



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Céadaoin, 27 Eanáir 2016

Wednesday, 27 January 2016

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

Paidir.
Prayer.

Ceisteanna - Questions

Priority Questions

Garda Síochána Ombudsman Commission

1. **Deputy Niall Collins** asked the Minister for Justice and Equality when she will review the powers of the Garda Síochána Ombudsman Commission; and if she will make a statement on the matter. [3202/16]

Deputy Niall Collins: I have tabled this question in light of the recent issues which have arisen in the media relating to the accessing by GSOC of the phone records of journalists and, by extension, the phone records of people who were in contact with them. The issues surrounding the independence of the broadcasting and journalistic communities which have surfaced have been well aired and these communities, in turn, are seeking to protect their sources and uphold their independence.

Minister for Justice and Equality (Deputy Frances Fitzgerald): As the Deputy is aware, the Garda Síochána Ombudsman Commission, GSOC, was established as a statutory independent body under the Garda Síochána Act 2005 to provide independent oversight of complaints made against members of the Garda Síochána. There is widespread support to have such a body. The Garda Síochána Act stipulates that GSOC is independent in the exercise of its functions, which is an important point as Members in this Chamber refer continually to the need for independent bodies. GSOC has been given extensive powers under the 2005 Act. The Garda Síochána (Amendment) Act 2015 amended the 2005 Act to expand GSOC's remit and powers. Deputy Collins may recall that at the time, a number of Deputies sought the granting of further powers to GSOC.

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I assume the Deputy's question relates, as he has stated, to concerns that have been expressed widely in the media recently concerning access by GSOC to the telephone records of journalists. I understand this arose in the context of a criminal investigation being carried out by GSOC. It was misreported in recent days that access to telephone records by GSOC was made possible under the amended powers given to it last year but this is not correct. The relevant legislation, which was introduced by the former Minister, Dermot Ahern, is the Communications (Retention of Data) Act 2011. In the course of the debate at that time, there was discussion of the various balances and public interests that must be served under this legislation.

I have absolutely no role in the process of requesting or authorising access to telephone records under current legislation and nor do I receive information relating to specific requests made in the course of investigations. That would not be appropriate, given the point I have made about the commission being an independent body. However, issues of genuine concern have been raised as to the balance in the law between the important freedom of journalists to pursue legitimate matters of public interest and the basic rights of persons not to have their personal information improperly disclosed. Bodies investigating crime must have the proper appropriate statutory powers available to carry out their duties. However, it is necessary to examine the balance in respect of entirely legitimate journalistic activity being carried out in the public interest. As the Deputy is aware, the Government agreed with my recommendation to establish an independent review carried out by the former Chief Justice, Mr. Justice John Murray, who was a former member of the European Court of Justice. He will carry out the review, which already has commenced and he already has had initial discussions with officials of my Department.

Deputy Niall Collins: Apart from what was revealed regarding the access of journalists' telephone records, there also was much public disquiet about the quantity of other people's telephone records that also appear to be accessed. In respect of GSOC, as I have stated throughout my commentary on this issue, it is important to state that no one is above the law and no journalist is above the law either. Everyone must be subject to scrutiny and investigation where that is merited or warranted. The issue here is there does not appear to be transparency regarding the test GSOC applies to ascertain whether it will access the records of a journalist, as well as the fact that the journalist or person in question is not put on notice that he or she is having his or her telephone records accessed. This is why, as the Minister is aware, Fianna Fáil has published a Bill in this regard. The Minister has opted for a review but I believe there should be a High Court process in which an application is made to the High Court. This would be similar to other processes that happen in investigations by An Garda Síochána when, for example, it places telephone taps or listening devices. As part of that process, the journalist in question at least would be allowed to make a submission to the court in this regard.

By way of a supplementary question, the Minister has indicated she has asked Mr. Justice John Murray to conduct a review. She has outlined his qualifications and I could not agree with her more. In that regard, has the Minister asked him to make recommendations on the point that agencies accessing data do not publish details on how many applications they make in the course of a year?

An Leas-Cheann Comhairle: Thank you. I will come back to the Deputy.

Deputy Niall Collins: In other words, I refer to getting a handle on the quantity of telephone records assessments right across the spectrum each year.

Deputy Frances Fitzgerald: As the Deputy is aware, I recently have put various figures into the public arena on the question he has asked. The review's terms of reference are to consider international best practice and the legislative framework. It is the case in respect of all the Acts in this area that judicial reviews are carried out, which is important. The Deputy rightly raises the question as to whether, perhaps with regard to particular categories, there should be access in the first instance to a judge. This is one question I imagine Mr. Justice Murray intends to examine because the question of best practice and, as the Deputy is aware, the European Court of Human Rights issue regarding the protection of journalistic sources have received particular attention. One must make the point immediately that in the case of the investigation of serious crime, it is important that the Garda, GSOC and other bodies are able to take whatever actions they need but obviously having safeguards in place is important. At present, there are reports by judges, as well as a complaints process. I make the point that to date, no complaint has been upheld regarding the use of this tool.

An Leas-Cheann Comhairle: I will come back to the Minister and call Deputy Niall Collins. I ask all Members to please observe the clock.

Deputy Niall Collins: That is fine.

Garda Inspectorate Reports

2. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality her views on the commentary in the Garda Inspectorate's report, Changing Policing in Ireland, that there has been a repeated failure by An Garda Síochána to implement recommendations for change from its previous reports and from other reviews and inquiries; and the actions she is taking to ensure the recommendations in the Changing Policing in Ireland report and previous Garda Síochána Inspectorate reports will be implemented. [3053/16]

Deputy Pádraig Mac Lochlainn: My question pertains to the Garda Inspectorate report, Changing Policing in Ireland. It seeks to get a sense from the Minister as to how she intends to implement the recommendations considering the highly worrying commentary by the Garda Inspectorate that many recommendations it has put forward in previous reports and from other investigations and inquiries simply have not been implemented. It seeks to establish what the Minister's plan is at this time to make sure the recommendations from this and previous reports are implemented.

Deputy Frances Fitzgerald: In the first instance, as the Deputy has asked, I will put on record some information regarding previous reports. To date, there have been 11 reports and as Members are aware, the job of the Garda Inspectorate is to promote efficiency and effectiveness within An Garda Síochána, which is an objective shared by all Members. The inspectorate undertakes comprehensive analysis of policies and procedures in the Garda Síochána and benchmarks them against the best practices and standards of comparable police services. The most recent of the aforementioned 11 reports were the 2014 reports on crime investigation and the 2015 report. Members have discussed the 2014 reports in this Chamber a number of times. The most recent report was published on 9 December and is under active consideration.

As for the first nine reports, I have asked for detailed information and am advised by the Commissioner that of the 280 recommendations, which is a lot of recommendations, 204 have been implemented and a further 73 have been accepted with a view to implementation. Obvi-

ously, work is ongoing in respect of the crime investigation report and quite a number of changes have already been made. I will recap some changes that were recommended in those reports because it is important not to lose sight of initiatives and changes that have already happened in response to the report, although there is more work to do. In this regard, I note the establishment of a victim support office in every local Garda division and there is further work to do on developing this victim support service. In addition, a review of crime counting rules by the Central Statistics Office has been discussed in this Chamber and will have far-reaching implications for the accuracy and reliability of the compilation of statistics. Moreover, a data quality team has been established in An Garda Síochána. As has been discussed in this House, there has been significant reorganisation of Garda units with regard to various criminal activities. A criminal justice steering group now has been established to provide greater co-ordination between all bodies in the criminal justice system. In this context, I note a highly successful conference was held in Croke Park just one week ago between all the justice agencies, which again followed through on the recommendation on the need for greater co-ordination and exchange of information between the various criminal justice areas.

An Leas-Cheann Comhairle: Thank you. I will come back to the Minister.

Deputy Frances Fitzgerald: I also refer to the working group on information and communications technology, ICT, which was an absolutely critical part of the aforementioned crime investigation report. Initiatives already have taken place in order that, for example, investigations now are recorded on the PULSE system, which was not the case previously. These initiatives and actions have been taken to implement some of the major recommendations. However, I note these are comprehensive reports with huge numbers of recommendations and obviously, the process is ongoing.

Deputy Pádraig Mac Lochlainn: The Garda Inspectorate's press release on the official launch of the Changing Policing in Ireland report states:

A large number of them have not yet been fully implemented and therefore the envisaged outcomes have not been realised. The Inspectorate is of the opinion that many of the policing issues that resulted in inquiries, tribunals and government reports could have been minimised or avoided; if these recommendations had been implemented and some fundamental changes made.

Clearly, it profoundly disagrees with what the Minister has been given. Will the Minister supply the Opposition with a copy of the summary of implementation of recommendations suggested by the Garda Commissioner? We would like to see the recommendations and the actions taken to address them because we are seriously concerned. The Garda Inspectorate appeared before the Oireachtas Joint Committee on Justice, Defence and Equality. It was agreed on an all-party basis that the report was excellent and that we wanted to see it implemented so the Opposition needs to see a detailed report from the Minister outlining the recommendations from all these reports going back ten or 15 years so we can see what actions were taken to implement them. We can then properly assess what is happening here.

Deputy Frances Fitzgerald: That is a reasonable request and I am happy to respond to it. Many of the Garda Inspectorate's reports have been implemented. I draw the Deputy's attention to what is actually on the inspectorate's website in respect of implementation. When we discuss these reports, it is important to contextualise the recommendations. There is no question that many of them arise from historical underfunding. I know the Deputy is very familiar

with the report on crime, including the most recent one. We have sought to rectify the critical ICT infrastructure by providing an additional €205 million. The Deputy can see that many recommendations arise in respect of that critical underfunding, which has so many implications in terms of the deployment of gardaí in local areas and rosters. If we want to use people efficiently, we need a human resources roster online, for example. We have corrected that and due to the funding that has been made available, quite a number of the recommendations will correct some of the very serious issues that have been outlined. Clearly, other changes are also necessary.

Deputy Pádraig Mac Lochlainn: Without a doubt, one of the key issues is under-investment. This Government has not invested in the past five years. Hopefully, that will change in the next period. There are also massive structural issues in An Garda Síochána. Many of the challenges we face - “challenge” has been a kind word in recent years - are down to mismanagement and our front-line gardaí being failed by a management system that is not delivering for them. This and previous reports from the Garda Inspectorate, particularly the past two reports, are tremendous pieces of work. I do not like the term “police force”. I see it as a police service. If the reports were implemented, we would have the police service we deserve. The Garda Inspectorate has earned respect due to the way it has produced these reports in recent years. It is not confrontational. Robert Olson is very diplomatic and reasonable in his tone. When somebody like him and his team say that they are exasperated because their recommendations are not being implemented, we need to listen. I appeal to the Minister to supply the Opposition with a report on what actions have been taken following the recommendations. It would be excellent if she could do this.

Deputy Frances Fitzgerald: It is very reasonable to say that when one has reports, one needs ongoing evaluation and monitoring of them. It is very important and my Department is involved in that. In addition, the new police authority will also have a role in this and we will have public meetings relating to what is happening. It is very clear that in terms of monitoring and evaluating the kind of response to the reports, the police authority will play a key role. It will have its first meeting this week.

As manager of the force, the Garda Commissioner has a particular responsibility, as do people working with her, to ensure management issues are dealt with. Senior gardaí throughout the force also have this responsibility. In that regard, the publication by the Garda Commissioner of her own five-year strategic transformation programme, which will take place shortly, will be an important part of the points made by the Deputy in respect of the ongoing monitoring. Obviously, in that report, she will address the recommendations that have arisen in the various reports, including the most recent report. That will also be a good guide to evaluating how many of the inspectorate’s reports have been implemented.

Surveillance Operations

3. **Deputy Mick Wallace** asked the Minister for Justice and Equality if the legislation regulating State surveillance measures, such as data retention, interception of communications and the use of surveillance and tracking devices, is sufficient to protect the privacy rights of Irish citizens; if she intends to strengthen this legislation in favour of citizens; and if she will make a statement on the matter. [3182/16]

Deputy Mick Wallace: Last week in the Dáil, Deputy Clare Daly and I addressed the ab-

surdity of the Minister instigating a review into the Communications (Retention of Data) Act 2011 regarding information on journalists without also conducting a review of the Criminal Justice (Surveillance) Act 2009, the Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 and the Communications (Retention of Data) Act 2011, all of which give draconian powers to State agencies to abuse the privacy of Irish citizens. The Criminal Justice (Surveillance) Act 2009 allows gardaí, the Defence Forces and Revenue with the say of a superior officer, not a judge, to secretly record an individual with audio and video devices, break into their home, install video cameras and recording equipment, secretly put a tracking device on their vehicle and follow their movements. A report with no details or statistics is produced at the end of the year just to cover this area. We are led to believe there are almost 40 applications of this nature per day. It seems very strange that it is not tackled.

Deputy Frances Fitzgerald: I think the Deputy is confusing the statistics under the various pieces of legislation if he is quoting that figure. Those who would seek to commit serious offences or threaten the security of this State have not been slow to embrace the opportunities offered by modern technology at a national and international level. It is, therefore, to be entirely expected that if we want An Garda Síochána and other relevant agencies to be in a position to effectively combat serious crime and terrorism, we must provide them with the necessary and appropriate powers to do so. This is absolutely clear. Such powers, which are available to law enforcement agencies in one form or another the world over, are important tools for police forces in Ireland and around the world. There is no question about that. Recent events highlight the need for that, and we see it here in respect of a variety of cases.

Looking in detail at the various pieces of legislation, the data available under the Communications (Retention of Data) Act 2011 relates to subscriber, traffic and location data, not the content of communications, and it may only be accessed by the relevant bodies empowered to do so for the purposes prescribed and under the terms set out in the Act.

The Interception of Postal Packets and Telecommunications Messages (Regulation) Act 1993 provides that an authorisation for interception may only be granted by ministerial warrant on application from the Garda Commissioner, the Chief of Staff of the Defence Forces or the chairperson of the Garda Síochána Ombudsman Commission.

The Criminal Justice (Surveillance) Act 2009 provides for authorisations for intrusive surveillance measures to be granted by a judge of the District Court on application by a senior officer of An Garda Síochána, the Revenue Commissioners, the Defence Forces or the Garda Síochána Ombudsman Commission for the purposes prescribed and under the terms set out in the Act and only in accordance with the respective statutory duties of the bodies involved. One must go to a judge to get agreement for anything in the area provided for under the 2009 Act. An independent complaints referee also operates. There is independent judicial oversight and a report produced every year in respect of all of these Acts. There is also the possibility of a complaint.

Additional information not given on the floor of the House

In general terms, these targeted powers are only available in the context of investigating serious crime, that is to say, offences that carry a penalty of five or more years in prison, or for safeguarding the security of the State by the Garda Síochána or the Defence Forces. They do not provide for indiscriminate surveillance of members of the public. I am sure the Deputy would agree that the bodies charged with investigating crime and combating terrorism need to

have the appropriate statutory powers available to them to carry out their duties in protecting society.

Genuine concerns have been raised as to the balance in our law between the important freedom of journalists to pursue legitimate matters of public interest and the basic rights of persons not to have their personal information improperly disclosed. I decided to have an independent examination of the law carried out in respect of access by statutory bodies to the communications data of journalists held by communications service providers taking into account, the principle of protection of journalistic sources, the need for statutory bodies with investigative and-or prosecution powers to have access to data in order to prevent and detect serious crime and current best international practice in this area. The former Chief Justice, Mr. Justice John Murray, has agreed to carry out the review and he will bring recommendations to me. The outcome of the review will be referred to the relevant Oireachtas committee.

Deputy Mick Wallace: One page or one day reports at the end of the year do not represent oversight. Section 7 of Criminal Justice (Surveillance) Act 2009 allows any garda above the rank of superintendent to approve internally covert surveillance by another garda. Although section 7 is intended to apply only in exceptional and urgent situations, it clearly allows gardaí to bypass the District Court judge and to approve internally surveillance by each other. There is no requirement for retrospective authorisation by a judge. This idea that a judge looks at it at the end of the year and signs off on it is rubbish. I have a one-page report here. There is no methodology, detail or oversight. We are getting no information back from it. Section 8 sets out provisions for the fixing and use of tracking devices such as GPS on a vehicle and never requires judicial authorisation. It is always internally approved by another garda. Literally and legally, gardaí are a law unto themselves.

The Minister quotes the different pieces of legislation. Digital Rights Ireland has forced the point home many times and it has been picked up by the Europeans. We do not have proper scrutiny of it. When a State interferes with a citizen's right to privacy, particularly when it is done through covert police surveillance, the European Court of Human Rights has repeatedly held that this intrusion must be balanced by the provision of adequate safeguards and remedies to the citizen along with strong external monitoring and oversight of policy and practice. That is not what we are getting.

10 o'clock

Deputy Frances Fitzgerald: We do have judicial oversight. Judicial oversight is very important. This particular area is not one in respect of which, for obvious reasons, we would have a huge amount of detail, but the seriousness with which judges take their role in terms of the oversight they must have in place should not be underestimated. There is no question, as the Deputy appeared to be implying in his remarks, of widespread or unsupervised mass surveillance on members of the public by the State. The Deputy should be very clear about that. That would not be lawful and it does not happen. To suggest it does is to misrepresent the legal powers available to the relevant statutory bodies, which use those powers in only very specific circumstances.

In regard to the point about journalists, the Deputy will be aware that I have initiated a review in this area, to include a review of international best practice. If there is need for further

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supervision then, of course, that should be considered.

Deputy Mick Wallace: Despite media reports to the contrary, prior to today I had raised issues around surveillance 11 times during the lifetime of this Dáil. When I raised with the Taoiseach and the Minister, Deputy Fitzgerald, the question of whether GCHQ had tapped into a fibre optic cable off the coast of Wales, giving total access to Irish phone lines, I was met with blankness. There was no confirmation as to whether permission had been given for that to be done, whether there was any awareness of it or if anything had been done about it. There does not appear to be any interest in tackling this issue.

There is an onus on the State to provide the citizen with legal clarity and foreseeability. We do not get that. There must also be accessibility to any covert surveillance rules or policies in use. We are also not getting that. There is a requirement for real judicial supervision in this area. That the Minister believes that an annual one-day survey of this area is real judicial supervision does not stand up to scrutiny. It is not a rational argument. I do not know how the Minister can say that. We need a complete overhaul of supervision in this area. The privacy rights of citizens in Ireland are being interfered with in an unfair manner without proper scrutiny and oversight. That needs to change.

Deputy Frances Fitzgerald: The Deputy is making statements in respect of which there is no evidence. In regard to his statement that the public is being subject to surveillance, there is no evidence that-----

Deputy Mick Wallace: There is; Snowden produced it.

Deputy Frances Fitzgerald: -----the public is being subject to widespread or unsupervised mass surveillance. We have laws in this regard in place and which were discussed in and by this Oireachtas. For example, if the Deputy reads the 2011 records, he will see that the then Minister, former Deputy Dermot Ahern, at that time discussed in detail the important issue of balancing rights. While he was concerned about the privacy rights of Irish citizens, he believed it was important to have that legislation in place. I am sure the Deputy will agree that particular crimes need to be investigated.

Deputy Mick Wallace: Absolutely.

Deputy Frances Fitzgerald: Access to telephone records can be an important tool. There is no question of that. The Deputy will be well aware of what is happening internationally. The internal systems within, for example, the Garda Síochána Ombudsman Commission, in terms of the methodology used for access to records, require the consent of the Garda Commissioner. The same applies to An Garda Síochána and its internal processes. To suggest there is a casual attitude within these bodies to these powers would be incorrect.

Garda Inspectorate Reports

4. **Deputy Niall Collins** asked the Minister for Justice and Equality the action she will take further to the recent Garda Inspectorate's report on policing; and if she will make a statement on the matter. [3203/16]

Deputy Niall Collins: What further action does the Minister propose to take in light of the recent report of the Garda Inspectorate? The Minister will be aware that members of the inspec-

torate recently appeared before the Joint Committee on Justice, Defence and Equality. It is fair to say that they were hugely frustrated yet very professional and charitable in their language and presentation on the lack of implementation of many of the key recommendations in their report. Perhaps the Minister would address that point.

Deputy Frances Fitzgerald: As the Deputy will have heard my earlier response on this issue, I do not propose to repeat what has been already implemented. In regard to investment in An Garda Síochána, including new supports for information and communications technology, which, as the Deputy rightly said, are long-standing problems owing to the change in our economic circumstances, we are now in a position to invest and support the developments that are needed. Reform is needed in certain aspects, as outlined in the report. I believe there is a need for ongoing monitoring in this area. The Joint Committee on Justice, Defence and Equality has an important role to play in this regard.

As I said earlier, the police authority will be very cognisant of these reports and I have no doubt they will be a priority in terms of analysing how the recommendations and change programme is being managed. Changing an organisation as large as An Garda Síochána requires action on the part of many different players. However, it is primarily the responsibility of management within An Garda Síochána to respond to these reports. I believe this is being done. It is a broad-ranging task. The Garda Commissioner will publish her report and no doubt that will be considered by future justice committees. I have put in place a process through which the views are being sought of the Garda Commissioner and of other bodies to whom recommendations are directed relating to the most recent report. The timeframe for conclusion of this process is three months. That consultation process will be completed in March. I believe it will provide further guidelines to the Department of Justice and Equality and the Dáil committees in the monitoring and implementation of recommendations.

I agree that the inspectorate has done very wide-ranging work. It is now time for focus on implementation.

Deputy Niall Collins: Those who attended the meeting of the Joint Committee on Justice, Defence and Equality and heard the presentation by the inspectorate got the sense that management of An Garda Síochána is resistant to change. I would welcome a comment by the Minister on this point.

Has the Minister specifically spoken to or had a meeting with the Garda Commissioner on the inspectorate's most recent report? Following on from that and the Minister's recent appointment of the new board of the police authority, has the Minister formally met the new board and has it agreed a programme of work? What was its reaction to the inspectorate's report?

The Minister will be aware that community garda numbers form a huge issue and that many areas do not have dedicated community gardaí because such gardaí have been sucked into other policing activities by virtue of demand and reduced Garda numbers owing to the recruitment moratorium over many years. One of the recommendations of the recent report is that 1,500 gardaí be relieved of administrative duty. How realistic is that recommendation? People are saying to me that that target is not realistic because particular administrative duties, such as the taking of sworn evidence, can only be undertaken by gardaí.

Deputy Frances Fitzgerald: I will try to respond to all of the Deputy's questions. First, I have had discussions with the Garda Commissioner on the most recent report. I also arranged

for the Garda Commissioner, the chairperson of the police authority and members of the Garda Inspectorate to appear before the Cabinet sub-committee on justice three weeks ago for a frank and detailed discussion on the recommendations with members of that committee, including the Minister for Public Expenditure and Reform, Deputy Howlin, and other Ministers. During that meeting we discussed implementation of the recommendations of the report, in respect of which we heard the views of the key players. It was a very useful exercise, which shows the importance of having a Cabinet sub-committee on justice, which we now have for the first time.

Second, on the police authority, the Deputy will be aware - there has been some misreporting in this regard - that members of the board of the police authority were selected through the Public Appointments Service and recommendations were made to Government. The selection process was in the first instance carried out by the Public Appointments Service. I will meet the police authority this week and it will hold its first meeting on Friday. I will be interested to hear from the Garda Commissioner whether she agrees with the figure of 1,500 gardaí. I already heard her make some comments on it that would suggest she would like to respond on whether there are, effectively, 1,500 gardaí who could be freed up at this moment.

Deputy Niall Collins: Will the Minister confirm whether the first meeting of the police authority next Friday will be in public or private? Will she also comment on resistance to change from the management of An Garda Síochána?

Deputy Frances Fitzgerald: Any decisions about when the authority holds public meetings will be in the first instance a matter for Josephine Feehily, who is the chair of the police authority. I have no doubt there will be a public element to the meeting on Friday in terms of communicating with the public about the work. The work programme is entirely a matter for the authority.

In regard to resistance to change, it can be difficult for any large organisation when change is discussed. Resistance is a very strong word to use and it is often thrown about in regard to An Garda Síochána. My experience of meeting members of An Garda Síochána throughout the country is that they are very pleased to get the extra resources they have and for there to be recruitment taking place in order that they can respond to the crime issues of the day. They will welcome many of the changes that are being recommended if they help them to do their job more effectively.

White Collar Crime

5. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality to strengthen the performance of the criminal justice system in tackling white collar crime. [3044/16]

Deputy Pádraig Mac Lochlainn: I am revisiting an issue I first raised with the Minister in June 2014 and again in February 2015. I wish to get a sense of the Minister's plan to strengthen the performance of the criminal justice system to tackle white collar crime. Citizens have been disillusioned in recent years because they see people going to prison for not paying small fines while those who are responsible for bankrupting the State seem to be getting away scot free. There seems to be a difference of emphasis. What is the Minister going to do about it?

Deputy Frances Fitzgerald: Early in its term of office the Government enacted new legislation in the Criminal Justice Act 2011 which was an important step forward in our response to

this form of criminality. Its main purpose is to address delays in the prosecution and investigation of complex white collar crime, about which there was much concern, by improving certain important procedural matters and strengthening Garda investigative powers. Another recent provision is Part 5 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013 which allows for the selection of additional jurors for longer trials, such as those involving complex financial matters where jurors might become unavailable due to the length of the proceedings. That is an important change.

Forthcoming legislation, which is close to being finalised, is the criminal justice (corruption) Bill. The Bill is also intended to enhance the ability of the Director of Public Prosecutions, DPP, to bring prosecutions relating to corruption. I am advised that An Garda Síochána continues to develop strategies aimed at targeting, dismantling and disrupting criminal networks, utilising advanced analytical and intelligence methodology. The use of the powers in the Criminal Justice Act 2011, as well as proceeds of crime legislation and the powers of the Criminal Assets Bureau, are very important in this context. I published a report of their work three weeks ago which shows how many white collar criminal enterprises are being tackled by the Criminal Assets Bureau. Other countries are now copying that initiative which was undertaken some years ago. The Garda Bureau of Fraud Investigation, GBFI, works closely with the Criminal Assets Bureau.

The Office of the Director of Corporate Enforcement, ODCE, the Competition Authority and the GBFI all work together. The major banking investigations which have been undertaken in recent years illustrate the close working relationship between An Garda Síochána and the ODCE across multiple strands of very complex investigations. People are frustrated at the length of time criminal trials can take, but a number of new legislative initiatives are targeted at trying to ensure there are no undue delays.

Deputy Pádraig Mac Lochlainn: I am mindful that what the recent Garda Inspectorate report said about the Garda Bureau of Fraud Investigation is very worrying. It said the GBFI was struggling to cope with the scale of the number of cases brought before it and recommended change in respect of the bureau.

In 2014, Remy Farrell, SC, heavily criticised the lack of resources available to the Garda Bureau of Fraud Investigation and the Office of the Director of Corporate Enforcement. Those offices faced significant cuts. The response of the State, which was literally bankrupt because of the reckless behaviour of white collar criminals and which was facilitated by poor regulation among other issues, was to cut funding to the very agencies tasked with ensuring that did not happen again. Substantial cuts in funding were made to all those bodies. Will the Minister outline the investment that has been made in those bodies considering that, as we speak, the Garda Inspectorate report indicated they are struggling to cope?

Deputy Frances Fitzgerald: Deputy Mac Lochlainn will appreciate that the allocation of resources to particular investigations or specialist units such as the Garda Bureau of Fraud Investigation mentioned by him is a matter for the Garda Commissioner. The truth is there has been underinvestment - there is no doubt about that - because the country was bankrupt. We are now in a different situation and we must continue to invest in An Garda Síochána. I have no doubt further investment will be needed in the areas highlighted by the Deputy in the question. Having just returned from the Justice and Home Affairs Council meeting that I attended on Monday, I am also in no doubt that we will require further and ongoing investment in security and the issues that arise in terms of border control because of the two significant

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issues with which Europe is currently grappling, namely, the terrorist threat and the increase in migration and the number of refugees crossing Europe. The Deputy will have seen the reports on the threat to Europe from ISIS. The two issues should not be confused but there are some connections.

Deputy Pádraig Mac Lochlainn: I cannot think of any other state in the world that was literally bankrupted by the behaviour of white collar corruption and criminality, where the people were so outraged, and where funding was subsequently cut to the very bodies which are at the front line and supposed to be tackling that. In 2014, three years into the Government's term of office, Remy Farrell, one of the most eminent senior counsel in terms of tackling such criminality in the State, said there was never a better time to be a white collar criminal.

One of the proposals put to the Minister in 2014 and 2015 was from the columnist and respected commentator, Elaine Byrne. She proposed having an independent audit of the capacity of the oversight agencies to do their job, namely, the Criminal Assets Bureau, the ODCE, the Garda Bureau of Fraud Investigations, the Central Bank, the Revenue Commissioners, the National Bureau of Criminal Investigation, NBCI, and the Competition Authority. She suggested overarching oversight of all those bodies would best be provided by An Garda Síochána to ensure they acted in a joined-up manner. Has the Minister taken on board Elaine Byrne's recommendation and what will she do to address two issues, namely, the capacity of those bodies to do their job, which would be established by means of an independent audit, and the way they are resourced? I raise the matter because I do not believe the issue has been addressed. It has been the biggest issue in the criminal justice system and has been the biggest failure of the Government. I raise the matter in the last days of this Dáil to see whether the Minister can give an assurance that the situation will improve in the future.

Deputy Frances Fitzgerald: I do not accept what Deputy Mac Lochlainn said. In fact, it is clear the Government has put more resources into the more efficient management and ability of An Garda Síochána to tackle criminal activity than other Governments in recent years. At the height of the Celtic tiger, we did not have the kind of investment in ICT that was clearly needed and, as I have said, it was outlined in those reports from the Garda Inspectorate. The Government has set about supporting An Garda Síochána and has not just spoken about, but has actually made the investment so that all the important issues the Deputy has raised can be managed more effectively.

The enormous complexity for regulators and enforcement agencies internationally in addressing the multifaceted nature of the crimes the Deputy mentioned is widely acknowledged. There is developing experience here. The Law Reform Commission's work on regulatory enforcement and corporate offences, which is an important initiative, will guide future legislation. There is considerable engagement between the specialist bureaux and the other bodies, including the Criminal Assets Bureau, as the Deputy mentioned, and the Office of Corporate Enforcement. The success of that co-operation is evident from recent convictions for breaches of the Companies Act.

Other Questions

An Leas-Cheann Comhairle: Deputy McNamara is not present to ask Question No. 6.

Question No. 6 replied to with Written Answers.

Criminal Law Review

7. **Deputy Clare Daly** asked the Minister for Justice and Equality to review the Interception of Postal Packages and Telecommunications Messages Act 1993 and the Criminal Justice (Surveillance) Act 2009 to protect the privacy and human rights of citizens. [3014/16]

Deputy Clare Daly: This question relates to the previous one on foot of the Minister's decision to have a review of the 2011 Act regarding journalists' records. It obviously arose from the controversy and media backlash over GSOC accessing journalists' phone records, which was a little ironic given that some of the most vociferous objectors to the powers of surveillance for GSOC over the Garda are some of the quietest people with regard to the Garda exercising powers of surveillance. Nonetheless, it gives a very welcome opportunity to review the 2009 Act and the 1993 Act from the point of view of respecting the privacy of all citizens and not just journalists. While I know the Minister's plans in that regard, we should debate it further because it needs to be looked at.

Deputy Frances Fitzgerald: As I have said, the 1993 legislation provides that an authorisation for interception may only be granted by ministerial warrant on application from the Garda Commissioner, the Chief of Staff of the Defence Forces or the chairperson of the Garda Síochána Ombudsman Commission, and only for the purposes of the investigation of serious crime or protecting the security of the State as set out in the 1993 Act and in accordance with the relevant statutory provisions.

As I said in reply to Deputy Wallace, the 2009 Act clearly provides that authorisation must be by the District Court on application by a senior officer of the relevant bodies for the purposes prescribed under that Act.

These Acts were passed by the Oireachtas and it was agreed to have judicial oversight of their operation - that is in law. They report directly to the Taoiseach. There is a complaints referee, who is a judge of the Circuit Court. All of these judges take their roles very seriously and operate completely independently.

The powers we have given to the relevant bodies arise in the context of investigating serious crime, that is to say, offences that carry a penalty of five or more years in prison, or for safeguarding the security of the State by the Garda Síochána or the Defence Forces. I will not restate the point I made earlier about how important it is to have these tools available to the relevant bodies.

There is no question of widespread powers being used casually. The investigatory powers that are set out in law are circumscribed as to their use not only by the provisions of the relevant Acts, but also by the statutory limits on the powers in the legislation as regards each of the bodies.

Deputy Clare Daly: Nobody suggests that every householder in Ireland is under surveillance or anything like that. It comes down to how serious crime is defined and what oversight is provided. What some people might deem to be a peaceful but robust protest, other people would deem to be kidnapping and so on. The problem is that we have weak monitoring and oversight of the surveillance powers that exist, which in itself emboldens rogue elements and facilitates bad practice. There is not judicial oversight in all circumstances. Senior gardaí can self-authorise where they claim it is an emergency.

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On the judicial involvement, we have no records. We cannot say with certainty because the records and reports produced by the judges are very limited. Digital Rights Ireland has pointed out that one of the judges did a very thorough job but in general the reports are on one page and they repeat a standard formula - nothing to see here.

The provisions under the 1993 Act are even worse. The judge carries out a review of thousands of data records every year and completes that exercise in one day, visiting McKee Barracks, the Garda general headquarters in the Phoenix Park, the Department of Justice and Equality, and the Revenue. None of the reports has given any information on the number of requests and their purpose, as happens in the UK and even in the United States.

Deputy Frances Fitzgerald: I have a detailed report before me on the review of the operation of the Criminal Justice (Surveillance) Act, which was presented to the Taoiseach by Mr. Justice Robert Eagar. That is available and I believe the Deputy has referenced it. It contains considerable detail. By its very nature, there will not be the level of detail because of particular issues relating to the serious crime that is being investigated. However, there must be limits on these powers, and I certainly agree with the Deputy that we need oversight and a balance between the competing rights. We must always be prepared to review and, if need be, either extend or restrict these powers.

It is important to keep the general law in this area under review. The former Attorney General and Supreme Court judge, Mr. Justice John Murray, is carrying out a review. With his vast experience in the European Courts, it will be interesting to examine what he reports about best practice. I certainly want to ensure we have best practice in this area. Clearly, these are essential tools that the Garda needs to address the challenges it faces. However, if there is a need for further oversight, that can be considered. We will have that report which will be important in guiding us regarding journalists, for whom there are particular issues such as protection of sources. There are always developments in law. If it comes across clearly that further oversight mechanisms are required, I am sure that will be examined in the coming months.

Deputy Clare Daly: We already have that knowledge. The Government's human rights watchdog has stated that we need to review this. Internationally Ireland is out of kilter. The Minister has repeated that the information cannot be given for security reasons and so on. Even in Britain the report that is published runs to hundreds of pages and details the numbers of operations, the reasons for each operation and even catastrophic failures where mistakes were made. How can we learn if we do not have that information? Even in the United States, the NSA reports for Congress have that type of detail.

The exclusion of ordinary surveillance from any of these Acts needs to be looked at. Who monitors that people could be trailed or have their houses or cars watched? There is none of this and it only applies to devices. The privacy of citizens is really important. This was sparked by the privacy of journalists whose stories were actually invading the privacy of citizens, which is a separate issue. The privacy of people needs to be balanced and protected, but that is for everybody and not just journalists. I appeal to the Minister to include the other Acts and to extend it to the records of citizens and not just journalists.

Deputy Frances Fitzgerald: The Deputy has made an important point about privacy. In this House in 2014 she asked me to carry out an inquiry into the leaking of information to the media regarding the Roma children. At that time she said, "the Minister could do some work about sources in An Garda Síochána leaking information to the media". She made that point

quite strongly.

Deputy Clare Daly: I agree with the Minister 100%.

Deputy Frances Fitzgerald: She also said that GSOC should have the kinds of the powers I have said today are important. The Garda is under strong legal obligations under the 2005 Act regarding the privacy of individuals. Let us ensure that is also on the table. It is about a balance of interests, as she has said.

The Deputy said that Ireland is out of kilter with other countries. I have very clearly asked Mr. Justice Murray to examine the international situation. One can see that we are not out of kilter when one looks at quite a number of countries. We saw what happened recently in France and Belgium. We do not have to go very far to see the type of powers the French must use. I do not want to exaggerate this because terrorism is one issue, and a very important issue, but clearly the French are in an emergency situation and have had to give very wide-ranging access powers to their police forces to deal with terrorism. This is a very clear example of where this tool is needed. There are incidents in Ireland of many forms of criminal activity where the Garda must act very quickly to access information to safeguard children and adults in dangerous situations. We need a balanced debate on this.

An Leas-Cheann Comhairle: On Question No. 8, the Deputy is not present, so I call Deputy Niall Collins on Question No. 9.

Question No. 8 replied to with Written Answers.

Sexual Offences Data

9. **Deputy Niall Collins** asked the Minister for Justice and Equality her response to the year-on-year increase in sexual offences; and if she will make a statement on the matter. [3020/16]

Deputy Niall Collins: Will the Minister comment on the year-on-year increase in sexual offences? There has been much high-profile reportage of sexual offences which occur throughout the country and in the capital. Will the Minister comment on this?

Deputy Frances Fitzgerald: I observe that the recorded crime statistics published by the Central Statistics Office, CSO, for quarter 3 of 2015 show some encouraging trends across a number of crime categories. Everyone in the House will welcome the latest official figures which show a notable decrease of 47.4% in the number of murders recorded as well as reductions in other important crime categories such as robbery and weapons offences, which went down 9.1% and 7.3%, respectively. I wish to put this in context.

On the very important area of sexual offences which the Deputy raised, the CSO figures show 2,262 such offences were recorded in the 12-month period, which represents a 14.1% increase compared with the previous 12 months. As with many offence categories, we see considerable variations in crime statistics over years. For example, the highest number of sexual offences in this decade was in 2010, when the number was 2,366, but it is widely accepted there are particularly long-standing factors associated with the reporting of sexual offences. As a consequence, an increase of this nature may reflect, and I am sure the Deputy will accept this, greater willingness on the part of victims to report this type of crime as much or more than any underlying increase in victimisation. It is very important to make the point we live in a society

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where, one hopes, women and men are more likely to report this crime, get the support they need and ensure the perpetrator is brought to justice. This is one element.

The Criminal Law (Sexual Offences) Bill is very wide-ranging legislation which will extend the categories of criminal activity in this area to ensure more people are brought before the courts. I do not say what I have said in any way to underestimate the seriousness of this issue and how on guard we need to be. I published the second national strategy on domestic, sexual and gender-based violence last week which has many actions which must be implemented. We must do everything we can to work with the victims of crime and bring the perpetrators to justice.

Deputy Niall Collins: The 14.1% increase in sexual offences is truly concerning. I am not pre-empting the Criminal Law (Sexual Offences) Bill, which will come before the Dáil this week and which Fianna Fáil will support, but will the Bill finish its passage through the Oireachtas prior to the Dáil being dissolved, which we expect to happen next week? We should work collectively to try to achieve this. We are concerned about the removal of some provisions contained in the Bill to protect victims. These are on the supervision and monitoring of sex offenders after their release from prison. Why were these provisions removed from the Bill? Does the Minister accept there are major gaps in the protection of victims of sexual assault because there is an absence of a definition of consent in the Bill? Other jurisdictions, such as Canada and the UK, have a definition of consent. Will the Minister comment on this?

Deputy Frances Fitzgerald: I would like to see the sexual offences legislation enacted. It has arrived to us rather late from the Seanad. The Deputy could propose cross-party agreement on the floor of the House. It would mean there would not be time for amendments from the Opposition if all Stages were taken tomorrow. There would need to be cross-party agreement on this. If it is the wish of the Opposition, I have no difficulty doing it, and I would certainly like to see the legislation enacted.

There are various views on consent. We have strong common law definitions. I have met people who have done detailed research on this who have strongly suggested it would be more protective to include it and we are examining it. We were planning separate legislation to deal with the points the Deputy made on the provisions of the Bill, but the new sexual offences legislation includes a new harassment order, which will be very helpful for victims of crime.

An Leas-Cheann Comhairle: Deputy McEntee is not present so Deputy Boyd Barrett has the next question.

Question No. 10 replied to with Written Answers.

Refugee Numbers

11. **Deputy Richard Boyd Barrett** asked the Minister for Justice and Equality her views on the European Union-wide settlement programme for 160,000 refugees only delivering for 0.17%; and if she will make a statement on the matter. [3040/16]

Deputy Richard Boyd Barrett: It is reported that of the 160,000 refugees the European Union has agreed to resettle, a pathetic 0.17% of them is all that have been taken, despite the quite vile hysteria whipped up by certain governments, most recently the French Government,

about these desperate people fleeing the most desperate circumstances. In fact, Europe has done very little to implement even what it said it would do to resettle 160,000 people. Will the Minister confirm that fewer than 100 of the 2,500 this country was supposed to take in by the end of 2015 have come to the country? The figure I have heard is 32 and perhaps the Minister can give us the actual figure. When will we take our full complement of these desperate people who need our assistance?

Deputy Frances Fitzgerald: To take up the phrase the Deputy used, that Europe has done very little, I attended the meeting of Justice and Home Affairs Ministers on Monday, and if the Deputy heard my Swedish, French, Belgian, Croatian and many other colleagues, he would not say this. I understand the perspective he is using to state it has to do with the relocation programme. The reason I state he would not say what he said, that Europe is not doing very much, is if he saw the hundreds of thousands of refugee migrants who are arriving in those countries which are all responding and providing facilities of varying types and trying to do their very best. In fact, the situation now is that it is very difficult for countries such as Austria and Sweden, to name just two, to take any more of the flow that is coming across the Balkans in particular. Those countries have tens of thousands of those people who have crossed the Mediterranean and who have come in through the Balkans. They are looking after them in their countries.

The point the Deputy made on the relocation programme is correct. Very small numbers - a couple of hundred - have been relocated to various European countries. The reason for this is the migrants who are arriving are not registering and there is not the capacity to force them to register in the various hotspots being set up for the relocation to start working effectively. This is because the migrants want to move to Germany and Sweden and this flow is continuing. We discussed this in detail. Ireland is ready and recently accepted the first Syrian family. It is not because we are putting up any barriers that people have not arrived. It is because of the situation I just described. We are ready. We have had all the task force meetings. I had a meeting with all the church bodies just two weeks ago and they are all ready to help migrants, who in all likelihood will be assessed very quickly as refugees, as is the Red Cross, which co-ordinated the voluntary offers of help. The relocation mechanism depends on these hot spots working effectively and the migrants registering in them and understanding that relocation to different European countries is possible and that they do not have to continue their flight to Sweden and Germany, because that is often their choice.

Deputy Richard Boyd Barrett: I do not think comments such as those of the French Prime Minister, Manuel Valls, regarding the threat of destabilisation across Europe because of the refugees, in which he also said that Europe was incapable of taking this number of people, were very helpful. We have had other far-right-influenced comments and statements by certain leaders across Europe. Much of what was agreed at the European Council seems to be about stemming the flow of people getting into Europe and putting up Europe's borders rather than assisting people. There are thousands of people in these camps in harsh winter conditions. Forty people drowned last Friday, including kids, off the Greek islands. This is horrendous stuff.

I am not pointing fingers at the Minister, but it seems to me that the reason refugees are not going to certain countries, notably France and also Hungary, which has a particularly vile record, is that it is being made clear by certain European leaders that they are not welcome. These European leaders are essentially pandering to racism and xenophobia and creating hysteria when there should not be any. One point I like to make is that in the highest year of immigration into this country, during the boom period, more than 10,000 people came into Ireland in one

year. Almost as many people came into this country in one year as Europe is planning to take in over the entire resettlement programme, and virtually nobody noticed.

Deputy Frances Fitzgerald: To take up the Deputy's last point, if one attends the citizenship ceremonies, one can see that on any one occasion, 1,000 or 2,000 people are getting Irish citizenship. Of course, that arises from people following legal routes and being welcomed into Ireland and other countries. Well over 1 million people have now arrived in Europe from the various countries. One of the features of the current crisis, as it is developing, is that migrants are coming from many countries from which one would not necessarily expect refugees to come. We are now seeing a very wide range. It is not just people from Syria, which is understandable, but from a wide range of other countries in north Africa, as well as Iraq and Afghanistan. That is a feature of the current flow.

There is concern about the flow that is coming into Europe and there is a wish to put structure on it. The relocation initiative was the attempt by the European Commission to begin to do that and to help migrants and refugees to understand that they did not have to go via smugglers - that there was a route for them to come safely into Europe. The vast majority of European countries are willing to help and have shown that they are willing to help, but it is a formidable challenge. This huge flow of humanity that is coming through the various routes presents enormous challenges. I believe we have to work with the countries of origin as well as with Turkey. There is a big debate about external borders and the threat to the Schengen area at present because of what is happening. I do not believe that would be in anyone's interest.

Deputy Richard Boyd Barrett: I do not know whether the Minister is familiar with the singer Manu Chao, but he has a song called "No Human Being is Illegal". That is the narrative we need to put out there. I do not even think terms like "flood" and "huge" are helpful. A very serious crisis has occurred in Syria, but the truth is that, because of the demographics of Europe and our ageing population, we need people to come in. Immigrants add, rather than subtracting, economically, socially, culturally and in every way. We have to be very forceful and robust in standing up to certain leaders and certain voices across Europe who are, frankly, misrepresenting in a racist, xenophobic manner and creating hysteria when none is required.

Of course there are logistical questions, but I fear some leaders are moving towards "fortress Europe" policies that are directed more at keeping people in Africa or the Middle East. How the hell are Turkey, Lebanon and Jordan, which are much poorer than most of the European countries, able to handle it? I am sure there are problems for them, but they manage. We have to be more generous, we have to change the narrative and we have to stand up to the racist voices, including some of the European leaders, who are not being helpful in this.

Deputy Frances Fitzgerald: I agree with the Deputy regarding standing up to racist voices. However, I do not agree that there has been a "fortress Europe" response. I do not think that is accurate when one sees what is actually happening and the major initiatives and responses to the tens of thousands of refugees arriving into communities across European countries. We were not under any legal obligation to respond to the European request, but we did so immediately and have given a number of 4,000. We are certainly open to that.

I also take the Deputy's point regarding immigration. Peter Sutherland would say again and again in his role as UN representative on this that there is very strong evidence of the contribution immigrants make to economies and that it is a plus as opposed to a minus. Very often, the narrative, as the Deputy says, does not reflect that. It is very important that we have a bal-

anced narrative in respect of the huge numbers we are seeing, but we do need legal routes and we need proper processes in place for all sorts of reasons. We need people to register and be fingerprinted and to be offered the kind of relocation that was the European Union's response to the crisis in the first instance.

Written Answers follow Adjournment.

Technological Universities Bill 2015: Report Stage (Resumed)

Debate resumed on amendment No. 11:

In page 13, to delete lines 30 to 35.

(Deputy Jonathan O'Brien).

An Leas-Cheann Comhairle: Deputy O'Brien was in possession, making his second contribution. This amendment is also in the name of Deputies Paul Murphy, Coppinger and Higgins.

Deputy Jonathan O'Brien: We are on the grouping of amendments Nos. 11 to 17, inclusive.

An Leas-Cheann Comhairle: We are taking amendments Nos. 11 to 17, inclusive, together.

Deputy Jonathan O'Brien: I outlined most of it last night. This relates to the proposed mergers contained in the Bill. I outlined some of the issues around the Cork and Tralee multi-campus proposal and the difficulties with the trade unions not being consulted in any constructive way. Those are the reasons for the amendments. I will await the Minister's reply before coming in again.

Deputy Maureen O'Sullivan: I am speaking to amendments Nos. 13 to 16, inclusive, in particular, where mergers can go ahead without the agreement of the staff trade unions. We were discussing this last night.

If there is reform in any sector, the staff are vital and must be on board for anything to succeed. One can see, even with the junior certificate reform, the need for engagement of the staff and the staff to buy into it.

Last night the disconnect between the Minister's conviction that this would be good for the colleges and staff and the concerns that the staff have being bringing both to us - I met some of the staff last night outside - and through their trade union came across. I will not go back through the history of trade unions in the country, but the Minister will be aware of the work of trade unions in representing and in looking out for the best interests of their members.

How are the staff involved in the merger unless through their trade unions? It is the trade unions which are really pursuing the issues that the staff see as vital. I do not see that as giving a veto to the unions. It is about giving a voice to the members of those trade unions.

I cannot stress enough it is the staff in the institutes of technology who will be key to this going ahead and being successful. Many of the staff have been there for years. It is regrettable that the Minister is not considering that those wishes can be taken on board before a merger

happens because, as it stands, a merger can be imposed without an agreement from the staff.

Deputy Charlie McConalogue: For it to be successful, it is crucial that the staff are fully on board. In particular, amendments Nos. 13 and 16 require it. That is explicit. They state that the Bill requires that such be the case. Since the Minister states it is her intention, I see no reason why she should not ensure that it is also included in the legislation. I urge her to accept these two amendments.

Minister for Education and Skills (Deputy Jan O’Sullivan): The problem with the wording the Deputies propose is that the terms must be agreed with the staff trade union and that is, in effect, a veto.

Deputy Maureen O’Sullivan referred to the junior cycle reform. We are in a position where one of the trade unions has voted in favour, another has not, and the representatives of parents and of management bodies etc. want us to go ahead with junior cycle reform. We are going ahead with junior cycle reform. In my opinion, one cannot let one of the partners hold something back.

I agree with the Deputies that we need full consultation and that is why we have repeatedly stated to the institutes that they must engage meaningfully with those who work in them, the academic and other staff. However, saying that it must be agreed with the trade union before it can go ahead is giving the trade union a veto and is not something that would be done. There must be normal negotiations. The union represents its members, but it is giving a veto to state a merger cannot go ahead unless the union has agreed.

What we want is meaningful consultation. As I said, staff have been released in order to engage in that consultation. We will continue to impress upon the institutes that they must properly consult and take on board the concerns of their members. Indeed, as I said, as recently as Monday evening last I met the TUI’s representatives in Cork. We want to listen to its views, and I have taken some of them on board in terms of the amendments. Probably, more properly, I have taken on board the issues that the Deputies have raised on their behalf. However, stating that the merger cannot go ahead without their agreement is taking the normal relationships with a trade union to an extent that would not be proper to put in the primary legislation.

Deputy Richard Boyd Barrett: The teachers are to a very large extent the institutes. They are the staff who deliver the education. They are deeply concerned and I am utterly convinced by their concerns that this is being rushed for political reasons without proper consultation with them.

Next week the TUI is out on strike again because the institutes have been savaged. Although I do not have the figures in front of me, if I am correct they have lost 34% of their funding. There has been a very significant increase in the number of students while funding has been cut. One can imagine, against that background, they are fairly sceptical about what on the face of it looks like something with which candidates can go back to their constituencies stating, “We are giving you a university.” They know this is nonsense when their funding has been slashed, when the numbers have gone through the roof without additional staff resources and they fear that the institutes of technology could be seriously undermined and that the diversity of course offerings on a regional basis will be lost as mergers go ahead and institutes are subsumed into one another. What is special and unique and has been so successful about the institutes of technology will be lost. We should take their concerns seriously. It is entirely fair to state that this

should not go ahead without the agreement of the teaching staff because without them one has nothing. Their concerns are legitimate.

At this stage, the teaching staff's hope is that the Government will not sign off on this before the dissolution of the Dáil so there can be proper discussion and debate in the new Dáil. The Government should listen to that appeal and accept it so we can have a proper discussion on the concerns of the teachers on this.

11 o'clock

While the teachers are not against the idea of technological universities, as the Minister knows, they are very concerned about the context in which it is happening and they would like to be assured that it is not just about more cuts, rationalisation and even a push towards privatisation under the guise of upgrading and reform.

Deputy Charlie McConalogue: The Minister referred to junior certificate reform. Some of the lessons from junior certificate reform should inform the legislation, the amendments we are proposing and the Minister's approach to them. The Minister said one of the unions had accepted junior certificate reform while the other had not. The failure to deliver effective reform dates back to the Government's approach and the Minister's predecessor, Deputy Ruairí Quinn, who, without consulting the unions, unilaterally announced his intention as to how it was going to operate. His intention was to abolish the junior certificate as a State exam marked by independent examiners. This approach led to the Government's failure on junior certificate reform, with only one union on-side.

Proper engagement with staff representatives from the outset can ensure a much more successful outcome overall. Last night, the TUI protested outside, and there will be industrial action next week. There is a very definite opinion on the part of staff that there has not been appropriate engagement and consultation. Putting it in the legislation would ensure there is a requirement to have everybody on board and could ensure a much more successful outcome to the technological university process compared with the junior certificate reform process, which the Government has handled over the past three or four years.

Deputy Jonathan O'Brien: Now that I have caught my breath, I will go through my points. I raised most of them last night and we had a discussion about the concerns of the TUI and staff members. The Minister said it was not credible to give any one stakeholder a veto. However, the Government has given vetoes to other stakeholders in other Bills, and last night I pointed out the veto we have given to banks on personal insolvency.

Last night, the Minister said the purpose of technological universities was to allow them to operate on a greater scale and capacity and compete at an international level. However, during the past seven years, €190 million has been taken out of the sector, lecturer numbers have decreased by nearly 10% and student numbers have increased by 35%, which equates to more than 21,000 extra students. The Minister cannot blame those who are being asked to do more with less resources for questioning whether the process is a case of rationalisation.

Last night the Minister said this was not a rebranding exercise. If this is the case, she must commit the resources. Later on Report Stage, we will discuss giving technological universities the power to set their own fees. It is estimated that it will cost approximately €45 million to €50

million. All the documentation I have seen talks about having to find this money in efficiencies. We all know that “efficiencies” means cuts. The Minister must take on board the fact that mergers cannot happen unless all of the stakeholders are in agreement. If she pushes ahead with this section, which states that mergers can take place without the consent and agreement of trade unions, she is heading for industrial action and a flawed process.

While the Minister said she would not guillotine the Bill, we are up against the clock in terms of when the Dáil will be dissolved, whether it is this week or next week. If the legislation is not passed before the Dáil is dissolved, there will be a breathing space and an opportunity for further consultation. The Minister can stand up as many times as she wants in this Chamber and say she has asked for constructive engagement with the trade unions on consultation, but it is not happening on the ground. Constructive consultation is not happening, and that is why trade unions are at their wits’ end. They want what is best for the students, and they have been asked to deliver it with decreasing resources. Their voice is critical.

I ask the Minister to re-examine this. It is not a veto, only an amendment to ensure all stakeholders are in agreement before they move to technological university status. If anything less than this happens, the process will be undermined.

Amendment put:

<i>The Dáil divided: Tá, 26; Staon, ; Níl, 51.</i>		
<i>Tá</i>	<i>Staon</i>	<i>Níl</i>
<i>Boyd Barrett, Richard.</i>		<i>Barry, Tom.</i>
<i>Browne, John.</i>		<i>Bruton, Richard.</i>
<i>Colreavy, Michael.</i>		<i>Buttimer, Jerry.</i>
<i>Cowen, Barry.</i>		<i>Byrne, Catherine.</i>
<i>Daly, Clare.</i>		<i>Byrne, Eric.</i>
<i>Doherty, Pearse.</i>		<i>Cannon, Ciarán.</i>
<i>Dooley, Timmy.</i>		<i>Carey, Joe.</i>
<i>Fitzmaurice, Michael.</i>		<i>Collins, Áine.</i>
<i>Fleming, Tom.</i>		<i>Conaghan, Michael.</i>
<i>Halligan, John.</i>		<i>Corcoran Kennedy, Marcella.</i>
<i>Healy, Seamus.</i>		<i>Costello, Joe.</i>
<i>Healy-Rae, Michael.</i>		<i>Creed, Michael.</i>
<i>Kelleher, Billy.</i>		<i>Daly, Jim.</i>
<i>McConalogue, Charlie.</i>		<i>Deenihan, Jimmy.</i>
<i>McLellan, Sandra.</i>		<i>Doherty, Regina.</i>
<i>Mathews, Peter.</i>		<i>Donohoe, Paschal.</i>
<i>Moynihan, Michael.</i>		<i>Dowds, Robert.</i>
<i>Murphy, Catherine.</i>		<i>Durkan, Bernard J.</i>
<i>Naughten, Denis.</i>		<i>Farrell, Alan.</i>
<i>Ó Caoláin, Caoimhghín.</i>		<i>Feighan, Frank.</i>
<i>Ó Snodaigh, Aengus.</i>		<i>Hannigan, Dominic.</i>
<i>O’Brien, Jonathan.</i>		<i>Harrington, Noel.</i>

<i>O'Sullivan, Maureen.</i>		<i>Hayes, Tom.</i>
<i>Pringle, Thomas.</i>		<i>Heydon, Martin.</i>
<i>Shortall, Róisín.</i>		<i>Howlin, Brendan.</i>
<i>Wallace, Mick.</i>		<i>Humphreys, Kevin.</i>
		<i>Keating, Derek.</i>
		<i>Kehoe, Paul.</i>
		<i>Kenny, Seán.</i>
		<i>Lynch, Kathleen.</i>
		<i>McCarthy, Michael.</i>
		<i>McEntee, Helen.</i>
		<i>McGinley, Dinny.</i>
		<i>McNamara, Michael.</i>
		<i>Mulherin, Michelle.</i>
		<i>Murphy, Eoghan.</i>
		<i>Neville, Dan.</i>
		<i>O'Donnell, Kieran.</i>
		<i>O'Donovan, Patrick.</i>
		<i>O'Mahony, John.</i>
		<i>O'Reilly, Joe.</i>
		<i>O'Sullivan, Jan.</i>
		<i>Phelan, John Paul.</i>
		<i>Quinn, Ruairí.</i>
		<i>Rabbitte, Pat.</i>
		<i>Reilly, James.</i>
		<i>Ring, Michael.</i>
		<i>Ryan, Brendan.</i>
		<i>Stagg, Emmet.</i>
		<i>Stanton, David.</i>
		<i>Twomey, Liam.</i>

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

Amendment declared lost.

Deputy Jonathan O'Brien: I move amendment No. 12:

In page 13, to delete lines 32 and 33 and substitute the following:

“7. (1) The Minister shall, by order, appoint a day (in this Chapter referred to as the “dissolution day”) for the purposes of *subsection (2)* which shall be made following application from the governing bodies and presidents of each of the constituent colleges and said application shall include a statement that the terms of the merger have been agreed with the staff trade unions.”.

Amendment put:

<i>The Dáil divided: Tá, 26; Níl, 49.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Boyd Barrett, Richard.</i>	<i>Barry, Tom.</i>
<i>Browne, John.</i>	<i>Bruton, Richard.</i>
<i>Colreavy, Michael.</i>	<i>Buttimer, Jerry.</i>
<i>Cowen, Barry.</i>	<i>Byrne, Catherine.</i>
<i>Daly, Clare.</i>	<i>Byrne, Eric.</i>
<i>Donnelly, Stephen S.</i>	<i>Cannon, Ciarán.</i>
<i>Dooley, Timmy.</i>	<i>Carey, Joe.</i>
<i>Fitzmaurice, Michael.</i>	<i>Collins, Áine.</i>
<i>Fleming, Tom.</i>	<i>Conaghan, Michael.</i>
<i>Halligan, John.</i>	<i>Corcoran Kennedy, Marcella.</i>
<i>Healy, Seamus.</i>	<i>Costello, Joe.</i>
<i>Healy-Rae, Michael.</i>	<i>Creed, Michael.</i>
<i>Kelleher, Billy.</i>	<i>Daly, Jim.</i>
<i>McConalogue, Charlie.</i>	<i>Deenihan, Jimmy.</i>
<i>McGrath, Finian.</i>	<i>Doherty, Regina.</i>
<i>McLellan, Sandra.</i>	<i>Donohoe, Paschal.</i>
<i>Mathews, Peter.</i>	<i>Dowds, Robert.</i>
<i>Murphy, Catherine.</i>	<i>Durkan, Bernard J.</i>
<i>Naughten, Denis.</i>	<i>Farrell, Alan.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Feighan, Frank.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Fitzgerald, Frances.</i>
<i>O'Brien, Jonathan.</i>	<i>Hannigan, Dominic.</i>
<i>O'Sullivan, Maureen.</i>	<i>Hayes, Tom.</i>
<i>Pringle, Thomas.</i>	<i>Heydon, Martin.</i>
<i>Shortall, Róisín.</i>	<i>Howlin, Brendan.</i>
<i>Wallace, Mick.</i>	<i>Humphreys, Kevin.</i>
	<i>Keating, Derek.</i>
	<i>Kehoe, Paul.</i>
	<i>Kenny, Seán.</i>
	<i>Lynch, Kathleen.</i>
	<i>McCarthy, Michael.</i>
	<i>McEntee, Helen.</i>
	<i>McGinley, Dinny.</i>
	<i>Mulherin, Michelle.</i>
	<i>Murphy, Eoghan.</i>
	<i>Neville, Dan.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Mahony, John.</i>

	<i>O'Reilly, Joe.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Phelan, John Paul.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Twomey, Liam.</i>
	<i>White, Alex.</i>

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

Amendment declared lost.

Deputy Charlie McConalogue: I move amendment No. 13:

In page 13, line 33, after “*subsection (2)*” to insert the following:

“, which order shall be made following application from the governing bodies and presidents of each of the constituent colleges and said application shall include a statement that the terms of the merger have been agreed with the staff trade unions”.

Amendment put:

<i>The Dáil divided: Tá, 25; Níl, 52.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Boyd Barrett, Richard.</i>	<i>Barry, Tom.</i>
<i>Browne, John.</i>	<i>Breen, Pat.</i>
<i>Colreavy, Michael.</i>	<i>Bruton, Richard.</i>
<i>Cowen, Barry.</i>	<i>Buttimer, Jerry.</i>
<i>Daly, Clare.</i>	<i>Byrne, Catherine.</i>
<i>Donnelly, Stephen S.</i>	<i>Byrne, Eric.</i>
<i>Dooley, Timmy.</i>	<i>Cannon, Ciarán.</i>
<i>Fitzmaurice, Michael.</i>	<i>Carey, Joe.</i>
<i>Fleming, Tom.</i>	<i>Collins, Áine.</i>
<i>Healy-Rae, Michael.</i>	<i>Conaghan, Michael.</i>
<i>Kelleher, Billy.</i>	<i>Corcoran Kennedy, Marcella.</i>
<i>McConalogue, Charlie.</i>	<i>Costello, Joe.</i>
<i>McGrath, Finian.</i>	<i>Creed, Michael.</i>
<i>McLellan, Sandra.</i>	<i>Daly, Jim.</i>
<i>Mathews, Peter.</i>	<i>Doherty, Regina.</i>
<i>Moynihan, Michael.</i>	<i>Donohoe, Paschal.</i>
<i>Murphy, Catherine.</i>	<i>Dowds, Robert.</i>

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<i>Naughten, Denis.</i>	<i>Durkan, Bernard J.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Farrell, Alan.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Feighan, Frank.</i>
<i>O'Brien, Jonathan.</i>	<i>Fitzgerald, Frances.</i>
<i>O'Sullivan, Maureen.</i>	<i>Hannigan, Dominic.</i>
<i>Pringle, Thomas.</i>	<i>Harris, Simon.</i>
<i>Shortall, Róisín.</i>	<i>Hayes, Tom.</i>
<i>Wallace, Mick.</i>	<i>Heydon, Martin.</i>
	<i>Howlin, Brendan.</i>
	<i>Humphreys, Kevin.</i>
	<i>Keating, Derek.</i>
	<i>Kehoe, Paul.</i>
	<i>Kenny, Seán.</i>
	<i>Lynch, Kathleen.</i>
	<i>McCarthy, Michael.</i>
	<i>McEntee, Helen.</i>
	<i>McGinley, Dinny.</i>
	<i>McNamara, Michael.</i>
	<i>Mulherin, Michelle.</i>
	<i>Murphy, Eoghan.</i>
	<i>Neville, Dan.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Mahony, John.</i>
	<i>O'Reilly, Joe.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Phelan, John Paul.</i>
	<i>Quinn, Ruairí.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Twomey, Liam.</i>
	<i>White, Alex.</i>

Tellers: Tá, Deputies Charlie McConalogue and Maureen O'Sullivan; Níl, Deputies Emmet Stagg and Paul Kehoe.

Amendment declared lost.

Deputy Jonathan O'Brien: I move amendment No. 14:

In page 14, to delete lines 1 to 9.

Amendment put:

<i>The Dáil divided: Tá, 26; Níl, 52.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Boyd Barrett, Richard.</i>	<i>Barry, Tom.</i>
<i>Browne, John.</i>	<i>Breen, Pat.</i>
<i>Colreavy, Michael.</i>	<i>Bruton, Richard.</i>
<i>Cowen, Barry.</i>	<i>Buttimer, Jerry.</i>
<i>Daly, Clare.</i>	<i>Byrne, Catherine.</i>
<i>Dooley, Timmy.</i>	<i>Byrne, Eric.</i>
<i>Fitzmaurice, Michael.</i>	<i>Cannon, Ciarán.</i>
<i>Grealish, Noel.</i>	<i>Carey, Joe.</i>
<i>Halligan, John.</i>	<i>Collins, Áine.</i>
<i>Healy-Rae, Michael.</i>	<i>Conaghan, Michael.</i>
<i>Kelleher, Billy.</i>	<i>Corcoran Kennedy, Marcella.</i>
<i>McConalogue, Charlie.</i>	<i>Costello, Joe.</i>
<i>McGrath, Finian.</i>	<i>Creed, Michael.</i>
<i>McGrath, Michael.</i>	<i>Daly, Jim.</i>
<i>McLellan, Sandra.</i>	<i>Deenihan, Jimmy.</i>
<i>Mathews, Peter.</i>	<i>Doherty, Regina.</i>
<i>Moynihan, Michael.</i>	<i>Donohoe, Paschal.</i>
<i>Murphy, Catherine.</i>	<i>Dowds, Robert.</i>
<i>Naughten, Denis.</i>	<i>Durkan, Bernard J.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Farrell, Alan.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Feighan, Frank.</i>
<i>O'Brien, Jonathan.</i>	<i>Fitzgerald, Frances.</i>
<i>O'Sullivan, Maureen.</i>	<i>Hannigan, Dominic.</i>
<i>Ross, Shane.</i>	<i>Harris, Simon.</i>
<i>Shortall, Róisín.</i>	<i>Hayes, Tom.</i>
<i>Wallace, Mick.</i>	<i>Heydon, Martin.</i>
	<i>Howlin, Brendan.</i>
	<i>Humphreys, Kevin.</i>
	<i>Keating, Derek.</i>
	<i>Kehoe, Paul.</i>
	<i>Kenny, Seán.</i>
	<i>Lynch, Kathleen.</i>
	<i>McCarthy, Michael.</i>
	<i>McEntee, Helen.</i>
	<i>McGinley, Dinny.</i>
	<i>McNamara, Michael.</i>
	<i>Murphy, Eoghan.</i>
	<i>Neville, Dan.</i>

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	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Mahony, John.</i>
	<i>O'Reilly, Joe.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Phelan, John Paul.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David</i>
	<i>Tuffy, Joanna.</i>
	<i>Twomey, Liam.</i>
	<i>White, Alex.</i>

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

Amendment declared lost.

Deputy Jonathan O'Brien: I move amendment No. 15:

In page 14, to delete lines 18 to 26.

Amendment put:

<i>The Dáil divided: Tá, 29; Níl, 54.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Aylward, Bobby.</i>	<i>Barry, Tom.</i>
<i>Boyd Barrett, Richard.</i>	<i>Breen, Pat.</i>
<i>Browne, John.</i>	<i>Bruton, Richard.</i>
<i>Colreavy, Michael.</i>	<i>Buttimer, Jerry.</i>
<i>Cowen, Barry.</i>	<i>Byrne, Catherine.</i>
<i>Daly, Clare.</i>	<i>Byrne, Eric.</i>
<i>Dooley, Timmy.</i>	<i>Cannon, Ciarán.</i>
<i>Fitzmaurice, Michael.</i>	<i>Carey, Joe.</i>
<i>Grealish, Noel.</i>	<i>Collins, Áine.</i>
<i>Halligan, John.</i>	<i>Conaghan, Michael.</i>
<i>Healy, Seamus.</i>	<i>Corcoran Kennedy, Marcella.</i>
<i>Healy-Rae, Michael.</i>	<i>Costello, Joe.</i>
<i>Kelleher, Billy.</i>	<i>Creed, Michael.</i>
<i>McConalogue, Charlie.</i>	<i>Daly, Jim.</i>
<i>McGrath, Finian.</i>	<i>Deenihan, Jimmy.</i>
<i>McGrath, Michael.</i>	<i>Doherty, Regina.</i>

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<i>McLellan, Sandra.</i>	<i>Donohoe, Paschal.</i>
<i>Martin, Micheál.</i>	<i>Dowds, Robert.</i>
<i>Mathews, Peter.</i>	<i>Durkan, Bernard J.</i>
<i>Moynihan, Michael.</i>	<i>Farrell, Alan.</i>
<i>Murphy, Catherine.</i>	<i>Feighan, Frank.</i>
<i>Naughten, Denis.</i>	<i>Fitzgerald, Frances.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Hannigan, Dominic.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Harris, Simon.</i>
<i>O'Brien, Jonathan.</i>	<i>Hayes, Tom.</i>
<i>O'Sullivan, Maureen.</i>	<i>Heydon, Martin.</i>
<i>Ross, Shane.</i>	<i>Howlin, Brendan.</i>
<i>Shortall, Róisín.</i>	<i>Humphreys, Kevin.</i>
<i>Wallace, Mick.</i>	<i>Keating, Derek.</i>
	<i>Kehoe, Paul.</i>
	<i>Kenny, Seán.</i>
	<i>Lynch, Kathleen.</i>
	<i>McCarthy, Michael.</i>
	<i>McEntee, Helen.</i>
	<i>McGinley, Dinny.</i>
	<i>McNamara, Michael.</i>
	<i>Mulherin, Michelle.</i>
	<i>Murphy, Eoghan.</i>
	<i>Neville, Dan.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Mahony, John.</i>
	<i>O'Reilly, Joe.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Phelan, John Paul.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>
	<i>Spring, Arthur.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Tuffy, Joanna.</i>
	<i>Twomey, Liam.</i>
	<i>White, Alex.</i>

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

Amendment declared lost.

Deputy Jonathan O'Brien: I move amendment No. 16:

In page 14, line 20, after “*subsection (2)*” to insert the following:

“, which order shall be made following application from the governing bodies and presidents of each of the constituent colleges and said application shall include a statement that the terms of the merger have been agreed with the staff trade unions”.

Amendment put:

<i>The Dáil divided: Tá, 31; Níl, 53.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Aylward, Bobby.</i>	<i>Barry, Tom.</i>
<i>Boyd Barrett, Richard.</i>	<i>Breen, Pat.</i>
<i>Browne, John.</i>	<i>Bruton, Richard.</i>
<i>Collins, Niall.</i>	<i>Buttimer, Jerry.</i>
<i>Colreavy, Michael.</i>	<i>Byrne, Catherine.</i>
<i>Cowen, Barry.</i>	<i>Byrne, Eric.</i>
<i>Daly, Clare.</i>	<i>Cannon, Ciarán.</i>
<i>Dooley, Timmy.</i>	<i>Carey, Joe.</i>
<i>Fitzmaurice, Michael.</i>	<i>Coffey, Paudie.</i>
<i>Grealish, Noel.</i>	<i>Collins, Áine.</i>
<i>Halligan, John.</i>	<i>Conaghan, Michael.</i>
<i>Healy, Seamus.</i>	<i>Corcoran Kennedy, Marcella.</i>
<i>Healy-Rae, Michael.</i>	<i>Costello, Joe.</i>
<i>Kelleher, Billy.</i>	<i>Creed, Michael.</i>
<i>McConalogue, Charlie.</i>	<i>Daly, Jim.</i>
<i>McGrath, Finian.</i>	<i>Doherty, Regina.</i>
<i>McGrath, Michael.</i>	<i>Donohoe, Paschal.</i>
<i>McGuinness, John.</i>	<i>Dowds, Robert.</i>
<i>McLellan, Sandra.</i>	<i>Durkan, Bernard J.</i>
<i>Mathews, Peter.</i>	<i>Farrell, Alan.</i>
<i>Moynihan, Michael.</i>	<i>Feighan, Frank.</i>
<i>Murphy, Catherine.</i>	<i>Fitzgerald, Frances.</i>
<i>Naughten, Denis.</i>	<i>Hannigan, Dominic.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Harris, Simon.</i>
<i>Ó Fearghail, Seán.</i>	<i>Hayes, Tom.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Heydon, Martin.</i>
<i>O'Brien, Jonathan.</i>	<i>Humphreys, Kevin.</i>
<i>O'Sullivan, Maureen.</i>	<i>Keating, Derek.</i>
<i>Ross, Shane.</i>	<i>Kehoe, Paul.</i>
<i>Shortall, Róisín.</i>	<i>Kenny, Seán.</i>
<i>Wallace, Mick.</i>	<i>Lynch, Kathleen.</i>

	<i>McCarthy, Michael.</i>
	<i>McEntee, Helen.</i>
	<i>McGinley, Dinny.</i>
	<i>McNamara, Michael.</i>
	<i>Mulherin, Michelle.</i>
	<i>Murphy, Eoghan.</i>
	<i>Neville, Dan.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Mahony, John.</i>
	<i>O'Reilly, Joe.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Phelan, John Paul.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>
	<i>Spring, Arthur.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Tuffy, Joanna.</i>
	<i>Twomey, Liam.</i>
	<i>White, Alex.</i>

Tellers: Tá, Deputies Charlie McConalogue and Maureen O'Sullivan; Níl, Deputies Emmet Stagg and Paul Kehoe.

Amendment declared lost.

Deputy Jonathan O'Brien: I move amendment No. 17:

In page 14, to delete lines 27 to 34.

Amendment put:

<i>The Dáil divided: Tá, 33; Níl, 54.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Adams, Gerry.</i>	<i>Barry, Tom.</i>
<i>Aylward, Bobby.</i>	<i>Breen, Pat.</i>
<i>Boyd Barrett, Richard.</i>	<i>Bruton, Richard.</i>
<i>Browne, John.</i>	<i>Buttimer, Jerry.</i>
<i>Collins, Niall.</i>	<i>Byrne, Catherine.</i>
<i>Cowen, Barry.</i>	<i>Byrne, Eric.</i>
<i>Dooley, Timmy.</i>	<i>Cannon, Ciarán.</i>
<i>Fitzmaurice, Michael.</i>	<i>Carey, Joe.</i>

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<i>Fleming, Tom.</i>	<i>Coffey, Paudie.</i>
<i>Grealish, Noel.</i>	<i>Collins, Áine.</i>
<i>Halligan, John.</i>	<i>Conaghan, Michael.</i>
<i>Healy, Seamus.</i>	<i>Corcoran Kennedy, Marcella.</i>
<i>Healy-Rae, Michael.</i>	<i>Costello, Joe.</i>
<i>Kelleher, Billy.</i>	<i>Creed, Michael.</i>
<i>McConalogue, Charlie.</i>	<i>Daly, Jim.</i>
<i>McGrath, Finian.</i>	<i>Deenihan, Jimmy.</i>
<i>McGrath, Michael.</i>	<i>Doherty, Regina.</i>
<i>McGuinness, John.</i>	<i>Donohoe, Paschal.</i>
<i>McLellan, Sandra.</i>	<i>Dowds, Robert.</i>
<i>Martin, Micheál.</i>	<i>Durkan, Bernard J.</i>
<i>Mathews, Peter.</i>	<i>Farrell, Alan.</i>
<i>Moynihan, Michael.</i>	<i>Feighan, Frank.</i>
<i>Murphy, Catherine.</i>	<i>Fitzgerald, Frances.</i>
<i>Naughten, Denis.</i>	<i>Hannigan, Dominic.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Harris, Simon.</i>
<i>Ó Cuív, Éamon.</i>	<i>Heydon, Martin.</i>
<i>Ó Fearghail, Seán.</i>	<i>Humphreys, Heather.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Humphreys, Kevin.</i>
<i>O'Brien, Jonathan.</i>	<i>Keating, Derek.</i>
<i>O'Sullivan, Maureen.</i>	<i>Kehoe, Paul.</i>
<i>Ross, Shane.</i>	<i>Kenny, Enda.</i>
<i>Shortall, Róisín.</i>	<i>Kenny, Seán.</i>
<i>Wallace, Mick.</i>	<i>Lynch, Kathleen.</i>
	<i>McCarthy, Michael.</i>
	<i>McEntee, Helen.</i>
	<i>McGinley, Dinny.</i>
	<i>McNamara, Michael.</i>
	<i>Mulherin, Michelle.</i>
	<i>Murphy, Eoghan.</i>
	<i>Neville, Dan.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Mahony, John.</i>
	<i>O'Reilly, Joe.</i>
	<i>O'Sullivan, Jan.</i>
	<i>Phelan, John Paul.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>
	<i>Spring, Arthur.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>

	<i>Tuffy, Joanna.</i>
	<i>Twomey, Liam.</i>
	<i>White, Alex.</i>

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

Amendment declared lost.

Debate adjourned.

12 o'clock

Topical Issue Matters

An Ceann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Dan Neville - a system of accreditation for suicide prevention organisations; (2) Deputy Peadar Tóibín - the murder of three members of the O'Dowd family, and the allegations that these murders were carried out by members of the British security forces; (3) Deputy Thomas Pringle - the striking down by the High Court of the penalty points system for fishermen under the Common Fisheries Policy; (4) Deputy John Browne - the plans for developing Rosslare Port in County Wexford; (5) Deputy Éamon Ó Cuív - seirbhís farantóireachta paisinéara go hÁrainn; (6) Deputy Mattie McGrath - the backlog in single farm payments and other basic farm payments; (7) Deputy Seán Kenny - funding by the Health Service Executive's mental health and disability services to provide a residential placement for an autism sufferer; (8) Deputy Michael Moynihan - wholesale prices in the energy market; and (9) Deputy Mick Wallace - the use of Shannon Airport by the military of the United States of America.

The matters raised by Deputies Dan Neville, Seán Kenny, Thomas Pringle and Éamon Ó Cuív have been selected for discussion.

Leaders' Questions

Deputy Micheál Martin: I was reading again the programme for Government in respect of health, which I have described as one of the great works of political fiction. Let me read the key passage:

This Government will introduce Universal Health Insurance with equal access to care for all. Under this system there will be no discrimination between patients on the grounds of income or insurance status. The two-tier system of unequal access to hospital care will end.

Yesterday, the Taoiseach admitted that his Government had failed in achieving that objective. Leaving aside that objective, I put a question to the Taoiseach yesterday on how he and his Government could have approved the HSE's health service plan for 2016 when the executive itself said it was €100 million short for hospitals. The Taoiseach approved funding for health

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knowing that the HSE is already, in January, €100 million short of what is required to meet the needs of acute hospitals. When I put the question to him, he refused to answer it and implied that the HSE requests every year more money than it gets. In other words, he is playing poker with people's lives.

I ask the Taoiseach to read again pages 90 and 91 of the health service plan. It outlines that there will be a growing and ageing population and greater demand on hospital services. There are overcrowded emergency departments. Cork and Beaumont hospitals are closed to elective admissions. Operations are not being carried out. St. Vincent's hospital was described by a public representative yesterday as being like a war zone, and it was stated the experience of patients there is unimaginable. That hospital had highest number of patients on trolleys in the country yesterday.

People are afraid to go to emergency departments and hospitals. A community nurse in Galway told me that elderly citizens were begging her not to send them into the emergency department in Galway. That is what is happening and there seems to be no realisation of it. Waiting times are getting longer and the numbers on the waiting lists are increasing because of the consistent neglect of health by the Government.

The Minister for Health, Deputy Leo Varadkar, said he will have to use private hospitals and overtime to try to deal with the problem now in the first weeks of January.

An Ceann Comhairle: A question, please.

Deputy Micheál Martin: Does the Taoiseach believe the HSE when it says it is €100 million short for hospitals in 2016? Knowing that there can be no Supplementary Estimate next year, what will the Government do if there is any increase at all in the activity in hospitals in 2016?

Deputy Michael Healy-Rae: Where is Leo?

Deputy Finian McGrath: Hiding.

The Taoiseach: I dealt with the question the Deputy asked yesterday. The Government has approved €13.6 billion for health services this year, which represents an increase of €800 million on last year. We are dealing with circumstances in which 1,000 beds were taken out of the system. We know the demographics and the fact the population is ageing. I pointed out to the Deputy yesterday the increase in the number of attendees with flu-like symptoms at accident and emergency departments and the fact there are 250,000 unused vaccines at present, of which people in vulnerable positions should avail. I also pointed out to the Deputy the importance of having an economy that is capable of dealing with the resources for investment in medical personnel, facilities and providing primary care centres, which are being built on an ongoing basis, and also in community facilities, increasing home care packages and the development of hospital groups evolving into trusts. This is to deal in a systematic way with providing health services of a much better kind for patients. The Deputy encountered all this himself. I am not going back. We can only go forward here. The Deputy asked whether the Government had approved a budget that was inadequate in the eyes of the HSE. What the Government approved was the health service plan submitted by the HSE to the Minister. It includes an allocation of €13.6 billion for 2016, which is an increase of more than €800 million on last year's Estimate. We will not be in a position to provide all the services we need now - doctors, nurses, medical personnel, specialist facilities, the expansion of hospitals, including accident and emergency

facilities, and all of those things - without having an economy that is capable of providing these resources. We had all of that before when an endless pot of money was thrown at a system that was not capable of dealing with it.

The Government has admitted that we have not been in a position to introduce universal health insurance. What it is committed to is a universal health care policy driven through primary care centres and communities and an expansion of facilities in hospitals. As the Deputy knows, 750 extra nurses and 300 consultants and specialists have been recruited in recent years. However, one must have the capacity and resources to employ these people. This means there are difficulties in many cases with patients and people who have to attend hospital for one reason or another. I understand the difficulties and the stress and pressure they cause, not only for front-line staff but also for patients.

Deputy Finian McGrath: People are afraid to attend accident and emergency departments.

The Taoiseach: I remind Deputy Martin that the allocation for 2016 is €13.6 billion, which is an increase of €800 million on last year. In the next number of years, I would like a multi-annual budget to be set out for the health system.

Deputy Billy Kelleher: The Government cannot set out a budget for one year, not to speak of a multi-annual budget.

The Taoiseach: Such a budget would be much more structured than an annual budget and would allow the system to plan in a much better way for the treatment of patients in the home or in the community and hospital sectors.

Deputy Micheál Martin: The Government does not do any of that. The budget has not increased by €800 million, because the Supplementary Estimate introduced at the death of last year was €660 million. In other words, the Government left the health service short at the start of last year. The increase works out at less than €200 million if one adds it up. The HSE is stating simply that, in summary, when account is taken of the 2015 cost of services, the expected growth in costs and initial cost savings, there is a preliminary shortfall of €150 million. While it will do some cash management exercise to reduce this figure to €100 million, it is stating that it will be €100 million short and that one of the options will be cuts in health services.

The frightening thing about the report is the statement on page 91 that day case activity will be delivered at 100% of 2015 levels, while emergency inpatient activity will be delivered at 100% of 2015 levels.

An Ceann Comhairle: The Deputy should ask a question, please.

Deputy Micheál Martin: The population is growing and demands on hospitals are predicted to increase next year, as we must all accept. As a result of an ageing and growing population, the population will increase by 1% and the number of people aged over 65 years will increase by 3.6%. However, the Estimate does not make any provision for additional activity, meaning that children with scoliosis who are already waiting too long for operations will wait longer next year, and other people, including cardiac patients and people with a range of conditions, will wait longer or may not even have operations next year if the Government's policy continues.

An Ceann Comhairle: A question, please.

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Deputy Micheál Martin: We need honesty in the debate about health and services. There is a medical manpower crisis. If one speaks to doctors, nurses and acute health care staff, one finds that they are under enormous pressure. What the Government is doing with the health budget is fraudulent and false.

An Ceann Comhairle: Sorry, Deputy. Will you put a question, please? We are over time.

Deputy Micheál Martin: The Taoiseach is pretending enough money has been provided when he knows in his heart there is not enough money available. He will use language to camouflage this and get the Government over the next five or six weeks.

An Ceann Comhairle: What is the Deputy's question?

Deputy Micheál Martin: What will happen in the rest of the year? I asked the Taoiseach a question about the supplementary health budget, which cannot be provided this year under European Union fiscal rules. How will the health service cope in 2016, given the degree to which the Government has under-provided for it? This is not my analysis-----

Deputy Finian McGrath: There will be more cuts after the election.

Deputy Micheál Martin: -----but the analysis of the Health Service Executive, whose plan the Government approved in the knowledge that it was short €100 million for hospitals.

The Taoiseach: The Deputy set up the Health Service Executive to provide world-class services. As he knows, the HSE has always had a difficulty in spending the money it received, although it may have claimed every year for more and more money. We cannot return to a position in which we continuously throw money at a system that is not reformed or capable of dealing with a situation that has evolved over very many years. It was created when the HSE was set up on top of the old health board system.

The taxpayer is putting up €13.6 billion for health this year, so of course there are requirements for reform and the effective expenditure of this money. The important point here is that one cannot employ the professionals who work on the front line - consultants, doctors, nurses and so on - and provide them with proper facilities unless one has the resources to do so. We have never had that, and we will not have it unless we can develop the economy to a point at which it can continuously do that.

Deputy Micheál Martin: That is my point. The Government is leaving the health service short.

The Taoiseach: The Deputy failed miserably in this regard and abdicated all responsibility.

Deputy Paudie Coffey: He buried himself in reports.

The Taoiseach: In 2015, an extra €117 million was provided to the HSE to deal with overcrowding in emergency departments, and the waiting time for the fair deal scheme was reduced from 16 to four weeks. Even Deputy Martin will accept that this is reasonable and-----

Deputy Micheál Martin: Under this Government, the waiting time increased to 16 weeks.

Deputy Patrick O'Donovan: The Deputy overlooks the minor matter of the economic crisis.

The Taoiseach: -----will allow people to be discharged from hospital.

An Ceann Comhairle: Will Deputies listen, please? We are over time.

Deputy Gerry Adams: The Taoiseach's starting point in dealing with this issue must be that the health service for which he is responsible is in total chaos. Sin é; that is the truth of the matter. Last year was the worst year on record for patients in terms of the indignity and distress of waiting on hospital trolleys. The European health consumer index published recently found that this State had the worst emergency department waiting times among 35 European states. St. Vincent's hospital in Dublin yesterday became the latest hospital to cancel surgeries, following the debacle witnessed at Cork University Hospital last week.

Having promised to fix the health service, the Government has made it worse. Yesterday, there were 517 citizens on trolleys in emergency departments. The Government promised free general practitioner care, an end to prescription charges and the abolition of the Health Service Executive. Broken promise after broken promise and a health service in chaos - that is the Taoiseach's legacy as his Government prepares to leave office.

These difficulties arise because the Government has set its face against developing a universal health service. Fine Gael, the Labour Party and Fianna Fáil are committed to a two-tier system which is dependent on a patient's ability to pay and his or her location. The result is the appalling and chaotic conditions that the Government has refused to address.

If patients were treated as citizens-----

Deputy Patrick O'Donovan: Like in America.

Deputy Gerry Adams: -----they would have a right to health care based on their health needs. If citizens were treated properly in this centenary of 1916, the Government would be obliged to guarantee not only the right to proper health care but also the right to dignity and respect. To do so, it would have to build a public system, but it refuses to do this. That is the nub of the problem. The Government's aim is to privatise health care. It wants to heap even more chaos on a system that is in bits.

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

Deputy Gerry Adams: Mo cheist is as follows.

Deputy Patrick O'Donovan: How are things in America?

Deputy Gerry Adams: After five years in office, will the Taoiseach give a straight answer as to the reason the Government refuses to develop a universal health service for all that is free at the point of delivery and paid for through progressive taxation?

Deputy Patrick O'Donovan: Is that the way it is up North?

Deputy Gerry Adams: That is the question the Taoiseach should answer, and he should ignore the hecklers behind him. Why does the Government not develop a system of universal health care for all, one that is based on equality and health needs and paid for through progressive taxation?

The Taoiseach: The intention was to introduce a universal health insurance system. The Government has been up front about the fact that that is not possible in its lifetime.

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Deputy Gerry Adams: That is a different issue.

The Taoiseach: We also indicated that it was our clear priority to have a system of universal health care which works on a number of levels, including primary care centres, community care, home care packages and investment in hospital facilities and medical personnel. The position is that given our ageing population and the existence of inferior facilities in many of the locations throughout the country, we need to have capacity to invest and provide the best facilities for front-line staff in respect of their patients. As I said to Deputy Martin, €13.6 billion is allocated this year for health and services.

I wish to point out to Deputy Adams again that €117 million was made available for the fair deal scheme.

(Interruptions).

Deputy Aengus Ó Snodaigh: Ask Deputy Michael Lowry to sort out his telephone.

An Ceann Comhairle: Sorry, Taoiseach, a telephone is interfering.

The Taoiseach: I think it could be here, a Cheann Comhairle.

Deputy Gerry Adams: I think it might be Deputy Michael Lowry ringing the Taoiseach.

The Taoiseach: Some €117 million extra was allocated for a reduction in the fair deal scheme from 16 weeks to four weeks, which has allowed for the discharge of patients to free up beds.

Deputy Sandra McLellan: What if they need 16 weeks?

The Taoiseach: Obviously, the expansion of community teams to deliver opportunities for people to be at home and having services outside hospitals, in so far as that is possible, are the aims. Deputy Adams will be aware of the decision, and its implementation by the Government, in respect of free general practitioner access for children under six and people over 70. The next stage is to have it provided for the children of all working families. The increase was substantial on the allocation from last year and amounts to €13.6 billion this year.

Clearly, the Government's intention is to set out a multiannual situation for investment in health which will allow for a far more structured and focused allocation of those moneys. The intention is for hospitals to be paid in respect of what they do rather than simply a blanket annual budget being applied with a percentage increase each year, only to find at the end of each period that the money might not have been spent in the first place. Money is not as flush as it used to be, so it is a case of allocating for the best purpose.

Deputy Adams does down the service of those who work on the front line by some of the statements that he makes. These people work under exceptional pressure, admittedly. The recent discussions between the Irish Nurses and Midwives Organisation and management will, I hope, result in the facilities in accident and emergency units being rectified and presented in order that staff can do their job professionally and in the interests of minding patients to the highest level of service.

Deputy Gerry Adams: I am not doing down health service workers. I have had the experience of being in their care since I came to this part of the island.

Let us go back to what the Taoiseach promised. The Taoiseach promised free GP care for all. Where has that promise gone? The Taoiseach promised to abolish the HSE. Where has that promise gone? The Taoiseach promised to abolish prescription charges. Where has that promise gone? The Taoiseach promised to bring in a universal insurance scheme, but, like the five-point plan, that was simply a public relations stunt.

The Minister for Health, Deputy Varadkar, said that was never going to work. Five years in, the Taoiseach's Minister - not me or anyone here on the Opposition benches - said it was never going to work. He also said that the chief executives of hospital groups should be allowed to transfer management of hospitals to private operations. He said that hospital groups should be able to conduct business in the manner of semi-State companies. That highlights the ideological position of the Government, which, as I have said, wants to privatise our health service.

I asked the Taoiseach a question which he refused to answer. Why has the Government refused to develop a universal health service for all, based on health needs, free at the point of delivery and paid for through progressive taxation?

An Ceann Comhairle: Sorry, we are over time.

Deputy Gerry Adams: I will put my question now. We are on the cusp of an election. Whatever we can say about Margaret Thatcher, she told it as it was. Would the Taoiseach not be better facing into this election by telling people that he wants to privatise our health service? The Taoiseach should tell people that as opposed to all the slíbhín weasel words that he uses to disguise his real intent. That would be the way to deal with the citizens, as opposed to making the promises he has made as he creates more and more instability and chaos in people's lives.

The Taoiseach: The term "weasel words" comes from a different vocabulary and a different time. Perhaps Deputy Adams is used to using those words. As someone who does not use the health service here, Deputy Adams is an objective commentator from outside.

Deputy Gerry Adams: I do use the health service here.

The Taoiseach: Let me reject categorically the statement Deputy Adams has made twice this morning to the effect that it is the intention of Government to privatise the health service. Let me reject that categorically.

Deputy Gerry Adams: Is it the Taoiseach's intention to build a universal health service?

The Taoiseach: The Government is clear that there should be an end to an unfair two-tier system and that there should be a single-tier system whereby people can have access to medical care and attention as close to home as possible and based on their medical needs as distinct from their income or resources. The intention was that we would introduce a universal health insurance system. The Government has been upfront about not being able to do that in the timescale that was set out.

Deputy Gerry Adams: No, it was not.

The Taoiseach: The Government is very clear about having as an absolute priority the introduction of universal health care based on the principles of primary care, community care, home care packages and having an economy that can provide the resources to invest in facilities in hospitals and other locations, as well as the employment of qualified personnel, consultants, doctors, nurses and all of the other medical specialist personnel that are required.

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Deputy Aengus Ó Snodaigh: Use taxes to provide it.

The Taoiseach: We cannot have that unless we have an economy that is thriving and moving forward, unlike the sort of fantasy populism that Deputy Adams comes out with in this House every week-----

Deputy Gerry Adams: The economy should serve the people.

The Taoiseach: -----as if everything can be paid for and provided without having to produce the resources.

Deputy Gerry Adams: The Taoiseach wants the people to serve the economy.

The Taoiseach: Of course, Deputy Adams does not use the system anyway.

Deputy John Halligan: I am afraid that I have to put the Taoiseach under pressure on health today as well. The Taoiseach will recall that in April 2013 I raised the grave concerns of people in my constituency to the effect that Waterford Regional Hospital, as it was then called, was in danger of being downgraded under the proposed hospitals network reconfiguration. Prior to raising that issue, the Taoiseach will remember, an estimated 15,000 people took to the streets in Waterford to raise their concerns. A number of concessions were made at the time to allay the fears of the people of Waterford, including that the hospital would be renamed Waterford university teaching hospital and academic teaching posts would be provided for consultants. We were told this would make it easier to recruit suitably-qualified medical staff. Round-the-clock interventional cardiology services were promised as well. When I raised the issue with the Taoiseach during Leaders' Questions in April 2013, he gave me his word. The Taoiseach said that Waterford would not be downgraded as a result of the reconfiguration.

I wish to draw the Taoiseach's attention to the comments of Michael Murphy, head of University College Cork. He is now threatening to issue a public apology to the people of Waterford for misleading them over false promises from the Government to fund academic appointments at University Hospital Waterford as part of the reconfiguration. It seems the Government commitment, made jointly with the HSE, to appoint three professors, two senior lecturers, a clinical tutor and administrative support has been broken. UCC has agreed to take on the permanent costs of the posts but has sought support from the Department for the funding for the first five years until an income stream is established. This has not been forthcoming. This is why Michael Murphy is now threatening to issue an apology to the people of Waterford.

The people of Waterford and the south east took the Taoiseach at his word when he told me that the hospital in Waterford would acquire the status of a specialised teaching hospital. Does the Taoiseach now acknowledge that in promising these teaching appointments and the 24-hour cardiology services at UHW, the Government has not kept its word? People in Waterford believe they have been sold a pup.

The Taoiseach: Deputy Halligan has raised an important issue. I know that he is raising it in the best interests of facilities for University Hospital Waterford. This matter was the subject of some controversy several years ago. My understanding is that the HSE and the hospital group are working in respect of the appointment of the personnel, including the specialist consultants Deputy Halligan has mentioned, and that the Department has informed University College Cork of that. My understanding is that the process for the appointment and employment of the specialists he has mentioned is under way. I can advise Deputy Halligan later of the exact

position in so far as that is concerned.

Deputy John Halligan: At a press conference to rename University Hospital Waterford in May 2014, the then Minister for Health, Deputy James Reilly, and the Secretary General of the Department of Health again committed the Government to funding these academic posts. Professor John Higgins said that recruiting and retaining clinicians of the highest quality would require the teaching, training, research and innovation that would be needed for the full integration of the mission of that hospital.

I do not know if the Taoiseach is aware that Waterford has had great difficulty attracting consultants in the intervening years. Such is the lack of, for example, dermatology consultants that the service has basically shut down. Only emergency cases are being seen and people must travel to Cork. The rapid access clinic for prostate cancer experiences major delays because no consultant urologist is in place. We regularly have the worst accident and emergency overcrowding in the country, yet we cannot fill the consultant post in emergency medicine. The list goes on.

The failure to sanction these academic posts is hampering the hospital in competing for the recruitment of the best clinical talent available. The research opportunities that would present through these academic posts are not forthcoming. Patients are not benefiting from the latest clinical expertise and knowledge they were promised. Dr. Murphy in UCC wrote to the Department of Health about what he perceives to be the broken promises made to the people of Waterford. I have been told that letter upon letter has gone unacknowledged and unanswered.

The Taoiseach: I do not know the answer to the Deputy's last comment. Waterford is not the only hospital which has had difficulty in recruiting consultants for which advertisements have been placed. I am not sure of the number of advertisements that have been placed for consultants in Waterford, but I am sure the hospital is not alone in this particular difficulty. As I said, my understanding is that once agreement was reached between Waterford and Cork on the processes, facilities and specialties that would be provided in each hospital, the matter would then be followed through on. I understand the appointment of a specialist consultant, something the Deputy mentioned, is under way between the hospital group and the HSE, and that Cork has been notified of that. That is my understanding and I will confirm it to the Deputy when I have the opportunity to do so after leaving here.

Order of Business

The Taoiseach: It is proposed to take No. 14, motion re proposed approval by Dáil Éireann of the terms of the association agreement between the EU and its member states and Central America, back from committee; No. 34, Criminal Justice (Spent Convictions) Bill 2012 [*Seanad*] - Order for Report Stage and Report and Final Stages; and No. 1, Medical Practitioners (Amendment) Bill 2014 [*Seanad*] - Second Stage.

It is proposed, notwithstanding anything in Standing Orders, that in the event a division is in progress at the time fixed for taking Private Members' business, the Dáil shall sit later than 9 p.m. and shall adjourn on the conclusion of Private Members' business which shall be No. 215, motion re social housing, resumed, and shall, if not previously concluded, be brought to a conclusion after 90 minutes; and No. 14 shall be decided without debate.

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Tomorrow's business after Oral Questions shall be No. 14*b*, motion re Standing Orders 6, 6A, 6B, 90, 100 and Schedules; No. 33, Technological Universities Bill 2015 - Report Stage (resumed) and Final Stage; No. 34, Criminal Justice (Spent Convictions) Bill 2012 [*Seanad*] - Report Stage (resumed) and Final Stage; No. 2, Criminal Law (Sexual Offences) Bill 2015 [*Seanad*] - Second Stage; No. 1, Medical Practitioners (Amendment) Bill 2014 [*Seanad*] - Second Stage; and No. 7, Health (Miscellaneous Provisions) Bill 2016 - Order for Second Stage and Second Stage.

It is proposed, notwithstanding anything in Standing Orders, that the proceedings on No. 14*b* shall, if not previously concluded, be brought to a conclusion after 25 minutes and the following arrangements shall apply: the speech of a Minister or Minister of State and of the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group, who shall be called upon in that order, and who may share their time, shall not exceed five minutes in each case; and Deputy David Stanton shall be called upon to make a speech in reply which shall not exceed five minutes.

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 No. 14, motion re proposed approval by Dáil Éireann of the terms of the association agreement between the EU and its member states and Central America, without debate agreed to?

Deputy Aengus Ó Snodaigh: It is not agreed. This is major legislation that went through the European Parliament and was signed, I understand, towards the end of 2012. The situation in Central America has changed substantially since. At the very least the House should give the motion the courtesy of a full debate to see whether an agreement that the European Union is signing with Central America is in fact fit for the purpose for which it was originally intended. There are questions about human rights, and the protection of workers has substantially and dramatically changed for the negative. That has not been taken into account by the agreement

An Ceann Comhairle: You cannot discuss the agreement.

Deputy Aengus Ó Snodaigh: I am not discussing the agreement.

An Ceann Comhairle: This matter has been dealt with by the committee. The debate took place at the committee.

Deputy Aengus Ó Snodaigh: Even if it was dealt with at the committee, the House and I are entitled to debate whether time is allocated for a debate in the House because I believe that all of-----

An Ceann Comhairle: We will ask the Taoiseach about that.

Deputy Aengus Ó Snodaigh: I set out the context. I was finishing my point before I was interrupted. The context is that the situation in the Central Americas has substantially changed since the agreement was originally put in place. We should at least have a respectful debate in the House to reflect that. We have had debates on other motions of this scale. Even when a debate took place in committee we have had a debate in the House afterwards. At least half an hour, if not longer, should be given to a debate on the motion.

The Taoiseach: This matter was dealt with and debated in committee yesterday. It now requires approval by the Dáil. There is no need for it to be debated further at this point.

Question, “That the proposal for dealing with No. 14 be agreed to”, put and declared carried.

An Ceann Comhairle: Is the proposal for dealing with No. 14*b*, motion re Standing Orders 6, 6A, 6B, 90, 100 and Schedules, agreed to? Agreed.

Deputy Micheál Martin: On No. 33, the Technological Universities Bill 2015, there has been enormous disquiet among members of institutes of technology throughout the country about the Bill. There is a very strong sense that their points of view have not been properly articulated, represented or reflected in the Bill, in particular the issue of the mandatory merger-----

An Ceann Comhairle: The Bill is being debated today.

Deputy Micheál Martin: I know that, but I have a proposal on the Order of Business. The proposal in primary legislation, that in order to become a technological university there must be a mandatory merger of institutes of technology, has caused significant disquiet and opposition throughout the country. The issue has not been dealt with properly at a local level. The Bill should be deferred until after the general election, at which time it can be deliberated upon properly and there can be proper consultation with all stakeholders.

The Bill will dramatically change the nature of regional third level education in this country. Regional colleges were established with a very clear mandate in terms of employment and the provision of courses that would facilitate economic growth in the regions. There is a real fear that the original purpose and objectives of regional technical colleges, now institutes of technology, will be diluted over time.

An Ceann Comhairle: I think the Deputy has made his point.

Deputy Micheál Martin: I am asking the Taoiseach in all seriousness, having listened to the people involved, if we would defer passage of this Bill until after the general election.

The Taoiseach: I am not sure to whom the Deputy was talking. The first indication of this came after the closure of a major plant in the south east and the Government’s very early decision was to introduce the potential for technological universities. There is none in the south east, and that is what started the movement. It was a matter for individual institutes of technology if they wished to group together to form technological universities-----

Deputy Micheál Martin: It was to make it mandatory.

The Taoiseach: -----and there were great difficulties between the colleges in the south east. I believe this matter has been discussed and consulted on broadly by the Department of Education and Skills and the colleges. My view is that this has gone on now for a number of years. We are now on Report and Final Stages. It has been through the pre-legislative hearing process, Second Stage, Committee Stage and all that, so I do not see any reason it should be postponed now. Every piece of legislation that is passed can be tested in the context of this particular process. Technological universities are a way of the future for specific sectors-----

Deputy Micheál Martin: I have no issue with technological universities. It is the mandatory merger I am raising.

The Taoiseach: -----which will grow in importance over the years.

Deputy Micheál Martin: A Cheann Comhairle-----

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The Taoiseach: There was extensive consultation about it.

Deputy Micheál Martin: I have two issues.

An Ceann Comhairle: We are nine minutes into the Order of Business.

Deputy Micheál Martin: I know but there are 30 minutes.

An Ceann Comhairle: Other Deputies are offering.

Deputy Micheál Martin: I had intended to raise two points, which I normally get a chance to do. This could be my last day here, a Cheann Comhairle, in terms of this Dáil.

(Interruptions).

Deputy Patrick O'Donovan: John, your time has come.

An Ceann Comhairle: Does Deputy Martin know something I do not know?

Deputy Micheál Martin: That is a good cue for me to put the question to the Taoiseach. Will he confirm that he will be coming into the House on Tuesday to dissolve the Dáil and go to Áras an Uachtaráin to commence the general election? He might be in a position to confirm that.

A Cheann Comhairle, I want the record of the House corrected because last night the Minister, Deputy Alan Kelly, spoke on the Private Members' motion introduced by Deputy Barry Cowen about increasing the number of social housing units, and he stated that 13,000 new social housing units had been built in 2015, which is not the truth and not a clear representation of that.

An Ceann Comhairle: We cannot debate that here.

Deputy Micheál Martin: These are not new social housing units, be it transfers from rent allowance-----

An Ceann Comhairle: The Deputy will be replying to the debate later when I am sure he can make that point.

Deputy Micheál Martin: -----to the housing assistance payment and so on.

Deputy Arthur Spring: They are new tenancies.

Deputy Micheál Martin: Yes, but it is playing with language. To be honest-----

An Ceann Comhairle: We are not debating that now.

(Interruptions).

An Ceann Comhairle: Deputy, please do not encourage him. Thank you.

Deputy Micheál Martin: People are fed up with this misuse and abuse of language in terms of trying to camouflage Government achievements when we all know that housing and homelessness-----

Deputy Patrick O'Donovan: Back to the use of bad language.

Deputy Micheál Martin: The position in terms of housing and homelessness-----

An Ceann Comhairle: Hold on a second. This is the Order of Business.

Deputy Micheál Martin: The record needs to be corrected, and I ask that it be corrected.

An Ceann Comhairle: The Deputy can raise that in the Private Members' debate tonight.

Deputy Aengus Ó Snodaigh: Tá dhá phíosa reachtaíochta agam don Taoiseach. Bhí mé ag súil go mbeadh an Rialtas tar éis críochnú leis an athbhreithniú ar Acht na dTeangacha Oifigiúla faoin am seo. Measaim go bhfuil géarchéim ann ó thaobh na Gaeilge agus na Gaeltachta de agus nach bhfuil go leor déanta ag an Rialtas nó ag Rialtais roimhe seo chun an teanga a chosaint. Is trua nach bhfuil Bille os ár gcomhair agus nach féidir linn cinntiú go bhfuil na cosantaí cuí ann. Tá súil agam go mbeidh sé mar cheann de thosaíochtaí pé Rialtas a théann i gceannas go luath.

Bhí me ag féachaint ar an gcéad fhorógra reachtaíochta a d'fhoilsigh an Rialtas in 2011. Ar an liosta bándearg, which is Bills expected to be published during the summer session in 2011, we have the Electoral Commission Bill to establish a new electoral commission to subsume the functions of exiting bodies. There was no sign of it last year, and there is still no sign of it now, but it was expected to be published in 2016. Is there any hope that, at the very least, we will see the heads of that Bill before the Taoiseach disappears onto the campaign trail?

The Taoiseach: Tá a fhios ag an Teachta go maith go bhfuil níos mó airgid tugtha do Údarás na Gaeltachta, go bhfuil straitéis na Gaeilge leagtha amach, go bhfuil an raic a bhí ar siúl faoin gCoimisinéir Teanga neamhspleách don Ghaeilge réitithe, go bhfuil oibrithe tugtha dó, agus sílim go bhfuil job maith á dhéanamh aige. De réir mar a thuigim, tá cursaí fostaíochta ag dul in airde sna Gaeltachtaí agus ba mhaith liom go leanfaidh sé sin as seo amach.

Maidir leis an gclár Rialtais a rinne an Teachta tagairt do, is fíor go raibh comisiún toghchánaíochta le bunú ag an Rialtas. Tuigim, de réir tuairisc a chur an tAire isteach, go raibh an coiste Oireachtais ag díospóireacht faoi chursaí poiblí faoi seo agus gur chríochnaigh na díospóireachtaí sin ag deireadh mhí Iúil na bliana seo caite. Tuigim freisin go bhfuil an tuarascáil foilsithe ag an gcoiste agus go bhfuil cuid de na moltaí maidir le bunú an choimisiúin toghchánaíochta sa tuarascáil sin. Níl sé léite agam toisc nach bhfaca mé go fóill é, ach tuigim go mbeidh sé ar chumas an chéad Rialtais eile an coimisiún seo a bhunú, ag éirí as na díospóireachtaí a bhí ann, an tuarascáil foilsithe, agus na moltaí atá inti a thabhairt i bhfeidhm.

Deputy Joe Carey: I welcome the €30 million allocation to Clare County Council in respect of local and regional roads. In the context of the recent flooding, extensive damage has been done to local roads, an issue which has been debated in the House. Is the Taoiseach aware whether any work has been done on creating a budget to carry out repairs to local roads-----

An Ceann Comhairle: That is not a matter for the Order of Business. The Deputy knows that.

Deputy Joe Carey: -----which have been damaged by the floods?

An Ceann Comhairle: The Deputy might submit a Topical Issue matter.

The Taoiseach: If I may respond in one sentence, a Cheann Comhairle-----

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Deputy Aengus Ó Snodaigh: Give him a few more bob.

The Taoiseach: -----the local authorities have responded to the flooding consequences throughout the country, and that has been sent to the Minister for Transport, Tourism and Sport. Between that and the humanitarian scheme administered by the Red Cross, the Minister, Deputy Donohoe, will respond to this tomorrow with a budget of in excess of €100 million to deal with the consequences of flooding.

Deputy Arthur Spring: Regarding the upcoming general election, we have just had a Supreme Court finding about the north Kerry elections, particularly in the Listowel area, whereby the guidelines were found to contain a mistake under the Local Elections (Petitions and Disqualifications) Act 1974. Do we need to have those amended before the upcoming election to circumvent the option of somebody taking a constitutional case on whether the results stand up to scrutiny?

The Taoiseach: Does the Deputy mean in respect of the local elections?

Deputy Arthur Spring: The same guidelines will apply to the returning officers.

An Ceann Comhairle: We cannot deal with local elections here.

Deputy Arthur Spring: It is the 1974 Act. Do we need to update the guidelines as a result of what the Supreme Court has found?

The Taoiseach: I will have to get a comprehensive answer for Deputy Spring on that.

Deputy Michael Healy-Rae: It is very important to Dan Kiely.

An Ceann Comhairle: I call Deputy Healy-Rae.

Deputy Michael Healy-Rae: With regard to the programme for Government and the Health (Amendment) Bill, could the Taoiseach explain why home help hours were taken from people?

An Ceann Comhairle: Hold on a second. We are off again.

Deputy Michael Healy-Rae: People who had a home help service on Christmas Day previously did not have it last year.

An Ceann Comhairle: This is the Order of Business. It is not a debate about home help hours.

Deputy Mattie McGrath: Yes, but we talk about the homelessness-----

Deputy Michael Healy-Rae: If someone is receiving home help hours it is a very important issue. On the programme for Government and the commitments given-----

An Ceann Comhairle: There was nothing in the programme for Government about home help hours.

Deputy Michael Healy-Rae: I am sorry but there was.

An Ceann Comhairle: About home help hours?

Deputy Michael Healy-Rae: Yes. The Government gave a commitment about home help

hours.

An Ceann Comhairle: Taoiseach, have you made a commitment about home help hours?

Deputy Mattie McGrath: The five-point plan is down to three now.

Deputy Michael Healy-Rae: Let the Taoiseach answer.

The Taoiseach: Home help hours have been increased but they are subject to arrangements between the local home helps and the persons whom they serve. I am not sure about Deputy Healy-Rae's point about it being withdrawn on Christmas Day.

Deputy Michael Healy-Rae: Yes, it happened.

The Taoiseach: Arrangements are made between the home helps and the people they look after every day or every week. There may have been a local circumstance for that. I do not take it as a given that the home help service was cut off for the person the Deputy mentioned.

An Ceann Comhairle: The Deputy should make further inquiries about that.

Deputy Mattie McGrath: I am also looking for help for homes, but it is for homeowners, given the number of repossessions. Two years ago the Taoiseach laughed at me-----

An Ceann Comhairle: What legislation?

Deputy Mattie McGrath: On the land and conveyancing Acts and the promised judicial council. We have no justice for people and-----

An Ceann Comhairle: Hold on.

Deputy Mattie McGrath: -----they are being railroaded-----

An Ceann Comhairle: The Deputy is getting excited again.

Deputy Mattie McGrath: -----and being trodden on in their homes. Families are being thrown out of their homes. They are queueing up in the courts to get them thrown out. County registrars are treating them appallingly and the Taoiseach knows it. That is why he will not call the election. It is because he is afraid to call it.

An Ceann Comhairle: What legislation is the Deputy talking about?

Deputy Mattie McGrath: I am talking about two pieces of legislation. The judicial council Bill and the Land and Conveyancing Law Reform Act 2013.

An Ceann Comhairle: The judicial what?

Deputy Mattie McGrath: The judicial council Bill, which is supposed to put some respect on the justices and get justice for the people-----

An Ceann Comhairle: Do not go into the contents of it.

Deputy Mattie McGrath: -----and have declarations of interest from the judges. The Taoiseach does not want to meet people in the country who are being threatened in their homes and are being evicted and thrown out. Deputy Healy Rae spoke about Christmas Day.

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An Ceann Comhairle: I think the Deputy has made his point.

Deputy Mattie McGrath: He will not look after any day. When will the Taoiseach meet the people and stop the evictions and the terrorising by the banks?

An Ceann Comhairle: Sorry, Deputy. Do not get excited.

Deputy Mattie McGrath: I am excited about it, and the Taoiseach will be when he meets the people, because he will not be bringing them into the banks for a loan like he did the last time. His five-point plan has gone down to a three-point plan.

An Ceann Comhairle: All right.

Deputy Mattie McGrath: No, seriously-----

An Ceann Comhairle: But seriously - I am dead serious.

Deputy Mattie McGrath: A judicial council was promised as well.

An Ceann Comhairle: Hold on a second.

Deputy Mattie McGrath: The Government promised a judicial council with a charter for judges.

An Ceann Comhairle: I am getting the Taoiseach to answer the question.

Deputy Paul Kehoe: The Deputy is looking to be thrown out.

Deputy Mattie McGrath: I am not looking to be thrown out at all.

The Taoiseach: The matter of judicial council legislation is being worked on.

Deputy Mattie McGrath: It is.

The Taoiseach: Quite a deal of work has been done on it, and obviously it will be produced in due course. Let me confirm to Deputy McGrath there is absolutely no fear at all of blowing the whistle and calling an election, and the people will have their say.

Deputy Mattie McGrath: Off with you then, any time. They are waiting for the Taoiseach.

The Taoiseach: There is no fear at all.

Deputy Mattie McGrath: They are waiting for the Taoiseach in the streets.

The Taoiseach: They are waiting for the Deputy.

Deputy Michael Healy-Rae: Tell that to some of the lads who were in a coma for five years.

Deputy Jerry Buttimer: In the context of the national disability strategy under the Department of Health and the Cabinet sub-committee on social policy, I wish to ask the Taoiseach, in regard to autism, whether speech and language therapy will get priority. Perhaps we could have a debate on this in the House before we dissolve the Dáil.

The Taoiseach: I will have the Whip note that to see whether an arrangement can be made.

An Ceann Comhairle: We will now move on to-----

Deputy Peter Mathews: A Cheann Comhairle-----

An Ceann Comhairle: No thanks.

Deputy Peter Mathews: A Cheann Comhairle-----

An Ceann Comhairle: No. I am not calling you. It is as simple as that. Please resume your seat.

Deputy Peter Mathews: I want to raise something, please.

An Ceann Comhairle: Provided you are in order.

Deputy Peter Mathews: I want to check with you that I am in order this time. Am I allowed to ask the Taoiseach a question about the programme for Government and promised legislation?

An Ceann Comhairle: Promised legislation, yes. Go ahead.

Deputy Peter Mathews: At the very outset of this Dáil term the Taoiseach promised the Irish people he would bring about all of his efforts and energies towards burden sharing-----

An Ceann Comhairle: Here-----

Deputy Peter Mathews: -----and he introduced a Bill in February 2013 to liquidate IBRC and impose €29 billion at the time - in fact, €32 billion-----

An Ceann Comhairle: What legislation is the Deputy inquiring about?

Deputy Peter Mathews: -----on the Irish people. Last week, the Taoiseach was in Davos and was told there was an alternative way-----

An Ceann Comhairle: Deputy, what Bill are you speaking about?

Deputy Peter Mathews: I am talking about the liquidation of IBRC, which is still in progress.

An Ceann Comhairle: That is not on the Order of Business.

Deputy Peter Mathews: It is-----

An Ceann Comhairle: What legislation?

Deputy Peter Mathews: -----in the context of-----

An Ceann Comhairle: This is about promised legislation.

Deputy Peter Mathews: I have another topic to raise, so I do not want to waste too much time on this.

An Ceann Comhairle: Please put the question about promised legislation.

Deputy Peter Mathews: The audit of the European banks showed that the Irish people were unfairly and wrongly burdened-----

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An Ceann Comhairle: The Deputy is not listening to me.

Deputy Peter Mathews: -----with the debts and losses of banks.

An Ceann Comhairle: He should resume his seat if he is not putting a question about promised legislation.

Deputy Peter Mathews: The Taoiseach is in a very powerful position.

An Ceann Comhairle: Deputy, you will be taking a walk again. Please-----

Deputy Peter Mathews: A Cheann Comhairle, please.

An Ceann Comhairle: Please recognise the Chair-----

Deputy Peter Mathews: I will move to the second item.

An Ceann Comhairle: -----and adhere to the rules.

Deputy Peter Mathews: I am disappointed.

An Ceann Comhairle: Promised legislation is what the Order of Business is about.

Deputy Peter Mathews: Yes, but we are all here-----

An Ceann Comhairle: It is not about making speeches about Davos or anywhere else. I called the Deputy reluctantly and I regret it very much.

Deputy Peter Mathews: The leaders of the Opposition brought up all the failures and the hurts to the Irish people, including-----

An Ceann Comhairle: Will the Deputy put his question about promised legislation?

Deputy Peter Mathews: -----hospitals, homelessness and housing waiting lists, and if the Taoiseach had €25 billion in funds-----

An Ceann Comhairle: Sorry, Deputy, will you put your question?

Deputy Peter Mathews: -----he would be able to deal with all of those things.

An Ceann Comhairle: Will you put your question about promised legislation?

Deputy Peter Mathews: The second point is about Ibrahim Halawa. Has the Taoiseach lifted the phone to the President of Egypt?

An Ceann Comhairle: Will the Deputy please resume his seat? That is out of order.

Garda Síochána (Amendment) Bill 2016: First Stage

Deputy Niall Collins: I move:

That leave be granted to introduce a Bill entitled an Act to provide for the protection of journalists' sources.

This Bill, which was drafted by the Fianna Fáil party and submitted in my name, arises from issues which arose in the public media in the past two or three weeks regarding access to phone records of certain members of the journalistic community. It is important to point out that none of us is above the law, and this includes journalists. At the same time, it is of paramount importance that the independence and freedom of the press are respected and upheld.

The issue that came to fore, and that was brought to our attention, was the fact that the test that GSOC applied on whether to access the records of journalists - and, by extension, people with whom they had been in contact - was not clear. There is no transparency around it; nor is there an appeals process or oversight mechanism. To assuage these fears and concerns, and to protect the independence and freedom of the press and the independence of GSOC, we have drafted and tabled this Bill, which provides for judicial oversight of GSOC when it seeks to access the phone records of a journalist or broadcasting organisation. It allows the parties having their records accessed to make a submission to the High Court as part of the oversight process. GSOC would apply to the High Court for an authorisation to access phone records, and the journalist would have the opportunity to make a submission or objection as part of the process. The Bill has a double benefit in that it provides an opportunity for journalists to have their say, to protect their sources and to uphold their independence and the freedom of the press, while at the same time bolstering the independence of GSOC, which has a very important job to do and is charged under various legislation, primarily the Garda Síochána Act 2005, with doing a very important job on behalf of the citizens of the country.

An Ceann Comhairle: Is the Bill opposed?

The Taoiseach: No.

Question put and agreed to.

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

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

Question put and agreed to.

Health Disclosure Bill 2016: First Stage

Deputy Denis Naughten: I move:

That leave be granted to introduce a Bill entitled an Act to provide for a procedure to facilitate the disclosure of a patient safety incident; and to provide for related matters.

As we know, medicine is not an exact science and neither is midwifery. When medical professionals meet a patient they take the patient's history, examine the patient, carry out tests and then use their professional judgment to make a diagnosis. Sometimes this professional judgment is wrong. It does not mean the person is a bad doctor or a bad midwife, but that the person has called it wrong. This is the nature of medicine; it is a judgment call. It does not necessarily mean every mistake is negligent.

To put it in context, if someone walks out in front of a car and is seriously injured, the driver

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is not the one at fault even though it was his or her car who hit the pedestrian. However, if the driver drives away from the scene of such an incident, there is an issue of liability. This is what we allow in the health profession at present. It happens every day. Approximately 60 complaints a day are received by the HSE on medical issues. These patients are being effectively abandoned by the system in place at present because of the lack of management of these cases. People are then forced into taking legal action, and must sue the hospital and medical professionals to find out what happened, what went wrong and how to have the situation rectified. We have a defensive system in this country, which is inhumane and insensitive and forces people through the legal system.

1 o'clock

Every year about 17,500 people are admitted to hospital because they have been prescribed medicine in error. About 160,000 patients are injured within our health system every year. The majority of them do not take claims and many of them do not even know a mistake has been made, yet we have this culture of cover-up, denial and putting people, especially parents of profoundly disabled children, through an adversarial legal process for years upon years before they can get answers and resources to deal with the needs of their child.

It is interesting that a survey of doctors conducted by the Medical Council showed that only half would report instances of significantly impaired or incompetent colleagues. That is a damning indictment of the profession and of the culture that is there at the moment. Where there has been irreversible health damage, we need to admit mistakes. We need to outline what we can do to alleviate or rectify the problem and to ensure that if compensation is required, this compensation is paid over without this policy of defence and denial, which exists within our medical profession at the moment.

In fairness to the Minister, Deputy Varadkar, he was committed to the approach I have proposed in this legislation, as was his predecessor, the former Minister for Health, Deputy James Reilly. However, last November the Minister decided to introduce a voluntary scheme, whereby there would be voluntary disclosure, which could not form part of a legal case down the road. There should be a legal responsibility on every medical professional, if they make a mistake, to hold up their hands and admit it, to face the patient and explain to them what went wrong, how this issue can be rectified or addressed and how we can ensure it will never happen again. I do not think that is too much to ask. Much evidence, particularly in the US, shows that people are less likely to bring legal cases when that approach is taken. At the moment, there are 2,844 cases before the State Claims Agency, with a potential cost of €1.1 billion, in respect of medical claims alone. Would it not be far better if that money were spent on front-line health services, rather than on defending indefensible legal cases?

An Ceann Comhairle: Is the Bill opposed?

The Taoiseach: No, it is not being opposed.

Question put and agreed to.

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

Deputy Denis Naughten: I move: “That the Bill be taken in Private Members’ time.”

Question put and agreed to.

EU Association Agreement with Central America: Motion

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

“That Dáil Éireann approves the terms of the Association Agreement between the European Union and its member states, on the one hand, and Central America on the other, signed at Tegucigalpa, Honduras on 29 June 2012, a copy of which was laid before Dáil Éireann on 6 January 2016.”

Question put:

<i>The Dáil divided: Tá, 69; Níl, 13.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Aylward, Bobby.</i>	<i>Broughan, Thomas P.</i>
<i>Barry, Tom.</i>	<i>Colreavy, Michael.</i>
<i>Breen, Pat.</i>	<i>Daly, Clare.</i>
<i>Bruton, Richard.</i>	<i>Doherty, Pearse.</i>
<i>Buttimer, Jerry.</i>	<i>Fitzmaurice, Michael.</i>
<i>Byrne, Catherine.</i>	<i>McGrath, Finian.</i>
<i>Byrne, Eric.</i>	<i>McLellan, Sandra.</i>
<i>Calleary, Dara.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Cannon, Ciarán.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Carey, Joe.</i>	<i>O’Brien, Jonathan.</i>
<i>Coffey, Paudie.</i>	<i>O’Sullivan, Maureen.</i>
<i>Collins, Áine.</i>	<i>Pringle, Thomas.</i>
<i>Collins, Niall.</i>	<i>Shortall, Róisín.</i>
<i>Corcoran Kennedy, Marcella.</i>	
<i>Cowen, Barry.</i>	
<i>Creed, Michael.</i>	
<i>Daly, Jim.</i>	
<i>Deasy, John.</i>	
<i>Doherty, Regina.</i>	
<i>Donohoe, Paschal.</i>	
<i>Dooley, Timmy.</i>	
<i>Dowds, Robert.</i>	
<i>Durkan, Bernard J.</i>	
<i>English, Damien.</i>	
<i>Farrell, Alan.</i>	
<i>Feighan, Frank.</i>	
<i>Fleming, Tom.</i>	
<i>Grealish, Noel.</i>	

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<i>Griffin, Brendan.</i>	
<i>Healy-Rae, Michael.</i>	
<i>Heydon, Martin.</i>	
<i>Humphreys, Heather.</i>	
<i>Humphreys, Kevin.</i>	
<i>Keating, Derek.</i>	
<i>Kehoe, Paul.</i>	
<i>Kelleher, Billy.</i>	
<i>Kenny, Enda.</i>	
<i>Kenny, Seán.</i>	
<i>Kitt, Michael P.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Kathleen.</i>	
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McGrath, Mattie.</i>	
<i>McGuinness, John.</i>	
<i>Moynihan, Michael.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Eoghan.</i>	
<i>Naughten, Denis.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Feargháil, Seán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Phelan, John Paul.</i>	
<i>Reilly, James.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>Twomey, Liam.</i>	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Aengus Ó Snodaigh and Jonathan O'Brien.

Question declared carried.

Sitting suspended at 1.19 p.m. and resumed at 2.19 p.m.

Topical Issue Debate

Common Fisheries Policy

Deputy Thomas Pringle: I spoke to the Minister for Agriculture, Food and the Marine, Deputy Coveney, and he explained that he could not be here to take the Topical Issue, due to the change in the Dáil schedule.

The second High Court judgment on the penalty points system, given yesterday, sets out very serious flaws in the operation of the system and how it has been implemented. It goes to the heart of how the statutory instrument that introduced the penalty point system was brought through the House. SI 3/2014 established the penalty point system and the Sea-Fisheries Protection Authority, SFPA, is the body responsible for its implementation. It was introduced in the House and passed without any debate or discussion.

The Oireachtas Joint Committee on Agriculture, Food and the Marine held a consultation only after the statutory instrument had been published. The SFPA came before the committee on 3 March 2014 to discuss how the penalty point system would operate. At the meeting, the same problem for which the High Court struck down the statutory instrument was raised. This is very significant. Deputy Michael McNamara said:

Any measure that applies EU law must be compatible with the Charter of Fundamental Rights ... anyone whose rights and freedom are violated has a right to an effective remedy - that is, a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law.

In yesterday's judgment, the High Court judge reiterated this point and said:

It is necessary to inform a licence holder that a panel will be convened to assess evidence of alleged infringements and whether to assign points to the licence.

This goes to the heart of the problem with the penalty points system. If it is agreed to apply points to a licence holder, there is an appeal mechanism, but the appeal takes place in secret with no representation by the person impacted by the penalty points. The High Court highlighted this as the inherent problem with it. It is very unreasonable to expect fishermen to go to this extreme, to take a case to the High Court to vindicate their rights, particularly given the inadequate scrutiny of these measures in the House and in the relevant committee. Many of the issues were flagged in the committee, but unfortunately the legislation had already been passed.

I read the transcript of the committee meeting and it seemed the SFPA was not too enamoured of the way in which the system was being established and had concerns about it. Several times during the committee hearings, I emphasised that these would have to be tested. This is

a very bad way of making legislation and rules that impact on people's ability to make a livelihood for themselves. In its evidence to the committee, the SFPA stated, "The key issue is that our job as a regulator is not the writing of the SI but the enforcement of the SI." It went on to state:

It is the decision of the Department which wrote the SI, taking direct advice from the Attorney General's office on that specific matter. It is reasonable to question the validity of that approach. It is what is on the Statute Book. It has not been tested yet and is quite explicit.

This has very serious implications and shows that even the body charged with administering the penalty points system had very serious concerns about it. If we had a proper, robust consultation and scrutiny system in the Oireachtas, we might have averted some of these problems and avoided forcing fishermen to go to the extreme of going to the High Court to vindicate their rights.

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes): I thank the Deputy for his understanding about the Minister not being available. The imposition of points for the licence holder of a vessel involved in a serious infringement of the Common Fisheries Policy, CFP, is set out in Article 92 of Council Regulation (EC) No. 1224/2009 and the detailed rules for its implementation are set out in Commission Regulation (EC) No. 404/2011. These regulations place the obligation on the flag member state of the vessel to assign the points to the licence holder as a result of a serious infringement detected in that or any other member state's waters.

The European Commission has clarified, at Ireland's request, that its legal services have advised that it is the responsibility of the coastal member state to determine whether a serious infringement has been carried out by a vessel of another member state operating in its exclusive fisheries. It is also the responsibility of the coastal member state to advise the number of points to be assigned by the flag member state in respect of that serious infringement. The flag member state does not have discretion. This very welcome clarification confirms Ireland's interpretation of the EU legal framework.

The control regulations were introduced so that there is a common EU level playing field and to provide for an effective range of controls across EU waters. The intention of the EU points system is to have harmonised point sanctions for serious infringements across member states where the judicial and administrative sanctions can vary wildly between member states for the same offence. The points systems, thus, introduced an element of a level playing field for fishers.

In January 2014, SI 3 of 2014 gave effect to the requirements of Article 92 of EU Council Regulation (EC) No. 1224/2009 and Commission Implementing Regulation (EC) No. 404/2011, known as the control regulations. The statutory instrument set out a system for the assignment of points to the licence holder in an administrative system which was separate to the criminal proceedings against the master of the vessel as a result of the infringement. The points system, as required under EU law, applies to the licence holder where a serious infringement of the Common Fisheries Policy by a fishing vessel is detected.

The statutory instrument was prepared in close co-operation with the Office of the Attorney General. However, in the past two weeks the High Court has given judgment in two judicial re-

view cases in which points were assigned based on this statutory instrument. These judgments were handed down yesterday and last Friday week. However, importantly, no order has yet been made. Both parties have been invited to make a submission to the court on the nature of the order to be made regarding the first judgment. The matter, therefore, continues to be before the court and, as such, is *sub judice*. It would not be appropriate to provide further comment on these cases here today.

It is necessary to deliver an effective system for the assignment of points to both licence holders and masters of fishing vessels where serious infringements are detected. This continues to be an obligation upon the State under the Common Fisheries Policy control regulations. Ireland has a pilot infringement case taken by the European Commission regarding the delay in implementing a points system for masters, which requires primary legislation and which is being prepared by my Department. It will be important that a points system is in place and is effective for both licence holders and masters, and the Attorney General's advice on the arrangements for licence holders taking account of the court judgments will inform the Minister's consideration of the way forward. As already stated, the matter is still before the courts and is *sub judice*, and it would be inappropriate to comment on the judgments.

Deputy Thomas Pringle: I welcome the students from St. Eunan's College, Letterkenny, to the Visitors Gallery, who are here for a tour of the House. I thank the Minister of State for his response on the court cases that have taken place. Given that some of the issue is already in the public domain, it is appropriate to comment on it and address it in the House. As I outlined earlier, it is vitally important.

There have been several problems with the operation of the penalty points system since it has been implemented. Several times here and in the committee I have raised the issue of points that were issued to a Danish fishing vessel last year, and which the Danish authorities refused to allocate to the vessel when it was notified by the SFPA. This issue was raised in the committee in 2014. I asked whether the points system would come into effect in every coastal state at the same time and whether we were sure that a non-Irish vessel allocated penalty points here would receive them from the coastal state to which the vessel belonged. Those issues have come home to roost now. They were addressed in committee at the time, when this system was being rolled out. I take on board what the Minister of State has said about this vitally important matter. When I spoke to the Minister earlier, he outlined to me that he will see what the judgment says and will amend the penalty points system, at the very least, if there is a requirement to do so. I think there will be such a requirement as it is automatic at this stage. I urge the Minister of State to make the point to the Minister that if this needs to be done, it must be the subject of proper consultation and it must be addressed by the Houses of the Oireachtas. Hearings need to be held by the committee when it is reconvened after the general election so that this matter can be scrutinised fully. These problems cannot be allowed to arise again. It is not fair and equitable for fishermen to have to take High Court cases to have their rights vindicated. This could have been got right in the first place. At this stage, it has to be got right second time around.

Deputy Tom Hayes: I will relate the Deputy's request to the Minister. I understand the Deputy and the Minister had a discussion on this matter earlier today. As the Deputy knows, the Minister is quite open to talking to people. I will certainly relate the points made by the Deputy to the Minister and the officials in the Department. Obviously, we will come back to this issue. The Minister will discuss it with the Deputy when the judgment has been received.

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Acting Chairman (Deputy Bernard J. Durkan): In accordance with an order of the Dáil of 17 December last, I must interrupt proceedings and call on the Minister of State at the Department of the Taoiseach, Deputy Kehoe, to move a motion which will be decided without debate.

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

That, in relation to the final report of the Joint Committee of Inquiry into the Banking Crisis which was circulated to members of Dáil Éireann on 27 January 2016 –

(1) the report shall be published in accordance with section 40(1)(a) of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013; and

(2) the report shall be laid before Dáil Éireann and made public pursuant to Standing Order 107G.

Acting Chairman (Deputy Bernard J. Durkan): That was the quickest piece of business we are likely to do today.

Question put and agreed to.

Topical Issue Debate (Resumed)

Suicide Bereavement Support

Deputy Dan Neville: I am pleased to have an opportunity to raise this issue. I thank the Minister of State, Deputy Kathleen Lynch, for her attendance and her record in contributing to mental health awareness and suicide prevention during the lifetime of this Government. Over the past 25 years, there have been many changes in how we address the issue of suicide in Ireland. Suicide was decriminalised in 1993 after I had brought three Private Members' Bills to the Seanad. The publication of the report of the national task force on suicide in 1998 was followed by the national strategy for action on suicide prevention, Reach Out, which covered the period from 2005 to 2014. These reports, along with the more recent Connecting for Life strategy, have contributed to our knowledge and understanding of suicide. I hope this will lead to a reduction in suicide levels and an improvement in the supports provided to those who are suicidal and those who have been bereaved by suicide.

Over many years, community groups have been working to support people in crisis and to reduce the suicide rates in their communities. Some of these groups operate on a national basis and support communities through local branches. Other groups were set up in response to local tragedies. Regardless of the size and structure of these groups, all of them make an invaluable contribution to reducing the risk of suicide in Ireland. It has been established that as many as 250 or 300 groups provide support to those who are at risk of suicide. The truth is that we do not know the actual figure because the sector is fragmented, with many groups working in isolation. Parts of the country are over-subscribed with support organisations, while gaps in support services exist in other parts of the country. Over the past 25 years, national and regional forums and networks have been established to share information and provide support to one another in the work they do. If we are to tackle this issue, we need to take the next step in developing our

response to suicide prevention. We can do this by pulling together the collective knowledge of all the groups working in the sector and by creating a national forum into which regional networks can make an input and from which such networks can learn.

In 2013, the Irish Association of Suicidology invited the University of Ulster to draw up a report on the establishment of an accreditation model for groups working in suicide prevention. This was supported by the National Office for Suicide Prevention. The aim of the establishment of such a model would be to create a sector that can offer an improved response to those who require the services of voluntary organisations, to ensure voluntary suicide prevention groups look after their volunteers and staff and to create a forum in which experience, innovation, knowledge and the mistakes made by the voluntary sector can be shared. The idea of accreditation is not new. The American Association of Suicidology has had such a model in place since 1976. It has been talked about in Ireland since 2007. It is proposed to allow the sector to develop its own model, rather than having a model imposed on it by the State. Under the model that is proposed, the sector sets standards based on best practice within their own organisations. Groups are encouraged and supported to reach the standards they have set. With the Minister's support, funding to develop this model and commence work was agreed with the National Office for Suicide Prevention.

In March 2011, a small group of organisations working in the area of suicide prevention and operating accreditation models were consulted to see if and how the accreditation model could work in the suicide prevention sector. Over 100 organisations that provide suicide prevention services were consulted. The outcome of both consultations endorsed the need for such a model and emphasised the importance of the model being developed and run by the sector itself. There is no quick solution when such a model is being developed. The suicide prevention sector, like any other sector, has its own particular nuances that need to be addressed by the model being put in place. The development of this model will take approximately a year. A further two years will be required to allow groups to make the transition from their current operating practices to the accredited model. The benefits for service users and groups will reward the effort and time that will have to be put in over a period of three years. We envisage that the accreditation model will advise, support and assist established groups and those that will get involved in this area in years to come. This is happening on an ongoing basis. Best practice is to be advised when suicide prevention organisations are being set up and operated. This is in the interests of ensuring maximum assistance can be provided at local and national levels to voluntary organisations that seek to prevent suicide, to create an understanding of the issues around suicide and mental ill-health and, of course, to assist the suicidal and advise the bereaved on how to deal with these tragic cases.

Minister of State at the Department of Health (Deputy Kathleen Lynch): I thank the Deputy for raising this important issue for discussion. It has been and continues to be a priority of the Government to deal with the current high levels of suicide and deliberate self-harm. While we will never eliminate suicide completely, we can and must make every effort to reduce the number of lives lost to suicide by ensuring a broad range of Departments, State agencies, non-statutory organisations and - perhaps most importantly - local communities are involved in a co-ordinated partnership with the aim of tackling this issue. Equally, I believe we should have a zero tolerance approach to suicide. As the House will be aware, the Government published *Connecting for Life*, which is Ireland's national strategy to reduce suicide, in June of last year. The strategy, which covers the period from 2015 to 2020, sets out a vision of an Ireland where fewer lives are lost through suicide and where communities and individuals are empowered to

improve their mental health and well-being. Connecting for Life has seven goals: better understanding of suicidal behaviour; supporting communities to prevent and respond to suicidal behaviour; targeted approaches for those vulnerable to suicide; improved access, consistency and integration of services; safe and high-quality services; reduce access to means; and better data and research.

Suicide is a complex problem and addressing suicidal behaviour means supporting people in many different ways. It also requires a co-ordinated effort across many different sectors and levels of society, from service providers, communities, families and friends. Connecting for Life places a major value on partnership and is designed to co-ordinate and focus the efforts in suicide prevention. The National Office for Suicide Prevention helps to support a wide array of work in communities, in partnership with the voluntary sector across the country, that focus on promoting positive mental health and reducing suicide and self-harm by providing very substantial amounts of grant funding each year as well as by assisting in co-ordinating and giving strategic direction to the work undertaken.

One of the objectives in the new strategy is to develop and implement national standards and guidelines for statutory and non-statutory organisations contributing to suicide prevention, which is what the Deputy is looking for. A working group comprising representatives from community, statutory and voluntary organisations was established to progress the development of a set of national minimum standards for organisations working in the area of suicide prevention. The work of this group is well advanced. In December 2015, the group submitted a first draft report to the National Office for Suicide Prevention, and this is currently under consideration. A range of local and national services provide suicide bereavement support to families and communities. The National Office for Suicide Prevention, Console and Turas le Cheile have developed national quality standards for all levels of bereavement support in Ireland. These standards provide a significant resource for those organisations providing support to individuals at a very vulnerable time in their lives. In addition, a number of service evaluations have been commissioned by the National Office for Suicide Prevention, with a view to ensuring that services which receive funding from NOSP are safe, effective and evidence-based and are in line with the goals and objectives in Connecting for Life. It is the Government's hope that the implementation of this new strategy will help us achieve our goal of fewer lives lost through suicide through an improved response to suicide, including improved access to high quality services.

I thank the Deputy. We are coming near to the time an election will be called and I know the Deputy is not standing. On behalf of all those who have had an interest in mental health, whether good or bad, down through the years, I thank him for being one of the pioneers in the area and one of the very first to talk about it in an open fashion in this House.

Deputy Dan Neville: I thank the Minister of State for her kind words about the work done by many organisations in which I have been involved over more than a quarter of a century, before we decriminalised suicide. We should recognise the advances made in our understanding and the greater openness on the issue of suicide and mental ill-health. We still have a long way to go to full understanding and to destigmatising the area of mental ill-health. Some work has been done but a large amount of stigmatisation still exists, as is shown in research in the past few years by Amnesty International and St. Patrick's Hospital. That work is ongoing and hopefully we will see the fruits of that in the coming period.

It is important that we have and co-ordinate a national relationship with new groups starting

up in the area to help them with understanding, knowledge, advice and training. These groups do a lot of very good work in their communities and there is much support out there because a lot of work is done when these groups are sought out for assistance. When one wants to set up a group because of a tragedy in an area, a bereaved family is often very helpful in doing it. They often talk to me about what should be done, how they would do it and where they would take it. The work they want to complete is so important and value can be added to their work by the establishment of a clear set of guidelines and advice on how we could advance and encourage them. Such groups can become very isolated, in time, in a particular area.

I reiterate my thanks to the Minister of State for the work she has done on mental health and for her commitment to it. Hopefully those of us who are involved in the area will have the opportunity to continue in some way. We recognise the work of the Minister of State and her commitment over the period of this Government.

Deputy Kathleen Lynch: I do not want this to turn into a mutual admiration society but I thank the Deputy and I appreciate his words more than those of most. It is important we continue to develop both national guidelines and standards for people who do what they do out of the goodness of their hearts. They want to do the very best job possible so it is essential that the message which is delivered is both safe and effective. The only people who we can be sure will abide by the standards and the guidelines are those we fund. We do not fund everyone and those we do not fund are very anxious to get the training and insights others have gained. People in this area only want to do their best and everybody comes with clean hands. We have made a difference - I say "we" deliberately because I am talking about the people of Ireland - in attitudes towards mental health and that attitude has probably had a more profound effect than anything else we have done.

Deputy Dan Neville: This is probably my last contribution, after 26 years, to a debate in this House. I thank the many people with whom I have been involved and who have supported, assisted and even opposed me over that period. It has been an enormous privilege and an honour to have had an opportunity to make a contribution in our national Parliament. In the year that we commemorate 100 years since the 1916 Rising, it is a marvellous and humbling experience to sit in the Parliament for which they died. I thank the many staff I have had over 26 years, the various leaders of the Fine Gael Party and others who supported the work I do, especially in the area of mental health and suicide. I thank the Fine Gael Party for giving me the opportunity to be a Member of the Oireachtas in that period in both the Seanad, for eight years, and the Dáil, where I have been for almost 19 years. Above all, I thank the constituents of Limerick West, now County Limerick, for their support in sending me to this House and the Seanad electorate for sending me there in the period before this. It was an enormous privilege and I sincerely thank the Acting Chairman for giving me the opportunity to thank my family and my supporters, friends within my organisation and people who voted for me and who worked so hard to keep me here. Go raibh míle maith agaibh.

Acting Chairman (Deputy Bernard J. Durkan): In recognition of the long service Deputy Neville, like many others, has given to the Houses of the Oireachtas, it should be said that it was a service characterised by participation, perseverance and a spirit and goodwill to pursue his objectives in a way that was not offensive to anybody but was inclusive of all. The Deputy can be rightly proud.

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Mental Health Services Provision

Deputy Seán Kenny: I thank the Ceann Comhairle for selecting this issue and I thank the Minister for coming to the House to respond. Before I start, I wish to pay tribute to Deputy Neville and to his distinguished record in the House, particularly on the issue of suicide. Like him, I am not contesting the next election, but I hope to get an opportunity later, when I speak on another Bill, to say my farewell. At present, however, I am anxious to raise this issue on behalf of a family in Donaghmede in my Dublin North-East constituency, with their consent to refer to the details of their case.

Their adult son, Igor, who suffers from autism, has been under the care of the HSE mental health and disability services for more than five years, and since last year he has been an in-patient of the acute psychiatric unit at the Ashlin Centre in the grounds of Beaumont Hospital. It has been acknowledged by the HSE mental health and disability services that Igor's needs would be better met by a placement in a residential care setting rather than in an acute psychiatric unit, and his parents have been assured that the HSE is working proactively in progressing this solution. The problem that is causing anxiety to both Igor and his parents is the delay in providing the funding for the provision of a suitable residential placement. His parents were informed on several occasions in recent months that a decision would be made very soon. Most recently, they were told that a decision would be made yesterday, but their hopes, which had been raised so many times previously, were dashed once again. They sent me an e-mail yesterday afternoon, which I will quote with their permission:

We received a call from our social worker today to say Nua [the placement centre] can go ahead with referral but meeting regarding funding is not for another two weeks, when we were told it would be today or tomorrow. We were absolutely devastated over this and cannot understand how disability and mental health cannot meet to discuss our case.

They have also described to me the effect of the ongoing delays on Igor, which is very apparent when they visit him.

The reason I raise the matter in the House today is to try to get clarification of why the decision on funding continues to be deferred in this case.

Deputy Kathleen Lynch: As Deputy Seán Kenny said, there will be another opportunity to mention the fact that he is not standing in the next election. I will not say he is going away or retiring because I do not believe anybody ever retires entirely from politics.

I thank the Deputy for raising this matter today and I am pleased to outline the position. Deputy Seán Kenny and I have already had a discussion on this and, hopefully, we will do more than what is in my formal reply. The modern mental health service, integrated with other areas of the wider health service, extends from promoting positive mental health and suicide prevention through to supporting those experiencing severe and disabling mental illness. It includes specialised secondary care services for children and adolescents, adults, older persons and those with an intellectual disability or a mental illness. The development of a mental health service is a priority for the Government. We have provided an additional €160 million in ring-fenced funding over 2012-16 to modernise mental health services in line with the commitments in *A Vision for Change* and the programme for Government. This provided approximately 1,150 additional posts to enhance mental health and suicide prevention services generally. Of these, approximately 947 had been recruited as of the end November 2015, while the remainder are at

various stages of the recruitment process.

The Ashlin Centre is a centre caring for patients with a range of mental illnesses. In view of the sensitivities involved, although I understand that the parents of this young man have given the Deputy permission to speak on the matter, I do not propose to go into great detail about the individual circumstances. However, as I mentioned, I have spoken to the Deputy in a private capacity and he has outlined the young man's circumstances to me. I am informed that the person in question is under the care of a consultant psychiatrist and receiving a high level of nursing and multidisciplinary care. The multidisciplinary team involved will work actively to ensure that whatever supports are required are in place to enable this person to transfer to the most appropriate care setting when they are ready to be transferred or discharged. I understand that north Dublin mental health services are currently working with a provider with a view to assessing and accessing an appropriate residential care package to meet this person's future care needs. The HSE has assured me that it will keep this person's family updated on developments, as the Deputy has confirmed with regard to the communications that have occurred with the family.

It is quite difficult to go into detail when one is talking about an individual case, but I have assured the Deputy that I will make further inquiries. I am sure the resolution to this young man's difficulties will be achieved shortly.

Deputy Seán Kenny: I thank the Minister. I accept that the Government has provided additional funding for this area during its term of office and that additional posts have been created. Nevertheless, the question regarding this young man, Igor, remains, as well as the fact that his family has not received a definite timescale for his transfer from the psychiatric unit to a care placement in a more residential setting. I accept the Minister's statement that there is confidentiality surrounding this issue but I am heartened by the fact that she will make further inquiries. I hope there will be a result quite soon.

On a more general level, and while I have time to raise this, there is the general question of the suitability of an acute psychiatric unit as a place to treat an autism sufferer. I accept that it can be difficult to deal with an autism sufferer but, as a lay person without any medical qualifications, I do not consider an acute psychiatric unit the best place for a person who has autism. I hope that this matter might be addressed again when policy is being formulated.

Deputy Kathleen Lynch: I will respond on the general point, as it is not appropriate to go into the details of this young man's case. Conditions such as autism, Asperger's syndrome, intellectual disability, acquired brain injury and dementia are not preventatives of poor mental health. Sometimes, a person who has autism or Asperger's syndrome can become acutely unwell mentally. It does not always sit side by side, but it happens. That is the reason we must be very careful to be clear about how we deal with people. Of course, if the only issue is autism, the person should not be in an acute unit. However, we do not know that. It could well be the case that the person has difficulties with their mental health as well.

That is the reason that this year, with the €35 million we have secured in the budget, we will develop a dual diagnosis service, which we have not had previously and do not have at present. We are in the process of developing it. Until now, if a person had a difficulty with his or her mental health and also had a chronic alcohol problem, for example, the people in mental health services could quite correctly say that the person could only come to those services when he or she was dry, while the people who dealing with the addiction could equally say it was a mental

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health problem. The dual diagnosis element is something we must develop. It could very well be the issue in this case. I am not certain, but it is the case in some instances that people who have an overarching condition could have a mental health problem as well. I believe the dual diagnosis clinical pathway should be able to deal with that.

An Leas-Cheann Comhairle: I also wish Deputy Kenny the very best on his retirement. As one Galway person to another, I bring him good wishes from the county.

Deputy Seán Kenny: Go raibh maith agat.

An Leas-Cheann Comhairle: We will keep in touch.

3 o'clock

Seirbhísí Farantóireachta

Deputy Kathleen Lynch: I will be giving the reply in English.

Deputy Éamon Ó Cuív: That is no problem. I understand a little bit of English. With the indulgence of the Leas-Cheann Comhairle, I note that the Minister of State is in her last week and I wish her all the best also. We have had a series of Deputies in one after another who are in their last active week in the House. To leave the House is a big transition for those of us who have become institutionalised.

Deputy Kathleen Lynch: I thank the Deputy.

Deputy Éamon Ó Cuív: I note to the Minister of State that I have never had any problem with people using English. I have always believed that the policy in the House on language should be the same as that in the European Parliament. People should speak in the language in which they are comfortable speaking. If I go to the European Parliament and do not understand the language, I use the translation facilities and reply, usually in English although I have used Irish at Council of Ministers' meetings. Obviously, I do not speak most continental languages and have always felt that it would be better for the Irish speakers in the House if we could normalise that code of practice here. On the other hand, I will be speaking in Irish on this subject as the Irish language media are very interested in it and need the audio information.

Deputy Kathleen Lynch: I understand that.

Deputy Éamon Ó Cuív: I dtosach báire, ba mhaith liom buíochas a ghabháil leis an Aire Stáit as ucht teacht isteach sa Teach inniu. An fáth go príomha go bhfuil muid anseo ná mar gheall ar an tseirbhís farantóireachta go hOileáin Árann, ach mar is eol don Aire Stáit, bhí raic ann cheana, anuraidh, maidir leis an tseirbhís eitleáin go dtí na hoileáin agus faomhadh réiteach gearrthéarmach bliana ar sin. Go deimhin, ceann de na ceistanna atá agam inniu ná, cén uair a lorgófar tairiscintí le haghaidh seirbhís bhuan eitleáin go dtí na hoileáin?

I láthair na huaire, tá fadhb ollmhór ann maidir leis an tseirbhís farantóireachta paisinéirí go hInis Mór. Tuigtear dom go bhfuil scéal thart go bhfuil socrú éigin déanta le Island Ferries go mbeidh sé ag leanacht ag cur na seirbhíse ar fáil ó Dé Luain seo chugainn ar aghaidh. Ach tá a fhios agam nach bhfuil léas ag muintir an oileáin ar chéard iad na socrúithe seo. Tá éiginnteacht

uafásach ag baint leis an gceist seo ar fad. Má tá duine ag cónaí ar oileán, is mar a chéile an tseirbhís báid nó an tseirbhís eitleáin agus an bóthar dúinne atá inár gcónaí ar an mórthír. Go minic, ní thuigtear é sin. Ní féidir le saol oileáin dul ar aghaidh má tá éiginnteacht ann faoi na bunseirbhísí farantóireachta agus rochtana go dtí na hoileáin.

Tá dearmad mór déanta maidir le seirbhísí go dtí na hoileáin. Mar shampla, d'éirigh an fhadhb seo an t-am seo mar nár cuireadh conradh in áit dhá bhliain ó shin, mar atá ag na hoileáin eile ar fad agus mar a bhí go dtí sin in Inis Mór, ag deimhniú caighdeán na seirbhíse, rialtacht na seirbhíse agus na táillí cearta do na hoileánaigh. Ag éirí as an socrú nua a deirtear linn atá déanta, ba mhaith liom na ceisteanna seo a chur ar an Aire Stáit. Cén socrú atá déanta go baile-ach? Cén fhad a mhairfidh an socrú nua seo? An bhfuil sé i gceist socrú buan, mar shampla conradh cúig bliana, a chur in áit a dhéanfadh cinnte de go mbeidh seirbhís ag na hoileánaigh? Cén táille atá i gceist? Faoi láthair, i gcás gach oileán eile, táthar ag caint ar €10 do dhaoine fásta agus €5 do scoláirí agus daoine óga.

In Inis Mór, ainneoin gurb é an t-oileán is mó uilig agus go bhfuil an lion is mó paisinéirí ag dul isteach agus amach as, bíonn ar na hoileánaigh €15 a íoc le dul isteach agus amach, agus €8 le haghaidh mic léinn agus daoine óga. An gcuimsíonn an socrú seo laghdú táille i gcomhréir leis na socrúithe atá déanta ar na hoileáin eile ar fad, Oileán Thóraigh, Árainn Mhór, Oileán Chliara, Inis Toirc, Inis Bó Finne, Inis Meáin, Inis Oírr agus na hoileáin i gCorcaigh - an tOileán Mór, Oileán Faoide, an tOileán Fada, Inis Earcáin agus ceann amháin eile, Hare Island?

Ba mhaith liom a fháil amach freisin céard iad na socrúithe atá déanta maidir leis an gconradh seo. Cé mhéid a chosnóidh sé in aghaidh na bliana nó in aghaidh na míosa? Cé mhéid a bheidh á íoc leis an tseirbhís a chur ar fáil? Tá muintir an oileáin fiosrach faoi conas go bhfuil an Roinn in ann íoc anois ach nach raibh sé in ann íoc go dtí seo le socrú buan a chur in áit.

Deputy Kathleen Lynch: I thank the Deputy for his comprehensive questioning and for raising this important matter. While I am not sure I will be able to give him all the answers he needs, I will ensure that the questions he asked will be answered. It is a day for compliments and I also thank him for being so courteous about my lack of Irish. I really appreciate that. I am taking the matter on behalf of the Minister of State, Deputy Joe McHugh.

Great progress has been made over the past number of years in improving the lives of islanders. Deputy Ó Cuív and the Leas-Cheann Comhairle can both take some credit for that. Since the 1990s, there has been a basic increase in the number of State-funded ferry services. Of course, transport services have long been identified as having the utmost importance for island communities and various Governments have invested massively in infrastructure and ferry services to ensure that islanders could live in their own area. Currently, the Department of Arts, Heritage and the Gaeltacht has 26 ferry contracts in respect of 19 islands and these contracts cover passenger, freight, bus and air services. The Department has spent in excess of €100 million on island infrastructure projects over ten years. Much of that expenditure related to the redevelopment of Cé Chill Rónáin in Árainn, which port is undoubtedly very important to the island and the region. Over 250,000 passengers, including islanders and tourists, use the port at Cill Rónáin each year. I am satisfied at this point that good infrastructure is available to the inhabited offshore islands and that good progress has also been made with regard to the development of sustainable communities on the islands notwithstanding restricted resources.

I will focus now on the matter of the ferry service to Árainn. As the Deputy is undoubtedly aware, the passenger ferry contract to Árainn, Inis Mór, came to an end on 31 January 2013. At

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that time, the Department undertook a public tendering process in the usual manner to agree a new five-year contract up to 31 January 2018. However, no tender for the service was received by the Department at that time. In the absence of a tender, discussions were held between the Department's officials and the ferry operator providing the service to explore the possibility of a new contract on the same terms as the previous contract. While those talks failed, the service continued at the existing frequency. Again in 2014, the Department decided to seek public tenders in the usual manner for a contract to end on 31 October 2017 to coincide with the expiry of the contract with Aran Ferries Teo for the Inis Meáin and Inis Oírr services. One tender was received from Aran Ferries Teo and a committee was formed to assess it. As part of the negotiations, a meeting was held between the Department and the company on 22 October 2014. Following much discussion, the company decided to leave matters as they were, that is, without a contract with the Department, and that Aran Ferries Teo would continue to provide the service throughout the winter as well as the summer. The ferry operator was happy to continue the annual service at the same frequency without a subsidy from the Department.

The current difficulty arises from the by-laws to be implemented by Galway County Council at Cé Chill Rónáin. I understand that talks have taken place with Galway County Council regarding these difficulties. The ferry operator had stated that the service was to discontinue at the end of this month. The Minister of State, Deputy McHugh, held meetings with community representatives from Árainn and with Galway County Council and his Department was in touch with the ferry operator on a number of occasions. The last of these meetings took place yesterday, 26 January, and I am delighted to inform the Deputy that, as a result, agreement has been reached with the ferry operator that the service will now continue until the end of April 2016 and thereafter throughout the summer. The operator has agreed that he is willing to provide the same service as had been in place until the present difficulties arose.

In welcoming this development, I emphasise that it has always been the Minister of State's intention to ensure the community on Árainn has an adequate and regular ferry service throughout the year, winter and summer, and his Department's intervention has guaranteed that this will be the case. I understand the islanders in this instance are eager to have a regular and dependable ferry service and the Department will examine the possibility of assisting with the provision of such a service for the Árainn community in order that islanders can promote the sustainable development of the island and share equally in the economic and social life of the nation. It is important that our islands be supported and that their communities continue to live on them.

Deputy Éamon Ó Cuív: Bhí orm gáire a dhéanamh faoin gcéad phíosa den oráid a tugadh don Aire Stáit, mar ceapaim gur mé féin a chuir ann na seirbhísí breise ar fad atá luaite maidir leis na hoileáin idir 1997 agus an t-am ar fhág mé an Roinn in 2010. Go deimhin, chuir mé ceist Dála maidir le caiteachas ar infreastruchtúr na n-oileán lá amháin agus níor tosaíodh oiread agus togra amháin de luach €1 milliúin nó níos mó ar na hoileáin sa gcúig bliana go bhfuil an Rialtas seo i gcumhacht. Caitheadh an €100 milliúin sin a luaigh an tAire Stáit, nó rinneadh socruithe an €100 milliúin sin a chaitheamh, i rith mo thréimhse mar Aire, ach níl ansin ach scéal thairis.

An áit a bhfuil an fhadhb anseo ná nach bhfuil conradh buan ann. Tá díomá orm nach bhfuil an tAire Stáit tar éis a rá go bhfuil i gceist conradh buan a chur in áit le déanamh cinnte de go mbeidh seirbhís ar phraghas réasúnach do na hoileánaigh ar fáil go hInis Mór. Tá sé aisteach gurb é an t-oileán leis an daonra is mó go bhfuil an costas is mó ar dhul isteach agus amach ann do na hoileánaigh. Creidim gur cheart go gcuirfí é sin ina cheart.

An bhféadfadh an tAire Stáit dul ar ais agus an t-eolas a fháil amach agus a thabhairt dom de bharr na ceisteanna seo a bheith tógtha sa Dáil inniu le gur féidir an t-eolas a thabhairt chuig na hoileánaigh? An bhfuil Conradh Aontaithe le Island Ferries nó an socrú é mar a bhí ann cheana, socrú ó lá go lá, nó an mbeidh aon rud sínithe a chinnteoidh go mbeidh an tseirbhís ann? An mbeidh na rialacha céanna ag baint leis an tseirbhís agus a bhí ann cheana? Céard iad na táillí a ghearrfar ar na hoileánaigh? An mbeidh an táille náisiúnta i gceist, is é sin €10 fillte do dhaoine fásta, nó an bhfuil i gceist faoin socrú nua seo go leanfaidh siad ag íoc €15?

Caithfidh cuimhneamh ar dhuine a bhfuil clann aige a bhíonn ag dul isteach agus amach, nó cuimhneamh ar scoil atá ag iarraidh gasúr a thabhairt chuig cluichí peile. Déanann an táille breise an-difriocht go deo dóibh. Ní bhfuair mé mórán freagraí nó ní bhfuair mé aon soiléiriú faoi chéard atá ar bun. Sílim go bhfuil sé thar am ag an Aire trédhearcacht a thaispeáint agus a rá go díreach céard é an socrú atá déanta aige. Céard iad na sonraí den socrú atá déanta aige ó thaobh táille, minicíocht agus caighdeán an bháid? An bhfuil an socrú sin buan nó an bhfuil muid ag maireachtáil le socrú nua eile ó lá go lá nach bhfuil aon chinnteacht ann go mairfidh sé?

Deputy Kathleen Lynch: As I stated, the last of these meetings took place yesterday, 26 January. I understand that there is a lack of detail concerning the cost, but that is easily addressed. My reply was self-explanatory. I stated that I was delighted to inform the Deputy that agreement had been reached with the ferry operator to the effect that the service would continue until the end of April 2016. While this is not into the ever-lasting distance, it may give us enough breathing space to reach a more structured and concrete arrangement. The agreed service will continue throughout the summer of 2016. The operator has agreed that he is willing to provide the same service as had been in place until the present difficulties arose. I am assuming that this entails frequency, times, scale, cost, etc. The same service-----

Deputy Éamon Ó Cuív: There is a problem. The nub of the issue is whether there is a verbal agreement that does not include payment and, therefore, the islanders on Inis Mór will pay €5 more per round trip than islanders on other islands.

Deputy Kathleen Lynch: I understand the question.

Deputy Éamon Ó Cuív: We do not know whether this is some kind of understanding or a firm legal contract. That is what we are trying to find out.

Deputy Kathleen Lynch: I do not have that level of detail-----

An Leas-Cheann Comhairle: The Minister of State to conclude.

Deputy Éamon Ó Cuív: It is cynical of the Department to-----

Deputy Kathleen Lynch: -----but I will do my best to get it for the Deputy.

Deputy Éamon Ó Cuív: I am not blaming the Minister of State.

Deputy Kathleen Lynch: I know.

Deputy Éamon Ó Cuív: The Department is being less than open about its arrangement. Sooner or later, we will wrinkle the information out of it. Why could it not explain whether this was a verbal or concrete arrangement?

Deputy Kathleen Lynch: The only commitment I can give the Deputy is that this type of

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detail refers to the gap between now and the end of the summer, which I assume will be mid-September to late September depending on how good a summer we have, something that is debatable in this country. I assume the time will be used to put a firmer commitment in place.

I do not have details on the cost, but the service is to be provided in the same way it used to be until the difficulties arose. I assume the cost, times and frequency will be the same, but I will try to get the details for the Deputy.

Deputy Éamon Ó Cuív: I am disappointed. I thank the Minister of State, but it will be disappointing for the islanders if the service has the same cost. They will be paying 50% more per round trip than any other islander. This point seems to have been missed.

Deputy Kathleen Lynch: When I mentioned the same cost, I meant the cost before “the present difficulties arose”, which is what my speech read.

Criminal Justice (Spent Convictions) Bill 2012 [Seanad]: Order for Report Stage

Minister for Justice and Equality (Deputy Frances Fitzgerald): I move: “That Report Stage be taken now.”

Question put and agreed to.

Criminal Justice (Spent Convictions) Bill 2012 [Seanad]: Report and Final Stages

An Leas-Cheann Comhairle: Amendments Nos. 1, 2, 65, 76 and 77 are related and may be discussed together. Recommittal is necessary in respect of amendment No. 1 and the related amendments as they relate to the instruction to committee motion.

Bill recommitted in respect of amendments Nos. 1 and 2.

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

In page 3, line 9, after “time;” to insert the following:

“to amend the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 and the Garda Síochána Act 2005;”.

The purpose of these amendments is to enable us to use the Bill to amend the National Vetting Bureau (Children and Vulnerable Persons) Act 2012. I also propose making a very minor amendment to the section of the Garda Síochána Act relating to vetting. The objective is to move the legislation on and deal with the issues in regard to vetting.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 2:

In page 3, between lines 11 and 12, to insert the following:

“PART 1

PRELIMINARY AND GENERAL

Short title, collective citation, construction and commencement

1. (1) This Act may be cited as the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016.

(2) The National Vetting Bureau (Children and Vulnerable Persons) Act 2012 and Part 3 may be cited together as the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016 and shall be construed together as one Act.

(3) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.”.

Amendment agreed to.

Bill reported with amendments.

An Leas-Cheann Comhairle: Amendments Nos. 3, 4, 11 and 69 are related drafting amendments and may be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 3:

In page 3, between lines 11 and 12, to insert the following:

“Definition

2. In this Act “Minister” means the Minister for Justice and Equality.”.

These are minor drafting amendments that insert the section defining “Minister” and make provision in respect of expenses.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 4:

In page 3, between lines 11 and 12, to insert the following:

“Expenses

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 5, 33, 40 to 44, inclusive, 46, 50 to 54, inclusive, 70 to 74, inclusive, and 93 to 96, inclusive, are related drafting amendments and may be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 5:

In page 3, line 12, to delete “Act” and substitute “Part”.

These are minor drafting amendments to have an orderly structure in the Bill. We are creating three Parts to the Bill. The first concerns general and preliminary matters, the second concerns spent convictions, and the third concerns amendments to the National Vetting Bureau Act 2012. Throughout the Bill, we have had to amend the various references to “Act” and substitute “Part”. The amendments are purely technical.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 6, 8 to 10, inclusive, 12 to 29, inclusive, and 31 are related. Amendments Nos. 13 to 15, inclusive, are physical alternatives to amendment No. 12. They may all be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 6:

In page 3, lines 23 and 24, to delete “relevant custodial sentence or a relevant non-custodial sentence” and substitute “custodial sentence or a non-custodial sentence”.

The amendments are to alter slightly the meaning of the terms “relevant sentence” and “relevant non-custodial sentence” in order to harmonise the wording between the Criminal Justice (Spent Convictions) Bill and the vetting Act. Section 4 of the Bill will become redundant. I, therefore, propose that it be deleted. I am not proposing changes to the duration of relevant sentences. The Bill already provides that convictions resulting in prison sentences of up to 12 months can become spent. I appreciate that some Deputies would like to see the prison term that can become spent increased to a term of up to four years. However, having regard to the very serious offences that could then become spent, I am unable to agree to this. An examination of the Courts Service’s sentencing database shows that if I were to accept a limit of four years, it would allow offences such as the possession of firearms, armed robbery and major drugs offences to become spent. The Government simply cannot agree to such proposals.

As the Deputies will be aware, the Law Reform Commission recommended that only sentences of up to six months could be spent, and we have already exceeded that recommendation. The 12-month cut-off covers over 85% of all custodial sentences handed down by the courts. Any yardstick or regime that allows that proportion of custodial sentences to become spent should be acceptable.

Deputy Thomas Pringle: Amendment No. 8 relates to what the Minister has been saying about the term of a conviction that can become spent. Her argument on the period of 48 months does not really hold up. This legislation is trying to bring us into line with what other countries have determined in respect of how spent convictions can actually be dealt with. When this Bill was first introduced, in 2012, it was argued that a period of 12 months was not long enough. We were talking about two years. Things have moved on considerably, even since 2012. As the Bill stands, if we stick with a period of 12 months, we will actually be 35 or 40 years behind our nearest neighbours, the Six Counties and Great Britain, with regard to what kind of custodial sentence can be viewed as spent. It is not reasonable to argue some very serious offences could be spent if we stuck to a term of 48 months. The Department has three or four years to review this Bill. It is that long since we dealt with Second and Committee Stages but I am sure the Minister could have devised a way to allow serious convictions, such as convictions for the possession of firearms or drugs, not to be classed as spent. It would have been technically possible to achieve that.

The actions of an individual who received a custodial sentence for an offence committed

at a difficult time, perhaps in his late teens or early 20s, may be regarded as completely out of character years later. However, such an individual is not able to move on at any stage and that is why we should consider being progressive and having a period of 48 months. I had supposed the very idea behind the Criminal Justice (Spent Convictions) Bill was to allow people to be rehabilitated, move on and recover their lives. People who have a conviction dating back perhaps 40 or 50 years are still being penalised. I know of an individual in his early 60s who was convicted 44 years ago but who cannot get insurance today as a consequence. These are the kinds of circumstances we should be examining. Those who receive a conviction at a difficult time in life have to live with it for the rest of their lives. We could really have found a way to ensure sentences of up to 48 months, excluding for very serious convictions, such as for armed robbery or the possession of firearms, are excluded. I am sure the Department had the wherewithal to do that.

Deputy Niall Collins: Following on from what Deputy Pringle said, our amendment seeks to extend the 12-month period to 14 months. As with any of the debates we have on time periods, one must pick a cut-off point. Could the Minister clarify why she picked a period of 12 months? She stated this would cover 85% of convictions. Is there any more information she could give us to help us explain to somebody, if asked, why a period of 12 months was picked rather than a longer one?

Deputy Pádraig Mac Lochlainn: I apologise for being a little late. The schedule has changed very quickly. Unfortunately, I must leave because I must chair the Joint Committee on Public Service Oversight and Petitions at 4 p.m. I must leave soon to prepare for that.

One of the issues of concern is the Good Friday Agreement. It requires that there be an equivalent level of human rights protection in both parts of the island. In the North, the law is such that sentences of up to 30 months may become spent. The Irish Penal Reform Trust, with which we agree, argues the term should be 48 months; hence, the amendment. At the very least, there should be equivalence with the law in the North.

There is concern over political prisoners. The law has had an impact on their employment rights in many regards. The people of Ireland voted overwhelmingly in favour of the Good Friday Agreement, which calls for human rights equivalence across the island and for political prisoners to be able to move on with their lives as long as they do not reoffend. The legislation, as presented by the Minister, does not provide for equivalence. That is unfortunate because, as Deputy Pringle stated on the wider point concerning the time periods, depending on the category of offence, 12 months is not a sufficiently long period.

Deputy Frances Fitzgerald: I thank Deputies for their contributions. Different sentences are handed down for offences in the North and the United Kingdom and different regimes are in place for spent convictions. In the United Kingdom, for example, a four-year limit applies to spent convictions but only non-custodial sentences become spent under the UK system. The provisions in the Bill are more generous than the provisions in place in Australia and New Zealand where only non-custodial sentences are spent. As such, different regimes are in place in respect of the length of time involved.

Deputy Niall Collins asked why a cut-off point of one year was selected. As I indicated, the 12 month cut-off point covers more than 85% of all custodial sentences handed down by the courts. The proposed amendments to the Betting Act, which I will introduce later in the debate, will provide that certain District Court convictions will not be disclosed by the Garda

vetting unit. These include any motoring offence more than seven years old and minor public order offences more than seven years old. In addition, where a person has only one District Court conviction other than motoring or public order convictions, that conviction will also not be disclosed after seven years. Some exemptions must apply, however. Convictions for sexual offences will be disclosed and all convictions for offences which would provide a bona fide concern that a person would pose a threat to a child or vulnerable person will continue to be disclosed. These offences are listed in Schedule 3, which will be added to the Act in amendment No. 92.

The effect of the provisions is that a large percentage of convictions will no longer be disclosed in Garda vetting disclosures. A pilot project on this issue was carried out in the past year and worked out well.

Amendment put and declared carried.

An Leas-Cheann Comhairle: Amendments Nos. 7 and 34 are related and may be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 7:

In page 3, line 27, to delete “by a court” and substitute “by a court, other than the District Court”.

The purpose of these amendments is to allow that excluded sentences under the spent convictions regime will not exclude sentences in the District Court. Amendment No. 7 will ensure that on those relatively rare occasions on which the District Court imposes consecutive sentences, which will become less rare following the introduction of new legislation on burglary, where the total sentence exceeds 12 months’ imprisonment, the consecutive sentence of the District Court will not trigger the sentence becoming an excluded sentence.

Amendment No. 34 provides that where a District Court conviction is appealed to the Circuit Court and confirmed by that court, it remains a District Court conviction for the purposes of this Bill.

Amendment agreed to.

Deputy Thomas Pringle: I move amendment No. 8:

In page 3, line 28, to delete “12 months” and substitute “48 months”.

Amendment put:

<i>The Dáil divided: Tá, 30; Níl, 56.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Aylward, Bobby.</i>	<i>Barry, Tom.</i>
<i>Broughan, Thomas P.</i>	<i>Butler, Ray.</i>
<i>Browne, John.</i>	<i>Buttimer, Jerry.</i>
<i>Calleary, Dara.</i>	<i>Byrne, Catherine.</i>
<i>Collins, Niall.</i>	<i>Byrne, Eric.</i>
<i>Colreavy, Michael.</i>	<i>Carey, Joe.</i>
<i>Daly, Clare.</i>	<i>Coffey, Paudie.</i>

<i>Fitzmaurice, Michael.</i>	<i>Conaghan, Michael.</i>
<i>Fleming, Sean.</i>	<i>Coonan, Noel.</i>
<i>Fleming, Tom.</i>	<i>Costello, Joe.</i>
<i>Grealish, Noel.</i>	<i>Creed, Michael.</i>
<i>Halligan, John.</i>	<i>Daly, Jim.</i>
<i>Healy-Rae, Michael.</i>	<i>Deasy, John.</i>
<i>Kirk, Seamus.</i>	<i>Deenihan, Jimmy.</i>
<i>Mac Lochlainn, Pádraig.</i>	<i>Doherty, Regina.</i>
<i>McConalogue, Charlie.</i>	<i>Dowds, Robert.</i>
<i>McGrath, Finian.</i>	<i>Durkan, Bernard J.</i>
<i>McGuinness, John.</i>	<i>Farrell, Alan.</i>
<i>McLellan, Sandra.</i>	<i>Feighan, Frank.</i>
<i>Mathews, Peter.</i>	<i>Ferris, Anne.</i>
<i>Moynihan, Michael.</i>	<i>Fitzgerald, Frances.</i>
<i>Murphy, Catherine.</i>	<i>Griffin, Brendan.</i>
<i>Naughten, Denis.</i>	<i>Hannigan, Dominic.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Harris, Simon.</i>
<i>Ó Feargháil, Seán.</i>	<i>Heydon, Martin.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Howlin, Brendan.</i>
<i>O'Sullivan, Maureen.</i>	<i>Humphreys, Heather.</i>
<i>Pringle, Thomas.</i>	<i>Humphreys, Kevin.</i>
<i>Shortall, Róisín.</i>	<i>Keating, Derek.</i>
<i>Wallace, Mick.</i>	<i>Kehoe, Paul.</i>
	<i>Kelly, Alan.</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>McEntee, Helen.</i>
	<i>McFadden, Gabrielle.</i>
	<i>McGinley, Dinny.</i>
	<i>Mitchell O'Connor, Mary.</i>
	<i>Mulherin, Michelle.</i>
	<i>Neville, Dan.</i>
	<i>Ó Ríordáin, Aodhán.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Mahony, John.</i>
	<i>O'Reilly, Joe.</i>
	<i>Quinn, Ruairí.</i>
	<i>Rabbitte, Pat.</i>
	<i>Ring, Michael.</i>

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	<i>Ryan, Brendan.</i>
	<i>Spring, Arthur.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Tuffy, Joanna.</i>
	<i>White, Alex.</i>

Tellers: Tá, Deputies Pádraig Mac Lochlainn and Thomas Pringle; Níl, Deputies Emmet Stagg and Paul Kehoe.

Amendment declared lost.

Deputy Niall Collins: I move amendment No. 9:

In page 3, line 28, to delete “12 months” and substitute “2 years”.

Amendment put and declared lost.

Deputy Frances Fitzgerald: I move amendment No. 10:

In page 3, line 30, to delete “relevant non-custodial” and substitute “non-custodial”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 11:

In page 4, to delete line 1.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 12:

In page 4, lines 2 to 4, to delete all words from and including “ “relevant custodial sentence”, in line 2 down to and including “court” in line 4 and substitute the following:

“ “custodial sentence”, in relation to a person convicted of an offence, means any sentence of imprisonment imposed by the District Court or a sentence of imprisonment for a term of 12 months or less imposed by any other court”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 13 to 15, inclusive, cannot be moved.

Amendments Nos. 13 to 15, inclusive, not moved.

Deputy Niall Collins: I move amendment No. 16:

In page 4, line 9, to delete “12 months” and substitute “2 years”.

Amendment put and declared lost.

Deputy Thomas Pringle: I move amendment No. 17:

In page 4, line 9, to delete “12 months” and substitute “48 months”.

Amendment put and declared lost.

Deputy Niall Collins: I move amendment No. 18:

In page 4, line 13, to delete “12 months” and substitute “2 years”.

Amendment put and declared lost.

Deputy Thomas Pringle: I move amendment No. 19:

In page 4, line 13, to delete “12 months” and substitute “48 months”.

Amendment put and declared lost.

Deputy Niall Collins: I move amendment No. 20:

In page 4, line 14, to delete “12 months” and substitute “2 years”.

Amendment put and declared lost.

Deputy Thomas Pringle: I move amendment No. 21:

In page 4, line 14, to delete “12 months” and substitute “48 months”.

Amendment put and declared lost.

Deputy Niall Collins: I move amendment No. 22:

In page 4, line 17, to delete “12 months” and substitute “2 years”.

Amendment put and declared lost.

Deputy Thomas Pringle: I move amendment No. 23:

In page 4, line 17, to delete “12 months” and substitute “48 months”.

Amendment put and declared lost.

Deputy Niall Collins: I move amendment No. 24:

In page 4, line 21, to delete “12 months” and substitute “2 years”.

Amendment put and declared lost.

Deputy Thomas Pringle: I move amendment No. 25:

In page 4, line 21, to delete “12 months” and substitute “48 months”.

Amendment put and declared lost.

Deputy Niall Collins: I move amendment No. 26:

In page 4, line 25, to delete “12 months” and substitute “2 years”.

Amendment put and declared lost.

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Deputy Thomas Pringle: I move amendment No. 27:

In page 4, line 25, to delete “12 months” and substitute “48 months”.

Amendment put and declared lost.

Deputy Frances Fitzgerald: I move amendment No. 28:

In page 4, line 31, to delete “relevant non-custodial” and substitute “non-custodial”.

Amendment agreed to.

Amendment No. 29 not moved.

Deputy Frances Fitzgerald: I wish to make a correction in accordance with Standing Order 140. I ask the Leas-Cheann Comhairle to direct the Clerk to make a minor drafting correction to the text of the Bill. Amendment No. 12 removes the word “relevant” from the definition of relevant custodial sentence. As a result, this definition should be moved so that it appears after the definition of court in order to follow the alphabetical sequence of definitions. This is being done in the interests of textual clarity and does not affect any substantive amendments.

An Leas-Cheann Comhairle: Is that agreed? Agreed.

Amendments No. 30, 35 to 39, inclusive, 84, 92 and 97 to 99, inclusive, are related and may be discussed together. Amendments Nos. 36 and 37 are physical alternatives to amendment No. 35. Amendments Nos. 98 and 99 are physical alternatives to amendment No. 97.

Bill recommitted in respect of amendment No. 30

Deputy Frances Fitzgerald: I move amendment No. 30:

In page 5, to delete lines 3 to 6.

These amendments are the most substantive before us today. I would like to explain in detail the reasons for the changes I am proposing in the Bill and in the National Vetting Bureau (Children and Vulnerable Persons) Act 2012. The Criminal Justice (Spent Convictions) Bill and the commencement of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 have been significantly delayed due to the outcomes of important legal cases based on the right to privacy provisions set out in Article 8 of the European Convention on Human Rights. The UK Court of Appeal case, known as the case of R (on the application of T) v. Chief Constable of Greater Manchester and others, found that the indiscriminate disclosure of all criminal records is incompatible with the right to privacy under this article of the European Convention on Human Rights.

The appeals court found that the disclosure of criminal convictions must be based on principles of relevance and proportionality. Moreover, there must be a degree of coherence between the legislation providing for spent convictions and any legislation providing for the disclosure of criminal convictions for certain categories of employment. Since this specific case, further cases have arisen in the UK due to the fact that the UK Rehabilitation of Offenders Act and the legislation providing for the Disclosure and Barring Service procedures are at odds with each other. Put simply, any offences excluded from vetting disclosures because they are not relevant should also be spent convictions. Equally, there must be some consistency in policy regarding convictions under each piece of legislation.

The proposed amendments to the vetting Act 2012, which I am bringing forward today, will provide, as I have outlined to the House, for a range of convictions that will now not be disclosed by the Garda vetting unit. I have given the list to the House. It includes motoring and minor public order offences more than seven years old. Where a person has one and only one district court conviction other than motoring or public order convictions, that conviction also will not be disclosed after seven years, except for the two exemptions I mentioned earlier in regard to sexual offences. Where there is bona fide concern that a threat would be posed to a child or vulnerable person, offences would continue to be disclosed, and these are listed in Schedule 3 to the Bill. The provision will apply to well over 80% of all cases heard in the District Court. The Garda vetting unit has been in operation for the past year, and the non-disclosure procedures have been working satisfactorily.

I would like to explain the rationale for allowing all District Court convictions for motoring and public order offences to be non-disclosable after seven years and why that time period was selected. Currently, the road transport operator regulations provide that any minor traffic offence over ten years old is not taken into account when people are applying for road transport operator licences. Similar provisions apply to taxi licensing. Following discussions between my Department and the Department of Transport, Tourism and Sport, it has been agreed that the seven-year limit being proposed in these amendments can also be applied to the Department of Transport, Tourism and Sport, with some minor modifications in regard to road transport and related regulations.

The reason it is not feasible to bring the reckoning period below seven years is the range of conflicts we would have with the road traffic Acts in regard to the periods of mandatory driving, which can be up to six years. We also want to avoid conflict with the penalty point system which is already in place in the road transport Acts. We cannot create a provision in this Bill which would allow a person applying for a job as a driver or a delivery person, for example, to state that he or she has no criminal convictions when he or she has penalty points on his or her licence in respect of a criminal conviction or is currently subject to a driving ban.

The 2007 Law Reform Commission report recommended that convictions should be spent after seven years. I can only assume that cut-off point was recommended because of the relevant provisions in the road transport Acts to which I have referred. It follows from this line of reasoning that the motoring offences which are not relevant for employment involving driving would not have relevance for non-motoring jobs such as those covered by the vetting Act. It is logical in what we are doing today to harmonise the provisions of the road transport regulations, the vetting Act and the spent convictions Bill in this regard. Amendments Nos. 35 and 84 make this provision.

In consultation between my Department and the Garda, it has been proposed that similar provisions should apply to the minor public order offences listed in amendments Nos. 35 and 84. These are offences in which there is no offence against a third party and it is therefore considered quite safe that these offences should be disregarded after seven years.

By taking the District Court motoring and public order offences out of the equation, we allow the great majority of convictions to become spent. However, we are left with offences that involve an offence against a third party, such as theft, robbery and criminal damage. They are more problematic because victims' rights are involved. In a year in which we will introduce the EU victims directive, we have to be very conscious of that. Therefore, we have to consider the rights of victims as well as those of offenders. There is also greater relevance for employment

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purposes. For this reason, I propose that a person should only be allowed to have one such conviction spent.

As a consequence of the amendments proposed for the National Vetting Bureau Act 2012, it follows that District Court convictions which will not be disclosed under the amended provisions of that Act should also become spent convictions under the Bill. Similar provisions are therefore proposed for the Criminal Justice (Spent Convictions) Bill.

In addition, I am mindful that the Criminal Justice (Spent Convictions) Bill, as amended in the Seanad, already allows that a conviction in the Circuit Court which results in a sentence of up to 12 months' imprisonment is eligible to be spent. We have looked at the Circuit Court as well, and I will retain that provision, which was an amendment in the Seanad, but with the proviso that only one such Circuit Court conviction can be eligible to be spent because we are dealing with more serious offences in this regard.

4 o'clock

I am conscious that these offences dealt with in the Circuit Court are the more serious offences in their category. The road traffic offences routinely dealt with in the Circuit Court include, for example, the unauthorised taking of a vehicle or dangerous driving offences. The offences against the person dealt with also tend to be at the more serious end of the spectrum, involving harm or serious harm to the victim. Having regard to the seriousness of these offences, I therefore propose limiting the spent convictions provisions for such convictions to a single conviction only. Where a person has multiple convictions in the Circuit Court, such convictions will remain as unspent convictions. This policy meets the criteria, which have been articulated in regard to the UK cases at European level, for relevance and proportionality. I believe that in the interests of rehabilitation of offenders, it is proportionate to allow that where the penalty is less than 12 months' imprisonment, a single offence, for example, of burglary, theft, assault causing harm, dangerous driving causing harm or possession of drugs with intent to supply is eligible to become spent under what I propose. However, where a person has more than one such conviction, I believe the rights of the employer come into play. I do not believe it is safe to legislate for persons with multiple convictions for serious offences to be able to inform an employer they have no such convictions. I also do not believe that there would be public acceptance for such an approach.

It is worth noting, and Deputies mentioned this, that what we are proposing is more generous than the spent convictions regimes in some other countries. For example, in Australia or New Zealand, only convictions which do not result in imprisonment are eligible to become spent. The Law Reform Commission recommended that spent convictions should be confined to a single conviction resulting in a penalty of six months' imprisonment or less, and the Bill exceeds that recommendation in allowing the one-year period of imprisonment.

To put these arguments more succinctly, by taking the approach I propose in these amendments, we can achieve a number of things. Any and all District Court motoring convictions and public order offences can become spent. That is very advantageous to a greater number of people because these offences account for such a high proportion of cases that come before the courts, and under this legislation they can become spent. We also avoid creating any conflict with the mandatory penalty points and driving bans under the road traffic legislation. This

legislation must be compatible with that. We achieve coherence between the Criminal Justice (Spent Convictions) Bill and the provisions regarding the non-disclosure of certain offences in the National Vetting Bureau (Children and Vulnerable Persons) Act, so the provisions under the Criminal Justice (Spent Convictions) Bill and the National Vetting Bureau (Children and Vulnerable Persons) Act have to be coherent. By ensuring that, we make both Acts more understandable to the average person applying for work or for Garda vetting. We can adopt similar provisions regarding disclosures of criminal convictions which are outside the remit of the Acts. This includes disclosure required by road transport regulations, for example, and disclosures in police certificates for people working abroad.

With regard to the specific amendments, I am proposing amendments Nos. 30, 38 and 39 to delete the reference to the “relevant period” in the Bill as I am proposing that a common relevant period of seven years will apply in all cases. Amendment No. 35 sets out the provisions I am proposing for spent convictions, as I have outlined.

Amendments Nos. 36 and 37 are in the names of Deputy Pringle and Deputy Mac Lochlainn. Deputy Pringle proposed that there would be no limit on the number of convictions that could be spent. While one might make an argument for that in regard to the motoring offences and the public order offences, for the reasons outlined I do not believe it would be appropriate for more serious offences.

Amendment No. 84 sets out the proposal for non-disclosure of certain offences under the National Vetting Bureau (Children and Vulnerable Persons) Act, and I have outlined that. Amendment No. 92 lists the offences it is proposed will require disclosure under the provisions of the National Vetting Bureau (Children and Vulnerable Persons) Act, that is, in regard to vulnerable children, for example, because they are offences which may be dealt with in the District Court but which could cause a concern that a person might cause harm to a vulnerable person. It should be noted that although these offences will be disclosed where persons are working with children or vulnerable people, they will still be eligible to be spent convictions with respect to other employments. They are targeted at ensuring that if the person works with children, their employer would have to be informed, but not in regard to other employments.

Deputy Mac Lochlainn is not here but I will deal with his amendments. They propose that convictions where fines are imposed and there is no custodial sentence would be deemed spent in one year for a class A fine or two years for other fines. I regret that I could not agree to this as the most common such offences are motoring offences and for the reasons I have already set out, we need to harmonise those provisions with the provisions in the road transport regulations. If I were to accept the two-year proposal, it would immediately come into conflict with all the legislation in regard to penalty points and driving bans. We need to harmonise the provisions in regard to motoring offences with the provisions that apply to persons applying for work governed by road transport and similar regulations. These amendments would be such that motoring offences would be deemed spent while persons would still have penalty points in respect of the offences.

I hope that rather lengthy description has given Deputies a clear idea of the connections between the vetting legislation and the road traffic legislation and why these are the terms we have put in place in this legislation.

Acting Chairman (Deputy Alan Farrell): Before I call on Deputy Pringle, we are discussing amendments Nos. 30, 35 to 39, inclusive, 84, 92 and 97 to 99, inclusive.

Deputy Thomas Pringle: I want to discuss specifically amendments Nos. 35 to 37, inclusive, in response to the Minister's comments on her amendment No. 35. It is a rather strange provision in the legislation that the Minister is proposing that a conviction cannot be considered spent until after seven years, which is a change from the Bill as published and discussed previously. This is only being done to facilitate the road traffic Acts, and I cannot get my head around that. The original Bill as proposed had a table of different types of convictions, reference to the terms "custodial" and "non-custodial", and how long a person had to wait until their conviction was considered spent. That was a reasonable way of trying to deal with it whereas this blanket ban of seven years seems to be draconian for people who, under the previous Bill, would have been able to have a conviction of six months spent within a couple of years and could have applied to have that classed as a spent conviction. Now they must wait for seven years and that does not seem to me to be proportionate or reasonable in terms of dealing with them.

The Minister is also proposing that any number of road traffic convictions can be considered spent after the seven years but yet for other convictions only one conviction can be considered spent. It creates different classes of offenders. Take, for example, a young person aged between 18 and 20 who goes off the rails slightly in terms of drinking or a drug habit and falls foul of the law. It might take the person a year or two to work through his or her problems, during which time he or she might accumulate a number of convictions, perhaps two three-month sentences. We are telling such people they can have only one spent conviction and that they can never lift this burden. Ten, 15 or 20 years down the line they could be totally reformed, have families and be contributing members of society, and we are telling them the mistakes they made will be carried with them for the rest of their lives simply because they can have only one spent conviction.

There is absolutely no value in somebody with multiple convictions even considering spent convictions because it just does not make any sense. What we are actually saying is people from communities with deprivation, large drug problems, poverty or exclusion who end up falling foul of the law will be treated differently from somebody from a comfortable middle-class family who becomes a bit of a boy racer and ends up running up a number of traffic offences. He can have any number of such convictions disregarded through spent convictions, but somebody from a marginalised community cannot. This does not make sense. It is not proportionate and it is not fair. I do not see why we would even consider it.

Going back to what we were discussing earlier, on the initial matrix in the legislation, surely it was within the remit or capabilities of the Department to state a driving offence could not be spent while the person in question was serving a ban. Surely this could have been included in the legislation rather than stating there must a blanket seven years for everybody. The Minister stated nuances are possible with regard to children and working with children, whereby offences must be disclosed for jobs with children but not for other jobs. It is possible to do this within the legislation.

This is a backwards step. It does a disservice to the many people who have convictions from years ago hanging around their necks which they will never be able to have spent. We have had presentations in the audio-visual room from English groups working on spent convictions. A young person who falls foul of the law will accumulate a number of convictions over a period of time, perhaps 18 months or two years, during which they go off the rails, and we are telling them they will never be considered as having the conviction spent. We are telling them they cannot participate in employment. Much has been made by the Government about how it is keeping the recovery going and getting people back to work. What we are saying to

these people is no matter how they reform their lives and how much they put themselves back together and get back on track, we will not recognise it in the State. For this reason, I oppose the amendments.

Deputy Mick Wallace: I support the points made by Deputy Pringle. A young fellow may find himself in a bad place, which sometimes happens, and unable to get out of it for one reason or another. As we are aware, this is not rocket science as most of the people affected bring many problems to the table. I do not really understand the rationale behind the idea that repeat offenders should be so penalised. If I were 20 years of age, from a troubled background, and could not get a job and I was stealing for a living, I would not steal once but many times. I might have robbed 20 houses over a four-year period and was convicted for them, and then got out and robbed another ten houses because things were not much better when I got out and I had no proper place to live and no proper support, and just could not find friends. I might have been caught and convicted again, but ended up in a more rehabilitative situation and really learned that I had to help myself as well and that I had to take a different approach when I got out because I did not want to be in there any more. Such people come out with a whole new approach after getting some help and having a bit of maturity on their own part. The idea we would continue to label them indefinitely because they have been repeated offenders and had committed crimes which are very unacceptable to society is very harsh and unforgiving, particularly if we do not give that person another chance in life. It behoves every human being to forgive others, no matter what we do. People can change, but it will not really work if we take a different approach to this fact as we will never improve these people. This is my feeling on it.

Deputy Frances Fitzgerald: To reiterate, particularly to Deputy Wallace, we are ensuring the vast majority of offences which come under the legislation, which are motoring and public order offences, even where there are multiple offences, can be considered spent after seven years. We want to increase the number of convictions which can be spent. With regard to the other offences, obviously from the point of view of employment it goes without saying people with convictions can apply for jobs. Where no third party is involved, such convictions can be covered, even if committed on multiple occasions, after seven years. What we are saying is where there is a pattern of multiple offences against other persons, such as where there is theft, assault or robbery, the rights of employers comes into play, and the right of an employer to know this.

With regard to the period of seven years, we have not done this lightly. We have had much discussion with the Department of Transport, Tourism and Sport. To take up Deputy Pringle's point, SI 697/2011 deals with serious offences with regard to drivers. At present in the regulations a conviction must be declared for ten years, so if we wanted compatibility between what is in the legislation and what is in the transport legislation we could have provided for ten years. It is 11 years in the UK, by the way. The Department of Transport, Tourism and Support has agreed to reduce it in the statutory instrument to seven years

I am very pleased we are progressing this legislation. It is important that people have this opportunity, as has been stated by a number of Deputies, to wipe the slate clean and have the benefit of such legislation. That is going to be the case in respect of the great majority of offences. This legislation covers over 80%. However, we are speaking about other, more serious offences where there is third-party impact. Four years would cover armed robbery, for example, and I do not think anybody would say that conviction should be spent after seven years. One can argue about the time periods and the offences, but what we are putting forward has come about as a result of a great deal of discussion. This legislation has, unfortunately, been much

delayed. I am pleased to be able to bring it to the House today and I think the amendments we are making will make a difference. I am sure Deputies in the House today have received many representations in respect of this Bill because, as Deputy Wallace and others have said, it impacts on behaviour when people were much younger. They just want to move on and feel the present requirements regarding disclosure are quite a heavy burden. Having the spent convictions legislation now means that after a certain period they effectively will not be disclosed, apart from the exceptions I have spoken about.

Deputy Thomas Pringle: The exceptions are the problem. I have had representations from a number of constituents who are still suffering under convictions going back 30 or 40 years, when they were completely different people. Under the legislation the Minister is proposing, those people will still only be able to get one spent conviction, so it will be of no value to them and will not make any difference to their lives. That is the crux of the problem. In our criminal justice system, we should be setting out and recognising that people can be rehabilitated, that people can change their lives and turn their lives around, rather than constantly penalising them because of mistakes they made in the past. That is the problem with this legislation.

As a result of the unlimited number of road traffic offences, the Government is distinguishing between classes of people who might be able to avail of spent convictions. It will have a significant detrimental impact and will lessen the positive impact this legislation could have for people. The Minister is right in saying the vast majority of convictions can now be classed as spent. That is because the vast majority of convictions in the District Court are road traffic offences. It does not really matter and it does not really help the people who need the help. It does not really help the people we as a society have failed.

If we look at the legislation that has been put through here in recent months, particularly the Criminal Justice (Burglary of Dwellings) Act, people who are given custodial sentences for burglaries - young teenagers and people in their early 20s - are more likely to reoffend. They are less likely to reoffend if they do not get a custodial sentence. A young person may get a burglary conviction this year and another one next year. Why would they bother applying for a spent conviction? They can only get one of them spent. The second one stays on their record forever.

The Minister has spoken in her response about the rights of employers. Are they the only people we are interested in? What value is it to an employer to know that somebody might have had one or two convictions for assault 20 years before that? They have become a completely different person in those 20 years, but what we are saying to them is that they are not, they never will be and they will never be considered as that. We are saying the right of their employer to know they made a mistake 20 years ago is more important than their right to be able to contribute to society.

Deputy Mick Wallace: The Irish Penal Reform Trust makes a simple point when it says the length of time since a person has offended is the clearest indication that they have moved away from offending behaviour, and not the number of times they may have offended in the past. Likewise, the people who commit road offences, like myself, are not necessarily the people who need the most help in society. The people who commit crimes like burglary generally come from a more deprived background and a more difficult and less privileged life. One would think these are the people who need more of a break than the likes of ourselves who are all liable to be caught for road offences because we drive vehicles. I will go back to a very strong principle that I believe in, namely, that the State's primary obligation is to take best care

of those who most need its help. People do not commit crimes such as burglaries and attacks on the person when they are well. They do not do that when they have a healthy life. They do that because they are troubled, they are not well, and if they had the capacity to try to make good and rehabilitate, surely society and the Government have an obligation to give them the maximum opportunity to make that new life.

Deputy Frances Fitzgerald: I take the points that have been made. The Government has taken a particular position in respect of serious offences and whether they should be considered spent and in respect of repeat offences. It has made the decision, as I have outlined. One can make the case that has been made by the Deputies in regard to multiple offences. There might be public concern about the idea that multiple convictions for offences such as robbery or serious assault could be considered spent. The Government has made a decision, I have outlined that decision and I am not in a position to accept the amendments today, but this is legislation that can be reviewed.

Amendment agreed to.

Bill reported with amendment.

Deputy Frances Fitzgerald: I move amendment No. 31:

In page 5, to delete lines 7 and 8 and substitute the following:

““relevant sentence” means a custodial sentence or a non-custodial sentence or both, as the case may be;”.

Amendment agreed to.

Acting Chairman (Deputy Alan Farrell): Amendment No. 32 may be discussed with amendments Nos. 58 to 62, inclusive, 66 and 67. Recommittal is necessary in this case.

Bill recommitted in respect of amendment No. 32.

Deputy Frances Fitzgerald: I move amendment No. 32:

In page 5, to delete lines 9 to 16.

The term “relevant work” is already used in the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 and in this context it means work that comes within the ambit of that Act. To avoid any confusion in language and ensure consistency in the use of terms, these amendments are proposed. “Specified work” means work in respect of which the provisions of Part 2 of the Criminal Justice (Spent Convictions) Bill will not apply, as defined by Schedule 3. “Relevant work” means work that comes within the ambit of the National Vetting Bureau (Children and Vulnerable Persons) Act 2012. It is a technical amendment.

Amendment agreed to.

Bill reported with amendment.

Deputy Frances Fitzgerald: I move amendment No. 33:

In page 5, line 25, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 34:

In page 5, between lines 36 and 37, to insert the following:

“(3) For the purposes of this Part, a conviction of a person by the District Court—

(a) which is appealed by the person to the Circuit Court, and

(b) is affirmed or varied by the Circuit Court,

shall, as so affirmed or varied by the Circuit Court be treated as if it were a conviction imposed by the District Court.”.

Amendment agreed to.

Bill recommitted in respect of amendments Nos. 35 to 39 inclusive.

Deputy Frances Fitzgerald: I move amendment No. 35:

In page 5, to delete lines 37 to 44, and in page 6, to delete lines 1 to 37 and substitute the following:

“Convictions which may be regarded as spent in certain circumstances

2. (1) Where a person is convicted of an offence, whether before or after the commencement of this Part, and the conditions specified in *subsection (2)* are satisfied, then subject to provisions of this Part, the conviction may be regarded as a spent conviction.

(2) The conditions referred to in *subsection (1)* are the following, namely:

(a) the person shall be a natural person and shall have attained the age of 18 years at the date of the commission of the offence which is the subject of the conviction concerned;

(b) not less than 7 years shall have passed since the effective date of conviction;

(c) the sentence imposed by the court in respect of the conviction shall not be an excluded sentence;

(d) the person shall have served or otherwise undergone or complied with any sentence imposed, or order made by the court in dealing with the person in respect of the conviction concerned.

(3) Subject to *subsection (5)*, no more than one conviction may be regarded as a spent conviction and if a person has more than one conviction, this section shall not apply to that person.

(4) Where in any proceedings before a court, a person is convicted of 2 or more offences which are committed simultaneously or arise from the same incident, and the court in passing sentence, imposes more than one relevant sentence in respect of those offences, the convictions shall be regarded as one single conviction.

(5) *Subsection (3)* shall not apply to a relevant sentence imposed by the District Court on a person in respect of an offence under—

(a) the Road Traffic Acts 1961 to 2015, other than section 53 of the Road Traffic Act 1961,

(b) section 37A of the Intoxicating Liquor Act 1988, or

(c) section 4, 5, 6, 7, 8, 8A(4) or 9 of the Criminal Justice (Public Order) Act 1994.”.

Amendment put:

<i>The Dáil divided: Tá, 72; Níl, 16.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Aylward, Bobby.</i>	<i>Broughan, Thomas P.</i>
<i>Barry, Tom.</i>	<i>Colreavy, Michael.</i>
<i>Breen, Pat.</i>	<i>Daly, Clare.</i>
<i>Bruton, Richard.</i>	<i>Fleming, Tom.</i>
<i>Butler, Ray.</i>	<i>Halligan, John.</i>
<i>Buttimer, Jerry.</i>	<i>Healy-Rae, Michael.</i>
<i>Byrne, Catherine.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Byrne, Eric.</i>	<i>McGrath, Finian.</i>
<i>Calleary, Dara.</i>	<i>McLellan, Sandra.</i>
<i>Cannon, Ciarán.</i>	<i>Mathews, Peter.</i>
<i>Carey, Joe.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Coffey, Paudie.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Collins, Niall.</i>	<i>O’Sullivan, Maureen.</i>
<i>Conaghan, Michael.</i>	<i>Pringle, Thomas.</i>
<i>Coonan, Noel.</i>	<i>Ross, Shane.</i>
<i>Costello, Joe.</i>	<i>Wallace, Mick.</i>
<i>Creed, Michael.</i>	
<i>Daly, Jim.</i>	
<i>Deasy, John.</i>	
<i>Deenihan, Jimmy.</i>	
<i>Deering, Pat.</i>	
<i>Doherty, Regina.</i>	
<i>Donohoe, Paschal.</i>	
<i>Dooley, Timmy.</i>	
<i>Dowds, Robert.</i>	
<i>Durkan, Bernard J.</i>	
<i>English, Damien.</i>	
<i>Farrell, Alan.</i>	
<i>Feighan, Frank.</i>	
<i>Ferris, Anne.</i>	
<i>Fitzmaurice, Michael.</i>	

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<i>Griffin, Brendan.</i>	
<i>Hannigan, Dominic.</i>	
<i>Harris, Simon.</i>	
<i>Hayes, Tom.</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>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>McGuinness, John.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Eoghan.</i>	
<i>Naughten, Denis.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Fearghail, Seán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>Phelan, John Paul.</i>	
<i>Quinn, Ruairí.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ryan, Brendan.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Clare Daly and Thomas Pringle.

Amendment declared carried.

Acting Chairman (Deputy Alan Farrell): Amendments Nos. 36 and 37 conflict with amendment No. 35 and therefore cannot be moved.

Amendments Nos. 36 and 37 not moved.

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes): I move amendment No. 38:

In page 6, to delete lines 38 to 48.

Amendment agreed to.

Deputy Tom Hayes: I move amendment No. 39:

In page 7, to delete lines 1 to 8.

Amendment agreed to.

Bill reported with amendments.

Deputy Tom Hayes: I move amendment No. 40:

In page 7, line 9, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Tom Hayes: I move amendment No. 41:

In page 7, line 10, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Tom Hayes: I move amendment No. 42:

In page 7, line 20, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Tom Hayes: I move amendment No. 43:

In page 7, line 22, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Tom Hayes: I move amendment No. 44:

In page 7, line 32, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Thomas Pringle: I move amendment No. 45:

In page 7, to delete lines 42 to 49.

The amendment seeks to remove the courts' ability to use spent convictions during a person's trial. As it stands, the legislation allows for a person's history of spent convictions to be used as evidence during a trial, even when the spent conviction may not be relevant to the crime being tried. It is a step too far. A spent conviction should not be allowed to be used as evidence in a trial. The only reason for which a spent conviction would be used in a trial would be to discredit the person on trial. There is a proviso in the text that the court must be satisfied in all circumstances that justice cannot be done except by so admitting or requiring the evidence concerned.

I do not think that is a sufficient protection. I do not think it should be permissible for spent convictions to be taken in as evidence, especially in the trial phase. The only reason they would be used in such a way is to undermine the case of the accused in the minds of the judge or jury. For those reasons, I propose that we delete the relevant power from this legislation.

Deputy Clare Daly: I would like to echo some of the points made by Deputy Pringle on this incredibly important amendment. The whole basis of this legislation is that a mistake made by someone in his or her past should be left in the past. By ensuring that mistake stays in the past, we will give the person in question the ability to learn from it and to move forward with his or her life. That is the whole basis of this Bill. A kind of exception is being provided for in the section of the Bill that Deputy Pringle is seeking to amend. The section in question provides that a person whose conviction is expunged if he or she meets all the criteria and goes through the process might somehow have that conviction brought back to life if a judge deems that to be necessary. The measure that Deputy Pringle is seeking to change seems to be based on an unspoken assumption that people with spent convictions are more likely to reoffend. That would be the only basis upon which this evidence could be introduced in court proceedings. A conviction is either spent or it is not. There should be no exception to that rule. I do not think we should allow the criminal history of a person who has met all the criteria to be resurrected in a trial basically to make him or her look bad. This legislation should be about allowing people to move on with their lives. I suggest that if we allow this section to proceed, we will go against the whole grain of rehabilitation in a way that brings us back to the outdated sort of philosophy that informed the vindictive punishment model we are trying to move away from. It is incredibly important for Deputy Pringle's amendment to be accepted because it will ensure the courts are not able to avail of this exception to the spent conviction rule. If we accept the legislation as it currently stands, we will basically be saying that the conviction is not spent, even though it is, if that is what the judge deems. That does not make any sense to me.

Deputy Mick Wallace: The exclusion of spent convictions from general court proceedings is to be welcomed. The Irish Penal Reform Trust has queried the circumstances that might require courts to deviate from this general approach. They are described in section 6(2) of the Bill as circumstances in which "justice cannot be done except by so admitting or requiring the evidence" of spent convictions. The provisions of section 6(3), allowing exclusions to be made in a number of specific types of legal proceeding, seem reasonable and proportionate. However, I suggest that the exclusions set out in sections 6(3)(c) and 6(3)(d) are vague and require further clarification. I believe we are opening an opportunity for an abuse of power at the expense of the individual who is before the court. I suggest that it is something that should be avoided. The idea that former offences may be thrown back like this as the prosecuting authority sees fit just does not stack up. It completely militates against the whole idea of deeming convictions to be spent convictions in order to give people a clean bill of health in respect of their former

offences. I do not know how anyone could make a rational argument in favour of this unusual measure. Under no circumstances would I give a prosecuting body this power in these circumstances because I would be just looking for it to be abused.

Deputy Tom Hayes: I apologise on behalf of the Minister, who has had to step out for a few minutes. She will be back as soon as possible. We have to oppose this amendment because its effect would be to provide that a court could not have regard to a spent conviction in proceedings relating to similar offences. It would mean that when a person was being sentenced for an offence such as theft, dangerous driving causing harm, burglary or assault causing harm, the court could not have regard to a similar conviction which had been spent. We cannot accept such an amendment.

Deputy Thomas Pringle: It was obvious that the Minister was going to oppose this proposal. I have to return to what I said earlier about the ability of the Department to frame legislation that should do things. I suggest it would be quite reasonable to provide that the spent conviction would have to be relevant to the case in point. That is not what this Bill proposes, however. It provides that such information may be introduced as evidence and that it will be up to the judge to decide whether it is accepted as evidence. I think that is the problem with this part of the legislation. I do not see anything that changes that.

Acting Chairman (Deputy Alan Farrell): I call Deputy Wallace or Deputy Daly. I do not mind.

Deputy Mick Wallace: Do not be confusing us now.

Acting Chairman (Deputy Alan Farrell): Not at all.

Deputy Mick Wallace: I have nothing to do with her.

It is disappointing that we are almost assuming the Government will not accept our amendments. I do not think that is how the parliamentary process should work. I would like someone to count the number of Opposition amendments that have been accepted in this Chamber during the five years I have spent as a Member of the House. I suggest that anyone who does so will not reach very high numbers. People get criticised for not challenging legislation in here, and rightly so, but it is disheartening that the chances of our amendments being accepted are so small. All we are really doing is putting it on the record that we do not exactly agree with what the Government is doing. The parliamentary process does not actually work its way out. If it did, Ministers would be entertaining the odd amendment. We feel that they do not entertain our proposals. This has been my first five-year term in this House and it could be my last term. Maybe things were the same before this term, but I do not know because I was not here. I suggest that a proper parliamentary process would allow for an honest acknowledgement of amendments that are made in a rational fashion and stand up to scrutiny.

Deputy Clare Daly: The caveats and exclusions provided for in the legislation as drafted were supposedly designed to ensure we have a just and proportionate system. However, I do not think it was drafted in a sufficiently careful manner. I agree with the first point made by Deputy Pringle, which is that there is no reference to previous convictions being “relevant to the crime being tried”. To be honest, I do not think the proposed exclusion should apply at all because it is contrary to the whole spirit of the Bill. The unspoken implications of the proposed exclusion are that the criminal history of a person with a spent conviction is still there - it has not disappeared and will chase the person in question - and that it is more likely than not that

the person in question will reoffend. If this approach were not based on such implications, why would this evidence be needed? As far as I am concerned, if there is sufficient evidence to charge someone with burglary, for example, it should be irrelevant that he or she committed a burglary previously. I refer to circumstances in which there has been a huge gap between the commission of the two crimes. If the gardaí and the prosecuting counsel have evidence to link someone to the crime for which he or she is on trial, what that person did in the past should have nothing to do with that trial. If we do not approach this issue in such a manner, we will be telling people that their convictions will never be spent because they will always be dogged by them in certain circumstances. I do not think this Bill provides for sufficient scrutiny of those circumstances, which should be overseen transparently. To be honest, if the prosecution is doing its job properly, the history of the person being prosecuted will be an utter irrelevance.

Deputy Tom Hayes: In very limited circumstances, the courts accept evidence that relates to previous offences. Obviously, we cannot interfere with what the courts are doing. That is as far as I can go in this regard.

Amendment put:

<i>The Dáil divided: Tá, 10; Níl, 69.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Broughan, Thomas P.</i>	<i>Aylward, Bobby.</i>
<i>Colreavy, Michael.</i>	<i>Barry, Tom.</i>
<i>Daly, Clare.</i>	<i>Breen, Pat.</i>
<i>McLellan, Sandra.</i>	<i>Butler, Ray.</i>
<i>Mathews, Peter.</i>	<i>Buttimer, Jerry.</i>
<i>Murphy, Catherine.</i>	<i>Byrne, Catherine.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Byrne, Eric.</i>
<i>O'Sullivan, Maureen.</i>	<i>Calleary, Dara.</i>
<i>Pringle, Thomas.</i>	<i>Carey, Joe.</i>
<i>Wallace, Mick.</i>	<i>Coffey, Paudie.</i>
	<i>Conaghan, Michael.</i>
	<i>Coonan, Noel.</i>
	<i>Costello, Joe.</i>
	<i>Creed, Michael.</i>
	<i>Daly, Jim.</i>
	<i>Deasy, John.</i>
	<i>Deenihan, Jimmy.</i>
	<i>Deering, Pat.</i>
	<i>Doherty, Regina.</i>
	<i>Donohoe, Paschal.</i>
	<i>Dowds, Robert.</i>
	<i>Durkan, Bernard J.</i>
	<i>English, Damien.</i>
	<i>Farrell, Alan.</i>
	<i>Feighan, Frank.</i>

	<i>Ferris, Anne.</i>
	<i>Hannigan, Dominic.</i>
	<i>Harris, Simon.</i>
	<i>Hayes, Tom.</i>
	<i>Healy-Rae, Michael.</i>
	<i>Heydon, Martin.</i>
	<i>Humphreys, Heather.</i>
	<i>Humphreys, Kevin.</i>
	<i>Keating, Derek.</i>
	<i>Kehoe, Paul.</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>McGrath, Mattie.</i>
	<i>McGrath, Michael.</i>
	<i>McGuinness, John.</i>
	<i>Mitchell O'Connor, Mary.</i>
	<i>Murphy, Eoghan.</i>
	<i>Nash, Gerald.</i>
	<i>Naughten, Denis.</i>
	<i>Neville, Dan.</i>
	<i>Nolan, Derek.</i>
	<i>Ó Fearghail, Seán.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Dowd, Fergus.</i>
	<i>O'Mahony, John.</i>
	<i>O'Reilly, Joe.</i>
	<i>Phelan, John Paul.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>
	<i>Spring, Arthur.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Tuffy, Joanna.</i>

Tellers: Tá, Deputies Mick Wallace and Thomas Pringle; Níl, Deputies Emmet Stagg and Paul Kehoe.

Amendment declared lost.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Paudie Coffey): I move amendment No. 46:

In page 8, line 1, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Paudie Coffey: I move amendment No. 47:

In page 8, line 10, to delete “2011” and substitute “2015”.

This is a minor drafting amendment to update the reference to the Child Care Acts to include reference to the Child Care (Amendment) Act 2015.

Amendment agreed to.

Acting Chairman (Deputy Alan Farrell): Amendments Nos. 48 and 49 are related and may be discussed together.

Deputy Thomas Pringle: I move amendment No. 48:

In page 8, to delete lines 29 to 31.

I oppose this section, which grants unlimited powers to the Garda to seek information relating to an individual’s spent convictions when it is investigating a crime. The legislation appears to place the onus on an individual being questioned by the Garda to disclose spent convictions. I believe that does away with the purpose of spent convictions. We are saying that people can be rehabilitated and their convictions will not be taken into account, but then we say that they must disclose them in an interview with the Garda. The section also goes on to relate this to applications for Irish citizenship. A spent conviction is by its nature spent, so why should somebody have to disclose it if he or she is applying for naturalisation in the State? It does not make sense to go down that route.

There is also a lack of clarity. Perhaps the Minister will clarify whether a spent conviction will be removed from the Garda PULSE system when it has been deemed to be, and is classified as, spent. How can we be assured that will be the case, particularly when one notices the propensity of some gardaí to leak information about individuals when it suits them? How does that conform with the requirement for privacy and rehabilitation, particularly with regard to the UK court cases and the human rights implications of that? The onus should not be on the person to disclose it. Indeed, if it is not removed from the PULSE system, the gardaí are already aware of it when they interview the person. That is the reason I propose this amendment.

Deputy Clare Daly: Are we discussing amendment No. 49 as well?

Acting Chairman (Deputy Alan Farrell): Yes.

Deputy Clare Daly: As Deputy Pringle said, amendment No. 48 deals with the provision in the Bill whereby if somebody is being interviewed by gardaí and is asked about previous convictions, he or she must tell them about a conviction even if it has been expunged. This is utterly ludicrous. When is a spent conviction actually spent? There are so many exclusions that the idea of providing a template whereby people can leave their past behind is being eroded at every level. It has not been disappeared. If we cannot answer the question about whether that information is removed from PULSE, we have a serious problem. How would anybody know that the obligation is on him or her to inform the gardaí? If somebody has a spent conviction and has his or her record expunged, presumably that person would believe that was the end of the matter, given that everybody says this is being done to allow people to get on with their lives. How are people supposed to know they have that obligation in the first place?

Again, this links to the points about the courts. The problem with all of these issues and exclusions is that, underlying it all, we are really saying that although we are talking about rehabilitation and saying that people can do things when they are young and then reform themselves and move on with their lives, we do not really believe that, because these provisions mean that we believe that if somebody has done something and had a record previously, it means he or she is more likely to do it again. Otherwise, why would we seek this information? That is the underlying hint. It goes against the entire intent of the legislation. We made the point in earlier discussions that most of the people who appear before the criminal courts in Ireland are young men between the ages of 18 and 25. By the time they are 30 they have settled down and tried to get on with their lives. However, if we include all of these exclusions it will not be possible for them to do that. It will make it very difficult.

Amendment No. 49 deals with the fact that information must be revealed where somebody has been found guilty of or has served a sentence for insurance fraud. Again, this must be seen in the context of the unscrupulous insurance industry, which really does not need any excuse to exclude people from insurance cover, make it difficult for them to get cover or increase their premiums. That is not appropriate either, and we should remove it. If something is expunged, it is expunged, and that should be the end of it.

Deputy Mick Wallace: I find it strange that an individual with a spent conviction - in other words, one who is supposedly forgiven - must, on finding himself being interviewed by gardaí, tell them he really was a criminal in the past. If he is being interviewed by gardaí, he will more than likely be trying to prove his innocence in the process of the interview. He may be dealing with a member of the force who will presume he is guilty until he can prove himself innocent. If he has to tell such a garda that, by the way, ten years previously he did something and was convicted as a result, although the conviction had since been spent, he would be placing himself at a serious disadvantage. It would be grossly unfair.

On amendment No. 49, I note the provision that one has to tell an insurance company about a spent conviction. Most people's experience of dealing with insurance companies, including mine, is that they are not the most pleasant at all times. It is obligatory, however, and we have to deal with them. A friend of mine who never crashed a car in her life and is 58 years of age was caught for drinking and driving and served her time. She is now looking for insurance for her car again. While the quote was €350 before she lost her licence, the insurer now wants €2,000 because of her conviction. Insurance companies are difficult enough to deal with without giving them more ammunition against people with spent convictions. As such, I would appreciate

it if the Government would take another look at amendments Nos. 48 and 49.

Deputy Peter Mathews: As Deputies have said in the last few minutes, if someone has a conviction expunged and forgiven through the passage of time, a shadow or cloud will always remain over him or her. In certain circumstances, the person will have to declare and identify that cloud in a self-assessment. There is something profoundly and deeply uncivil in that. I ask every Member to consider how he or she would feel, in the context of true forgiveness and absolution, if one of his or her own family members, such as a son or daughter, who had paid the price of earlier transgressions during a difficult period and had corrected matters and come to a responsible understanding and realisation of his or her obligations as a citizen and the mutual respect that involves, nevertheless faced the enactment of legislation by society which prevents forgiveness. There is something deeply unsatisfactory and profoundly ungenerous and uncivil about it. In Roman times, when there were slaves and punishments for minor transgressions were brutal, people were branded on their foreheads with red-hot irons. In those days, that was the only way to hold a past act of criminality against a person. Why it is so absurd is this. There are crimes of yesteryear which are no longer crimes. Nevertheless, people were convicted of those crimes. The law changes. It is man-made and is often absurd. Most of the time, there is no fairness in it. For instances, insurance mutualisation means that companies prefer to select and profile risks and condemn people into profiled risk classes, as opposed to having an understanding of a family in which one person may have an advantage in his arrival into this world over a brother or sister who has serious disadvantages. Within the family, which is society, we look out for one another. If we do not forgive somebody who has made atonement, which means to be “at one,” to reconcile and to be forgiven and absolved, we will have fallen short and been nothing other than miserable, ungenerous, uncivil and inhuman. The amendments as put capture the better sentiments and aspects of what we are trying to achieve in a civil society and a community that allows people to correct for past mistakes rather than to keep admitting to them. It is a form of bullying that these clouds can suddenly materialise again. It is not right and we know it. If a Member’s son or daughter had gone through a rocky patch, paid the price for a crime, undergone his or her punishment and not been forgiven by society, what would it say about our society?

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): The effect of these amendments would be that gardaí could not have regard to a spent conviction in investigating subsequent similar offences by the same person and insurance companies could not keep records of insurance frauds perpetrated by persons whose convictions were spent. Deputy Mathews might want to listen to the following. The section that is sought to be deleted provides that a person who is convicted of fraud, deceit or dishonesty in respect of a claim under a policy of insurance or a policy of assurance shall not be excused under section 5 from disclosing any such convictions on an insurance proposal or form or any assurance proposal or form as the case may be. I am not sure whether Deputies are clear that anything that is dealt with under the legislation that is a spent conviction will not have to be disclosed to the insurance company. It is only in respect of insurance fraud that a spent conviction will have to be disclosed. It is important to make that point. It is not reasonable to expect the Government to agree to the amendment and remove that provision from the legislation. An insurance company has a right to know about an insurance fraud that has been perpetrated on it when considering a new policy. The amendment proposes that it would not have the right to that information.

Deputy Peter Mathews: What about other spent convictions?

Deputy Frances Fitzgerald: I take Deputy Wallace’s point about the case he cited, but I

remind him that after the seven-year period, the conviction to which he referred would come under the category of spent convictions and the woman would be in a different position with regard to the insurance company.

Deputy Thomas Pringle: The Minister might not have been present for the question on the PULSE system and whether spent convictions would be removed from it. This matter relates to amendment No. 48 and interviews with the Garda. Amendment No. 49 highlights how it is possible to do this for certain employment when the Department sees fit to do so. The theme running through this legislation is the need to protect employers, insurance companies and, as we will see later, the Civil Service. It is possible to be selective when one wants to be and not to protect people who may have made mistakes previously. This is part of my reason for tabling the amendment.

Deputy Clare Daly: Regarding the subject matter of amendment No. 49, why is the Minister doing this? The interests of the insurance industry are being prioritised above the interests of the citizen. The inference, one that everyone makes instinctively, is “Once a fraudster, always a fraudster,” and there is an assumption that the person will do it again. Even if someone who committed insurance fraud, which is a reprehensible crime by which we are all naturally disgusted, has that conviction expunged, what does the Minister believe will happen if it is revealed to the insurance industry? Why would the person tell the industry? He or she will either be refused or fleeced on an insurance policy. Even when people make non-fraudulent claims, they get fleeced by increased premiums because that is the nature of the insurance industry. Why is it necessary to tell the industry? It has records of the claim and the payment being made and will probably bleed the person dry anyway. The amendment moves us away from that position.

Either we accept that someone can change his or her behaviour or we do not. It is as simple as that, and Deputy Mathews put it eloquently. If that is true for the insurance industry, it is doubly true for people’s dealings with the Garda. If someone has a spent conviction and a record that has been expunged, it means that a long time has passed since he or she was found guilty of unlawful behaviour. If a person finds himself or herself in a Garda station being questioned about a type of crime that he or she has not committed in a long time and must disclose information, it will go against the grain of the concept of innocent until proven guilty. If the type of crime is similar to what the person had a conviction for, the garda’s ears will prick up and the person will become a person of greater interest than was already the case. That is human nature, but it goes against the notion of the conviction having been spent in the first place.

Deputy Mick Wallace: The Minister stated that my friend’s case would qualify as a spent conviction after seven years, but my friend believed she had been suspended for 12 months, not seven years. What the Minister is really saying is that, even though my friend has served her suspension, she will serve it for a good while longer because she cannot afford to pay the €2,000 per year that the insurance company can charge her.

The provision being addressed by amendments Nos. 48 and 49 lacks a recognition of rehabilitation having occurred. It happens sometimes and it needs to be recognised. This would be positive, and the Minister should reconsider the amendments.

Deputy Frances Fitzgerald: Regarding drink driving, the sentence would be a three-year driving ban for a first offence and six years for a second.

Deputy Mick Wallace: A person would usually be let off half of that the first time around.

Deputy Frances Fitzgerald: I do not know how much the insurance companies would welcome this amendment. The Deputies are making the opposite case, namely, that insurance companies still have the potential to know about certain of these offences. I remind the Deputies that the majority of motoring offences fall under this legislation. The period is seven years. All offences in the District Court and multiple other offences relating to this matter fall under the Bill. This is a substantial move away from the current situation in which there is zero recognition. Until the Bill is passed-----

Deputy Peter Mathews: The Minister is right. That was very bad-----

Deputy Frances Fitzgerald: Yes.

Deputy Peter Mathews: -----but we are still a little bit bad.

Deputy Frances Fitzgerald: It has been delayed for a period, but we have the legislation now and a system of spent convictions. Our system is more progressive than those in many other countries. The Law Reform Commission recommended six months, but we are going for a year. Deputy Pringle argued persuasively about circumstances in which it had been quite some time since the offence was committed. It is possible that his suggestion should form part of the system in the future, but I am not in a position at the moment to revert to the Cabinet to suggest it. Any review would have to take it into account.

Amendment put:

<i>The Dáil divided: Tá, 18; Níl, 70.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Colreavy, Michael.</i>	<i>Aylward, Bobby.</i>
<i>Daly, Clare.</i>	<i>Barry, Tom.</i>
<i>Doherty, Pearse.</i>	<i>Breen, Pat.</i>
<i>Fitzmaurice, Michael.</i>	<i>Bruton, Richard.</i>
<i>Fleming, Tom.</i>	<i>Burton, Joan</i>
<i>Halligan, John.</i>	<i>Butler, Ray.</i>
<i>Healy-Rae, Michael.</i>	<i>Buttimer, Jerry.</i>
<i>Mac Lochlainn, Pádraig.</i>	<i>Byrne, Catherine.</i>
<i>McGrath, Finian.</i>	<i>Byrne, Eric.</i>
<i>McLellan, Sandra.</i>	<i>Calleary, Dara.</i>
<i>Mathews, Peter.</i>	<i>Carey, Joe.</i>
<i>Murphy, Catherine.</i>	<i>Coffey, Paudie.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Conaghan, Michael.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Coonan, Noel.</i>
<i>O'Sullivan, Maureen.</i>	<i>Costello, Joe.</i>
<i>Pringle, Thomas.</i>	<i>Creed, Michael.</i>
<i>Ross, Shane.</i>	<i>Daly, Jim.</i>
<i>Wallace, Mick.</i>	<i>Deenihan, Jimmy.</i>
	<i>Deering, Pat.</i>
	<i>Doherty, Regina.</i>

	<i>Donohoe, Paschal.</i>
	<i>Dowds, Robert.</i>
	<i>Durkan, Bernard J.</i>
	<i>English, Damien.</i>
	<i>Farrell, Alan.</i>
	<i>Feighan, Frank.</i>
	<i>Fitzgerald, Frances.</i>
	<i>Flanagan, Charles.</i>
	<i>Hannigan, Dominic.</i>
	<i>Harris, Simon.</i>
	<i>Hayes, Tom.</i>
	<i>Heydon, Martin.</i>
	<i>Howlin, Brendan.</i>
	<i>Humphreys, Heather.</i>
	<i>Keating, Derek.</i>
	<i>Kehoe, Paul.</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>McGrath, Michael.</i>
	<i>Mitchell O'Connor, Mary.</i>
	<i>Murphy, Eoghan.</i>
	<i>Nash, Gerald.</i>
	<i>Naughten, Denis.</i>
	<i>Neville, Dan.</i>
	<i>Nolan, Derek.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Dowd, Fergus.</i>
	<i>O'Mahony, John.</i>
	<i>O'Reilly, Joe.</i>
	<i>Phelan, John Paul.</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>Spring, Arthur.</i>
	<i>Stagg, Emmet.</i>
	<i>Stanton, David.</i>
	<i>Tuffy, Joanna.</i>
	<i>White, Alex.</i>

Tellers: Tá, Deputies Thomas Pringle and Mick Wallace; Níl, Deputies Paul Kehoe and Emmet Stagg.

Amendment declared lost.

Deputy Thomas Pringle: I move amendment No. 49:

In page 8, to delete lines 39 to 43.

Amendment put:

<i>The Dáil divided: Tá, 17; Níl, 69.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Colreavy, Michael.</i>	<i>Aylward, Bobby.</i>
<i>Daly, Clare.</i>	<i>Barry, Tom.</i>
<i>Doherty, Pearse.</i>	<i>Breen, Pat.</i>
<i>Fitzmaurice, Michael.</i>	<i>Bruton, Richard.</i>
<i>Fleming, Tom.</i>	<i>Burton, Joan.</i>
<i>Halligan, John.</i>	<i>Butler, Ray.</i>
<i>Healy-Rae, Michael.</i>	<i>Buttimer, Jerry.</i>
<i>McGrath, Finian.</i>	<i>Byrne, Catherine.</i>
<i>McLellan, Sandra.</i>	<i>Byrne, Eric.</i>
<i>Mathews, Peter.</i>	<i>Calleary, Dara.</i>
<i>Murphy, Catherine.</i>	<i>Carey, Joe.</i>
<i>Ó Caoláin, Caoimhghín.</i>	<i>Coffey, Paudie.</i>
<i>Ó Snodaigh, Aengus.</i>	<i>Conaghan, Michael.</i>
<i>O'Sullivan, Maureen.</i>	<i>Coonan, Noel.</i>
<i>Pringle, Thomas.</i>	<i>Costello, Joe.</i>
<i>Ross, Shane.</i>	<i>Creed, Michael.</i>
<i>Wallace, Mick.</i>	<i>Daly, Jim.</i>
	<i>Deenihan, Jimmy.</i>
	<i>Deering, Pat.</i>
	<i>Doherty, Regina.</i>
	<i>Donohoe, Paschal.</i>
	<i>Dowds, Robert.</i>
	<i>Durkan, Bernard J.</i>

	<i>English, Damien.</i>
	<i>Farrell, Alan.</i>
	<i>Feighan, Frank.</i>
	<i>Fitzgerald, Frances.</i>
	<i>Hannigan, Dominic.</i>
	<i>Harris, Simon.</i>
	<i>Hayes, Tom.</i>
	<i>Heydon, Martin.</i>
	<i>Howlin, Brendan.</i>
	<i>Humphreys, Heather.</i>
	<i>Keating, Derek.</i>
	<i>Kehoe, Paul.</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>McGrath, Michael.</i>
	<i>Mitchell O'Connor, Mary.</i>
	<i>Murphy, Eoghan.</i>
	<i>Nash, Gerald.</i>
	<i>Naughten, Denis.</i>
	<i>Neville, Dan.</i>
	<i>Nolan, Derek.</i>
	<i>O'Donnell, Kieran.</i>
	<i>O'Donovan, Patrick.</i>
	<i>O'Dowd, Fergus.</i>
	<i>O'Mahony, John.</i>
	<i>O'Reilly, Joe</i>
	<i>Phelan, John Paul.</i>
	<i>Rabbitte, Pat.</i>
	<i>Reilly, James.</i>
	<i>Ring, Michael.</i>
	<i>Ryan, Brendan.</i>
	<i>Shatter, Alan.</i>
	<i>Spring, Arthur.</i>
	<i>Stagg, Emmet.</i>

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	<i>Stanton, David.</i>
	<i>Tuffy, Joanna.</i>
	<i>White, Alex.</i>

Tellers: Tá, Deputies Thomas Pringle and Mick Wallace; Níl, Deputies Paul Kehoe and Emmet Stagg.

Amendment declared lost.

Deputy Frances Fitzgerald: I move amendment No. 50:

In page 8, line 44, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 51:

In page 9, line 2, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 52:

In page 9, line 7, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 53:

In page 9, line 16, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 54:

In page 9, line 19, to delete “Act” and substitute “Part”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendment No. 55 is in the name of Deputy Pádraig Mac Lochlainn. As the Deputy is not present, the amendment falls.

Amendment No. 55 not moved.

Deputy David Stanton: I move amendment No. 56:

In page 9, between lines 28 and 29, to insert the following:

“9. Where in respect of a person who has a conviction which is, in accordance with this Act, regarded as a spent conviction, a state other than the State requests information in respect of a citizen’s criminal record, any conviction which is deemed to be spent shall not appear in the response of the State, save where there is a specific enquiry in relation to spent convictions.”.

Deputy Olivia Mitchell and I have jointly tabled this amendment. Deputy Mitchell sends apologies for her absence, which was unavoidable as she is on Oireachtas business elsewhere. She also asked me to speak on the amendment on her behalf.

This is groundbreaking legislation. Other jurisdictions passed spent convictions legislation many years ago and Ireland is one of the few countries that have not yet done so. As such, the Bill, on which we in the Select Committee on Justice, Defence and Equality did some work, is very welcome.

The issue is that spent convictions operate mainly by self-declaration; after a certain amount of time, a person may declare whether he has a conviction. In many cases the person can say he does not, because any conviction is deemed to have been spent. Moreover, the Garda will not divulge in many cases if someone has a spent conviction. I know that in some countries where this has been in vogue for a long time, one country recognises the spent conviction of another country.

(Interruptions).

An Leas-Cheann Comhairle: Sorry, there is still a high noise level in the Chamber. Could those people who are having conversations have them outside the Chamber, please? Another bell is ringing in the Seanad. I am sorry; everything is coming together.

Deputy David Stanton: One country recognises the spent convictions of another country. I wonder whether efforts will be made to engage with other jurisdictions in order that spent convictions here can be recognised in other jurisdictions and vice versa. That would be useful to know because, if that were the case, it might make these amendments redundant.

6 o'clock

A friend of mine in another jurisdiction contacted me recently. He was about to be promoted to a senior position in his company and he needed a police record from here. He was very concerned because when he was a youngster of 18 or 19 years of age he had a conviction for possession of a small amount of cannabis. He was concerned that this would come against him and he asked me what he could do about it. I told him the best thing he could do was to go to his employer and tell him. He did so and there was no issue.

The amendments Deputy Mitchell has put together aim to ensure that if there is a spent conviction in this country and a request from another jurisdiction comes to the authorities here, then the authorities do not divulge anything. I understand from looking at the website of the Irish Penal Reform Trust that, if required by the immigration authority of a country that an Irish person wishes to enter, that person would have to declare all spent convictions unless there is an agreement between the two countries.

An Leas-Cheann Comhairle: I have actually been too lenient towards you. I thought this was a new amendment, but it has already been discussed. My apologies to Deputy Pringle as well. According to my note, it has already been discussed.

Deputy David Stanton: Which amendment?

An Leas-Cheann Comhairle: This amendment.

Deputy Frances Fitzgerald: No.

An Leas-Cheann Comhairle: Has it not? Then that is wrong. Amendment No. 55 was not moved. Sorry; please continue. Deputy Mac Lochlainn was not here and I did not spot it. The grouping includes amendments Nos. 55 to 57, inclusive. Please continue.

Deputy David Stanton: I know that even if a person has a conviction, it does not automatically mean he will be barred from entering or working in another country, but it might slow things down. That is where these elements are coming from.

It is simply a matter of putting on record the concern over whether, and at what level, there is any intention to engage other jurisdictions in order that spent convictions here can be recognised in other jurisdictions and *vice versa*. It is a self-declaring and self-administering system in the main, but there is also a role for the State, as these amendments portray.

Deputy Thomas Pringle: I support this amendment. It is important and should be taken on board in the legislation. Unless it is specifically requested, spent convictions should not be disclosed when another State makes a request.

In the case of amendment No. 57, I question whether an employer should even be able to ask about it in the first place, particularly an employer from outside the State.

The principle is in line with the principle of the Bill in terms of spent convictions. That should be recognised in terms of a person's rehabilitation and rights. There should be no automatic disclosure of spent convictions when requested by another state. For that reason, I support the amendment.

Deputy Peter Mathews: In the context of this debate, the questions that arise and the clarifications that are sought, it is important to remember some things. The individual citizen, whether a man or a woman and irrespective of age, is the object of all this legislation. The presumptions that some of the institutions have made in the framing and influencing of this legislation are breathtaking.

I offer one example. Deputy Stanton has discussed the matter from the perspective of a prospective employee or a person applying for a job in an institution or a company. Let us consider it - I am saying this carefully. Allied Irish Banks and other banks were convicted of criminality in the DIRT inquiry. Yet the presumption is that the individual who is applying for a job is more at risk or has to be more beholden to the prospective employer in terms of his sanctification before he goes ahead with an interview for the job with a company that is tarnished in so many ways. It is actually unbelievable.

This is why I come back to what I said earlier. We need to think about this legislation in terms of civility, society, community and family. Let us suppose a price has been paid by an individual for a transgression of the law in a criminality context. By the way, as I said earlier, some crimes are crimes from 20 years ago and are no longer crimes today. We need to be careful that we do not lose the purpose of what we are trying to do, which is true forgiveness in a context of rehabilitation, as Deputy Daly, Deputy Wallace and Deputy Pringle have all so clearly and eloquently expressed.

I appeal to the Minister not to lose the essence of what we are trying to achieve. Is there true forgiveness and absolution, or is it a wishy-washy make-believe masquerade that always

allows for the conviction to become live again? If that is the case, I do not like it. It is neither healthy nor sane.

Deputy Frances Fitzgerald: I have good news in respect of these amendments and the spirit of these amendments in terms of some recent developments. Each of these provisions has merit and I am fully in agreement with the spirit of the amendments. However, I intend to make these provisions outside this Act. I will go through the detail in order that Deputies are aware of the particular issues involved.

Obviously, we do not have any jurisdiction over convictions in another member state. That is absolutely clear, because every state has different criminal penalties for the same criminal offence. For example, in some countries a particular offence carries a penalty of imprisonment, while in other countries the same offence may carry a fine. We could not have a spent convictions regime for convictions in other states that is structured as this Bill is structured, because the provisions are based on the sentence of a court rather than the specific offence.

However, earlier this week I attended the meeting the justice Council of Ministers. At the meeting it was agreed in principle that spent convictions would not be disclosed between member states under a new EU directive. That is to be welcomed. I believe it will meet the spirit of what Deputies have said. Obviously, we must await the conclusions of the negotiations on the directive in order to give effect to it in law. The directive in question will be given effect in the criminal records (information) Bill, which the Government has already approved for drafting. At the moment, I cannot broaden the scope of this Bill to include the question of convictions in other states. That will have to be dealt with in accordance with the directive currently under negotiation in any case. However, I believe it is a progressive move at a European level and I believe it is the right thing to do.

I agree with amendments Nos. 56 and 57 in principle. Again, I have a difficulty in that notification of convictions to other states falls outside the scope of this Bill. Again, we cannot legislate on how other states assess the relevance of particular convictions, given the very different penalties that apply in different states in respect of the same offences. We cannot prevent any state from requiring an Irish person travelling abroad to provide a written statement of any criminal convictions. However, as I indicated earlier, I have made provision outside this Bill in regard to the criminal record information that the Garda will include in police certificates. I recently wrote to the Garda Commissioner advising that the offences which are not disclosed in Garda vetting applications for persons working with children should also not be included in police certificates. That will be of significant assistance in dealing with the issues we have discussed.

Deputy David Stanton: I thank the Minister. It is a significant move. The issue arose during Committee Stage, and at that stage such a provision was not envisaged. It is a great breakthrough at European level. I am curious as to whether it is intended to open discussions with other countries, such as the United States, Canada, Australia and New Zealand, to which many Irish citizens like to travel. Could some form of understanding be reached in respect of the same issues as will be the case with all of the European jurisdictions?

Deputy Frances Fitzgerald: I imagine the focus will be on the directive at European level. Clearly, it will be a more complex situation when we enter into negotiations with other countries. I take the Deputy's point on other states and the impact on Irish citizens. It is very good that, at least at European level, we have a directive. We also have a vehicle to introduce the

legislation I mentioned into Irish law. That would be of great benefit if it can be progressed to agreements with the United States and other countries.

Amendment, by leave, withdrawn.

Amendment No. 57 not moved.

Deputy Frances Fitzgerald: I move amendment No. 58:

In page 9, to delete line 30 and substitute the following:

“(a) applies for, seeks or is offered any employment, activity or service specified in *Schedule 3* (in this section referred to as “specified work”),”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 59:

In page 9, line 32, to delete “relevant work” and substitute “specified work”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 60:

In page 9, line 33, to delete “relevant work” and substitute “specified work”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 61:

In page 9, line 37, to delete “relevant work” and substitute “specified work”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 62:

In page 9, between lines 37 and 38, to insert the following:

“(2) *Section 5* shall not apply in respect of a person—

(a) who—

(i) applies for, seeks or is offered relevant work or activities specified in Part 1 or 2 of *Schedule 1* to the Act of 2012 (in this section referred to as “relevant

work”),

(ii) enters or proposes to enter into a contract of employment to do relevant work,

(iii) applies to another person to do relevant work on that other person’s behalf (whether or not in return for payment or any other consideration), or

(iv) enters or proposes to enter into a contract for services to do relevant work,

and

(b) who has a conviction, other than a conviction to which section 14A of the Act of 2012 applies.”.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendment No. 64 is a physical alternative to amendment No. 63. Amendments Nos. 63, 64, 68 and 75 are related and may be discussed together.

Bill recommitted in respect of amendment No. 63.

Deputy Frances Fitzgerald: I move amendment No. 63:

In page 9, to delete lines 38 to 48.

The purpose of amendment No. 63 is to delete a provision which would allow certain categories of work not already listed in Schedule 3 to the Bill to be excluded from the Act by order of the Minister. I am proposing this amendment, as the Minister responsible, because any such extension should be brought before the Oireachtas by way of an amendment or addition to Schedule 3 to the Bill, which lists excluded work. Any exclusions of positions of employment from the Act should only be done with Oireachtas approval. This would mean that the amendment tabled by Deputy Maureen O’Sullivan was no longer necessary. I do not know whether she is moving her other amendments.

An Leas-Cheann Comhairle: The amendments are being discussed together.

Deputy Frances Fitzgerald: If Deputy O’Sullivan is not in the House, can they still be moved?

An Leas-Cheann Comhairle: They can be moved by other Members. We have to take the grouping together.

Deputy Frances Fitzgerald: While I agree with the principle behind amendments Nos. 68 and 75 in the name of Deputy O’Sullivan, these amendments are also unnecessary.

I wish to make an important point to the House. Information relating to cautions, investigations without charge and dismissals under the Probation Act 1907 are already covered by the Data Protection Acts. Section 2 of the Data Protection Act provides that sensitive personal information includes any information relating to “any proceedings related to an offence committed by a person or the sentence of any court in regard to such offence”. Under the provisions of the Data Protection Act, the Garda may not disclose such information except as provided for in law. To do so would be a breach of the Data Protection Acts, and the use of such data by the Garda is already monitored and supervised by the Data Protection Commissioner under the Data Protection Acts. Therefore, there is no necessity to make any such provision in this Act.

Deputy Thomas Pringle: I welcome the decision of the Minister to delete the two relevant subsections. It is a pity we did not have the choreography that was evident in the last amendment before we came to the House. It was a very serious aspect of the Bill because it would have allowed a Minister free rein to make the entire Civil Service out of bounds for anybody with a spent conviction.

Whoever is elected to the next Dáil will have to remain vigilant. It is to be hoped I will

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be one of those elected. Future Deputies will have to keep an eye on what the legislation will actually entail in terms of the leeway the Minister will have. It is vital that the Data Protection Commissioner and the Irish Human Rights and Equality Commission are required to be consulted on any of the provisions of the Bill.

Amendment agreed to.

Bill reported with amendment.

Amendment No. 64 not moved.

Deputy Frances Fitzgerald: I move amendment No. 65:

In page 10, between lines 1 and 2, to insert the following:

“ “Act of 2012” means the National Vetting Bureau (Children and Vulnerable Persons) Act 2012;”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 66:

In page 10, line 15, to delete “relevant work” and substitute “specified work or relevant work”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 67:

In page 10, line 17, to delete “relevant work” and substitute “specified work or relevant work”.

Amendment agreed to.

Amendment No. 68 not moved.

Deputy Frances Fitzgerald: I move amendment No. 69:

In page 11, to delete lines 11 to 14.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 70:

In page 11, line 15, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 71:

In page 11, line 16, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 72:

In page 11, line 19, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 73:

In page 11, line 21, to delete “Act” and substitute “Part”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 74:

In page 11, line 23, to delete “Act” and substitute “Part”.

Amendment agreed to.

Amendment No. 75 not moved.

Deputy Frances Fitzgerald: I move amendment No. 76:

In page 11, to delete lines 24 to 29.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 77:

In page 11, after line 29, to insert the following:

“PART 3

AMENDMENT OF ACT OF 2012

Definition for purposes of Part

15. In this Part “Act of 2012” means the National Vetting Bureau (Children and Vulnerable Persons) Act 2012.”.

Amendment agreed to.

Bill recommitted in respect of amendments Nos. 78 to 82, inclusive.

Deputy Frances Fitzgerald: I move amendment No. 78:

In page 11, after line 29, to insert the following:

“Amendment of section 3 of Act of 2012

16. Section 3(1) of the Act of 2012 is amended by —

(a) the substitution of “or vulnerable persons;” for “or vulnerable persons.”, and

(b) the insertion of the following paragraph after paragraph (c):

“(d) the employment of, or entering into a contract for services with, a person either by or on behalf of the State Examinations Commission, for the purposes of the performance by the person on a temporary basis of any functions in respect

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of the conduct and delivery of examinations to which Part VIII of the Education Act 1998 applies.”.”.

This is a minor drafting amendment. The Department of Education and Skills requested this particular wording so as to make it clear that school students who perform minor functions in assisting exam superintendents during examinations do not require Garda vetting. It is a straightforward amendment.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 79:

In page 11, after line 29, to insert the following:

“Amendment of section 7 of Act of 2012

17. Section 7 of the Act of 2012 is amended, in subsection (2)(f), by the substitution of “scheduled organisations” for “scheduled bodies”.”.

This is a minor drafting amendment to ensure consistent use of the term “scheduled organisations” throughout the Act.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 80 and 83 are related and may be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 80:

In page 11, after line 29, to insert the following:

“ Amendment of section 9 of Act of 2012

18. Section 9 of the Act of 2012 is amended —

(a) in subsection (3), by the substitution of the following paragraph for paragraph (k):

“(k) subject to subsection (9), in a case where he or she has a criminal record, particulars of such record;”

and

(b) by the insertion of the following subsection after subsection (8):

“(9) A person shall not be obliged to provide details of any convictions to which section 14A applies.”.”.

The purpose of the amendment is to provide that a prospective employee for a position of employment covered by the Act is not required to inform a prospective employer of an old minor conviction which would be excluded from disclosure under section 14A. It is a protection for employees. In addition, the vetting bureau will not disclose such offences in vetting disclosures.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 81:

In page 11, after line 29, to insert the following:

“Amendment of section 12 of Act of 2012

19. Section 12 of the Act of 2012 is amended by—

(a) the insertion of the following subsection after subsection (3):

“(3A) Where 2 or more relevant organisations jointly agree in writing to the employment, contracting, permitting or placement of a person to undertake relevant work or activities, it shall be a defence in any proceedings brought against a person for an offence under subsection (2) to show that another relevant organisation who was party to the agreement received a vetting disclosure in respect of the employment, contract, permission or placement of the person concerned.”,

(b) the substitution of the following subsection for subsection (4):

“(4) In the case of the employment of, entering into a contract for services with, permitting or placement of any person to undertake relevant work on a casual or part-time recurring but non-continuous basis with the same relevant organisation, the obligations placed on a relevant organisation pursuant to subsection (1) shall, subject to section 20, be regarded as being satisfied where the relevant organisation concerned received a vetting disclosure in respect of the person in respect of that initial employment, contract, permission or placement, as the case may be.”,

and

(c) the substitution of the following subsection for subsection (5):

“(5) This section shall not apply to the following:

(a) any employment, contract, permission or placement that commenced or was entered into, given or made, as the case may be, before the commencement of this section;

(b) any employment, contract, permission or placement on a casual or part-time recurring but non-continuous basis with the same employer where the initial employment, contract, permission or placement, as the case may be was entered into, given or made as the case may be, before the commencement of this section;

(c) any employment, contract, permission or placement, including a casual or part-time recurring but non-continuous employment which was not entered into before the commencement of this Act but in respect of which a relevant organisation had, before that commencement, requested and received vetting information in respect of the person who was the subject of the employment, contract, permission or placement concerned from the national unit of the Garda Síochána known as the Garda Central Vetting Unit.””.

This amendment amends section 12 of the vetting Act. It is a practical amendment. The new section provides a defence where two organisations jointly share responsibility for employment replacement of a person and agree in writing that one of these organisations will conduct the vetting.

It was brought to my attention that this situation arises a good deal, for example, in third level colleges where students are placed on work experience or in community organisations where a person may be working in a voluntary capacity for a number of organisations. This has been raised by organisations where multiple vetting was being requested, and the amendment makes it explicit that once they have been vetted once by the employer, the requirements of the Act are met.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 82:

In page 11, after line 29, to insert the following:

“Amendment of section 13 of Act of 2012

20. Section 13 of the Act of 2012 is amended—

(a) by the substitution of the following subsection for subsection (2):

“(2) A relevant organisation may submit an application for vetting disclosure under this section on its own behalf or on behalf of another relevant organisation that the organisation represents for the purposes of the vetting procedures under this Act and, where a relevant organisation submits an application on behalf of another relevant organisation, it shall—

(a) inform the Bureau of that fact and provide the Bureau with the particulars referred to in section 8(5), and

(b) provide or make available, in written or electronic form, a copy of the vetting disclosure received from the Bureau to the relevant organisation that it represents or on whose behalf the application for vetting was made.”,

(b) in subsection (5), by the substitution of the following paragraph for paragraph (1):

“(1) subject to subsection (6A), in a case where he or she has a criminal record, particulars of such record;”,

and

(c) by the insertion of the following subsection after subsection (6):

“(6A) A person shall not be obliged to provide details of any convictions to which section 14A applies.”.

The purpose of this amendment is again to provide a number of clarifications so that the provisions of the Act will be correctly interpreted.

Subsection (a) amends the existing subsection (2). It makes it explicit that where an organi-

sation submits an application on behalf of an organisation it represents for the purpose of vetting, it must pass on the vetting disclosure to the relevant organisation. The wording “provide or make available” is used here to reflect the fact that the manner in which the disclosure is passed on will vary. It may be provided by post, by fax, by e-mail or by any means which allows the end user to produce a written copy. In the case of vetting of teachers, for example, the Teaching Council will use the same vetting disclosures to consider the eligibility of teachers to be registered as teachers, and will make them available in a secure manner to school employers, with the consent of the teacher and using a teacher-controlled personal identification number, PIN.

Subsections (b) and (c) provide that persons applying for vetting are not required to disclose any of the old minor convictions which are not included in a vetting disclosure under the provisions of section 14A. Again, it is clarifying some of the discussions we had earlier.

Amendment agreed to.

Bill reported with amendments.

Deputy Frances Fitzgerald: I move amendment No. 83:

In page 11, after line 29, to insert the following:

“Amendment of section 14 of Act of 2012

21. Section 14 of the Act of 2012 is amended—

(a) in subsection (4)(a)(i), by the substitution of “subject to subsection (4A), particulars of the criminal record” for “particulars of the criminal record”, and

(b) by the insertion of the following subsection after subsection (4):

“(4A) Where a person who is the subject of an application for vetting disclosure has a conviction to which section 14A applies, the conviction shall be excluded from the vetting disclosure made by the Bureau in respect of the person.”.

Amendment agreed to.

Bill recommitted in respect of amendment No. 84.

Deputy Frances Fitzgerald: I move amendment No. 84:

In page 11, after line 29, to insert the following:

“Certain convictions are not required to be disclosed

22. The Act of 2012 is amended by the insertion of the following section after section 14:

“**14A.** (1) This section applies to a conviction by the District Court of a person in respect of an offence where the following conditions are met in respect of the conviction:

(a) the person to whom the conviction relates shall be a natural person and

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shall have attained the age of 18 years at the date of the commission of the offence which is the subject of the conviction concerned;

(b) the offence shall not be an excluded offence;

(c) not less than 7 years has passed since the effective date of conviction;

(d) the person shall have served or otherwise undergone or complied with any sentence imposed, or order made by the court in dealing with the person in respect of the conviction concerned;

(2) Subject to subsection (4), this section shall apply in respect of one single conviction only and where a person has more than one conviction this section shall not apply to that person.

(3) Where in any proceedings before a court, a person is convicted of 2 or more offences which are committed simultaneously or arise from the same incident, and the court in passing sentence, imposes more than one sentence in respect of those offences, the convictions imposed shall be regarded as one single conviction.

(4) Subsection (2) shall not apply to a conviction imposed on a person in respect of an offence—

(a) under the Road Traffic Acts 1961 to 2014, other than section 53(2) of the Road Traffic Act 1961,

(b) under section 37A of the Intoxicating Liquor Act 1988,

(c) under section 4, 5, 6, 7, 8, 8A(4) or 9 of the Criminal Justice (Public Order) Act 1994.

(5) In this section—

“effective date of conviction” means, in relation to the imposition by the District Court of a sentence for an offence, the date on which the sentence becomes operative in accordance with the order of the court;

“excluded offence” means—

(a) an offence specified in Schedule 3, or

(b) an offence specified in *Part 1 or 2 of Schedule 1 of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016*.

(6) For the purposes of this section a criminal conviction of a person by the District Court—

(a) which is appealed by the person to the Circuit Court, and

(b) is affirmed or varied by the Circuit Court, shall, as so affirmed or varied by the Circuit Court be treated as if it were a conviction of the District Court.”.”.

Amendment agreed to.

Bill reported with amendment.

Bill recommitted in respect of amendments Nos. 85 to 91, inclusive.

Deputy Frances Fitzgerald: I move amendment No. 85:

In page 11, after line 29, to insert the following:

“Amendment of section 16 of Act of 2012

23. Section 16 of the Act of 2012 is amended—

(a) in subsection (1), by the substitution of “a relevant organisation (other than a relevant organisation who applies for vetting on behalf of another relevant organisation in accordance with section 13(2)) contains” for “a relevant organisation contains”,(b) by the substitution of the following subsection for subsection (2):

“(2) A relevant organisation (including a relevant organisation who applies for a vetting disclosure on behalf of another relevant organisation in accordance with section 13(2)) to whom a vetting disclosure is made in accordance with this Act may—

(a) consider and take into account the information disclosed in the vetting disclosure when assessing the suitability of the person who is the subject of the disclosure to undertake relevant work or activities, and

(b) to the extent that it is so authorised by law other than by virtue of this section, consider and take into account, in accordance with such law, the information disclosed in the vetting disclosure when assessing the suitability of the person who is the subject of the vetting disclosure to be registered, licensed, considered fit to practice or otherwise authorised (howsoever described) to undertake relevant work or activities.”,

and

(c) in subsection (3), by the substitution of “otherwise than in accordance with this Act or as otherwise authorised by law” for “otherwise than in accordance with this Act”.”.

The purpose of this amendment is to make it clear that a vetting disclosure may be used by the relevant organisation to consider the suitability of the person to be employed. In addition, the new subsection (2) provides that the vetting disclosure can also be used for the purpose of registering, licensing or considering the fitness to practice of a person, where this is provided for by law. This is to ensure that where other legislation such as the Teaching Council Act or the Health and Social Care Act make provision for a vetting disclosure to be used for such purposes, this is explicitly recognised in the 2012 Act.

Amendment agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 86 and 87 are related and may be discussed together.

Deputy Frances Fitzgerald: I move amendment No. 86:

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In page 11, after line 29, to insert the following:

“Amendment of section 20 of Act of 2012

24. Section 20 of the Act of 2012 is amended—

(a) in subsection (1)—

(i) by the substitution of “under this Act in respect of a person or, vetting information issued in respect of a person by the Garda Central Vetting Unit before the commencement of section 12,” for “under this Act in respect of a person,”, and

(ii) by the substitution of “application for vetting” for “further application for vetting”,

and

(b) in subsection (3), by the substitution of “without reasonable excuse fails to comply with” for “contravenes”.”.

The purpose of the amendments is to clarify the procedures in regard to re-vetting and retrospective vetting.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 87:

In page 11, after line 29, to insert the following:

“Amendment of section 21 of Act of 2012

25. Section 21 of the Act of 2012 is amended—

(a) in subsection (1), by the substitution of “vetting disclosure under this Act or, a request made before the commencement of section 12 to the Garda Central Vetting Unit for vetting information in respect of the person concerned,” for “vetting disclosure under this Act,”,

and

(b) in subsection (3), by the substitution of “without reasonable excuse fails to comply with” for “contravenes”.”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 88:

In page 11, after line 29, to insert the following:

“Amendment of section 31 of Act of 2012

26. Section 31 of the Act of 2012 is amended by—

(a) the designation of that section as subsection (1),

(b) the substitution, in subsection (1), of “vetting information” for “vetting disclosure”, and

(c) the insertion of the following subsection after subsection (1):

“(2) Where, before the commencement of this section, a person had appealed a determination made by the Garda Central Vetting Unit in respect of the person but the appeal had not been concluded before that commencement, then the appeal shall be deemed to be an appeal under section 18 and shall be dealt with accordingly and, any step taken before such commencement in relation to the appeal (being a step required to be taken under this Act in relation to an appeal under this Act) shall be deemed to have been taken under this Act.”.

The purpose of this amendment is to make explicit that where, before the commencement of the Act, any persons have appealed the disclosure of any information which would come under the description of “specified information” the appeal may be concluded in accordance with the provisions of this Act. This means that any cases currently under way once the Act comes in can be continued in accordance with the provisions here. That means that the person can have a right to an oral hearing and can ultimately appeal any proposed disclosure to the High Court, in accordance with this Act. It means that regarding any cases under way, the person can avail of the provisions in this Act for appeal to the High Court. They are transitional provisions.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 89:

In page 11, after line 29, to insert the following:

“PART 4

Miscellaneous

Amendment of Garda Síochána Act 2005

27. The Garda Síochána Act 2005 is amended by the insertion of the following section after section 127:

“Regulations relating to fees for provision of vetting services

127A. The Minister may—

(a) after consultation with the Garda Commissioner, and

(b) with the consent of the Minister for Public Expenditure and Reform, make regulations prescribing fees in relation to the provision of vetting services in accordance with section 7(1).”.

The vetting Act already allows in section 32 for fees to be charged for vetting. However, not all Garda vetting is covered by the 2012 Act. For example, vetting of public sector appointees or vetting for road transport licences or private security licences is provided for in other pieces of legislation. This amendment is proposed in order to create a provision identical to section 32 of the vetting Act in the Garda Síochána Act. That way, if vetting fees are to be introduced it can be done under one piece of legislation, the Garda Síochána Act, and will not require piece-

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meal amendments to different pieces of legislation.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 90:

In page 11, after line 29, to insert the following:

“Amendment of Schedule 1 to Act of 2012

28. Schedule 1 to the Act of 2012 is amended—

(a) in paragraph 7 of Part 1, by the substitution of “any religious beliefs to children unless such work or activity is merely incidental to the advancement of religious beliefs to persons who are not children” for “any religious beliefs”, and

(b) in paragraph 7 of Part 2, by the substitution of “any religious beliefs to vulnerable persons unless such work or activity is merely incidental to the advancement of religious beliefs to persons who are not vulnerable persons” for “any religious beliefs”.”.

The purpose of this amendment is to make it explicit that any work or activity as a minister or priest or other person engaged in the advancement of religious beliefs requires vetting if the person is working with children or vulnerable persons but not if the person is engaged in general work within the community. This replicates the wording already used in regard to other employments listed in the schedules.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 91:

In page 11, after line 29, to insert the following:

“Amendment of Schedule 2 to Act of 2012

29. Schedule 2 to the Act of 2012 is amended by the insertion of the following paragraph after paragraph 11:

“12. The Garda Síochána Ombudsman Commission.”.”.

This relates to the Garda Síochána Ombudsman Commission, GSOC. GSOC investigates allegations of offences committed by gardaí. This amendment provides that if GSOC has information arising from its investigations suggesting that a person would pose a threat to children or vulnerable persons it must inform the vetting bureau.

Amendment agreed to.

Bill reported with amendments.

Deputy Frances Fitzgerald: I move amendment No. 92:

In page 11, after line 29, to insert the following:

“Excluded offences for purposes of section 14A

30. The Act of 2012 is amended by the insertion of the following Schedule after Schedule 2:

“SCHEDULE 3

Section 14A

EXCLUDED OFFENCES FOR PURPOSES OF SECTION 14A

1. An offence under section 17 of the Domestic Violence Act 1996.
2. An offence under the Non-Fatal Offences against the Person Act 1997.
3. An offence under section 246 of the Children Act 2001 (cruelty to children).
4. An offence under section 176 of the Criminal Justice Act 2006 (reckless endangerment of children).
5. An offence under section 80 of the Health and Social Care Professionals Act 2005.
6. An offence under section 41 of the Medical Practitioners Act 2007.
7. An offence under section 44 of the Nurses and Midwives Act 2011.
8. An offence under section 49 of the Nurses Act 1985.
9. Any offence under the following provisions of the Dentists Act 1985:
 - (a) section 50;
 - (b) section 51.
10. An offence under section 32 of the Pharmacy Act 2007.
11. An offence under section 56 of the Teaching Council Act 2001.
12. An offence under the Firearms Act 1925.
13. An offence under the Firearms Act 1964.
14. An offence under the Firearms and Offensive Weapons Act 1990.
15. An offence under section 31 or 32 of the Intoxicating Liquor Act 1988.
16. An offence under the Misuse of Drugs Acts 1977 to 2015, other than a first offence under section 3 of the Misuse of Drugs Act 1977.
17. An offence under section 14, 15, 16, 17, 18 or 19 of the Criminal Justice (Public Order) Act 1994.””.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 93:

In page 12, line 6, to delete “this Act” and substitute “*Part 2* of this Act”.

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Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 94:

In page 12, line 19, to delete “this Act” and substitute “*Part 2 of this Act*”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 95:

In page 12, line 37, to delete “this Act” and substitute “*Part 2 of this Act*”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 96:

In page 13, line 8, to delete “this Act” and substitute “*Part 2 of this Act*”.

Amendment agreed to.

Deputy Frances Fitzgerald: I move amendment No. 97:

In page 15, to delete lines 1 to 52, and in page 16, to delete lines 1 to 42.

Amendment agreed to.

Amendments Nos. 98 and 99 not moved.

Bill, as amended, received for final consideration.

Question proposed: “That the Bill do now pass.”

Deputy Thomas Pringle: When does the Minister intend to commence the legislation?

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): We have to appoint appeals officers under the vetting Act, and that should just take a number of weeks, so this legislation should be in place in early April.

Question put and agreed to.

An Leas-Cheann Comhairle: The Bill, which is considered to be a Bill initiated in Dáil Éireann in accordance with Article 20.2.2° of the Constitution, will be sent to the Seanad.

Medical Practitioners (Amendment) Bill 2014 [Seanad]: Second Stage

Minister of State at the Department of Health (Deputy Kathleen Lynch): I move: “That the Bill be now read a Second Time.”

I am very pleased to have the opportunity to address the House on Second Stage of the Medical Practitioners (Amendment) Bill, as passed by Seanad Éireann. The purpose of the Bill is to make it mandatory for medical practitioners who are engaged in medical practice to provide evidence of minimum levels of indemnity insurance cover to the Medical Council, on registration with the council and on annual renewal of registration. There is currently no legal

obligation on a medical practitioner to have medical indemnity insurance cover. In some cases also, doctors may have cover, but it may be inadequate for the area in which they practise. As a result, some patients and the users of medical practitioners' services may find they are unable to seek redress in the event of a medical mishap or negligent care from a medical practitioner. Given the high cost of litigation and the long-term consequences of some adverse events, this legislation is to be welcomed as patient-focused and progressive.

The main purpose of the original Medical Practitioners Act 2007 is to protect the public and to have a proactive system of robust registration and regulation of the medical profession, in order to minimise the risk to the public and to safeguard the health and well-being of people accessing health services. Under the Medical Practitioners Act, the Medical Council must register every medical practitioner who practises in Ireland. In anticipation of the enactment of this Bill, the council already asks medical practitioners on application for registration and on annual retention of registration whether they have indemnity cover. On the enactment of the legislation, medical practitioners will not be registered to practise unless evidence of adequate indemnity cover is provided to the council. This development can only be to patients' benefit.

The Bill as originally published put an onus on the Medical Council to specify minimum levels of indemnity, on being advised by the State Claims Agency of what these levels should be. However, during its passage through the Seanad, the Bill was amended to make it explicit that it would be the State Claims Agency which would specify minimum levels of indemnity. At present, the State Claims Agency's functions relate to the management of clinical claims under the clinical indemnity scheme and so it has the expertise in this area. It also has close contacts with private medical indemnifiers and other experts in the area of clinical negligence and risk. It is, therefore, very well placed to assess and specify the minimum levels of indemnity which should be required by medical practitioners. This policy change required that a new function be given to the State Claims Agency under section 8 of the National Treasury Management Act 2000, as amended. On 5 June 2015, the Government approved the drafting of amendments to the Bill. In the Bill, the State Claims Agency will link with relevant bodies in order to assess and specify what the minimum levels of indemnity should be for medical practitioners in different specialties on the Medical Council's register. There are currently 57 specialties on the register, and practising in some specialties has an inherently higher risk of a medical mishap. Even within different specialties, some types of medical practice, by definition, will have a higher risk than others. It is important to point out that all doctors who work in the public health system are provided with medical indemnity insurance under the State's clinical indemnity scheme. Private consultants who practice in public hospitals are also covered by this scheme. However, doctors who are engaged in wholly private practice must purchase private indemnity insurance cover. There is a wide range in the cost of cover for consultants engaged in wholly private practice. For example, a consultant practising dermatology, based on figures from medical indemnifiers, would be considered low-risk, and the annual premium for this practice could be around €16,000. However, a spinal surgeon may have to pay over €100,000 for annual medical indemnity insurance cover, reflecting the much higher risk involved in that practice.

The Joint Committee on Health and Children heard last year how the cost of cover for medical indemnity in private practice had increased significantly in recent years. For example, the increase was around 42% in 2014. The reason given by the medical defence organisation for this increase is that it is mainly due to the high cost of awards for clinical negligence in Ireland. The legislation will not require medical practitioners to pay any more than would be the normal

adequate cover for the medical practice in which they are engaged. A medical practitioner who is not engaged in medical practice and does not pose a risk to another person relating to his or her medical practice - for example, a practitioner who is a full-time lecturer - will have no legal obligation to have medical indemnity insurance cover.

The legislation is one element of a package of measures being introduced by Government relating to medical negligence. Other elements include legislation on pre-action protocols for clinical negligence cases. This forms part of the Legal Services Regulation Act just enacted by my colleague the Minister for Justice and Equality. That legislation should help shorten the time it takes for negligence cases to get through the courts. In addition, the heads of a Bill on periodic payment orders and on open disclosure have been agreed by Government and this legislation will be published shortly. Deputies may wish to note that further amendments to the Medical Practitioners Act will be made in a health (miscellaneous provisions) Bill, which is currently being drafted as a matter of priority. This Bill will amend the five health professional regulatory Acts, including the Medical Practitioners Act, to provide for consequential amendments required by the transposition of EU Directive No. 55 of 2013, which relates to the recognition of professional qualifications, appeals against minor sanctions in fitness to practise cases, and a number of other amendments. As the amendments consequential to the transposition of the directive require changes to how medical practitioners will be registered, the Minister, Deputy Varadkar, is taking the opportunity to make amendments to remove the requirement to have the equivalent of a certificate of experience for entry to the trainee specialist division.

I hope Deputies will support this important Bill. Given the trauma faced by patients and their families when things go wrong, there will at least be clarity that medical practitioners have adequate minimum levels of medical indemnity insurance cover. I wish to thank Senators for approving the Bill and for checking on Committee Stage that the legislation was robust and fit for purpose. I commend this Bill to the House and I hope the Deputies will approve it.

An Leas-Cheann Comhairle: The next speaker on the list is Deputy Caoimhghín Ó Caoláin.

Deputy Caoimhghín Ó Caoláin: How much time do I have?

An Leas-Cheann Comhairle: Thirty minutes.

Deputy Caoimhghín Ó Caoláin: My goodness. I am sorry I missed the Minister of State's opening remarks. I was attending the briefing on the Traveller accommodation issue in County Louth in the AV room. I have to say it is a very serious matter and most disturbing indeed.

The Medical Practitioners Amendment Bill 2014 had its genesis, as I recall, in a Private Members' Bill in 2009. Some might dispute that, but that would certainly be my view. I actually thought we had spoken on this already. I was checking with the Bills Office today because I thought I had spoken on that already and could not understand how I would get a second bite at Second Stage, but it was almost seven years ago now and I did indeed speak on it. To put the Minister of State at her ease, I will say at the outset that we will, of course, be supporting this Bill. We welcome it. It is regrettable that it has taken so long to get to this point, but we will be supporting it through all Stages and I hope the Minister will have the opportunity, other matters considered, to progress it to finality before the whistle is blown.

It alarmed me then and has continued to alarm me through all the intervening years that the current status in respect of medical practitioners and the legal obligation to acquire medical in-

demnity insurance had not already been provided for. It is a most disturbing fact. This has been reflected in the Seanad address of the legislation, where this Bill has come from. I concur with those in the Upper House who have expressed surprise and alarm that this “strange situation,” as it was described, has been maintained over all these years.

Under this Bill, the medical practitioners themselves will have to ensure they have suitable cover. The Medical Council will be in a position to sanction a medical practitioner engaging in medical practice who does not hold indemnification or the appropriate insurance. I also welcome the fact that there will be an exemption from indemnity for those who are not actively engaged in medical practice, including those who are lecturing, those who may be retired, and those who may have taken time out for whatever reason and who are not actively involved as medical practitioners over a given period. That is absolutely appropriate. We have had instances that were much worse than unintentional adverse outcomes. We have had possibly intentional interference with the bodily function of individual patients over the years, matters that we have addressed in this Chamber on many occasions, including on a number of occasions during the course of this Dáil term. As this is a Bill related to the health service, Second Stage affords me an opportunity to address some of those matters that have been particularly disturbing and that I can only refer to as scandalous. I hope these scandals are confined to the past. I am speaking particularly of the horrors of the Michael Neary scandal and the dreadful experiences of those who were subjected to symphysiotomy at a number of hospital locations over the years. The Government has introduced redress in respect of the Dr. Michael Neary case. However, there was a significant cohort who were not covered by the redress scheme, some of whom were subsequently brought in under an additional or subsequent tranche of supports. There was also the symphysiotomy situation, which is currently being addressed, however unsatisfactorily in the eyes and minds of many of those who have suffered grievously. Some progress has been recorded on some of these matters, and that must be welcomed.

In relation to a Bill dealing with the requirement for indemnification and medical insurance, I feel obliged to draw attention to the very small number of victims of Dr. Neary who have not been included in the extended redress provision. I have recently spoken to the senior Minister in this regard. I speak quite particularly in relation to four women. There may be other cases, but I am familiar with four who have a commonality, not only of experience but of the expert analysis and assessment of Dr. Richard Porter, who carried out specific reviews of each of their cases. I have a copy of each report. I am, again, bringing them to the Minister of State’s attention in a last-ditch - for the want of a better word - appeal in the closing days of this Administration, and I ask that she exercise her position to speak to the senior Minister and that they jointly review the situation that still obtains in relation to these four cases.

I have three of the reports prepared by Dr. Porter here, and I will highlight one of these cases. I will maintain the anonymity of those concerned. I will not refer to them at all by name, but I have met all of them. I know them personally and I must say that the exclusion of their cases from acceptance under the terms of the scheme compounds the hurt and pain that they have suffered over many, many years. No woman should be left in that position. Having the little bit of time, I will demonstrate the type of case that we are talking about here, read into the record the opinion of Dr. Porter and ask of the Members here, particularly the Minister of State, why any woman who has been through what these women have suffered could be refused inclusion under the terms of the Neary redress scheme.

Dr. Porter states:

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I have been asked to comment on the appropriateness or otherwise of the surgery performed in June of 1991.

Before doing so I think it is appropriate to comment on the management leading up to that.

Although I do not have the full details of [the management of the patient concerned], there must be a strong suspicion that the management was inappropriate and inadequate.

It appears, to me, inconceivable that in 1991 a couple could be followed for prolonged infertility without semen analysis having been performed. In addition it appears extraordinary to me that at no stage in the management of her infertility had she undergone an ultrasound scan. Both of these omissions raise serious questions about the professionalism and the adequacy of the clinical evaluation.

In February 1991 a laparoscopy was performed which purported to demonstrate endometriosis. No attempt was made to establish the patency of the fallopian tubes, indeed this is actually explicitly mentioned as having not been performed during the laparoscopy.

I should add in passing that the sub-umbilical incision used for this laparoscopy was, without exception, the largest such incision that I have ever seen. I have to say that this raises for me questions concerning the competence with which this procedure was undertaken.

Dr. Neary elected to perform a laparotomy some four months later.

It is not clear to me on what grounds this operation was undertaken.

[The lady concerned] was not complaining of abdominal pain at this time, indeed her only complaint was of a failure to become pregnant.

If the intention of the surgery was to maximise her fertility prospects then it is hard to see how the removal of the left tube and ovary would come under that category. Nor is it easy to understand how it was proposed that removing an endometriotic cyst on an ovary, which would inevitably result in a potential increase in scarring within the pelvis, could be expected to result in enhanced fertility prospects.

These facts were known in 1991.

The operation was performed through a midline sub-umbilical incision. This was a wholly unnecessary approach to the surgical area. This is an uncomfortable and unsightly incision and it was totally unjustified to perform this surgery for benign gynaecological disease through this incision.

Dr. Neary has described the operation as taking 2 1/4 hours.

This is contradicted flatly by the anaesthetic chart, which suggests that the operation only lasted 1 1/4 hours - but there is a possibility that it lasted 1 3/4 hours [...]

Dr. Neary mentions that the pelvis was very fixed.

By definition this was an area that required specialist surgery performed by an expert in the field, if surgery was indicated at all (which remains in my [Dr. Porter's] view highly debatable).

I have no reason to believe that Dr. Neary was an expert in fertility surgery and it is my view that he should not have been undertaking this operation in the first place.

He drained a right ovarian cyst, which he claims was an endometriotic cyst. I believe that this diagnosis remains open to very considerable doubt.

This uncertainty is made all the greater given the histological findings on the left ovary.

Dr. Neary proceeded to remove the left ovarian cyst but he omitted, it would appear, to send this for histological analysis. This was incompetent and unacceptable.

He did, however, declare in his operation note that the left ovary contained several endometriotic cysts and that there was ‘*no functioning ovary*’ at the end of the removal of the ovarian cyst. He therefore removed the ovary and sent it for histological analysis.

Histological analysis of this ovary however refutes both the clinical diagnosis of endometriosis and the assertion that the ovary was ‘non-functioning’ at the end of the operation.

The ovary was in fact of considerable size at the end of the procedure, as shown by the histology report, and far from being a non-functioning ovary it clearly contained the potential for useful endocrine and probably fertility function.

The histopathological analysis makes it very hard to believe that the clinical diagnosis of endometriosis was correct, and it clearly indicates that the surgical removal of the ovary was wholly unjustified.

The subsequent findings at surgery in 1994 suggest, far from surprisingly, that there were an increased number of adhesions around the right adnexal region, probably as a direct result of the surgery that had been undertaken in 1991.

My conclusion therefore has to be that:

- There was little or no pretext for performing the laparotomy in June 1991
- The diagnosis of endometriosis was in any event highly unlikely to be correct ([Dr. Porter believed] that [the patient] had haemorrhagic follicular cysts in her right ovary)
- The surgery on the right adnexal region worsened, rather than enhanced, her prospects for future fertility
- The removal of the left ovary was totally unnecessary

Overall, therefore, [Dr. Porter believes] that the surgery in June 1991 was unjustified in the first place, and incompetently performed, and that the operation note is probably not a true record of what was found at surgery.

I have taken the time to read this and I appreciate the Members’ listening carefully. It is just one of three of the four cases, and it is unnecessary for me to repeat it for each of the others.

The Bill seeks to ensure everyone under the inclusive term “medical practitioners”, which covers the Dr. Nearys - God bless us and let us hope there are no more of his ilk - has indemnity insurance. That on the one hand we are seeking to regularise the absolute requirement of indemnification while on the other hand we are ignoring the most learned report of a highly

respected practitioner, Dr. Porter, who has presented in so many of the cases concerned, coming from the neighbouring island to be of assistance in these cases, is a sad reflection on all of us in political life.

This woman, whom I have met and whose report and conclusions by Dr. Porter I have just read, is, like all the others, a victim of Dr. Michael Neary. She and those who presented with her have made repeated appeals, time after time, to have their cases respected, included and properly recognised. I appeal to the Minister of State, who would share my wish that no woman would be excluded from due recognition, acknowledgement and compensation. While it is very difficult to put into compensatory or monetary terms anything that would reflect on the extent and depth of the hurt and pain she and others have been put through, if some such recognition took place it would help these women and this woman who was denied the chance of ever becoming a mother, something which she feels grievously to this day.

7 o'clock

I appeal to the Minister of State, using the opportunity of this not unconnected legislation. It is very important that the connection is there. I am using my Second Stage address to confirm my support for the passage of the legislation and to appeal to everybody in the House, especially the Minister of State and the Minister, Deputy Varadkar, to use the remaining days of the Dáil term to revisit these cases. I will have the copies of these reports, which have already been presented to the Minister and the Department, in their pigeon holes first thing in the morning, in confidence and in the understanding that they will be treated respectfully. I ask the Minister of State please, in all justice, to use the remaining days to help see that justice is done for all who have suffered so much at the hands of this individual who should never have been allowed to practise as he has. I have adequately reflected my surprise that this has not been enshrined in legislation heretofore and I welcome the fact that, hopefully, before the Dáil rises for the general election, the legislation will be on the Statute Book.

Deputy Michael Fitzmaurice: Like the previous speaker, I support the Bill. I would like to ensure a few matters are covered. We all know, from all different walks of life and business, people must have insurance and indemnities. Long ago, when we were young and able to play football, if we got an injury such as a busted eye we could go to the local doctors and they sewed us up quickly. Nowadays, with insurance and indemnities, many medical practitioners are becoming fearful of performing such procedures.

I fully agree with Deputy Ó Caoláin's statement that what happened in Drogheda and all around the country is unacceptable. People should have insurance to cover the wrongs that were done. However, we must also ensure that we do not price ourselves out of the market in insurance. The Minister of State said public doctors were fully covered and indemnified by the State and did not need insurance. Around the country, people would go to a private doctor. While there must be insurance, is there a risk that insurance could be driven up? Insurance costs on all sides of business are increasing. Is it accounted for? Have we ensured we will not make it unreachable for some people?

I refer back to what I said about a youngster having a busted eye sewn up. Those doctors and medical practitioners must have insurance. Will insurance costs increase for doctors who might stitch a wound or remove a wart and make it unworkable for a rural GP in a small area, be it Donegal, Cork or elsewhere? Will it prevent doctors from doing such work and thus put more pressure on accident and emergency services? We must ensure that when we do something, we do it right.

I support the Bill. I have seen the denials that happened over the years and I welcome the fact the Minister of State is bringing this forward. As Deputy Ó Caoláin said, I hope it passes before the day of reckoning comes for us, in the not too distant future.

There have been problems with the allowances for rural GPs here and there around the country. I urge the Minister of State, the HSE and the Minister to ensure people have access to local GPs around the country. They are being refused the rural GP allowance here and there, and it is causing problems. It must be addressed. If these things happen, people will leave areas and there will be no doctors in areas. I welcome the Bill. I ask the Minister of State to address the issues I raised and give us the comfort of ensuring she has balanced it as well as possible. We all agree there must be proper insurance in place. The other side of it is that we need to start looking at what is and is not reasonable with regard to insurance in the whole medical spectrum and in many other areas. I know from being in business that if one draws down the insurance, it will get more and more expensive. If claims are going higher and higher, someone has got to pay because it all comes out of one big bag of money. It is all right to talk, but if claims keep going through the roof as some of them are at present, someone somewhere will have to pay and insurance costs will continue to rise. Everyone has to be looked after properly. I am not saying that people do not need to be looked after properly. I fully believe that everyone should be compensated properly for the wrongs that are done, but there comes a stage between what is covered properly and what goes beyond that. We need to make sure we look at that because if we fail to do so, at the end of the day the people will end up paying for the medical practitioner, the surgeon or the State. We need to make sure we cover that as well.

Deputy Joe O'Reilly: Ba mhaith liom mo chuid ama a roinnt leis an Teachta Seán Kenny.

Acting Chairman (Deputy Dinny McGinley): Ceart go leor.

Deputy Joe O'Reilly: Before I get into the specific remarks I want to make about this legislation, I want to record my complete support for the words of my colleague, Deputy Ó Caoláin, regarding the four women who are not yet included in the scheme of compensation for the Dr. Neary scandal. I ask the Minister of State, Deputy Kathleen Lynch, and her colleague, the Minister, Deputy Varadkar, to look at the material that will be brought forward. I know a couple of the women reasonably well. I know one of them very well. I met one of them with Deputy Ó Caoláin some months ago. Neither of us wants to put their names on the record. While I do not wish to repeat the sound case Deputy Ó Caoláin has made, I want to ensure I leave no ambiguity by making it clear that I support him on this important matter and I congratulate him on his lucid presentation of this complex case.

I welcome the opportunity to speak on this Bill, which seeks to ensure it is mandatory for all medical practitioners to have an adequate level of medical indemnity insurance. This is a very important protection for all patients. It goes without saying that this vital protection has to be accompanied by continuing regulation and scrutiny of the insurance sector and of the cost of insurance. Nevertheless, the purpose of this legislation should be unambiguously supported. It is startling enough that medical practitioners are not required to have professional indemnity cover in order to be registered with the Medical Council. Under current legislation, any medical doctor - Irish or otherwise - can carry out cosmetic surgery without needing to have any specialist training or qualification or the requisite insurance. I find this very alarming because it is common practice for surgeons from other countries to spend short periods of time in Ireland carrying out procedures before leaving again. Many of these surgeons are not covered with indemnity. This poses a real threat to unsuspecting patients who may suffer damage if work is

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carried out by a non-specialist surgeon. Dr. Peter Meagher of the Irish Association of Plastic Surgeons has raised concerns about the level of aftercare service offered at some plastic surgery clinics that have limited opening hours and lack of availability of surgeons. It is clear that a great deal of regulation is needed in this area. I am glad to see that this Bill addresses many of these issues and protects the patients.

It is interesting to make the point, as the Minister of State did in her speech, that there are 57 specialties on the medical registers. Section 6 of this Bill places a duty on registered medical practitioners to have an adequate level of indemnity in place to cover his or her class of practice. This must be in place at the time of his or her registration. Section 9 includes a provision that would make the Medical Council unable to register somebody unless he or she has adequate insurance. Section 11 provides for the power to remove somebody who does not have such insurance. Obviously, insurance is otherwise provided in the cases of lecturers and others working in the State system. All of that is provided for in this legislation.

The work of any medical professional within the health service is both challenging and rewarding. It is important that provisions are in place to protect the safety of every patient and to support our medical professionals. The vast majority of our surgeons, doctors and general practitioners operate in a very safe and responsible way. Sadly, there are exceptions for which we have to legislate. This country has a team of excellent medical personnel who are very highly qualified. There is no implicit suggestion that anything other than this is the case. The Government has acknowledged this by making a great investment in the health service. Some €13.19 billion will be invested in the health service in 2013. This represents an increase of €900 million on last year's figure. That is a very important vote of confidence in our health professionals and is a reflection of the importance of health care.

I would like to make a point about primary care, which is germane to this legislation in so far as it relates to doctors, surgeons and specifically general practitioners. Although immense things are being done in this area of health delivery, there is room for more development and more supports here. I am very proud of the new primary health care centres in my constituency. I refer, for example, to the refurbished facility in Kingscourt and to the centres in Bailieborough, Cootehill, Drumalee and Townhall Street in Cavan town and Virginia. This Government has a good record of providing a number of health care centres throughout counties Cavan and Monaghan in the worst of times. While I am happy about that fact, I think we need more. I would like to see a primary health centre in Ballyjamesduff because there is a vital need in that part of my constituency.

GPs are of central importance in our primary health centres. We should be very supportive of our GPs in that role. It was great that we reached agreement with the GPs on the progressive reforming legislation that provides GP cards to people under the age of six and over the age of 70. We should work with our GPs in a co-operative manner. We should be sensitive to their needs and fully respectful of their traditions and their work. They provided our primary health centres for generations. Indeed, their services were often provided intergenerationally in families. We should support our GPs practically and proactively in the development of primary care centres. I think we need more public health nurses. As the country starts to be in a position to afford it, we should begin to augment the numbers of such nurses to get better cover there. We need home care assistants. The home care packages are vital as a cost-effective way of keeping people out of institutional care at a low level of cost. They provide meaningful, good and fulfilling jobs for people. They allow people to stay in their own homes and they allow the primary care centres to function. It is very important for this service to be augmented. We need to put

more money directly into care assistance and home care packages.

The people on carer's allowance who provide care in their own homes should be feted and very highly valued in our community. The means-testing system that applies to them is relatively benign. We provide a half-rate of carer's allowance to people who are getting a second payment. There are many good aspects to it as it is. We have restored the respite care grants. While all of that is in place, I think more needs to be done. I think all possible secondary benefits, including those that relate particularly to older people, should be applied to carers to make it a very attractive option to be a carer. I think we should increase the rate of carer's allowance constantly, incrementally and annually as the country can afford it. It is a no-brainer in two regards. One is because institutional care is so expensive, and in cold, clinical economics it makes sense to support our carers. Second, it is good for the carer and for the person being cared for, so there is a huge amount at stake and very practical and real supports are needed. I suggest to the Minister that more needs to be done in the area of the primary carer at home with carer's allowance, secondary benefits and a gradual further relaxation of the means test. It should be attractive for somebody who wants to care for a relative and practical for them to leave employment and get an income which replaces their employment. They are freeing up a job for somebody else and doing a very important job in the home, allowing people to stay there where they want to be. That is very important and this Bill provides an opportunity to address it. I hope and intend that this speech to the Chamber is not my last. In one of my latter speeches I am delighted to get the chance to speak on the carer's allowance because I feel very strongly about it.

I also think this Bill protects patients and can only be supportive of our GPs. Proper practitioners have no difficulty in being compliant in these areas and this stops the wrong people coming into the market. A point was well made earlier about insurance, about people needing regulation and the cost of insurance regulation, as well as the need not to have exploitative rates of insurance. There is a need to stress test the insurance industry when it seeks increases in insurance costs, and this idea merits support. The legislation is excellent, it is very reassuring for patients and is a further reform of our health system that is to be welcomed and commended.

Deputy Seán Kenny: Before I speak on the Bill, as I am not standing in the upcoming general election, I would like to say a few words of farewell to the House. I thank the Cheann Comhairle and the Leas-Cheann Comhairle and all Members of the House of all parties for the courtesy they have extended to me during debates in the House. I thank the electorate of Dublin North-East who elected me to the House and whom I have had the honour of serving in this Dáil. They previously elected me to the 27th Dáil, from 1992 to 1997. I had a break in between and I was glad of the opportunity to come back here again. I believe I represented my constituents in both of those terms to the best of my ability. I thank my Labour Party colleagues, both inside and outside this House, for their support and friendship. I believe the Labour Party in this Dáil has made a valuable contribution to restoring the economy and ensuring people are now back at work. The improving economy is bearing fruit and we need to thank the electorate for their forbearance in the measures that had to be taken to restore the economy. I look forward to restoring the things we had to take away. I accept it was painful for many people during that period. I also thank my staff, my parliamentary assistant, Tom Cosgrave, and my secretarial assistant, Cáit Nic Amhlaoibh, for the work they have done. I wish them every success as well.

The purpose of this legislation is to require medical practitioners engaged in practice to provide evidence that they hold an adequate level of insurance. The reason for this is that there is currently no legal obligation on a medical practitioner to have adequate medical indemnity

insurance cover. I find it hard to believe that this is still the case and the question needs to be asked how it has been overlooked for so long. I am pleased that the matter is now being dealt with finally as some patients may be unable to seek redress in the event of negligent care from a medical practitioner, which we referred to earlier in this debate. Medical negligence is, thankfully, not commonplace but it does happen and there is an obligation on us, as legislators, to ensure people are protected.

Under the legislation a minimum level of indemnity will be set for various classes of medical practitioners by the Medical Council, which will consult the State Claims Agency and other relevant parties to set these minimum levels. A medical practitioner will only require indemnity if he or she falls within a class of medical practitioners specified as requiring that indemnity. The Bill should not require medical practitioners to pay more than what would be the normal adequate indemnity cover for their medical practice. If a medical practitioner is not engaged in medical practice and poses no possible risk to others relating to that practice, there is no legal obligation on him or her to have medical indemnity cover. An example of this would be a medical practitioner who is working full-time as an academic.

There are no additional costs to the Exchequer resulting from this Bill, although there will be costs incurred by the Medical Council which must implement the requirements under the legislation. This is because the Medical Council is the regulator. Estimated additional costs to the council are in the region of €200,000, and I understand this will be spent to a large degree on updates to its IT system which will be needed as a result of this legislation.

I commend the legislation to the House. It is well overdue that such medical indemnity is in place and I am pleased that patients will be protected in the event of medical negligence occurring in the future.

Acting Chairman (Deputy Dinny McGinley): We wish the Deputy all the best.

Deputy Mattie McGrath: I also wish the best to the Deputy and to all the other retirees, as well as those going on the hustings.

Acting Chairman (Deputy Dinny McGinley): There will be a few of them.

Deputy Mattie McGrath: I am interested to see this Bill. It is an important measure because it is vital that people have insurance, especially medical practitioners. I am surprised the Medical Council has not put its house in order before now. If doctors are practising without insurance, it is a very serious situation. I have a small plant hire business and I cannot go out on the road without insurance, without public liability and employer's liability insurance. I am appalled but why would I be surprised? It is 40 years since the GPs contracts were renegotiated.

The level of claims in this country has gone off the Richter scale completely and the advertising of legal eagles on a no win, no fee basis must be tackled. When will we have a Government that will tackle the racket that is going on and the enormous fees that are charged in this and other areas? I spoke to a chap recently whose house had never flooded and will never flood, because if it did so the whole village would flood, but whose bill went from €350 to €1,800. This is a hijacking of the situation in the country with people being flooded.

This Bill is a bit of a veneer being put on in the dying days of the Government. We have rural GPs and we have two standing in the general election, but the plight of rural GPs is perilous. I salute the work done by all GPs and their practice nurses and other staff in health centres.

They are the front-line services and more and more people are abandoning emergency departments. They are getting their own blankets because none is provided by the hospital and they are going back to their GPs because they cannot get to be seen in hospitals. That is the legacy of the Government. The GP in my area has retired and I wish her well, but the HSE tells us we have a locum when we do not have a locum. They will not work if we do not pay them. The rural practice allowance is not being paid to 32 GPs in rural Ireland.

Acting Chairman (Deputy Dinny McGinley): It is 7.30 p.m. so I will have to interrupt the Deputy.

Deputy Mattie McGrath: I was just getting going.

Debate adjourned.

Message from Seanad

Acting Chairman (Deputy Dinny McGinley): Seanad Éireann has passed the Public Transport Bill 2015, without amendment.

Social Housing: Motion (Resumed) [Private Members]

The following motion was moved by Deputy Barry Cowen on Tuesday, 26 January 2016:

That Dáil Éireann:

notes that there are over 1,600 children and up to 780 families in emergency accommodation;

accepts that families and children being placed in hotel rooms rather than proper accommodation is totally unacceptable;

further accepts that due to lack of action the number of people on the social housing list has been allowed to rise to 130,000;

agrees that there is a national housing crisis;

notes that the National Asset Management Agency, NAMA, has been given responsibility to build 20,000 houses on behalf of the State;

condemns the Government for only allocating 10% of this stock for social housing as this falls way short of adequately dealing with the social housing crisis; and

calls on the Government to utilise the social dividend section of NAMA and to sign an order to direct it to provide 50% of these 20,000 houses as social houses.

Debate resumed on amendment No. 2:

To delete all words after “Dáil Éireann” and substitute the following:

“recognises the high priority which the Government has afforded to increasing housing

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supply, through its Construction 2020 Strategy and its Social Housing Strategy 2020;

acknowledges the demand for social housing as demonstrated by the approximately 90,000 households on the social housing waiting list, at the last full and comprehensive assessment in 2013;

welcomes the commitment to undertake a summary of social housing assessments on an annual basis from 2016 onwards, to ensure up to date and comprehensive data on housing need is available on an ongoing basis;

recalls the vision outlined in the Social Housing Strategy 2020, that every household will have access to secure, good quality housing suited to their needs at an affordable price in a sustainable community;

acknowledges the Government's ongoing commitment to deliver on that vision and in particular welcomes the progress to date including, *inter alia*, the:

— delivery of over 13,000 new social housing units in the first year of the Social Housing Strategy 2020, an increase of 86% year-on-year;

— commitment of €2.9 billion in capital funding for the Social Housing Strategy out to 2021 under the Government's six year capital investment framework, Building on Recovery: Infrastructure and Capital Investment 2016-2021, with an associated delivery target of 17,000 units for 2016;

— approval to date of 200 projects that will deliver 5,350 new social housing units, to be constructed by local authorities and approved housing bodies, and delivered under the public private partnership programme;

— progress made in bringing local authority dwellings back into productive use, with 5,000 delivered over the two-year period 2014-15, resulting in a marked fall in the number of vacant social houses;

— roll-out of the housing assistance payment, HAP, scheme to all categories of households in 18 local authority areas, with approximately 6,800 households having been supported by HAP since commencement of the scheme in September 2014; and

— introduction of enhanced powers for local authorities to counter anti-social behaviour in their estates which will help to create and maintain stronger, sustainable communities;

acknowledges the other measures introduced in 2015, that complement the focused, target driven approach of the Social Housing Strategy 2020, such as:

— the rental sector reforms introduced to give greater protection to tenants and landlords ensuring that, in 2016, most tenants will not see their rent increase;

— the amendments made to Part V of the Planning and Development Acts, under the Urban Regeneration and Housing Act 2015, which means the focus of Part V will be on the delivery of completed social housing units; and

— the enactment of the Planning and Development (Amendment) Act 2015, which strengthens the status of aspects of planning guidelines issued to local authorities on

planning matters to ensure their consistent application, particularly in relation to apartment standard guidelines; and streamlines the process for the making of modifications to strategic development zone planning schemes;

notes, with respect to the National Asset Management Agency, NAMA, that:

— the Government has enabled and facilitated NAMA in playing an important role in the delivery of housing supply generally and social housing in particular;

— this work has to be carried out in a manner consistent with the legislation governing the operation of NAMA;

— 2,000 houses and apartments have been delivered to local authorities and approved housing bodies for social housing use by end of December 2015;

— the Department of the Environment, Community and Local Government, the Housing Agency, local authorities and approved housing bodies continue to work closely with NAMA to ensure that its commitments on social housing are delivered;

— as indicated in budget 2016, in line with its governing legislation, NAMA is aiming to fund the delivery of 20,000 residential units before the end of 2020, of which it is estimated that 90 per cent will be in the greater Dublin area and that about 75% of the units will be houses, mainly starter houses; and

— NAMA will have to meet all of its statutory Part V obligations in accordance with the legislative provisions;

acknowledges that the solution to homelessness is multi-faceted, and in that context welcomes the whole-of-Government approach to dealing with the complexity of the situation, involving all key State agencies concerned, including the Departments of the Environment, Community and Local Government; Social Protection; Health; Children and Youth Affairs; the Health Service Executive; Tusla, the Child and Family Agency; the Irish Prison Service; and local authorities;

notes that a range of measures are being implemented by Government to address homelessness, including focusing on preventative approaches wherever possible and mobilising the necessary supports to mitigate the issues associated with an increasing volume of homeless families accommodated in inappropriate commercial hotel arrangements;

welcomes:

— the increase in funding for homeless services to €70 million, announced in budget 2016;

— with regard to the homeless housing assistance payment, HAP, pilot, the increase in flexibility in relation to rent limits from 20% above rent supplement levels to 50% above rent supplement levels announced in budget 2016, which will be of significant assistance to homeless families in Dublin moving out of emergency accommodation into longer term housing; and

— the initiative to utilise rapid housing delivery as a way of significantly improving emergency accommodation and decreasing the reliance on hotel accommodation, with

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500 new units to be delivered through this method in the Dublin region in 2016;

and further notes:

— the excellent work being done through the Department of Social Protection tenancy sustainment initiatives, with approximately 4,500 tenancies protected under these initiatives in 2015 and over 6,000 since their commencement in 2014; and

— the vital role undertaken by non-governmental organisations, NGOs, working with homeless persons and seeks their continued engagement with Government Departments and agencies in addressing the challenges involved.”

- (Minister for the Environment, Community and Local Government).

Acting Chairman (Deputy Dinny McGinley): Deputies Catherine Murphy, Daly and Wallace are sharing the next ten minutes.

Deputy Catherine Murphy: Language is one of the first things one gets caught out on in politics. I recall the first time it happened to me. Soon after I was elected to the council in Kildare I received several letters from the county engineer in which he repeatedly told me that things were “desirable”. I thought that meant the matters would be resolved. Then I discovered that “desirable” meant that the council would like to do it, but did not have the money. It was a nice way of saying that something was not going to happen. Once one gets an ear for such language, one pays attention to it. Every Member of the House will be in that position. In recent days, we have been hearing that 13,000 or 17,000 houses have been provided. The word “provided” does not mean built. Essentially, anybody who is homeless or at risk of homelessness will be hopeful about a large number of new houses coming on stream, even though only 28 houses were built last year. Let us be clear about that, as it is a very dishonest presentation.

I first started raising this issue more than three years ago when it became obvious that we were seeing a new type of homelessness emerging in my constituency. People were unable to afford rent and were required to top up the rent supplement. Everybody was topping up, but nobody in the Department of Social Protection believed it. The environment committee held meetings about it. I and other members had the subject included in the work schedule. We invited everybody involved, ranging from the local authorities to the homelessness agencies. The representatives of the Housing Agency told us that there was no shortage of money and that up to €500 million was available to be drawn down from the European Investment Bank. However, there had to be a co-guarantee arrangement by the Government to do that. I do not care whether the houses are provided by housing associations, local authorities, co-operatives or otherwise. I just wish to see houses built for people, not provided under the housing assistance payment, HAP, scheme. They must be built. There has been a fundamental dishonesty in that regard.

What we have at present is “hope for the best” politics. The Government is hoping that the private sector will come up with the goods. The HAP scheme is dependent on the private market. That scheme really is hapless. In many ways it is worse than rent supplement. There is a part of it that deals with the poverty trap and I acknowledge that is definitely a plus, but it has gone backwards in terms of the limits and the availability of accommodation for people. They now get less on the HAP scheme, even if they are at risk of homelessness, than they received in rent supplement. That has been my experience week after week.

There is also a huge amount of unrecorded homelessness that will present itself in the future. For example, I have been dealing with a couple who have a four-week-old baby. They lost a property due to a rent increase. Support was not sanctioned by the Department of Social Protection. They tried to register as homeless but they were advised that they had access to a family member's house. They are now sleeping on the sitting room floor, with the new baby on the sofa. Another couple with a four-month-old baby lost a property due to serious mould and disrepair. If people make a complaint to the landlord about the quality of the accommodation, the next thing that happens is they are out on their ear and it is claimed that a son or daughter wishes to move into the house. That couple tried to register as homeless with the local authority but were told to find a family member. I am also dealing with a single parent who has two children, aged 11 months and two and a half years. I do not know how many times she has been to my office and, indeed, to those of other Deputies in Kildare. She has tried numerous times but will not be registered as homeless.

The problem is that there is the homelessness we see where people are being put up in hotels, but in other parts of the country, such as Kildare, people cannot even get registered as homeless. They are left to their own devices to self-accommodate. It is an absolute crisis.

Deputy Clare Daly: I am delighted that Fianna Fáil has robbed some of the points originally raised by Deputy Wallace a long time ago. The Government should compel the National Asset Management Agency, NAMA, to allocate at least 50% of the 20,000 units it is providing for social housing. Perhaps one of the reasons the Government is failing to address that sensible and practical solution to the delivery of 10,000 units is that it is deliberately masking and hiding the figures. The point made by Deputy Catherine Murphy about this mythical 13,000 social housing units delivered in 2015 must be tackled, because it is mentioned everywhere. The Minister of State at the Department of the Environment, Community and Local Government, Deputy Coffey, on “Clair Byrne Live” last week talked about 13,000 additional housing units. In the programme for Government scorecard the Government boasted about delivering 13,000 units, although it did not have the neck to call them “new”. Then the Taoiseach said in the House that there was money on the table, provided by the Government, to build 110,000 new social housing units. That is patently and utterly untrue. The Minister, Deputy Alan Kelly, told us this morning that 13,000 keys had been given to people, which is an increase of 86% on the previous year. That is simply not the case.

I will examine the figures. Of the 13,000, a total of 5,680 were households that moved from rent supplement to HAP. Calling something a different name is not delivering new social housing units. In fact, in many instances it was the same private landlords. A total of 1,644 of the 13,000 units were people who moved to the rental accommodation scheme, RAS, as they do every year. Indeed, the number was a little down on the previous year. That is certainly not new social housing. If one adds the RAS and HAP figures, it amounts to 7,324 or 56% of the 13,000. That cannot be called new social housing units. They are private rentals. In the case of voids, these are units in existing housing stock that were run down. That is not new social housing, and people will see through it.

Deputy Mick Wallace: The Government's amendment starts with the phrase “recognises the high priority which the Government has afforded to increasing housing supply, through its Construction 2020 strategy and its Social Housing Strategy 2020”. The situation has got consistently worse over five years. How poorly the Government has dealt with the housing crisis beggars belief. At the core of the crisis is the lack of local authority built social housing. I checked the position in Wexford today. The council has permission to build 19 units over the

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next couple of years. There are 3,800 people on the waiting list in Wexford. The number has increased every year in the last five years, and it will get bigger. The notion that the Government would allow NAMA to build nine times more private housing than social housing in the scheme for 20,000 units just does not make sense.

The lack of local authority built social housing is at the core of the problem. I do not understand why the Government cannot admit it. I accept that Fine Gael does not believe that local authorities should build housing, because it does not suit the neoliberal agenda. However, the problem will not be solved until that is done. The problems in the private sector and the development sector are linked to the fact that we have yet to start to build local authority social housing. We need to stop describing as social housing the provision of rented units through the rent supplement scheme. It is disingenuous. Social housing is housing built through the local authority scheme which allows people who cannot afford to buy to get a house that is owned by the State. NAMA states €300,000 will be the average price of the houses it will build. How many of the 100,000 people plus on the waiting lists today will be able to afford those houses? They are the people who need the housing most but very few of them could afford it. The same is true for Wexford.

Acting Chairman (Deputy Dinny McGinley): I call Deputy Jim Daly. I understand he is sharing time.

Deputy Jim Daly: I am sharing ten minutes with Deputy Arthur Spring.

Acting Chairman (Deputy Dinny McGinley): Is that agreed? Agreed.

Deputy Jim Daly: I am grateful for the opportunity to contribute to the debate on housing, which is undoubtedly a topic of considerable significance and importance to many. It is, rightly, dominating much of the discourse of politics and society as a whole at this time. Housing is always going to be a challenge for a county that has endured the trauma ours has been through in the past ten to 15 years. We went from hero to zero over that time in terms of the number of houses being built and supplied. We must acknowledge the progress the Government has made and its commitment to this issue in the Social Housing Strategy 2020. What is key in that is not just building houses, which is the topic of the debate all the time, but building communities. We must keep our language in check in that regard because ultimately this is about people who want to live in communities and not just houses in general.

While the Government has committed a very significant contribution of €3.8 billion to dealing with this issue, it is sometimes missed that a significant part of the solution to housing lies at local government level. This is not to pass the blame, but if we are to have a real and detailed conversation on the solutions for housing, the steps taken as the local authorities prepare plans must be discussed because supply is key. It is the biggest challenge facing the housing sector. One can pump in all the money one wants, but if houses are not being built, they are not there.

I put a proposal to the Department two years ago in September 2014 to urge the local authorities to take a more proactive approach to dealing with the challenges presenting in relation to housing. One of the options I outlined in that proposal was that local authorities would zone land that would be affordable housing land and put a cap on house prices. I maintain that is a very sensible solution which would have to come from local authorities zoning designated land at affordable rates and putting caps in place. Prices could be agreed by an independent body by reference to the geographies of the different areas. For example, houses would not be allowed

to be sold at a price above, say, €200,000 in a town like Clonakilty. One would be surprised but developers can make that work. Developers and private industry will have to be part of the solution and major contributors in dealing with the problems we face. I hope the local authorities will play their part in being creative as they prepare local area plans and see the opportunities presenting to deal with this issue and supply.

I disagree with some of the previous speakers in respect of the HAP scheme. It has been very successful for many people and should not be underestimated. This year, approximately 10,000 households will be accommodated through the housing assistance payment scheme. These figures are not insignificant by any means. Any examples I have encountered of people dealing with HAP have been very positive. We must praise every bridge as we pass it and, as such, I note that people have found the system to be much easier to navigate in terms of form filling and so on. It has been very constructive. It allows people to keep their full-time employment and, through it, local authorities deal directly with landlords on their behalf. Those are all positives.

One other point that may be lost is that Part V was very successful, albeit it belongs to a different era when we were building houses at every crossroads. I was often minded that we did not build schools but had an major obsession with building houses at every crossroads. Part V was a good idea in that 20% of houses were to be applied so that one would have a good mix of social housing and private market housing side by side. One sees many estates where that has been very successful. That is something we should not lose sight of in the debate.

Deputy Arthur Spring: I will be sharing the time also with colleagues beside me.

Deputy Billy Kelleher: I see that Deputy Spring has moved places.

Deputy Arthur Spring: I am just making sure that these boys are on script with us in terms of housing. It is all good. We will be in here again next time in this half of the Chamber.

Housing is a major issue for everybody in politics. People face shortages not only in Dublin, but potentially down the country, largely due to a credit and construction collapse the likes of which has never been seen in the history of the State. Supply is the big issue. When one gets builders building again, it is a sign that construction is a consequence of a thriving economy. It is not supposed to lead the economy or to be over 20% of GDP as previous Administrations permitted. In those circumstances, it becomes an unsustainable economic model and a disaster for people's homes. We have ended up with the legacy of negative equity and families living in two-bedroom apartments. We have ended up with situations where people have had to sell their homes and move to rented accommodation.

The Government has taken some steps which I have very much welcomed. Ultimately, however, we need to get supply well and truly increased. For that purpose, I recommend that we look at institutional investors of the type that have been used in most of northern Europe and in Germany and France in particular. Institutional investors look for a low rate of return, are prudent landlords and look for long-term leases because they do not want the difficulty of dealing with short-term lets. They look after large blocks in large urban areas like Dublin, which has a level of property demand with which I do not agree. When I hear non-stop job announcements for Dublin, I ask why so many jobs are focused in Dublin and more are not moved out. IDA Ireland published a statistic this week that 53% of the jobs created in Ireland last year were created outside Dublin. That must increase. There is still housing supply down the country

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and things are easier there in that there is less density of land use. Dublin has to grow slowly because the inner city does not have the high-rise development it needs.

Ambitious plans are afoot particularly around the social housing strategy set out by the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, and in the Labour Party's commitment on the €3.8 billion that has been secured for social housing. Over the past couple of days, we have seen announcements in Tralee, Killarney and other provincial towns, which are welcome. Long lists have been published as the Opposition will point out. Most of the people affected are in rent allowance accommodation at the moment. They are very happy with and integrated into their local societies. They feel part of the communities in which their families have grown up. Had I been the Minister for the Environment, Community and Local Government five years ago, I would have insisted that houses in negative equity which landlords could not sell were optioned when rent allowance was applied. We were giving landlords a guaranteed cash flow and should have been in a position ultimately to say that when those houses emerged from negative equity, something would go back to the landlords and the residents could stay in them. They would not just be houses but homes for the families set up in them. We see programmes where people are transferred from one part of a city to another but even in small towns like Tralee, people do not want to live too far from their families whether it be for child care purposes, to look after an elderly parent or the need to be in the community or to play GAA.

While a great deal still needs to be done, in a prosperous economy the Labour Party in government will make housing a top priority as it has always been for us. When I was chair of an SPC in Kerry County Council, I put across as many solutions as I possibly could. We have now got to a point where houses which were boarded up previously are being occupied. We are canvassing morning, noon and night and walking into housing estates where, I am delighted to say, we are seeing houses being put back into tenancy for the first time in ten or 20 years. I welcome the fact that, when I drove to Dublin yesterday, I saw some of the dilapidated properties in Crumlin and Dolphin's Barn being demolished and new ones being raised.

The homelessness crisis cannot be ignored. It is a terrible indictment of society. A significant problem, it was created by a lack of funding and supply. It can be rectified, but only through the passion of the members of the next Government and the allocation of funding. We can do that. I am delighted that there is a motion on this issue. We should work together to solve the problem.

Deputy Barry Cowen: No problem. Give us 20 seats and we will work with the Government.

Acting Chairman (Deputy Dinny McGinley): I call Deputy Nolan.

Deputy Derek Nolan: Do I have five minutes?

Acting Chairman (Deputy Dinny McGinley): Yes. Two Members remain in this time slot, Deputy Creed and the Minister of State. There are 20 minutes between the three Members.

Deputy Derek Nolan: I thank Fianna Fáil for tabling this motion. It is appropriate that we discuss housing as often as possible, as it is an important issue that affects many in our communities, not least in my constituency of Galway West and, in particular, Galway city where a significant shortage of private and social housing is causing considerable problems.

In any discussion on how to address the issue of housing and what policies should be pursued, the first task is to change the discussion and classify housing not as something that should be provided on the whim of the market, speculators or developers, but as a social good that should not be treated as a commodity on the open market. When a state takes the approach of treating housing as a social need to which people are entitled regardless of their incomes or backgrounds, it automatically changes the policy remit under which the problem can be solved.

The housing crash, the bubble and the mess that was left behind for the rest of society to pick up stemmed from one of the greatest issues of recent decades, namely, the fact that land values were allowed to escalate. Land was hoarded, properties were built and extortionate prices were charged. Many young couples mortgaged themselves for 30 or 35 years to buy three-bedroom semi-detached houses in which to raise their families. If we accept this as the norm again and that it is just how the market is, we will have failed and learned nothing. I understand that people have problems with some of the Central Bank's decisions on mortgages and so forth. These decisions are not meant to curtail people from buying homes, but to curtail those who are selling people homes at extortionate prices because of the current market. This should be kept in mind.

Not a week goes by in which I do not meet family after family that has been 12, 13 or 14 years on social housing waiting lists. This is not on. It is a scandal. Just because we are in government does not mean we should shy away from using such words or claim that this situation is either acceptable or not happening. It is happening.

The solution is not just to build more houses. The situation is more nuanced than that. Yes, the most fundamental need is to build more social housing, but we must also build more private and affordable housing for families that do not need or qualify for social housing lists. In the 1960s, housing co-operatives got together on Ardilaun Road in Galway. The land was zoned for residential purposes and plots of land were set aside for people to buy at reasonable rates and build their own houses. Is there any simpler idea than the vast number of people who have enough resources to build moderate houses for themselves getting the moderate-cost sites on which to do so? Why not go down that route? We would be providing houses, increasing supply and giving small and medium-sized builders a chance to build homes and provide employment. No major capital investment from the State would be required except for zoning and the installation of the facilities, roads, pipes and so on that would service the areas.

What about saying that renting is not just something that one does between finishing university, an apprenticeship or the like and getting on the property ladder? Why not have renting as something that one can do for 20 or 30 years? Why not take a real look at rent control and different types of tenancy? What if people do not wish to buy because, for example, they had large houses when their children were young but now want to downsize? Why not have the options that other modern European countries seem to be able to provide? Why not accept the fact that, unless we get all of these facets in order and change our mindset towards housing, we will be stuck with this problem and discussing it because it will never be solved?

There is much that we can do. We must establish a land development agency, something akin to NAMA but one not involved in building, to examine these matters, to ensure we never allow people to hoard land again, to tackle speculation and to ensure local authorities plan in a correct manner in terms of where and how to build social houses and where to designate lands for rezoning for residential purposes. In this way, we would have a functioning and properly regulated housing sector that was not market or speculator driven, but driven by the social need

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of everyone in the State, regardless of background, to have a place to live and raise a family, a community to be part of and a society into which to contribute on the basis of his or her citizenship rather than on the basis of where the market dictates he or she should live or where some speculator decides to build a house.

Deputy Michael Creed: I welcome the opportunity to contribute on this motion and the Opposition's tabling of it. Were resources the resolution to the problem, we would have the resolution in our hands. For the first time in a number of years, the State is in a position to commit the level of funding required to address the issue. This was not the case five years ago when the Government came to office or even three years ago, but with the improving economy, we are now able to address the problem financially.

The countryside was littered with houses five years ago. This was the case to a lesser extent four years ago and to an even lesser extent three years ago. In the past two years, we have been caught by an unprecedented level of demand and a collapse in supply. Kick-starting the building process is not easy, but the Government is grappling with it. While I welcome the commitment of resources, more will be needed to resolve the issue.

I wish to raise a local issue. During the week, the Minister announced €7.4 million for 34 new social housing units in Ballincollig. This is welcome. I hold a clinic three times per week in Ballincollig, which is the largest town in County Cork. The lack of social housing opportunities there and the circumstances in which many people find themselves living are profoundly depressing. This investment will help and will form part of the solution, but we must address a more fundamental problem. In light of the scale of the challenge that we face, could we get better value for the €7.4 million? Were someone more competent in the market than I charged with spending €7.4 million in the morning, I suspect he or she would probably buy 60 houses. The issue is whether they would meet modern building standards. Is there a case to be made for a trade-off? For example, I might buy a three-bedroom semi-detached house on a village main street in County Cork for €70,000 and invest €30,000 in it. It might meet the minimum safety requirements but not the new building standards. Is this an acceptable response to what is a national emergency? We need to have this debate. I believe it is acceptable. We must challenge local authorities and permit them to consider a range of options, to go to the marketplace and to buy as well as build. They are doing some of this, but not enough. There is great value to be found in certain segments of the market.

I was a member of Cork County Council and am an admirer of its endeavour, but when I had occasion recently to bring to its attention two former local authority houses that were for sale privately, it told me that it was not interested in purchasing them. One was in Charleville and the other was in Ballincollig. Both could have been bought for substantially less than the €220,000 per unit that we are now approving. In the face of an unprecedented crisis, we need to think outside the box. Solutions do exist.

There are plenty of vacant houses in the country. It is true they are not always where demand is greatest but we can challenge local authorities to ensure better value for money by providing a quicker option to address the needs of many families than that involving a cost of €220,000 per unit. We need to examine this.

We need to validate the lists. I was lobbying recently on behalf of an individual seeking a local authority house in Macroom and discovered it was offered four times recently before it was offered to the individual, who was screaming for it desperately. There are people on local

authority housing lists who certainly do not want a social house. They need to be in that position to maintain their HAP or rent allowance. We need to validate the lists and determine who is and who is not looking for social housing as a solution to their being on a housing list. Unless we are building a policy based on real facts indicating the true level of demand for social housing, we are at nothing.

This issue is multifaceted. Resources are not the issue. Delivery, building, purchasing and validating social housing lists are all part of the solution. I welcome very much the commitment of €7.4 million in Ballincollig. It is but a drop in the ocean of what is needed but I am satisfied that the Government is committing the resources. We need local authorities, builders and developers to partner with the State in addressing this problem. I am sure we can deliver a solution. For the first time in five years, because of a prudent management of the economy and the building of a recovery, we are in a position to resource social housing, which was not done under previous Governments.

8 o'clock

Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan): I thank the Deputies on both sides of the House for their commonsense contributions. This is an opportunity for me to restate the Government's position on tackling the significant challenges associated with the delivery of social housing. This Government's ambitious programme of social housing delivery, Social Housing Strategy 2020, sets out clear, measurable actions to increase the supply of social housing, reform delivery arrangements and meet the housing needs of householders on the social housing list. There is flexibility to meet future demand.

Under the strategy, an investment of €4 billion to 2020 is envisaged. Almost €3 billion of this has been committed under this Government's capital plan, Building on Recovery: Infrastructure and Capital Investment 2016–2021. Funding is now approved and sites are selected for the construction of over 5,000 new social homes in the coming years. The social housing output report for 2015 outlines many of the achievements that were delivered in support of the Government's programme. Exchequer funding for social housing in 2015 was over €800 million, representing an increase of €210 million over 2014. In 2015, Exchequer funding for homelessness services was €64.77 million, representing a 32% increase on the amount provided in 2014.

Funding has been approved and sites have been selected for the construction of over 5,000 new social units. Over 1,000 properties were acquired by local authorities for social housing use in 2015. Some 420 staff were recruited by local authorities to deliver more social housing units as quickly as possible. Over 13,000 new social housing unit sets of keys were delivered in 2015. There was an 86% increase in unit delivery above the figure for 2014.

Some 2,700 vacant social housing units were brought back into use under an intensive programme of works funded by the Exchequer. Approval of the first 500 units of a new PPP, which will deliver over 1,500 units, was announced in 2015. Almost 9,000 social housing units were delivered through social housing leasing, the RAS and the HAP scheme. The latter is now operational in 18 local authority areas. NAMA delivered 2,000 units for social housing by the end of 2015.

In 2015, over €4 million in capital funding was provided to local authorities for Traveller-specific accommodation. The number sleeping rough in Dublin at the end of November 2015 had fallen by 46% since the previous year, a statistic that people choose to ignore. Under a

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ministerial directive, Dublin regional authorities must allocate at least 50% of tenancies to homeless and other vulnerable households. The authorities in counties Cork, Galway, Limerick and Waterford have been directed to allocate 30%. Details collated on the operation of the directive over a nine-month period, namely February to October, confirmed that a total of 612 local authority units had been allocated specifically to homeless households in the relevant local authority areas. I wish to express my appreciation for local authorities, approved housing bodies and the NGOs involved in the provision of homelessness services. However, there is still a long way to go. I look forward to further progress in 2016.

With the continued expansion in social housing provision under the social housing strategy for the period to 2020, over 17,000 new homes are to be delivered under a range of social housing initiatives in 2016. The HAP is to be rolled out to more local authority areas. There is to be a pilot affordable rental scheme in place for those on low incomes. We will utilise private sector investment in the construction of new social housing. We will utilise rapid housing delivery techniques as a way of improving significantly emergency accommodation. We will continue to implement the measures set out in Social Housing Strategy 2020 and Construction 2020. Choice-based letting allocations will be introduced to all local authorities. A full summary of social housing assessments will be carried out in 2016 and annually thereafter. That is a really important point because, in some cases, strategies to meet housing need were not based on good, accurate data. We were considering a programme of building houses without having really good data to underpin it.

It is worth recalling that the roots of the current set of circumstances lie in the decision of the previous Government to abandon the construction of social housing units and to depend almost exclusively on rent supplement to provide social housing. The efforts of the current Government, particularly the Minister, Deputy Alan Kelly, and the Minister of State, Deputy Paudie Coffey, will deliver the best outcomes for those in need of State support in meeting their housing needs.

I could not finish without referring to my constituency, Carlow–Kilkenny, where €64 million has been delivered by the Government to meet housing need. That is unprecedented. It was never heard of previously across the constituency. I know it will be put to extremely good use in the housing of people who are in need of social housing. Such money was never provided by a previous Government that I can remember.

Deputy Dara Calleary: I am sharing time with Deputies Seamus Kirk, Niall Collins, John Browne and Michael Fitzmaurice.

I wish to pick up on the final remarks of the Minister of State and the usual ráiméis that comes out. From 2007 to 2010, we built 14,581 new social housing units. This was an average of 107 units per local authority per year in that time. During the first three years in office of the current Government, from 2011 to 2014, 1,250 new units were built, representing an average of nine units per local authority per year. Therefore, the notion that we abandoned social housing, or abandoned the problem to the private market to solve, is wrong. It has been proven wrong but I suppose one has to keep hammering this home. We invested considerably in companies and agencies such as Clúid Housing and Respond!, companies and agencies that I heard the Minister, Deputy Alan Kelly, take credit for on the radio this morning in his normal old, modest, shy way of doing things. Clúid Housing has provided a new approach to social housing and shown local authorities how to provide social housing with decency, integrity and respect for tenants.

What the current housing crisis demonstrates is a complete failure of the permanent as opposed to the political Government. It highlights difficulties across every aspect of the permanent Government in responding to a crisis in any Department. Everything takes time and excuses are always offered. In the meantime, the housing waiting lists grow longer. In the eight years I have spent in the Dáil, housing has never been as big an issue in County Mayo as it is now.

While rent supplement may not be a solution in urban areas and cities, it is a solution in rural areas as it affords people an opportunity to move into a house they could not otherwise afford. Local authority houses are still boarded up because local authorities are not using the funding available to remove voids or refurbish local authority houses. This may also be the case in the constituency of the Minister of State, Deputy Ann Phelan. It is extraordinary how long it takes local authorities to refurbish social housing. They carry out refurbishment projects on one electoral area at a time. In the meantime, people on the housing waiting lists wonder why there are empty local authority houses.

Long-term local authority tenants who are unable to have basic repairs carried out on their homes become frustrated at the sight of local authority void houses, perhaps next door or in the same street, being refurbished to a high standard. This is occurring in County Mayo and it is exceptionally frustrating for those concerned. When public representatives make representations on the issue to Mayo County Council, we are informed that the Department will not provide funding for repairs. I do not accept that the fault lies with the Department. Such cases show that local authorities must show greater respect to their tenants. If some of the conditions in local authority housing were replicated in a private rented arrangement, a third party would intervene.

The housing crisis has reached a very serious point. That my party is using its final Private Members' slot in this Dáil to discuss the issue is an indication that Fianna Fáil takes the issue seriously. My colleague, Deputy Barry Cowen, has made many proposals for immediate action. I listened to the Minister argue that he could not magic away the problem. No one is arguing otherwise. However, in the past two years, the National Asset Management Agency has placed large property portfolios on the market and the Government has not intervened. The Minister stated today, in his homage on "Today with Sean O'Rourke", that it would be illegal for him to get involved in such matters. While that is correct, Ministers have intervened with NAMA in respect of tourism and community projects. If ever the social clause in the NAMA legislation should be invoked, surely the provision of housing is a more appropriate reason for doing so than tourism or economic and cultural development. A roof over someone's head is a basic requirement in a republic that is marking its centenary.

I will return to my point about the failure of government. One sees a large number of empty and boarded-up houses and a significant amount of space available above shops and business premises. With a little imagination and a relatively small amount of funding, these houses and spaces could be returned to use. The Minister of State, wearing her rural development hat, could produce some type of scheme to reinvigorate villages. As to the notion that people will not move to rural areas, if a proper offer were made and a little imagination were put into the design, people would choose to return to rural areas to revitalise schools, services and communities. It is ridiculous when one travels through villages that are dying on their feet to see large numbers of empty properties that could, with a little imagination and funding, be put to use to address the social housing waiting list.

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One of the legacies of the Government will be that at a time when it was consistently preaching about recovery and an economic turnaround and spoke of major tax cuts, 1,500 families were in emergency accommodation. These families do not know where they will be this time next week. They are being discommoded for the want of a proper response and due to the lack of imagination and urgency that lies at the heart of the problem. That is an appalling legacy of government in Ireland in 2016.

If I may digress briefly, I am conscious that I am sharing my time with Deputies Seamus Kirk and John Browne. It appears that this may be the final sitting week of the Dáil. For this reason, I wish the Deputies and the Acting Chairman, Deputy Dinny McGinley, every health and happiness as they bow out of the House after many years of service. I extend special best wishes to Deputy John Browne who is an office neighbour of mine on the corridor. He claims he is not emotional about leaving the House but we know he is secretly emotional about it. The Deputies have given great service to the people at every level of government. We wish them health and happiness and every success in whatever role they choose to take up afterwards.

Deputy Seamus Kirk: I welcome the opportunity to contribute briefly to this most important debate. The issue of housing has been at the top of the agenda for some time. The number of people on the housing and homeless lists is growing daily.

The organisations directly tasked with addressing the issue of social housing and homelessness are concerned, as is every member of the public, that not enough is being done to tackle the problem. I am downright disappointed, annoyed and upset that the issue had not been a priority for the Government. We have endured extremely tough times and I understand the need to cut costs, but the current situation requires urgent action.

Fine Gael and the Labour Party have presided over a housing crisis. The number of homeless families has increased fivefold since 2012 and by 80% between January and October 2015. These families have been forced out of their homes as a result of the home repossession crisis and, in particular, the spiralling cost of rents. More than 800 families, including 1,600 children, are sleeping in emergency homeless accommodation, with up to 80 families becoming homeless in Dublin each month. Given that the Government has been in power for more than five years, now is not the time for it to point fingers. It must realise that the programme for recovery was created by the previous Fianna Fáil-led Government.

Politicians are elected to lead, manage and take responsibility. Housing is a red line issue which requires action rather than election promises. Who can remember the Fine Gael Party's five-point plan or the Labour Party's "Gilmore for Taoiseach" slogan during the previous election campaign? The Fianna Fáil Party published a detailed national housing roadmap which sets out our plans to tackle the social housing crisis. We propose investment of €4.5 billion in social housing, 45,000 new social housing units by 2021, the retention in full of Part V and allowing tenants to refurbish their homes. These four steps would help alleviate the problems the nation is facing. They are not quick-fix plans but sustainable, effective policies with a direct focus on what people need and deserve.

I thank Deputy Dara Calleary for his very kind remarks a moment ago. I will also avail of this opportunity to thank a number of other people. I thank the constituents of Louth and east Meath who gave me the honour of representing them in the House for a good many years, my constituency organisation for its help and support over the years, my family and staff who have worked diligently for many years, the Ceann Comhairle, Members and the staff of the Houses

for their consideration and help over many years. I wish every person standing in the upcoming general election the best of luck in the campaign. Campaigning is not easy and those who come through it earn their spurs. We wish them the best and hope they will play a full part in the next Dáil.

Deputy Niall Collins: I am glad to have an opportunity to participate in this debate on housing and homelessness. We are experiencing a national crisis and the response from the Government has not been up to the mark. In my constituency and the Limerick city and county council area, in excess of 5,300 people are on the housing waiting list. The response from the Minister has been to invest €13 million in the provision of 68 housing units in the next number of years. This figure equates to 1.28% of those on the housing waiting list. That the Government describes this as a robust response speaks for itself. It is wholly inadequate and, unfortunately, it is failing the people of my constituency and Limerick city in the provision of housing.

Government party Members have been critical of the Fianna Fáil Party's record on housing. It is a fact that during the years 2007 to 2010 we provided in excess of 14,500 housing units whereas the current Government, of which the Minister of State is a part, provided a mere 1,254 housing units from the years 2010 to 2014. It is most disingenuous. The Government is living in fantasy land and is delusional in trying to criticise the Fianna Fáil Party and the previous Government for the provision of housing units. The numbers speak for themselves: 14,500 as against 1,252.

It is worth putting on the record the role the Labour Party and the Fine Gael Party have played at local authority level. Part V of the Planning and Development Act allowed local authorities to take a cash contribution in lieu of the provision of housing units, as the Minister of State is aware. The Minister of State has sought to criticise my party for that section of the Act, but it was the Minister of State's party and the Fine Gael Party which controlled all the local authorities up until the last local elections. They ran local government for practically the past 15 years and they did the deals with the developers to buy out their part V obligations.

Deputy Ann Phelan: No, the legislation was watered down by the previous Government, as Deputy Collins knows well.

Deputy Niall Collins: It is most disingenuous of the Labour Party to try to blame Fianna Fáil for the lack of provision of adequate social housing. The record speaks for itself.

We have to be honest about the supply of housing. Supply has been limited because of the Government policy of nurturing two pillar banks to provide funding to the construction industry. This has limited the ability of the construction industry to build new housing units. That is the policy of this Government. It has nurtured two pillar banks but, in turn, they have not provided adequate finance to the private construction industry to build housing. Hence, we have a limit in the supply of housing units throughout the country.

It has been pointed out on many occasions in this House that the Government has failed to provide adequate social housing units. The Government tells us that NAMA will provide 20,000 units over the coming years, with 2,000 of this allocation being social houses, in other words, 10%. Why does the Government not go for a 50-50 split in recognition of the fact that we have a national housing crisis? The 2,000 units that NAMA is looking at will not even address the needs of the 5,000 people on the housing list in Limerick alone. That is something the Government needs to take on board.

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There is a problem with local authorities and voids. We are all out canvassing because of the imminent general election. The turnaround time is far too long. Under the system the Government has in place, for each void house the local authority has to make a separate application for the funding to turn it around. It is simply crazy.

Another issue has arisen during our canvassing and we can see it clearly. It relates to houses in private ownership. The local authorities should be targeting the empty and void houses in private ownership. They should try to find out who the owners are and they should then go after them to see whether they would be willing to enter into leasing arrangements. Placing a notice in the local authority section of the newspaper or including a footer in an e-mail indicating local authority interest in housing units is not enough. They need to go after them actively. The proposal from the Fianna Fáil Party to speed up the turnaround of void houses should be taken on board.

If a tenant is allocated a house which needs some degree of refurbishment, he or she should be allowed to do it himself or herself, within agreed parameters. That cost should be offset against the rent owed to the local authority until such time as it is recouped.

The various housing agencies, including Clúid, Focus Ireland and the Mid-West Simon Community, are doing great work in my part of the country. Great credit is due to them. However, in the main they are not a substitute for the role of the local authority in building and providing houses, although that seems to be the Government policy.

To date, no one else has referred to the staff dealing with homelessness in the local authorities. In particular, those in Limerick city and county councils deserve favourable mention. They deal with people on a very humane, responsible and compassionate basis and I want to acknowledge their work in that regard. I also wish to mention the estate management staff. We have had issues over the years in local authority estates. However, to their great credit, they have dug in and reorganised many of the local authority estates throughout Limerick city and county. They are now vastly improved parts of our community and we should give them due recognition in that regard.

In excess of 5,300 people are on the list in Limerick. The Government response has been so poor that it has failed abysmally to deal with the issue. In total, the Government is going to deal with only 1.28% of the problem of the provision of housing. That speaks volumes and it needs to be addressed.

Deputy John Browne: I wish to speak about homelessness and the need for an increase in house building throughout the country. The Government has reigned over many inconsiderate moves in the past five years in this area and it has created a situation whereby many people, families and individuals are now homeless.

The homelessness crisis is not about people living in hotels or on the streets alone. It is also about many families who have gone to live with their parents or taken over one bedroom in the family house. In some cases, they are staying in the sitting room during the night and sleeping on couches. This has become a problem not only in Dublin, but throughout the country.

We have a situation where banks are ordering people out of their homes because of an inability to pay and then selling off the houses at a cheap rate. I ask the Minister to consider if some situation could be arrived at whereby local authorities, through the Minister's intervention, would enter negotiations with banks which have houses for sale at a reduced price. The

banks are taking these houses from ordinary families and selling them off to financial vultures at a reduced rate.

I can think of approximately 150 houses in Wexford at present that have been repossessed by the banks and which are for sale at a reasonable price. I believe the rate is probably the same throughout every constituency in the country. I estimate that between 2,000 and 3,000 houses have been repossessed by banks in the south east and are now up for sale. It is not an easy way, but it is a way of acquiring houses for local authorities. Money would be made available to purchase these houses and allocate them to families who may have been dumped out of their houses as well as to people on the housing lists.

Between 2011 and 2014, the Government built or acquired from the private sector 44 social housing units in Wexford. Last year, one social housing unit was built in the county. This compares to 559 units between 2007 and 2010 under Fianna Fáil. I remind the Minister of State that Gorey and Enniscorthy are to get eight houses each in 2016 while no houses are planned for the New Ross or Enniscorthy urban areas. That in itself says a good deal about the commitment of the Government to building social housing in Wexford.

Wexford always had a great record of building houses through the years. Various Governments made money available to the various local authorities, urban authorities and those in the county. Unfortunately, it has been static in recent years. We now have a situation where people are trying to find rental accommodation. In Wexford, and particularly in Gorey, a two-bedroom house costs €650 per month. The most a person can get on a rental subsidy in Wexford or Gorey town is €300 or €350 per month. There is no way the people concerned can make up the difference.

I have encountered cases in recent times of people who were paying €400 per month - I imagine all the politicians in Wexford know about the same cases - but all of a sudden the landlord decided to increase the rent to €650 per month. I realise a curtailment has been put on that for the coming years, but all of these landlords have taken the opportunity to increase the rent to a level such that people are unable to pay. It is important that we recognise the need to make moneys available. The Minister has announced on a number of occasions that money has been allocated for Wexford and other councils throughout the country. I do not know whether the same money is being announced on each occasion, but there is no great movement to build houses in any local authority areas. Is that because there is no longer the wherewithal within the council structure to bring about a building programme? Is it the case that no money is being made available?

I understand 30,000 houses are being made available by the Government, but there is no flexibility. The Minister needs to have more flexibility in the renovation of houses because many houses that are ready to be repaired are locked up. Councils do not seem to have the funding or manpower to carry out such work. Perhaps it is time that small builders and developers were brought on board to bring houses up to a standard in which people can live. There is nothing as frustrating for people on the housing list as seeing houses boarded up in every urban area, leaving them with no opportunity to move into them.

No housing targets are being laid down. The Government seems to be making it up as it goes along. Mistakes may have been made in the past whereby decisions were made to provide most of the houses through voluntary housing or developers. Developers have told me that houses are for sale in urban areas for €90,000, €100,000 or €120,000. It will not pay them to

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build new houses while houses are available for sale at a reduced price.

It is important that the Minister of State recognises the difficulties faced by communities and people seeking to be rehoused in Wexford and every other constituency in the country. He should bring forward a fire brigade proposal to ensure local authorities become involved in building houses. There is a need and demand for housing. The time for talking is over. Now is the time for action. The Government will leave office next week or the week after. I do not know who will replace it, but whatever happens it is very important that building new houses and providing money for local authorities is the No. 1 priority to ensure the housing list is substantially reduced over the next five years. The Minister of State referred to 2020, 2021 and 2022. That is too far in the distance.

Before I conclude, I thank the Ceann Comhairle for his courtesy and kindness to me over the recent years since he took the job. I did not bother him too much. I do not bother Ministers too much either. I usually deal with ministerial staff because I always found one probably got far more action in terms of getting things done than one would with the hierarchy. I thank the Leas-Cheann Comhairle and the Acting Chairmen for their courtesy and kindness to me.

This is my 34th year in the House. It has been a long time. I have had eight successful general elections. I thank my family, organisation and the many people who helped me along the way. I wish all my colleagues on both sides of the House well. I have built up many friends across the political divide during my years in the House. I came in here during the Haughey era and am going out during the Kenny era. There have been some very contentious and very good times. I have enjoyed all of my years here, representing the people of Wexford.

I hope to spend the next month canvassing for my son, James. The Brownes have been here since 1951. I hope to see that continue. I wish every candidate well. The election is tough on candidates, but I often think it is even tougher for families who worry about the results of the election. I wish everyone every success. I hope most are re-elected and that Fianna Fáil will have a substantial number of Deputies.

Deputy Michael Fitzmaurice: I thank Deputy Calleary and commend Deputy Cowen on the motion. As we speak, one would be able to buy two or three houses with the money used to provide people with temporary accommodation. That is the reality of what is going on in the country. I have seen the number of voids throughout the country which are the result of people not making decisions. Whenever one asks questions, one is told no one is at fault and that the Department of the Environment, Community and Local Government has to deal with the issue. Whoever is at fault, the situation needs to be sorted out.

In many areas where there is no demand for housing, houses have been left vacant for ten to 15 years. That is not the fault of those involved in housing, but people in county councils need to make decisions about selling such houses and buying houses where they are needed. Ironically, we sold the country to vultures a few years ago and are now trying to buy back the same houses. Opportunities are available to the Government. I attended a meeting in Roscommon two weeks ago. I could not believe it when I heard that over the next three years only ten new houses will be built.

The new concept seems to involve the private sector providing rental accommodation. At the end of the day, no one is making a decision. Councils have a lot of land. A builder could build a house at a cost of €80 per sq. ft., but decisions are not being made to do that. We are

not going the distance and sorting out the problem. We have decided to go down the road of modular houses. We were told they would cost €90,000 or €110,000. I read in a recent report in a newspaper that the costs of infrastructure and everything else would result in such houses costing €160,000 or €170,000. Can the Government not see that it could build many houses very quickly and create employment? Most of the required building materials are available in the country. More employment would be created. It would be a win-win situation. Instead, we decided to bury our heads in the sand and implement short-term solutions.

I know temporary accommodation has to be provided, but we are not solving the problem by concentrating on that. We have to go the distance. We have to change the mindset that the private sector will solve the problem. That is not working and the desired results are not being achieved.

The Government needs to work with NAMA because it may have the necessary finance if the Government wants to go down that road. The Government should put it in charge of building a specific number of houses where they are needed.

Every county has one, two or three towns to which people say they want to go. As Deputy Calleary said earlier, if other towns are improved, businesses are back up and running and essential services provided, they will be more attractive for people to live in. If such changes are not made, the crisis will continue to get bigger. We have to forget about dazzling figures. In October 2014, I heard in the Budget Statement that a gigantic figure would be spent on housing, but I never saw it since because it did not happen. The promises are no good. We have to nail the problem down once and for all.

A 1,200-1,400 sq. ft. house could be built for €80 per sq. ft. Plenty of land is available to county councils. The Government should give NAMA the job of providing low-cost housing to ordinary people. Instead of continuing down the road we are currently on, namely, building a certain number of units for the private sector through NAMA, there should be a 50:50 split. The problem can be solved if people roll up their sleeves and get to work. Dancing in front of a veil and not doing anything is not an option. The issue needs to be addressed and I commend Deputy Cowen on the motion.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Paudie Coffey): I thank Deputies from all sides of the House for their contributions to this debate over the past two nights. Something we can all agree on is that the country requires more homes for its people. Fortunately, the Government has responded by putting in place two strategies, first, the Construction 2020 strategy and, second, the Social Housing Strategy 2020 to deal comprehensively with the legacy issues that were left to us in terms of a completely dysfunctional property and construction sector. In terms of the context, the Government came into office and found a property sector that was essentially decimated. Builders and developers were gone off-site, many of our skilled tradespeople had left the country, and funding that had been available to build houses was not available. That is the context in which this Government took office. Essentially, it was left to clean up the mess of the previous Administration.

It is all too easy to criticise the Government and to say that we need to build more housing. As I said, there is no arguing in that; we are all agreed on it. The long-term solution to homelessness and to providing housing for all of the people on the housing list is to supply more homes, but identifying the problem alone without proposing concrete, sustainable solutions is

not helpful.

On the other hand, this Government, through its strategies, is coming up with projects in various forms. We are prioritising how we can deliver projects by concentrating on early delivery. That is why there was a lot of investment in the voids and vacant housing programmes across the country, the direct acquisition of properties from the private sector by local authorities and approved housing bodies and approval last year for over 300 multi-unit housing projects by local authorities and the approved housing bodies. I am a bit disappointed but not surprised to note that there has been no acknowledgement from the Opposition of the achievements made under the multifaceted approach the Government is already undertaking.

The Social Housing Strategy provides for 35,000 new social housing units at a cost of €3.8 billion and, in addition, the delivery of up to 75,000 units of long-term, quality accommodation to meet housing needs through the housing assistance payment, HAP, and the rental accommodation scheme, RAS.

It is there for all to see in the Social Housing Output in 2015 report published yesterday that this Government is delivering on its targets with local authorities and approved housing bodies. We have met the social housing need of 13,000 households in 2015, an 86% increase in unit delivery on the previous year. We have also refurbished over 2,700 vacant social housing units, bringing them back into productive use by having people live in them. The vacancy rates have fallen significantly and are now down as low as 1% in Dublin city. I acknowledge that Deputies have identified further vacant units around the country and I urge those Deputies, and the local authorities responsible for the units, to make application to the Department of the Environment, Community and Local Government to have those units turned around also. Almost 9,000 homes were delivered through the social housing current expenditure programme, the RAS scheme and the HAP scheme. That is now operational in 18 local authorities and we intend to roll it out to additional local authorities in 2016.

There has been criticism of the number of units constructed to date by local authorities. Again, it is easy to criticise and convenient to disregard the fact that bringing a construction project to completion is not done overnight. It takes time for it to be tendered for, procured, to get builders on site and have the units constructed but we are now seeing considerable progress across all local authority areas in that regard.

The announcement I made yesterday with the Minister, Deputy Kelly, of 1,000 additional units across the various local authorities means that 200 projects have now been approved and will deliver over 5,300 homes across this country. This figure is made up of 3,250 local authority direct builds and 1,500 public private partnerships. A further 600 are to be built by the approved housing bodies under the social housing current expenditure programme. We have made sure that local authorities have the capacity to deliver this accelerated construction programme by giving sanction for 420 local authority housing posts. That should be acknowledged also.

I am satisfied that the approach taken by this Government is comprehensive and I am committed, along with my colleagues, to doing all that is possible to overcome the difficulties faced by households in accessing good quality housing. Our vision is that every household in the State will have access to secure, good quality housing suited to their needs at an affordable price in a sustainable community. This Government is ensuring all stakeholders are working together to make this happen: my Department, local authorities, approved housing bodies, developers and NAMA. We acknowledge that we have some way to go, but I believe we have made a good

start in 2015 by meeting the needs of some 13,000 households. I commend amendment No. 2 to the House.

This is not just about the money and resources. The Government has put the money in place. It is now about delivery and encouraging the local authorities, through the Part 8 mechanism, the tendering and procurement process and the approved housing bodies, to get building under way on the sites that have been approved across the country.

An Ceann Comhairle: I call Deputy Billy Kelleher who is sharing time with Deputy Barry Cowen. Is it five minutes and ten minutes or seven and a half minutes each?

Deputy Billy Kelleher: About that; 50:50.

The Minister's contribution was extraordinary to say the least. He has to acknowledge that in the five years he has been in government the housing situation has deteriorated to the point where it is now a crisis. Every evening, 1,500 children are housed in emergency accommodation across this country. Day in, day out, families are finding themselves homeless. That is not just a statement from Fianna Fáil or from other Opposition parties. That is consistent with the views being expressed by people who are advocates for those facing homelessness or who are homeless.

The bottom line is that there is a real crisis and it is multifaceted in the sense that it is hitting many people. It is not just traditional homelessness in the context of people who may have alcohol or drug addiction problems, or other problems. Families are now finding themselves unable to meet the basic need of putting a roof over their heads, and this Government has failed abysmally in that regard. The Minister can dress up the statistics all he likes but the bottom line is that in the past five years, this Government has averaged 300 new builds per annum, not new keys, as stated by the Minister, Deputy Kelly. To give a new key one only has to change the lock. One can go down to Cunneens in Cork any day of the week and change a lock and get a new key, but that does not mean one has an extra house. The Minister is counting the changing of locks in terms of house provision. The Minister has to accept, first and foremost, that there is a problem and that the policies, or lack of policies, the Government has had for the past five years are having a profound effect on the ability of families to put a roof over their heads, and those statistics do not lie.

Ten local authorities have not built a house in the past two and a half years. The Minister can blame the local authorities all he likes but whether it is the local authorities or otherwise, the bottom line is that the policies and the resourcing being made available by this Government to local authorities means that ten local authorities failed to build a single house in that period, so it has been far from successful. All the plaudits, platitudes and self-congratulation does not take away from the fact that we have a crisis.

The motion put down by Deputy Cowen makes sense. NAMA has an obligation. It has an obligation on many fronts but the very least it should do is make available land and the cash reserves it has in the context of the provision of social housing. Home ownership and the aspiration to own one's own home is a critically important component in social mobility. It is critically important for society. The yearning and the need for a family to put a roof over their heads is a positive thing and something Irish people hold dear.

Sometimes there is dysfunctionality in the housing market and it causes huge difficulties, but the current dysfunctionality is in the context of Government policies, or lack thereof. There

has been no coherent strategy since day one. When the Government came to office, it spent the first two years of its life mooching around the countryside looking for a ghost estate to knock, and it is running silly advertisements five years later. However, while it was looking for ghost estates the housing crisis in the context of a shortage of social and affordable housing grew on its watch to the alarming situation we have now where over 120,000 people across this country are on housing lists. In my city of Cork we have 8,000 alone who simply cannot access social or affordable housing of any form, and the Minister says the Government is providing new units but it is a lick of paint, a change of windows and a lock. That is not additional housing, and the Minister must accept that. As long as the Government is pretending that these restocking and refurbishments are additional housing it will never address the fundamental problem, which is that in the area of social and affordable housing there is just not enough new builds. NAMA has a central key role, in providing 10,000 units through its cash reserves and the landbanks available to it. This would be a radical departure. It would be a radical policy that would go some way towards alleviating the housing crisis in the country. The changing of locks and the provision of a new key will not do this. The Minister of State needs to acknowledge his failure and that of the Government over the past five years in even acknowledging there was a crisis. Week in week out this has been raised in the Dáil and throughout the country by local authority public representatives and organisations advocating for people who find themselves in dire straits. In the dying throes of the Dáil there has been announcement after announcement. The Government has woken up to the fact there is a crisis, but has only made an effort to send out a few press releases and a bit of spin in the past six months. Press releases and spin do not build houses and will not put the 1,500 children who are in emergency accommodation tonight into some form of housing that is considered acceptable. The cost of the modular housing units makes no sense, when one can go to the marketplace and buy permanent housing for less than they cost. It simply shows the Government is bereft of imagination and ideas to address this.

When the Minister of State goes back over the record of the Government of the past five years and goes to the people in the coming weeks advocating what it has achieved, he should bear in mind that the reason so many people find themselves without a home and unable to afford private rent is as a direct result of the policies the Government has pursued. The cap on the rent allowance is an issue which is causing homelessness. Every Deputy who spoke during the debate stated not a week goes by without people presenting at a clinic or an advice centre to state they can no longer find suitable housing or afford the housing they have. This is an indication it is having a profound impact on families earning lower rates of pay and those dependent on social welfare who qualify for rent allowance. This cap is causing huge difficulties. The Government has insisted on maintaining it, which, in itself, is driving people into homelessness. I condemn the Government's policies and the arrogant approach it has taken in this debate, because this is a positive motion that should be supported and commended.

Deputy Barry Cowen: I thank all contributors to the debate on the motion before the House. I acknowledge much of the content contained in many of the deliberations. I am particularly conscious of the fact many members of Fine Gael and the Labour Party have acknowledged the housing crisis to be an emergency. Deputy Nolan acknowledged there was no shame in admitting this is a crisis and admitting the failure of the Government to address the crisis in the way in which he had hoped over the past five years. I find this most magnanimous on his part and on the part of others, much more so than the contribution made by the Minister who has had responsibility for the past two years, Deputy Kelly. He spoke for half an hour, and much of it was taken up in seeking to lay blame for this existing crisis, which evolved during the Government's tenure of office, in the hands of Fianna Fáil. Unfortunately, as Deputies Kelleher,

Calleary and many others alluded, the facts and statistics speak for themselves. The statistics state the case of which we are certain and of which the Dáil should have no doubt. This is that, during the course of the previous Dáil, the previous Government built 3,600 units per annum whereas the current Government has built 300 units per annum. That is it in a nutshell.

This does not surprise me because it has been synonymous with the Government over the past five years to lay blame on the previous Government when confronted on various issues, considering the success it had in doing so at the time of the previous election. However, it has failed to acknowledge the great responsibility placed on it and the great expectations of those who gave it the privilege. I am conscious of saying this in the context of the publication today of the report of the banking inquiry. It does not carry weight and is not the launch pad the Taoiseach and others would have hoped for their campaign as we enter into an election. Without having read it I do not want to go into detail, but many would say it is interlinked with this debate, considering the blame the Government places on us for our supposed role in the crisis that exists for many of those who find themselves among the 130,000 people on a waiting list. There is no mention, I am led to believe, of any axis of collusion that supposedly existed between our party and builders and bankers, according to the Taoiseach.

Deputy Dara Calleary: Hear, hear.

Deputy Barry Cowen: There was no mention of acts of treason by any member of the previous Government, as was alleged by Deputy Gilmore to the catcalls of his colleagues. There was no mention of documents being shredded in the Taoiseach's office, now occupied by Deputy Enda Kenny, considering the fact he stated he sought to find them and despite the fact they had been in the hands of the Department of Finance. Rather, I believe, there was confirmation of the fact the Central Bank and the Financial Regulator assured the then Government of the solvency of Irish banks.

The Government has form over the past five years in this regard when confronted with issues and failures on its part. The public has noticed this, has paid attention to it and has reminded us of it in recent weeks. We acknowledged the results of the last election and we wished the Government well on entering office. We commend the Government on having completed the job of bringing income and expenditure into line, considering the previous Government had done two thirds of the heavy lifting. The means and method by which it went about it on this issue leaves much to be desired. The Government continues to throw out figures it thinks can pull the wool over our eyes. More importantly, it thinks it can pull the wool over the eyes of the public. As Deputy Kelleher alluded, the Minister, Deputy Kelly, stated yesterday 13,000 keys were handed out last year, but that is not true and the Minister of State, Deputy Coffey, knows this. Of these, 2,700 were vacant units that were refurbished and this is nothing to be proud of. When they were constructed and built many years previously, there was nothing in the contract to state they should be left idle for two years after ten or 15 years. The Government wants a pat on the back for refurbishing them. The reason they needed to be refurbished was because the Government failed to put in place a tenant purchase scheme which would fund local authorities and give them the capacity within their funding streams to be able to ensure they were turned over regularly. The Government has allowed the 30,000 cap to remain in place, and local authorities need the approval of staff in the Department of the Environment, Community and Local Government before they can proceed

The Minister of State mentioned 9,000 local authority units are in various leasing programmes. In many of these cases there was a change from the rental accommodation scheme,

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RAS, to the housing assistance payment, HAP. The Government is renaming things and giving the impression keys were handed out. They were not. Another point made was that our proposal was somehow breaking the law with regard to the provision contained in the legislation giving effect to NAMA, that the Minister for Finance cannot direct NAMA to construct houses for the benefit of the State despite the fact there was an implicit clause in the legislation that there should be a social dividend for the State. If it is illegal, why then did he direct it to build 10% only for social housing? If it is illegal to build 50% it is illegal to build 10%. Last week, the Taoiseach stated it would cost €2 billion and on Sunday he stated it would cost €3 billion, so he does not know. He does not have a clue, to be quite honest.

The Minister of State said there were no funds and we were broke. The credit unions, for which the Government seems to have scant regard, considering what it signed in recent weeks, have €2 billion on deposit in the “pillar banks”, as the Minister of State calls them, propping them up. They are not allowed the scope to invest in this sector, to invest in their communities, to revitalise them and to make a telling contribution within them.

Deputy Paudie Coffey: They are allowed.

Deputy Barry Cowen: Then he said that NAMA owned the loans, not the land. For God’s sake, the land is the security that determines the value of the loan. The return on the investment in the land will repay the State. The Fine Gael attitude is that we get as much as we can and we throw it into the public finances to show the improvements we have made in those finances and to hell with those within the State who cannot afford to provide a house for themselves without the Government doing so. That is the difference between Fine Gael and Fianna Fáil. That is the difference between what this Government has done for the past five years and what we will do in the next five years. We look forward to engaging with the public and having the opportunity to say to them that we can do things differently, and that we can allow the fruits of success of this economy, for which we all strive, to be given to those who can benefit. We will not just look at the 30% to 35% that the Minister of State believes will win him an election. There was a time when a Government had to get 50% of the vote to win an election.

An Ceann Comhairle: Thank you, Deputy. We are over time.

Deputy Barry Cowen: There is still a time, believe it or not, when parties and political organisations want to satisfy and help all of society across this Republic, especially in the year that is in it and the commemoration it signifies.

Amendment put:

9 o'clock

<i>The Dáil divided: Tá, 64; Níl, 25.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Barry, Tom.</i>	<i>Aylward, Bobby.</i>
<i>Breen, Pat.</i>	<i>Browne, John.</i>
<i>Butler, Ray.</i>	<i>Calleary, Dara.</i>
<i>Buttimer, Jerry.</i>	<i>Collins, Niall.</i>
<i>Cannon, Ciarán.</i>	<i>Cowen, Barry.</i>

<i>Carey, Joe.</i>	<i>Dooley, Timmy.</i>
<i>Coffey, Paudie.</i>	<i>Ellis, Dessie.</i>
<i>Conaghan, Michael.</i>	<i>Fitzmaurice, Michael.</i>
<i>Connaughton, Paul J.</i>	<i>Fleming, Tom.</i>
<i>Conway, Ciara.</i>	<i>Healy-Rae, Michael.</i>
<i>Coonan, Noel.</i>	<i>Kelleher, Billy.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Kirk, Seamus.</i>
<i>Costello, Joe.</i>	<i>Kitt, Michael P.</i>
<i>Daly, Jim.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Deenihan, Jimmy.</i>	<i>McGrath, Mattie.</i>
<i>Deering, Pat.</i>	<i>McGrath, Michael.</i>
<i>Donohoe, Paschal.</i>	<i>McLellan, Sandra.</i>
<i>Dowds, Robert.</i>	<i>Moynihan, Michael.</i>
<i>Doyle, Andrew.</i>	<i>Murphy, Catherine.</i>
<i>Durkan, Bernard J.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>English, Damien.</i>	<i>Ó Fearghail, Seán.</i>
<i>Farrell, Alan.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Feighan, Frank.</i>	<i>O'Brien, Jonathan.</i>
<i>Flanagan, Charles.</i>	<i>O'Sullivan, Maureen.</i>
<i>Griffin, Brendan.</i>	<i>Pringle, Thomas.</i>
<i>Hannigan, Dominic.</i>	
<i>Harrington, Noel.</i>	
<i>Harris, Simon.</i>	
<i>Heydon, Martin.</i>	
<i>Humphreys, Heather.</i>	
<i>Humphreys, Kevin.</i>	
<i>Keating, Derek.</i>	
<i>Kehoe, Paul.</i>	
<i>Kyne, Seán.</i>	
<i>Lawlor, Anthony.</i>	
<i>Lynch, Ciarán.</i>	
<i>Lynch, Kathleen.</i>	
<i>Lyons, John.</i>	
<i>McCarthy, Michael.</i>	
<i>McEntee, Helen.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McHugh, Joe.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Eoghan.</i>	
<i>Nash, Gerald.</i>	
<i>Nolan, Derek.</i>	

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<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Phelan, John Paul.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	
<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Barry Cowen and Billy Kelleher.

Amendment declared carried.

Question put: "That the motion, as amended, be agreed to."

<i>The Dáil divided: Tá, 63; Níl, 27.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Barry, Tom.</i>	<i>Adams, Gerry.</i>
<i>Breen, Pat.</i>	<i>Aylward, Bobby.</i>
<i>Butler, Ray.</i>	<i>Browne, John.</i>
<i>Buttimer, Jerry.</i>	<i>Calleary, Dara.</i>
<i>Cannon, Ciarán.</i>	<i>Collins, Niall.</i>
<i>Carey, Joe.</i>	<i>Colreavy, Michael.</i>
<i>Coffey, Paudie.</i>	<i>Cowen, Barry.</i>
<i>Conaghan, Michael.</i>	<i>Dooley, Timmy.</i>
<i>Connaughton, Paul J.</i>	<i>Ellis, Dessie.</i>
<i>Conway, Ciara.</i>	<i>Fitzmaurice, Michael.</i>
<i>Coonan, Noel.</i>	<i>Fleming, Tom.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Healy-Rae, Michael.</i>
<i>Costello, Joe.</i>	<i>Kelleher, Billy.</i>
<i>Coveney, Simon.</i>	<i>Kirk, Seamus.</i>
<i>Daly, Jim.</i>	<i>Kitt, Michael P.</i>
<i>Deering, Pat.</i>	<i>Mac Lochlainn, Pádraig.</i>
<i>Donohoe, Paschal.</i>	<i>McGrath, Mattie.</i>

<i>Dowds, Robert.</i>	<i>McGrath, Michael.</i>
<i>Doyle, Andrew.</i>	<i>McLellan, Sandra.</i>
<i>Durkan, Bernard J.</i>	<i>Moynihan, Michael.</i>
<i>English, Damien.</i>	<i>Murphy, Catherine.</i>
<i>Farrell, Alan.</i>	<i>Ó Caoláin, Caoimhghín.</i>
<i>Feighan, Frank.</i>	<i>Ó Fearghail, Seán.</i>
<i>Flanagan, Charles.</i>	<i>Ó Snodaigh, Aengus.</i>
<i>Griffin, Brendan.</i>	<i>O'Brien, Jonathan.</i>
<i>Hannigan, Dominic.</i>	<i>O'Sullivan, Maureen.</i>
<i>Harris, Simon.</i>	<i>Pringle, Thomas.</i>
<i>Heydon, Martin.</i>	
<i>Humphreys, Heather.</i>	
<i>Humphreys, Kevin.</i>	
<i>Keating, Derek.</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>McEntee, Helen.</i>	
<i>McFadden, Gabrielle.</i>	
<i>McGinley, Dinny.</i>	
<i>McHugh, Joe.</i>	
<i>Mitchell O'Connor, Mary.</i>	
<i>Mulherin, Michelle.</i>	
<i>Murphy, Eoghan.</i>	
<i>Nash, Gerald.</i>	
<i>Neville, Dan.</i>	
<i>Nolan, Derek.</i>	
<i>Ó Ríordáin, Aodhán.</i>	
<i>O'Donnell, Kieran.</i>	
<i>O'Donovan, Patrick.</i>	
<i>O'Dowd, Fergus.</i>	
<i>O'Mahony, John.</i>	
<i>O'Reilly, Joe.</i>	
<i>O'Sullivan, Jan.</i>	
<i>Phelan, John Paul.</i>	
<i>Rabbitte, Pat.</i>	
<i>Ring, Michael.</i>	
<i>Ryan, Brendan.</i>	
<i>Spring, Arthur.</i>	
<i>Stagg, Emmet.</i>	

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<i>Stanton, David.</i>	
<i>Tuffy, Joanna.</i>	
<i>White, Alex.</i>	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Barry Cowen and Billy Kelleher.

Question declared carried.

Message from Seanad

An Ceann Comhairle: Seanad Éireann has passed the Horse Racing Ireland Bill 2015, without amendment.

The Dáil adjourned at 9.30 p.m. until 9.30 a.m. on Thursday, 28 January 2016.