John.</i>
	<i>McLellan, Sandra.</i>
	<i>McLoughlin, Tony.</i>

17 June 2015

	<i>Maloney, Eamonn.</i>
	<i>Mathews, Peter.</i>
	<i>Mitchell, Olivia.</i>
	<i>Murphy, Dara.</i>
	<i>Naughten, Denis.</i>
	<i>Neville, Dan.</i>
	<i>Nolan, Derek.</i>
	<i>Ó Caoláin, Caoimhghín.</i>
	<i>Ó Cuív, Éamon.</i>
	<i>Ó Fearghail, Seán.</i>
	<i>Ó Snodaigh, Aengus.</i>
	<i>O'Brien, Jonathan.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Dowd, Fergus.</i>
	<i>O'Reilly, Joe.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Penrose, Willie.</i>
	<i>Perry, John.</i>
	<i>Phelan, Ann.</i>
	<i>Rabbitte, Pat.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>
	<i>Shatter, Alan.</i>
	<i>Smith, Brendan.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanley, Brian.</i>
	<i>Stanton, David.</i>
	<i>Timmins, Billy.</i>
	<i>Tóibín, Peadar.</i>
	<i>Troy, Robert.</i>
	<i>Tuffy, Joanna.</i>
	<i>Wall, Jack.</i>
	<i>Walsh, Brian.</i>

Tellers: Tá, Deputies Richard Boyd Barrett and Ruth Coppinger; Níl, Deputies Emmet Stagg and Paul Kehoe.

Amendment declared lost.

5 o'clock

Deputy Richard Boyd Barrett: I move amendment No. 7:

In page 15, line 23, after “engaged in” to insert “serious”.

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 8:

In page 21, line 26, after “inquiry” to insert the following:

“, and such an inquiry will be held in private although any findings made against a registered teacher may be made public,”.

The last group of amendments and this one are the ones teachers are most concerned about. Amendment No. 8 relates to whether inquiries should be held in public or private. The Minister indicated at the outset of this discussion that she intends to introduce amendments in the Seanad that will make the inquiries public. It is poor form to introduce the amendments at a late stage in the Seanad rather than giving us a chance to debate them here in the Dáil. I do not see the case for it. If there was a hint of pandering to a certain prejudice about teachers in the refusal to take on board the last set of amendments, there is an even greater hint in this case given the requirement that the hearings be in public.

The Minister has refused an amendment that would ensure only serious complaints would be covered in the legislation. There may be cases in which a hearing should be public if there is a public interest but in many cases, probably the vast majority, there would be no public interest associated with having it heard in public. There might be a voyeuristic, media sensation or scapegoat interest, but there is no public interest. Before we put somebody in a public star chamber, we need a very good reason to do so because it could have lifelong consequences for the person concerned and his or her reputation and career. The potential for this to happen in the case of teachers is very significant for obvious reasons.

Let me make myself clear. I am not saying we do not need a rigorous mechanism through which legitimate serious complaints can be made because we are dealing with a profession that deals with children and young children and their rights must be protected. There is no question about this and we need a very rigorous system to do so. However, because of the nature of the profession, there is, undoubtedly, the possibility of complaints being made that are not well founded and that are purely vexatious, but they could be very serious in nature. Once these complaints are made and put into the public domain, the mud will stick, regardless of whether there is subsequent vindication. Let us be honest. Some elements of the media are scrupulous and conscientious, but others are not. They might be very quick to cover a sensational allegation against a teacher, but they are a lot slower to cover the subsequent vindication of the person concerned. They might be very happy with trial by media of the teacher - the victim for the week in the school of paparazzi journalism - and not give a damn about what the consequences might be for the individual concerned who is deeply immersed in the community.

I know that the Minister will say other professions have these public hearings, but nobody interacts with the community on a day-to-day basis and is an organic part of a defined local community in quite the same way as a teacher. Therefore, we need to be sure we will not put them in a public media star chamber or a kangaroo court where serious and very damaging allegations are made that may not be true but that could be tremendously damaging to someone, unless it is necessary to do so and where there is a genuine public interest in the case being heard in public. This is of the utmost seriousness in terms of the need for justice. Of course, I do not dispute the fact that there is a delicate balance to be struck in this case, but the Minister

will need to do a lot to convince me that there is a public interest in having hearings such as this which essentially deal with individuals and their dealings with possibly quite a few others under the gaze of the media in a very public way.

It is set out clearly in the amendment that should there be a finding against a person, it could and should be made public, particularly if there was a public interest at stake, and that there could be serious consequences for others that would require the findings to be made public. These issues need to be looked at and weighed up specifically. I do not agree with the idea that the default position is that hearings would be held in public. It is the case for nurses and midwives - I am not even sure that is a particularly good idea - but, to an even greater degree, we are heading into dangerous territory if we apply it to teachers. People's lives and reputations could be damaged unnecessarily and besmirched in a such a way that they might never be able to recover from it. We should not legislate for this to happen unless we have all of the necessary safeguards in place.

That is the argument to be made. Hearings should be held in private, but the findings could be made public. There are other qualifications regarding where there might be a very definite public interest in an issue. The Minister could insert these qualifications to allow for public hearings to be held in certain narrowly defined cases, but as a general rule, it should not be the case. I will be pressing the amendment.

Deputy Ruth Coppinger: I spoke about this issue on Second Stage when I made some of these points. It is unfortunate that the Minister chose to reject something that even the Teaching Council of Ireland had recommended, namely, that it be looked at on a case by case basis and that a sub-committee could make a recommendation on whether a case should be heard in public. For some reason, the Minister rejected that recommendation. Perhaps she might explain why.

Let us be honest about what we are talking about. We are not talking about teachers who are dangerous to pupils in terms of grooming or sexual abuse because any such case would go to court. We are talking about fitness to teach for a variety of reasons we discussed in respect of previous amendments, some of which are very loose and where there is *carte blanche* to determine them in various ways. They include being medically unfit to teach. What is being said, in effect, is that we should have public show trials of teachers who are potentially unfit to teach in order that the tabloid media, in particular, can feast on someone's misery. I do not support such hearings in other professions either. I do not see the advantage in having compulsory public hearings, or the reason for them, except to add to somebody's difficulties. I do not see why it is necessary to do so. I agree that the amendment is well worded. It states cases could be heard and the findings made public. The Minister is feeding into a tabloid media mentality where teachers, the object of scorn on many occasions in the media, would be put on trial.

Doctors face public fitness to practise hearings. A case I cited on Second Stage involved a doctor who asked to have his name erased from the medical register rather than appear at one of these public hearings because several lawyers testified that it would increase his risk of suicide if he was to be put through a public hearing. The committee voted not to accept that his name be erased from the medical register. It defies logic if an individual is volunteering not to practise again.

Why is there this burning need for cases to be tried in public? Disciplinary hearings for many if not most workers are not held in public and for most, if there is a disciplinary hearing,

it is not reported by the media. It seems to be a creeping development for certain professions to hold disciplinary proceedings in public. Other workers are not subjected to this and I do not see why teachers and nurses should be. That is not to say that serious cases where teachers are a danger should not be made public - we are taking it as read that such cases would be tried in court, as they should be. No one is defending anything like that but we must be very careful, particularly in a small country like Ireland. In Scotland, for example, it is done case by case. If a case is considered serious enough to warrant a public hearing, that is what happens, but if a case is not considered to be very serious, the hearing is held in private. Why has the Minister rejected that option? Perhaps she wants to be seen to be meeting a demand or an appetite in the media. We are constantly hearing that there is an enormous problem of unfit teachers, an argument which is regularly made by Independent News and Media. However, as I said in an earlier contribution, the biggest problem in teaching is the fact that there are many teachers who are not able to survive. They are not able to pay their rent, never mind buy a house because they do not have proper jobs. The casualisation of teaching is a huge problem and is much more serious than this issue, with one in four teachers in the secondary sector without a proper job. We have spoken in this House about zero-hour contracts for Dunnes Stores workers and others, which is totally disgraceful and which has not been legislated for. That would be a more fitting Bill for the Government to be bringing in front of the Dáil. We actually have many teachers on zero-hour contracts. They show up and do not have a clue if they will have any money at the end of the week. I would love to see more coverage of that issue and not just at Easter when the teachers' annual conferences are taking place. The Minister has said that this will be addressed but it will not be unless the Minister creates more permanent jobs by reducing the pupil-teacher ratio. Teachers will continue in temporary positions because the Minister has not increased the allocation to schools.

I have not seen any evidence of a burning demand for the provisions we are discussing today.

Deputy Jan O'Sullivan: Deputy Boyd Barrett is right in saying that this is about a balance between the public interest and the right of teachers to their privacy. It is about getting that balance right and making a decision as to where that balance should lie. That is why I have indicated that I will bring forward an amendment in the Seanad to provide that the balance should be, by default, in public but that in certain situations a hearing could be held in private. The main reason for this is transparency. This is about the public interest and also about ensuring we protect the reputation of teachers. We have heard complaints for years that it is very difficult to get rid of a bad teacher. That is a commonly held view but I would reiterate that the vast majority of teachers are excellent. That said, we need to have a process whereby teachers can be removed from the register of the Teaching Council if complaints against them are upheld. I should point out that 22 of the 37 members of the Teaching Council are teachers. In effect, this is teachers regulating their own profession, which is also the case in other jurisdictions.

Deputy Ruth Coppinger: The Teaching Council did not ask for this provision and does not agree with it.

Deputy Jan O'Sullivan: I understand that.

Deputy Ruth Coppinger: The Minister should make that clear.

Deputy Jan O'Sullivan: I am just pointing out that 22 of the 37 members of the Teaching Council are teachers. I wish to make it clear that no case will proceed to a hearing without

going through several screening stages which are designed to ensure the complaint merits a full disciplinary hearing. That is clearly provided for. It is a matter of deciding where the balance should lie between default public or default private but no matter which side of that line one opts for, certain information must be made public and provision must be made for private hearings where that is considered appropriate. On the question of whether teachers should be treated differently from doctors or nurses, general practitioners or public health nurses would argue that they are just as much a part of and engaged with their local communities as teachers.

As I have said, this mirrors recently introduced legislation for other professions, with hearings for nurses, midwives and doctors being held by default in public. That is one of the reasons I have come down on the side of a public default position. However, having considered a request by a teacher or a witness and where there is reasonable and sufficient cause, the disciplinary committee of the Teaching Council can decide that some or all of the hearing may be held in private. I must stress the point that hearings can be held in private if the committee decides that is appropriate. This approach supports an important balance of rights: the rights of individuals who are the subject of complaints to privacy, where appropriate, and the public right to expect that regulation is carried out in a fair, open and transparent manner. It can cater for long-standing principles of natural justice in respect of the individual's rights and rights such as the safeguarding of minors or vulnerable adults, the protection of private life and professional reputation and privacy concerning medical issues.

I also plan to include express provision that the registered teacher who is the subject of the hearing is entitled to be represented at the hearing and will be furnished in advance with information about evidence in support of the complaint. As well as the conduct of hearings in public, I will also provide for the publication by the council of the outcome of disciplinary hearings where it is in the public interest to do so and the notification of findings against a teacher to regulators outside the State where that is appropriate. This and the other provisions are in keeping with the arrangements applying to other professional regulators and the legal provisions will be similar to those already existing.

In addition, under the current Act there is provision for an inquiry to be held on the basis of an examination of documents which might be appropriate in some cases. It is intended that this provision will be retained and it is expected that many complaints could be resolved in this way. I am advised and am satisfied that this approach can cater for the types of issues that have been raised in respect of individual's rights. The disciplinary committee will have sufficient discretion to determine when privacy should be employed, having regard to the balance of rights and the need to protect individuals. It will be up to the disciplinary committee of the Teaching Council to decide, where appropriate, that hearings should be held in private. I would like to reiterate that no case will proceed to a hearing without having gone through several screening stages which are designed to exclude less serious complaints that would not merit a full disciplinary inquiry.

I would also like to make reference to the possibility of frivolous or unfounded complaints being made to the council. This matter was also raised on Committee Stage but I am confident that council procedures regarding complaints which will follow from the provisions of the Bill will be robust and thorough enough to ensure frivolous or unfounded complaints are excluded at an early stage in any complaint process. That is why I have indicated that I intend to make it the default position that hearings would be held in public. That said, I wish to reassure the House that there is specific provision that hearings can be held in private should the Teaching Council decide that is appropriate in the particular circumstances of the case.

Deputy Jonathan O'Brien: I support this amendment and believe the default position should be that hearings would be held in private. As Deputies Coppinger and Boyd Barrett have outlined, if it is in the public interest that a hearing should be held in public, it can be, but the default position should be that hearings are held in private. The Teaching Council can then decide case by case whether there is a public interest element to a case and, if there is, the hearing can be held in public.

This will not just affect teachers. As has been pointed out, an individual might be called to a hearing to ascertain his or her fitness to teach on medical grounds. A teacher may be suffering from mental health problems, for instance. It may not be a permanent issue that will prevent from them from teaching, but to make that public would be very wrong and unfair on the teacher who would be very vulnerable if he or she were suffering from mental health problems in the first place. It would also have a great impact on the teacher's family. The default should be that these hearings would be held in private. The wording of the amendment allows for all the findings to be made public if there is an adverse finding. On a case-by-case basis the Teaching Council could then decide it could be held in public if there is a public interest. I agree with the previous speakers that the default position should be that it be in private.

Deputy Richard Boyd Barrett: The nub of the issue is the default position. The Minister has made it clear that she favours the default position being that it be held in public without making any serious case for it except what she calls transparency. She needs seriously to consider the possible implications for people against whom there are serious allegations that could permanently affect their lives, careers and reputations and where there is the potential for that to happen frequently without those allegations necessarily being justified or having foundation. Even in cases where they might have justification and foundation and where someone needed to be de-registered or disciplined, what is the public benefit in humiliating them? I do not see the case for it.

If anyone wants to make the case for it to be held in public and there is an actual public interest in doing so, there should be provision for that case to be made, but other than that we need to be cognisant that we are dealing with people's lives and reputations where the vast majority of teachers are good people doing their best. I accept that in some cases they might not be doing the best job, but even then it is not about publicly humiliating them and feeding the potential tabloid frenzy that could surround these things.

The Minister should row back on this. She should also consider the witnesses, including pupils or anyone else who might be called. Is it really a good idea to hold these things in public?

The Minister has said people could be represented. We are not talking about people such as Mr. Denis O'Brien. We are talking about people who are average earners and are already struggling to pay their bills. They cannot do what Mr. Denis O'Brien can do and get high-powered barristers to defend their so-called privacy when we are dealing with hundreds of millions of euro of public money. These are just teachers.

On the distinction I made between teachers and nurses, I do not think it is appropriate that nurses, including public health nurses, should have a default position that they would be brought before public disciplinary hearings. It is wrong for them. It is slightly different for public health nurses, but teachers are very identifiable in the community because of the nature of what they do. A public health nurse might fit into that category, but the nurse in the hospital is not quite as identifiable as the teacher in the school who is known by hundreds or possibly

thousands of people.

There is a very significant potential for a person's reputation to be besmirched when it may not be justified and for it to have an effect on him or her, and the Minister should reconsider.

Deputy Charlie McConalogue: On first look I can understand why people might have concerns that the default position is that hearings should be held in public. However, in many other professions and in courts of law the default position generally is that hearings are in public. When something is serious enough to go to a public hearing, it is not just about investigating and assessing the complaint that is made. It is also about the transparency of the system and reassuring everyone involved and the wider public that there are good practices and systems in place to ensure those carrying it out do so appropriately and that there are mechanisms for them to be called to account if they do not.

Obviously in cases where findings are made against a person, it can be made public. Equally in a case that does not find against a person, if the default position is that they are always held in private, there will be questions outside from those who were not involved as to what exactly went on. Was it open and transparent? Was a proper hearing given to the complaint? If it is not held in public as much as practicable and possible, that openness and transparency will not apply. In many cases where the person was found to be in the right, it could be to their benefit to have the circumstances around that aired and clearly seen by all.

It is important to have mechanisms to allow for them to be held in private in appropriate cases. I support the default position being that the hearings be held in public. I urge the Minister to consider whether it would be appropriate to have guidance in the legislation as to how private hearings would be held and the circumstances in which that would be appropriate. It is important that the default position is that the hearings be in public.

Deputy Jan O'Sullivan: The debate reflects that we need to find a balance and decide whether the default position is that hearings be public or private. Deputy McConalogue and I believe that the default position is that they should be public. I think such transparency sends a message and gives confidence in the profession. It still allows hearings to be held in private where that is judged to be appropriate. If there was a case involving a mental health issue, as Deputy O'Brien mentioned, it is quite likely that the decision would be made to hold it in private. Obviously that decision would be made by the Teaching Council, which is primarily teachers.

The difficulty is that if the default position is that hearings be held in private, when it is decided to hold a hearing in public, there is a judgment call that this is something that is somehow worse than some of the other cases that are held in private. On balance I have come to the decision that making the default position that hearings be held in public is better for the teaching profession. In the long run having hearings in public will add to people's confidence in the teaching profession while still allowing for hearings in private in circumstances that are considered appropriate. The initial complaint will go through a series of considerations within the Teaching Council before it gets to hold an inquiry.

I accept there is a balance to be struck and people have argued on both sides. As Minister, I have made the judgment call that it is better for the default position to be to hold hearings in public. I am satisfied that is the appropriate approach.

Amendment put:

<i>The Dáil divided: Tá, 24; Níl, 93.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Adams, Gerry.</i>	<i>Aylward, Bobby.</i>
<i>Boyd Barrett, Richard.</i>	<i>Bannon, James.</i>
<i>Broughan, Thomas P.</i>	<i>Barry, Tom.</i>
<i>Coppinger, Ruth.</i>	<i>Breen, Pat.</i>
<i>Daly, Clare.</i>	<i>Burton, Joan.</i>
<i>Donnelly, Stephen S.</i>	<i>Butler, Ray.</i>
<i>Ferris, Martin.</i>	<i>Buttimer, Jerry.</i>
<i>Fitzmaurice, Michael.</i>	<i>Byrne, Catherine.</i>
<i>Fleming, Tom.</i>	<i>Byrne, Eric.</i>
<i>Halligan, John.</i>	<i>Calleary, Dara.</i>
<i>Healy, Seamus.</i>	<i>Cannon, Ciarán.</i>
<i>Mac Lochlainn, Pádraig.</i>	<i>Carey, Joe.</i>
<i>McGrath, Finian.</i>	<i>Coffey, Paudie.</i>
<i>McLellan, Sandra.</i>	<i>Collins, Áine.</i>
<i>Mathews, Peter.</i>	<i>Collins, Niall.</i>
<i>Murphy, Paul.</i>	<i>Conlan, Seán.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Connaughton, Paul J.</i>
<i>O'Brien, Jonathan.</i>	<i>Conway, Ciara.</i>
<i>Pringle, Thomas.</i>	<i>Costello, Joe.</i>
<i>Ross, Shane.</i>	<i>Cowen, Barry.</i>
<i>Shortall, Róisín.</i>	<i>Creed, Michael.</i>
<i>Stanley, Brian.</i>	<i>Daly, Jim.</i>
<i>Tóibín, Peadar.</i>	<i>Deenihan, Jimmy.</i>
<i>Wallace, Mick.</i>	<i>Deering, Pat.</i>
	<i>Doherty, Regina.</i>
	<i>Donohoe, Paschal.</i>
	<i>Dooley, Timmy.</i>
	<i>Dowds, Robert.</i>
	<i>Doyle, Andrew.</i>
	<i>Durkan, Bernard J.</i>
	<i>Farrell, Alan.</i>
	<i>Feighan, Frank.</i>
	<i>Fitzgerald, Frances.</i>
	<i>Flanagan, Charles.</i>
	<i>Flanagan, Terence.</i>
	<i>Fleming, Sean.</i>
	<i>Grealish, Noel.</i>
	<i>Harrington, Noel.</i>
	<i>Harris, Simon.</i>
	<i>Healy-Rae, Michael.</i>
	<i>Heydon, Martin.</i>

	<i>Howlin, Brendan.</i>
	<i>Humphreys, Heather.</i>
	<i>Humphreys, Kevin.</i>
	<i>Keating, Derek.</i>
	<i>Kehoe, Paul.</i>
	<i>Kelleher, Billy.</i>
	<i>Kenny, Seán.</i>
	<i>Kirk, Seamus.</i>
	<i>Kyne, Seán.</i>
	<i>Lawlor, Anthony.</i>
	<i>Lynch, Kathleen.</i>
	<i>Lyons, John.</i>
	<i>McCarthy, Michael.</i>
	<i>McConalogue, Charlie.</i>
	<i>McEntee, Helen.</i>
	<i>McFadden, Gabrielle.</i>
	<i>McGinley, Dinny.</i>
	<i>McLoughlin, Tony.</i>
	<i>Maloney, Eamonn.</i>
	<i>Martin, Micheál.</i>
	<i>Mitchell, Olivia.</i>
	<i>Mulherin, Michelle.</i>
	<i>Murphy, Dara.</i>
	<i>Nash, Gerald.</i>
	<i>Naughten, Denis.</i>
	<i>Neville, Dan.</i>
	<i>Nolan, Derek.</i>
	<i>Noonan, Michael.</i>
	<i>Ó Cuív, Éamon.</i>
	<i>Ó Fearghaíl, Seán.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Dowd, Fergus.</i>
	<i>O'Reilly, Joe.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Penrose, Willie.</i>
	<i>Perry, John.</i>
	<i>Phelan, Ann.</i>
	<i>Rabbitte, Pat.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>
	<i>Shatter, Alan.</i>
	<i>Smith, Brendan.</i>

	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Timmins, Billy.</i>
	<i>Troy, Robert.</i>
	<i>Tuffy, Joanna.</i>
	<i>Varadkar, Leo.</i>
	<i>Wall, Jack.</i>
	<i>Walsh, Brian.</i>
	<i>White, Alex.</i>

Tellers: Tá, Deputies Richard Boyd Barrett and Ruth Coppinger; Níl, Deputies Emmet Stagg and Paul Kehoe.

Amendment declared lost.

An Leas-Cheann Comhairle: Amendment No. 9 has been ruled out of order.

Amendment No. 9 not moved.

Deputy Jonathan O'Brien: I move amendment No. 10:

In page 27, between lines 2 and 3, to insert the following:

“Review of operation of Act

24. The Minister shall—

(a) not later than 2 years after this section comes into operation, commence a review of the operation of this Act, and

(b) not later than 12 months after its commencement, make a report to each House of the Oireachtas of the findings made on the review and of the conclusions drawn from the findings.”.

We have had a constructive debate during the passage of the Bill, many aspects of which have caused concern for members of different parties and Independent Deputies. Given these concerns, many of which are based on mechanisms which will come into operation on implementation of the Bill, it would be prudent to make provision for some review to take place to see how well it was performing. The amendment proposes that, not later than two years after the Bill comes into operation, a review commence and that, not later than 12 months after commencement of that review, a report be laid before the Houses of the Oireachtas and that its conclusions be discussed by the relevant committee.

Deputy Jan O'Sullivan: I understand the Deputy's intentions. However, in general, all legislation needs to be kept under review, in case some aspect of it is not operating in accordance with the intentions outlined during its passage. There will be opportunities to follow through on these issues in a variety of ways, including at an Oireachtas committee, if deemed necessary. The provisions of the Teaching Council Act, as amended, will be applied on a day to day basis through the work of the Teaching Council and should any issue arise from implementation of the Bill, including the commencement of the remaining sections, and ongoing review of the legislation by my Department and the council, further amendments will be considered,

as required. I do not consider there is any necessity to provide for the review suggested by the Deputy because we already have checks and balances.

Deputy Jonathan O'Brien: I do not agree, based on the fact that legislation should constantly be reviewed, that this always happens. That is clearly not the case, as we have seen in the case of many pieces of legislation. We need only look at the position of the Clerys workers to identify the inadequacies of that legislation. Given the concerns raised and that we are talking about the teaching profession, it would be appropriate for a review of the legislation to take place within the timeframe set out in the amendment. The findings of the review could then be debated.

Deputy Jan O'Sullivan: I reiterate that what we are doing in this instance is amending the original legislation, specifically as it relates to vetting and the role of the teacher in terms of his or her fitness to teach. We have the usual checks and balances, including the committee which can examine legislation. Therefore, I do not believe it is necessary - it would not be common to do this in legislation - to provide for the carrying out of a review at a particular time, after two years as suggested in the amendment.

Amendment put:

<i>The Dáil divided: Tá, 47; Níl, 76.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Adams, Gerry.</i>	<i>Bannon, James.</i>
<i>Aylward, Bobby.</i>	<i>Barry, Tom.</i>
<i>Boyd Barrett, Richard.</i>	<i>Breen, Pat.</i>
<i>Broughan, Thomas P.</i>	<i>Burton, Joan.</i>
<i>Calleary, Dara.</i>	<i>Butler, Ray.</i>
<i>Collins, Joan.</i>	<i>Buttimer, Jerry.</i>
<i>Collins, Niall.</i>	<i>Byrne, Catherine.</i>
<i>Coppinger, Ruth.</i>	<i>Byrne, Eric.</i>
<i>Cowen, Barry.</i>	<i>Cannon, Ciarán.</i>
<i>Daly, Clare.</i>	<i>Carey, Joe.</i>
<i>Donnelly, Stephen S.</i>	<i>Coffey, Paudie.</i>
<i>Dooley, Timmy.</i>	<i>Collins, Áine.</i>
<i>Ellis, Dessie.</i>	<i>Conlan, Seán.</i>
<i>Ferris, Martin.</i>	<i>Connaughton, Paul J.</i>
<i>Fitzmaurice, Michael.</i>	<i>Conway, Ciara.</i>
<i>Fleming, Sean.</i>	<i>Costello, Joe.</i>
<i>Fleming, Tom.</i>	<i>Coveney, Simon.</i>
<i>Grealish, Noel.</i>	<i>Creed, Michael.</i>
<i>Halligan, John.</i>	<i>Daly, Jim.</i>
<i>Healy, Seamus.</i>	<i>Deenihan, Jimmy.</i>
<i>Healy-Rae, Michael.</i>	<i>Deering, Pat.</i>
<i>Kelleher, Billy.</i>	<i>Doherty, Regina.</i>
<i>Kirk, Seamus.</i>	<i>Donohoe, Paschal.</i>
<i>Mac Lochlainn, Pádraig.</i>	<i>Dowds, Robert.</i>

<i>McConalogue, Charlie.</i>	<i>Doyle, Andrew.</i>
<i>McDonald, Mary Lou.</i>	<i>Durkan, Bernard J.</i>
<i>McGrath, Finian.</i>	<i>Farrell, Alan.</i>
<i>McGrath, Mattie.</i>	<i>Feighan, Frank.</i>
<i>McLellan, Sandra.</i>	<i>Fitzgerald, Frances.</i>
<i>Martin, Micheál.</i>	<i>Flanagan, Charles.</i>
<i>Mathews, Peter.</i>	<i>Flanagan, Terence.</i>
<i>Murphy, Catherine.</i>	<i>Harrington, Noel.</i>
<i>Murphy, Paul.</i>	<i>Harris, Simon.</i>
<i>Naughten, Denis.</i>	<i>Heydon, Martin.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Howlin, Brendan.</i>
<i>Ó Cuív, Éamon.</i>	<i>Humphreys, Heather.</i>
<i>Ó Fearghail, Seán.</i>	<i>Humphreys, Kevin.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Keating, Derek.</i>
<i>O'Brien, Jonathan.</i>	<i>Kehoe, Paul.</i>
<i>Pringle, Thomas.</i>	<i>Kenny, Seán.</i>
<i>Ross, Shane.</i>	<i>Kyne, Seán.</i>
<i>Shortall, Róisín.</i>	<i>Lawlor, Anthony.</i>
<i>Smith, Brendan.</i>	<i>Lynch, Kathleen.</i>
<i>Stanley, Brian.</i>	<i>Lyons, John.</i>
<i>Tóibín, Peadar.</i>	<i>McCarthy, Michael.</i>
<i>Troy, Robert.</i>	<i>McEntee, Helen.</i>
<i>Wallace, Mick.</i>	<i>McFadden, Gabrielle.</i>
	<i>McGinley, Dinny.</i>
	<i>McLoughlin, Tony.</i>
	<i>Maloney, Eamonn.</i>
	<i>Mitchell, Olivia.</i>
	<i>Mitchell O'Connor, Mary.</i>
	<i>Mulherin, Michelle.</i>
	<i>Murphy, Dara.</i>
	<i>Neville, Dan.</i>
	<i>Nolan, Derek.</i>
	<i>Noonan, Michael.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Dowd, Fergus.</i>
	<i>O'Reilly, Joe.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Penrose, Willie.</i>
	<i>Perry, John.</i>
	<i>Phelan, Ann.</i>
	<i>Rabbitte, Pat.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>

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	<i>Ryan, Brendan.</i>
	<i>Shatter, Alan.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Tuffy, Joanna.</i>
	<i>Varadkar, Leo.</i>
	<i>Wall, Jack.</i>
	<i>Walsh, Brian.</i>
	<i>White, Alex.</i>

Tellers: Tá, Deputies Jonathan O'Brien and Sandra McLellan; Níl, Deputies Emmet Stagg and Paul Kehoe.

Amendment declared lost.

6 o'clock

Bill received for final consideration and passed.

Offences Against the State (Amendment) Act 1998: Motion

An Leas-Cheann Comhairle: Two motions relating to the Offences Against the State (Amendment) Act 1998 and the Criminal Justice (Amendment) Act 2009, respectively, will be debated together and the debate will conclude after one hour and 15 minutes. In accordance with the Order of Business, the motions will be debated together but decided separately. I call on the Minister for Justice and Equality, Deputy Frances Fitzgerald, to move the first motion. The second motion cannot be moved until the first motion has been disposed of, but may be discussed with it.

Minister for Justice and Equality (Deputy Frances Fitzgerald): I move:

That Dáil Éireann resolves that sections 2 to 4, 6 to 12, 14 and 17 of the Offences Against the State (Amendment) Act 1998 (No. 39 of 1998) shall continue in operation for the period beginning on 30th June, 2015 and ending on 29th June, 2016.

The House will be aware that the Offences Against the State (Amendment) Act 1998 was enacted by the Oireachtas in the wake of the murder by the Real IRA of 29 innocent people in the Omagh bombing in August 1998. This atrocity demanded a robust response by the State and the legislation enacted then was a necessary and proportionate measure to defend the desire of the vast majority of law-abiding people on this island to live in peace. The Act contains a series of amendments to the Offences Against the State Acts to make them more responsive to the threat from certain groups. Principally, these amendments concern changes in the rules of evidence for certain offences under the Acts, including the drawing of inferences in certain circumstances, the creation of new offences such as directing an unlawful organisation, possession of certain articles and collecting information, and extending the maximum period of detention permitted under section 30 of the 1939 Act to 72 hours.

Section 18 of the 1998 Act, as amended by section 37 of the Criminal Justice Act 1999, provides that sections 2 to 4, inclusive, 6 to 12, inclusive, 14 and 17 must be renewed by the Oireachtas at specified intervals if they are to remain in force. By virtue of resolutions passed by both Houses of the Oireachtas in June 2014, these sections were continued in force for a period of 12 months. Before moving any motion for renewal, the Act requires that I lay before the Oireachtas a report on the operation of the relevant provisions. The current report covers the period from 1 June 2014 to 31 May 2015, and was laid before the House on 10 June 2015. It includes a table showing usage figures for each of the years since the Act came into operation.

It is the fervent wish of the Government and, no doubt, the House that a time will come when the provisions will no longer be required. However, as Minister for Justice and Equality I must take into account the reality of the situation. The Garda assessment, shared by the Police Service of Northern Ireland, PSNI, is that there is a real and persistent threat from terrorist groups on this island. The threat level in Northern Ireland from these groups is regarded as severe, and while the direct threat in this jurisdiction may be different, these groups carry on planning and logistical activities in the State. These groups are vehemently opposed to peace and seek to attack the institutions of Northern Ireland and destabilise the peace process. However, I am determined they will not succeed in their objective.

I pay tribute to the men and women of the Garda Síochána who work tirelessly to counter the threat from paramilitary organisations. The Garda authorities co-operate very closely with the PSNI in this regard, and this is a key relationship in protecting communities across the island. It is the clear view of the Garda Síochána that the Act continues to be a most important tool in its ongoing efforts in the fight against terrorism. The Garda authorities have stated that the provisions of the Act are used regularly, which is evident from the report I have laid before the House. In the time available, I will not go through all the relevant sections in detail. The report I have provided gives details of the instances in which the various sections have been used during the period in question and there is a lot of detail there. The report also indicates that a number of sections, namely, sections 3, 8, 12 and 17, were not used during the reporting period in question. However, it should not be inferred from this that these provisions are redundant or unnecessary, given that the usage of the sections varies from time to time and from year to year.

Terrorist groups remain a threat to the people on this island. They are opposed to the benefits that have flowed from the peace process and are determined to undermine them. The State must retain in its laws the capacity to defeat them, and we have a duty as legislators to ensure this is so. On the basis of the information set out in the report and on the advice of the Garda authorities, I propose that the House approve the continued operation of the relevant provisions of the 1998 Act in order for them to remain in operation for a further 12 months, commencing on 30 June 2015.

I turn now to the motion regarding the Criminal Justice (Amendment) Act 2009. The Act was a response to a number of difficulties facing the justice system at a time when certain organised criminal gangs were behaving as though they were beyond the law and untouchable by gardaí and the courts. Hand in hand with the disregard for human life was the intimidation of whole communities to prevent people co-operating with the law. There was significant evidence of intimidation of witnesses and some courts faced difficulties in empanelling jurors. It was clear that these gangs were prepared to go to any lengths to thwart the criminal justice system. It was imperative, therefore, to take the necessary steps to ensure the criminal justice system could withstand the challenges it faced from them.

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The reasons the Government and I, as Minister, are seeking the renewal of section 8 are clear. Organised crime continues to present a significant problem. There is, unfortunately, stark evidence of the willingness of these gangs to engage in murder, armed robbery, kidnapping, drug smuggling, counterfeiting and other serious offences. Although the provision has been in place since 2009 and there have been arrests under the relevant sections of the Criminal Justice Act 2006, no case has come before the Special Criminal Court in accordance with section 8. However, this does not invalidate the reasoning for having such a provision available for use in appropriate circumstances. The use of the Act to date serves to highlight the considered approach of the Director of Public Prosecutions in exercising her discretion to direct that cases would be tried in the ordinary courts where it is possible to do so. The Garda Commissioner has made clear to me her view that the provision will be required for some time to come and I must have the utmost regard for the views of the Garda authorities on this matter. The Commissioner has the Government's full support in tackling these threats to the fabric of our society.

In the period under report, there were a total of 25 arrests under the relevant provisions of the Criminal Justice Act 2006, with 18 arrests under section 72 and a further seven arrests under section 73. Sections 71A and 76 were not used in the reporting period in question. The House will share my view that trial by jury must be preserved to the greatest extent possible. However, we cannot ignore the threat posed to the criminal process by individuals, terrorist groups and organised criminal groups who seek to intimidate jurors or potential jurors. Their aim is to subvert the criminal justice system but we cannot allow that to happen. We must take appropriate and proportionate measures to prevent such interference. In the circumstances, I consider it necessary to continue section 8 in operation for a further period of 12 months beginning on 30 June 2015. I commend these motions to the House.

Deputy Niall Collins: One of the State's primary duties is to ensure its citizens and institutions are protected from attack. That is the purpose of the motions before us. By supporting them, my party is reaffirming that principle in our Parliament. Since these motions first came before this House, this island has been transformed beyond recognition through the Good Friday Agreement and the establishment of a power-sharing Executive in Northern Ireland. However, the relative peace we now enjoy cannot be taken for granted. As is clear from the stalled implementation of the Stormont House Agreement, considerable work remains to be done to integrate the two communities in Northern Ireland. The institutions are still fragile and a significant threat remains to the peace process as a result of the activities of what are referred to as dissident republicans. These groups do not have any real support on the ground, whether North or South of the Border. They are fighting against the democratic wishes of the people as expressed in the 32-county referendum on the Good Friday Agreement. To a large extent, the actions of these republicans are cover for drug dealing and racketeering. However, even though these dissident republicans do not have support, they are nonetheless capable of inflicting terrible damage. A dissident republican group was responsible for the worst atrocity of the Troubles in Omagh in 1998.

The amendments to the Offences Against the State Act introduced by the then Fianna Fáil Government in the aftermath of the Omagh bombing were necessary at the time. Unfortunately, we believe they are still necessary today. We cannot lower our guard or lessen our vigilance in the face of this ongoing threat. I have no doubt most Members would prefer that our laws were normalised and that the provisions were unnecessary. However, we cannot take that chance. The only time we should consider lowering our guard is when the dissident republicans have abandoned their campaign of violence and crime. I ask them to recognise the democratic wish-

es of the Irish people by laying down their guns and ceasing their violence. This is why Fianna Fáil supports the resolutions being brought before the Houses of the Oireachtas by the Minister for Justice and Equality. We believe that the legislation should be extended for a further 12 months from 17 June 2015.

It is also proposed to extend section 8 of the Criminal Justice (Amendment) Act 2009. This legislation was introduced by Fianna Fáil as a response to organised crime. It provides that certain crimes will be prosecuted before the Special Criminal Court rather than a judge and jury. The right to a trial by jury is an important aspect of the criminal justice system but this State cannot tolerate a situation whereby members of society who are asked to be jurors are exposed to intimidation and threats of violence from gangland figures. For that reason we agree that the section should be extended. The recent shootings in Dublin demonstrate the continuing need for this law. Gangland criminals will do anything to increase their profits from selling drugs. If they thought interfering with a jury would prevent them from going to prison, they would be unlikely to hesitate in intimidating and harassing jurors. We cannot tolerate such a possibility. For that reason, Fianna Fáil will support the extension of section 8 of the Criminal Justice (Amendment) Act 2009. Discretion should remain with the Director of Public Prosecutions as to whether a person should be sent for trial by the Special Criminal Court. We do not believe it is appropriate that serious gangland figures should be tried by juries. Their violence and organised crime have deprived them of the right to trial by jury. We should not apologise for denying them this right because the safety of this country and its citizens depends on it.

Deputy Pádraig Mac Lochlainn: At the same time every year, these motions come before the House and are opposed by Sinn Féin. Every year, we request that proper time be allocated to a debate on the motions but our requests are always denied and the motions are passed. This happens even though the legislation fundamentally undermines human rights, civil liberties and democratic life in this State. There is absolutely no basis for the continued use of draconian provisions such as these. The provisions up for renewal and, indeed, the Offences Against the State Acts in their entirety, have no place in the present or future of this island. We are living in a new political reality and there remains a duty on the Minister and the Government to live up to their obligations under the Good Friday Agreement to deliver security normalisation, something which the renewal of this Act does not help to deliver.

The Government has certain obligations under the Good Friday Agreement. The Agreement places an onus on both governments to work towards the normalisation of the security apparatus here in the Twenty-six Counties and in the Six Counties. As every Member of this House will be aware, the Agreement was endorsed overwhelmingly by the majority of the people on this island. It needs to be protected and implemented in full.

It is clear there is too much apathy among too many in the Opposition on this issue. Such apathy, coupled with the misguided and misplaced enthusiasm of others in the Oireachtas, has obvious negative implications for society. As Members of this Oireachtas, we all have an onus to uphold and implement the Good Friday Agreement in full. That is why Sinn Féin is calling on every Member to vote against this motion and to campaign for the repeal of the Offences Against the State Acts in their entirety.

In the past, many Members have argued in favour of the provisions of the Acts because they have played a role. Today, I do not think anyone can truthfully argue that these provisions have a place in the present or future of this State. Sinn Féin believes the legislation is counter-productive in the long run. We live in a normal, law and order society, and normal policing is

more than adequate to convict those who seek to undermine that law and order. There is no place in our society for the emergency legislation that was passed in 1998. The retention of this Act is an admission of the failure of this and previous Governments.

Draconian legislation can never be a substitute for robust law and strong and accountable policing. Sinn Féin has always been in a minority in this House in recent years when we have rightly opposed the 1998 Act. I am sure we will be in a minority again today, but we are not in a minority internationally as we analyse this measure. The United Nations Human Rights Committee shares our stance on it. An Garda Síochána and the courts can convict and ensure those who carry out acts of violence in this day and age serve a proper sentence for those actions.

It is our duty to make every attempt to convince so-called dissident groups to move away from violence, embrace peace and accept the will of the people as expressed in the Good Friday Agreement. We must also clearly explain and convince them of the opportunities the Good Friday Agreement and the peace process give republicans to further the republican and all-island agenda. That is where our focus for the next 12 months should be rather than seeking to mismanage the issue through outdated measures such as this Act. This is another reason I ask Members to oppose this motion.

It is important to look at the issue of so-called dissident activities. In recent years, there has been virtually zero support for them. Unfortunately, considerable elements have resorted to criminality. In essence, they are criminals. They are involved in criminal activities to line their own pockets and enrich themselves. They are not republicans. This is not going to help bring about a new, united republic. They could not be further from being republicans. There may well be some among them who hold a republican view.

In terms of those who are not involved in activities that enrich themselves, our challenge in these Houses is to engage with them and demonstrate the benefits of the peace process. The lack of leadership from this Government and the British Government in demonstrating the benefits of the peace process is the real issue here. Where are the economic benefits of the peace process for people living in working class areas, including Border counties like my own Donegal? What economic benefits have accrued? That is the message to defeat those who would engage in so-called dissident activities.

These types of laws are self-defeating because they almost make martyrs of some people by avoiding due process. The real challenge for these Houses is to demonstrate to communities that are suffering economically or politically that there are real and tangible benefits from the peace process. Can we have a re-engagement by both Governments to deal with the outstanding issues from the past and give victims on all sides answers about what happened to their loved ones?

I am mindful of the powerful documentary on Monday night, which for the first time on our State broadcaster demonstrated the role of the British state in co-ordinating the activities of loyalist paramilitaries from the 1970s. They reformed, controlled and armed those paramilitary organisations as well as directing them to the homes of republicans with intelligence and other forms of assistance. That occurred from the 1970s right through to the 2000s. Throughout all those years we never had a Government in this State that told the British Government it needed to take ownership of the full responsibility it had for directing those paramilitaries against the Nationalist community for all those decades. The British Government was a direct player in the conflict and arguably the most serious player, certainly in terms of the resources at its disposal

throughout those decades. If that type of issue was dealt with robustly, it would send a message that the peace process is equal for all. Such action by our Government would do more to dissuade young people from joining these so-called dissident groups than the legislation which is before us again today.

As an Irish republican, I stand ready to play my part and my party will play its part in helping that process at any stage. That is the challenge for us all. If one looks at the role of the British and Irish Governments in recent years, they seem to have been more interested in their own particular agendas than in driving through the peace process. There was a lack of engagement and support from the Government leading up to the current budgetary crisis in Stormont.

The lack of leadership on the part of this Government is just not good enough. I reiterate the call made by my party's President, Deputy Adams, for the Taoiseach to engage directly with the British Prime Minister. As Members in this Chamber will be aware, Sinn Féin has consistently opposed the retention of this amendment. We have argued each year that it should be repealed in its entirety. At this time, there is neither a need for this legislation nor an argument in favour of it. I therefore call on people to vote accordingly and reject the motion.

I now turn to the motion regarding the Criminal Justice (Amendment) 2009. Admitting that the ordinary courts are not adequate to deal individuals who are involved in organised criminal activity is a sad reflection on any government or state. In such circumstances, the state in question has failed to deal with issues like jury intimidation and witness protection. If we are serious about dealing with organised criminal gangs, we need to put resources in place, and especially resources for An Garda Síochána.

I am sure those involved in organised criminal activity see the introduction of legislation to ensure they are tried before the Special Criminal Court as an admission of the State's failure to provide protections and safeguards to those who serve on juries. It is the wrong way to go and we will oppose this proposal for that reason. That is not flippantly to disregard the activities of these criminal gangs. We understand they cause misery and hardship and have no regard for law and order.

If we examine best international practice, we will see that other countries have found more effective ways of dealing with organised criminal gangs that do not involve institutions like the Special Criminal Court. That court has been criticised by the Irish Council for Civil Liberties, Amnesty International and the United Nations Commission on Human Rights for its procedures and for being a special court which ordinarily should not be used against civilians.

Among the criticisms are the lack of a jury and the increasing use of the court to try organised ordinary crimes rather than the terrorist cases it was set up to handle. On the contrary, the jurisdiction of the Special Criminal Court is not restricted to offences related to the extraordinary circumstances which led to its establishment. There is information available which shows that an increasing number of cases that are not obviously related to offences against the State are being tried in the Special Criminal Court, largely as a result of the exercise by the Director of Public Prosecutions of the power to certify cases involving other than scheduled offences for trial in the Special Criminal Court. This is simply unacceptable.

The Minister cannot argue for the retention of outdated legislation while at the same time implementing considerable cutbacks to An Garda Síochána and taking away its resources to combat criminality in communities throughout the State. There is a contradiction in the argu-

ment and for that reason we will oppose this motion.

An Leas-Cheann Comhairle: The next speaking slot is shared by Deputies Clare Daly, Mick Wallace and Paul Murphy.

Deputy Mick Wallace: We are discussing the annual ritual whereby the Government of the day renews archaic and, some would claim, illegal legislation for a further 12 months, irrespective of whether any of the legislation has even been used. No cases have yet come before the Special Criminal Court in accordance with section 8 of the Criminal Justice (Amendment) Act 2009. The mere existence and practices of the court have been repeatedly criticised by the Irish Council for Civil Liberties, Amnesty International and the United Nations Commission on Human Rights. Trial by jury is a human right, the reasoning behind this right being that a jury offers a check against the abuses of unfettered state power.

Earlier this year the High Court ruled to extend further the power of the State while simultaneously undermining citizens' rights as enshrined in the Constitution. Before the ruling, any evidence that was deemed to have been obtained illegally could not be admitted in a prosecution no matter how inadvertent the mistake or no matter how damning the evidence. The law that was struck down served to vindicate the rights of citizens under the Constitution and the law and protect them from any abuse of State power. This was certainly a retrograde step. Friedrich Nietzsche once said:

He who fights with monsters should be careful lest he thereby become a monster. And if thou gaze long into an abyss, the abyss will also gaze into thee.

The powers afforded by this legislation were for times of emergency in a very different Ireland. It is frightening that the State continues to extend these wide-ranging laws year on year with scant justification. They are laws more appropriate to the perversion of justice that characterises the affront to decency and humanity that is Guantanamo Bay.

The Minister has spoken about the need to protect the State from the threat of international terrorism, a threat whose existence, the Minister has previously admitted, is not supported by any evidence. I maintain that the greatest threat to Ireland from international terrorism comes exclusively from our continued support for the US war machine and our effective membership of the coalition of the willing, in the sense that we are allowing millions of US troops and weapons to pass through Shannon Airport on their way to destabilise the Middle East and beyond. An immediate cessation of that policy would be far more effective than the archaic State powers effected by this legislation.

Less than two weeks ago, the UN Committee on Economic, Social and Cultural Rights raised a long list of serious concerns with the Minister of State, Deputy Sherlock. Among more than 60 human rights concerns raised was a major concern that there is no domestic mechanism to hold the State accountable for violations of economic, social and cultural rights. It is concerning that Ireland will not incorporate economic, social and cultural rights in the Constitution. Why does this Government still refuse to make this progressive move? Would it have too many repercussions for regressive laws such as the one we are looking at now?

Without a shadow of a doubt there are many problems in the world, including a great deal of terrorism and violence. However, I believe most independent thinking people would admit that the majority of terrorism in the world today is caused by or starts with those in the US military. I do not think it is possible to contradict that any more. They have caused untold devastation.

Let us consider the statistics on the amount of countries they have invaded and bombed. In 2014 alone, special American forces carried out military exercises in 133 countries, that is to say, over two thirds of the countries in the world. This is terrorism. It would be wonderful if our Government ever garnered the courage to decide that we should not allow Shannon to be used by these people.

Deputy Clare Daly: I am unsure whether I am sad or embarrassed to be here again at the annual charade, whereby we are asked to wave through draconian legislation in order that it can operate for another 12 months. It bears emphasising that the Offences Against the State (Amendment) Act was supposed to be passed as emergency legislation in 1998 but yet we renew it every year. The reason we are asked to renew it every year is that the Bill contains a radical departure from normal procedures in any civilised society with regard to due process. The potential for such legislation to be seriously abused is real and disturbing. We should step back and ask whether this legislation is in any way useful. As Deputy Wallace said, section 8 of the 2009 Criminal Justice (Amendment) Act, which we are being asked to renew today, has never been invoked by the Director of Public Prosecutions. Back in 2011 in a strongly worded statement the Irish Council for Civil Liberties said that the Government's renewal of this redundant gangland power in the Act defied reason. If it defied reason in 2011, it certainly defies reason in 2015.

When the Minister moved this Bill in the Seanad last week, she acknowledged that organised crime continues to represent a significant law enforcement issue. In other words, the presence of this draconian legislation has had absolutely zero impact on gangland crime. Rather, it is put forward to curtail civil liberties and does nothing to deal with what it is supposed to deal with. The proof is in the moving. This is fourth time in the lifetime of this Dáil that we have debated these issues. The first time around, on 13 June 2012, in moving to renew the 1998 Act, the former Minister for Justice and Equality, Deputy Alan Shatter, told the Dáil: "The Garda assessment, shared by the PSNI, in regard to the terrorist threat level in Northern Ireland is that it is severe". On 19 June 2013, again moving the motion the same Minister said, "The Garda assessment, shared by the PSNI, of the terrorist threat level in Northern Ireland is that it is severe". On 19 June 2014, the current Minister for Justice and Equality said: "the Garda assessment, shared by the Police Service of Northern Ireland, PSNI, of the terrorist threat level in Northern Ireland is that it is severe". Last week, the Minister again said, "the Garda assessment, which is shared by the Police Service of Northern Ireland, of the terrorist threat level in Northern Ireland is that it is regarded as severe". In other words, every year we have had a carbon copy. The wording has not changed, but neither has the supposed threat level. What benefit has this legislation brought during that time?

The real way of dealing with gangland and organised crime is to work with other Departments to address their social causes. If the Government wishes to deal with terrorist activities, it should deal with the conditions that breed them, including the position of our prisons, which have been shamefully ignored. Curtailing democratic rights in line with the recent Criminal Justice (Terrorist Offences) Bill is an undemocratic overreaction to an overblown terrorist threat. It is simply not good enough. The idea that we would suspend a right to jury trial and other basic democratic human rights in the name of a so-called spurious threat is absolutely appalling. We should not be renewing it. We should absolutely do away with this repressive legislation.

Deputy Paul Murphy: Here again we have a ritualised endorsement and extension of a serious attack on basic civil liberties. This is particularly serious at a time when the reality of

the actions of the State and how it defends the interests of the elites at the expense of the majority has become clear. Serious attacks on people's democratic right to protest have taken place over the course of the past half year or eight or nine months. This demonstrates clearly how tragedies, be it 11 September 2001 or the Omagh bombing, are used by the establishment to restrict civil liberties, citing emergency need only for the provisions to be extended for the 17th year in a row.

The Anti-Austerity Alliance and the Socialist Party oppose these measures. They were originally introduced in the aftermath of the Omagh bombing, an act which rightly caused revulsion among ordinary people throughout the country. The Socialist Party has a proud record of opposing the campaigns of paramilitaries across the island. We always pointed out that it was futile to attempt to bomb British imperialism out of Northern Ireland and that the actions of paramilitary groups only served to increase division and create sectarianism rather than uniting people. We have seen the development of a sectarian head count in the North in recent years. Clearly, the paramilitary campaigns were not successful, even on their own terms.

However, the Government has behaved cynically in bringing forward these proposals. Back in 1998, the then Government introduced the measures to deal with a specific situation. Since then, we have seen them renewed every year, with warnings that threat levels remain the same and references to paramilitaries in the North, international terrorism and, on this occasion, criminal gangs. This is fundamentally anti-democratic legislation and an attack on civil liberties. Draconian legislation is not the solution to the problem of terrorism. On the contrary, it becomes another weapon in the hands of the establishment to clamp down on people's right to protest and on movements that are opposed to the establishment. We have seen similar legislation used across the world to deal with social movements and protests. The classic example of this is in the United States, where the PATRIOT Act has been employed to massively curtail dissent and protest. In Brazil last year, anti-terrorism laws were used to clamp down on the huge protests that took place in the context of the football World Cup being held in that country.

In Ireland, we have seen the courts and the Garda Síochána used as weapons against the mass movement of people in opposition to water charges and austerity. We have seen people jailed for expressing their democratic right to protest, with one person still in prison at this time. We have seen the Garda used as a private security firm, on behalf of the richest man in Ireland, to impose water meters on communities which do not want them. We have seen elected representatives, women and children dragged out of their beds at 7 a.m. by a squadron of gardaí for engaging in a peaceful sit-down protest. Why on earth would anyone trust this Government or a future Government made up of the parties of the establishment to use these powers responsibly rather than against movements which dare to challenge the establishment?

Minister for Justice and Equality (Deputy Frances Fitzgerald): I thank the Deputies who contributed to the debate. In particular, I thank Deputy Niall Collins for supporting the motions. I remind colleagues that the only parties that are attacking democracy are the criminals and terrorists who would seek to undermine it. I remind the House, too, that we have independent courts in this country which have served the State well and whose integrity is beyond question. The Judiciary is the final arbiter in this process. The measures before us this evening are not undemocratic. My presence here and the discussion we have had are an assertion of the democratic principle. It is for the Dáil to vote on these matters as it sees fit. Bringing these measures before the House every year is an essential part of the democratic process. It is the democratic way to present measures to Members and request their approval.

Despite Deputy Paul Murphy's suggestions to the contrary, this is not about suppressing social movements and protest. That is inaccurate. The Deputy will see from the reports that were laid before the House precisely how and in what circumstances the measures have been used. Any democratic state has the right to defend itself from elements which seek to undermine its authority and structures. Although the legislation does provide for trial at the Special Criminal Court, it also makes clear that trial in the conventional courts is not ruled out. The Director of Public Prosecutions has discretion in this area, and the fact that no cases have been sent forward to the Special Criminal Court shows these are not decisions that are taken lightly.

At the same time, the lack of use does not mean the provisions are not necessary. The State must be in position, as I said, to deal with elements in our society that would seek to undermine it. This is not a charade or ritual. The legislation is before the House because it is considered vital to retain it. If we examine the work that is done by the Garda authorities, the ongoing efforts to combat organised crime, the firearms that are seized and the continual success in disrupting the activities of those elements which would seek to do harm to this country, it is very clear there are real threats facing us. Deputy Clare Daly is correct that on each occasion these measures have been put before the House by this Government, we have stated that the threat in Northern Ireland remains severe. We have said that because it is true. It is reflective of the reality of the situation and the challenges we continue to face. I agree with Deputy Pádraig Mac Lochlainn that both Governments must work continually to improve the situation in Northern Ireland and maintain the peace. He is absolutely correct in that.

I make no apologies to the House for the measures contained in these proposals. It is the fundamental duty of Government and all Members of this House to do our utmost to ensure the security of our people. We cannot contemplate a situation where democracy is undermined by terrorism. Having just returned from a two-day meeting of justice and home affairs Ministers in Luxembourg, where the threat of terrorism across Europe remains top of the agenda, it is clear there is no room for complacency respecting, for instance, the threat posed by ISIS. We have seen attacks in France and Belgium. We see from the conflicts in Syria and Libya the huge challenges that present in trying to support people in those countries. There is an enormous challenge to face right across that part of the world.

We cannot contemplate a situation where democracy is undermined by terrorism. As Minister for Justice and Equality, I have a responsibility, with my Government colleagues, to recognise and protect the human rights of all citizens. There is no greater human right than the right to life. That is why I commend these motions to the House.

7 o'clock

Question put:

<i>The Dáil divided: Tá, 89; Níl, 26.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Aylward, Bobby.</i>	<i>Adams, Gerry.</i>
<i>Bannon, James.</i>	<i>Broughan, Thomas P.</i>
<i>Barry, Tom.</i>	<i>Collins, Joan.</i>
<i>Breen, Pat.</i>	<i>Colreavy, Michael.</i>
<i>Bruton, Richard.</i>	<i>Daly, Clare.</i>
<i>Butler, Ray.</i>	<i>Ellis, Dessie.</i>

<i>Buttimer, Jerry.</i>	<i>Ferris, Martin.</i>
<i>Byrne, Catherine.</i>	<i>Fitzmaurice, Michael.</i>
<i>Byrne, Eric.</i>	<i>Fleming, Tom.</i>
<i>Calleary, Dara.</i>	<i>Halligan, John.</i>
<i>Carey, Joe.</i>	<i>Healy, Seamus.</i>
<i>Coffey, Paudie.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Collins, Áine.</i>	<i>McGrath, Finian.</i>
<i>Collins, Niall.</i>	<i>McLellan, Sandra.</i>
<i>Conlan, Seán.</i>	<i>Mathews, Peter.</i>
<i>Connaughton, Paul J.</i>	<i>Murphy, Catherine.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Murphy, Paul.</i>
<i>Costello, Joe.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Coveney, Simon.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Creed, Michael.</i>	<i>O'Brien, Jonathan.</i>
<i>Daly, Jim.</i>	<i>Pringle, Thomas.</i>
<i>Deenihan, Jimmy.</i>	<i>Ross, Shane.</i>
<i>Deering, Pat.</i>	<i>Shortall, Róisín.</i>
<i>Doherty, Regina.</i>	<i>Stanley, Brian.</i>
<i>Dooley, Timmy.</i>	<i>Tóibín, Peadar.</i>
<i>Dowds, Robert.</i>	<i>Wallace, Mick.</i>
<i>Doyle, Andrew.</i>	
<i>Durkan, Bernard J.</i>	
<i>Farrell, Alan.</i>	
<i>Feighan, Frank.</i>	
<i>Fitzgerald, Frances.</i>	
<i>Flanagan, Charles.</i>	
<i>Flanagan, Terence.</i>	
<i>Fleming, Sean.</i>	
<i>Grealish, Noel.</i>	
<i>Hannigan, Dominic.</i>	
<i>Harrington, Noel.</i>	
<i>Harris, Simon.</i>	
<i>Heydon, Martin.</i>	
<i>Howlin, Brendan.</i>	
<i>Humphreys, Kevin.</i>	
<i>Keating, Derek.</i>	
<i>Keaveney, Colm.</i>	
<i>Kelleher, Billy.</i>	
<i>Kenny, Seán.</i>	
<i>Kehoe, Paul.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Kathleen.</i>	

<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	
<i>McConalogue, Charlie.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McHugh, Joe.</i>	
<i>McLoughlin, Tony.</i>	
<i>Maloney, Eamonn.</i>	
<i>Martin, Micheál.</i>	
<i>Mitchell, Olivia.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Moynihan, Michael.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Naughten, Denis.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Noonan, Michael.</i>	
<i>Ó Cuív, Éamon.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	
<i>Smith, Brendan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Troy, Robert.</i>	
<i>Tuffy, Joanna.</i>	
<i>Varadkar, Leo.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	

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

Pádraig Mac Lochlainn.

Question declared carried.

Criminal Justice (Amendment) Act 2009: Motion

Minister for Justice and Equality (Deputy Frances Fitzgerald): I move:

That Dáil Éireann resolves that section 8 of the Criminal Justice (Amendment) Act 2009 (No. 32 of 2009) shall continue in operation for the period beginning on 30th June, 2015 and ending on 29th June, 2016.

Question put:

<i>The Dáil divided: Tá, 86; Níl, 24.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Aylward, Bobby.</i>	<i>Adams, Gerry.</i>
<i>Bannon, James.</i>	<i>Collins, Joan.</i>
<i>Barry, Tom.</i>	<i>Colreavy, Michael.</i>
<i>Breen, Pat.</i>	<i>Coppinger, Ruth.</i>
<i>Bruton, Richard.</i>	<i>Daly, Clare.</i>
<i>Burton, Joan.</i>	<i>Ellis, Dessie.</i>
<i>Butler, Ray.</i>	<i>Ferris, Martin.</i>
<i>Buttimer, Jerry.</i>	<i>Fitzmaurice, Michael.</i>
<i>Byrne, Catherine.</i>	<i>Fleming, Tom.</i>
<i>Byrne, Eric.</i>	<i>Halligan, John.</i>
<i>Calleary, Dara.</i>	<i>Healy, Seamus.</i>
<i>Carey, Joe.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Collins, Áine.</i>	<i>McGrath, Finian.</i>
<i>Collins, Niall.</i>	<i>McLellan, Sandra.</i>
<i>Conlan, Seán.</i>	<i>Murphy, Catherine.</i>
<i>Connaughton, Paul J.</i>	<i>Murphy, Paul.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Costello, Joe.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Coveney, Simon.</i>	<i>O'Brien, Jonathan.</i>
<i>Creed, Michael.</i>	<i>Pringle, Thomas.</i>
<i>Daly, Jim.</i>	<i>Ross, Shane.</i>
<i>Deenihan, Jimmy.</i>	<i>Stanley, Brian.</i>
<i>Deering, Pat.</i>	<i>Tóibín, Peadar.</i>
<i>Doherty, Regina.</i>	<i>Wallace, Mick.</i>
<i>Dooley, Timmy.</i>	
<i>Dowds, Robert.</i>	
<i>Durkan, Bernard J.</i>	
<i>Farrell, Alan.</i>	

<i>Feighan, Frank.</i>	
<i>Fitzgerald, Frances.</i>	
<i>Flanagan, Terence.</i>	
<i>Fleming, Sean.</i>	
<i>Grealish, Noel.</i>	
<i>Hannigan, Dominic.</i>	
<i>Harrington, Noel.</i>	
<i>Heydon, Martin.</i>	
<i>Howlin, Brendan.</i>	
<i>Humphreys, Kevin.</i>	
<i>Keating, Derek.</i>	
<i>Keaveney, Colm.</i>	
<i>Kehoe, Paul.</i>	
<i>Kelleher, Billy.</i>	
<i>Kenny, Seán.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Kathleen.</i>	
<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	
<i>McConalogue, Charlie.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McHugh, Joe.</i>	
<i>McLoughlin, Tony.</i>	
<i>Maloney, Eamonn.</i>	
<i>Martin, Micheál.</i>	
<i>Mitchell, Olivia.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Moynihan, Michael.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Dara.</i>	
<i>Naughten, Denis.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Noonan, Michael.</i>	
<i>Ó Cuív, Éamon.</i>	
<i>Ó Ríordáin, Aodhán.</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>	

17 June 2015

<i>Perry, John.</i>	
<i>Phelan, Ann.</i>	
<i>Rabbitte, Pat.</i>	
<i>Reilly, James.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Shatter, Alan.</i>	
<i>Smith, Brendan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Troy, Robert.</i>	
<i>Tuffy, Joanna.</i>	
<i>Varadkar, Leo.</i>	
<i>Wall, Jack.</i>	
<i>Walsh, Brian.</i>	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Aengus Ó Snodaigh and Pádraig Mac Lochlainn.

Question declared carried.

Messages from Select Committees

Acting Chairman (Deputy Joanna Tuffy): The Select Sub-Committee on Communications, Energy and Natural Resources has completed its consideration of the Communications Regulation (Postal Services) (Amendment Bill) 2015 and has made no amendments thereto.

The Select Committee on Justice, Defence and Equality has completed its consideration of the Assisted Decision-Making (Capacity) Bill 2013 and has made amendments thereto.

The Select Sub-Committee on Social Protection has completed its consideration of the Gender Recognition Bill 2014 and has made amendments thereto.

Children (Amendment) Bill 2015 [Seanad]: Order for Second Stage

Bill entitled an Act to amend the Children Act 2001; to amend section 1 of the Prevention of Crime Act 1908, section 10 of the Criminal Justice Administration Act 1914 and section 13 of the Criminal Justice Act 1960 in order to remove persons under the age of 18 years from the scope of those provisions; to amend and extend section 42 of the Criminal Justice Act 1999; and to provide for related matters.

Minister for Children and Youth Affairs (Deputy James Reilly): I move: “That Second Stage be taken now.”

Question put and agreed to.

Children (Amendment) Bill 2015 [Seanad]: Second Stage

Minister for Children and Youth Affairs (Deputy James Reilly): I move: “That the Bill be now read a Second Time.”

I am very pleased to have this opportunity to introduce the Children (Amendment) Bill 2015 to the House and I look forward to engaging in a constructive debate as it proceeds through the various Stages. The provisions in this Bill, which is proposed to amend the existing Children Act 2001, relate to the relatively small number of children who are in trouble with the law and are sent by the courts to the children detention schools.

The Bill will facilitate greater efficiencies in the children detention schools by enabling the amalgamation of the schools capitalising on existing reforms; providing a system of remission in children detention schools; introducing equality of treatment between children and adults; and delivering on a key programme for Government commitment, that is, to end the practice of sending children to St. Patrick’s Institution.

On 1 January 2012, responsibility for remand places in children detention schools under section 88 of the Children Act 2001 and responsibility for children detention schools under Part 10 of the Act were transferred from the Minister for Justice and Equality to the Minister for Children and Youth Affairs. Responsibilities for other Parts of the Children Act remain with the Minister for Justice and Equality.

There are currently three children detention schools in the State, namely, Trinity House, Oberstown Girls School and Oberstown Boys School, all of which are located on the same campus at Oberstown near Lusk in County Dublin. Oberstown Girls School currently accommodates girls aged under 18 years who are remanded in custody or subject to a detention order. Trinity House and Oberstown Boys School currently accommodate boys under 18 who are ordered by the courts to be remanded in custody and boys aged 16 or under who are subject to a children detention order arising from the criminal justice process.

Children detention schools provide residential facilities for children who are subject to a children detention order following conviction or who are remanded in custody to a remand centre situated in a children detention school arising from criminal charges. The objectives of the children detention schools are to provide for the care and educational needs of the children and to address offending behaviour in order to prepare them for their return to the community in due course.

A number of positive steps have been taken to date to meet the programme for Government commitment. Responsibility for 16 year old boys was assigned to the Oberstown campus in 2012. Funding approval of €56 million was confirmed for the Oberstown capital development project in 2012. The remit of the Ombudsman for Children was extended to include children detained in adult prison facilities in 2012. A first recruitment process for care staff to work in Oberstown was completed in 2014, and further recruitment steps are ongoing. I recently authorised the transfer of responsibility for 17 year old males newly remanded in custody to Oberstown from 30 March 2015.

The Bill seeks to achieve a number of objectives. Significant initiatives and reforms have taken place in recent years on the Oberstown campus with a view to providing for the more efficient use of resources, including the centralisation of services, common policies across the

three schools and more efficient use of accommodation. This is complemented by major capital development at the Oberstown campus to redevelop and expand facilities.

The Bill complements reforms achieved to date by providing a statutory basis for the amalgamation of the three children detention schools. The Bill provides for a number of amendments to delete all references on the Irish Statute Book to the possibility of detaining children in adult facilities, in line with the programme for Government commitment to end the practice of sending children to St. Patrick's Institution. Since 30 March 2015, 17 year old males who are remanded in custody are remanded to a remand centre situated in a children detention school. On commencement of the relevant provisions of this legislation, 17 year old males on whom a detention order is imposed will be detained in a children detention school.

Under section 155 of the Children Act 2001, children serving a period of detention who are convicted on indictment can remain in a children detention school for an additional six months beyond their 18th birthday where they satisfy certain conditions. Currently, the Children Act does not address the position of children who are convicted of summary offences and are still the subject of a detention order when they reach the age of 18. The Bill provides for clarification of the treatment of all children in such cases.

The Bill provides for a regime for such children that reflects the current provision for those relating to children convicted on indictment, that is, an option for the director to keep the child in the children detention school for six months beyond the 18th birthday where certain conditions are met. These conditions are where the person is engaged in a course of education or training in the children detention school, or where there is less than six months of the sentence of detention remaining to be served on the person's 18th birthday. Where these conditions are not met, the director shall request the transfer of the person to prison or a place of detention.

Consideration has been given to the principle of equality of treatment between children in children detention schools and adults in the adult prison system. This arose as a significant issue in the context of legal proceedings in the High Court in December 2013 in the case *S. B. v. the Minister for Justice and Equality*. In this case the High Court ruled that there was an entitlement to remission of detention in the children detention schools on the same basis as applies in the adult prison system. Therefore, the Bill makes provision for remission in children detention schools incorporating a new disciplinary process and an appeal process where the sanction imposed is forfeiture of remission.

The Bill provides for the introduction of a system of remission where a child, while detained in the children detention school, engages in good conduct. Remission will be introduced by way of regulations made by the Minister for Children and Youth Affairs under section 221 of the Children Act. In particular, the regulations will provide for the same rate of remission of detention as that in place for adults, that is, one quarter and in some cases not exceeding one third of the sentence of detention concerned.

The Bill provides for an amendment to section 42 of the Criminal Justice Act 1999 to facilitate the arrest by the Garda of a child already on a detention order or on remand in a remand centre situated in a children detention school for questioning in regard to an offence or offences other than those for which he or she is in detention or on remand. The Bill augments existing provisions in this area in relation to adults. The Bill includes a number of other amendments, including one that creates an offence of supplying a mobile phone to a child in detention, and a number of consequential amendments relating to the ceasing of the detention of children in the

adult system.

I now turn to the provisions of the Bill. In Part 1 of the Bill, sections 1 to 3, inclusive, provide for the Short Title, collective citation, construction, commencement and definitions of the Bill, as well as for the repeal of certain provisions of the Children Act 2001 that provide for the remand in custody or detention of males in St. Patrick's Institution. Part 2 of the Bill provides for matters relating to closure and amalgamation of children detention schools, clarification of matters relating to children turning 18 in detention and a new system of discipline and remission. I will outline the provisions of Part 2 more specifically. Section 4 provides for the amendment of terms referred to in section 3 of the Children Act. Section 5 provides for an amendment to section 88 of the Children Act relating to remand centres to enable the Minister to designate all of a children detention school as a remand centre. The amendment will enable the Minister to designate part or all of a children detention school as a remand centre. Section 6 inserts new sections 88A and 88B to enable the transfer of children remanded in custody between remand centres and to apply the disciplinary regime for children subject to a detention order to remand children. Section 7 provides for the deletion of the reference to "an order under section 151(1)" in section 98 of the Children Act as no such order is referred to in section 155(1). Section 8 substitutes a new section 149 incorporating some provisions of the existing section 155 to clarify the period of detention that may be imposed by a court on a child. Section 9 provides for an amendment to section 151 of the Children Act to refer to the granting of remission which is being introduced in children detention schools by the Bill. Section 10 substitutes a new section 155 to provide for the treatment of persons who attain 18 years of age during their detention and who are still subject to a children detention order.

Debate adjourned.

Employment Equality (Amendment) Bill 2015: Second Stage (Resumed) [Private Members]

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

Deputy Jonathan O'Brien: We will be supporting this legislation. It is long overdue to say the least. It has been debated ever since I was elected here in 2011. I published a Bill in respect of repealing the discriminatory nature of that legislation. The Labour Party and Fianna Fáil published Bills relating to it. Members of the Technical Group have also published a Bill on it. I do not know if it was in the programme for Government but various Ministers definitely gave a commitment that this legislation would be dealt with once and for all before the end of this Government's term of office. This leaves us with a very short window in which to deal with it so I hope this is one commitment that can be kept.

To be honest, the fact that people can be discriminated against on the grounds of their sexual orientation is gross. It has no place in Irish society and needs to be dealt with quickly and in a very open and transparent manner within this Chamber because there is widespread support across all parties and none for the repeal of section 37. We just need to get on with the business of doing it. I remember how *thejournal.ie* ran a series on the impact of this section on teachers in particular either last year or early this year. One teacher who spoke to *thejournal.ie* said that when it was found out that he had spoken to the website and had openly announced that he was gay, he came under considerable pressure within his school, not just from the principal and the board of management but also from fellow teachers. He felt that he was not being listened to at

meetings and he could feel that change in attitude towards him. To think that this can happen in this day and age is hard to get one's head around. We have just come out of a long campaign on marriage equality. This shows where our society is at. There is no doubt that there are people out there who are homophobic and that no matter what we say in here or what legislation we pass, we will not change their views on that but this Chamber can make a statement by passing this legislation. I note that the Government is supporting this and it will go to Committee Stage. I suspect that the Government will bring forward its own legislation in time and this will be the legislation we will ultimately end up voting on. Even the fact that it is being allowed to proceed to Committee Stage sends out the message that we are all united in respect of that, which I welcome.

It is not just schools. It also affects hospitals and other institutions that are run with a religious ethos. I consider myself to be religious. I go to Mass regularly. I bring my children up in a religious ethos but just because I am religious and attend Mass does not mean to say that people do not have rights and that I would not stand up for them. People's sexual orientation has nothing to do with religion. This is about equality. Much has been done over the past number of weeks to enhance equality within Irish society. I know the Minister of State is doing a lot of work in respect of direct provision. This section in the legislation is draconian and needs to be taken off the Statute Book very quickly.

This section in the legislation could technically discriminate against somebody who is divorced or a single mother so it is not just about the LGBT community. It goes beyond that even though the main focus is on the LGBT community. We should not lose sight of the fact that it also affects other people - single mothers, people who may be divorced or people with a different religious background. Due to the fact that we have not grasped the idea of separating Church and education, many schools have a Catholic ethos. Ireland is becoming very multi-cultural. The Education (Admission to Schools) Bill will also help break down some of those barriers when it comes to schools of a particular religious ethos. We are hearing stories of parents who only have the option of the local Catholic school when they want to enrol children in school. Due to the fact that they may not be bringing up their children in that religious ethos, they feel forced to get their child christened so that they have an opportunity to enrol their child in that school.

We fully support the Government in bringing forward its own legislation. I hope it will happen before the end of this Government's term of office because we cannot afford to allow it to slip into the next Dáil. That would be grossly unfair on teachers, nurses or anyone else who could be discriminated against by this section of the legislation. It has to go.

Deputy Áine Collins: I welcome the opportunity to address this issue and I thank the Deputies opposite for raising it. The issue of LGBT rights in this country has consumed Ireland in the past few years and with good reason. It is all very well to say that we have equality in our hearts but we must have it in our laws if we are to be a progressive and compassionate society. For too long, people felt like they had to hide a part of who they are. I am sure most people would agree with me. Stories like that of TV3's Ursula Halligan and former Minister, Pat Carey, struck a nerve with all of us. It was heart-breaking to listen to the stories of isolation and fear. They lived incomplete lives and were denied what most of us take for granted - an open and loving relationship and being able to talk about that relationship. Their stories about being unable to form everyday relationships for fear of discrimination in their community and places of work really pulled at the nation's heartstrings. They were not the only ones and many thousands of Irish people still live in isolation, afraid to reveal their sexuality. In 2015 this is

just wrong. That is why we as legislators must act. This issue is not just a worry for the LGBT community, as I found out on the canvass for the recent referendum. As a mother it concerns me too. How can we expect LGBT teachers to give everything to the development of their pupils if they live in constant fear of being fired simply for being who they are? How can health care professionals deliver professional and compassionate care if they have to worry constantly about their employer finding out who they are? In April of this year I held a public meeting on the marriage equality referendum in Ballincollig in Cork and was surprised at the number of people who turned up. Both sides were represented in the audience but the personal stories I heard during the meeting and afterwards were very moving. To listen to young teachers who have secured a job in the vocation they love talk about hiding who they are at work brought me to tears. As someone with a business background who has employed people, I found it shocking that a business would face the full rigours of the law if it discriminated against gay people but a religious institution would not. Tears and shock are not enough, however. One of the reasons I voted for the programme for Government in spring 2011 was because of the equality agenda it contained. Not only did we agree to deliver on marriage equality but we also promised to end this discrimination.

The recent referendum reminded me that the vast majority of people want to see equality for their fellow LGBT citizens. It also reminded me that our Constitution remains a deeply personal part of Irish life. Constitutional debate in Ireland engages people in a way not seen in any other country. We are very attached to our Constitution. The question of religious ethos and employment law involves a considerable number of constitutional rights, all of which we must talk about and some of which we must change. Everyone is entitled to the freedom to practice their own religion but we must bear in mind those of other beliefs and none. We must be open to people expressing their opinion but people must also be allowed to be open about their relationships. Freedom of religion and assembly, the right to privacy and to earn a living, freedom of expression and conscience and the right to freedom from harassment and discrimination are all fundamental to our society. I welcome the opportunity to speak on this issue and am delighted that the House is in agreement on the matter.

Deputy Dan Neville: I welcome the opportunity to speak on this Bill, which is very welcome. Indeed, there is unanimity in the House on its merits. The principle of the Bill has been accepted by the Government although the Minister of State has argued that it must be amended to ensure its constitutionality. That is not a criticism of the Bill because almost all Bills are amended. Very few if any Bills go through the Houses without amendment. Debate on Bills is about strengthening and improving them. That is the purpose of what we are doing in debating the Bill itself.

There is evidence that many teachers who are gay, bisexual, lesbian or transsexual experience isolation and a level of disempowerment in their work. They feel constrained in what they can disclose about their sexuality or their personal lives if they are in a relationship. That is just not good enough in this day and age, in a society which purports to be equal. The people will back the equality principle fully because they have already shown their support for it in the referendum on gay marriage. The people have expressed their view strongly and shown that we live in a changed society, a more tolerant and understanding society. We must develop that tolerance and understanding in many other areas, not just with regard to the gay community. There is still a lot of discrimination in other areas which we must tackle in the future.

The Bill seeks to remove the existing exemption by imposing a stricter test for discrimination on educational or medical institutions which are in receipt of public funding compared

with those which are privately funded. In the case of more favourable treatment on religious grounds, the Bill prohibits this from giving rise to discrimination on any other ground and requires that a person's religious belief be a genuine occupational requirement. In the case of action taken by an institution to prevent its ethos from being undermined, the Bill requires any such action to be objectively justifiable, having regard to the nature of the employment itself.

The Bill will require amendment because it appears to conflict with the constitutional protection for freedom of religion and of religious groups to establish their own institutions of the type at issue here. Furthermore, it does not provide any guidance on how to resolve disputes between employees and employers. It would remain the case that an employer has the right to take action against employees who act against the employer's best interests and disputes would, following the deletion of the existing provision, fall to be resolved under generally applicable labour relations law. The Bill requires some tweaking but that is understandable, if not to be expected because every Act that is passed by the Houses of Parliament is amended. The Bill is a genuine effort to ensure that the discrimination that we saw in the past against teachers - I will not refer to any particular case but Deputies will know what I am talking about - because of their sexuality will be prohibited in legislation. I sincerely welcome the Bill and look forward to the Committee Stage debate and the Bill's eventual passage into law.

Deputy John Lyons: I am delighted to have the opportunity to speak on this issue which is one that needs to be resolved as quickly as possible. I genuinely thank the Opposition Members who tabled this Private Member's Bill which gives us the opportunity to speak about the issue in the House. Lots of work is being done to advance this issue outside of this Chamber by the Minister of State and others. In 2013 when Deputy Ó Ríordáin was still a backbencher he worked with me and other colleagues to put together a Private Member's Bill which has been advanced to Second Stage in the Seanad. The Government's preferred option to address the issues raised by section 37(1) of the Employment Equality Act is to do so through the Bill that myself and a number of my Labour Party colleagues put forward and to make a number of amendments thereto which will ensure that it is robust and correct.

Clearly, the Act was originally drafted with the best of intentions and the aim was to strike a balance but as we found out, the protection of rights was not really working. I saw this at first hand. Deputy Coppinger and I trained as teachers at the same time and place. Little did we both know that we would end up here and little did she know that I would be complimenting her tonight.

One of the stories that came to my mind to do with real people who feel the real life effect of what we are discussing is that of Margaret and Róisín, who are two married primary school teachers. They are civil partners under Irish law and will remain so until that legislation advances later in the year. They were married in Canada. The Minister of State and I were with them at the launch of Teachers for Marriage. They have two lovely children, a boy aged about five and a girl aged about three, whose names I cannot remember. It was very brave of them to come to the launch of Teachers for Marriage.

They told a lovely story. While one of the mothers was upstairs washing one child, she overheard the three-year old playing with her friend and talking. Her friend said to the daughter, "You have two mummies". The daughter said, "I don't have two mummies". No more than anybody else who was sitting in the room, I was wondering what on earth the next part of the story was. She said something lovely. She said, "I have a mammy and I have a momma". I thought it was lovely and it said something about where society is at for most of us.

I bumped into Margaret and Róisín later that day after the event in Dublin Castle and I also bumped into them at the count. The resounding thing I remembered from the conversation was that they were delighted with the result of the referendum. They said that it allowed them to go home and tell their children that they are a real family. It is a shame as I do not know if Margaret and Róisín feel comfortable talking about their real family when they are in the staffroom. I definitely know of many people, including close friends, who feel they cannot talk about their own life in the staffroom. It is not because they work in a bad school which might do something. It is the unknown fear because of the existing legislation which creates a what-if situation. It is a shame that things are that way.

I am sure my partner will strangle me for saying this. I will be appearing on television in the next couple of days. The producers asked if I minded sending in a photograph of me and Darragh. I knew he would not be up for it, but I checked just in case he changed his mind since the last time I spoke to him about such issues because he is a secondary school teacher. Although he is in quite a progressive school, that chill factor exists for him and it is a shame. We know society has moved on. The Irish people came out in gigantic numbers to endorse the type of Ireland that I think we actually have, but it got endorsed in a massive public vote on 22 May.

I want to keep it simple and do not want to go on longer than I should. I genuinely believe that no person should ever live their life in the shadow of society, whether that be at home, in their community as they walk about or in the workplace, including in the staffroom for many of the people we are talking about tonight, at the nurses' station in the Mater Hospital, in a nursing home or anywhere else. That fear of being oneself should never be there. Most people are brave enough to overcome that.

In my case in the staffroom I worked at St. Vincent's school in Glasnevin I revealed myself little by little over 11 years. That is the type of person I am. I realised the world did not fall in and I was not sacked. I know that not everybody feels like that. Nobody should feel that they should step out of their comfort zone in order to be the maverick. We do not need to be mavericks, we just need legislation that protects people and allows them to be themselves.

I appreciate the opportunity to say what I did and to have the conversation. While we all differ on certain things, we all agree on one thing here, which is that everyone should have the right to be themselves and be protected under the law. Nobody should be discriminated against.

My own Bill addressed the issue slightly differently than this Bill. It looked at respecting the balance between the constitutional protection of the freedom of religion - regardless of whether we like it, many schools are run by religious groups - and at the same time allowing the individual to be completely protected in those situations. I will support whatever solution gets us to that. I appreciate the opportunity to speak tonight. Most importantly we need to get this done as fast as possible. We have waited far too long. I know amendments may need to be made and I understand that things take time. Having been a Deputy for the past four years I have seen that the wheels of power move slowly, but things change, as we have seen. We saw a dramatic change in May. It is always for the better when it happens. I am sure we will get it right and I look forward to the amendments being made soon. I thank the Opposition Members for creating the opportunity to have this conversation. The people outside, who are affected by it, will greatly appreciate that light is being shone on this issue.

Deputy Dominic Hannigan: I am glad the Government is not opposing the Second Stage of the Bill introduced by Opposition Members tonight. That is a positive move on behalf of the Government and reflects that we have been pushing to have changes to this issue for some

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time. There is a Bill in the Seanad, the Employment Equality (Amendment) (No. 2) Bill 2013, prepared by the previous speaker, the Minister of State, Deputy Ó Ríordáin, Deputy Conway and me - all Labour Party Deputies - and by Senator Bacik. That is working its slow and arduous way through the House.

The Government is drafting amendments to improve the proposed legislation. From speaking to the Minister of State, I know he intends to push those amendments through as soon as possible so that the Seanad Committee Stage can be taken, hopefully before the summer recess. We are very hopeful that we will see changes to section 37 of the Employment Equality Act within the next six weeks.

We introduced that Bill in 2013 because of the so-called chill factor in employment laws. The current situation allows for discrimination against people by religious-run organisations. For certain sections of society, not just members of the LGBT community but also potentially people who might be divorced or unmarried parents, if it is felt that their lifestyle does not fit in with the ethos of the religious organisation running a particular institution, they run the risk of being removed and fired from that job legally. That such discrimination still exists in our society at this stage suggests that previous Governments were remiss in not changing the laws to reflect the changing nature of Irish society.

It is very positive that there seems to be a groundswell of opinion from Members on all sides of the House to try to make changes to this legislation. The Government has been very progressive on issues such as this. The repeal of section 37 was contained in our manifesto in 2011. We managed to get it into the programme for Government and the Government will push forward with the Bill we introduced in 2013 to address the issue.

It is one area in which we will see improvements. Our manifesto proposal to introduce marriage equality has moved through the House and the people voted for it in the referendum by a majority of 62% to 38% last month. That is a very positive result from our time in government. When I look back at my career in here, I will look back with fondness at having been involved in the debate and the subsequent success of the referendum.

We have also introduced changes to how the school curriculum addresses issues regarding LGBT students.

8 o'clock

I have already seen the benefits of this in my own and other constituencies where, in an effort to raise awareness of LGBT issues, teachers are inviting members of the LGBT community to schools to speak to fifth and sixth year students about what life as an LGBT person is like. This is a direct result, I believe, of the inclusion in the Labour Party manifesto of a proposal aimed at tackling homophobic bullying in schools. There have been big changes in the way the LGBT community is addressed and looked after by this Government. The legislation I referred to earlier, to which the Minister proposes to make amendments, will bring about further improvements. This is a reflection of the changing nature of Irish society.

I compliment the Opposition and all parties in this House on the mature manner in which we are now dealing with issues relating to the LGBT community. Things have changed dramatically in the past two or three decades since homosexuality was decriminalised in 1993. It is great to see the support that exists throughout this House for measures that seek to ensure the lives of all of our citizens are respected and that the right of all of our citizens to enjoy the

freedom to be who they are at home and at work is reflected in our laws.

I look forward to the enactment of legislation on this issue, although I am not sure it will be this particular legislation. I suspect it is more likely that the legislation to which I and others have put our names will be enacted. However, I compliment the members of the Opposition who tabled this legislation to ensure this issue is better understood by the people and that support for the removal of the odious section 37 is increased throughout the country.

An Ceann Comhairle: Deputy Clare Daly is sharing time with Deputies Richard Boyd Barrett and Joan Collins.

Deputy Clare Daly: The fact that fewer people are offering on this debate and that others are not taking their allocated time is a reflection not of the fact that this is not an important issue or that it is a controversial issue but that it is an absolute no-brainer. There is nobody who could oppose, on principle, a Bill that seeks to ensure that no person, regardless of where they work, is discriminated against on the basis of any of the nine grounds contained in the existing employment equality legislation. That is all that this Bill is about. It is entirely in keeping with the overwhelming and resounding result on the same-sex marriage issue earlier this year.

The exemption in section 37(1) of the existing Employment Equality Act has been described by the INTO and Deputies here as a threat to LGBT teachers and as having a silencing affect on them in terms of preventing them from talking openly about their lives, partners, sexual orientation and so on. This is not only about LGBT people. It is also not a million miles from the Eileen Flynn case in terms of that woman having been dismissed from her employment in a school because she was not married to the parent of her child. This section most definitely needs to be amended and this needs to be done before September next in order that the rights of teachers, doctors, nurses and others working in our services sector are protected.

As I said, this is not just an LGBT issue. Teachers who, like me, are atheists similarly believe that the existing legislation prevents them from speaking out about their beliefs. While the provision might not ever have been officially invoked to fire a teacher or deny a promotion, as stated by other Deputies, it has, undoubtedly, had a chilling effect and it needs to be changed. For that reason, I am very happy to support this Bill.

I note that the Socialist Party has said in correspondence that it is open to amendments on Committee Stage in terms of any potential conflicts with the Constitution and so on, which is important. I welcome that. What goes on within a private organisation is one matter but how that translates into the functioning of essential public services and access to facilities that everybody needs is an entirely different matter. I am not bothered by what any religious organisation does within its own ranks, no more than I would be bothered if, for example, the Socialist Party had an accountant who was a member of Fine Gael and that caused problems inside its ranks. I believe that would be a matter for the particular organisation to deal with.

This legislation deals with the removal of instances where it is lawful to discriminate against people. Sometimes it is lawful to discriminate against people. I am probably the only person in this House who is currently being investigated by the Equality Tribunal. I am being investigated because when a member of the public contacted me to make a complaint against an alleged paedophile, in his opinion, who was working on a gay pride campaign I told him that if he was aware of any criminal activity he should take it up with the Garda Síochána. He then followed this up with what I considered to be - I am sure most people would agree - homophobic com-

mentary. In his opinion, I failed to represent his views and he took a complaint against me to the Equality Tribunal on the grounds that I discriminated against him for his religious beliefs. I have no idea what his religious beliefs are. I told him that I had been elected on a platform of fully supporting equality for gay people and I had no intention of promoting any views that are against that and that if he was not happy with that democracy then he did not have to vote for me. Believe it or not, that matter is currently being investigated by the Equality Tribunal. It is la-la stuff as far as I am concerned.

The reason we are discussing this issue and the reason this Bill is necessary is rooted in the fact that the State abdicated its responsibility to provide access for citizens to essential public services and handed over the running of hospitals, schools, the welfare of citizens and so on to the Catholic church at the time the State was founded. That is the root of this scenario. That abdication has left us in a situation whereby 90% of primary schools have a Catholic ethos. It also gave rise to the imprisonment and abuse of women in the Magdalen laundries and of children in residential institutions, symphysiotomy and our hypocrisy towards abortion and so on. That is the legacy of this State having farmed out its responsibilities to a private organisation with its own rules, its own laws and its own ways of doing things, which are at variance with the viewpoint of many citizens of this State. While I would do time to defend the rights of any citizen to advocate and promote their own religious beliefs, similarly, I would expect those people to not have that imposed on the State welfare system. It is this dysfunctional relationship between the Church and State in Ireland, which has been toxic, that is at the root of this issue.

I echo the point made on a number of occasions by my colleague Deputy Joan Collins that what we need to do is radically change the Constitution rather than tinker around with a lot of these measures. I am not putting the blame solely at the door of the Church because it benefited the State to abdicate many of these responsibilities to the Church. We have seen this where Church and State combined, including in the attempts to stifle at birth Noel Browne's mother and baby scheme and so on. The power of the Church has waned but we are still dealing with that legacy. As I said, that is what is at the root of this issue.

The Labour Party Deputies are all patting themselves on the back for their achievements in terms of the delivery of social progress but this measure has not yet been delivered. In regard to schools, in 2012, Deputy Ruairi Quinn when Minister for Education and Skills told us that the process of divesting schools from Catholic patronage was to begin immediately. At one stage he talked about divesting 50% of all primary schools but for all the fire and brimstone the Church has not to date handed over a single school to another patron. Although it did merge two schools in Basin Lane in Dublin in 2014 to allow Educate Together to move into a vacant building and it also handed over another building in Castlebar that had been closed for 20 years, that is hardly much progress. We must be honest about this and must go much further. If the Government was serious about equality, we would be tackling that issue in a much more serious way. We would also be tackling issues with our health service and the ridiculous scenario whereby the Mater hospital could threaten not to comply with the Protection of Life during Pregnancy Act because performing abortions goes against its ethos. That threat was never followed through, but the fact the hospital administrators could even say that is ridiculous and demonstrates there is no place for religion in any of these public services.

It is important we are discussing this issue. The ball is firmly in the Government's court to deliver on this, to end the chilling effect and give a voice to what is clearly the wish of the people. I say this firmly in the belief that if the church wants to run a school, a hospital or whatever for itself and its followers, and it funds that, that is entirely up to it. The State should

provide on a secular, non-denominational basis for all essential public services needed by all citizens, from the cradle to the grave. That is a much more acceptable model and is one that is in keeping with the wishes of Irish citizens.

Deputy Richard Boyd Barrett: I thank the Socialist Party and the Anti-Austerity Alliance for putting forward this Bill. There is no doubt that the “Yes” vote in the marriage equality referendum was a watershed in Irish life and is hugely welcome. Much of the time, we in this House debate issues that are not so positive or fight over what is good or bad, so it was nice to see the political parties in this House united and to see the overwhelming body of opinion in the country demand and succeed in achieving a significant and progressive change.

The Yes Equality slogan brilliantly captured the mood. There is no doubt that the resonance Yes Equality went way beyond the issue of LGBT rights. It is phenomenal that we got to a point where the overwhelming majority of people, young and old, supported marriage equality. There may have been a generational aspect to the issue, but I was inspired by the fact that right across the generations people embraced the “Yes” vote and the need to see people as human beings, regardless of their sexual orientation. The victory for the “Yes” campaign was mammoth, but the point is that the notion of equality resonated far further than LGBT rights.

It is a logical follow-on from the sentiment that drove the “Yes” vote that the desire and demand for equality should now run through every aspect of life and endeavour in society. This Bill is part of following through on that sentiment and demand for a society where equality is a reality and where discrimination on grounds of religion, sexual orientation, race, Traveller status, disability or any sort of discrimination or prejudice is anathema. It is part of the demand to sweep out any discrimination and to legislate for that. In this case it is in the area of employment and the right for all citizens to be treated without prejudice, regardless of their status.

As some Members have mentioned, this Bill speaks to the insistence that a demand or slogan that has been around a long time - the separation of church and State - must be translated by this House into reality. This is what people want and it must happen. It is unacceptable that this policy would persist in any shape or form. I was talking to a teacher earlier and asked to what extent he believed discrimination in this regard persists. He told me that because of the change in sentiment and in the views of people generally, he could not think of many instances of discrimination being persistent, because such is the tide of popular opinion and sentiment that discrimination is being swept aside. That is great but our laws must now reflect that change.

It is telling that the political system is always behind and always catching up with the progress that is being made by ordinary people demanding change. The conservative mentality of looking over the shoulder that often persists in conventional political life is slow to make change, even when the tide of public opinion and sentiment has long since decided such changes are necessary. This Bill is a catching up exercise as much as anything else in seeking to pass legislation and demanding that our laws reflect the wishes, views and sentiments of the people for equality.

It is important to reflect the left wing point of view, that in demanding this equality and in demanding an end to any discrimination in this regard, we are not - as we are often portrayed - anti-religion and seeking to snuff out people’s right to their religious beliefs and ethos. On the contrary, it has never been true of the genuine left tradition that it has sought to deny people the right to express their religious views.

I will divert slightly, but since we are all in agreement on this, it is worth making the historical point that the Bolsheviks in Russia had a surprising view, but perhaps not so surprising if one understands their politics. One of the key arguments made by Lenin in his famous pamphlet - What is To Be Done? - was that the job of revolutionary socialists was to defend the rights of religious minorities in Russia against, at the time, the vicious persecution by the tsarist regime which had orthodox Christianity as the dominant religion. Lenin was at pains to defend a religious sect, called the old believers. Similarly, the Bolsheviks defended the rights of Jews who suffered horrendously from pogroms under that regime. This was not because they had any belief or commitment. By and large, they supported a secular society, where there would be separation of church and state, but they were adamant that people should have the right to freedom of religious expression. On the one hand, the Bill demands an end to discrimination on religious or any other grounds but, on the other hand, it demands that people have the right to preserve their own ethos and develop organisations or institutions which promote that ethos. They should be allowed to discriminate in favour of that ethos only where it is absolutely necessary for the specific promotion of that ethos and it should not cross over into other areas in terms of the delivery of services. The obvious examples that have been mentioned include schools and hospitals, for example, where it is utterly unacceptable that preserving a particular religious ethos, or any other ethos, should cross over into the preservation of the ethos becoming an excuse to discriminate against people or to deny them vital services to which they have a right, for example, a woman's right to choose or whatever else it might be. The Bill strikes a vital balance in that regard.

I am pleased the Government has welcomed the Bill. It is entirely in line with the sentiment that came from the referendum. I hope the Government will progress the Bill beyond Second Stage to ensure the legislative changes being sought become law as soon as possible. The demand for equality is not just in regard to social issues but at every level of society, including economic equality. On that front, we have a hell of a long way to go. In fact, economic inequality has got worse not better under the Government. That is the next big crusade.

An Ceann Comhairle: Deputy Boyd Barrett should be mindful of equality with his colleague with whom he is sharing time.

Deputy Richard Boyd Barrett: I will. We need economic equality too.

Deputy Joan Collins: I support the Employment Equality (Amendment) Bill introduced by the Socialist Party and the Anti-Austerity Alliance. I wish to follow the trend of what has been said by the previous two speakers. The "Yes" vote in favour of gay marriage is a significant step forward on the way to a more equal society. The "Yes" vote was not just strongest among young people but was also strongest in working class areas. In one ballot box in Cherry Orchard in Ballyfermot there was a 96% "Yes" vote in favour of marriage equality, the reason being that for working people equality is not just some fancy notion, it is more fundamental. The desire for a more equal society is real and important for people who do not experience equality in their day-to-day existence. The Minister does not have to take my word for it; she can ask the workers in Clerys or Dunnes Stores whether they feel equal. The "Yes" vote was an important step forward but there is a long way to go. The Bill is being accepted by the Government and there will not be a vote on it tonight.

I wish to raise another issue that is important in the context of the education system. Atheist Ireland recently brought to my attention an issue that relates to public funding for chaplains in third level colleges. The issue first arose in the Dundalk Institute of Technology. Following re-

search, it appears that Roman Catholic chaplains are being funded in a number of ITs, but not all of them, at an estimated cost to the State of €1 million per annum. Article 44.2.2° of the Constitution states: “The State guarantees not to endow any religion.” There are of course schools with a religious ethos and patron and the Supreme Court has ruled that in such schools the State can fund chaplains, but institutes of technology are non-denominational. They do not by law have a religious ethos. They do not have a religious patron. Funding by the State of chaplains in ITs is clearly in breach of Article 44.2.2°. It is also in breach of the procurement guidelines for public bodies. The contracting of a service must be put out to tender and a minimum of three quotes is required. If the employment of a chaplain is a direct employment, it should be filled using the Public Appointments Service. In reality, what happens is that the head of the college pays a sum to the church and the bishop makes the appointment. That has happened in ITs other than in Dundalk. There is no evaluation as to the qualifications, experience, training or background of the priest appointed. These chaplains have to deal with very sensitive issues for teenage college students, such as crisis pregnancies, LGBT issues or any of the other issues faced by young people. The €1 million would be far better spent on the provision of qualified counsellors.

This shows there is a long way to go, both in law and in practice, before we have a proper separation of church and State. Surely it is a fundamental principle that any society which aspires to equality does not give preference to a particular religion or to a religious ethos over secular views. Colleagues have referred to the chilling effect of the legislation as it now applies. It says it all that when delegates from Atheist Ireland had a meeting with the Taoiseach, two of them could not be included in the photographs because they were afraid of being identified. That shows the degree of vulnerability felt by some public sector employees.

I recall the remark by Archbishop Diarmuid Martin following the marriage equality referendum in which he questioned how the church had produced so many young people who went out to vote for equality. He said the language used in church schools would have to change, in terms of how religion was practised and the ideas to which students were exposed.

While acknowledging the step forward that was the “Yes” vote in the marriage equality referendum, it would be naive not to recognise, especially in socio-economic terms, that our society is becoming less and not more equal. There has been a huge growth in inequality in the past 30 years, as Governments have pursued a neoliberal agenda dictated by powerful and wealthy individuals and corporations. Some might say this is the acceptable face of capitalism. I say there is no face of a system based on inequality that is acceptable. While capitalism prevails, inequality will be the daily lot of the majority of people. We will have to introduce a lot more legislation and equality measures if we are to have a society in which everybody, and not just the chosen few, benefits.

Minister for Education and Skills (Deputy Jan O’Sullivan): On behalf of the Government, I thank Deputies from all sides of the House for their contribution to the debate in the past two days. It has been a very positive debate and broad support was expressed for delivering equality to all workers, in particular the teachers who feel oppressed by the current legislation.

Deputy Catherine Murphy referred to the devastating effects of discrimination and homophobia. Studies highlighting higher rates of depression and self-harm among the LGBT community have underlined these effects all too clearly. Deputy Buttimer mentioned his experience as a gay secondary schoolteacher and Deputy Lyons also spoke about his experience and the need to have in place effective policies and strategies to combat homophobic bullying

in schools. Those and other examples mentioned by Deputies show the extent of the problem and the need to have in place amending legislation as soon as possible. For that reason, in the programme for Government we committed to amending section 37(1) to provide for a more equitable balance between the rights of freedom of religion on the one hand and the right to be free from discrimination on the other. The Government supports the sentiments and principles behind the Bill before the House tonight, which is why we will not oppose the legislation on Second Stage. However, we are convinced that the detail of the approach proposed is somewhat flawed. As noted by my colleague, the Minister of State, Deputy Ó Ríordáin, last night, it is doubtful whether the Bill adequately meets the constitutional protection afforded to freedom of religion and to religious bodies to establish and maintain their own institutions. It does not provide any guidance on resolving disputes between employees and employers. It would remain the case that an employer has the right to take action against employees who act against the employer's best interests or undermine the institution's ethos. The Bill fails to distinguish between religious institutions run wholly for private purposes with those providing a social, educational or medical service to the public financed by State funding. This is an important distinguishing feature that must be recognised in any amending legislation to ensure its constitutionality. The attempt at reform in the Private Members' Bill introduced by the Labour Party in the Seanad in 2013, which was signed by a number of Members of this House, along with the Government's proposed amendments to it, represents a better approach. That legislation insists that employers who are providing publicly funded services would have to meet a higher standard of justification for any action taken against an employee on grounds of undermining the institution's religious ethos.

I hope the House can understand our reasons for being cautious, given what is at stake. While the intentions of the Bill before the House are praiseworthy, a flawed attempt that is struck down by the courts would have a seriously detrimental effect on the very people it is meant to help. When legislating on this matter, the Oireachtas must meet the test of maintaining a proportionate balance between the constitutional rights of religious denominations to manage their own affairs and maintain institutions for religious and charitable purposes and the rights of other citizens to equality before the law and to earn their livelihoods. Although there were some suggestions that we should amend the Constitution, we are working within the Constitution as it is written.

The Government proposals for improving the 2013 Private Members' Bill will be finalised very shortly and, once approved by the Government, will be published as amendments to the Seanad Bill with a view to its early passage through both Houses. I can understand Deputies' frustration at the apparent slow progress of reform, however I repeat the assurance of the Minister of State, Deputy Ó Ríordáin, last night that the Government is fully committed to bringing the matter to a successful conclusion as quickly as possible in a way that is constitutionally robust.

During the lifetime of this Government we have achieved a great deal for LGBT people, and much needed to be done. We have introduced compulsory anti-bullying procedures in all schools explicitly referring to homophobic and transphobic bullying for the first time. We are enacting what has been described as the most progressive gender recognition legislation in the world. Last month, all of us together attained a remarkable achievement by becoming the first nation in the world to vote to recognise civil marriages between same-sex couples. Many people here have referred to it as one of the most positive expressions of the Irish people in our lifetimes. Putting an end to discrimination in our schools and hospitals will be the next impor-

tant step for us to achieve.

Deputy Joe Higgins: Tá sé stairiúil go bhfuil Dáil Éireann ag glacadh inniu le Bille a ordaíonn nach féidir le heagraíocht chreidimh nó eagraíocht faoi stiúradh nó faoi smacht eagraíochta creidimh leatrom a dhéanamh ar aon duine atá nó a d'fhéadfadh a bheith fostaithe i seirbhísí a eagraíonn na heagraíochtaí seo, ina measc institiúidí oideachais nó institiúidí liachta, mar shampla, agus an leatrom seo ar bhonn inscne, stádais pósta, stádais clainne, chlaonta gnéis, chreidimh, aoise, ballraíochta sa Lucht Siúil, chumais nó chine. Is é seo atá i gceist sa Bhille um Chomhionannas Fostaíochta (Leasú) 2015 in ainmneacha na dTeachtaí Ruth Coppinger, Pól Ó Murchú agus i m'ainm féin.

Ba mhór an faoiseamh ar fad é do dhaoine aeracha, leispiacha, déghnéasacha, trasghnéasacha agus aithgh, lucht ALDTA, nuair a d'éirigh leis an reifreann um chomhionannas pósta ar 22 Bealtaine agus ba mhór an cás ceiliúrtha don tsochaí i gcoitinne é gur chuir tromlach mór na ndaoine deireadh leis an idirdheighilt idir dhaoine ó thaobh cearta pósta de ach téann an turas seo i bhfad níos sia fós agus i bhfad thar bhruacha na ceiste féin. D'eisigh muintir na tíre seo ráiteas fíorchumhachtach a fuair macalla ar fud an domhain mhór agus beidh an macalla sin le cloisint i bhfad ón lá inniu. Gheall toradh an reifrinn croíthe mhionlaigh a bhí ag fulaingt leatrom agus gheall sé spiorad an-chuid daoine tharis sin sa tír seo chomh maith. Ach fágtar fós iarsmaí láidre den leatrom ar mhionlaigh ar bhonn chlaonadh gnéis, chreidimh, stíl maireachtála agus ar chúpla bonn eile. Is é sin le rá gur féidir, de réir dlí, daoine aeracha nó andiachaithe a bhriseadh óna bpostanna, rud atá ceadaithe ag An tAcht um Chomhionannas Fostaíochta, 1998. Ciallaíonn sé seo go bhfuil daoine ag maireachtaint faoi scáth, faoi scanradh agus faoi strus má oibríonn siad d'eagraíochtaí chreidimh, mar shampla, i scoileanna nó in ospidéal atá faoi úinéireacht eaglaise, agus faoi úinéireacht na heaglaise Caitlicigh go speisialta.

Teastaíonn uainne muinín agus síocháin aigne a bhronnadh ar na daoine seo agus dá bhrí sin táimid ag éileamh ar an Rialtas go dtógfaí an Bille seo agus go gcuirfí trí na céimeanna cuí é, i dtreo is go mbeadh sé i bhfeidhm san fhómhar, gan a thuilleadh ama a chailliúint. Rud eile a théann go croí na faidbhe seo ná scaradh eaglaise agus Stáit agus an ceart atá ag gach duine do shaoirse chreidimh. Tá sé sin thar a bheith tábhachtach, ach é sin a deighilte agus creideamh dighilte ó sholáthar seirbhísí poiblí cosúil le hoideachais agus seirbhísí sláinte. I ndáiríre, teastaíonn leasú Bunreacht uainn chomh maith. Ba cheart go mbeadh Bunreacht ar bhonn sóisialach againn a thabharfadh comhionannas amach is amach i gcúrsaí sóisialta agus i gcúrsaí eacnamaíochta chomh maith. Ach is tosú tábhachtach é seo anocht.

The tabling of the Employment Equality (Amendment) Bill 2015 last night and tonight is a declaration of the great step forward taken when a large majority voted for marriage equality for gay people. It is a declaration that it must be taken forward to end all discrimination against people who are gay, lesbian, bisexual, transgender or otherwise members of the queer community and against people who are atheists. We have a glaring anomaly that gay people have equality in marriage but not in employment, given that religious organisations or institutions such as schools or hospitals owned and managed by them can discriminate against people on the grounds that they might be deemed to be in breach of the ethos informing those organisations by virtue of being gay, atheist or having a lifestyle that might be deemed to be in breach. The Bill would end this situation.

We welcome the fact that the Government will not oppose the Bill and we exhort that it be put through the remaining Stages and be made into law. We urge that this be the Bill that is taken forward given that the Labour Party Bill in the Seanad would, unfortunately, allow a con-

tinuation of discrimination in some fields, as my colleague, Deputy Paul Murphy will explain. Atheist teachers or non-believers could be discriminated against in some of the legislative measures that have been proposed over the past year.

Section 37 of the Employment Equality Act 1998 would be irrelevant if religious organisations did not control important public services such as health and education in this State. Some 96% of primary schools and 52% of secondary schools are under religious control or direction. That has a major impact on workers' rights by virtue of this legislation. We are an increasingly diverse and secular society. In Dublin West, 23% of our constituents are not Irish citizens and 26% are not Catholics. People with no religion are a growing demographic. We fully respect the right of every human being to practise the religion of his or her choice and to have full freedom of religious belief but there must not be religious control over education, health and other crucial services. They should be democratically run and funded to cater for the needs of our people. Religion should be a matter of personal choice and conviction rather than something endorsed, assisted or hindered by the State.

We need fundamental changes if we are to deliver the fullest human rights to all our people irrespective of their gender, sexual orientation or other characteristics. We also need economic equality. This is at the root of many other inequalities in our society. While financial capitalism dominates our world, we will not have equality. The struggle for equality in the social, religious and other levels of life is linked to the struggle for a society where our economy and wealth are freed from the grasping hands of greedy minorities in corporate entities and financial markets. The democratisation and socialisation of wealth would provide real equality and allow every human being to develop to his or her full potential and live the happiest possible life.

Deputy Paul Murphy: I welcome that the Government is not opposing this Bill. That demonstrates the change that has taken place in these Houses. Three years ago, the Government voted down a Bill in the Seanad that was weaker and less far reaching. This change has come from below rather than above, through movements of tens of thousands of people who campaigned for an end to homophobia, discrimination and inequality. In particular, it reflects the movement that enabled the marriage equality referendum to pass. It is clear that the Government intends to pass the Bill on Second Stage and then leave it to gather dust while it proceeds with the Bill introduced in the Seanad by Senator Bacik. We are not precious about our Bill just because it was introduced by the Anti-Austerity Alliance but we will not accept a minimal approach which simply raises the bar on discrimination while allowing it to persist. Any legislation which maintains the right to discriminate against workers in health care, education and charities will also be opposed by those who campaigned for marriage equality.

The protest that took place this evening welcomed that our Bill will pass Second Stage but the protesters are now focusing on the weakness of Senator Bacik's Bill. The first flaw in that Bill is the distinction it draws between services which are publicly funded and those which are not. We do not see why workers in services run by religious orders without public funding should be discriminated against or entitled to fewer employment and equality rights than workers in publicly funded services. Nowhere else in employment law is such a distinction made between publicly funded and privately funded workers. Senator Bacik's Bill would mean that an educational or health care service run by the church could continue to discriminate on grounds of sexual orientation, parenting status or religion as long as it is not publicly funded. For example, a lecturer in a privately run third level institution could be discriminated against because he or she is openly gay on the grounds that it is against the institution's religious ethos. It is wrong to make a distinction between publicly and privately funded services. The proper

distinction is between the way in which a religious order runs its own affairs and way in which it runs a service, irrespective of whether that service is publicly funded. There should be no grounds for allowing discrimination in respect of a service run by a religious institution.

The second flaw is that religion is maintained as grounds for discrimination regardless of whether public funds are involved, albeit with a higher bar in terms of requiring that the occupational requirement be genuine and legitimate. Even if a school is publicly funded, a religious order could make the case that a teacher's religion is a justified reason for discrimination where he or she is teaching a religion class. This is a clear example of discrimination against atheists and those of a different religion to the institution which controls the school. It might also offer a back door for discrimination against LGBTQ people who, by being openly gay, are not conforming to the teachings of a certain church. There should be no discrimination of any form in church-run health or education services. The only place where we think discrimination can be permitted is within the religious institution itself. That would meet the Constitution's provisions on the right of religious denominations to run their own affairs. Those affairs do not extend to the operation of schools and hospitals but religious orders clearly have the right to discriminate in favour of people of their own religion when appointing priests or ministers.

The marriage equality referendum revealed to us the demand for equality. Those who mobilise for equality will not tolerate half measures. The "Yes" vote in the referendum was not for half equality. In its analysis of Senator Bacik's Bill, the Irish Council for Civil Liberties made the point that equality is a binary state. Either one is equal or one is not. The council urged the Oireachtas to seize this opportunity to eradicate all forms of discrimination. We need full employment equality rather than a higher bar for discrimination; and we need that equality before next September.

Question put and agreed to.

Employment Equality (Amendment) Bill 2015: Referral to Select Committee

Deputy Joe Higgins: I move:

That the Bill be referred to the Select Committee on Jobs, Enterprise and Innovation pursuant to Standing Orders 82A(3)(a) and 118.

Question put and agreed to.

The Dáil adjourned at 8.50 p.m. until 9.30 a.m. on Thursday, 18 June 2015.