DÁIL ÉIREANN

AN ROGHCHOISTE UM DHLÍ AGUS CEART AGUS COMHIONANNAS

SELECT COMMITTEE ON JUSTICE AND EQUALITY

Dé Céadaoin, 24 Bealtaine 2017

Wednesday, 24 May 2017

Tháinig an Romhchoiste le chéile ag 9 a.m.

The Select Committee met at 9 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	
Colm Brophy,	
Clare Daly,	
Alan Farrell,	
Frances Fitzgerald (Minister for Justice and Equality),	
Jim O'Callaghan,	
Mick Wallace.	

I láthair / In attendance: Deputy Jonathan O'Brien.

Teachta / Deputy Caoimhghín Ó Caoláin sa Chathaoir / in the Chair.

Parole Bill 2016: Committee Stage

Chairman: Apologies have been received from Deputy Jack Chambers. All mobile phones should be switched off as they cause interference with the broadcasting and recording of the proceedings, even when left in silent mode. That applies to everyone, including me.

The meeting has been convened to consider Committee Stage of the Parole Bill 2016 which was introduced by Deputy Jim O'Callaghan. I welcome the Tánaiste and Minister for Justice and Equality, Deputy Frances Fitzgerald, and her officials. On behalf of the select committee, I also welcome Mr. John Costello, chairperson of the parole board, and those of his colleagues who may be in attendance.

Before dealing with the Bill section by section, would Deputy Jim O'Callaghan like to speak? It is an important opportunity as this is this first time we are taking Committee Stage of a Private Members' Bill in this committee's term. A small bit of history is being made and, as such, I offer the floor to the Deputy.

Deputy Jim O'Callaghan: I thank the Chairman for fixing Committee Stage for this morning. I acknowledge the role the Tánaiste has played in dealing with this Private Members' Bill, the broad principle of which she has accepted and on which she is happy to work. I am conscious of the fact that I have had engagement with the Department of Justice and Equality, which I welcome. A lot of amendments have been tabled. Deputies Mick Wallace and Clare Daly have tabled amendments, as have I. In fairness to the Tánaiste, she has adopted the sensible approach that we will let the amendments go through and that the main Government amendments will come through on Report Stage. We may also have further amendments to propose on Report Stage, albeit probably not too many. This is a worthwhile process. The most important point is not that it is my Bill or anyone else's but that we get it right. I am not proprietorial about the Bill and acknowledge the work the Department has done on it. We all agree that the legislation is long overdue. Many of the amendments proposed will help the Bill, but I am conscious that we will get a better overview of it when we see the Government's amendments on Report Stage. While I will not hold the Department to a timetable, we are all anxious that the amendments be brought forward as quickly as possible. However, I am conscious that there is still work to be done.

Chairman: Would the Minister like to make some opening remarks?

Tánaiste and Minister for Justice and Equality (Deputy Frances Fitzgerald): I thank Deputy Jim O'Callaghan for the work he has done on the Bill. The establishment of a parole board on a statutory basis has been an ongoing Government and Opposition policy objective. There is a need to provide for a more objective and streamlined parole process which, while, of course, being of benefit to the prisoner, has public safety at its core. It is of paramount concern, and the Bill encompasses this objective. It goes a considerable way to making provision for a statutory parole board, the principle of which I fully accept. I went to the Government with this earlier this year, to proceed with the establishment of the parole board through the Bill. Since then, a departmental official has been working full-time on it and progress has been made in resolving certain policy issues. We have engaged with Deputy O'Callaghan, and been in con-

sultation with him in considering the need for further amendments. We have more work to do in the Department, as Deputy O'Callaghan has acknowledged. We are working through a co-operative process. As Deputy O'Callaghan said, we want to get the very best Bill we can through the process of engagement at the committee and in consultation with Deputy O'Callaghan and the officials working full-time on it.

Chairman: I have acknowledged and welcomed Mr. Costello, the chairman of the parole board, and I want to surprise his colleague by demonstrating my good memory. Cuirim fáilte roimh Mr. Shane McCarthy, who is a member of the parole board. There has been quite a bit of engagement on this. The amount of work Deputies Wallace and Daly have put into it is clear, and is demonstrated by the amendments tabled in their respective names. Three amendments have been disallowed and the Deputies have been notified. No fault lies in this room, and I leave it with them.

Deputy Mick Wallace: Was it because they would have cost money?

Chairman: It must have been something like that. No doubt the Deputy will find a means of reflecting on it in the course of our deliberations.

SECTION 1

Deputy Jim O'Callaghan: I move amendment No. 1:

In page 5, line 13, to delete "1 June 2017." and substitute the following:

"such day or days as may be fixed by order or orders made by the Minister, either generally or by reference to any particular purpose or provision, and different days may be so fixed for different purposes or different provisions.".

The original Bill proposed it would commence operation on 1 June 2017. Obviously this is not possible at this stage. Because of the complexity of the provisions in the Bill it is probably more appropriate to commence it by way of ministerial order.

Deputy Frances Fitzgerald: I agree with the amendment.

Amendment agreed to.

Section 1, as amended, agreed to.

SECTION 2

Deputy Clare Daly: I move amendment No. 2:

In page 5, between lines 23 and 24, to insert the following:

" "parole candidate" includes any individual who has made an application for parole;".

This provides the definition of a parole candidate. It is probably radical enough, as it would be a change in the situation whereby it would be defined as somebody who has made an application for parole with no restrictions or conditions. If a person makes an application he or she is a candidate.

Deputy Frances Fitzgerald: I do not propose to oppose the amendment. I agree we should define parole candidate. However, it may be necessary to make a small further amendment to the definition by including a reference to section 21 of the Bill. This section provides for a

consideration of parole. If amendment No. 67 is agreed, it will allow for applications for parole to be made under that section. A reference in the definition of parole candidate is proposed by Deputy Daly. It would add clarity that it applies to persons eligible for consideration for parole. I can raise this with Parliamentary Counsel and, if appropriate, can prepare an amendment. Otherwise, I am happy to agree with amendment No. 2.

Deputy Clare Daly: That is good. We will agree for now and see what happens later. That is great.

Amendment agreed to.

Chairman: Amendment No. 3 is grouped with amendments Nos. 5, 6, 45, 50, 58, 71, 72 and 83 as they are all related. For the information of members, amendments Nos. 5 and 6 are logical alternatives.

Deputy Clare Daly: I move amendment No. 3:

In page 5, line 24, to delete "section 22" and substitute "*section 22(1) and (2)*".

This bundle of amendments would empower the parole board to make recommendations regarding sentence management and transfer to open prisons. Deputy O'Callaghan's amendments seek to do the same thing, perhaps in a slightly different way. His amendments are more simple, with just a line stating one of the functions of the board is to make recommendations on sentence management. Mine is a bit more detailed and convoluted. I am open to seeing which approach is best. I presume there is an argument that if too much detail is included it might tie the board's hands which is obviously not the intention. At the same time, I was trying to balance against this that if we do not include the detail there is a danger the board's functions and powers in this regard will not be clear enough, which could leave it hamstrung. This is the balance we are trying to reach. I do not know which is best so I will throw it out there.

The amendment I have tabled, whereby the Bill would empower the board to make sentence management recommendations, has been tabled on foot of the recommendations by the existing parole board, which I believe is significant and adds weight to it. It has pointed out it has this function already and it constitutes the bulk of its work. It recommends it for only five or six prisoners a year. If it is taken away it will be left bereft of a number of responsibilities. Everybody agreed on Second Stage it should continue to have this role. The question is how.

Where my group of amendments differs from Deputy O'Callaghan's is I propose that we give the board powers to make orders regarding sentence management rather than just recommendations. This is an important difference. It is important in light of the fact it will be the body reviewing all of the facts about the individual's progress, and I believe this is appropriate. It is recommended by the existing board. I have left it open to the governor of an open prison to revoke or suspend such orders, which is how it happens at present. Obviously it would be very difficult for the board to do this as it is not present in the prison. The idea of an oversight role for the board whereby a governor who revokes or suspends an order has to justify it or explain the reasons in writing is reasonable. There was unanimity on this issue on Second Stage. What we are trying to do is sort out the detail of how it would be done.

Deputy Jim O'Callaghan: There is a lot of agreement. I will go through the amendments one by one. The amendment we are dealing with now is amendment No. 3, in which Deputy Daly is trying to amend the definition of parole order. At present, the Bill states it shall be con-

strued in accordance with section 22. Deputy Daly wants to change this to section 22(1) and (2) and she also proposes a new section. It is easier if we leave it in accordance with section 22, the way it is. It complicates it by having to specify subsections.

There is agreement on the more general issue. If we look at amendment No. 6, which I have proposed, it is in effect similar to what is contained in Deputy Daly's amendment No. 5. What we are seeking to do is provide that one of the functions of the parole board shall be to make recommendations regarding the sentence management of prisoners and transfers to an open prison. This is a function the board will have. With regard to parole orders, these are dealt with in section 22. Obviously, the parole board will have the power in respect of parole orders. I am slightly hesitant about giving governors powers to revoke parole orders. We need to have a clear statutory basis that it is the parole board which has this power. It can set out orders and revoke orders. Amendment No. 3 is unnecessary and we should go with amendment No. 6, which is the same as Deputy Daly's amendment No. 5.

Deputy Frances Fitzgerald: Amendments Nos. 5 and 6 address the need to ensure the parole board can make recommendations relating to sentence management. Amendments Nos. 72 and 83 are linked to amendment No. 5 and amendments Nos. 3, 45, 50 and 58 are consequential amendments to amendment No. 72. I support the principle of the amendments, which reflect current practice whereby the parole board can and does make various recommendations. These include advising a prisoner on the type of programmes with which he or she should engage, recommending transfer to a lower security prison or recommending a programme of temporary release, leading to longer periods.

With respect to the element of the amendments regarding transfers to open prisons, this is, as I have said, a recommendation that the current parole board can make. Such a recommendation could be implied in the general understanding of "sentence management". However, I am not going to object to specifying the transfer to open prisons.

My preference is for amendment No. 6. My concern with Deputy Daly's amendment No. 72 is the proposal permitting the parole board to issue orders relating to sentence management, including orders for transfer to open prison. By providing for the parole board to make orders rather than recommendations, the amendments would effectively involve the board in the management and operation of prisons, which is outside of the remit of the board.

I acknowledge that Deputy Daly has also put forward amendment No. 83, which would allow a governor to revoke it. Nevertheless, getting into the management of prisons is a somewhat inappropriate role, and I hope the Deputy understands that.

Amendment No. 6 goes a long way to what Deputy Daly is seeking. It allows recommendations with respect to sentence management, including recommendations relating to transfers to open prisons. I would suggest agreeing amendment No. 6 over amendments Nos. 3, 5, 72, 45, 50, 58, 71, 72 and 83.

With respect to amendment No. 71 in the name of Deputy O'Callaghan, this amendment allows for the parole order to be sent to a prison governor, which is right. I would also like a further provision requiring the parole board to also notify the Minister that the parole orders have been made. It is necessary that the Minister for Justice and Equality would be aware of any decisions to release prisoners. A simple notification of the nature of the parole order which is issued to the relevant prison governor would I believe suffice, and I will suggest an amendment to that at a later Stage.

I would also like to address subsection (5) of the amendment, which provides for the board to specify conditions. Subsection (2) of the section being amended already sets out the conditions of a parole order. However, subsection (5) appears to allow the board to specify conditions, which I presume will be some or all of the conditions under subsection (2), or will it be conditions in addition to subsection (2) which will apply to all persons released on parole?

In any event, I believe there is merit in considering introducing an automatic condition of release, which would apply to all parole orders, such as that the offender must comply with all lawful instructions of his or her probation officer. While section 22 of the Bill sets out the conditions which may be imposed in respect of individual offenders, I believe we should consider whether it should be a standard and automatic condition of every parole order to abide by the instructions of a probation officer.

Persons on parole are under the supervision of probation officers. It is the case that this supervision may vary from offender to offender or as time passes. Probation officers are responsible for facilitating and assisting an offender in reintegrating into society and, as such, are likely to be best placed to identify the immediate needs of and risks faced by an offender, including as these needs or risks change. When cases come to me I often see the progress people are making and the varying recommendations of probation officers. In my view, an automatic condition to abide by the lawful instructions of a probation officer will avoid any unforeseen gaps should needs or risks emerge, and it will aid the rehabilitation of the offender.

I would be interested in the views of the members with respect to this proposal. It is a matter we can return to at a later Stage of the Bill.

Chairman: I thank the Tánaiste. With no other members indicating, I will go back to Deputy Daly as the opening member on amendment No. 3 and then the grouping.

Deputy Clare Daly: I accept the point regarding amendment No. 3 being unnecessary, and there is no problem withdrawing it. It is probably the case that amendment No. 6 rather than amendment No. 5 should be accepted. I will not worry about that. However, amendments Nos. 72 and 73 are linked and their purpose is precisely to overcome the issue of the board being involved in the day to day management of the prison. What I am trying to do on the one hand is give the board more power over sentence management, with a caveat that the prison governor maintains a power to off-set that by being able to revoke or suspend the order the parole board would make. I believe that overcomes the Minister's point about the parole board going beyond its remit and straying into prison management. That is there to balance that situation and giving the board more power over sentence management in this way, through the issuing of orders, was, as far as I can recall, based on a submission from the current parole board. I believe it is reasonable because on the one hand it is giving it more power but, on the other, it is qualifying that so that the management of the prison would be able to carry on.

In response to Deputy O'Callaghan's point about whether that is giving a prison governor too much power to overturn that, the fact that the governor would have to give a written explanation on that gives it an oversight role. I do not know if that better explains it. I like those two amendments and I am prepared to push them rather than the other ones. If I did not move amendment No. 5 and amendment No. 6 was moved, the possibility of the board issuing orders remains in other Parts of the Act, which I believe is what Deputy O'Callaghan said. That would be fine. Does he understand the point I am making?

Deputy Jim O'Callaghan: Yes.

Deputy Clare Daly: I am not sure on that but we can look at it later as well.

Chairman: The Deputy can tease that out.

Deputy Clare Daly: Yes.

Chairman: Would Deputy O'Callaghan like to respond to Deputy Daly or the Tánaiste?

Deputy Jim O'Callaghan: Deputy Daly's main concern is with amendment No. 72. There is no difference between amendments Nos. 5 and 6. Amendment No. 6 is probably broader and does not take into account section 22(3), which may not be there. With regard to amendment No. 72-----

Deputy Clare Daly: Before Deputy O'Callaghan continues, my amendment No. 5 refers to "sentence management and issue orders". That is the key difference. Amendment No. 6 does not refer to "issue orders", but can orders still be issued if amendment No. 6 was accepted?

Deputy Jim O'Callaghan: I see the point the Deputy is making, but I would have thought amendment No. 6 is probably broad enough. I am conscious that somebody in the Department will have to look through it and harmonise it before Report Stage. I am open minded about it. There is not a huge difference between the two. The recommendations referred to in amendment No. 6 are probably broad enough if they can make recommendations regarding the sentence management of prisoners. Deputy Daly's point is that it should be implicit in that they can make an order. Does the Tánaiste have a strong view on it?

Deputy Frances Fitzgerald: I would, yes. I have a strong preference for amendment No. 6. I am concerned about the orders relating to sentence management, including orders for transfer. I would make the point again, and ask Deputy Daly to consider it, that the parole board has a specific role. Getting involved in the management and operation of the prisons, which is the tendency, is where this is going. That is the reason I would prefer the broader approach in amendment No. 6. It is more appropriate to the role of the parole board, and it is clearer.

Chairman: Before inviting any other comments on it, I remind members that whatever decision is taken on Committee Stage, there is nothing to preclude revisiting this after further consideration on Report Stage.

Deputy Clare Daly: We could certainly go with amendment No. 6 for today, and I would reserve the right to raise the points later when we look at the piece put together.

Chairman: That would allow us to progress the situation because we could get caught up on that detail. The additional time for consideration will help to shed the required light on it.

Deputy Clare Daly: That is fine.

Amendment, by leave, withdrawn.

Chairman: Deputy O'Brien is welcome. Amendment No. 3 has been withdrawn. Amendment No. 2 has been accepted. There are no other amendments in section 2.

Question proposed: "That section 2, as amended, stand part of the Bill."

Deputy Frances Fitzgerald: I am considering bringing forward amendments to section 2. These will be mainly technical amendments to this section to provide for additional definitions, which might seem a bit surprising, such as a definition of "prison". Some other new definitions

may also be required on foot of amendments proposed today, including a definition of "medical practitioner". We may have to revisit those but they are technical definitional issues. I will have to come back to them in section 2.

Question put and agreed to.

Section 3 agreed to.

SECTION 4

Chairman: Amendment No. 4 is in a very extensive grouping. The grouping comprises amendments Nos. 4, 11, 20, 22, 25, 37, 39, 40, 60, 65 and 80. They are all drafting amendments and will be discussed together. Members of the committee have the notice list.

Deputy Jim O'Callaghan: I move amendment No. 4:

In page 6, line 14, to delete "Act, shall" and substitute "Act shall,".

As the Chairman said, these are all technical amendments. For instance, one is for a misplaced comma. Another removes replication of the words "to have". I do not think there is anything controversial about any of them.

Amendment agreed to.

Section 4, as amended, agreed to.

SECTION 5

Question proposed: "That section 5 stand part of the Bill."

Chairman: There are no amendments to section 5. I will not ask the Minister if she wishes to make a comment when we come to every section but if she has something to add, she should bring me to a halt.

Deputy Frances Fitzgerald: I would like to raise a matter about this section. Under existing arrangements, parole is effectively the exercise by the Minister of the power of temporary release under the Criminal Justice Act 1960, reflecting the fact that the existing parole board operates in an advisory capacity only. Given that the parole board will now be established on a statutory basis, with a clear decision-making function with regard to the release of certain prisoners, it may be necessary to explicitly set out what parole is as distinct from ministerial powers of temporary release, which will continue to operate under the Criminal Justice Act 1960.

Under the provisions of this Bill, parole is conditional release. Unlike temporary release which may be renewed but also may not, parole can only be revoked where there is a risk to the public or there has been a breach of a condition attached to the parole. That risk or breach is subsequently determined through a hearing under section 25 of the Bill. It would be helpful, and it will distinguish parole from temporary release, if we set out - possibly in section 5 of the Bill - that parole is a form of conditional release. It is already clear from section 5(3) that the provisions of the Bill are not intended to interfere with the right of temporary release, so I may therefore bring forward amendments to clarify the type of release that is being provided for under the Bill. It would be helpful if we did this and I want to alert the committee that I intend to do that under section 5.

Question put and agreed to.

Section 6 agreed to.

SECTION 7

Chairman: There are two amendments to section 7. Amendment No. 5 in the name of Deputy Clare Daly was already discussed with amendment No. 3.

Amendment No. 5 not moved.

Deputy Jim O'Callaghan: I move amendment No. 6:

In page 8, line 14, to delete "generally." and substitute the following:

"generally,

(e) to make recommendations regarding the sentence management of prisoners and transfers to an open prison.".

Amendment agreed to.

Section 7, as amended, agreed to.

SECTION 8

Chairman: Amendments Nos. 7 to 10, inclusive, 12 to 19, inclusive, and 21 all form a grouping. Amendment No. 18 is a physical alternative to amendment No. 17.

Deputy Jim O'Callaghan: I move amendment No. 7:

In page 8, line 22, after "Courts" to insert "or is a practicing academic, barrister or solicitor of at least 10 years standing".

Amendment No. 7 proposes to expand the qualifications of an individual who can become chairman of the new parole board. In the original draft, it was limited to somebody who was a judge or retired judge. The reasoning for that was that it is a quasi-judicial function that is going to be carried out by the parole board. However, it should be extended, and I have extended it to "a practicing academic, barrister or solicitor of at least 10 years standing". That is not because I am trying to limit it to lawyers. It is an important legal function and the person who is chairman of the board should have a legal qualification. That is the reason for amendment No. 7. Will I discuss the other amendments?

Chairman: Yes, they are all part of this grouping. This is the appropriate time.

Deputy Jim O'Callaghan: Deputy Mick Wallace has an amendment about the member of the board from the Garda. I had originally indicated that it should be a current or retired member of An Garda Síochána but Deputy Wallace suggests we take out the term "or retired". I think it might be better to have a retired garda as opposed to a current garda on the board. I would think a current garda should be out guarding the streets as opposed to sitting on the parole board. I will be interested to hear what the Minister has to say on it. I think we would be better off to make it more expansive rather than more restrictive. If it is a current or retired member of the Garda, it is more expansive.

In amendment No. 9, Deputy Wallace proposes "a lay community representative". It is important to have community representatives but people are going to be selected by a competitive selection process under section 8(3)(b). On the wording, Deputy Clare Daly has amendment

No. 10, which I would prefer to amendment No. 9. It refers to “two persons appointed through a competitive selection process coordinated by the Public Appointments Service to have” certain qualifications. It is important everyone is not appointed by a Public Appointments Service competition. People will just not apply for it. There is some basis for certain members of the board to be appointed that way.

The manner in which I have identified that people should be appointed is that, for example, the Irish Prison Service, the Probation Service, the Garda Commissioner and the College of Psychiatrists of Ireland will nominate a person each. That is a better way to do it rather than to have a competition, which may look transparent and which people might think sounds great, but which will in many respects not get people to apply. There is a mix within it in that some have to apply through the competition process and some are appointed by others and it is a good mix. I would prefer amendment No. 10 over amendment No. 9, but will hear what the Minister has to say about it.

Chairman: We will hear from the Minister after I have offered the opportunity to other members of the committee who have tabled amendments in this grouping to speak, if they wish to.

Deputy Mick Wallace: It is hard to disagree with what Deputy O’Callaghan said. On amendment No. 8, my point was that the emphasis should be on the assessment of the current risk of the person before the board. There should be an emphasis on current knowledge of the public safety environment, on assessing risk to the community or risk of reoffending at the present time, using up-to-date information from currently serving members of the force. It is important to focus on the prisoner now and on how much he or she has been rehabilitated, and not have a retrospective look at the period of his or her offence or his or her sentencing. A retired garda might have known the prisoner better in the past than a serving garda, but we hope that the prisoner is not the same individual he or she was when he or she got into trouble and that maybe he or she has moved on. While we accept that the principle of prison does not work, the thinking is that it is supposed to rehabilitate prisoners. If the system was better than it is, there might be more rehabilitation than there is. To give a person a fair chance, it is fair to look at his or her present more than his or her past.

Deputy O’Callaghan made a point about retired gardaí. I know retired gardaí as well and they are a lot smarter than serving gardaí in many cases. It does not change the fact that current members of the Garda will be more up to date, which is natural.

My amendment No. 9 refers to a lay community representative. Given that this stuff is going to be put on a statute basis then it is just a case of ring-fencing this matter. There might be several community representatives on the board or they might be sidelined. We could have a situation where there are no community representatives on the board. My amendment seeks to guard against such a situation by insisting that the board has at least one community representative at all times, on a statutory basis.

Deputy Clare Daly: The bulk of the amendments in this section are mine and I will go through them individually. My amendments are linked and share a theme but some highlight different points.

My amendment No. 10 refers to the appointment system and calls for the two members with experience of the supervision or aftercare of discharged prisoners to be appointed subject to section 8(2)(i). At the moment it is the Minister who appoints under this heading. I tabled

my amendment because I believe that two persons appointed through a competitive selection process co-ordinated by the Public Appointments Service is better than the Minister appointing such persons. We have the same debate on every piece of legislation whether it is appointment to a judicial council or everything else. There is a danger when the Minister nominates that the appointment would appear to be less transparent. That is the only reason I tabled my amendment.

Amendment No. 13 seeks to add two new members to the board. Like Deputy Wallace's amendment No. 9, my amendment seeks to add people from the community to the board. Amendment No. 13 reads:

> two persons appointed through a competitive selection process coordinated by the Public Appointments Service with knowledge and experience of working or volunteering in a support role with criminal offenders and discharged prisoners.

My amendment has a similar intent to that of Deputy O'Callaghan's amendment No. 12, which allows for the possibility of two community representatives. My amendment seeks to appoint people who have worked in the community or in pastoral roles with offenders to the board. They would be a welcome addition. My amendment is more definite than amendment No. 12. My amendment wants it made obligatory to appoint two community persons rather than leave it as an option. The aim of my amendment is supported by the present parole board.

I made the point on Second Stage that the board is heavily weighted towards legal and high powered people who, with the best will in the world, probably have more professional contact rather than a direct experience of dealing with some of people who are up for parole. In that sense, community experience and that type of background would add a good and necessary balance to the board. My amendment is important to me because it seeks to make the provision obligatory rather than optional.

I tabled amendments Nos. 14 and 15. Section 8(1) provides for the parole board to be made up of "not more than 15" members. My amendment seeks to improve gender representation and bring it closer to 50:50.

Chairman: We are both on the same page on that matter.

Deputy Clare Daly: Are we?

Chairman: Yes.

Deputy Jim O'Callaghan: I tabled the amendment along with the Deputy.

Deputy Clare Daly: That amendment is sorted. Sorry, it is too early for me.

Chairman: Plus amendment No. 15 as well.

Deputy Clare Daly: Excellent. Yes, amendments Nos. 14 and 15.

Amendments Nos. 16, 17 and 19 are on the same theme. They make the opposite point in a load of different ways from what Deputy O'Callaghan has made in his amendments. My amendments seek an open competition for appointment to the board and the rationale is the same as previously. I do not have a difficulty with the professions being represented. It is good for the board to be comprised of legal people, Garda and psychologists. I have a problem with their nominating bodies nominating people rather than using merit. The Irish Penal Reform

Trust has also raised its concern that the people who are favoured by the organisation might be nominated and that they will agree between themselves to take turns to be appointed for a year. People are not being nominated on merit. It is too important to leave the final say to the representative bodies even though I do not have a problem with the criteria. It is really important to have psychologists. I would prefer people to be nominated on merit and for a competition to be held. I do not think a competition would put people off. I applied for the job myself in the recent round of competition-----

Deputy Colm Brophy: Watch out.

Deputy Clare Daly: ------for a branch of the parole board. I missed the deadline by a week, which gave the Department a great excuse to say no to me. I shall apply for it again later in the year. I do not come from the backgrounds highlighted but I work quite a lot with people who are in prison.

Chairman: The people in the Visitors Gallery have been warned.

Deputy Mick Wallace: I must stop the Chairman saying more. I know Deputy Daly even better than the members do and I would not let her near the board.

Deputy Clare Daly: My amendments seek to introduce a greater balance. The board should not just be comprised of legal bigwigs and all of the rest or their organisations. A balanced board is better. I appreciate that there is a different way of considering this matter than what Deputy O'Callaghan has proposed. The gig is not exactly a popular one and people are not queuing up to join. I could not get on the board even against that background.

Finally, amendment No. 21 seeks to add to the list of criteria that must be satisfied before somebody can be considered for appointment to the parole board. It is important that members of the board have training or experience in interview techniques given that the contact with the person is based on report but a lot of it is based on a person's performance during an interview. People need to be qualified in how to assess the situation. They must be able to recognise when a person does a bad interview or does not represent himself or herself properly. It is a disempowering process for the applicant. Therefore, it is important that board members are skilled in how to draw people out in an interview process, particularly in the criminal justice system. Board members need common sense. A knee-jerk impression can cloud a person's judgment so board members need training. It is a complex issue. We need people who can see past their feelings. I agree with the parole board in its call for inservice training in interview techniques to be provided.

Chairman: I wish to raise a small matter with the Tánaiste.

Deputy Frances Fitzgerald: Yes.

Chairman: This situation arose last week as well. I appreciate how important it is that the Tánaiste engages with her officials but it is very disconcerting when it comes to contributions by other members. She is audibly crossing over and it is difficult to hear the debate.

Deputy Frances Fitzgerald: Sorry.

Chairman: It is a matter of respect. When a member makes a contribution one must do one's best to listen to what he or she has to say. I call on the Tánaiste to comment.

Deputy Frances Fitzgerald: I heard what Deputy Daly had to say but take the Chairman's

point.

I want to revert to the work that the members of the board are doing. I have had the benefit of reading their decisions, and having to make a decision myself on the recommendation they are making to me.

I will make a general point first about how critical the membership is. I think everybody here accepts that it is critical to have the right people on the board because one must make life and death decisions almost. One must assess the most serious offenders or people who have committed the most serious of crimes who are before the parole board in terms of an application for their future management.

I agree with Deputy Wallace that risk assessment is absolutely central. I have given an awful lot of thought to this matter. I constantly ask myself the following when I read these cases. What is the risk? What is the risk assessment? How has it been done by the parole board? How well has it been done by the various reports that the board has access to? If I have any questions about it I refer them back and get further information. I say that just to highlight how absolutely critical decision-making is and the implications it has for society as a whole in terms of safety and of course for the individual in terms of his or her future life and his or her opportunity for rehabilitation. That always has to be balanced with an absolutely accurate assessment, in so far as we can. These things are not a precise science but they are terribly important. The membership of the board must be seen in that light. The criteria that we use are critically important. I have put much thought into this. We must ensure we get the right mix and the right balances, and that we do not do anything just for the sake of a representation that might appear to be the right thing to do. We must have a process in place that ensures we get the best people on the parole board. That is the goal of everybody in the committee.

In that context, I will not oppose amendment No. 7. It expands the category of persons qualified to be the chairperson of the parole board. It broadens it to include a solicitor or barrister of ten years standing. Deputy O'Callaghan also includes the phrase "a practising academic". There might be further qualification of that because it is a broad phrase and we might need to narrow it down in the context of the job to be done on the parole board. However, I am happy to revert to the Deputy on that. The Bill will establish the parole board on a statutory basis with decision making powers to release prisoners prior to completion of sentence. I have a preference for a legally qualified chairperson, but I can give it further consideration. I also wish to examine the phrase "practising academic" to define it a little further.

With regard to the amendment proposed by Deputy Wallace, it is existing practice to have a retired member of An Garda Síochána on the parole board. On the point the Deputy makes about risk assessment, whether the member is retired is not an influencing factor. The Deputy appears to be talking about cases where there might be what might be seen as a conflict of interest or where there might have been an involvement of the garda in the case. I do not know how often that happens, but I would not have thought it was very often. The key point is the critical ability of the garda, retired or otherwise, to make the risk assessment. Restricting it to current members narrows the depth of expertise available to the board, so I ask the Deputy to withdraw the amendment.

Amendment No. 9 proposes to include in the membership of the parole board "a lay community representative, appointed following a transparent and objective recruitment process and selected by an independent body". Amendment No. 12 proposed by Deputy O'Callaghan contains a similar proposal involving the appointment of such a representative by the Minister.

Obviously, “community representative” is a very broad concept and there are varying ideas of who such a representative might be. The basic point, as I have already said, is that persons with the greatest expertise in crime, justice, offender management and, in particular, rehabilitation and reintegration of offenders should be represented. I am not convinced that the amendment is necessary or sufficiently clearly drafted, but I will not oppose it. However, members should again consider the point that the board we are appointing comprises people who must be as tight as possible in terms of the expertise we would like them to bring to the board. It is such a serious decision to make and we want people who understand the context and have the broad qualifications. I have no wish to restrict it unduly, because people bring much life experience to this type of situation as well. However, management of offenders and understanding of criminal behaviour, recidivism and rehabilitation are very important. A particular difficulty with amendment No. 9 relates to the process of recruitment. There is no guidance on who or what would comprise the independent body with responsibility for selection of the person in question. Including the words “transparent” and “objective” appears to be superfluous because this is a requirement of all recruitment processes. I will proceed with amendment No. 12.

Amendments Nos. 10, 13, 16, 17, 19 and 21 proposed by Deputy Clare Daly also relate to the membership of the board and in particular the appointment of persons to the board. The Bill currently provides for the membership of the board to include persons appearing to the Minister to have knowledge and experience of the supervision of discharged prisoners or who have made a study of the causes of delinquency. Currently, when the Minister has to make an appointment to the board, there are clear criteria for who should be appointed. They must be expert. Amendments Nos. 10 and 19 remove the Minister from any role in the appointment of persons to the parole board and assign the role to the Public Appointments Service. The membership of the board as currently proposed in section 8 properly identifies the appropriate persons to be members of the board as well as the means of appointment. It is appropriate, given the Minister for Justice and Equality’s oversight of the criminal justice system, that the Minster should have input into the membership of the board. The Minister has responsibility for oversight and has awareness of the broad issues in crime. To exclude the Minister having any input into the board is unnecessary.

It is a positive thing for the Minister to have an input into the membership because one often finds when one looks at the membership of a board that some skills might be absent, so when the Minister is due to make the appointment that could be taken into consideration. One may find, for whatever reason, that particular expertise has been selected by everybody else who has an input into the membership and there might well be a gap which could be filled by the appointment by the Minister of the two members. This relates not just to the parole board, but to appointments in general. Certainly one of the criteria I consider when making board appointments is what skills are necessary in the particular situation and what is missing. That is a unique role and unique knowledge the Minister can have, as opposed to other people.

Amendment No. 13 proposes the appointment of a further two persons through the Public Appointments Service with experience of working with offenders. It is evident that the board as set out under section 8 already contains such persons, be it the representative of the Probation Service or the representative of the Irish Penal Reform Trust, a body with a great deal of experience in this area and which focuses on these issues and is very appropriate. Equally subparagraph (i) of the section refers to the appointment of persons with knowledge and experience of the supervision or aftercare of discharged persons and there is potentially considerable overlap with that provision and the amendment proposed by the Deputy.

Amendments Nos. 16 and 17 propose that persons appointed to the parole board should be selected through competitions run by the Public Appointments Service. This would be extremely unwieldy if it was applied to everybody. The appointment of existing employees of certain services such as the IPS or the Probation Service should be a matter for those organisations and those appointed will continue to be employees of those services. I do not believe that any difficulty has been raised by the existing parole board which these amendments would address. There would have to be further consultation with a number of the organisations and with the Public Appointments Service on the impact of these amendments before they could sensibly be agreed. Members will understand my point. Take the example of a probation officer who is nominated to be a member. It is quite appropriate that this comes from within the Probation Service, as opposed to all probation officers going to the Public Appointments Service and having to go through that process and then returning as members. It is unwieldy.

Amendment No. 21 is to section 8(4), which sets out certain requirements of persons appointed to the parole board. The amendment adds to those requirements by requiring the person to have training or experience in interviewing techniques and proven analytical skills. Again, that is very broad. These skills are clearly necessary. Whether it is necessary to build them in as a specific requirement in this way, that everybody has skill in interviewing and in analytical techniques, gives rise to the question of assessing that and building it in as a criterion. People will bring a different range of skills to the board and I am not sure it is necessary to go into that level of detail.

Amendments Nos. 14 and 15 relate to the gender balance of the parole board and I agree with them.

Amendment No. 18 corrects an oversight in providing for the appointment of a probation officer to the board by including such appointment in paragraph (3)(e) of section 8. However, I propose to bring forward an amendment to provide for the appointment of a probation officer by the director of the Probation Service.

The key goal is to get the right mix of people with the right level of training, experience and understanding of the area to do this important job. That has guided my approach and response to the amendments.

Deputy Jim O'Callaghan: While I was listening to the contributions I looked at section 8 again. In fairness to me, I thought it was quite well drafted. I accept the Tánaiste's point about the nomination from the Probation Service. As a result, I will withdraw amendment No. 18. It is inappropriate, as I have suggested, to try to get around that by getting the Irish Prison Service to nominate the person. Amendment No. 12 accommodates Deputy Wallace's concern about a lay community representative, as it includes such a representative. I agree, however, it is a board that requires expertise. I know Deputy Daly's concern in respect of trying to get everyone nominated in a transparent and open way. My assessment of trying to get people to serve on public boards, and I do not have the experience of other people here, is that it is hard to get decent people to serve. If we have a process whereby people have to apply for a competition and, as the Minister said, every probation officer has to apply for a competition and has to be separately interviewed, after which an individual will be selected, it would make it very complicated, in my opinion. Maybe in a different society it would be appropriate, but it would make it extremely complicated to get membership of the board in this way. The method we have in section 8 at present is that four people will be nominated by the Public Appointments Service and other individuals will be nominated by representative bodies, such as the Irish Penal Reform Trust, a probation officer, the Prison Service, a garda, a psychologist and the psychiatrists

will nominate a person. There will be a good mix there, and the Minister will also have a role in it. If we hand over everything to the Public Appointments Service we could have it electing the Taoiseach at the end of the day. We have to have some political involvement in it.

Deputy Mick Wallace: Not a bad idea. Deputy Coveney might like it.

Deputy Colm Brophy: Be careful what you wish for.

Deputy Jim O'Callaghan: If we delegate everything away from politicians we will never be able to hold any politician to account. It is useful to have a mix so we do not say it has nothing to do with us because the Public Appointments Service came up with the person. Deputies Wallace and Daly know I have the greatest respect for them, but we should stick with what I have with several of the amendments. As I have indicated, I am happy to go along with some of the amendments but we should not overcomplicate the matter.

Deputy Mick Wallace: With regard to community representatives, of course we need expertise for things to be done well, but community representatives can bring a different dimension. While they might lack the expertise of others, they will bring real-life experience with them and it should not be underestimated.

Chairman: Before I go to Deputy Daly, Deputy Brophy has indicated and he has not been in already so I would like to bring him in now.

Deputy Colm Brophy: I am just wondering what community is. A community representative is a nice expression, but what is community? What section? Are the entire State and all the millions of people in the community? Is it some sectional group of the community? Is it the community who are victims of crime? We need to be very careful. I have been listening to the exchange going back and forth. Some of the amendments have an underlying trend of complete mistrust of how people are appointed. It leaves out the logic of why sometimes appointments need to be made and the process that needs to be gone through to make them. I see phrases such as a community representative. What is a community representative? I would argue people elected to Dáil Éireann are the greatest example of community representatives. How, out of every type of community there is in our country, is somebody a community representative?

Chairman: Would Deputy Wallace like to respond?

Deputy Frances Fitzgerald: May I make a suggestion?

Deputy Mick Wallace: The Minister wants to come in.

Deputy Frances Fitzgerald: If that is okay.

Chairman: It is not Deputy Wallace the Minister would indicate that to, it is the Chair, with respect. Deputy Daly was the next to speak and I will-----

Deputy Colm Brophy: I understood from looking at the Tánaiste that she was indicating to the Chairman, and if he actually looked towards her he might have noticed that. I do not think that was a fair comment to the Tánaiste.

Chairman: Excuse me, I had already indications and I was coming back to the Tánaiste, which would be the normal procedure and I was sticking to that.

Deputy Colm Brophy: The Chairman specifically said the Tánaiste had indicated. She

was indicating to him. I was looking at her indicating to him, so his comment was not fair.

Chairman: I did not see it.

Deputy Colm Brophy: That does not make the Chairman's comment fair.

Chairman: I have to say I think the Chair has always conducted the business of the committee fairly. I do not know whether Deputy Wallace wishes to respond. If Deputy Daly is happy, I am happy to bring in the Tánaiste, of course, at this point in time. I was not aware she was indicating.

Deputy Frances Fitzgerald: That is fine.

Deputy Mick Wallace: If the Tánaiste wants to come in on this I am happy. I will make a brief response to what Deputy Brophy said. I am not specifying where the community representative will come from. What I am really saying is someone not qualified and not professional should be included to bring another dimension to the table. That is all.

Deputy Frances Fitzgerald: Did the Deputy just say "not qualified"?

Deputy Clare Daly: Not professional.

Deputy Frances Fitzgerald: Deputy Brophy has a point with regard to the definition. What I suggest, and what I said with regard to amendment No. 12 is it would be worthwhile narrowing down what we mean by community representative. I am happy to take the amendment and see whether we can do a little bit of work on what we mean by the definition of community representative so it is more aligned to the needs of the parole board and what would be the useful experience of a community representative. I understand the general point the Deputy is making.

Deputy Clare Daly: There are a number of threads. The involvement of the Public Appointments Service is part of a broader political debate flowing out of public disquiet over the way in which appointments to boards were previously handled. It is something we have discussed. In this context, I am prepared to see this is a board that will not be a highly sought-after gig with loads of initials after people's names and wads of cash attached to it. Presumably the people who would opt to go to the parole board would do so out of a motivation of public service or an association in a former life or some interest in the area. In this sense, I accepted the point that perhaps mandating the Public Appointments Service to deal with a board of this character, which does not meet weekly, is perhaps a little top heavy. However, it is there to overcome the difficulty with previous political appointments. I am prepared to stand back from this group of amendments.

With regard to the idea of the nominating bodies being subject to some scrutiny, perhaps this does not apply to this type of board because the people coming forward will be those who will want to come forward, and they will not be stampeded in the queue for the positions. That is probably true. Others, such as judicial boards, would be prestige gigs and we would need to include more caveats. When we say nominating bodies this does not necessarily give a level of transparency. Perhaps the overall balance is met by the various categories.

I am quite adamant about the inclusion of a community representative, whether it is done in Deputy Wallace's way or my way. Deputy O'Callaghan's amendments also speak about community. Deputy Brophy's points are a bit facetious, because the person will define himself or

herself and the appointment process will nominate who comes forward. Yes, a Member of the Oireachtas is a community representative as far as I am concerned, but in actual fact what is far more likely in this category, and what is supported by the present parole board, is the idea of somebody who has experience of working with ex-offenders. In this sense, they would be very well placed. They may not have initials after their name but they have street knowledge of risk and how a person's sentence was managed, and they could be a really valuable addition to the professional people on the board. The only point is to have a balance with the high-powered professional-type input because, with the best will in the world, people who are professional may not have a broader understanding. They have their own expertise, but it could be blended with somebody who has more of the background. Many of the people up for parole perpetrated their crimes in their own communities on neighbours and friends. If they are going back into those communities it is precisely those people who would be the victims of further crime if they got it wrong. A community representative would be a valuable addition, whether through Deputy Wallace's amendment or mine. I take what Deputy O'Callaghan is saying, that his amendment allows for community also, but it is only an option and not an obligation. I believe somebody such as this would be invaluable to the board. I would like such a person to be there. I accept the Minister's point on amendment No. 21 regarding interviews. My amendment is probably too detailed. Hopefully, the board deals with that issue. We probably do not need to specify it in legislation. I will withdraw it.

Deputy Jonathan O'Brien: I would agree with Deputy O'Callaghan's analysis. There is good balance in terms of those appointed by the Public Appointments Service and the nominating bodies. I would agree with the inclusion of a community representative. How we define that can obviously be looked at, but I agree with the inclusion of someone with such experience.

One could argue that an ex-offender would have the relevant experience. I wonder is there any legal barrier to an ex-offender serving on the parole board.

Deputy Colm Brophy: I listened to what Deputy Clare Daly had to say there. I never make any argument facetiously. I will go back to the point of my intervention, which is quite interesting. What it has teased out in subsequent contributions from Deputy Clare Daly is what was being talked about, not merely a generic community representative but a specific type of community representative. Others might have a view that the community is victims of crime which have a particular view on what has happened to their life or their families lives, or someone like that, would be as entitled to a community representative of a similar nature on the parole board. We are trying to strike a balance in terms of the membership of the board. There is a good balance outlined, by the Bill and by some of the proposed amendments, but we need to be careful that we do not seem to be, by a careful process of how we select the board, almost creating a prejudged outcome for what the parole board will do. I renew my reservation about the broadness of the term "community representative" without qualifying it in some way.

Chairman: Would the Tánaiste like to respond to any of this?

Deputy Frances Fitzgerald: No, that is fine.

Chairman: Deputy O'Callaghan?

Deputy Jim O'Callaghan: No. I have nothing more to say.

Chairman: We are finished. I take it everybody is happy with the points they have made.

Amendment agreed to.

Deputy Mick Wallace: I move amendment No. 8:

In page 8, line 28, to delete “or retired”.

I am not going to push it to a vote. We will discuss it again in the Chamber.

Chairman: Would Deputy Wallace like to press the amendment to a vote?

Deputy Mick Wallace: Yes, but I will not.

Amendment put and declared lost.

Deputy Mick Wallace: I move amendment No. 9:

In page 8, between lines 31 and 32, to insert the following:

“(i) a lay community representative, appointed following a transparent and objective recruitment process and selected by an independent body;”.

Amendment put and declared lost.

Deputy Clare Daly: I move amendment No. 10:

In page 8, to delete line 32 and substitute the following:

“(i) two persons appointed through a competitive selection process coordinated by the Public Appointments Service to have:”.

Chairman: Where stands the amendment? Is Deputy Clare Daly pressing the amendment?

Deputy Clare Daly: I will. That does not prevent me bringing it in later.

Chairman: Absolutely not. The same applies in Deputy Wallace’s case regarding the earlier amendments.

Amendment put and declared lost.

Chairman: Amendment No. 11 is in the names of Deputies O’Callaghan and Clare Daly.

Deputy Jim O’Callaghan: I move amendment No. 11:

In page 8, line 35, to delete “to have”.

Amendment agreed to.

Deputy Jim O’Callaghan: I move amendment No. 12:

In page 8, line 36, after “offenders;” to insert the following

“or

(iii) to be representative of the community in general.”.

Amendment agreed to.

Deputy Clare Daly: I move amendment No. 13:

In page 8, between lines 36 and 37, to insert the following:

"(j) two persons appointed through a competitive selection process coordinated by the Public Appointments Service with knowledge and experience of working or volunteering in a support role with criminal offenders and discharged prisoners;".

Amendment put and declared lost.

Chairman: In terms of procedure, I remind members they are welcome to challenge the Chair's read on the expression of a vote if they wish to press.

(Interruptions).

Deputy Jim O'Callaghan: It is going well.

Chairman: I am not encouraging the members. It is merely to clarify.

Chairman: Amendment No. 14 is in the names of Deputies O'Callaghan and Clare Daly.

Deputy Jim O'Callaghan: I move amendment No. 14:

In page 8, line 37, to delete "4 members" where it firstly occurs and substitute "6 members".

Amendment agreed to.

Chairman: Amendment No. 15 is in the names of Deputies O'Callaghan and Clare Daly.

Deputy Jim O'Callaghan: I move amendment No. 15:

In page 8, line 37, to delete "4 members" where it secondly occurs and substitute "6 members".

Amendment agreed to.

Amendments Nos. 16 to 19, inclusive, not moved.

Deputy Jim O'Callaghan: I move amendment No. 20:

In page 9, line 20, to delete "and".

Amendment agreed to.

Amendment No. 21 not moved.

Question proposed: "That section 8, as amended, stand part of the Bill."

Deputy Jonathan O'Brien: I wish to indicate that my party will be considering introducing an amendment to section 8 on Report Stage.

Question put and agreed to.

SECTION 9

Deputy Jim O'Callaghan: I move amendment No. 22:

In page 10, line 9, to delete "for" and substitute "from".

Amendment agreed to.

Chairman: Amendment No. 23 is a stand-alone amendment. It is not part of any grouping.

Deputy Jim O'Callaghan: I move amendment No. 23:

> In page 10, lines 10 and 11, to delete "is adjudged bankrupt or makes a composition or arrangement with creditors or".

This is in response to a proposal made, either by the Chairman or Deputy Jonathan O'Brien, at the pre-legislative scrutiny stage where a criticism was legitimately made of why somebody who is adjudicated a bankrupt should be disqualified from serving on a parole board. The proposal is merely to delete that.

The section will mean that if a person is on the parole board and he or she is convicted of a criminal offence leading to imprisonment, then he or she would be disqualified.

Deputy Frances Fitzgerald: I agree with this. It was set out in pre-committee stage.

Chairman: I thank Deputy O'Callaghan for taking up the issue. It was I who raised it in regard to bankruptcy and the exclusion of those who had been adjudged so in the past. I welcome the Tánaiste's agreement.

I presume there is no other member wishing to comment on this.

Amendment agreed to.

Section 9, as amended, agreed to.

SECTION 10

Deputy Mick Wallace: I move amendment No. 24:

> In page 10, between lines 22 and 23, to insert the following:
>
> "(3) The chairperson shall adhere to the principle of impartiality when appointing panel conveyors to a review or hearing.".

The amendment is not rocket science. Perhaps it is a little unnecessary - I do not know - but it aims to stress the importance of fairness, transparency and independence which one might say are expected. I could have added that where the chairperson of the board is a former judge, he or she should not be involved at a hearing or in a review of a case in which he or she was involved in hearing or sentencing. However, I understand the chairperson will more or less be expected to behave in this manner. I will not press the amendment, but-----

Chairman: We will wait and see what the reaction to it is.

Deputy Jim O'Callaghan: It is right that the chairperson must comply with the principles of impartiality. My only concern is that by inserting the provision and limiting it to "when appointing panel convenors to a review or hearing", it might suggest the chairperson would not have to comply with the principles of impartiality in dealing with other issues. It is implicit throughout the Bill that anyone in the role of chairperson of the parole board must be impartial in his or her treatment of issues. Deputy Mick Wallace raises a valid point that a judge who adjudicated in a case and passed sentence on an individual could not adjudicate in that individual's parole hearing, but this all comes within the principles of natural justice that operate in administrative bodies. It would be safer to leave the proposed provision out than to include it.

Deputy Frances Fitzgerald: Deputy Mick Wallace has said it himself. As Deputy Jim O'Callaghan said, the amendment relates specifically to the panel convenors to a review or hearing. Deputy Mick Wallace seeks to require the chairperson of the board to adhere to the principles of impartiality when making such appointments. The Bill will establish the parole board on a statutory footing. The board and its members will be subject to all of the duties and obligations of any statutory decision-making body and the requirements of fair procedures, as Deputy Jim O'Callaghan said. There is a body of law which oversees and covers procedures. In that regard, the amendment is unnecessary and would actually cloud the situation a little. It is better that the assumption is that people will commit to adhering to natural justice and fair procedures, which is what one would expect of any body. I do not think it is necessary to single out the panel convenors in the chairperson's decision-making.

Deputy Mick Wallace: I am fine with that. The amendment is probably a little over the top and I am happy to withdraw it.

Amendment, by leave, withdrawn.

Section 10 agreed to.

SECTION 11

Deputy Jim O'Callaghan: I move amendment No. 25:

In page 11, line 17, to delete "sitting;" and substitute "sitting,".

Amendment agreed to.

Question proposed: "That section 11, as amended, stand part of the Bill."

Deputy Frances Fitzgerald: I advise the committee that this section may need some further, technical amendments.

Question put and agreed to.

Section 12 agreed to.

SECTION 13

Chairman: Amendments Nos. 26 to 29, inclusive, are related and may be discussed together.

Deputy Clare Daly: I move amendment No. 26:

In page 11, line 35, to delete "3 or".

The amendment refers to the panel that will make decisions on applications for parole. The Bill, as drafted, states: "A panel shall consist of 3 or 5 members, as the chairperson may ... determine". I will not make a big deal of this, but my concern is that three members might be too few - a dominant personality might dictate - and that five members might offer a better balance. I wish to hear what other members think. I will not press the amendment for now, but that is the rationale behind the amendment. Perhaps it is a little over the top.

Chairman: Does Deputy Mick Wallace wish to speak to his own amendments only or the larger grouping of amendments?

Deputy Mick Wallace: I propose to insert the following: ", signed and dated" and "The decision must be provided directly to the prisoner within a reasonable timeframe." It is a matter of accountability and not wasting time. Supporting the timely communication of parole board decisions to candidates for parole and other relevant parties is vital. According to the Irish Penal Reform Trust, there can be delays of up to nine months before a candidate for parole has a decision communicated to him or her, which is more than frustrating for the prisoners who want to act on the parole board's recommendations. For example, sometimes it might recommend particular training or treatment. If the communication of a decision is delayed by months, it is a little mad and not very fair.

On the issue of accountability and the keeping of records and so on, the committee does not need me to tell it that we do not have enough of it in Ireland. We are considering bringing forward a Bill to make it compulsory to keep minutes, for example. A simple example would be the decision made by NAMA to shred the minutes of the meeting of 13 December which was crucial in the final stages of the setting up of Project Eagle. Greater accountability is required across the board in how we do things, but the point about a prisoner receiving information in good time, surely, is quite practical.

Deputy Jonathan O'Brien: I agree with amendment No. 26 tabled by Deputy Clare Daly. Perhaps we might delete "3 or" and leave it at "5". I understand what Deputy Mick Wallace is seeking to achieve in his amendment, but, in legislative terms, what is reasonable to me may not be reasonable to someone else. Therefore, I do not know how one could legally define "a reasonable timeframe". Perhaps we need to consider the terminology because, as I said, the word "reasonable" means different things to different people.

Deputy Jim O'Callaghan: I agree with amendment No. 28 tabled by Deputy Mick Wallace. The decision should be signed and dated as it is a formal decision.

Regarding amendment No. 29 also tabled by Deputy Mick Wallace, I note the point made by Deputy Jonathan O'Brien, but it would be worthwhile having something in the Bill to put the onus on the parole board to provide a decision within a reasonable timeframe or as soon as is reasonably practicable. Putting a specific date on it - for example, a requirement that it be done within four weeks - would make it very difficult for the board. However, on balance, I have no problem with amendments Nos. 28 and 29. I do not think amendments Nos. 26 and 27 are over the top, as suggested by Deputy Clare Daly, but I am concerned that they would limit the discretion of the parole board and the chairperson. The objective in having panels of three, four or five individuals is that a number of panels could be in operation at any one time. It should be remembered that there are only 15 people on the board; therefore, there could be between three and five panels operating at any one time. We are better off leaving discretion as to how panels are operated with the chairperson. If panels are to consist of five members every time, less consideration may be given and they could find themselves overworked. Every single one of the five members would only be able to deal with three applications at a time. Therefore, on balance, I would leave the provision as it is and let the chairperson have discretion.

Chairman: I will come to the Tánaiste in a moment. I will call Deputy Colm Brophy first and then, if she wishes, the Tánaiste may reply to the contributions collectively.

Deputy Colm Brophy: I am broadly supportive of Deputy Wallace's point about reasonable time. That is valid. I do not think it is appropriate that someone would be waiting months in limbo. That is an unfair and almost cruel way to treat someone by leaving them waiting like that.

On Deputy Daly's primary amendment, I would link it with what Deputy O'Callaghan has said that if one is too prescriptive on this in terms of its overall constitution and not allowing the chair that flexibility one will end up fairly quickly with a situation where inordinate delays will come out of parole board reports, caused by five people having to sit on every one. If we establish something and put a chair in place, a certain amount of flexibility has to be put in there for what is effectively a day-to-day management decision by the parole board.

Deputy Frances Fitzgerald: Amendment No. 26 proposed by Deputy Clare Daly, and No. 27 is consequential on that, relates to the number of people who would sit on a parole panel. As currently set out in the Bill, that could be three or five members of the board. It would mean, as Deputy Brophy was saying, that there were always five persons on the panel. The amendment does remove the flexibility which will lead to the better working of the parole board. Five out of a board of 15 is quite a lot. It is a busy board and there are a lot of cases to be seen. The flexibility that is there at the moment for the chair is good. One does not want to increase the membership of the board. By keeping the flexibility and have the chairperson decide, I have no doubt that on some occasions the chairperson may decide that there is five in particular cases. I would prefer to stick with flexibility. It also means that more reviews can be carried out. Ultimately, the people on this board have applied and are volunteers. Giving the chair the flexibility is the best use and what will get the best outcome, depending on their skills. It is better to keep the position where there is three or five and to allow the board to manage its work and get on with it.

Deputy Wallace wants to insert the words "signed and dated". I take his point but I would say the words are unnecessary and could call into question similar provisions in legislation. Obviously, all decisions should be signed and dated and statutory provision is not necessary. I would be concerned that accepting the amendment may have unintended implications for similar statutory provisions but I am happy to look at it. It is a common sense approach, and why not make it statutory, but it may be that there would be consequential issues for other statutory provisions. I would like to have a look at it again with the Parliamentary Counsel and perhaps come back on Report Stage.

Deputy Wallace's other amendment refers to "the decision must be provided directly to the prisoner within reasonable time frame". I agree with that, of course it should. I suggest that section 15(2) and 16(2) of the Bill already make the necessary provision for decisions to be forwarded to the parole candidate directly and that we do not need further provision. However, we do not have a big problem with this issue of reasonable timeframe. Sections 15(2) and 16(2) give the necessary provision.

Chairman: I thank the Tánaiste. Do the members who moved the amendments, Deputies Daly and Wallace, wish to make any further remarks before they are put to the committee?

Deputy Clare Daly: I was interested to hear the views of the members. I am still not sure. I appreciate that there is flexibility in the three to five members provision, we are not saying it should be three in all cases, there is a provision. Perhaps it is a case of extending where the discretion to invoke three or five lies. Maybe that should be a matter for the whole board rather than the chairperson, but I will not press the amendments now. I may return to it in the future and I note the comments made by other members.

Amendment, by leave, withdrawn.

Amendment No. 27 not moved.

Deputy Mick Wallace: I would like to research amendment No. 29 more and debate it on Report Stage in the House. I will press it at that Stage.

Deputy Frances Fitzgerald: It might be helpful in the consideration of this that the information I have is that at present, once the final decision is made by the Minister, the person qualifying for parole is told of the decision within one to two days.

Deputy Mick Wallace: The Minister may be correct but the Irish Penal Reform Trust says otherwise.

Deputy Frances Fitzgerald: Does it?

Deputy Mick Wallace: Yes.

Deputy Frances Fitzgerald: Okay, I will get further information on it and communicate with the Deputy.

Chairman: That can be revisited on Report Stage.

We proceed to Deputy Wallace's amendment No. 28 which was discussed with amendment No. 26.

Deputy Mick Wallace: I move amendment No. 28:

In page 12, line 4, after "writing" to insert ", signed and dated".

Amendment agreed to.

Deputy Mick Wallace: I move amendment No. 29:

In page 12, between lines 4 and 5, to insert the following:

"(6) The decision must be provided directly to the prisoner within a reasonable timeframe.".

I wish to put this to a vote.

Chairman: This is a difficult one. I am advised on the precedent for the Chairman. This is different because it is not a Government Bill, it is a Private Members' Bill so it is a different situation and the text-book has not yet been written.

Deputy Mick Wallace: I am happy to let it go to the next Stage.

Deputy Jim O'Callaghan: Let it go to Report Stage.

Deputy Clare Daly: Can it not be included now and can the Minister change it?

Deputy Mick Wallace: The Chairman's concept of power and mine might be different.

Chairman: I am advised that the Government opposition rule still applies, so in regard to a voice vote the Chairman is in the uncomfortable position where, despite his good hearing, he will declare that the amendment is lost. The Deputy has the right to table another amendment on Report Stage. The same applies to the Ceann Comhairle in the Chamber as it does to Chairs in the committee system. That is the explanation.

Amendment put and declared lost.

Deputy Mick Wallace: He is taking the side of the Minister.

Chairman: The Chair is not taking the Minister's side at all. I am performing my role as Chair. I would have voted with Deputy Wallace, it is as simple as that. The ball is back at the Deputy's foot in regard to Report Stage. He can re-table the amendment.

Deputy Mick Wallace: Okay, so I will call a vote then.

Chairman: No, there has been a voice vote. We have already done that.

Deputy Mick Wallace: I will return to it in the Chamber.

Section 13, as amended, agreed to.

SECTION 14

Chairman: Amendments Nos. 30, 31, 33, 34, 35 and 38 are related and will be discussed together.

Deputy Jim O'Callaghan: I move amendment No. 30:

In page 12, line 29, to delete "or".

Section 14 deals with the powers of parole panels. These amendments seek to provide for reports to be obtained from a psychiatrist or other medical practitioner. In the original draft, I had linked psychologist and psychiatrist together but it is safer to link psychiatrist with other medical practitioner. That is provided for in amendment No. 31.

Amendment No. 33 gives the power to the parole board to procure from the Courts Service at transcript of the sentencing comments of a judge. One could understand why the parole board would want to hear what a sentencing judge had to say at the time of sentence. Unless the board has the statutory power to obtain that transcript, it will not be able to do so.

Amendment No. 35 provides a protection to a psychologist, psychiatrist or other medical practitioner who has been asked by the parole board to conduct a report on the applicant. In this instance, it will be able to secure the medical notes on the parole candidate without the medical practitioner of the parole candidate saying that he or she has no authority to release them. Obviously, if the parole candidate does not want to provide the medical notes, they will not be provided. However, it would be necessary to provide the medical notes in order for the parole application to be considered. That is the basis of those amendments, which make sense. This was brought to my attention by a psychiatrist who works in the area of treatment of persons who have committed criminal offences and who are under psychiatric care.

Amendment No. 38 provides further protection for a medical practitioner in regard to giving evidence and producing the treatment notes concerning the parole candidate. If this was not provided on a statutory basis, a doctor may say that he or she cannot give that information because of the confidentiality he or she owes to the patient. However, this is dependent on the parole candidate giving his or her permission.

Chairman: The only other Deputy with an amendment in this grouping is Deputy Daly. Would Deputy Daly like to speak on her amendment No. 34?

Deputy Clare Daly: This is about the review hearings and where the parole board can ask for a report to be carried out as part of the decision-making process on parole. It looks for ad-

ditional categories to be included.

Chairman: We are on amendment No. 34.

Deputy Clare Daly: I thought we were on amendment No. 32.

Chairman: No. Amendment No. 32-----

Deputy Clare Daly: We dealt with it earlier.

Chairman: -----is not in this grouping, which comprises amendments Nos. 30, 31 and 33 to 35, inclusive. I thought the Deputy was speaking to a different one. Amendment No. 34, in the Deputy's name, applies.

Deputy Clare Daly: That is fine.

Deputy Frances Fitzgerald: I will not oppose amendments Nos. 30 and 31. However, as I mentioned earlier, it is the practice in statute to define terms such as "psychologist", "psychiatrist" or "medical practitioner" and we should give consideration to including such definitions.

Amendments Nos. 35 and 38 relate to the evidence of psychologists, psychiatrists and medical practitioners. While I do not intend to oppose the amendments, I will need to consult and seek advices in respect of these amendments with regard to the medical confidentiality and ethical obligations of medical practitioners. I think Deputy O'Callaghan will understand that. I appreciate he has included provision for the person to whom the record relates to refuse disclosure of the record but I believe further consultation is required in respect to these amendments and it may be necessary to return to them at a later Stage.

In regard to amendment No. 33, I accept there may be some overlap with amendment No. 92 to section 27. Amendment No. 92 provides:

> The Courts Service shall provide the Board with any Court documents requested by the Board and which evidence or record any recommendations of the Court that imposed sentence on the person seeking parole.

This is a matter I can raise with the Parliamentary Counsel and, if necessary, we can return to it. I will consult further with the Courts Service in relation to these amendments. I understand that Deputy Daly is not pressing amendment No. 34.

Chairman: As there are no Deputies offering, I will revert to Deputy O'Callaghan.

Deputy Jim O'Callaghan: I am happy with the answers provided by the Tánaiste.

Amendment agreed to.

Deputy Jim O'Callaghan: I move amendment No. 31:

> In page 12, line 30, to delete "or psychiatrist," and substitute the following:
>
> ", or
>
> (viii) a psychiatrist or other medical practitioner.".

Amendment agreed to.

Chairman: Amendment No. 32 will be discussed in conjunction with amendments Nos. 62

and 63. Amendment No. 63 is a physical alternative to amendment No. 62.

Deputy Clare Daly: I move amendment No. 32:

In page 13, between lines 1 and 2, to insert the following:

"(vi) the effect that the granting of parole may have on the prisoner's family;

(vii) the likelihood that being granted parole would facilitate or aid in the parole candidate's reintegration into his or her family;".

This is about the reports the parole board can direct to be prepared in respect of reviews or hearings of a parole candidate. There is a list of criteria, such as risk of reoffending, conduct to date, etc., and this adds extra criteria to take account of the effect the decision would have on the prisoner's family and the likelihood of facilitating his or her reintegration. A theme of our discussions on penal reform was that the role of the family and social supports are the key determinant in whether somebody will reoffend or not. One could say that this is basically covered by looking at the risk of reoffending but we need to elevate that issue. That is why I have included it. International evidence shows that family integration is the key to whether somebody is going to end up back in prison or not. The purpose of the amendment is to try to get that provision included in the Bill. Amendment No. 63 is also about family supports.

Chairman: Amendment No. 62 is in the name of Deputy O'Callaghan.

Deputy Jim O'Callaghan: Amendment No. 62 suggests that one of the factors that should be taken into account by the parole board when assessing an application is the plea that was made at the time of the trial, whether the convicted person had pleaded guilty or not guilty. The reason I tabled the amendment is that if one is charged with murder, there is no incentive to pleading guilty, because whether one pleads guilty or not guilty, one will be sentenced to life imprisonment. I thought there might be some benefit in providing an incentive for a person accused of murder that if he or she pleads guilty, it could be taken into account in the parole process.

Having spoken to officials from the Department of Justice and Equality, I recognise there are issues in respect of it. For instance, why should whether a person pleaded guilty or not guilty at the time of the prosecution be taken into account when assessing whether he or she should be rehabilitated and allowed out into the community? The real issue I am trying to deal with is to provide an incentive to plead guilty to a murder charge when there is none at present. Perhaps the parole process is not the way to do that. On that basis, further consideration needs to be given to it. I will withdraw amendment No. 62.

In amendment No. 32, Deputy Daly proposes additional factors that need to be taken into account, including the effect the granting of parole may have on the prisoner's family. My concern is this will lead to a corresponding requirement by the family of a murder victim to have its submission taken into account and what impact the release will have on it. Under the Bill a victim can make representations to the parole board. I am concerned Deputy Daly's amendment will extend it further to take into account factors that are not relevant to the central issue, which is the rehabilitation or not of the parole candidate.

Deputy Frances Fitzgerald: Amendment No. 32 tabled by Deputy Daly would require a report regarding a parole candidate to include the effect the granting of parole may have on the prisoner's family and the likelihood that being granted parole would facilitate reintegration into his or her family. It is clear from section 19 of the Bill that a parole board may grant parole

if, in its opinion, the person being considered for parole will not present a risk to society and releasing the person will facilitate the reintegration of that person into society.

From the cases I have seen, there is a significant level of information available to the parole board when considering cases. The parole board has all the information that is relevant, including how the prisoner has behaved, how he or she has dealt with disciplinary issues and if there has been contact with family. A wide amount of information is available to the parole board. In her amendment, Deputy Daly proposed to insert "the effect that the granting of parole may have on the prisoner's family". There are broader issues in regard to family. I understand the point the Deputy is making but the effect on the prisoner's family of the actual decision is not really relevant to these considerations. With regard to facilitating reintegration of the offender into his or her family, the parole board always considers the overarching matter of reintegration into society, which encompasses the aspect of integration into family. Having the effect on family in statute is problematic.

Amendment No. 63 to section 19 of the Bill makes a similar provision regarding facilitating reintegration with family. Under subsection (1)(*b*) of section 19, the parole board may grant parole to a person if, in its opinion, the release of the person in question would facilitate the reintegration of the person into society. That is the general point. The intention behind the Deputy's amendment is adequately covered in the provision as is. I note the comments of Deputy O'Callaghan with regard to amendment No. 62.

Both amendments seek to achieve the same aim and I will outline a concern as to possible consequences if this amendment is agreed. The effect of the amendment suggests that defendants who plead guilty to an offence would receive a positive benefit with respect to their being considered for parole. I agree that a defendant's remorse or admission of guilt should be acknowledged. However, I do not believe that a defendant who fails to plead guilty should be negatively impacted in respect of release. Where a defendant pleads guilty this can be, and generally is, taken into account as a mitigating factor for the purpose of sentencing and that is correct. I do not agree that it is a relevant factor - Deputy O'Callaghan made this point - with respect to the release of the prisoner and I consider the criteria currently set out in the Bill to be sufficiently broad for the purpose of determining release. I repeat that I would not like to see offenders who have pleaded not guilty, as is their right, and were convicted following a trial having that choice and right possibly negatively impacting on a decision relating to their release.

Section 19 of the Bill provides that the parole board may grant release if the person being considered for parole will not present an undue risk to society and the release of the prisoner will facilitate the reintegration of the person into society. I do not see how the nature of the offender's plea would inform either of those considerations. We are going back to the basic purpose of the parole board, which is assessing risk. That is really the key consideration at that point.

Deputy Clare Daly: I totally accept the points made by the Minister and Deputy O'Callaghan. The first part of the amendment is worded really poorly with respect to the granting of parole and impact on a prisoner's family. It is not appropriate in that context. I was open to the idea that this may have been covered anyway and I was probably trying to seek some way to include a provision for the family. I will withdraw the amendment but if I resubmit it, the amendment will not be in its current format as the points are well made and accepted.

I did not agree with Deputy O'Callaghan's amendment No. 62 at all. We are aware of people who pleaded not guilty who believe they were wrongfully convicted and will not engage

with parole services because they feel they would have to admit some involvement in something they say they were never guilty of in the first place. We must take that into account.

Amendment, by leave, withdrawn.

Deputy Jim O'Callaghan: I move amendment No. 33:

In page 13, line 2, to delete "parole." and substitute the following:

"parole,

(c) a parole panel shall have the power to procure from the Courts Service a transcript of the sentencing comments of a Judge in respect of a person seeking parole.".

Amendment agreed to.

Amendment No. 34 not moved.

Deputy Jim O'Callaghan: I move amendment No. 35:

In page 13, between lines 4 and 5, to insert the following:

"(7) A psychologist, psychiatrist or other medical practitioner who prepares a report under *subparagraphs (vii)* or *(viii)** of *subsection (5)(a)* of this section shall be entitled to seek and receive, for the purpose of preparing such a report, any medical notes on the parole candidate from any of the parole candidate's medical practitioners unless the parole candidate refuses permission for such notes to be disclosed.".

Amendment agreed to.

Amendment No. 36 not moved.

Deputy Jim O'Callaghan: I move amendment No. 37:

In page 13, line 25, to delete "proceedings" and substitute "hearing".

Amendment agreed to.

Deputy Jim O'Callaghan: I move amendment No. 38:

In page 13, between lines 26 and 27, to insert the following:

"(10) Any medical practitioner or psychologist who gives evidence to a parole panel shall be entitled —

(a) to give evidence on the medical or psychological condition of the parole candidate,

(b) to give evidence on the medical treatment of the parole candidate,

(c) to produce treatment notes concerning the parole candidate,

unless the candidate refuses permission for such evidence to be given or notes to be disclosed.".

Amendment agreed to.

Deputy Jim O'Callaghan: I move amendment No. 39:

In page 13, line 31, to delete "considered, necessary" and substitute "considered necessary,".

Amendment agreed to.

Deputy Jim O'Callaghan: I move amendment No. 40:

In page 14, line 14, to delete "proceedings" and substitute "hearing".

Amendment agreed to.

Question proposed: "That section 14, as amended, stand part of the Bill."

Deputy Frances Fitzgerald: With respect to section 14, I inform the committee that I have asked officials to examine this section with respect to its interaction with other sections of the Bill, including sections 15, 16, 18, 19 and 27, and further amendments may be required.

Question put and agreed to.

SECTION 15

Chairman: Amendments Nos. 41 to 44, inclusive, will be taken with amendments 46, 47, 51 and 89. Amendments Nos. 45 and 46 are physical alternatives to amendment No. 44.

Deputy Jim O'Callaghan: I move amendment No. 41:

In page 14, lines 27 and 28, to delete all words from and including "but" in line 27 down to and including line 28 and substitute the following:

"and may involve an interview of the parole candidate in accordance with *section 14(3)* if a panel believes this is appropriate.".

This amendment, in my name and that of Deputy Clare Daly, seeks to give a power to a review process to conduct an interview with a parole candidate if the panel believes it appropriate. It is worth exploring. Amendment No. 44 seeks to delete 15(4) because it will be dealt with in a new section 21, specifically with amendment No. 67.

Deputy Clare Daly: I am fond of these amendments and am taking them seriously, particularly amendments Nos. 46 and 51. This is against the backdrop of where the Bill currently provides for the parole panel to refuse somebody and not be considered again for two years. I am trying to replace this with a provision for one year as I do not accept the two-year rule. I am not sure if it is a resourcing issue but it is too long. The European Court of Human Rights has accepted periods of less than a year between reviews and rejected periods of more than a year as incompatible with the European Convention on Human Rights Article 5.4. In Murray *v.* Parole Board, the English Court of Appeal stated the jurisprudence of the European Court of Human Rights regarding parole review periods for life sentence prisoners was that for an interval of more than a year, the onus is on the state to establish a period is not in breach of Article 5.4.

This is really important and there is no logical reason a year could not be considered. Sen-

tence length can be a kind of peculiar concoction in some ways, as it is not necessarily linked to rehabilitation. It is a mixture of punishment depending on the seriousness of the offence, tradition and how long prisoners are likely to move towards rehabilitation. All of those factors are put in. The parole system is really the only comprehensive way of keeping track in this regard to see if rehabilitation is working. Two years is just too long.

Earlier this year I was contacted by the partner of a prisoner serving a life sentence and this man has basically ticked all the boxes necessary to become eligible for parole. He has not been granted it to date because of delays in accessing therapeutic services that have been mandated to him but not provided. That is not his fault but it is holding up the entire process when he is carrying out his side of the bargain. It is preventing him from being paroled. Instances like this cannot be addressed in the Bill, but by shortening the time period between parole applications pressure could be brought to bear in circumstances where, for example, the Irish Prison Service is not delivering services that would help the person to get parole, when he or she is doing all that is required and ticking all of the boxes. If the parole board was meeting the individual within a year rather than two years, for example, then the person could say that he or she did not get access to counselling and the board could then apply some pressure. I am trying here to overcome such problems and believe this amendment will make the Bill more human rights compliant, which is why I will be pressing it.

Deputy Jim O'Callaghan: Deputy Clare Daly is right about the two year issue, which comes up again later on, but if my amendment No. 44 is accepted then-----

Chairman: Then amendments Nos. 45 and 46 cannot be moved-----

Deputy Jim O'Callaghan: Yes. Subsection (4), to which Deputy Daly referred, would be deleted so the reference to two years would also be deleted. However, the point is valid, when she wants to make it, in both sections 16 and 21.

Deputy Clare Daly: The Deputy has lost me completely.

Deputy Jim O'Callaghan: If my amendment No. 44 is accepted it will mean that subsection (4) of section 15 would be deleted so there will not be any reference to two years in terms of the decision. It becomes a problem for Deputy Clare Daly again in sections 16 and 21 but in section 15 it will not be an issue because there will not be any reference to two years from the decision to decline. I hope that makes sense. It is an issue in section 16 and 21 but perhaps we should wait to hear what the Tánaiste has to say.

Chairman: To clarify the situation with regard to section 15, if amendment No. 44 is passed then amendment No. 45, which has already been discussed with amendment No. 3, cannot be moved and amendment No. 46 in this grouping cannot be moved either.

Deputy Clare Daly: Deputy O'Callaghan is right, it is covered there. I withdrew amendment No. 45 during the discussion on the earlier grouping.

Chairman: Deputy Wallace has tabled amendments Nos. 42, 43, 47, 51 and 89 in this grouping. Amendment No. 51 was tabled jointly by Deputies Wallace and Clare Daly. Is that right?

Deputy Mick Wallace: Yes.

Chairman: Does Deputy Wallace wish to speak to his amendments?

Deputy Mick Wallace: Subsection (2) of section 15 reads as follows:

> A decision by a panel conducting a review shall be in writing and shall include reasons and a copy shall be provided to—
>
> (a) the parole candidate to whom it relates,
>
> (b) the Commissioner of An Garda Síochána,
>
> (c) the Irish Prison Service, and
>
> (d) the Minister.

Amendment No. 42 includes a provision to send a copy to the legal representative of the parole candidate, which makes sense. It is good that the Bill is making provision for the candidate's legal representative to attend the hearing and, in that context, it is common sense that the legal representative would be sent a copy of the decision.

Subsection (3) currently reads, "Where a person whose parole is being considered is dissatisfied with the decision of a review, that person shall be entitled to a hearing, if requested in writing within 14 days of the communication of the decision of a review." Amendment No. 43 seeks to provide that the individual would be entitled to a hearing within four weeks of a request. I know that the Government is reluctant to accept specific time limits but this goes back to the issue we discussed earlier regarding what is a "reasonable" timeframe and how long is a piece of string. I understand that there is a danger that a failure on the part of the authorities to meet a timeline may give rise to a judicial review or a potential cost to the State and I can see why the Government might want to avoid it. At the same time, I think the request here is not unreasonable.

Deputy Frances Fitzgerald: I support amendment No. 41, which provides that a parole candidate may be interviewed by the parole panel, where the panel believes that is appropriate. That seems very reasonable. Amendment No. 42 would require a decision of a parole review to be given to the parole candidate's legal representative. There is no provision in the Bill for legal representation for the purposes of the review. The reference in the Bill to legal representation is in relation to the hearings. I would certainly have no difficulty with legal representatives being included in section 16 of the Bill for the purpose of receiving a copy of the decision following a hearing, as proposed by Deputy Wallace in amendment No. 47. The review stage under the Bill is an initial consideration of parole on the basis of such information and reports as the parole panel considers relevant. These are reviewed by the panel which can then decide if parole should be granted. If not, the parole candidate can request a full hearing under section 16 of the Bill. I would also like to inform to the select committee that it is my intention to bring forward amendments to provide for legal aid where necessary with respect to representation at hearings.

Amendment No. 43 which was tabled by Deputy Wallace would require a hearing following a refusal of parole to be conducted within four weeks. I believe that is too short a period of time in which to prepare for such a hearing. Aside from the operational difficulties this may cause the parole board with respect to gathering evidence or seeking witnesses, it might also cause difficulties for a parole candidate and his or her legal representative with respect to considering the decision following the initial review and preparing for the hearing. I would suggest further consideration be given to this provision.

I have no difficulty with amendment No. 44. Amendment No. 67 tabled by Deputy O'Callaghan relates to section 21 and will address the subject of amendment 44. If amendment

No. 44 is agreed, then amendment 67 provides that parole candidates will be eligible to make subsequent applications for parole after two years from the date of the most recent decision declining parole. The parole board may also direct a shorter period than two years. Amendments Nos. 46 and 51 from Deputy Daly are to section 16 and would require a parole candidate who is refused parole to be further considered for parole one year following that refusal. The Bill currently provides for subsequent considerations two years following review. However, as I have said, amendment No. 67 will allow the parole board to direct a shorter period than two years and I have a preference for proceeding with that approach. I believe we should make statutory provision for it being done in less than two years. I would prefer to take that route. I would go back to the earlier point about the quality of the decision making in the first instance. If we are satisfied with the membership of the panels and the people doing the work, including the chair and with the fact that they are giving serious consideration to each and every case and are carrying out proper risk assessments, then referring decisions back within a year might not be appropriate. I would prefer to leave it to the discretion of the panel. There may be outstanding issues or some reason for the panel deciding that it would like to conduct a hearing again within a shorter period and it can do that. I believe that is a better way to proceed.

Amendment No. 89 provides for the legal representative of the parole candidate to be notified of a hearing. It may be the case that a legal representative has not been engaged by or appointed to the candidate. Perhaps the amendment could be reconsidered to provide for notification to a legal representative where the candidate is represented for the purpose of a parole hearing. That is just a technical and practical point.

Chairman: Does anyone wish to make a further contribution on this grouping of amendments?

Deputy Jim O'Callaghan: On the point that Deputy Wallace made about providing that the legal representative be notified, that is not necessary for a review because a review is an informal process where they just look at papers. If the review does not go well for the prisoner, he or she can request a hearing and that is where the legal representation comes in. In that context, it is beneficial to have Deputy Wallace's proposal inserted in respect of the hearings but not in respect of the reviews.

In terms of the two year versus one year provision, the parole board is going to work in a collaborative way. Amendment No 67, which proposes to amend section 21 provides that "an eligible person shall be entitled to bring a subsequent application after two years from the date of the most recent decision declining parole or within such shorter period as the Board may direct.". If the board thinks a person is close to parole, it will bring forward the date and suggest the person can come back to it in one year. It is not too prescriptive. If it were to be every year, it would just put people through a process which might build false hope in a prisoner. Other than that, I agree with what the Tánaiste said.

Deputy Clare Daly: I certainly take the point on section 15 and it has been dealt with, but, to be honest, I am not convinced on the other issue. As it stands, I will press amendment No. 51. I appreciate that there is discretion to reduce the period below two years, but to be human rights compliant, it would be better if it was one. If a person is not engaging or there have been no improvements in his or her circumstances, the matter will be dealt with quickly by the parole board. Some people do not and do not want to engage at all. As such, it is really up to a person to make an application and he or she may not want to make it after one year. Having been through the process, he or she might say, "To hell with it." If someone is engaging with services, it is a better monitoring mechanism to have the period as one year. There may be a

redrawing around it, but at things stand, I will certainly press amendment No. 51.

Deputy Mick Wallace: Deputy Jim O'Callaghan obviously has more legal knowledge than I have, but I still see no harm in leaving it for the review. I will look at it again as I need to check it, given that he knows more than I do.

Deputy Jim O'Callaghan: Not necessarily.

Deputy Mick Wallace: On amendment No. 43, the Minister suggests four weeks is too short.

Deputy Frances Fitzgerald: Yes.

Deputy Mick Wallace: I am trying to avoid allowing things to drag out, as they tend to do in lots of areas. Can the Minister live with any timeline, if we look at it again on Report Stage?

Deputy Frances Fitzgerald: Yes.

Deputy Mick Wallace: That is fine.

Amendment agreed to.

Amendments Nos. 42 and 43 not moved.

Chairman: As I explained earlier, if amendment No. 44 is agreed to, amendments Nos. 45 and 46 cannot be moved.

Deputy Jim O'Callaghan: I move amendment No. 44:

> In page 14, to delete lines 38 to 40.

Amendment agreed to.

Amendments Nos. 45 and 46 not moved.

Section 15, as amended, agreed to.

SECTION 16

Deputy Mick Wallace: I move amendment No. 47:

> In page 15, line 7, after "relates" to insert "and the parole candidate's legal representative".

Amendment agreed to.

Chairman: Amendments Nos. 48 and 49 have been deemed to be out of order as they involve a potential charge on the Exchequer.

Amendments Nos. 48 to 50, inclusive, not moved.

Deputy Clare Daly: I move amendment No. 51:

> In page 15, line 23, to delete "2 years" and substitute "1 year".

Amendment put and declared lost.

Question proposed: "That section 16, as amended, stand part of the Bill."

Deputy Frances Fitzgerald: The section provides for hearings on parole applications and indicates that candidates for parole are entitled to legal representation for that purpose. I advise the committee that, in line with that provision, there will be provision to allow legal aid for the purposes of such representation. I will propose amendments to that end, either amendments to a particular section or to provide for the introduction of a new section. Other amendments to accommodate the interaction of the section with other provisions of the Bill may also arise.

Question put and agreed to.

Amendment No. 52 not moved.

Section 17 agreed to.

SECTION 18

Chairman: Amendments Nos. 53 to 57, inclusive, and 59 are related and will be discussed together. Amendments Nos. 56 and 57 are physical alternatives to amendment No. 55.

Deputy Clare Daly: I move amendment No. 53:

In page 16, to delete line 12.

The line we propose to delete provides that the nature and gravity of the offence for which a prisoner has been sentenced shall be one of the principles by which the parole board shall be guided in the discharge of its functions. I understand absolutely that the safety of the community and the victim are of critical importance in making decisions on a person's release, but the emphasis in the paragraph is too much on the actual offence when it should be on rehabilitation, which is the whole purpose. Of course, we have to have an assessment of the risk to victims and the community if a prisoner is released, but the section already provides that the position of the victim and any victim impact statement or submission made on behalf of the victim must among of the board's guiding principles. It would be despicable if someone said a prisoner who had committed an horrific crime was a great fellow in prison and should be released early, while the victim was left to think he or she had no come back. At the same time, the whole point of prison and parole is supposed to be rehabilitation and allowing someone back into society without the risk of reoffending. The IPRT put it well. It stated decision-making should concentrate exclusively on the risk of a prisoner committing a serious offence if released and not engage in re-sentencing by considering the seriousness of the offence and the aggravating circumstances. I am seeking to delete the line to avoid re-sentencing, while being very cognisant of the impact on victims and the community. The victim impact statement is taken into account. It strikes a better balance. It would be putting amendment No. 53 with amendment No. 59.

Deputy Mick Wallace: The argument is that the focus should be on the present rather than the past to give some credence to the notion that rehabilitation has value and is possible. The emphasis should primarily be on the assessment of the current risk associated with the person before the parole board. When the Carlisle committee reported in 1988 on the parole system in England and Wales, one of its key recommendations was that a parole board should concentrate exclusively on the risk of a prisoner committing a serious offence, if released. The report stated a board should not engage in re-sentencing by considering the seriousness of the offence and aggravating circumstances.

Chairman: If amendment No. 55 is agreed, amendments Nos. 56 and 57 may not be moved. This concerns Deputies Clare Daly and Mick Wallace, respectively.

Deputy Jim O'Callaghan: The objective behind amendment No. 55 is to set out a statutory provision noting that if the board believes a person will be rehabilitated if granted parole or has been rehabilitated and is capable of re-entering society, it is a ground or one of the principles upon which it should be guided. It is important to set it out.

Deputies Daly and Wallace are correct when they say prison is about rehabilitation but it is also about punishment. There are many cases where people are just convicted of murder. There are different degrees of murder. We do not differentiate between murders under our legal system. The factors associated with the case of somebody who is convicted of killing a group of children, as supposed to somebody who is convicted of murder committed on the spur of the moment one night with drink taken, can be taken into account. It could be argued that the issue is to assess whether the former candidate still poses a threat but it is unrealistic to believe the parole board should not take into account the offence for which a person has been convicted. Sometimes that may be unfair but it is relevant to the function it has to fulfil to ascertain the gravity of the offence committed. Some offences stand out but not because of media notoriety. The murder of five children is different from another type of criminal offence. I am aware that this is a tricky issue. Not to include what is proposed, however, would mean the board would not take into account the gravity of the original offence. The reality is that, when any parole board comes to consider a case, it will ask what the individual is convicted of. The amendment raises an interesting point but, on balance, I will oppose it.

Deputy Frances Fitzgerald: I oppose this amendment absolutely. It is critical in decision-making that one knows the nature and gravity of the offence. When I consider the cases that have come to me, I cannot think of one in which, when making a decision on release into society, I would not want to know the details on the nature and gravity of the offence or the risk to society. I am referring to the exclusion of the nature and gravity of the offence from the list of relevant material that the board should endeavour to take into account under section 18.

Amendment 59 would make similar provision with respect to section 20. The information in question is information that the parole board currently considers and information that parole boards traditionally considered. To exclude the nature and gravity of the offence would be to exclude fundamental information that is essential. The nature and gravity of the offence - the particular circumstances in which the murder or rape took place - must be known if one is making a decision on releasing somebody into society. One also needs to consider a range of other issues. When one examines the guiding principles in the Bill, one notes this is one of a whole series. It is stated the board shall endeavour to take into consideration all relevant available information, including the stated reasons and recommendations of the sentencing judge. This gives a lot of information about the context of the offence and the degree of responsibility of the person whose parole is being considered. If the offence was committed when the prisoner was 19 and he is now 40, one needs to know what his behaviour has been like in prison, in addition to his attitude, engagement with the alcohol and drugs programmes and his engagement within prison. One must also consider information from the trial or sentencing process. Therefore, there is a long list of guiding principles. The one in question is one of them but it is a very important one that should be left in the legislation. In view of this I do not believe the amendment is a good one.

On amendment No. 54, I have already outlined my concerns with respect to the board taking into consideration an offender's plea at trial. Moreover, I believe there should be sufficient

information in the stated reasons and recommendations of the sentencing judge which are to be considered by the parole board without making specific provision to consider the offender's plea at trial. As I said, section 19 provides that the parole board may grant release if the person being considered for parole will not present an undue risk to society and the release of the prisoner will facilitate reintegration. I do not see how the nature of the offender's plea would inform either of these considerations. We have discussed this.

I support amendment No. 55 as an alternative to amendments Nos. 56 and 57. This amendment will require the board to assess the extent to which the person whose parole is being considered has been rehabilitated and is capable of being reintegrated into society. That addresses the matters contained in the subsequent amendments from Deputies Daly and Wallace. These are matters that are central to the way in which the board does its work at present. I refer to all the issues associated with the potential for rehabilitation.

In Ireland, the average life sentence served is approximately 18 years. It is very clear that, in this country, we assess all those issues. In America, for example, there are much longer sentences and one does not have an opportunity to rehabilitate. We all know the consequences of that. We have a good system but all the various factors need to be taken into account. One obviously has to focus on rehabilitation but, from what I have seen, I am very confident that it is fully taken into account.

On a more general point, sections 18 and 19 would benefit from further review as there is some overlap in the guiding principles under section 18 and the factors to which the board may have regard in deciding on whether to make a parole order under section 19. For instance, section 19(1)(a) provides that the parole board may grant parole if, in its opinion, the person being considered for parole will not present an undue risk to society and the release of the person will facilitate the reintegration of that person into society. To take up Deputy Daly's point, reintegration is one of the factors to which the board may have regard, as set out under subsection (2) of section 18.

With respect to the drafting of section 18, consideration will also need to be given to the numbering. There may be some stand-alone subsections. This, however, can be accounted for in any amendments to sections 18 and 19 to bring them further into line with each other.

Deputy Mick Wallace: If someone does something absolutely terrible, it should be dealt with up-front, at the start. I do not agree that we should crucify him again at the end. We should have an open mind at the end as to where the person is in his head and life.

The Irish Penal Reform Trust believes there may be merit in the introduction of tariffs to life sentences where the judge stipulates the minimum custodial period that must be served on a life sentence before parole can be considered. The trust is opposed to the introduction of any mandatory minimum custodial periods. The Law Reform Commission and the Strategic Review of Penal Policy have both recommended that no new mandatory sentencing regimes be introduced. The Law Reform Commission report on mandatory sentencing of 2013 recommends that where an offender is convicted of murder and is, therefore, sentenced to life in prison, legislation should provide that the judge may recommend a minimum term to be served by the offender. This would deal with the issue.

Tariffs may provide clarity and reassurance to victims and to life-sentence prisoners in terms of the length of periods of imprisonment. If tariffs are introduced where the original sentencing judge stipulates a minimum custodial period based on the gravity and circumstances of the

offence, considering the nature and gravity of the offence, as in sections 18 and 19, after this period has been served may amount to re-sentencing.

Mr. Tom O'Malley of NUI has said there must be some mechanism for identifying the absolute minimum period a sentenced prisoner is required to serve before being eligible for release. Otherwise, a parole board risks subjecting the prisoner to double jeopardy, that is, trying the prisoner twice for the same crime. No one is saying otherwise but some people are definitely deemed unfit to be let loose in society because of the nature of their crimes, and they should be dealt with accordingly. If a judge stipulates the minimum amount of time that a person must serve then the parole board must have an open mind and the notion that the person is in a different place must be entertained.

Deputy Jonathan O'Brien: I can see where Deputies Daly and Wallace are coming from with their amendments. All of the guiding principles, such as the stated reasons and recommendations made by the sentencing judge, the information from the trial and the sentencing process, go to the very nature and gravity of the offence. The nature and gravity of the original offence will form part of the decision-making process because of all of the other guiding principles. Therefore, it is not necessary to specify the nature and gravity of the offence as a guiding principle.

Deputy Clare Daly: Having listened to the debate I believe the amendment is even more important as a guiding principle. The judge factors in the nature and gravity of an offence when sentencing. Nobody is saying that the parole board will not know what the person has been imprisoned for. Of course the board will know the type of crime. It must recognise the impact the original crime has had on the victim but it must also recognise the impact on the victim of its decision to release the person up for parole. That provision is still in place. It is important that the submissions made by the victim are taken into account. We are trying to avoid a situation where a person has ticked all of the boxes. Presumably, if the nature and gravity of the crime is particularly appalling then the person will have been imprisoned for quite a while. The person will have completed their treatment and therapy, admitted they are wrong, acknowledged their crime, tried to make amends and all of the rest and yet the decision could be held back by having to specifically take into account the nature and gravity of the crime.

The parole board will take account of the nature and gravity as it is in the background. To spell it out does not bring balance and I believe it is better to remove the clause. A parole board is supposed to assess whether a person is ready to be reintegrated in society. To reach that stage the person will have had to cross many barriers. In addition, many of the issues will have been dealt with at the sentencing stage.

Deputy Frances Fitzgerald: I will go over this matter again. Essentially, a parole board analyses the whole situation. It conducts a risk assessment, on behalf of society, on the possibility for rehabilitation. It seems to me that one cannot assess the current risk unless one understands the nature of the offence that was committed in the first place and the risks factors that led to same. The nature and gravity of the offence must, absolutely in my view, be factored into the current risk assessment.

It was mentioned that one should not go back in time because the person has served his or her sentence. Of course one must consider the circumstances, the nature and type of the offence. That is the reason the person is in prison in the first place - the nature and the offence. We are talking about very serious offences. Understanding the particular circumstances that led to the offences in the first place in my view, and from my experience, is critical in terms of

deciding what the next step would be. It is critical for the parole board when it makes an assessment. It considers the journey that the person has undertaken and it is a journey away from the offence that he or she committed in the first place. The nature and type of offence must be centrally involved in the decision-making. It is one of the factors.

Many of these crimes, where crimes have been committed by people who go before the parole board - any murder, any description of any murder, any rape and any of these serious reasons why people are in prison - are going to be horrendous situations. That is the reason the person is in prison in the first place. It is why the person started out being in prison. Understanding the nature and type of the offence, the circumstances, and Deputy O'Callaghan gave examples of the type circumstances one could have in terms of being associated with alcohol and drugs, then understanding the journey the person has been on in prison in regard to drugs and alcohol would be a critical part of the decision-making.

My view is that this provision should absolutely be left in the legislation. The provision is central to the current risk assessment that one makes about the future of the person. It is one of many factors. The other factors have been well spelled out in the Bill. They include rehabilitation. They include the other areas that I have already read out such as the details about the trial and what happened at the trial. The provision is central. To take it out would miss an essential part of a risk assessment. In terms of having a safe society, it would be a great disservice to remove the nature and gravity of the offence that was committed in the first place.

As far as mandatory sentencing is concerned, Deputy Wallace, it is a totally different issue. I happen to agree and I think most of the bodies that have examined the matter, such as the Law Reform Commission and penal reform groups, have moved away from that stance. One often gets calls in society for mandatory sentencing. I support the view of the Law Reform Commission and penal reform groups in terms of this matter. It is not a matter for the parole board. That is a different issue and it dealt with in other legislation.

Deputy Clare Daly: Our wires have crossed. What has been objected to here is the specifically pulling out, into a stand-alone category, of the nature and gravity of the offence. If one is going to give that an added weight by according it a particular section then other things should be given equal weight; for example, the circumstances of the offender at the time. Were they strung out on drugs? Had they a psychotic breakdown or whatever? Why would we not single out those matters as well?

Of course the nature of the offence is going to be considered. The section refers to all of "the information from the trial" so it is not that the parole board is not going to know any of that. It will know. We are objecting to that aspect being signalled out as a factor for the board to consider without other factors being given equal weight. That is all.

Chairman: Does any other member wish to add a further comment?

Deputy Mick Wallace: I wish to respond to the Minister's point that mandatory sentencing has nothing to do with parole. We have argued that they are connected. If there is mandatory sentencing there can be more of an open-minded approach adopted by the parole board. We have argued enough about it on our end.

Deputy Jim O'Callaghan: Since I drafted the amendment then I should justify it by having the last word. Section 18 is on guiding principles. Section 18(2) states:

> The Board shall also be guided by the following principles in the discharge of its func-

tions:

(a) the Board shall endeavour to take into consideration all relevant available information, including:

(i) the stated reasons and recommendations of the sentencing judge;

(ii) the nature and gravity of the offence;

(iii) the degree of responsibility of the person whose parole is being considered;

(iv) information from the trial.

Part of the problem is that this country has a one-size-fits-all punishment for murder and it is only a life sentence. I am concerned that if one takes out the provision one will be left with a situation where judges will try to put themselves in a situation where they are going to have to try to distinguish between different types of murders. One could have recommendations, which would not be permitted once this law came in. In America one can be sentenced without parole. Ireland has a statutory mechanism. Obviously the parole board should take into account the nature and gravity of the offence.

One could argue that Ian Brady and Myra Hindley should have got parole but I will not go into that discussion. There is a process whereby people can judicially review a decision. If the parole board refuses to grant parole to an individual for a period of 20 or 30 years solely due to the nature of the offence then that can be judicially reviewed by the individual concerned.

We must take into account that there will be people on the parole board who will try to do their best. They have a difficult job to do. They will try to balance the safety of the community, on the one hand, with the requirement of rehabilitation, on the other hand. To remove this provision would be artificial. Therefore, I will be opposing the amendment.

Chairman: I think we have had all the contributions.

Amendment put and declared lost.

Amendment No. 54 not moved.

Chairman: If amendment No. 55 is agreed, amendments Nos. 56 and 57 cannot be moved.

Deputy Jim O'Callaghan: I move amendment No. 55:

In page 16, line 23, to delete "victims." and substitute the following:

"victims;

(d) the Board shall assess the extent to which the person whose parole is being considered has been rehabilitated and would, if granted parole, be capable of reintegrating into society.".

Amendment agreed to.

Amendments Nos. 56 and 57 not moved.

Section 18, as amended, agreed to.

SECTION 19

Deputy Clare Daly: I thought I withdrew amendment No. 58 earlier. We are all getting confused.

Chairman: I do not have it noted as having been withdrawn.

Deputy Jim O'Callaghan: It was part of the first grouping.

Chairman: Yes, it was in the group with amendment No. 3. If an intention to withdraw it had been formally indicated, I would have noted that.

Deputy Clare Daly: I think the problem is that this amendment is linked to another amendment in my name that is not going to be carried. If we were to agree this amendment, it would be meaningless without the other amendment also being agreed.

Chairman: Does the Deputy wish to withdraw the amendment?

Deputy Clare Daly: Yes. I think we said earlier we might examine the issues that arise from this group of amendments.

Chairman: Very good.

Amendment No. 58 not moved.

Deputy Mick Wallace: I move amendment No. 59:

In page 16, to delete lines 32 and 33.

Amendment put and declared lost.

Deputy Jim O'Callaghan: I move amendment No. 60:

In page 17, line 9, to delete "(Temporary Release of Prisoners) Act 2003" and substitute "Act 1960 as amended".

Amendment agreed to.

Chairman: Amendment No. 61 is in the names of Deputies O'Callaghan and Daly.

Deputy Jim O'Callaghan: I move amendment No. 61:

In page 17, line 21, after "treatment" to insert ", education or training".

We are seeking to include the words "education or training" after the word "treatment". It is a sensible amendment.

Deputy Clare Daly: I agree with the Deputy.

Deputy Frances Fitzgerald: I support the amendment.

Amendment agreed to.

Amendments Nos. 62 and 63 not moved.

Section 19, as amended, agreed to.

SECTION 20

Deputy Jim O'Callaghan: I move amendment No. 64:

In page 17, line 32, to delete "eight" and substitute "twelve".

At present, the parole board is required to consider people who are convicted of life-sentence offences for parole after eight years. It is just not feasible because people do not get parole after eight years. Parole is not generally considered until after 12 years have passed. For that reason, I am proposing that we substitute the reference in the Bill to "eight years" with a reference to "twelve years". We are holding out false hope to prisoners who have been convicted of life-sentence offences by leading them to believe they can get parole after eight years.

Deputy Frances Fitzgerald: I agree with the amendment.

Amendment agreed to.

Deputy Jim O'Callaghan: I move amendment No. 65:

In page 17, line 33, to delete "a person" and substitute "a person,".

Amendment agreed to.

Chairman: As amendments Nos. 67 and 68 are logical alternatives to amendment No. 66, and amendment No. 68 is a physical alternative to amendment No. 67, amendments Nos. 66 to 68, inclusive, are being taken together. I ask Deputies to note that if amendment No. 66 is agreed, amendments Nos. 67 and 68 cannot be moved.

Deputy Mick Wallace: I move amendment No. 66:

In page 18, between lines 4 and 5, to insert the following:

"(7) The Board must conduct a review for an eligible person within six months of the person's eligibility date.".

My understanding is that the contents of amendment No. 66 are incorporated in amendments Nos. 67 and 68, in the names of Deputies O'Callaghan and Daly. I expect that Deputy O'Callaghan's amendment will pass. He seems to win every time.

Deputy Jim O'Callaghan: Not at all. This is the first time it has happened to me in a while.

Chairman: Deputy Wallace has scored already today, so he should not worry.

Deputy Mick Wallace: If amendment No. 67 is going to pass, that is fine.

Deputy Jim O'Callaghan: Amendment No. 67, in my name, proposes to insert a new section 21 in the Bill to set out the arrangements for consideration for parole. I think it accommodates many of the concerns that have been set out this morning. I am proposing that someone who has been refused parole should be allowed to apply again after two years, or at an earlier date after a "shorter period as the Board may direct". This amendment also takes on board many of Deputy Wallace's concerns about having applications dealt with "as soon as reasonably practicable" and gives the parole board a certain degree of leeway by allowing it to make "rules for the purpose of enabling this section to have full effect". I ask Deputies to support the amendment.

Chairman: I remind Deputy Daly that if amendment No. 67 is agreed, it will not be possible for her to move amendment No. 68.

Deputy Clare Daly: Okay. As Deputy Wallace has said, it is probable that amendment No. 67 will be agreed. The two amendments are almost identical. Deputy O'Callaghan's amendment includes an extra provision. The other four clauses are identical. It is great that this clause is being inserted. The only difference between the amendments relates to the two-year issue we discussed earlier. We have said we will revisit that. Therefore, we can go with Deputy O'Callaghan's amendment now. We will revisit the two-year issue at some future stage. The rest of amendment No. 67 is spot on.

Chairman: Does the Tánaiste wish to speak on this group of amendments?

Deputy Frances Fitzgerald: No, it is fine. I think we have agreed to proceed with amendment No. 67.

Chairman: That is fine.

Amendment, by leave, withdrawn.

Question proposed: "That section 20, as amended, stand part of the Bill."

Deputy Frances Fitzgerald: I would like to raise a further issue with respect to section 20. Section 20(5) provides that when imposing a sentence on a person, a sentencing judge may impose a specified period during which that person shall not be eligible for parole. This connects with my earlier comments regarding mandatory life sentences for persons convicted of murder. Section 20(5) is a very significant provision and would require considerable consideration and further consultation. As I said to Deputy Wallace, whether this is a matter that should be considered in a parole Bill requires further consideration.

Question put and agreed to.

NEW SECTION

Deputy Jim O'Callaghan: I move amendment No. 67:

In page 18, between lines 4 and 5, to insert the following:

"Consideration for Parole

21. (1) An eligible person detained under a custodial sentence may apply to the Board to be considered for parole at any time subject to *subsection (2)* but not earlier than three months prior to that person's parole eligibility date.

(2) In the case of a second or subsequent application in relation to the same custodial sentence, an eligible person shall be entitled to bring a subsequent application after two years from the date of the most recent decision declining parole or within such shorter period as the Board may direct.

(3) The Board may stipulate that any application shall be made in such form as may be prescribed.

(4) The Board shall endeavour to consider any application as soon as reasonably practicable and shall schedule a review or hearing for that purpose at a time and place not more than six months after an application has been submitted.

(5) The Board may make rules for the purpose of enabling this section to have

full effect and such rules may contain such incidental, supplementary and consequential provisions as the Board considers to be necessary or expedient.”.

Amendment agreed to.

Amendment No. 68 not moved.

Section 21 deleted.

SECTION 22

Chairman: Amendment Nos. 69, 70 and 73 to 76, inclusive, are related and will be discussed together.

Deputy Jim O’Callaghan: I move amendment No. 69:

In page 18, to delete line 21, and substitute the following:

“(a) authorise the eligible person to whom it is addressed to be released from custody subject to the conditions set forth therein and to the provisions of this Act,”.

This is an amendment to section 22 which deals with parole orders. The primary function of a parole order is to permit the release of the prisoner. The way it had been drafted previously was inelegant, to say the least. It authorises the release from custody of the person subject to the conditions. Amendment No. 70 corrects a typographical error. The words “Without limiting *subsection (1)* a” need to be removed, because they do not make sense, and they should be replaced with the indefinite article “A”. Amendments Nos. 73 to 76 address sloppy drafting by me at the outset that needs to be tidied up.

Chairman: Well done.

Deputy Frances Fitzgerald: I accept all these amendments.

Amendment agreed to.

Deputy Jim O’Callaghan: I move amendment No. 70:

In page 18, line 25, to delete “Without limiting *subsection (1)* a” and substitute “A”.

Amendment agreed to.

Deputy Jim O’Callaghan: I move amendment No. 71:

In page 19, between lines 1 and 2, to insert the following:

“(3) A Parole Order shall be given to the Governor, or person for the time being performing the functions of Governor, of the prison concerned.

(4) The Governor, or person for the time being performing the functions of Governor, of the prison concerned to whom a Parole Order under this section is given shall comply with that Parole Order, and shall make and keep a record in writing of that Parole Order.

(5) The Board may specify conditions to which all eligible persons released pursuant to a Parole Order shall be subject or conditions to which specific persons shall

be subject.”.

Amendment agreed to.

Amendment No. 72 not moved.

Question proposed: “That section 22, as amended, stand part of the Bill.”

Deputy Frances Fitzgerald: I also intend to further consider this section and, in particular, the conditions set out under section 22(2). While Deputy O’Callaghan has adopted a comprehensive approach, I would like to consider whether further conditions should be set out in the section or whether certain automatic conditions should apply to parole orders, such as the requirement to abide by the lawful instructions of a probation officer. I would come back to this section again.

Question put and agreed to.

SECTION 23

Question proposed: “That section 23 stand part of the Bill.”

Deputy Frances Fitzgerald: The section deals with monitoring compliance with orders. Consideration is currently being given to the relationship between the provisions of this section and the role of the Probation Service in managing offenders on release from prison and this may give rise to amendments that would provide further clarification on this.

Question put and agreed to.

SECTION 24

Deputy Jim O’Callaghan: I move amendment No. 73:

In page 19, line 20, to delete “or” where it firstly occurs.

Amendment agreed to.

Deputy Jim O’Callaghan: I move amendment No. 74:

In page 19, line 29, to delete “(without limitation)”.

Amendment agreed to.

Deputy Jim O’Callaghan: I move amendment No. 75:

In page 20, line 2, to delete “(if Board deems is practicable)” and substitute “, if the board deems it appropriate,”.

Amendment agreed to.

Deputy Jim O’Callaghan: I move amendment No. 76:

In page 20, line 4, to delete “Failure” and substitute “Any failure”.

Amendment agreed to.

Question proposed: “That section 24, as amended, stand part of the Bill.”

Deputy Frances Fitzgerald: I wish to point out that for procedural reasons, some drafting or technical amendments may be required to be made to this section.

Question put and agreed to.

SECTION 25

Chairman: Amendments Nos. 77 to 79, inclusive, 81 and 82 are in this grouping and will be discussed together. If amendment No. 77 is agreed to, amendment No. 78 cannot be moved.

Deputy Clare Daly: I move amendment No. 77:

> In page 20, lines 14 to 17, to delete all words from and including "order—" in line 14 down to and including line 17 and substitute the following:
>
> "order has committed a criminal offence,".

This amendment deals with the revocation of a parole order, which is obviously a very serious step. I tabled the amendment in the context that the Irish Penal Reform Trust said that a violation of conditions in the absence of a criminal offence being committed should not automatically mean the person is returned to prison. I know Deputy O'Callaghan's Bill provides for a parole licence to be suspended if somebody is deemed to be an undue risk or if he or she has breached his or her release conditions, and that is fair enough. A suspension of a licence is fine but to have it entirely revoked with a person being sent back to prison to serve his or her full sentence is an incredibly serious decision and it should be one that is only taken for the most serious of reasons. It should not be automatic for the breaching a condition. The transgression has to be serious enough for it to amount to a criminal offence for it to be considered.

Amendment No. 82 deals the two-years versus one-year debate regarding a person whose parole licence has been revoked. It provides for a person whose parole licence has been revoked not having to wait two years to have a review in that he or she could have one after a period of one year. It is worth saying that the provision my amendment seeks to amend is deemed to be not appropriate by the current parole board. That is why we decided to examine that and it is interesting to take on board the parole board's views on that issue.

Deputy Mick Wallace: My comments are on the same theme. My two amendments are similar to Deputy Daly's amendment but are worded differently. The conditions attached should be reasonable and proportionate. A breach in a parole order should not automatically mean a return to prison. All relevant circumstances should be taken into consideration, including prior behaviour on licence. A recall to prison can disrupt positive factors, which have been known to protect against reoffending, such as stable accommodation, employment, family relationships, contact with community health care and so on. Therefore, a decision to recall a person to prison should be proportionate to the seriousness of conditions breached.

The intention must be to try to keep the individual out of prison if at all possible and that he or she would be only thrown back into it if there was no choice. Proportionality is paramount.

Deputy Jim O'Callaghan: The section provides for the revocation of a parole order or the suspension of a parole order. Deputies Daly and Wallace are correct in stating that serious sanctions can be imposed by the parole board. They only arise in circumstances where conditions have been breached and the other grounds are set out in the section. The section states that a person who is the subject of a parole order can have it revoked if he or she poses an undue risk to the safety of the community and he or she has breached his or her release conditions and the

board is satisfied that the gravity of the matters outlined justify the revocation of a parole order. Then there are lesser grounds for a suspension. Either way, under section 25(4), they have an entitlement to a hearing and it is not as though one can have some arbitrary decision by the parole board stating it will revoke that person's parole order. The person will get a hearing. It is not feasible for it simply to be the case that they could only revoke it if the person has committed a criminal offence. One is out on licence, to a certain extent, when one is out on parole and it is a privilege that one is being given. It is not only if one commits a criminal offence. One must comply with the conditions. For instance, one of the conditions could be to stay away from a particular person. If one starts approaching that person again, one shall have it revoked or suspended.

Deputy Frances Fitzgerald: Amendment No. 77 to section 25 would have the effect that a parole order may only be revoked if the person commits a criminal offence, as Deputy Clare Daly outlined. Currently, the section provides that an order may be revoked if the person poses an undue risk to the safety of the community or any person - that stalking example is a good one - or persons or has breached a condition of his or her parole. I would have very grave concerns about agreeing this amendment. Parole is in effect conditional release. A person knows precisely what the conditions are.

If a person was to pose an undue risk or breach a condition of his or her release, then the option of revoking the parole order must be available. That is what it is about. One is released on certain conditions. It is not merely about whether one commits a further crime. It is about all the varying conditions. I return to the quality of the parole hearing. If one has the proper risk assessment, one will have the proper conditions laid out in the order.

It is also the case that a person who has an order revoked is entitled, under the Bill, to a hearing following the revocation or suspension of an order. The grounds for revocation, as set out in the Bill, are common grounds in parole practice and we should retain them.

Amendments Nos. 78 and 79 to section 20 would require any breach of conditions to be a serious breach. The seriousness or otherwise of a breach of a condition is a matter which can be considered at the subsequent hearing. A breach of a condition as a trigger for revocation or suspension of an order is a straightforward matter to determine. Determining what amounts to a serious breach and who would make such a determination would introduce a subjectivity which could cause delay in what may be a high risk situation - one must keep that in mind. Persons granted parole will be fully aware of the conditions of their release and their need to abide by those conditions. All of that is part of the parole hearing. It is laid out clearly. The person will know precisely the conditions by which they must abide.

Amendment No. 81 is unnecessary, in my view. There is no reason to consider that the hearing into the revocation of a parole order could amount to a renewed parole process. It is clear from subsection (4) of section 25 that the person who is subject to the revocation of the parole order may make submissions – for the purpose of a hearing – in respect of the proposed grounds upon which it is proposed to revoke or suspend the order.

Amendment 82 was discussed in a fair bit of detail by us already. It proposes the reduction, from two years to one year, in the subsequent period before which a person can seek to be further considered for parole. I have already made clear my view on that.

I will comment on section 25 at a later stage.

Deputy Mick Wallace: I disagree. We do not expect to agree on everything.

We agreed that if someone seriously breaches his or her parole conditions, that is a very serious matter and should be dealt with accordingly. However, life is not black and white. We all break rules on a regular basis and we are not always necessarily penalised draconianly for it. I certainly do anyway.

Deputy O'Callaghan states it is a pleasure to be out on parole. There is an element of that, but if one is in prison for a long time, he or she would not be used to being out. On the idea that one might breach some of the rules because one is out, like a calf in the shed after the winter being let out into a green field of grass who behaves in a funny fashion for a while until he or she gets used to it, the prisoner, when he is released after being inside for a long time, is in a strange place. We should be somewhat flexible in how he deals with his new-found freedom and we should not be so black and white and inflexible about it. That is all.

Deputy Clare Daly: It is about making sure that it is not automatic that somebody would be returned to prison for a breach of the conditions. While a breach of the conditions is obviously serious, there can be extenuating circumstances and there are obviously different conditions. Maybe we have not distinguished enough between decisions to revoke parole or suspend the licence. Suspension of a licence is fair enough - I can see that - but what we are trying to say is it should be a serious criminal matter that has a person sent back to prison with his or her sentence reinstated. I would imagine stalking and harassment are criminal matters and they would be covered under those conditions. Obviously, that would be reprehensible and should be included. It is in that context that we put it forward. To be honest, it covers that.

Deputy Jim O'Callaghan: I respect what Deputy Clare Daly stated about stalking and harassment which are criminal offences but the process of a criminal trial and conviction takes time. If a person is stalking and harassing a person, Deputy Clare Daly's amendment requires that person to have committed a criminal offence. That requires an adjudication by a court. One cannot merely have the parole board stating that the person committed a criminal offence by doing that.

I agree that it is not black and white. I would not like it to be operated in a black and white fashion. I am sure the parole board would not operate it as such. If somebody gets out of prison and gets into a bit of trouble in the first while, that is not an issue on which the parole board will state that his or her parole is revoked or suspended. It requires discretion on the part of the parole board and that is the way it will operate. It is a serious sanction. It would only happen, I would have thought, in exceptional circumstances. However, it is too prolonged a process to state that it would only happen where somebody has committed a criminal offence.

Deputy Frances Fitzgerald: It might be helpful to state that the number being brought back at present varies but is usually five or fewer per year out of 60 or 80.

Deputy Wallace referred to the changed situation for the person, the difference between being in prison and being out of prison, what can happen, the adjustment, etc. It is worth bearing in mind that in all of these cases there will have been a period of temporary release. There will have been a rehabilitation plan that may have involved temporary periods visiting family. For example, there may have been a move to an open prison. That is taken into account when the parole board is examining the case. That is merely to put in context what the Deputy stated.

Chairman: With no other members offering, we will proceed to decision on these. If

amendment No. 77 is agreed, amendment No. 78 cannot be moved.

Deputy Mick Wallace: We do not want to push them but we do not want to withdraw them. Is that possible?

Chairman: Yes, that is okay.

Deputy Mick Wallace: We will discuss them again in the Chamber.

Deputy Jim O'Callaghan: I have no problem if the Tánaiste or Deputies Wallace and Clare Daly want to come up with different terms for it. What is proposed at present is too restrictive.

Chairman: We have to make a determination.

Deputy Mick Wallace: We think what is proposed is far too restrictive.

Deputy Clare Daly: We will look at that again.

Chairman: Deputy Clare Daly can either withdraw or not move.

Deputy Mick Wallace: We will withdraw them but we will not move them.

Chairman: The Deputies will not move them. We will note that they are not moved.

Deputy Mick Wallace: Okay.

Chairman: Does that suit Deputy Clare Daly better?

Deputy Clare Daly: Yes.

Deputy Mick Wallace: Yes.

Chairman: In the case of both amendment No. 77 and amendment No. 78, is that right? I am told that "not moved" is not an acceptable position.

Deputy Mick Wallace: We did not invent it.

Chairman: Deputy Wallace is correct. Neither did I, but here we are. I am told that in this situation if the member is not pressing the amendment, he or she may only withdraw it.

Deputy Clare Daly: I will withdraw my amendment. We will look at redrafting it.

Amendment, by leave, withdrawn.

Chairman: It has no reflection on the validity of the case the Deputy put that she has decided to withdraw it in the circumstances. She has the right to resubmit it on Report Stage. We all understand that.

Amendment No. 78 does not have to be moved. I will revisit all this afterwards to be certain but I am advised that the Deputy does have the option of not moving amendment No. 78.

Deputy Mick Wallace: It would make sense to allow that facility. It is not the end of the world either way.

Chairman: We will mark it as not moved.

Deputy Mick Wallace: Okay.

Chairman: The science of all this will be addressed later.

Amendment No. 78 not moved.

Chairman: We move to amendment No. 79 in the name of Deputy Wallace, which was already discussed with amendment No. 77. Where stands the amendment?

Deputy Mick Wallace: It has the same status. I am not pressing it.

Amendment No. 79 not moved.

Deputy Jim O'Callaghan: I move amendment No. 80:

In page 20, line 35, to delete "parolee" and substitute "person who is on parole".

Amendment agreed to.

Amendment No. 81 not moved.

Deputy Clare Daly: I move amendment No. 82:

In page 21, line 17, to delete "2 years" and substitute "1 year".

I will withdraw this amendment and resubmit it with the other "2 year", "1 year" amendments.

Amendment, by leave, withdrawn.

Amendment No. 83 not moved.

Question proposed: "That section 25, as amended, stand part of the Bill."

Chairman: One amendment was adopted in section 25. Does the Tánaiste wish to add anything to this section?

Deputy Frances Fitzgerald: One concern I have relating to section 25 which may require further amendment is that a parole order may be suspended where a person has been charged with an offence whether or not this has resulted in a conviction. This provision might run the risk of being challenged. Everyone is entitled to the presumption of innocence and I do not believe that simply being charged with an offence should give rise to the suspension of a parole order. We will look further at that and revert to it on Report Stage.

Question put and agreed to.

SECTION 26

Chairman: Amendments Nos. 84 to 88, inclusive, are related and may be discussed together. They are physical alternatives to amendment No. 85.

Deputy Clare Daly: I move amendment No. 84:

In page 21, to delete lines 30 and 31 and substitute the following:

"(3) When *subsection (3)* does not apply, the Board may only exercise its powers under *subsection (1)* following a review or hearing.".

This amendment is concerned with the circumstances where if the chairperson of the board considers that circumstances require urgent action, a warrant can be issued for the arrest of someone on parole and have them returned to prison. Subsection (1) also allows for this to happen in circumstances where the chairperson does not believe that the circumstances are urgent and that the action needs to be urgent. If someone is arrested under subsection (1), the Bill currently provides that the board can exercise the powers without holding a review or hearing. My amendment tries to change that such that if the situation is not urgent and the board is considering having someone arrested and returned to prison, it needs to first conduct a review or hearing. In section 26, there is a provision for the board to hold a review or hearing 21 days after the parolee has been locked up again. My preference would be that in circumstances where that is not urgent, the review would take place before the reincarceration.

Deputy Mick Wallace: I will withdraw amendment No. 85 because it overlaps with amendment No. 87. I have already made the same argument on the need for proportionate response to the seriousness of the conditions breached.

Chairman: Amendment No. 87, in the name of Deputy Wallace, is also in this grouping.

Deputy Mick Wallace: The two are the same which is why I am withdrawing amendment No. 85. It refers to the element if proportionality

Chairman: Will the Deputy be moving amendment No. 87?

Deputy Mick Wallace: Yes.

Chairman: Amendments Nos. 86 and 88 are in the name of Deputy O'Callaghan.

Deputy Jim O'Callaghan: These are both typographical amendments. I do not think there is any controversy about them, they are changing a wording and removing a comma.

On Deputy Daly's amendment, section 26 deals with warrants. The board has a substantial power here, however I would be concerned that it could not issue a warrant prior to having a review or hearing. I see the Deputy's point about urgency but section 26(4) provides for a hearing within 21 days after the person is so returned. It has to be within 21 days. It could be quicker. I would have thought the parole board would be very anxious that any such hearings would take place very promptly. I suspect that perhaps the Minister will wish to look at the whole issue of warrants on Report Stage, as it is a complicated area of the law and I will listen to what she has to say.

Deputy Frances Fitzgerald: Amendments Nos. 84 to 88, inclusive, address section 26. This is a section of the Bill to which I intend to bring further amendments. I have been advised that the issuing of warrants by the parole board authorising a member of An Garda Síochána to apprehend a person is not appropriate. I will bring forward substantial amendments to this section to provide for a system of returning to custody a person released on parole where that would arise under the provisions of the Bill.

I would ask Deputies to consider not pressing these amendments, given that I am looking at revising this section in its entirety. Two of the amendments, Nos. 86 and 88, are fairly technical but I would ask that the Deputies consider not pressing the others at this stage because we need to look at this section as a whole as to how this will work precisely.

Deputy Clare Daly: On that basis, I will not press the amendment but I would say to Deputy O'Callaghan that I am explicitly excluding the sections where there is a need to act urgently.

I was not concerned with diluting the powers of the board there, I was only putting it forward in the circumstances where the board said that it was not urgent and to provide for the review to be held beforehand rather than afterwards. I will not press the amendment and will wait to see what the Tánaiste returns with.

Chairman: Is the Deputy withdrawing it?

Deputy Clare Daly: I am not moving it. Whatever the Tánaiste asked us to do, I am doing. I cannot remember.

Chairman: The Deputy is withdrawing the amendment but reserving the right to resubmit the amendment.

Deputy Clare Daly: Okay.

Deputy Mick Wallace: I always do what I am told.

Deputy Frances Fitzgerald: I am glad to hear that.

Chairman: We have never seen teacher's report but we will take the Deputy's word for it. Deputy Wallace is withdrawing amendment No. 87.

Deputy Mick Wallace: I am not moving it.

Chairman: Deputy Wallace wins that one. The amendment is not moved.

Amendment, by leave, withdrawn.

Amendment No. 85 not moved.

Deputy Jim O'Callaghan: I move amendment No. 86:

> In page 21, line 38, to delete "Board, shall" and substitute "Board shall,".

Amendment agreed to.

Amendment No. 87 not moved.

Deputy Jim O'Callaghan: I move amendment No. 88:

> In page 21, line 39, to delete "parolee" and substitute "person who is on parole".

Amendment agreed to.

Section 26, as amended, agreed to.

SECTION 27

Deputy Mick Wallace: I move amendment No. 89:

> In page 22, line 5, after "parole" to insert "and their legal representative".

Amendment agreed to.

Chairman: Amendments Nos. 90 and 91 are related and will be discussed together.

Deputy Jim O'Callaghan: I move amendment No. 90:

In page 22, line 9, after "prison" to insert "or institution".

Having spoken to officials in the Department, I am conscious the institution I wanted to include may need better definition. I was thinking of including the Central Mental Hospital. There are only very exceptional circumstances when a parole order would apply in respect of a person in the Central Mental Hospital. It may need further consideration.

Amendment, by leave, withdrawn.

Deputy Jim O'Callaghan: I move amendment No. 91:

In page 22, line 10, to delete "(if applicable)".

Amendment agreed to.

Deputy Jim O'Callaghan: I move amendment No. 92:

In page 23, between lines 7 and 8, to insert the following:

"(9) The Courts Service shall provide the Board with any Court documents requested by the Board and which evidence or record any recommendations of the Court that imposed sentence on the person seeking parole.".

This is to facilitate the parole board gaining access to court documents, in particular transcripts of statements by the trial judge at the time. It is probably already included, but there is no harm including it again at this stage. If the Minister, on Report Stage, thinks it is repetitive it can be dealt with then.

Deputy Clare Daly: This was requested by the existing parole board. Often it can be incredibly difficult to get documents or recordings from the Courts Service in a timely manner. Including this will help, which is why it has been proposed.

Deputy Frances Fitzgerald: I have no difficulty with accepting amendment No. 92. I may need to return to it following further discussion with the Courts Service and advice from Parliamentary Counsel, but I accept the amendment.

Amendment agreed to.

Section 27, as amended, agreed to.

Section 28 agreed to.

NEW SECTIONS

Deputy Jim O'Callaghan: I move amendment No. 93:

In page 23, after line 18, to insert the following:

"Amendment of section 23 of Criminal Justice Act 1951

29. The Criminal Justice Act 1951 is amended by the insertion of the following section after section 23A:

"23B. The Parole Board may commute any sentence of imprisonment imposed by a Court exercising criminal jurisdiction for the purpose of making a parole order in accordance with, and subject to such conditions as it may impose under, the *Parole Act 2017*.".".

Amendments Nos. 93 and 94 relate to the Criminal Justice Acts 1951 and 1960, respectively. I will withdraw them and on Report Stage the Minister can look at whether she believes it is necessary to include similar provisions.

Amendment, by leave, withdrawn.

Deputy Jim O'Callaghan: I move amendment No. 94:

In page 23, after line 18, to insert the following:

"Amendment of section 2 of Criminal Justice Act 1960

30. Section 2 of the Criminal Justice Act 1960 is amended by—

(a) the substitution of the following paragraph for paragraph (a) of subsection (1):

"(a) for the purpose of assisting the Garda Síochána in the prevention, detection or investigation of offences, or the apprehension of a person guilty of an offence or suspected of having committed an offence,",

(b) the deletion of "concerned, or" from the end of paragraph (c) of subsection (1) and by the insertion of "concerned.",

(c) the deletion of paragraph (d) of subsection (1).".

Amendment, by leave, withdrawn.

TITLE

Question proposed: "That the Title be the Title to the Bill."

Deputy Frances Fitzgerald: A technical amendment may be required to the Title to include the words "and related matters". This will be raised in the drafting. We may have to come back to it.

Question put and agreed to.

Bill reported with amendments.

Chairman: It is recommended that members submit Report Stage amendments to the Bills Office without delay as Report Stage may be scheduled at short notice. I thank the Tánaiste and her officials. I also commend Deputy Jim O'Callaghan.

Deputy Jim O'Callaghan: And the other Deputies.

Chairman: I reserve my final word for our esteemed and colourful characters on the Deputy's left. This is the first time this select committee has passed Committee Stage of a Private Members' Bill. It is an important development and one I hope will be the forerunner of many in the time ahead. I am delivering the message. Members here have obviously expressed concern at the build-up of Private Members' Bills and are very anxious that as this Bill is facilitated with a money message, the same would issue for other Bills that are to be brought before us. I say well done to Deputies Jim O'Callaghan, Wallace and Clare Daly for their significant input. I thank Deputies Farrell and Jonathan O'Brien for their attendance. To the Tánaiste and her officials, go raibh míle maith agaibh go léir.

Deputy Frances Fitzgerald: I thank the Chairman.

Chairman: I also thank Mr. John Costello and Mr. Shane McCarthy from the parole board for their attendance. I hope it has been illuminating. No doubt it has.

Message to Dáil

Chairman: In accordance with Standing Order 90, the following message will be sent to the Dáil:

The Select Committee on Justice and Equality has completed its consideration of the Parole Bill 2016 and has made amendments thereto.

Business of Select Committee

Deputy Jonathan O'Brien: Before the Chairman adjourns the meeting-----

Chairman: I am not going to adjourn yet because I have another matter to flag to the members.

Deputy Jonathan O'Brien: That is okay because I want to flag a matter to the Chairman.

Chairman: The joint committee will meet in private session at 2.30 p.m. tomorrow in Committee Room 2, our home room, to deal with housekeeping matters. We were unable to deal with committee needs last week due to the heavy voting block in the Dáil. I believe there were 13 votes. Deputy Jim O'Callaghan had other business to attend to also. I appeal to members in that there is important work to be addressed at that meeting. Preceding that meeting, and as previously agreed, I remind members that a meeting with a delegation from the justice committee of the Hungarian Parliament been arranged. It will take place at 11 a.m. tomorrow in Room A in LH 2000. Members are invited and encouraged to attend. I am sure the whole business of it will be completed within an hour. If they are in a position to attend, the Chairman would be most grateful.

Deputy Jonathan O'Brien: Is it possible to go into private session?

Chairman: Yes, remembering this is a select committee. Is that agreed? Agreed.

The select committee went into private session at 12.30 p.m. and adjourned at 12.35 p.m. *sine die*.