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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

DÁIL ÉIREANN

Dé Céadaoin, 07 Samhain 2012

Wednesday, 07 November 2012

Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Leaders' Questions

Deputy Micheál Martin: I take this opportunity, on my behalf and that of my party, to congratulate President Obama on his success in the US presidential elections. He and the United States have been good friends to Ireland and we wish him and the United States every success in what will be a very challenging environment over the coming years. I also pay tribute to Governor Romney for what was a very competitive campaign, which riveted many people over the past weeks.

On the domestic front, I mention an issue that I raised some weeks ago with the Taoiseach, the savage cuts in home help hours. The rhetoric being used in this House bears no relation to the reality with respect to the impact of these cuts. I met thousands of people last Saturday when people from all over Munster were marching in Cork, and I got first-hand accounts from people whose elderly relatives have had home help hours cut. I recall the Taoiseach saying some weeks ago that the overall position is that anyone with an assessed need for a home help service will not be left without one. That is not the reality.

I met a young woman on Saturday who detailed the case of her elderly disabled mother. She said that although it was difficult for them to manage before the cuts, it is now impossible because of these cruel measures. She indicated that there was no alternative to considering placing her mother into long-term care, which she is sure will cost the State dearly compared to care at home. Her GP wrote to the HSE and the Taoiseach noted there would be medical assessment in that regard. The GP indicated that although cost-saving measures must be addressed by the HSE, it is inhumane to deny a disabled, elderly person the fundamental right to live in her own home with dignity. He went on to say that he finds the cutting of home help hours for vulnerable patients very upsetting and unjustifiable, and it makes no economic sense.

There is a range of other cases, and I am sure every Deputy in the House has had people outline details of elderly people who have had hours cut fully and the service fully stopped. There are two elderly sisters who are nearly blind who have had their hours fully stopped. This position is untenable and unfair. The manner in which these cuts have come about, as the

campaign for Older and Bolder and others have argued, means that there has been no notice in many cases. The impact has been "colossal and potentially dangerous" in the words of Age Action Ireland.

Does the Taoiseach accept that these cuts fly in the face of repeated commitments in the programme for Government? Will the Taoiseach consider reversing those cuts imposed on families?

The Taoiseach: Every time the Deputy raises an issue about matters to do with the elderly and disabled, there is an immediate emotional contact. It is true that this is a very difficult area in which to make any kind of adjustment without individual difficulties arising. I understand that. I meet such circumstances myself and I have had occasion to have queries about individual cases raised where particular circumstances apply either with a person's position or the change in a service being provided.

The service plan for 2012 was to deliver 10.7 million home help hours to 50,000 people. The reviews carried out are done in such a way so that anybody who is a current recipient of a service and who has an assessed need for a service will not be left without a service. I have seen cases where people may have a medical service that washes and changes them, which is a personal and sensitive matter, and a spouse or family member may not be trained to do that kind of work for an elderly person. There are different sorts of assistance given through various measures from the HSE, such as respite care, home care packages, home help or the meals on wheels service.

In the Cork area, for example, HSE south has provided in excess of 1.2 million home help hours to more than 6,100 clients.

Deputy Barry Cowen: Break it down.

The Taoiseach: The current activity in the Deputy's county delivers over 82,000 hours per month over the plan already agreed for 2012. The Cork city team and management of professional staff are working so that it can be realised in a measured and appropriate manner. It is not a case of simply having a blanket reversal but rather making an adjustment which is not without difficulty for some people. For those with an assessed medical need, the HSE has been instructed by the Minister that such people be treated sensitively.

We can all come up with individual cases straying outside that boundary. The Deputy asked me to reverse these but that is impossible. The managing professional teams dealing with the issue - I met some service providers when I was in Cork recently - must work in a measured and sensitive fashion, so those who need the service will continue to get it.

Deputy Michael Healy-Rae: It would cost more for these people to be in hospital.

Deputy Micheál Martin: The Taoiseach promised increased funding for home care packages and more home help hours. That promise has been clearly broken. Apart from that, the Taoiseach mentioned medically assessed need. I have told people what the Taoiseach said to me in the House six weeks ago, that people with such an assessed need would not be cut, there would be sensitivity and so on. They just laughed at me and asked whether I and the Taoiseach were for real. This is not what is occurring on the ground. People are being left without a service that they clearly need.

Deputy Mattie McGrath: All of the time.

Deputy Micheál Martin: I know of a case of two sisters, one aged 84 years and the other aged 93 years. One is wheelchair-bound and both are nearly blind. They used to have five hours, which clearly means that there was an assessed need. Their time was reduced to two hours and has now been stopped fully. People with clear medical needs and who were receiving home help hours have had their services stopped fully.

I want the Taoiseach to move away from the rhetoric of the House. For many families looking in, there is no relationship between the rhetoric used and the reality on the ground.

Deputy Mattie McGrath: None whatsoever.

Deputy Micheál Martin: We owe it to people to go beyond the set piece replies from the HSE, the Department or the Minister concerned.

Deputy Mattie McGrath: Spin doctors.

Deputy Micheál Martin: We need to interrogate what is occurring on the ground. The original case of a disabled elderly woman in west County Cork that I identified to the Taoiseach was horrendous. Her daughter has been actively supporting her mother, but the former is at the end of her tether in terms of being able to keep her mother at home. The general practitioner, GP, has written to the HSE to confirm this and to say that something must give.

Deputy Bernard J. Durkan: Deputy Martin's Government abolished the health boards.

Deputy Micheál Martin: If we force elderly people from their homes into institutions, nursing homes and community nursing units, we will cost the State far more than is currently the case under the home help service. The Government has proposed additional cuts worth €8 million. That decision is reversible. It is within the Government's capacity.

The Taoiseach: I invite Deputy Martin to send me the details of the particular case he mentioned in west Cork.

Deputy Michael Healy-Rae: Can we all do that?

An Ceann Comhairle: Will the Deputy hold on one minute, please?

The Taoiseach: Yes. We know about the Deputy's cases as well. I do not know the details-----

(Interruptions).

The Taoiseach: I do not know the details of the provider who is providing the service in that case.

Deputy Finian McGrath: Just cutting the services.

The Taoiseach: I do not know the extenuating family circumstances. I invite Deputy Martin to send the details to me and we will see. I am not standing up-----

Deputy Mary Lou McDonald: We all know of cases.

Deputy Finian McGrath: Fine Gael and the Labour Party are cutting the services.

(Interruptions).

The Taoiseach: We know all of that. Deputy Martin mentioned a specific case that he says is horrendous. As far as I am concerned, the elderly woman in west Cork who is disabled and who needs medical attention should get it on the assessment carried out by the professional teams of the HSE.

Deputy Barry Cowen: Reverse the cuts.

The Taoiseach: Two reviews have been carried out already this year. In each case, all of these circumstances can vary from house to house, from person to person or from family circumstances to family circumstances. Is that person receiving home care assistance outside of the home help service? What other elements of health provision for that person are being received? I do not know. I invite the Deputy to send me those details.

Deputy Micheál Martin: She wants her cut home help hours back.

The Taoiseach: As far as I am concerned, having spoken with the Minister for Health and the HSE about this, in the assessment of needs that are carried out by professional people in providing this service, where there is a medical assessment required and where there is a medical need, that person is not going to be left without a service.

Deputy Billy Kelleher: That is not happening. They are being left without a service.

Deputy Dara Calleary: What is "medical assessment" in English?

The Taoiseach: All Deputy Martin wants is to say "Reverse all these things". In this case, that woman is living in west Cork this morning. If she needs medical assistance through some form or other of this scheme-----

Deputy Micheál Martin: That is fine, but we are discussing home help hours. Let us not try to confuse the matter.

The Taoiseach: -----then that is the assessment to be given to her.

(Interruptions).

An Ceann Comhairle: Deputies, please.

The Taoiseach: In the assessment of home help hours-----

Deputy Micheál Martin: They are being cut.

The Taoiseach: -----it may well be that the provider is calling to the house in the morning to get that person up and to get that person bathed, dressed and ready for the day. Is that the service that is being provided?

Deputy Billy Kelleher: The Taoiseach is out of touch.

Deputy Micheál Martin: I did not go through all of the details.

The Taoiseach: If the Deputy knows all of the details-----

Deputy Micheál Martin: Yes. I have them here. We all do, including Deputy Buttimer.

The Taoiseach: -----I invite him to send them to me. We will check that case with the HSE and he can return to it next week.

Deputy Paul Kehoe: We want the case's details.

Deputy Billy Kelleher: All the Taoiseach will do is refer the cases to the HSE.

(Interruptions).

An Ceann Comhairle: Deputies, please. This is Leaders' Questions.

Deputy Finian McGrath: The Taoiseach is not answering.

An Ceann Comhairle: Shouting and roaring means that no one can hear what anyone is saying. Will Deputies please stay quiet, allow a person to ask a question and allow it to be answered?

Deputy Mary Lou McDonald: The Taoiseach's response to Deputy Martin's question on home help hours vividly reflects the fact that the Government lives in cloud cuckoo land. Those women in west Cork are not alone. Every Deputy could and perhaps should be in direct correspondence with the Taoiseach to set out the thousands of cases of older and disabled people being left in the lurch and abandoned by the Government. The Taoiseach speaks as if he does not realise that the Government has made cuts to this service. They are hurting.

Last night, President Obama was re-elected. I am sure that we all congratulate him. It may interest the Taoiseach to know that he earns an annual salary of $315,000.

An Ceann Comhairle: What topic are we discussing? Deputy McDonald can only discuss one topic.

Deputy Paul Kehoe: Does President Obama do home help hours now?

An Ceann Comhairle: Are we discussing home help or President Obama?

Deputy Michael McCarthy: Drop the script.

Deputy Mary Lou McDonald: If I might be allowed.

An Ceann Comhairle: No, I will not allow the Deputy.

Deputy Mary Lou McDonald: On what basis?

An Ceann Comhairle: The Deputy is entitled to discuss one topical issue.

Deputy Aengus Ó Snodaigh: We are not allowed to ask questions.

Deputy Paul Kehoe: It is not multiple choice.

Deputy Mary Lou McDonald: That salary is the kind of money that we in this State reserve for retired bankers and politicians. Last night, we heard the news that the former AIB chief, Mr. Eugene Sheehy, bowed to public pressure and agreed to reduce his pension to a paltry €250,000 per year. This is the kind of money that the average citizen would only see if he or she was lucky enough to win the lotto. What further steps will the Government take to tackle these pensions? Will it ensure that other retired bankers take similar cuts, for example, former direc-

tors of AIB, Anglo Irish Bank, Irish Nationwide, Bank of Ireland and Permanent TSB? What about the holders of ministerial pensions? Some are still in full employment, for example, Mr. Pat The Cope Gallagher-----

An Ceann Comhairle: Please, Deputy McDonald is over time.

Deputy Mary Lou McDonald: -----Mr. Alan Dukes, a former leader of the Taoiseach's party, and Mr. Dick Spring.

Deputy Michael McCarthy: What about Sinn Féin's parliamentary salaries from Westminster?

An Ceann Comhairle: I thank Deputy McDonald. I call the Taoiseach to reply.

Deputy Billy Kelleher: Why does Sinn Féin not go to Northern Bank?

(Interruptions).

Deputy Mary Lou McDonald: The Taoiseach has invited-----

A Deputy: Go on. Rob a bank.

Deputy Mary Lou McDonald: -----us to write to him in respect of home help hours and we will do that.

A Deputy: Robbing banks.

An Ceann Comhairle: Deputy McDonald is over time. Will she please resume her seat?

Deputy Billy Kelleher: What about Sinn Féin's pensions from Westminster?

Deputy Mary Lou McDonald: When will the Taoiseach write to the politicians and bankers-----

An Ceann Comhairle: Will the Deputy resume her seat, please? Will she respect the Chair?

Deputy Mary Lou McDonald: -----in receipt of these exorbitant pensions?

Deputy Michael McCarthy: Some £26.5 million was stolen from Northern Bank.

Deputy Jonathan O'Brien: Will the Ceann Comhairle ask Labour to respect Deputy McDonald?

Deputy Mary Lou McDonald: What will the Government do? It cannot intervene to save home help hours and-----

An Ceann Comhairle: I will not ask Deputy McDonald to resume her seat a second time.

Deputy Mary Lou McDonald: -----it cannot intervene to remove these exorbitant pensions.

An Ceann Comhairle: Does the Deputy hear me?

Deputy Mary Lou McDonald: What exactly can the Government do?

An Ceann Comhairle: Deputy, I am on my feet. Will the Deputy please resume her seat when I am on my feet? The same rules apply to everyone in this House, including her.

Deputy Mary Lou McDonald: No, they do not.

Deputy Jonathan O'Brien: Not to Government Deputies, obviously.

(Interruptions).

An Ceann Comhairle: I will not be bullied in the Chair.

Deputy Mary Lou McDonald: Neither will I.

Deputy Jonathan O'Brien: Tell them to shut up.

An Ceann Comhairle: I call on the Taoiseach. I will not be bullied. Deputies should listen to me.

Deputy Aengus Ó Snodaigh: We will not be bullied either.

(Interruptions).

An Ceann Comhairle: Deputies will respect the Chair. It is the only thing left in this House.

Deputy Jonathan O'Brien: What about them?

Deputy Billy Kelleher: What about pensions from Westminster?

The Taoiseach: About 20% of the population over 65 - that is 100,000 people - receive a home help service and home care from one or other of the range of options that are there. It is not unusual for Deputy McDonald to attempt to compete for populism with the Technical Group. She is at it again this morning.

Deputy Jonathan O'Brien: That is disgraceful.

The Taoiseach: The chief executive of AIB has written a letter to a number of former employees of Allied Irish Banks, not based on their salaries, but based on their responsibilities, in regard to the pensions they receive. I am glad to note that the former chief executive, Mr. Sheehy, has made a personal decision in regard to the level of pension that he intends to draw. These persons - I answered this question yesterday - have been in receipt of pensions under contractual arrangements that I cannot change, that the Minister for Finance cannot change and that, under our constitutional law, are recognised as a property right. It ill behoves Deputy McDonald to come in here and lecture everyone else when the leader of her own party was drawing an allowance for years for a Parliament that he did not recognise.

Deputies: Hear, hear.

An Ceann Comhairle: Deputy McDonald has one minute to ask a supplementary question.

Deputy Mary Lou McDonald: To sum up, this is a Government that can take home help hours from people-----

An Ceann Comhairle: I am sorry, Deputy, but we are discussing salaries.

Deputy Mary Lou McDonald: ----but cannot intervene in these outrageous pension arrangements. It can write people a Dear John letter in the hope that they will voluntarily take a cut. That is the Taoiseach's contention. He cited the constitutional limitations and associated property rights. That is a familiar tune which the Taoiseach's colleagues in government have been singing for the past year and a half. The Taoiseach knows, or at least he should know, that there are other legislative and taxation mechanisms which his Government can utilise to recoup and minimise these massive pensions. The big question is why he has not done that. I believe it is because he does not want to. He will not write to parents-----

An Ceann Comhairle: Can we have your question, please?

Deputy Mary Lou McDonald: -----or pensioners and afford them the opportunity to take a cut voluntarily. It is mandatory for the little people. The Taoiseach will not step up to the plate and use the instruments available to him to deal with this matter. That is indefensible and disgraceful.

The Taoiseach: The Deputy represents a party which for a long time did not recognise the Constitution, the State or the laws of this land. One of the laws of the land, which is still in operation, is the law regarding what pension rights actually constitute. This Government did not draw up, or allow to be drawn up, the contractual arrangements and obligations for extraordinarily high pensions for a small number of personnel in banks. That happened under a previous Administration.

In so far as the appointments made by this Government are concerned, they comply with the capping arrangements in place. I repeat for the benefit of the Deputy that the legal situation is that her pension is also a property right for her if she decides to draw it when she leaves this House or when she is removed from it in due course, which is a matter for the people to judge. It is not a case of the Government being able to say we are now reducing these pensions, because they are contractually arranged with the bank personnel for quite a number of years. Some of them have been in receipt of them.

We have made the point about premium payments and bonuses. Taxation is a matter for the Government to decide in respect of the drawing up of the budget for 2013. It is not a case of the Minister for Finance being able to say "yea" or "nay" to anybody's pension and that this is what it will be from now on. There are contractual obligations under a law drawn up, which this Administration had nothing to do with.

As far as appointments made to banks by this Government are concerned, they comply with the approval of the Minister for Finance in respect of the guidelines and caps which have been laid down. That will continue to be the case.

It is not good enough for the Deputy to speak as if she is the only one to represent the little people, as she calls them. I represent all the people of the country. We do not target sectors, as she does and as was done previously.

Deputy Thomas Pringle: The Taoiseach's programme for Government pays lip-service to tackling homelessness and pledges to put an end to long-term homelessness. This is all very noble but yesterday Focus Ireland highlighted the fact that rent supplement payments have fallen by 28% in the past three years while rental prices have remained steady and, in some cases, have increased, forcing people out of their homes. The Minister for Social Protection stated in the House that cuts to rent supplement would not result in additional homelessness,

but landlords are refusing to accept lower supplements, and without having any savings of their own, people are being evicted while others are being forced to give top-up or under-the-counter payments, putting further strain on their households. This is causing homelessness and it is as a direct result of the Government decision to cut rent supplement. Does the Taoiseach want to see the opening of more soup kitchens like the recent one in Athlone? Is this the kind of buy-in to recovery the Taoiseach is looking for from the people?

Some 97,000 households are dependent on rent supplement, and introducing any further cuts will mean more people will be left without a home. Some landlords are charging extortionate rates for their properties, but simply cutting rent supplement and waiting for it to sort itself out is not a solution. As long as there is a crisis in social housing, there will be a need for rent supplement.

People on low income, who have a clear housing need, should not be punished for this. It is up to the Taoiseach to solve this problem, but so far he has failed. The programme for Government states that prevention is better than cure. How does the Government plan to prevent this cause of homelessness? Will the Taoiseach commit to bringing forward the next scheduled review of the limits from June 2013, with a view to increasing the threshold for rent supplement to ease the urgent situation many families face?

The Taoiseach: The Government, through the Department of Social Protection, funds approximately 30% of the private rented sector. Currently, it is costing €430 million per annum. Deputy Pringle is well aware that it was necessary to put in some limits in respect of the rents being charged by landlords. The relationship between the Department is with the tenant and not the landlord, so a tenant applying for rent allowance does so in negotiation with the landlord. If the rent being charged is above the limit set down, then the tenant is advised to discuss that with the landlord with a view to reducing the rent or to seek alternative accommodation.

Some 42,000 people had their claims for rent allowance awarded this year, which proves the point that it is possible to have acceptable accommodation provided for tenants without breaching the limits set down. The new maximum rent allowance limits came into force on 1 January 2012 and will apply until June 2013. This has worked in 42,000 cases where the rent sought by the landlord was within the limit set.

This will move from the Department of Social Protection, which currently provides the rent supplement to housing authorities, to a new housing assistance payment scheme which will be introduced as part of the new housing Bill to be published next year. Those looking for suitable accommodation are advised to talk to the landlord in order that the rent is with the limits set. As I said, 42,000 have been awarded this year.

Deputy Thomas Pringle: The answer is "No". The Taoiseach said the State funds 30% of the private rented sector and went on to say that rental supplement is a payment made to tenants. Which is it? If the State is funding the private rented sector, then it can control rents, but it clearly does not. The Taoiseach said 42,000 cases were within the limits set. That is true, but there are also 42,000 cases which must pay top-ups or under-the-counter payments because tenants cannot get accommodation at a rent within the limits set.

The Government has increased the contribution from single tenants by more than 130% since 2008. That has meant that single tenants must increase their top-ups to their landlords by more than 130%. That is the situation in the real world in which people are living. They

must pay the top-ups, which landlords are demanding, out of their social welfare payments to keep a roof over their heads. That is leading to a situation where we see soup kitchens opening throughout the country. Is that a situation which the Government wants to see?

The Taoiseach: For somebody who is able to go to the High Court and the European Court of Justice and who still has not paid his household charge-----

(Interruptions).

The Taoiseach: -----it is a bit Irish.

Deputy Mattie McGrath: It is not Irish at all.

The Taoiseach: Let me invite Deputy Pringle-----

Deputy Mattie McGrath: It is a human right.

(Interruptions).

The Taoiseach: Maybe Deputy Pringle has put his finger on a button because he said many of these tenants are paying under-the-counter payments to landlords. Does he expect the State, through the Department of Social Protection, to continue to fund landlords whose tenants are expected to pay under-the-counter payments? If he has evidence of under-the-counter payments, I would advise him to bring it into the public arena-----

(Interruptions).

The Taoiseach: -----because the scheme provides that when the tenant applies for accommodation and rent supplement, he or she does so against these maximum limits which have been set. Where rent comes up for review or reassessment, it is against these limits that it is reassessed. Deputy Pringle has told us he has evidence of people who are being forced to pay under-the-counter payments to landlords.

*11 o'clock*The Deputy should expose that because that is not what this scheme is about. The scheme will last until June 2013 and will be moved to the local authority under the housing Bill, under which a new scheme of assistance payments for accommodation for tenants will be introduced. I await hearing the Deputy's evidence of the under-the-counter payments.

An Ceann Comhairle: That completes Leaders' Questions. We will proceed to the Order of Business.

(Interruptions).

An Ceann Comhairle: Members should remember we are in the House of Parliament. This is not a shouting match, like gurriers on a street shouting at each other. Please behave yourselves.

Order of Business

The Taoiseach: It is proposed to take No. 16*a*, motion re membership of committee; No.

16*b*, Animal Health and Welfare Bill 2012 [*Seanad*] - financial resolution; and No. 21, Personal Insolvency Bill 2012 - Report and Final Stages (resumed). It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 9 p.m. tonight and adjourn not later than 10 p.m.; Nos. 16*a* and 16*b* shall be decided without debate; and in the event a division is in progress at the time fixed for taking Private Members' business, which shall be No. 72 – motion re pensions and retirement lump sums (resumed), Standing Order 121(3) shall not apply and Private Members' business shall, if not previously concluded, be brought to a conclusion after 90 minutes.

An Ceann Comhairle: There are three proposals to be put to the House. Is the proposal that the Dáil shall sit later than 9 p.m. agreed to? Agreed. Is the proposal for dealing with Nos. 16*a* and 16*b* agreed to? Agreed. Is the proposal for dealing with Private Members' business agreed to? Agreed.

Deputy Micheál Martin: I am sure the Taoiseach will agree that the media play a critical role in our democracy, that a plurality of media is essential, that there must be diverse articulation of opinion across the board and that an over-concentration of media ownership in a democracy is potentially very harmful. Will the Taoiseach say when he expects the promised Consumer and Competition Bill to be published? Can he confirm that there appears to be some rowing back from the media dimension of that Bill, as I have read recently, and that there will not now be legislation dealing with media plurality and media ownership? It is not on the A, B or C list of proposed legislation.

The Taoiseach: I agree that the media are critical in how they present the issues of the day. Objectivity, clarity and truth are very important. However, I see many stories being spun in particular ways and I have no control over that. This matter is obviously important for every person in the country. The Consumer and Competition Bill will be published in this session-----

Deputy Micheál Martin: Media mergers legislation?

The Taoiseach: That is an element of the Bill that the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, will pilot through the House. The Minister for Communications, Energy and Natural Resources also has a role in respect of the Bill.

Deputy Mary Lou McDonald: We are going to the polls on Saturday to vote in the referendum on children's rights. Many citizens are very concerned about a number of matters. One of them is the family law courts and the lack of transparency and oversight in respect of their proceedings. When is it proposed to bring forward the Courts Bill? It would have been preferable to have had that legislation or the heads of that Bill published in advance of the referendum.

The second proposed legislative measure relates to the rights of adoptive people, the Adoption (Tracing and Information) Bill. Again, this matter is of enormous concern to adoptive people who feel their rights have been ignored for many years. Finally, one of the many vexed legacy issues arising from the historical mistreatment of children by this State is the issue of illegal adoptions. I understand the Minister has not yet met with the persons concerned. Can the Taoiseach indicate when that meeting might happen?

An Ceann Comhairle: The Deputy should only ask about legislation.

Deputy Mary Lou McDonald: Can the Taoiseach give an indication as to what the State response will be? I raise these issues because there are people who legitimately wish to under-

pin the rights of children but who have huge concerns in respect of the operation of the family law courts, the area of adoption and tracing and the continuing failure of the State to deal with illegal adoptions in the past.

The Taoiseach: The Minister for Children and Youth Affairs has already met with the Adoption Rights Alliance and other associations, and is in active discussions with them. The Adoption (Tracing and Information) Bill will be published early in the new year.

The Minister for Justice and Equality, Deputy Alan Shatter, is working actively on the issue of transparency in the courts, which has been raised by him over many years, with particular reference to the *in camera* rule and the difference between privacy and secrecy. We expect that Bill to be published within a few weeks. It is an important Bill.

Deputy Seamus Healy: A section of the programme for Government deals with the reform of third level education, but the first attempt at this has been a disaster. There are huge waiting lists and backlogs for approval of student grants. This has led to a situation where students are being threatened with their back-to-education allowance being cut off and with not being allowed to use information technology, IT, services in third level colleges. Will the Taoiseach allocate time for a full debate on the ridiculous situation that has arisen as a result of the centralisation of third level education grants?

An Ceann Comhairle: That matter can be dealt with in a Topical Issues debate. If the Deputy submits a Topical Issues matter, I will consider it.

Deputy Seamus Healy: The matter is covered in the programme for Government. The Taoiseach must be aware of the difficulties that have arisen and he could surely allow a discussion on it in the House.

An Ceann Comhairle: You can have a debate on it, but not on the Order of Business.

Deputy Seamus Healy: Will the Taoiseach allocate time for a debate on it?

An Ceann Comhairle: Ask your Whip. The Whips can discuss it at their meeting.

Deputy Seamus Healy: It is effectively the Government Whip who decides.

Deputy Finian McGrath: The proposed Health Information Bill is intended to provide a legislative framework for the better governance of health information. Is the Taoiseach aware that strong rumours are circulating in the disability sector about proposed cuts of between 8% and 10% over the next couple of weeks and that transport and respite care will be directly affected by this? With regard to yesterday's decision, €26 million was wasted on the Mater Hospital site. That money could have been used to fund disability services.

The Taoiseach: We could have used the €3 billion for the promissory note each year for the next ten years for many things too. The Deputy asked about strong rumours. I have no interest in rumours or speculation. That is a matter for Government decision, and the Government will make that decision in time for the budget in December. Anything else the Deputy hears is merely speculation or rumour, be it strong or weak, and I have no interest in that.

Deputy Patrick Nulty: Shortly after taking office the Government established a commission to examine the implications of the European Court of Human Rights decision on the A, B and C cases. There have been delays in the publication of that special working group's report.

Will it be published before Christmas and will it be debated in the House during this session? Does the Government intend to bring forward legislation to give effect to the X case judgment of 1992?

An Ceann Comhairle: Is there promised legislation on this?

The Taoiseach: The Minister and the Government set up an expert group to deal with the judgment in the A, B and C cases. That report has to be presented to the Minister for Health. When the Minister considers the report he will bring it to the Government and there will be an opportunity for a debate. The remit of the expert group was to present a range of options arising from the judgment in the A, B and C cases.

Deputy Willie O'Dea: In reply to Deputy Martin, the Taoiseach confirmed he expects to see the consumer and competition Bill this session.

The Taoiseach: Yes.

Deputy Willie O'Dea: The Taoiseach mentioned that the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, is piloting the Bill through the House but that there would be a role for the Minister for Communications, Energy and Natural Resources, Deputy Rabbitte. Media ownership goes to the heart of our democracy and perhaps the Taoiseach can give us an indication of the role of the Minister, Deputy Rabbitte.

When will the Government publish the legislation providing for a national DNA database?

The Taoiseach: That will happen in this session. When the Bill is published, the responsibilities of the Minister for Communications, Energy and Natural Resources and the Minister for Jobs, Enterprise and Innovation will be laid out.

Deputy Billy Kelleher: The national children's hospital is a flagship proposal that everyone welcomes and endorses. Will legislation be required to stop the unsightly leaks from Cabinet involving the Minister for Social Protection, Deputy Burton, and the Minister for Transport, Tourism and Sport, Deputy Varadkar, briefing anyone who will listen that they opposed-----

An Ceann Comhairle: Deputy Kelleher should hold on a second. He knows he is out of order and does not need me to tell him. The issue can be raised by way of parliamentary question.

Deputy Bernard J. Durkan: Can Deputy Kelleher say that with a straight face?

Deputy Ray Butler: What legislation does this concern?

Deputy Bernard J. Durkan: No laughing.

The Taoiseach: Deputy Kelleher did well yesterday.

Deputy Ray Butler: I will put a word in with Trim drama group, which is looking for an actor.

An Ceann Comhairle: Deputy Kelleher should resume his seat. He knows he is out of order. We are not playing games. I call Deputy Durkan.

Deputy Billy Kelleher: It is undermining credibility.

An Ceann Comhairle: Deputy Kelleher knows as well as I do that he is out of order, hav-

ing spent years on the Government benches. I ask Deputy Kelleher to resume his seat.

Deputy Billy Kelleher: It is like being attacked by dead sheep.

An Ceann Comhairle: I ask Deputy Kelleher to behave himself.

Deputy Bernard J. Durkan: The friendly societies and industrial and provident societies (miscellaneous provisions) Bill has been promised for good reason. Have the heads of the Bill been discussed in Cabinet and to what extent has progress been achieved?

On a related matter, considerable concern has been expressed by many charities and I am uncertain whether they will come within the remit of the Bill. Many legitimate charities are concerned about the need to update legislation with regard to charities. Will it be taken with this Bill or will a separate Bill be introduced?

The Taoiseach: The heads of the Bill were cleared last June and it will be next year before it is published. Deputy Kelleher welcomes the clarity and decisiveness of the Government in making the decision to build the national paediatric hospital on the site at St. James's Hospital, which-----

Deputy Billy Kelleher: And the dissenting voices in Cabinet.

The Taoiseach: -----puts an end to all the speculation. As many people have said, let us get on with it and build it in the interests of all of the children of our country.

Deputy Micheál Martin: The Taoiseach should keep Joan onside; the Tánaiste has not done so.

Deputy Bernard J. Durkan: What about the charities Bill?

The Taoiseach: I will revert to Deputy Durkan with the details on that Bill.

Deputy Michael Healy-Rae: On promised legislation, I am sure the Taoiseach is aware a gagging order has been placed on rank and file gardaí with regard to speaking about the closure of rural Garda stations. With regard to the criminal justice (victims rights) Bill, to strengthen the rights of victims of crime, there will be more victims of crime if our rural Garda stations close. What does the Taoiseach have to say about the gagging order on members of the Garda Síochána?

An Ceann Comhairle: The Taoiseach cannot say anything on the Order of Business, whatever about anywhere else.

Deputy Michael Healy-Rae: I am sure he has a view on the matter.

Deputy Brendan Griffin: Deputy Michael Healy-Rae and others stayed quiet for 14 years. Were they gagged as well?

The Taoiseach: I can confirm there was no gagging order. Deputy Michael Healy-Rae is vocal in carrying messages and he does it regularly. We do not yet have a date for the criminal justice (victims rights) Bill.

Deputy Brendan Griffin: I previously raised the issue of the Construction Contracts Bill, as have other Deputies. I raised it in the context of a major dispute on the N86, Tralee to Dingle

road, where people who worked on the road are not being paid even though it is being financed by State finance.

An Ceann Comhairle: I thank Deputy Griffin. That is a separate issue and Deputy Griffin should ask about the legislation.

Deputy Brendan Griffin: I repeat my call for the Bill to be prioritised because it is important-----

Deputy Michael Healy-Rae: Deputy Griffin is repeating my comment, which I made yesterday.

Deputy Brendan Griffin: I made it the week before, Deputy Michael Healy-Rae. I am always a step ahead. In the context of the roads (amendment) Bill, it is important provision is made for all workers on State jobs, particularly those funded by the NRA, that-----

An Ceann Comhairle: That is a topic for a parliamentary question.

Deputy Brendan Griffin: -----those working on the project should be covered for payment. No worker on a State job, funded by bodies such as the NRA, should go unpaid for the work done.

An Ceann Comhairle: That is grand. Deputy Griffin can table a parliamentary question.

The Taoiseach: The Construction Contracts Bill is awaiting Committee Stage in the Dáil and a great amount of work has been done on it. The roads (amendment) Bill will be taken next year.

Deputy Ray Butler: When will the education (admission to school) Bill be published, to ensure the process of enrolling by schools is more open, equitable and consistent? It is in connection with Trim being one of the pilot scheme areas for the patronage of school survey and Educate Together. There is confusion about the issue.

The Taoiseach: The heads of the education (admission to school) Bill are being prepared so it will be next year before it is published.

Deputy Jonathan O'Brien: When will the Criminal Justice (Spent Convictions) Bill be in the Chamber for discussion?

The Taoiseach: It will be taken in the new year. It is before the Seanad, awaiting Committee Stage.

Membership of Committee: Motion

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

That Deputy Michael Creed be discharged from the Select Committee on Justice, Defence and Equality and that Deputy Marcella Corcoran Kennedy be appointed in substitution for him.

Question put and agreed to.

Animal Health and Welfare Bill 2012 [Seanad] - Financial Resolution: Motion

Minister for Children and Youth Affairs (Deputy Frances Fitzgerald): I move:

That provision be made in the Act giving effect to this Resolution for the payment of a levy as respects-

(*a*) milk received for processing,

(*b*) an animal slaughtered in an establishment, registered or approved or required to be registered or approved for the purposes of an act adopted by an institution of the European Union, used for the slaughter of animals, or

(*c*) an animal exported live from the State.

Question put and agreed to.

Topical Issue Matters

An Ceann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Michael McCarthy - the need to regulate for cyberbullying; (2) Deputy Heather Humphreys - the need to introduce measures to support the pig and poultry industry; (3) Deputy Michael McNamara - the need to introduce measures to contain ash die back; (4) Deputy Paschal Donohoe - the steps that can be taken to ensure that banks pass on the additional mortgage interest relief; (5) Deputy Caoimhghín Ó Caoláin - the reconfiguration of hospital services in the south east; (6) Deputy Patrick Nulty - the centralisation of rent supplement applications; (7) Deputy Paudie Coffey - the proposed reconfiguration of the hospital networks; (8) Deputy Jonathan O'Brien - the impact of funding cuts to the COPE Foundation, Montenotte, Cork; (9) Deputy Paul J. Connaughton - the urgent need to retain an EAL support teaching post at Carrick national school, Ballinlough, County Roscommon; (10) Deputy Brendan Ryan - the need to assess coastal erosion at the Burrow, Portrane, County Dublin; (11) Deputy John Halligan - the possible re-configuration of hospital services in the south east; (12) Deputy Ciara Conway - the need to resist any plans to downgrade services at Waterford Regional Hospital; (13) Deputy Finian McGrath - cuts to disability services; (14) Deputy James Bannon - the need to provide additional temporary accommodation at Lanesboro College, Longford; (15) Deputy Pat Deering - the need to address anomalies in the back to education allowance; (16) Deputy Ann Phelan - the establishment of a DNA database in respect of indigenous ash plants; (17) Deputy Dan Neville - the report of the Ombudsman for Children on bullying; (18) Deputy Regina Doherty - the need to create a hardship fund for those who cannot afford new digital boxes following the switchover; (19) Deputy Mattie McGrath - the re-configuration of hospitals in the south east; (20) Deputy Áine Collins - the need to maintain a nationwide post office service;

(21) Deputy Noel Harrington - the imminent closure by the Courts Service of the court houses in Kinsale, Skibbereen and Clonakility, County Cork; (22) Deputy Eamonn Maloney - the need to acknowledge funding from the European Union's Peace III programme and to support the development of two interpretive centres in Northern Ireland; (23) Deputy Patrick O'Donovan - the need for the Department of Social Protection to update their processing system for payments; (24) Deputy Billy Kelleher - the possible reconfiguration of hospital services in the south east; (25) Deputy Michael Moynihan - the need to address concerns concerning rosters for EMTs in Cork; (26) Deputy Seamus Healy - the need to approve the cancer drug zytiga for inclusion under the medical card scheme; (27) Deputy Dessie Ellis - issues with the rent supplement scheme highlighted by Focus Ireland in its recent report; (28) Deputy Mick Wallace - current tax policy and the provision of foreign aid; (29) Deputy Richard Boyd Barrett - the new Teaching Council regulations and the impact on teachers in VEC schools; (30) Deputy Joan Collins - the report of the British National Audit Office on the storage of waste at Sellafield; and (31) Deputy Ciarán Lynch - the details to be included in the residential property price register.

The matters raised by Deputies Michael McCarthy, Noel Harrington, Richard Boyd Barrett and James Bannon have been selected for discussion.

Personal Insolvency Bill: Report Stage (Resumed)

Debate resumed on amendment No. 26:

In page 27, to delete line 32 and substitute the following:

"(I) is appropriate to the needs of the debtor or the debtor's family,".

- (Deputy Niall Collins).

Minister for Justice and Equality (Deputy Alan Shatter): Yesterday evening, I was about to start replying to points made on amendments Nos. 26 and 27, which are similar in seeking to raise the value, in the context of the qualifying criteria for a debt relief notice, of a car allowed to be retained by a debtor for his needs or the needs of dependants. The limit proposed in the Bill is a value of €1,200, or greater if the vehicle has been specially adapted in the context of use by a person suffering a disability. Deputy Pádraig Mac Lochlainn would raise the limit to €3,000 while Deputy Niall Collins appears to have no limit, with the only qualification that it is appropriate to the needs of the family. I am presuming the proposal of Deputy Niall Collins excludes a Maserati or another sports car as being appropriate to needs. He puts no limit on the amount. The amendment of Deputy Niall Collins is a quite meaningless concept. Some debtors may feel if it has been part of their lives for some years to drive a Mercedes and that it is appropriate they continue to do so for their family purposes. I explained the rationale behind the proposed limit of €1,200 on Committee Stage. As I explained during the discussion of other issues yesterday evening, it is unlikely that vehicles of a modest value would feature to any realistic degree in all of this or would be required to be sold or surrendered, unless the debtor wished to do so prior to an application for a debt relief notice or in the context of the granting of one. That outcome cannot be guaranteed, however. It is much more likely that a creditor would seize a vehicle of any significant value in payment of a debt. A car of significant value might encourage a creditor to get a court order against an individual in respect of a debt and the sheriff

could be sent to seize a vehicle. The process we have for the debt relief notice is designed to provide relief to debtors and not to assist them in the continued benefit of items that cannot be afforded or might be used to repay debt. In drafting the Bill we looked at other jurisdictions, but there is much that is unique to our legislation. In Northern Ireland and Great Britain, the maximum motor vehicle value is £1,000. What we are proposing is similar.

The basic philosophy behind the legislation is that someone who is in serious debt will do what they can to realise assets and discharge their debt. That is what happens in such circumstances. Debts of up to €20,000 would largely be to local shopkeepers or credit unions, who have a particular communal benefit. Such debtors would have borrowed money or failed to pay for services or product and that failure might put in financial difficulties the people who paid for the services or product. Debts should not be written off where there is an ability to discharge them. That is a reasonable proposition. A motor vehicle of a very modest nature and of limited value may be retained, but not something of unspecified value that an individual may have been used to driving in different financial circumstances or when they had substantially overreached themselves, that was the vehicle they wanted and no assessment was made as to whether it was affordable. This is about achieving the balance. I am opposed to amendments Nos. 26 and 27.

We are also discussing amendment No. 28, which is a technical Government amendment required to improve the construction of the section as a consequence of the insertion of the proposed new subsection (iii). Government amendment No. 29 is also a technical amendment required to correct an error in the text.

Deputy Niall Collins: I agree that people should have to trade down their vehicles. It is also reasonable to provide for a car that is appropriate to people's needs and the needs of their families, which is more important. Outside the greater Dublin area, Ireland is predominantly rural and a car is a necessity. It is not a luxury item.

Will the Minister consider this matter before the Bill goes to the Seanad for Report Stage, as was agreed with regard to the jewellery amendment which we discussed last night? We should be practical about this matter.

Deputy Alan Shatter: I am anxious to be practical, but I am conscious that we are both an urban and a rural society and that many more people lived in rural Ireland before there were as many vehicles on the road as there are now. Where someone is entering a system in which €20,000 of debt may be, effectively, written off to afford them an opportunity of a new start, they must take reasonable steps to realise assets to discharge a portion of the debt.

We had a constructive engagement on the issue we discussed last evening. I have undertaken to address that issue in the Seanad and to come back then to this House. I am not disposed, however, to revisit this figure. It is important that Deputies Collins and Mac Lochlainn do what they are doing and that we tease out the Bill. I am conscious, however, that all their amendments seem to be about increasing the value of items people in serious debt retain while having no regard at all to the position of creditors. As Minister, I must ensure there is a balance.

I know there is no monopoly of wisdom in these matters. In the neighbouring jurisdiction of Northern Ireland, the vehicle value was fixed, relatively recently, at £1,000. I am not persuaded that we should do something different here. We are not likely to see a creditor making an issue of whether a vehicle is worth €1,200 or €1,500. If, however, one expects to have €20,000 of debt written off, one must make a real effort, based on the assets one has, to discharge debt

where one can genuinely do so. We can argue about dividing lines on this issue, but I will stick to the provisions in the Bill. I envisage, however, that after the first year we will get a sense of how the legislation is working in practice and what difficulties are arising. If changes are required, I will not be slow to introduce them to ensure that we achieve the objectives of the legislation.

Deputy Pádraig Mac Lochlainn: One can get a much better car for £1,000 in the North, even allowing for the VRT differential, than in the South. That is almost identical to the amount allowed in the Bill.

The road network in the North is superior to that in many areas of rural Ireland, where one needs a reasonable car. I can only speak with knowledge of my own constituency of Donegal North East. In the rural areas of my constituency, one could not sustain a family, have a reasonable opportunity of attaining employment or deal with the necessities of family life without having a car. There is no public transport infrastructure.

I accept that we are trying to strike a balance. I said so last night. We have all been lobbied by credit unions and we know stories of small businesses that are unable to pay their employees because they have not been paid by their customers. I accept that a balance must be found. However, I urge the Minister to reconsider the figure of €1,200. It will not allow someone to have a car that would sustain a family in vast swathes of rural Ireland.

There may be a mid-way point. Perhaps €2,000 would be a reasonable figure. I ask the Minister to reflect on this issue. Some basic consultation with the Society of the Irish Motor Industry, SIMI, might help to strike a reasonable balance between the rights of a creditor and the needs of a family who have gone through an exhaustive process and demonstrated that they do not have the capacity to pay their debts. We want people to meet their responsibilities but we do not want to humiliate them.

Deputy Michael Healy-Rae: A Cheann Comhairle, will I talk to the Minister or is he reading his papers?

An Ceann Comhairle: You speak to the Chair, Deputy.

Deputy Alan Shatter: We were here all last evening. The Deputy did not join us. He should not think I am not listening to him. I can listen to him while reading a note.

An Ceann Comhairle: We will not have a dispute about it. The procedure is to address remarks to the Chair.

Deputy Michael Healy-Rae: The Minister can be assured I was tuned in to him. When it comes to the proposed figure of €1,200, there is an important aspect the Minister is not taking into account, and I mean this in a helpful way. In many rural areas a motor car will not do for the family - that family might need a four wheel drive jeep. In those cases, to get any type of reasonable, respectable jeep that would be roadworthy and safe to use and that would comply with the various tests for such a vehicle, there would be no hope of getting anything for €1,200. The price would be far greater than that. Every case is not the same. I urge the Minister, as other Deputies have, to review that figure. It might be fine for urban areas, where a person could buy a car for €600 and it would do perfectly well for a family. In the rural areas I know well, however, it would not do.

We also want people to be able to work their way out of their difficulties. By the nature of what they might have been involved in or hope to stay at to earn money, they might need a jeep, van or similar vehicle that could not be bought for €1,200. I respectfully ask the Minister to take that on board and remember many of those who find themselves in financial difficulties might have been contractors, farmers or involved in other businesses that would need such a jeep. If they are to work their way out of their difficulties, they might need to hold on to the vehicle they have. If it was worth more than €1,200, I would hate to see the wheels being taken out from under them. This is an important issue and a lot people would fall into this category.

Deputy Alan Shatter: I will leave it to Deputy Healy-Rae to go to his local credit union and explain to its board why a €5,000 debt should not be repaid by an individual who is driving around the constituency in a jeep. He might want to explain the financial implications of that to the other members of the credit union who are anxious to ensure its continued solvency and the availability of funding.

Deputy Michael Healy-Rae: That is a bit of a smart answer.

Question, "That the words proposed to be deleted stand," put and declared carried.

Amendment declared lost.

Amendment No. 27 not moved.

Deputy Alan Shatter: I move amendment No. 28:

In page 27, line 33, to delete ", or a dependant of the debtor," and substitute ", or his or her dependant,".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 29:

In page 27, lines 35 and 36, to delete "dependent" and substitute "dependant".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 30:

In page 27, between lines 36 and 37, to insert the following:

"(iii) where the debtor or his or her dependant is attending a course of primary or second-level education, books, materials and other items of equipment that are reasonably necessary to enable the debtor or that dependant, as the case may be, to participate in and complete that course,".

Amendment agreed to.

Deputy Pádraig Mac Lochlainn: I move amendment No. 31:

In page 27, after line 40, to insert the following:

"(7) The Minister for Justice and Equality shall, no later than 30 days after the enactment of this Bill publish detailed guidelines concerning the household equipment and appliances that are reasonably necessary to maintain a reasonable standard of living for

the debtor and his or her dependants, for the purposes of *section 24(6)(c)*.".

This is similar to the discussion yesterday evening. The amendment seeks a specific description of the household equipment and appliances that are reasonable. It would give direction to those drafting this.

Deputy Alan Shatter: My response to amendment No. 31 is similar to the response to the previous amendment No. 20 that we discussed yesterday evening. The major approved intermediary for the processing of applications for a debt relief notice, MABS, has the necessary expertise in devising in respect of each individual application and circumstance those household items that are essential for that person's domestic requirements. The insolvency service will work closely with MABS and other expert organisations to seek the necessary realistic and workable guidelines. In this context, it would not be wise to commit to a specific timeframe for the reasons I gave yesterday evening and, for that reason, I am opposed to the amendment.

Deputy Pádraig Mac Lochlainn: As I asked last night, is it the objective of the Minister to have guidelines provided when this process is instigated?

Deputy Alan Shatter: It will be for the insolvency agency in the context of the consultations it will have with MABS to advise on where it is appropriate to have detailed guidelines and where matters should be left in a general context to be worked out based on an individual's circumstances. Even within guidelines, there will be individual variations depending on background circumstances.

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 32 to 26, inclusive, are related and will be taken together.

Deputy Alan Shatter: I move amendment No. 32:

In page 29, to delete lines 1 and 2 and substitute the following:

"(*a*) he or she has ever been a specified debtor,".

Amendment No. 32 provides greater clarity on the eligibility for a debt relief notice and provides that a debtor is ineligible for a DRN where he or she has ever been a specified debtor. The text of this provision as it currently stands is not sufficiently clear in this regard.

Amendment No. 33 is a technical drafting amendment to improve the text of the Bill. Amendment No. 34 is also technical in nature to improve the quality of the text. Amendment No. 35 is a technical amendment that makes it clear it is the debtor who is being referred to here in case there was any ambiguity. Amendment No. 36 simply corrects a punctuation error in the text.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 33:

In page 29, line 4, to delete "in the period" and substitute "within the period".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 34:

In page 29, line 9, to delete "successfully" and substitute "has successfully".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 35:

In page 29, line 17, to delete "person" and substitute "debtor".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 36:

In page 29, line 24, to delete "subject" and substitute "subject,".

Amendment agreed to.

Deputy Pádraig Mac Lochlainn: I move amendment No. 37:

In page 30, line 25, after "particular," to insert the following:

"negotiation with a creditor or creditors with a view to restructuring the terms of a debt owed (including write-downs, reductions of interest rates, lengthening of maturities) to that creditor or creditors, whether as part of any arrears process or otherwise,".

The objective of this amendment is for the debtor to be advised of options that might not be in the Bill related to write-downs, reductions of interest rates and lengthening of maturities. It would ensure the debtor has full information before engaging in the debt relief process.

Deputy Alan Shatter: The amendment misses the point of the debt relief notice process. The approved intermediary is required to advise the debtor as to the consequences of the application, the criteria and whether a different debt resolution process might not be more appropriate to his situation. He will be in a position to consider all of these issues. Becoming a party to another debt process will likely involve the elements set out by the Deputy but there is no requirement to list them in this section, which deals with the provision of information and advice as to the debtor's options, not his potential negotiation strategy, to be arranged by a personal insolvency practitioner in another process. For that reason I am opposed to the amendment.

Amendment, by leave, withdrawn.

Deputy Alan Shatter: I move amendment No. 38:

In page 30, line 29, after "(if any)" to insert "that is prescribed".

This is again a technical amendment, whose purpose is to highlight that the application fees, if any, for debt relief notices will be prescribed in regulations.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 39:

In page 31, line 5, to delete "under this Chapter".

This is yet another technical amendment. I am advised by the Parliamentary Counsel that

the words "under this Chapter" are superfluous and should be deleted. I suppose one could argue that if they are superfluous we could have left them there, but Parliamentary Counsel's advices need to be followed, so I propose the amendment.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 40:

In page 32, lines 17 and 18, to delete "*paragraphs (a)* to *(c)*" and substitute "*paragraphs (a)* and *(b)*".

This is again a technical amendment that corrects a cross-referencing error in the original text.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 41, 95 and 139 are related and may be discussed together.

Deputy Alan Shatter: I move amendment No. 41:

In page 32, to delete lines 29 to 31 and substitute the following:

"(*d*) a schedule of the creditors of the debtor and the debts concerned, stating in relation to each such creditor—

(i) the amount of each debt due to that creditor, and".

These are drafting amendments recommended by the Parliamentary Counsel to improve on the presentation of these provisions. I do not believe they have any major substantive consequences, but it is important that we get the drafting right.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 42, 43, 96, 97, 140 and 141 are related and may be discussed together.

Deputy Alan Shatter: I move amendment No. 42:

In page 32, to delete lines 35 to 40 and substitute the following:

"(*e*) the debtor's written consent to—

(i) the disclosure to the Insolvency Service,

(ii) the processing by the Insolvency Service, and

(iii) the disclosure by the Insolvency Service to creditors of the debtor concerned, of personal data of that debtor, to the extent necessary in respect of the Debt Relief Notice process;".

The purpose of these amendments is to strengthen the Bill's provisions concerning the disclosure of the debtor's information for the purpose of his or her application for a debt relief notice, debt settlement arrangement or personal insolvency arrangement. It is important for data

protection purposes that the debtor gives written consent to the disclosure of his or her personal data to the insolvency service and to his or her creditors, and also to the making of further inquiries by the insolvency service in considering the debtor's application. The proposed amendments seek to improve on the current text to make clearer the consent provisions required.

Amendment No. 42 proposes the substitution of the existing text in section 26(2)(*e*) with new text that sets out more clearly the disclosure requirements. It provides that the debtor is required to give written consent to the disclosure of his or her personal data to the insolvency service, the processing of those data by the service and the disclosure by the service of those personal data to his or her creditors by the insolvency service to the extent necessary for the processing of his or her application for a debt relief notice.

Amendment No. 96 proposes the substitution of the existing text in section 54(2)(*f*) with new text which sets out more clearly the disclosure requirements regarding a debt settlement arrangement. Amendment No. 140 proposes the substitution of the existing text in section 98(2)(*f*) with new text that sets out more clearly the disclosure requirements regarding a personal insolvency arrangement. Amendment No. 43 replaces the existing text of section 26(2)(*f*) with new text that makes clear that the debtor's written consent is also required for the making of any inquiry by the insolvency service under section 27 in considering the debtor's debt relief notice application. For consistency, amendment No. 97 makes a similar amendment to section 54(2)(*g*) regarding debt settlement arrangements. Amendment No. 141 makes a similar reference to section 89(2)(*g*) regarding personal insolvency arrangements.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 43:

In page 32, to delete lines 41 to 43 and substitute the following:

"(*f*) the debtor's written consent to the making of any enquiry under *section 27* relating to the debtor by the Insolvency Service;".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 44:

In page 33, lines 14 and 15, to delete all words from and including "is" in line 14 down to and including "application." in line 15 and substitute the following:

"is reviewed under *section 28(2)* that would affect the debtor's eligibility for the issue of a Debt Relief Notice".

This is a drafting amendment that seeks to provide greater clarity as to the intention of the section and to ensure that it works as originally envisaged.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 45:

In page 34, line 23, to delete "be under a duty to".

I am afraid we are visiting the superfluous again. I am advised by the Parliamentary Counsel that the words "be under a duty to" are superfluous and should be deleted.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 46 and 47 are related and may be discussed together.

Deputy Alan Shatter: I move amendment No. 46:

In page 35, line 33, to delete "debts of" and substitute "debts in respect of".

These are again technical amendments recommended by Parliamentary Counsel to improve the drafting of the section.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 47:

In page 36, line 1, to delete "the fact that a" and substitute "the fact that the".

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 48 to 50, inclusive, are related and may be discussed together.

Deputy Alan Shatter: I move amendment No. 48:

In page 36, to delete lines 10 to 18 and substitute the following:

"(2) The appropriate court, on application to it by the Insolvency Service, may extend the supervision period where it is satisfied that such extension is necessary in order to allow the Insolvency Service to—

(*a*) carry out or complete an investigation under *section 37*, or

(*b*) take any other action it considers necessary (whether as a result of such an investigation or otherwise) in relation to the Notice concerned.".

The purpose of amendments Nos. 48 and 49 is to improve on the existing construction used in sections 31(2) and 31(3) to provide greater clarity. Amendment No. 50 provides for necessary and more specific cross-referencing in section 35(5) than is contained in the existing text.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 49:

In page 36, to delete lines 19 to 22 and substitute the following:

"(3) The appropriate court may extend the supervision period for the purposes of determining an application under *section 39*, *40* or *41*.".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 50:

In page 36, line 30, to delete "*subsection (2)* or *(3)*." and substitute the following:

"under *subsection (2)* or *(3)* or under *section 38(3)(c)*, *39(3)(c)*, *40(5)(b)* or *41(4)(b)*.".

Amendment agreed to.

Deputy Niall Collins: I move amendment No. 51:

In page 36, between lines 38 and 39, to insert the following:

"(*a*) contact the debtor seeking the repayment of the debt,".

Am I right in saying that the intention of my amendment is covered by 32(1)(*f*)?

Deputy Alan Shatter: Yes.

Deputy Niall Collins: On that basis, I will withdraw it.

Amendment, by leave, withdrawn.

An Ceann Comhairle: Amendments Nos. 52 to 56, inclusive, and 66 are related and may be discussed together.

Deputy Alan Shatter: I move amendment No. 52:

In page 36, lines 39 and 40, to delete "specified debt" and substitute "specified qualifying debt".

These are technical drafting amendments recommended by the parliamentary Counsel. They make clear that it is only the "specified qualifying debt" that is being referred to.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 53:

In page 37, lines 3 and 4, to delete "specified debt" and substitute "specified qualifying debt".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 54:

In page 37, line 6, to delete "specified debt" and substitute "specified qualifying debt".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 55:

In page 37, lines 10 and 11, to delete "specified debt" and substitute "specified qualifying debt".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 56:

In page 37, line 19, to delete "specified debt" and substitute "specified qualifying

debt".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 57:

In page 37, to delete lines 21 to 24 and substitute the following:

"(*a*) a bankruptcy petition relating to the debtor, or

(*b*) a summons under section 8 of the Bankruptcy Act 1988.".

This is a technical drafting amendment that seeks to improve the text of the Bill. I am advised that section 32(2)(*c*) is superfluous as the matter is already covered by the wording of section 32(2)(*a*).

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 58, 59, 98, 99, 142 and 143 are related and may be discussed together.

Deputy Alan Shatter: I move amendment No. 58:

In page 37, line 27, after "process" to insert "in respect of a specified qualifying debt".

The aim of amendment No. 58 is to ensure that section 32(3) will not prevent the initiation or continuation of tort claims or other legal proceedings that have no connection to a debt and may involve persons who have no connection to a debt. To better reflect the policy intention of this provision, the proposed amendment limits the effect of the exclusion to the specified debts in the debt relief notice. For consistency, similar amendments are proposed to the corresponding provisions regarding debt settlement arrangements in amendment No. 98 and regarding personal insolvency arrangements in amendment No. 142.

Amendment No. 59 deals with an issue related to amendment No. 58. The provisions of section 32(3) as drafted could be given a wide interpretation so as to prevent criminal proceedings or applications to court relating to criminal investigations being made against a person subject to a debt relief notice. It would be costly to the State if applications have to be made to the Circuit Court or High Court for leave, for example, to initiate a District Court prosecution. The amendment makes it clear that the existence of a protective certificate will not prohibit criminal proceedings against a debtor. For consistency, similar amendments are proposed to the corresponding provisions regarding debt settlement arrangements in amendment No. 99 and regarding personal insolvency arrangements in amendment No. 143. I am sure Deputies will appreciate it was never intended that there would be a bar on the initiation of criminal proceedings, where appropriate, because of an application for any of the debt relief mechanisms available under the legislation.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 59:

In page 37, line 31, to delete "deems appropriate." and substitute the following:

"deems appropriate, but this subsection shall not operate to prohibit the commencement or continuation of any criminal proceedings against the debtor.".

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 60 and 85 are related and will be discussed together by agreement.

Deputy Alan Shatter: I move amendment No. 60:

In page 38, to delete lines 1 to 10.

Amendment No. 60 proposes the deletion of section 32(7) and 32(8). These subsections apply where the debt relief notice is terminated and hence should be in section 42.

Amendment No. 85 makes the necessary amendments to section 42 to ensure the matter is properly addressed.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 61, 115 and 181 are related and will be discussed together by agreement.

Deputy Alan Shatter: I move amendment No. 61:

In page 38, lines 22 and 23, to delete "the level of" and substitute "the extent of".

These are drafting amendments which are required to ensure consistency in relation to the construction used in the Bill.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 62, 63 and 72 are related and will be discussed together by agreement.

Deputy Alan Shatter: I move amendment No. 62:

In page 38, line 27, to delete "by him or her or on his or her behalf" and substitute "by him or her, or on his or her behalf,".

These are technical amendments. Amendments Nos. 62 and 63 are designed to improve the presentation of the text. Amendment No. 72 is to improve the punctuation in section 38(4). It is important we get our punctuation right.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 63:

In page 38, lines 34 and 35, to delete "by him or her or on his or her behalf" and substitute "by him or her, or on his or her behalf,".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 64:

In page 38, line 38, to delete "€250" and substitute "€400".

I hope Deputies will welcome this amendment. Deputies may recall that during the Committee Stage debate on this section I undertook to re-examine the earned income threshold under subsection (3). As currently drafted, section 33(3) provides that where a specified debtor's income increases by €250 or more a month after the deduction of income tax, social insurance contributions and other levies and charges, the debtor is required to surrender 50% of that increased income to the insolvency service for the benefit of creditors. Having considered the matter further since Committee Stage, I now propose to raise the €250 per month limit to €400 per month. The proposed increase should act as an incentive for debtors who are the subject of debt relief notice to continue in employment or to seek to improve their employment situation during the supervision period.

Deputy Niall Collins: I welcome the amendment.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 65:

In page 39, lines 1 and 2, to delete all words from and including "during" in line 1 down to and including "effect" in line 2 and substitute "during the

supervision period concerned".

This is a drafting amendment to improve presentation of the text.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 66:

In page 39, line 6, to delete "specified debts" and substitute "specified qualifying debts".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 67:

In page 39, line 19, to delete "*section 34(2)*" and substitute "*section 34*".

This amendment corrects the cross reference in section 35 to section 34 and makes clear that all of section 34 and not just subsection (2) is being referred to.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 68:

In page 39, line 39, to delete "the Notice" and substitute "that Notice".

Amendment No. 68 is a drafting amendment which is designed to correct a grammatical error.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 69, 70, 76 and 80 are related and will be discussed together by agreement.

Deputy Alan Shatter: I move amendment No. 69:

In page 40, line 11, to delete "as it thinks fit," and substitute "as it deems appropriate,".

These are drafting amendments which are required to ensure consistency in relation to the construction used in the Bill.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 70:

In page 40, line 16, to delete "as the court thinks fit." and substitute "as it deems appropriate.".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 71:

In page 40, line 18, to delete "*section 41(4)(c)*" and substitute "*section 41(4)(d)*".

This amendment corrects a cross referencing error in the text.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 72:

In page 40, line 22, to delete "by the specified debtor or on his or her behalf" and substitute "by the specified debtor, or on his or her behalf,".

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 73 and 75 are related and will be discussed together by agreeemnt.

Deputy Alan Shatter: I move amendment No. 73:

In page 40, lines 27 and 28, to delete "in connection with a Debt Relief Notice." and substitute the following:

"in connection with the Debt Relief Notice concerned.".

Amendment No. 73 is a technical drafting amendment, the intent of which is to improve the construction used in section 39(1). Amendment No. 75 is also a technical drafting amendment recommended by parliamentary counsel to improve the text of the section.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 74:

In page 40, to delete lines 40 and 41 and substitute the following:

"(*b*) make an order for the compliance by the specified debtor concerned with an obligation under *section 33*,".

This is a technical drafting amendment recommended by parliamentary counsel to improve

the text. We believe it provides greater clarity as to the powers of the court.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 75:

In page 40, line 44, to delete "Notice," and substitute "Notice concerned,".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 76:

In page 41, line 1, to delete "as the court thinks fit." and substitute "as it deems appropriate.".

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 77, 78, 81 and 82 are related and will be discussed together.

Deputy Alan Shatter: I move amendment No. 77:

In page 41, line 12, to delete "are limited to the following matters:" and substitute "are the following:".

These amendments are to provide greater clarity in relation to the relevant provisions in the Bill.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 78:

In page 41, to delete lines 18 to 21 and substitute the following:

"(i) there is a material inaccuracy or omission in the Prescribed Financial Statement concerned, or other information provided, or documents submitted, by the specified debtor, or on his or her behalf, under *section 26*;".

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 79 and 83 are related and will be discussed together by agreement.

Deputy Alan Shatter: I move amendment No. 79:

In page 41, line 31, to delete "not followed." and substitute "not complied with.".

These are technical amendments required to improve the drafting of the Bill.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 80:

In page 41, line 42, to delete "as the court thinks fit." and substitute "as it deems appropriate.".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 81:

In page 42, line 10, to delete "are limited to the following matters—" and substitute "are the following—".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 82:

In page 42, to delete lines 14 to 17 and substitute the following:

"(*b*) there is a material inaccuracy or omission in the Prescribed Financial Statement concerned, or other information provided, or documents submitted, by the specified debtor, or on his or her behalf, under *section 26*,".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 83:

In page 42, to delete line 26 and substitute "not complied with.".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 84:

In page 43, line 3, to delete "or *34*" and substitute "or under *section 34*".

This is a technical drafting amendment which seeks to improve on the cross references to sections 33 and 34.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 85:

In page 43, between lines 3 and 4, to insert the following:

"(3) Where *subsection (1)* applies—

(*a*) the period during which the Debt Relief Notice concerned was in effect shall be disregarded in reckoning any period of time for the purpose of any

applicable limitation period (including any limitation period under the Statute of Limitations 1957) in relation to any proceedings or process in respect of a specified qualifying debt to which *section 32* applied, and

(*b*) the period for which any judgment against the specified debtor in relation to a specified qualifying debt has effect (whether under statute or rule

of court) shall, subject to the provisions of this Act, be extended by the period that the Debt Relief Notice was in effect.".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 86:

In page 43, line 12, to delete "delay—" and substitute "delay and, in any event, within 3 months—".

The purpose of this amendment is to make clear that the information is to be removed from the register of debt relief notices within three months of the discharge of the debtor from his or her debt.

I take this opportunity to inform Members that we intend to bring forward corresponding amendments in relation to debt settlement arrangements and personal insolvency arrangements in the Seanad. It is important that people know when they will come off the register. It is also important there is consistency in the Bill. These particular matters will be addressed in the Seanad, following which the Bill will return to this House for a brief session.

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 87, 154 and 194 are related and will be discussed together by agreement.

Deputy Pádraig Mac Lochlainn: I move amendment No. 87:

In page 43, line 43, after "intermediaries" to insert the following:

"and the withdrawal of authorisation of such persons".

The objective of this amendment is to provide added protection by the addition of the words "and the withdrawal of authorisation of such persons."

*12 o'clock***Deputy Alan Shatter:** I thank Deputy Mac Lochlainn for raising this point. There is substantial merit in this proposal and it would appear sensible to add this provision in regard to approved intermediaries. I am advised by the Parliamentary Counsel that it would be prudent to await the final determination of the regulatory approach to personal insolvency practitioners which may lead to further adjustment of this particular section. I intend to address this matter when the Bill is going through the Seanad and I ask the Deputy whether this assurance is sufficient for him to withdraw the amendment.

Amendments Nos. 154 and 194 relate to the regulation standards, conditions and conduct of personal insolvency practitioners in the operation of the new debt settlement arrangement and the personal insolvency arrangement. I have received the approval of the Government that the insolvency service will be responsible for the direct regulation of the personal insolvency practitioners. I wish to make it clear in response to the many representations I have received in this regard that we will not impose any particular restrictions on the type of professions of persons who will be licensed to perform this function. Normally, looking at the experience in other countries, such insolvency practitioners tend to be accountants or lawyers. They can also be other professionals from the broad financial services sectors. Many of these will be regulated as appropriate by the Central Bank for the provision of other financial services. This is the approach I intend to take. Suitable persons meeting the normal fit and proper criteria and having indemnity insurance will be able to apply for registration on an individual and not on a corporate basis.

I will bring forward a new Part when the Bill goes through the Seanad to replace the cur-

rent Part 5. The new Part will, by its nature, contain an extensive number of sections. I expect, subject to our consultations with the Parliamentary Counsel, that many of these regulatory provisions exist in our legislation and can be utilised and adapted appropriately to persons undertaking the work of personal insolvency practitioners. Deputies may wish to withdraw their amendments on the assurance they will be taken into account in preparing the final text.

I very much appreciate the proposals made in the amendments because they are assisting in the process in which we are engaged. I had hoped to have for Report Stage the amendments required for the personal insolvency practitioners, but a substantial amount of work had to be undertaken with regard to their formulation and certain policy decisions had to be made which required consultation with the Central Bank. We were very anxious to ensure we made progress in order that the legislation is enacted before the end of the year, and we are probably ten days or so away from the Office of the Attorney General finalising the required amendments. We will bring forward to the Seanad the amendments required, and after the Bill has completed its passage through the Seanad, it will revert to this Chamber afford Members an opportunity to consider the provisions that are be made.

Amendment, by leave, withdrawn.

Deputy Alan Shatter: I move amendment No. 88:

In page 48, line 8, to delete "prepare" and substitute "complete".

This is a technical drafting amendment to improve the language of the Bill. I assume the Deputies are happy that we make it.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 88*a*:

In page 48, lines 17 and 18, to delete all words from and including "and" in line 17, down to and including "be," in line 18.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 89:

In page 48, line 33, to delete "6 years" and substitute "5 years".

This amendment corrects an error in the text. The reference to a six year "look forward" period in relation to a personal insolvency arrangement is incorrect. It should be a reference to five years rather than six years.

Amendment agreed to.

Deputy Pádraig Mac Lochlainn: I move amendment No. 90:

In page 49, line 7, after "domiciled" to insert "and ordinarily resident".

The intent of the amendment is to broaden the definition. It is self-evident.

Deputy Alan Shatter: It is not clear from the Deputy's amendment whether it is "and ordinarily resident" or "or ordinarily resident" which is intended to be added to the text in section 53. In either case the amendment is not desirable. The current text of the provision deals

with ordinary residents in the next paragraph. I am advised one cannot state that "domicile" encompasses "ordinarily resident" as it does not necessarily do so. The two concepts are different and separate. Being domiciled in the State means having a fixed and permanent home here with, crucially, an intention of remaining here or returning if absent. To change one's domicile would mean moving to another jurisdiction and intending to remain there permanently or at least indefinitely. A person being ordinarily resident in the State means he or she resides here, which is largely a factual determination based on previous residence patterns. It is possible to be domiciled in the State without being ordinarily resident here and *vice versa*.

Sections 53(1)(*a*)(i) and 53(1)(*a*)(ii) provide for alternatives. A debtor can either be domiciled in the State or ordinarily resident in the State or have a place of business in the State. In this context I refer the Deputy to section 53(1)(*a*)(ii). To add "ordinarily resident" to section 53(1)(*a*)(i) would make the provision and possible alternatives unclear and introduce uncertainty and complications unnecessarily. In the circumstances, I ask the Deputy to consider withdrawing the amendment. Either way I cannot accept it.

Deputy Pádraig Mac Lochlainn: For clarification it is "and ordinarily resident". It is to strengthen the provision. I do not know whether this changes the Minister's perspective.

Deputy Alan Shatter: The problem is one would need to be both domiciled and ordinarily resident whereas by being ordinarily resident, one can invoke the measures. I can be ordinarily resident in Ireland and have a domicile in France. I could have come here to live for a few years and be ordinarily resident here, but it is my ultimate intention to return to France which is my domicile of origin. If the words proposed were included, it would add complications which I believe are unnecessary. In the circumstances, I cannot accept the amendment.

Amendment, by leave, withdrawn.

Deputy Pádraig Mac Lochlainn: I move amendment No. 91:

In page 49, line 12, after "insolvent" to insert the following:

", or clearly unable to pay his or her debts as they fall due and it is unlikely that he or she will do so for the duration of the payment plan, as certified by a Personal Insolvency Practitioner".

Amendment put and declared lost.

Deputy Alan Shatter: I move amendment No. 92:

In page 49, to delete lines 18 to 24 and substitute the following:

"(*d*) that the personal insolvency practitioner has completed a statement under *section 50* in respect of the debtor;".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 93:

In page 50, to delete lines 8 to 15.

Amendment agreed to.

Amendment No. 94 not moved.

Deputy Alan Shatter: I move amendment No. 95:

In page 50, to delete lines 41 to 43 and substitute the following:

"(*e*) a schedule of the creditors of the debtor and the debts concerned, stating in relation to each such creditor—

(i) the amount of each debt due to that creditor, and".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 96:

In page 51, to delete lines 1 to 6 and substitute the following:

"(*f*) the debtor's written consent to—

(i) the disclosure to the Insolvency Service,

(ii) the processing by the Insolvency Service, and

(iii) the disclosure by the Insolvency Service to creditors of the debtor concerned,

of personal data of that debtor, to the extent necessary in respect of the Debt Settlement Arrangement procedure provided for in this Chapter;".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 97:

In page 51, to delete lines 7 to 9 and substitute the following:

"(*g*) the debtor's written consent to the making of any enquiry under *section 55* relating to the debtor by the Insolvency Service.".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 98:

In page 54, line 36, after "process" to insert "in respect of a specified debt".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 99:

In page 54, line 40, after "Arrangement" to insert the following:

", but this subsection shall not operate to prohibit the commencement or continuation of any criminal proceedings against the debtor".

Amendment agreed to.

Deputy Niall Collins: I move amendment No. 100:

In page 55, to delete lines 18 to 22 and substitute the following:

"58.—(1) Where a creditor or debtor is aggrieved by the issue of a protective certificate that creditor or debtor may, within 14 days of the giving of notice of the issue of the protective certificate, apply to the appropriate court for an order directing that the protective certificate shall not apply to that creditor or debtor. On such application, the Court shall make such order as seems just and reasonable taking into account all the circumstances of the debt.".

I seek to insert amended wording that will effectively allow debtors to have recourse to the court if they feel the protective certificate, as issued, is inadequate. It is to give the debtor a greater say.

Deputy Alan Shatter: I am a little confused by this proposal. Deputy Collins raised a similar point on Committee Stage in regard to adding a reference to the debtor being able to object to the court in regard to the issuance of a protective certificate. The only reason a protective certificate would be issued is to protect the debtor. Therefore, it is difficult to understand how the debtor would object to being given the protection he or she requires. My answer to this proposal remains as it was on Committee Stage. There is no need to extend this appeal facility to the debtor as the debtor would not be aggrieved by the issuance of a protective certificate sought on his or her behalf by an insolvency practitioner. The provision of such a certificate is essentially for the benefit of the debtor, and it is not to his detriment. If the certificate were not issued, it would leave the debtor vulnerable to a court application or court proceedings in respect of an outstanding debt he was trying to have dealt with through debt settlement procedures.

I do not understand how this issue arises. I appreciate there may be a misunderstanding over it. We touched on it on Committee Stage. What is proposed in the amendment would make no sense and would erect a barrier to effective discussions to bring about a settlement of debt issues. Therefore, it would practically defeat the purpose of the protective certificate mechanism and substantially undermine any role that might be undertaken by an intermediary to bring about debt resolution.

The Deputy seeks to make a further addition in regard to how the court should make orders, taking into account all the circumstances of the debt. First, it is objectionable to suggest the court would not operate on a just and reasonable basis. Second, the Deputy's proposed addition might risk a court rejecting the protective certificate sought for the protection of the debtor. We must remember the protective certificate is only a temporary remedy to create an environment that might facilitate debt resolution. I do not believe the Deputy really desires to achieve an outcome that might encourage courts to reject protective certificates. I do not want to score some cheap political point by suggesting that is his intention as I believe there is a misunderstanding over this matter.

Deputy Niall Collins: Could the Minister clarify one point?

Deputy Alan Shatter: Yes.

Deputy Niall Collins: If the intermediary draws up the arrangement with the debtor, can the insolvency service alter that arrangement prior to presenting it without recourse to the debtor?

Deputy Alan Shatter: No. The insolvency service cannot do so.

Deputy Niall Collins: That is satisfactory.

Deputy Alan Shatter: The process envisages that on the issuing of a protective certificate, engagement may occur to resolve matters using the intermediary between debtor and creditor. Ultimately, if things work out based on the provisions of the legislation, an agreement will be reached as to the debt resolution mechanism and the arrangements thereunder. The matter will then be passed to the insolvency service, which will ensure the documentation furnished is in order and complies with the parameters of the legislation and the requirements have been met fully. If there is any doubt as to whether the appropriate agreement is reached, the insolvency service can raise that issue. In tabling this amendment, the Deputy may have misunderstood the process.

Amendment, by leave, withdrawn.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 101 and 144 are related and are to be discussed together.

Deputy Alan Shatter: I move amendment No. 101:

In page 55, line 29, to delete "the order" and substitute "an order".

The amendments are technical drafting amendments to improve the clarity of the text of the Bill.

Amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 102 and 148 are related and are to be discussed together.

Deputy Stephen S. Donnelly: I move amendment No. 102:

In page 57, between lines 6 and 7, to insert the following:

"(*b*) in the first three years post enactment of this Act, the maximum duration of a Debt Settlement Arrangement shall be limited to 36 months, after which, and on return to normality, the period should be increased again to 60 months;".

The Minister and I have discussed this previously. The objectives of these two amendments are job creation and economic growth. I broadly support the Bill but my concern is that while the periods for debt settlement and personal insolvency arrangements of five years and six years, respectively, are not unreasonable for a business-as-usual economy, we are dealing with a unique set of circumstances. A large number of people with unsustainable debts who would normally be highly economically productive are in their current circumstances almost entirely because of the bubble. If many of these people are subject to an arrangement covering five years or six years, they will be taken out of economic productivity in a very substantial way. If, for the next three years, people begin to move into this process and are not cleared out of it for six years, almost a decade will have elapsed by the end of it. Many entrepreneurs will be affected. Inevitably, some of those who took risks during the bubble will be trapped.

An interesting fact I heard recently is that the average age of founders of successful start-up companies in the United States is 39 years, which is probably the average age of those affected by the property collapse, unsustainable mortgages, job losses, and so on. With regard to those

who have debts as a result of the collapse of the bubble, there is no moral hazard issue at all. None of those concerned will seriously consider borrowing again sums of money as great as those they borrowed during the bubble. For the sake of economic growth, existing household debt needs to be cleared as quickly as possible. Therefore, I propose that, for a limited period, the debt settlement and personal insolvency arrangement periods be no more than three years. The Minister referred to the United Kingdom several times and we talked about the value of the car and the debt relief notice. He was benchmarking against the United Kingdom. As he is well aware, the United Kingdom has a bankruptcy period of one year, potentially with an income attachment of two years. In this case, I would be more than happy to benchmark against the United Kingdom.

The amendments are important. If there were another way to address this matter, I would certainly urge the Minister and his team to consider it. Asking people to go through a six-year period to clear existing debt represents a huge missed opportunity to clear out unsustainable household debt in the economy and begin driving job creation and economic growth.

Deputy Alan Shatter: The Deputy's amendments seek to reduce the maximum duration of a debt settlement arrangement from 60 to 36 months and in the case of a personal insolvency arrangement, from 72 to 48 months. I have no doubt that these proposals are motivated by a desire to assist people struggling with debt to return to a more normal situation. However, normality can be a difficult concept to define. The debt settlement arrangement process will allow debtors to enter into a consensual arrangement to resolve debt issues which, in this instance, relate to unsecured debt. In circumstances where, at the end of the period, an amount of the debt may well be forgiven or wiped out, there must be some incentive for creditors to enter into such an arrangement. This is provided by way of a significant specified timeline for some payments to be made. The time provision in the debt settlement arrangement mirrors similar timeframes allowed for the settlement of unsecured credit in other common law jurisdictions. It permits a reasonable period for the debtor to make payments to creditors and receive the likely discount on his or her debts. The Deputy's proposal to shorten the period to 36 months could make it difficult to facilitate the conclusion of an arrangement in many cases. Moreover, it might well be counterproductive in that it would offer a major disincentive to creditors to agree to a settlement.

Similar considerations apply in regard to the personal insolvency arrangement, which is a unique process not replicated elsewhere. The proposed duration period of 72 months is of a reasonable length for the debtor to fulfil the terms, which may include significant debt write-offs by secured creditors. As I have said on other occasions, we are dealing here with debtors whose financial circumstances are extraordinarily difficult, who might be in substantial negative equity and who have no realistic prospect, based on their income and resources, of being able to cope in the near to middle term with their repayments. In some instances - not all, but some - the only way forward for such individuals, both in their own interests and in terms of financial institutions crystalising the reality of non-recoverable debt, will be debt forgiveness as opposed to debt forbearance, that is, the writing off of some level of debt. Where that occurs, there must be an identifiable reasonable period of time during which the new arrangements work and an assurance that payments will be received in the context of the arrangements into which the parties have entered.

We have fixed the durations we regard as appropriate in the context of our debt resolution measures as the best means of ensuring consensus between debtors and creditors. I very much acknowledge the Deputy's position on this issue and the sincerity with which he has made

his case. In addressing the problems facing this country, we must not only ensure there is a reasonable relationship between State expenditure and State income but we must, in addition, do everything possible to get the domestic economy motoring to a substantially greater extent than is currently the case and give people who are weighed down with debt a genuine hope of reorganising their lives in circumstances in which their income now and for the reasonably foreseeable future renders it impossible for them to meet their levels of indebtedness. These are clear and important objectives.

We must also bear in mind that this legislation is not simply about those in mortgage difficulties. Its function, rather, is to deal with the broad range of insolvency circumstances in which people may find themselves. The personal insolvency arrangement is applicable where there is a mixture of secured and unsecured debt, while the debt settlement arrangement relates exclusively to unsecured debt. We must incentivise creditors to agree to what are effectively personal reorganisations or recalibrations of the financial circumstances of customers who are in debt distress. In other words, we must incentivise creditors, where it is necessary, desirable and appropriate so to do, based on a full and frank financial disclosure of the income, assets, resources and liabilities of a debtor, to do a deal. Such deals will involve an agreement to a write-off, where appropriate, of a portion of what is due in return for an assurance that the remaining portion will be paid over a reasonable period. For some debtors, two or three years will not be a reasonable period. They will require greater latitude in order to ensure they retain for themselves the funding necessary to meet reasonable expenses, which includes not only their own personal outgoings but, where applicable, those of dependent spouses, partners or children.

The elasticity in this arrangement will be beneficial for debtors. A shorter period, on the other hand, might encourage creditors, even where they agree to some level of write-off, to demand that a larger amount be paid within a shorter period, which might not be financially feasible and could render it impossible for some people to avail of a debt settlement arrangement or personal insolvency arrangement, thus leaving them with no choice but to go into bankruptcy. It is vital that people are not unduly burdened in circumstances where there is no reasonable prospect of their being able to meet their overall indebtedness, but we must ensure there is a period during which creditors are assured of receiving at least a portion of what is due to them. In the case of mortgage debt, where there is debt forbearance over a sufficiently elongated period to allow people to get their finances in order and where that forbearance may involve a discharge of a portion of unsecured debt, there must be the prospect for the financial institution that payments of an additional nature will be made at the end of the five years.

What we are saying here is that if debt forgiveness is granted, there must be some period during which the new arrangement that is put in place is abided by and is seen to work. Take, for example, a household in serious negative equity where there were previously two incomes but now there is only one, and that substantially lower than what it might have been in 2005 or 2006. The financial institution, having examined the household's financial position and taking account of the current property value, might conclude that it is not realistic financially to expect the debtor in question to discharge his or her capital debt in full. The bank will weigh this option against the losses it would suffer were it to repossess the property and sell it at a loss. One of the objectives of the legislation is to ensure that where people who are in financial difficulties are living in properties deemed reasonable in terms of their family requirements, as opposed to large mansions, they must be facilitated to retain their home. We are seeking to ensure that such persons do not fall into bankruptcy and do not lose their home. Under the various options for personal insolvency arrangements that we are providing, there might be some type of incentiv-

ised debt forgiveness mechanism whereby, for instance, a debtor complies with an agreement to pay a certain portion of interest and capital in years one and two on the basis that if his or her financial circumstances do not improve, the financial institution will, in year three, agree formally to write off a portion of the capital debt. Likewise, an institution might agree, over a period of five years, to write off particular portions of capital debt.

The timeframes set out in the Bill are reasonable. I could argue the concerns the Deputy is making, but I do have concerns that may result in creditors not agreeing to arrangements because their perspective may be that if it was more elongated they would recover more. It may act as a disincentive to some creditors engaging. It may force some families and individuals into bankruptcy who may be kept out of that. Some of this is based on human conduct and how people may respond to and deal with new mechanisms. However, as I have said on other issues, we will keep the workings of this under review. We will look carefully at how it is functioning. I would expect the insolvency service to produce a report at the end of the first year as to how things are working. I expect we will have active personal insolvency practitioners who see at the coal face the extent to which creditors, including financial institutions, are co-operating. The issue of the co-operation of financial institutions in this is something that the Financial Regulator is keeping under a watchful eye. We have had reports on the extent to which financial institutions are currently engaging with debtors. In the context of the architecture of this legislation, there will be an overview of the possibilities of agreed debt resolution.

What we have here is practical and reasonable and holds out the maximum possibilities of engaging creditors. I am aware, as is the Government, of the importance of those who are currently weighed down by debt not only having hope for the future but also having some of the burden relieved so they become active participants in the wider economy. That clearly is an important issue but I am afraid that at this stage I cannot accept the Deputy's amendments, although I know they have been tabled in good faith. It is important that we tease this out publicly and discuss it, however, so I thank the Deputy for giving us an opportunity to do so.

Deputy Stephen S. Donnelly: I thank the Minister for his comprehensive response. I appreciate the spirit in which he is trying to set these limits. I also appreciate that he is trying to achieve a delicate balance. From what I have heard, I understand the Minister's position to be that it has to be that long - five or six years - to make it worthwhile for banks or other creditors.

Deputy Alan Shatter: There are a lot of other creditors out there. They are not all banks.

Deputy Stephen S. Donnelly: Absolutely. I appreciate that but we have to make it worth their while. Therefore in a business-as-usual situation I do not think these are necessarily unreasonable. However, we do know how the banks have been behaving to date. We are all dealing with this in our constituencies. FLAC, New Beginning, MABS and others are dealing with some very objectionable behaviour from the banks. I was dealing with a case late last night where a bank brought in solicitors but did not tell the borrower in advance. They scared the daylights out of her with all sorts of threats. It is going on every day and we are all well aware of it.

As the Minister knows, the purpose of the amendments is not to shorten the time permanently; they are for a time-limited period. This is in the spirit of clearing out household debt. Therefore, while I did not believe the Minister would necessarily accept my amendments, I would like to offer three ways in which the spirit of what I am trying to achieve might be considered. Let us take the case of a lady I met recently in Wicklow town where she bought a house

which is now worth about one third of what she paid for it. She became very ill and as a result had to give up her job. She was three years out and is ready to resume work but there is no work available. Meanwhile, the bank is moving to take the property off her. I have looked at the numbers and they are not sustainable. In that situation there is no public good to be served by keeping that lady in a six-year process. We could argue that the bank needs an incentive to make a deal with her but if she is put into a six-year process she is not necessarily going to look for work. She is not going to try to better her own economic situation if she believes that everything she does will be taken by the banks. There are a large number of current unsustainable debts for which the public good is best served by getting people out of that situation as quickly as possible. Between the Minister, Deputy Shatter, and the Minister for Finance, additional pressure can be brought to bear on the banks, many of which we own. We can instruct them to act as we see fit.

I would like to suggest three things for the Minister's consideration. The first is that the settlement period should begin from when the arrears started. I appreciate that there is potentially a moral hazard issue, but that system is used in the UK. I would hate to see a situation whereby the debt becomes unsustainable, somebody goes into arrears and they spend six months trying to work it out with the bank. They then go to the personal insolvency professional and there follows several months of negotiation, and it is a year after the debt becomes unsustainable that the five or six-year period even begins. I would like the Minister to take a look at that - to get the period to start as quickly as possible.

The second point concerns guidance from the Minister and the Government. The legislation contains the phrase "no more than five years" or "no more than six years", so deals of one, two or three years could be done. The Minister and the Government should provide clear guidance to the personal insolvency professionals, courts and banks to the effect that in situations where there is clearly no public good - as per the example I just gave and there are many more - it is the Government's intention that the maximum duration periods would not be used. What I am hoping to achieve in terms of job creation and economic growth, could be achieved through clear direction from the Minister as to the use of the period. There is latitude here for the personal insolvency professionals, courts, debtors and creditors to use whatever period they see fit.

The third point concerns additional income. I note that in the debt relief notice the amount a person can take - as we discussed earlier - is 50% of net income. Therefore, if a person earns €1,000 a month and taxes and levies take €500 of that, they get to keep €250 while giving €250 to the creditor. If deals are done whereby during the five or six-year period somebody has to give up half or more of the net amount to the bank, we are essentially talking about a marginal tax rate of 75%, 80% or 85%. Some 50% goes to the Government, while another 25%, 30% or 35% goes to the bank so one is left with 15% or 20%. It is clear that if we apply what would essentially be a marginal tax rate on new work of 80%, people are not going to work the extra hours. Neither will they go back to college to get extra qualifications in order to increase their income if some 85% of it goes to the Government and the banks.

Those are the three things I would like the Minister to consider. First, arrears should be started as early as possible. Second, clear guidance should be provided that the legislation is setting a maximum of five or six years. We all know the banks will drive it and will throw the most expensive lawyers, analysts and accounts at this to set a precedent at the start. They will want to anchor these things at the maximum amounts. Clear guidance from the Minister on this would be incredibly useful to people with unsustainable mortgages. Third, the Minister should also provide some guidance on leaving the debtor with sufficient additional income during the

period, so that it is worth their while upskilling, training, retraining and working hard.

Deputy Alan Shatter: I will reply, first, to the Deputy's example of his constituent in Wicklow. The answer to that is blindingly obvious and the financial institutions will have to address that issue properly. Where someone has either no income or a reduced income, their only asset is the family home which has dropped in value by two thirds and is therefore in negative equity, and where the individual has no other source of income or other asset, financial institutions have two choices. They could try to repossess the home where there are arrears. If so, all they will realise when they sell it, if they can sell it at all, is one third of the value.

Deputy Stephen S. Donnelly: That is exactly what they are doing.

Deputy Alan Shatter: It will not recoup the extra two thirds and if that individual has no other assets, even if the institution is not willing to write off formally the outstanding debt, there is no way it will ever recover it. For individuals in this position, there is one message and one message only to the financial institutions, which is to use the personal insolvency arrangement, PIA, to effect what Members call debt forgiveness and which everyone outside this House refers to as being when one writes off a portion of the capital debt. There is nothing to be gained by the bank in doing anything other than that and it is better off doing this if the circumstances bring about a position in which the individual can now start repaying both capital and interest on what remains of the capital debt. In such circumstances, the bankers save the cost of repossessing a property, of securing the property and of engaging agents to sell the property when possibly, because it has been repossessed, it might go at an even lower price than market value. Were the banks to start repossessing homes of individuals in such circumstances, all they will do is to undermine further the security they have in other properties held in the residential home mortgage sector or even in the purchase-to-let sector.

Consequently, I will repeat yet again what I have stated previously in this House, which is the financial institutions must use this legislation to engage with people whose financial circumstances are so burdened that there is no realistic possibility of them ever being able to discharge the capital sum due on their homes, where they are in negative equity and where they cannot afford to make the repayments. It is not about people who will not pay; it is about those who cannot pay. Moreover, the personal insolvency arrangement is designed to ensure that in such circumstances, where it is appropriate, fair and reasonable, that individuals will retain their homes. The benefit to the individuals is they will retain their homes and there is a rearrangement of debt. Effectively, the personal insolvency arrangement is a form of personal examinership and recalibration of financial circumstances.

I am anxious to ensure that whatever the position has been of the financial institutions heretofore, that they do so engage. The Deputy gave an example of an event of which he has experience. There is a difficulty, which is that in the first instance, the financial institutions must apply the provisions of the legislation although in fairness, the legislation has not been enacted yet. However, once it has been enacted, we will be in a different and new world. Second, the financial institutions must ensure they have staff within the institutions who have the skill to deal with this in a sensible, commonsensical and humane manner, as well as in a way that is financially appropriate with regard to both financial institutions and individuals. There is no point in making a pretence that one can recover a debt in circumstances in which there has been a full-faith disclosure and one knows there is nothing from which one can recover it. In such circumstances, one enters into an appropriate discussion with the personal insolvency practitioner and appropriate arrangements should be reached. If banks and financial institutions fail to

engage constructively in using these mechanisms, I will not be slow to return to this House and to do anything that is necessary to ensure this occurs.

However, I believe we are heading into a different set of circumstances. I believe that within the financial institutions, in circumstances that are appropriate to debt forgiveness, there has been too much kicking the can up the road and only dealing with what is short to medium-term debt forbearance. However, each of these issues must be dealt with based on the individual background circumstances of the individuals concerned, with a full good-faith financial disclosure into which everything fits, including income, resources, assets and liabilities, as well as with a degree of expertise within the financial institutions to ensure a uniform approach is taken in the context of similar circumstances and that people are not unnecessarily frightened.

However, there are other issues. Some individuals who are in debt are not engaging with their financial institutions and are simply ignoring any correspondence they receive. It is important that there be constructive engagement and that these mechanisms are used. I revert to the issues raised by the Deputy as to whether one could start the timeframe for a PIA from the date someone begins to go into arrears. I believe the Deputy primarily is referring to a PIA, as opposed to the debt settlement arrangement.

Deputy Stephen S. Donnelly: Yes.

Deputy Alan Shatter: I believe the answer to this is one could not. For example, in the current climate some people may have been in arrears for the past three years and while the banks have not dealt with overall settlements, they have engaged in substantial forbearance for tens of thousands of people. This is a reality. Members properly kick their absent friend, Deputy Ross, who has not engaged in this Bill at all. He has not participated on Committee or Report Stages and has not tabled a single amendment to it. He uses this forum as a stage to regularly kick the banks and while there is a great deal for which they can be criticised, the truth also is that had they not engaged in debt forbearance and had certain Government decisions not been made which encouraged debt forbearance, tens of thousands of people, who remain in their family homes and with whom at least temporary or intermediate arrangements have been made, would otherwise have been facing repossession proceedings. In reality, we have had debt forbearance on a grand scale but this tends to be ignored.

I agree with the Deputy - this is the reason Members are passing this legislation - that what is needed is what I would describe as final resolution. We need the mechanisms that facilitate final decisions being made where debt forbearance will work and where over a period of years, people will be allowed to work through their debt position, there is light at the end of the tunnel and obligations to creditors ultimately are met or are met in a recalibrated way that allows one to exit. This is one sense of this proposal. However, in the context of the debt resolution mechanisms, it is clear that within each, from the lowest one down, that is, the debt relief notice, all the way up to the PIA, there is the understanding and the architecture to provide for debt forgiveness or debt write-off, where appropriate. It is that piece of the jigsaw which has not yet been addressed adequately.

I note that in arrangements reached between creditors and banks in some instances, certainly for business purposes, there have been arrangements of debt write-off. In cases where has been a perspective that a business is viable, there has been some element of this. However, in the broad sense of residential mortgages, it still has not been addressed adequately and where it has happened - I know of some cases, albeit not many - it is not publicised. The banks have a fear

that as soon as one uses words such as "write off" or "forgiveness", individuals who quite clearly can pay will contrive to create circumstances in which they may try to seek debt write-off in circumstances in which it is not warranted and which is unfair to taxpayers. One must remember it is taxpayers who have been financing the banks and no matter how one might deplore the previous behaviour of financial institutions, everyone in the State has an interest in ensuring the banks' capitalisation is sound. Everyone has an interest in the banks playing a normal role in the economy. The Deputy was correct when he noted we are not in normal times. We are not as we are in extraordinary times, unfortunately. However, we must build the mechanisms around this and the mechanism being proposed here provides an opportunity to address these issues.

Were one to take the timeframe from the date someone went into arrears, it would not work because the idea is that one works through one's debt over the period from the moment when the agreement is reached. Were one to do that, it might suit some debtors to manipulate the system whereby one becomes engaged in a never-ending negotiation to effect some solvency resolution but one knows that as the time ticks, one is reducing the period during which one might be obliged to make some repayment and one will exit quicker. Consequently, there could be a disincentive for debtors to come to resolution. In the context of the timeframes, it is reasonable and rational, particularly in respect of the personal insolvency arrangement, which is a new mechanism, that a reasonable time be left, both to work through debt and to cater for changed circumstances. Individuals who may be unemployed at a time when such an arrangement is entered into may get new job opportunities and their world may change. Moreover, the mechanisms provide that if someone's circumstances change after initial agreement has been reached, it will be possible to recalibrate or to change the agreement or to exit earlier.

While the Deputy is correct about several issues, he is absolutely correct about one particular issue, which is the five or six-year period is a maximum and is not compulsory. In this regard I agree entirely with his comments. If the financial circumstances are absolutely clear, with no reason to believe they will drastically change and where the deal to be done is blindingly obvious, there is a good argument that part of the agreement might allow for a party to exit early. That might apply particularly to the case the Deputy outlined of a Wicklow constituent. The agreement may span two or three years of payments and at the end of that both sides may see an advantage in exiting early.

The issue of how much income is retained is a value judgment. We can park the financial institutions for a moment as there are many other categories of creditors. If a person retains 50% of net additional income, it would be reasonable for somebody running a small business, which may be in difficulty because people owe it money, to say it is grossly unfair. The business may not be happy that people can retain 50% of income but there must be an incentive for people. It would be grossly unfair for people to retain an even bigger tranche of income for lifestyle benefits and not pay the business what it is owed.

An individual may have had a holiday to the south of France two or three times a year but that practice may have temporarily stopped. If that person's job position changes, leading to additional income, is it fair for the holidays to resume when creditors are not being paid? Being able to retain 50% of net income is a real incentive for people to work harder and create opportunities, whether self-employed or needing to work overtime if in employment to generate income. There must be a point where that issue is utilised, particularly when there is debt forbearance or forgiveness, in trying to get people to meet debt obligations. The provisions provided are reasonable.

I hope I have addressed the issues raised by Deputy Donnelly. We have probably gone on far too long with the issue with regard to Report Stage time constraints but it is important. I thank the Deputy for raising it.

Acting Chairman (Deputy Bernard J. Durkan): I allowed some latitude because this is an important element of the Bill.

Amendment put and declared lost.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 103 and 157 are related and will be discussed together by agreement.

Deputy Alan Shatter: I move amendment No. 103:

In page 60, to delete lines 42 to 45 and substitute the following:

"require the debtor to—

(*a*) dispose of an interest in, or

(*b*) cease to occupy,

all or a part of his or her principal private residence and the personal insolvency practitioner shall consider any appropriate alternatives.".

The purpose of these drafting amendments is to improve the clarity and readability of the provisions in the debt settlement and personal solvency arrangement chapters regarding the debtor's principal private residence.

Amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments No. 104 and 158 are related and will be discussed together by agreement.

Deputy Alan Shatter: I move amendment No. 104:

In page 61, line 36, to delete "that".

These are essentially technical drafting amendments to remove superfluous words from the provisions. We are taking a principled stance on superfluous words.

Amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 105 and 161 are related and will be discussed together by agreement.

Deputy Alan Shatter: I move amendment No. 105:

In page 62, to delete lines 7 and 8 and substitute the following:

"(*b*) ensure that a copy of the documents referred to in *section 66* are sent to each creditor concerned with the notice calling the meeting;".

The purpose of these amendments is to clarify the requirements in sections 65 and 102 regarding the documents that must be supplied to creditors in advance of the creditors meeting

to consider a proposal for debt settlement arrangement or a personal insolvency arrangement.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 106:

In page 63, lines 23 and 24, to delete "regulations made under it" and substitute "any regulations made under that section".

The purpose of the amendment is to clarify that the regulations referred to in section 67 are the regulations to be made under section 69 regarding the holding of a creditors' meeting, which will be particularly important in the working of the legislation.

Amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 107 and 108 are related and will be discussed together by agreement.

Deputy Alan Shatter: I move amendment No. 107:

In page 63, line 44, to delete "*subsection (5)*" and substitute "*subsection (6)*".

These amendments correct cross-referencing errors in the text of section 67.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 108:

In page 64, line 13, to delete "*section 57*" and substitute "*section 56*".

Amendment agreed to.

Deputy Niall Collins: I move amendment No. 109:

In page 65, lines 3 to 5, to delete all words from and including "representing" in line 3 down to and including "voting" in line 5 and substitute the following:

"representing not less than 50 per cent in value of the creditors present and voting".

This concerns the old chestnut of the banks wielding undue influence in voting power at a creditors' meeting. It is right and proper that we should seek to lessen the influence of overly dominant creditors with a consequential weighted vote that an organisation may have at such a meeting. It would be right to reduce it to a simple majority in order to lessen the impact of a particular creditor. The amendment would reduce the voting value in question from 65% to 50%.

Deputy Alan Shatter: The Deputy's amendment proposes to reduce the requirement that 65% of creditors vote in favour at a creditors' meeting to a value of 50% of voters. This proposal was discussed on Committee Stage and at the time I acknowledged that the question of what is the appropriate level of the qualified majority required to approve a debt settlement arrangement is difficult. As with many provisions in this Bill, a balance must be struck between the rights of debtors and those of creditors. The threshold should not be so high so that creditors representing a relatively small amount of a debtor's overall indebtedness would be in a position to prevent an arrangement from being approved.

A threshold of 50% is proposed by Deputy Collins, and that would reduce protection for creditors' rights in a very significant way. It may not incentivise them to concluding arrangements and may, among other things, have implications for the supply of credit in the economy. Having regard to the features of the debt settlement arrangement process as contained in the Bill, I remain of the view expressed on Committee Stage that the threshold level of 65% is appropriate and will achieve a suitable balance between the rights of debtors and creditors.

It is worth mentioning an issue we discussed on Committee Stage. When the Law Reform Commission examined the issue for the purpose of its report on personal debt management and debt enforcement, which was published in December 2010, the level of qualified majority proposed from the various submissions ranged from between 60% and 75% of creditors in value. The commission ultimately recommended a threshold of 60% and described this as a "relatively low value".

Deputy Donnelly stated he would be happy to adopt certain aspects of the English approach but I am not sure he would be happy to do so in this context. In England, Wales and Northern Ireland, under the comparable individual voluntary arrangement process, which reflects our debt settlement arrangement, a threshold of 75% creditor approval is required. One could argue about whether the level should be 60% or 75% but considering the outcomes in Britain, the higher threshold has not prevented the successful operation of that process in the jurisdictions I mentioned. There were approximately 50,000 individual voluntary arrangements approved in 2011 with the higher threshold of 75%.

*1 o'clock*Bearing in mind the background of the submissions made to the Law Reform Commission and the need to ensure that creditors are brought on board and we deal with this issue in a way that does not create any risk of constitutional difficulties as well, 65% is a reasonable threshold to prescribe.

Question put: "That the words proposed to be deleted stand."

The Dáil divided: Tá, 81; Níl, 38.	
Tá	Níl
Barry, Tom.	Boyd Barrett, Richard.
Breen, Pat.	Broughan, Thomas P.
Butler, Ray.	Browne, John.
Buttimer, Jerry.	Calleary, Dara.
Byrne, Catherine.	Collins, Joan.
Byrne, Eric.	Collins, Niall.
Carey, Joe.	Colreavy, Michael.
Coffey, Paudie.	Cowen, Barry.
Collins, Áine.	Crowe, Seán.
Conlan, Seán.	Doherty, Pearse.
Connaughton, Paul J.	Donnelly, Stephen S.
Conway, Ciara.	Ferris, Martin.
Corcoran Kennedy, Marcella.	Fleming, Tom.
Costello, Joe.	Halligan, John.
Coveney, Simon.	Healy, Seamus.

Creed, Michael.	Healy-Rae, Michael.
Daly, Jim.	Higgins, Joe.
Deasy, John.	Kitt, Michael P.
Deering, Pat.	Mac Lochlainn, Pádraig.
Doherty, Regina.	McConalogue, Charlie.
Dowds, Robert.	McDonald, Mary Lou.
Durkan, Bernard J.	McGrath, Finian.
English, Damien.	McGrath, Mattie.
Farrell, Alan.	McGuinness, John.
Feighan, Frank.	McLellan, Sandra.
Flanagan, Charles.	Moynihan, Michael.
Flanagan, Terence.	Murphy, Catherine.
Gilmore, Eamon.	Naughten, Denis.
Griffin, Brendan.	Ó Caoláin, Caoimhghín.
Hannigan, Dominic.	Ó Fearghaíl, Seán.
Harrington, Noel.	Ó Snodaigh, Aengus.
Harris, Simon.	O'Brien, Jonathan.
Hayes, Tom.	O'Dea, Willie.
Heydon, Martin.	O'Sullivan, Maureen.
Hogan, Phil.	Pringle, Thomas.
Humphreys, Heather.	Ross, Shane.
Humphreys, Kevin.	Shortall, Róisín.
Keating, Derek.	Troy, Robert.
Keaveney, Colm.	
Kehoe, Paul.	
Kelly, Alan.	
Kenny, Seán.	
Lawlor, Anthony.	
Lynch, Ciarán.	
Lynch, Kathleen.	
McCarthy, Michael.	
McEntee, Shane.	
McHugh, Joe.	
McLoughlin, Tony.	
McNamara, Michael.	
Maloney, Eamonn.	
Mathews, Peter.	
Mitchell, Olivia.	
Mitchell O'Connor, Mary.	
Mulherin, Michelle.	
Murphy, Dara.	
Murphy, Eoghan.	

Neville, Dan.	
Nolan, Derek.	
Ó Ríordáin, Aodhán.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Reilly, Joe.	
Penrose, Willie.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Rabbitte, Pat.	
Ring, Michael.	
Ryan, Brendan.	
Shatter, Alan.	
Sherlock, Sean.	
Spring, Arthur.	
Stagg, Emmet.	
Stanton, David.	
Timmins, Billy.	
Tuffy, Joanna.	
Twomey, Liam.	
Wall, Jack.	
Walsh, Brian.	
White, Alex.	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Michael Moynihan and Seán Ó Fearghaíl.

Question declared carried.

Deputy Alan Shatter: I move amendment No. 110:

In page 65, lines 22 and 23, to delete "shall be 14 days, but such period".

Amendment No. 110 is being discussed with amendment No. 169. The purpose of these amendments is to remove superfluous references to the 14-day notice period for creditors meetings in sections 69 and 107. The 14-day notice period is already provided for in sections 65 and 102.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 111:

In page 66, lines 10 and 11, to delete "*section 69(3)*" and substitute "*section 70(3)*".

This amendment corrects a cross-referencing error in the text of section 71.

Amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 112 and 171 are related and may be discussed together.

Deputy Alan Shatter: I move amendment No. 112:

In page 66, to delete lines 15 to 18 and substitute the following:

"(2) The hearing of an objection lodged under *section 70(3)* shall be heard with all due expedition.".

The purpose of these drafting amendments is to improve the clarity of the provision regarding court hearings of objections to the coming into effect of a debt settlement agreement or a personal insolvency arrangement and also to ensure consistency between sections 72 and 110.

Amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 113 and 172 are related and may be discussed together.

Deputy Alan Shatter: I move amendment No. 113:

In page 66, line 22, to delete "by the Insolvency Service" and substitute "under *section 56*".

These proposed amendments seek to correct drafting errors in the text of sections 72 and 110. As currently worded, the text refers to the protective certificate being issued by the insolvency service when, in fact, the certificate will be issued by the appropriate court.

Amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 114 and 173 are related and may be discussed together.

Deputy Alan Shatter: I move amendment No. 114:

In page 67, lines 17 and 18, to delete all words from and including "every" in line 17 down to and including "meeting" in line 18 and substitute the following:

"in respect of every specified debt, the creditor concerned,".

These are technical amendments which aim to ensure that all relevant creditors are bound by debt settlement arrangement or personal insolvency arrangement whether or not they voted in favour of the arrangement.

Amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments No. 115 has already been discussed with amendment No. 61.

Deputy Alan Shatter: I move amendment No. 115:

In page 70, line 1, to delete "the level of" and substitute "the extent of".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 116:

In page 70, line 7, after "subject" to insert "as a debtor".

The purpose of this technical amendment is to clarify the application of section 76(4) and to bring the text of the provision into line with corresponding provisions that apply to debt relief notices and personal insolvency arrangements.

Amendment agreed to.

Deputy Pádraig Mac Lochlainn: I move amendment No. 117:

In page 70, line 29, to delete "may" and substitute "shall".

The objective of the change in the wording is to compel the practitioner to do his or her job effectively.

Deputy Alan Shatter: I thank the Deputy for this proposed amendment. Changing "may" to "shall" in regard to the requirement on the personal insolvency practitioner, in the context of proposing a variation of a debt settlement arrangement, may seem logical but there may be circumstances where a debtor's financial circumstances deteriorates so rapidly that termination of the arrangement seems imminent. In such a case, a statutory requirement for a meeting to be called might not be desirable. However, I am conscious that we should have regard to any inconsistency issues which may arise in the context of a similar provision in section 115 in respect of a variation of a personal insolvency arrangement.

I wish to consider the point further with the Parliamentary Counsel and I assure the Deputy that any amendment necessary to achieve consistency, including his amendment, will be brought forward on Committee Stage in the Seanad. With that assurance, I hope the Deputy will agree to withdraw the amendment so that we can get further advices from Parliamentary Counsel on what is proposed.

Amendment, by leave, withdrawn.

Deputy Alan Shatter: I move amendment No. 118:

In page 72, line 14, to delete "should" and substitute "shall".

The purpose of this amendment is to correct a grammatical error in the text of section 78.

Amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 119, 183 and 184 are related and may be discussed together.

Deputy Alan Shatter: I move amendment No. 119:

In page 72, lines 21 and 22, to delete all words from and including "at" in line 21 down

to and including "Arrangement," in line 22 and substitute the following:

"as respects a Debt Settlement Arrangement, at any time during which the arrangement concerned is in effect,".

The purpose of amendments Nos. 119 and 183 is to improve the clarity of the provisions regarding the timeframe in which an application can be made to have a debt settlement arrangement or personal insolvency arrangement terminated by the court. Amendment No. 184 is a technical drafting amendment to improve the clarity of the text of section 117.

Amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 120 to 127, inclusive, are related and will be discussed together.

Deputy Niall Collins: I move amendment No. 120:

In page 72, line 39, to delete "3 months" and substitute "6 months".

This is an attempt to be on the side of the debtor in this process. The section provides for the right of a creditor to have a settlement annulled for a number of reasons. If the debtor is in arrears for up to three months, the creditor can apply to have the arrangement ended. The amendment seeks to extend this period from three to six months. Given the large number of people in arrears, it basically reflects that reality. It would give people more breathing space to work themselves out of the process if they find themselves in difficulty after signing up to it. It provides for flexibility in achieving the goal of the process.

Deputy Alan Shatter: Amendments Nos. 120 to 123, inclusive, refer to section 79 and seek to increase the time period for an application by a creditor or personal insolvency practitioner to the appropriate court to have a debt settlement arrangement terminated where the debtor has been arrears with payment for a period of not less than three months to a period of six months. Deputy Collins raised this point on Committee Stage. In the context of the debt settlement arrangement where, without any notification by the debtor to his or her personal insolvency practitioner, a six month payment default occurs, that arrangement is unlikely to succeed. It is important to remember that we are seeking to balance the interests of debtors and creditors through the debt resolution process. I remain unconvinced that the period in this section should be extended to six months. It is likely that substantial arrears accumulating in the context of moneys owing to a variety of individuals was the reason that the arrangement was put in place in the first instance. It would be put in place on the assumption that the debtor was going to meet his or her repayment commitments, as agreed, and indeed would have the capacity to meet them. It would be unfair to creditors to prolong matters unduly to a six month period in circumstances where it has become obvious the arrangement simply is not working. A three month period in this context is adequate, so I oppose the amendments.

Amendments Nos. 124 to 127, inclusive, refer to section 80 and seek to increase from six months to nine the timeframe in which the debtor has been in default sufficient for a debt settlement arrangement to be deemed to have failed and needing to be terminated. Deputy Collins also raised these points on Committee Stage. I am opposed to the amendments for the reasons I expressed on Committee Stage. In a debt settlement arrangement where, without any notification by the debtor to his or her personal insolvency practitioner, a six month payment default has occurred, that arrangement is clearly unlikely to succeed. I am not convinced the default

period should be extended to nine months.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Niall Collins: I move amendment No. 121:

In page 73, line 2, to delete "3 months" and substitute "6 months".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Niall Collins: I move amendment No. 122:

In page 73, line 4, to delete "3 month" and substitute "6 month".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Niall Collins: I move amendment No. 123:

In page 73, line 9, to delete "3 month" and substitute "6 month".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Niall Collins: I move amendment No. 124:

In page 73, line 19, to delete "6 months" and substitute "9 months".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Niall Collins: I move amendment No. 125:

In page 73, line 28, to delete "6 months" and substitute "9 months".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Niall Collins: I move amendment No. 126:

In page 73, line 29, to delete "6 month" and substitute "9 month".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Niall Collins: I move amendment No. 127:

In page 73, line 33, to delete "6 month" and substitute "9 month".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 128 and 187 are related and may be discussed together.

Deputy Alan Shatter: I move amendment No. 128:

In page 73, line 44, to delete "otherwise;" and substitute "otherwise; or".

These are technical drafting amendments which are required to ensure consistency in the terminology used in the Bill.

Amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 129 and 188 are related and will be discussed together.

Deputy Alan Shatter: I move amendment No. 129:

In page 74, line 10, after "debtor" to insert "concerned".

These are technical drafting amendments to improve the clarity of the references to the debtor in sections 83 and 120.

Amendment agreed to.

Acting Chairman (Deputy Bernard J. Durkan): Amendments Nos. 130 and 131 are related and will be discussed together.

Deputy Niall Collins: I move amendment No. 130:

In page 74, line 45, to delete "3 years" and substitute "2 years".

The amendment seeks to shorten the look-back period which a creditor can cite if they come into dispute with the debtor in terms of alleging that the debtor manipulated or put themselves into a position where they would have to avail of a debt settlement arrangement.

Deputy Alan Shatter: I oppose the amendments. Deputy Collins seeks to reduce the period prior to the debtor seeking to agree a debt settlement arrangement during which a transaction at under value or at a preference which seeks to deny creditors' their legitimate rights may be challenged by a creditor. The reduction he is seeking is from three years to two. The three year period provides a useful deterrent to any temptation on the part of a debtor to rearrange his or her affairs strategically in such a way as to deprive creditors of their rights and entitlements. I am similarly providing for a three year period in regard to bankruptcy. Deputy Collins has said nothing to convince me the reduction is warranted. I believe the three year period is reasonable. We should not seek to facilitate individuals deliberately dealing with their affairs in a manner which could effectively deprive creditors of the funding to which they are entitled.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Debate Adjourned.

Sitting suspended at 1.30 p.m. and resumed at 2.30 p.m.

Ceisteanna - Questions

Priority Questions

Defence Forces Reorganisation

1. **Deputy Seán Ó Fearghaíl** asked the Minister for Defence if he shares the concern expressed in some quarters that the changes in the Defence Forces could threaten the security of the State; and if he will make a statement on the matter. [48825/12]

Minister for Defence (Deputy Alan Shatter): In the context of the very serious economic crisis the country is experiencing, all elements of defence expenditure have been critically reviewed to deliver savings. In this context, initiatives such as the re-organisation of the Permanent Defence Force are an essential step in ensuring operational capabilities are maintained and all assigned roles continue to be fulfilled.

I am aware there has been some dissatisfaction expressed regarding the perceived impact of certain required changes on particular localities or individuals. However, it would be ironic if initiatives such as the re-organisation of the Permanent Defence Force or barrack closures were presented as being a threat to the security of the State when, in fact, these actions are required to ensure the Defence Forces can operate efficiently and effectively. A threat would only arise if an outmoded organisational structure or inefficient networks of barrack infrastructure had been allowed to remain.

The recent re-organisation proposals were framed in the context of a defence and security environment assessment, which was published earlier this year in the Department of Defence and Defence Forces Strategy Statement 2011-2014. I have been advised by the Chief of Staff that the implementation of the re-organisation will ensure the Permanent Defence Force can continue to meet all operational requirements at home and overseas.

As Minister for Defence I am committed to maintaining the capacity of the Defence Forces to carry out the full range of tasks assigned to them, whether by Government or by request from An Garda Síochána, including explosive ordnance disposal, provision of cash and prisoner escorts, provision of security at Portlaoise Prison and Government Buildings, the support provided by the Air Corps to the Garda air support unit, and Naval Service engagement in the joint task force on drug interdiction.

Deputy Seán Ó Fearghaíl: I thank the Minister for his response and I want to refrain from going back to debates on the issue of the organisation. The Minister has set out his stall quite

clearly yet members of the Defence Forces remain concerned about the implications of the implementation of the reorganisation, not least in advance of the process of the White Paper being undertaken. I was particularly concerned by the recent statement made by the outgoing president of PDFORRA, Mr. William Webb, who is not given to making outrageous statements. He told the annual conference that if the weakening of the force is noticed by dissident groups, it will pose a real and serious threat to our nation. He said that if weakening of the Defence Forces is noted by dissident groups, the same groups caught monitoring Harcourt Street Garda station recently, it would be a real problem for our nation. He appealed to the Minister and the Government to stop the madness.

His comments are particularly pertinent in light of the appalling atrocity in the north of Ireland, with the murder of the prison officer, Mr. David Black. I commend the Minister on his presence at the funeral and I commend my party leader, Deputy Micheál Martin, on making the trip to the funeral to show the solidarity of people of this country with Mr. Black, the prison service and, most importantly, with his family. It highlights the need to be absolutely certain that the force is organised so as to be able continue to do what it has done to maintain the security of the State.

Deputy Alan Shatter: All Members agree the murder of Mr. David Black was an appalling and disgraceful atrocity. It was the sacrifice of the life of a good man for the achievement of no identifiable objective. It was done by people who have no moral compass and no insight into, or concern for, the lives of those they target or the impact on families of the horrendous loss suffered. It was a terrible event and we had hoped that we had put such events on the island behind us. I thank the Deputy for his comments because it was important that I joined the Minister for Justice in Northern Ireland, Mr. David Ford, to give a clear message of unanimity in our views and, by our stance, making it clear that the Governments, North and South, are united against the subversive elements that seek to bring us back to the bad old days of the past.

I entirely reject the suggestion made by the outgoing president of PDFORRA. I regret that he did not give greater thought to what he was saying. Unfortunately, at these events, some members of representative organisations that by and large engage constructively and behave responsibly sometimes feel the need to seek an unnecessary headline on something that is a gross misrepresentation of reality. When this Government came into office, based on the financial backdrop and the policies adopted by the previous Government, the Defence Forces were heading below 8,000 members. We stabilised the position and I succeeded in obtaining a decision from Government that the strength of the Defence Forces would be maintained at 9,500. Reorganisation was important because it was based on a strength of 11,500, which not had not been maintained at any stage during the lifetime of the previous Government. Reorganisation ensured that, in the context of the current strength of the Defence Forces, we can use them to maximum efficiency. Reorganisation can take place in a manner that ensures organisational effectiveness. Let no recalcitrant group of terrorists outside this House think that, in any way, the Defence Forces are less vigilant today than they were in the past. They have enhanced capacities because of the manner in which they are equipped and the intelligent way they go about their business. The decisions made and being implemented will substantially strengthen their capabilities and operational capacity.

I will give a quick example in the context of subversive groups and criminal gangs. Pursuant to their role in rendering aid to the civil power, the Defence Forces continue to address the problems of improvised and other ordnance disposal on a 24-hour, seven days a week basis. Wearing my hats as the Minister for Justice and Equality and the Minister for Defence, there is

superb co-operation between the Garda Síochána and the Defence Forces when these devices are discovered. With great bravery and skill, the members of the Defence Forces neutralise them.

Deputy Seán Ó Fearghaíl: I agree with the Minister on two points, about co-operation between the Garda Síochána and the Defence Forces and the outstanding commitment of the members of the Defence Forces to the security and well-being of the State. However, morale is at an all-time low. Can the Minister indicate the level of outflow from the Permanent Defence Force as a result of the reorganisation? My experience is of many young talented members deciding to opt out of the Defence Forces because of their forced transfer to various parts of the country.

Deputy Alan Shatter: I entirely reject the suggestion that morale is at an all-time low. We have extraordinarily efficient and well-trained Defence Forces. A substantial number of them are undertaking UN duty in southern Lebanon and a member of the Defence Forces is in charge of a UN mission based in Uganda to provide assistance in Somalia. Members of the Defence Forces with particular skill and expertise are in Afghanistan on international UN related duties, and other members of the Defence Forces are based throughout the world. Highly trained members of the Defence Forces have the capacity to come to the aid of the civil power when required and co-ordinate in assisting the Garda Síochána in its important duties relating to the security of the State.

The context of reorganisation and the arrangements being made in that respect are the subject of another question which I will answer shortly, and perhaps I will deal with the issue raised by the Deputy in the context of answering that question.

Defence Forces Reserve

2. **Deputy Pádraig Mac Lochlainn** asked the Minister for Defence his views on the future role of the Reserve Defence Forces [48756/12]

Deputy Alan Shatter: Since its launch in July 2004 the Reserve Defence Force review implementation plan has provided the framework for the development of the Reserve. This plan sought to progressively develop Reserve capabilities and had an implementation timeframe that extended to the end of 2009. A value for money, VFM, review of the Reserve Defence Force commenced in February 2010. It was intended that the recommendations of this review would inform plans regarding the future development of the Reserve.

In the intervening period there has been significant change and uncertainty in the economic environment. Resource constraints have further impacted all aspects of defence expenditure, including the Reserve. Arising from the comprehensive review of expenditure, CRE, the Government agreed to stabilise the strength of the Permanent Defence Force, PDF, at 9,500 personnel and a major reorganisation of the PDF is in progress in order to ensure that it retains the operational capacity required to fulfil all the roles assigned to it.

The steering committee undertaking the VFM review of the Reserve had to ensure that recommendations regarding the future development of the Reserve had due regard to resource constraints. The VFM review has taken longer than anticipated due to other priorities, such as the CRE. However, in reality, any recommendations that may have been made in advance of

the CRE and reorganisation of the PDF would have been quickly superseded.

The steering committee established to oversee the VFM review submitted the completed report to myself and the Secretary General during October 2012. Responses to the recommendations contained in this report are currently being developed and will be completed in advance of its publication. This is a normal part of the VFM process and consistent with the guidelines for such reviews. When this process is completed my Department will arrange a full briefing for the representative associations. I am aware that there is considerable interest in this particular VFM review and I have directed that this process be expedited. I anticipate its completion in the very near future.

Additional information not given on the floor of the House.

The recommendations contained in the report encompass all aspects of the Reserve, including future roles for the Reserve. However, the Deputy will appreciate that it would be premature for me to engage in discussions at this point, pending completion of the VFM process. There will be an opportunity to discuss all aspects of the report, its recommendations, and future plans, after the report is published. I look forward to having a full discussion at that point.

Deputy Pádraig Mac Lochlainn: The Minister will be aware of the growing concern that the Reserve Defence Force is to be depleted by thousands.

As a Deputy for Donegal North East, I have met individuals in my constituency who are concerned about the supports for the Reserve Defence Force. They told me about a recruitment day held in one of the community schools when 100 young people expressed a wish to be involved. They could not provide for all the young people who attended. Members of the Reserve travel long distances, give significant amounts of their time and fund-raise for various good causes. All of this connects the Defence Forces with local communities. The Reserve Defence Force is the umbilical link between our Defence Forces and local communities. It is a tremendous organisation. Every euro invested in it gives a significant return.

Whatever the Minister is considering, I ask him to think about the impact it will have on the ground. During a profound recession when large numbers of young people are out of work, it is more critical than ever that we have a Reserve Defence Force whose ethos is supported in every way.

Deputy Alan Shatter: The recommendations in the report encompass all aspects of the Reserve, including future roles for the Reserve. There is no suggestion that the Reserve will be abolished. I can give assurances in that regard.

The Deputy must appreciate that it would be premature of me to engage in discussions at this point, pending completion of the VFM process which deals with recommendations and the appropriate response to them. There will be an opportunity to discuss all aspects of the report, its recommendations and future plans when it is published. We will have a full discussion on that. It is important that we identify the future role of the Reserve and where expenditure should be applied with regard to it.

The nominal membership of the Reserve is substantially greater than the number who engage in Reserve training and are functioning members of the Reserve. In the light of the reorganisation of the Defence Forces from three brigades to two and given the resource issues, there is a need to ensure that the resources made available to the Reserve are used efficiently and in

the best interest of the country, as opposed to being spent with no assessment of the benefit accruing from it. We must identify the roles the Reserve can play and how its training facilitates it in playing those roles.

I expect, very shortly, to be in a position to publish the report. I hope we will discuss it at a meeting of the Joint Committee on Justice, Defence and Equality where we can have a more free-flowing conversation than during Question Time.

Deputy Pádraig Mac Lochlainn: The VFM review was initiated by the previous Government. The Reserve Defence Force Representative Association, RDFRA, made very imaginative submissions to the review as to how the Reserve Defence Force could be deployed. We must find ways to deploy the patriotic spirit of the members of the Reserve that do not involve cutting their numbers. The Reserve is a huge resource to the Irish people. We should not allow the spending cuts process to take the heart out of that movement.

The Minister says the process is not completed. Before he signs off on it, I ask him to take one more look at the suggestions contained in the RDFRA document which was submitted in August 2010 and is still relevant.

Deputy Alan Shatter: There is a real difference between the establishment figures of the Reserve and the actual figures. The Army Reserve establishment is 9,292 and the effective strength is 4,293, although not all of those are engaging in the training days made available to them. The Naval Service Reserve projected establishment is 400 and the real figure is 180. Therefore, the effective strength of the Reserve Defence Force is 4,473. We must look at this. A significant number of individuals start initial training in the Reserve and fall away within a short period of time. Resources are put into that also.

We must look at the role the Reserve should play. Given the professionalism of the Permanent Defence Force, we are fortunate that the Reserve has not had to be called out for any major functions for quite some years. This is because the PDF is equipped to deal with the various issues that arise. We must also ensure that the Reserve is not deployed in an activity for which it has not been trained.

These issues are addressed in the VFM. I hope to be in a position to publish it in a few weeks at most, certainly during the course of this month. We will then have a constructive discussion at the Joint Committee on Justice, Defence and Equality.

Army Barracks

3. **Deputy Mattie McGrath** asked the Minister for Defence the progress that has been made in arranging an alternative use for the former Kickham Barracks site in Clonmel, County Tipperary; if he has examined the option of relocating the Clonmel Garda Station to the barracks location; when this matter will be finalised; and if he will make a statement on the matter. [48757/12]

(Deputy Alan Shatter): Since the announcement of the Government decision on barrack closures in November 2011, the Department of Defence has written to each Government Department and various agencies and local authorities seeking expressions of interest in acquiring any of the properties to benefit the local community.

In this regard, there have been discussions between officials from the Department and a number of other State agencies, including the Department of Justice and Equality - I am also the Minister for Justice and Equality - in relation to the sale of a portion of the barracks in Clonmel for a new Garda station, an issue in which the Deputy is particularly interested. These discussions are ongoing. I assure the Deputy that every effort will be made to dispose of the barracks so as to maximise the benefits to the local community.

Deputy Mattie McGrath: I am glad to hear the response from the Minister. He mentioned that the barracks has been closed for 12 months. It is on a fine urban site of almost 14 acres.

The Minister also mentioned that he is also Minister for Justice and Equality. Surely we can short-circuit the discussions that are ongoing. The Department of Defence is engaged in discussions with a number of groups. I support that. There is plenty of room to accommodate all of them. It is most vital, however, that we get suitable accommodation for the Garda station in Clonmel. The current station is in a primitive Dickensian building that is not fit for use by the Garda or the public.

I appeal to the Minister, who is also the Minister for Justice and Equality, to cut out the red tape, the jargon and the dealings with the Office of Public Works. The site is owned by the Department of Justice and Equality and the Department of Defence. Surely we can submit plans and give the go ahead for the Garda barracks to be sited there. It is a great site and a Garda station is needed in Clonmel more than anywhere else in the country. It is the second biggest inland town in the State and the current barracks is Dickensian. It does not even belong to the Department; it is leased from the country council.

Deputy Alan Shatter: The Deputy knows the Government he supported in this House for many years left the gardaí in the circumstances and conditions he is referring to. At a time when the Government he supported was flaithiúlach with money, it did not provide the funding needed to provide the Garda station.

Deputy Mattie McGrath: I do not want to hear that. The barracks was not closed then.

Deputy Alan Shatter: I am sorry if the truth gets in the way of the fiction the Deputy likes to constantly perpetrate in this Chamber. The reality is that he supported a Government for years that failed to provide the new Garda station that was needed so let us not make a big thing about it here today as if it is newly discovered.

Deputy Mattie McGrath: There was no vacant site there at that time. This is a vacant site now. The Minister is being political about this.

Deputy Alan Shatter: We are looking at the possibility of providing a Garda facility within the confines of the barracks. It is an issue that does not just involve my Department. It also involves the Office of Public Works, which is responsible for constructing Garda stations and acquiring sites for them.

As the Deputy knows well, this property is owned by the Department of Defence and, as was the case with the previous Governments he supported, it is recognised that barracks which closed were valuable assets. Funding realised from their sale is kept within the Defence Forces for resourcing purposes at a time when we are all concerned to ensure the Defence Forces have adequate resources so they can maintain their high skill levels and efficiencies. I have an obligation as Minister for Defence to ensure when new arrangements are put in place, some value

for the barracks derives to the Department of Defence for the benefit of the Defence Forces. Wearing both my hats, I assure the Deputy we are constructively engaged in addressing this issue.

Deputy Mattie McGrath: I am disgusted with the answer. The Minister wants to politicise the issue. The barracks has been empty for 12 months. I do not want to get into the nitty-gritty of going back and forth but the site is available now. Will the Minister have a meeting with himself on this? He does not meet with many other people and he treats people in deputations with distinct distaste. He does not want to meet people, as we found out when we met him in Clonmel before. Perhaps he could meet himself and put one hat on one day and another hat on another day.

This is patent nonsense. He owns the site; the last Government did not own the site. I have no problems with being a part of the last Government - I accept it - but there is a vacant site now and it is owned by the Minister for Defence, who is also the Minister for Justice and Equality. It is clear there is a conflict here. He cannot handle either side and does not know what way to move. He should bring in the OPW, which is also involved. We need a Garda station and the site is there. The money must go back to the Department of Defence but we need a Garda station. The Minister should be proactive for once in a public position, instead of being so proactive in many other ways. I also ask him not to be so political.

Deputy Alan Shatter: The Deputy should give serious consideration to applying to participate in the Kilkenny comedy weekend which is run on an annualised basis.

Deputy Mattie McGrath: The Minister would not get much comedy.

Deputy Alan Shatter: I am sure he would be a star turn.

Deputy Mattie McGrath: The Minister would not be the star turn. It would be "Sesame Street" with him.

Deputy Alan Shatter: As the Deputy seemed to miss, the Office of Public Works has responsibility for Garda stations. If the funding must be provided, it will come from the OPW and resources must be identified. I know the Deputy finds it difficult to make the connection between the provision of a Garda station and identifying the funding necessary to provide it, but that is the reality and it is an issue to which we must now give serious consideration.

Ombudsman for the Defence Forces

4. **Deputy Seán Ó Fearghaíl** asked the Minister for Defence the reason the Office of Defence Ombudsman has been downgraded; and if he will make a statement on the matter. [48826/12]

Deputy Alan Shatter: The primary role of the Ombudsman for the Defence Forces, which is provided for in the Ombudsman (Defence Forces) Act 2004, is to provide an independent appeals process for members of the Defence Forces. Such appeals arise where a complaint has been processed through the internal Defence Forces "redress of wrongs" process but the member remains dissatisfied with the outcome or the manner in which the complaint was handled. The 2004 Act also provides that, subject to certain conditions, the ombudsman may accept complaints directly from former members of the Defence Forces. The office of the ombudsman is

now well established and a number of administrative and systemic issues identified by the outgoing ombudsman have been addressed. This has contributed to improvements in procedures and policies within the Defence Forces.

Recent trends show a significant increase in the number of redress of wrongs complaints being resolved within the military system, thus reducing the number of cases being referred to the ombudsman for investigation, a fact I very much welcome. In addition, it is anticipated that the new and comprehensive promotion system for NCOs agreed and introduced earlier this year will eliminate the many complaint referrals to the ombudsman relating to promotion. Such referrals currently account for about a third of the caseload in the ombudsman's office. Against this background, the post of Ombudsman for the Defence Forces is being filled on a part-time, three day week basis, subject to ongoing review of caseload and referrals.

I can now inform the House that yesterday the Government decided, on foot of a recommendation from me, that it would advise the President to appoint Mr. Patrick Anthony McCourt as Ombudsman for the Defence Forces for a period of three years. The warrant appointing Mr. McCourt to the post is currently with the President for signature. Mr. McCourt was recommended for the post by the Public Appointments Service following an open competition.

There are no plans currently for changes in the role of the ombudsman or to amend the legislation in relation to the powers or functions of the ombudsman.

Deputy Seán Ó Fearghaíl: I thank the Minister for his response. It would be appropriate to acknowledge the work done by Ms Paulyn Marrinan Quinn since her appointment and the importance of the Act that she gave effect to in the course of her service. Certainly recourse to some form of ombudsman service was absolutely essential in the Defence Forces, as it would be in any organisation that has a strong authoritative and hierarchical system. I am glad to hear the Minister's response that the culture within the Defence Forces has changed over the years but I am puzzled when I look at the figures from the Office of the Ombudsman for the Defence Forces. Between 2008 and 2010 there was an average of about 112 cases considered by the ombudsman but that dropped quite dramatically from 116 in 2010 to 32 in 2011. Could the Minister explain that dramatic drop?

I am also conscious the outgoing ombudsman wrote to the Minister indicating the time was right to consider how the whole system was working and if the oversight system was fulfilling its original purpose. Have the necessary changes taken place in the Defence Forces to reflect the concepts enshrined in the Act? I understand Ms Marrinan Quinn raised the question of the powers enshrined in the Act being further extended as they have been in other jurisdictions. She reported that the Minister responded positively to that approach. One wonders how that positive response to a request for additional powers and a review of the system gave rise to a situation in which the working hours of the ombudsman will fall from 40 to 25 hours per week and we are to have a part-time ombudsman. Some members of the Defence Forces would say we also have a part-time Minister for Defence.

Deputy Alan Shatter: The Defence Forces have a full-time Minister for Defence. As has been my practice for about 30 years, I do two days work in one day by starting at 5 a.m. and finishing some time between 10 p.m. and 11 p.m. When I was in opposition, that allowed me to continue to work as a solicitor and it now facilitates my being able to deal with defence issues in a very effective and hands on way. I am perhaps involved a great deal more in the Department of Defence in dealing with issues and implementing reform than my immediate predecessor.

The Deputy might inquire into that.

The ombudsman is becoming part-time for the very reason the Deputy gave.

*3 o'clock*It is appropriate that we pay tribute to the former Ombudsman for the Defence Forces for the work she did. Over the initial years of her term in office, she identified a range of what I describe as procedural failures in the manner in which the military dealt with a variety of complaints and issues. As a consequence of what she identified, I was anxious to ensure that issues were actively were addressed. Where new procedures were required, they were put in place and where there were perceptions of unfairness or real unfairness in the manner in which regulations were being applied, those issues were addressed. As a consequence, during my time as Minister, a number of changes were introduced to address areas of difficulty that have given rise to a myriad of complaints to the Ombudsman for the Defence Forces. In fairness to my predecessor, I believe there was some reform in that area during his final year in office.

There has now been a substantial drop in the level of complaints. Better procedures are being applied within the military. There is less cause for complaint. Difficulties that were previously identified have been addressed. The numbers the Deputy gave clearly illustrate why it was deemed appropriate to change this from being a full-time post to being a part-time post. It is a part-time post in the sense that the new Ombudsman for the Defence Forces will operate three full days a week. Of course, we have said we would keep that under review and if it transpires that there is a difficulty in that regard, it will be addressed. However, I could not justify resourcing a full-time Ombudsman for the Defence Forces, when as the Deputy has put it, complaints have dropped from in excess of 100 a year to approximately 35. We are now happily in a different and better place.

We have considered other reforms that could be introduced. One of the issues that arose with the outgoing Ombudsman for the Defence Forces is whether the Ombudsman for the Defence Forces would engage in some sort of mediation or dispute resolution. Having regard to the role of the Office of Ombudsman for the Defence Forces as being effectively an appeals mechanism for members of the Defence Forces who are not satisfied with the outcome of a complaint under the Defence Forces internal complaint system, there would be considerable difficulties in having the Ombudsman for the Defence Forces becoming engaged in mediation with a view to dispute resolution because essentially that office is an appellate office for a member of the Defence Forces who believes he or she has been wronged in the manner in which an issue has been addressed. Clearly what is required is a decision on that matter as opposed to an engagement in mediation. Our decision-making process effectively identified the need for change and reform, which has now been substantially implemented.

Deputy Seán Ó Fearghaíl: Unfortunately the members of PDFORRA do not share the Minister's analysis of the situation because at their conference they talked about the role of the Ombudsman for the Defence Forces being downgraded to a part-time role and being a mere "nixer". They talk about the Department not taking the Office of the Ombudsman for the Defence Forces seriously and consequently not being serious about the welfare of members of the Defence Forces. I expect the Minister to dispute that, but he should also accept that there is genuine concern at such a dramatic reduction in an office that has been very effective in its remit since it was established in 2004. It is very difficult to understand the dramatic decline between 2010 when there were 110 cases and the mere 32 cases referred to the Ombudsman for the Defence Forces in 2011. It is very hard to understand that rapid turnabout and decline in numbers.

Deputy Alan Shatter: I suppose it would not have happened if reforms had not been introduced. The Office of the Ombudsman for the Defence Forces is independent. It is for members of the military in circumstances where they believe they have been wronged to complain to the Ombudsman for the Defence Forces, and they are free and able to do that. I thought the Deputy would have welcomed that there are fewer issues arising in which members of the Defence Forces feel they have been wronged and feel compelled to complain to the Ombudsman for the Defence Forces. I thought the Deputy would welcome that there are greater efficiencies and that reforms have been introduced meaning the Ombudsman for the Defence Forces is called upon less frequently. There has been no suggestion at any stage from PDFORRA that the Ombudsman for the Defence Forces was not properly dealing with complaints.

I regret that a representative organisation such as PDFORRA, when it holds its annual conference, feels compelled to make wild complaints about all sorts of issues. It seems to be something that happens at conferences, but does not then arise in the very constructive work in which the representative bodies engage during the rest of the year. If there were only 32 complaints to the Ombudsman for the Defence Forces, does the Deputy want someone to invent complaints? Does he want somebody within the Defence Forces to start deliberately behaving with inefficiency so that we generate more complaints? Is there a suggestion that we should really have more members of the Defence Forces who believe that issues of a disciplinary nature or of a promotional nature-----

Deputy Seán Ó Fearghaíl: The Minister is being facetious.

Deputy Alan Shatter: -----in which they are engaged should be dealt with less efficiency to give more work to the Ombudsman for the Defence Forces?

An Leas-Cheann Comhairle: I thank the Minister.

Deputy Alan Shatter: I do not believe that is the case. Incidentally the Deputy might be interested to know that the Ombudsman for the Defence Forces makes recommendations to the Minister and the Minister must decide whether to accept or reject them. Owing to the impact on members of the Defence Forces it was always my view that when a recommendation is received from the Ombudsman for the Defence Forces it should be given relatively speedy consideration by the Minister of the day, and decisions made and communicated. When I became Minister there was a substantial backlog of reports from the Ombudsman for the Defence Forces to my predecessor that had not been addressed. We had to take special action to have them addressed and to bring us up to a situation where within a relatively short time of getting a recommendation from the Ombudsman for the Defence Forces it was responded to. I am afraid the Deputy's party did not cover itself in glory in office just over 19 months ago in dealing with either recommendations from the Office of the Ombudsman for the Defence Forces or even in taking that office seriously.

An Leas-Cheann Comhairle: I thank the Minister. We need to make some progress as we are over time.

Deputy Donnelly has advised that he will not be able to attend for Question No. 5 and we will proceed to other questions.

Deputy Alan Shatter: Should I give the reply for the record of the House?

An Leas-Cheann Comhairle: No. The normal practice is not to read out a reply when a

Deputy is not in the House for a priority question.

Deputy Alan Shatter: Is it in order that we give Deputy Donnelly a written reply on that matter? I am agreeable to doing that if it facilitates him.

An Leas-Cheann Comhairle: Unless the Deputy wishes to wait-----

Deputy Alan Shatter: Unless there is some procedural difficulty, I am happy that he gets a written reply.

An Leas-Cheann Comhairle: The Deputy may wish to withdraw it and submit it at a later date.

Question No. 5 lapsed.

Other Questions

An Leas-Cheann Comhairle: We move on to other questions with six minutes per question.

Defence Forces Reorganisation

6. **Deputy Michael Moynihan** asked the Minister for Defence his response to claims by the outgoing President of PDFORRA at its recent conference that, because of cutbacks, the Defence Forces are not fit for purpose; and if he will make a statement on the matter. [48495/12]

14. **Deputy Jonathan O'Brien** asked the Minister for Defence the resources he has provided for the re-skilling of members of the Defence Forces and if he will demonstrate that they are adequate at this time. [48461/12]

20. **Deputy Jonathan O'Brien** asked the Minister for Defence in the context of the reorganisation of the Defence Forces, the criteria for relocating a member of the Defence Forces from one post to another. [48460/12]

Deputy Alan Shatter: I propose to take Questions Nos. 6, 14 and 20 together.

Again we are coming back to the issue Deputy Ó Fearghaíl raised earlier. I am sure Members will not be surprised to hear me say that I absolutely reject the claim of the former president of PDFORRA. The Government remains committed to maintaining the capacity and capability of the Defence Forces to undertake the roles assigned by Government within an establishment of 9,500 serving personnel. Against that background, I tasked the Secretary General of the Department and the Chief of Staff to bring forward proposals for a reorganisation of the Defence Forces. Having considered the matter in detail, I accepted the proposals of the Secretary General and the Chief of Staff that the Army component of the Defence Forces be reduced from a three-brigade to a two-brigade structure. A three-brigade structure, which had originally been designed for a force of 11,500, could not be sustained in the context of maintaining numbers at

9,500 without impacting on the capacity of the Defence Forces to deliver the services required by Government. A reorganisation of the Air Corps and Naval Service within their reduced strengths as set out in the employment control framework is also being finalised as part of the reorganisation.

Crucially, the representative associations in the Defence Forces, including PDFORRA, have been closely engaged in the implementation planning process as part of the Croke Park agreement and have had significant input into the planning of the ongoing implementation process. A detailed implementation plan, which has been the subject of extensive consultation with the representative associations, has been finalised and issued to formation commanders and made available to all members of the Defence Forces. This plan sets out the assignment criteria for members of the Defence Forces whose current appointment is directly impacted by the reorganisation. These criteria cover such areas as whether the individual holds the rank of the appointment in question, has the required qualifications, had to change station due to barracks closures in the past four years and his or her length of service in the Defence Forces.

Training requirements arising from the reorganisation will only become fully apparent as personnel are allocated appointments in the new structure. Relevant military personnel, in conjunction with the directorate of Defence Forces training staff, are identifying the skills gaps resulting from the reorganisation and reassignment process as it is being implemented. Detailed planning for the training effort required will be incorporated into the development of the 2013 annual training directive. The training plan will be structured such that it can be delivered within the training resources available at formation level and within the Defence Forces training centre. The plan is to fully complete all retraining and reskilling requirements arising from the reorganisation within an 18 month timeframe.

The Government recognises that the reorganisation currently underway is a major change in the organisation and structure of the Defence Forces. The extent of it should not be underestimated. I am cognisant of the demands we are placing on members of the Defence Forces. However, it is important that now the decision has been made, we move quickly to implement the reorganisation and provide certainty for personnel. I am advised by the Chief of Staff that the reorganisation will be largely completed by the end of November 2012.

Deputy Seán Ó Fearghaíl: We are I suppose at this stage going over ground we have already covered. As such, I will be brief.

The Minister spoke about the demands which the reorganisation is placing on members of the Defence Forces. It is important to say that Defence Force personnel are dealing with this reorganisation and are looking to the Minister's promised White Paper which may bring further reorganisation. What is the current strength of the Defence Forces? Perhaps the Minister would also give us some indication of the reaction of serving members to the demands of the reorganisation. As I understand it, many young, talented and highly skilled personnel, in which the Department of Defence has invested heavily in terms of training and upskilling, are actively leaving the Defence Forces resulting in a significant loss of experience and talent which will be a serious blow to the future development of the Defence Forces.

Deputy Alan Shatter: I am not aware that a large number of skilled personnel are actively disengaging from the Defence Forces. There has been no evidence to this effect since the announcement of the reorganisation. Retirement from the Defence Forces exceeded 500 in the first two months of this year. However, this derived from the facility available under the public

service arrangements put in place to enable individuals to retire by 29 February while retaining pensions based on the previous salary position. As regards the current strength of the Defence Forces, the Deputy will be aware that as a consequence of recent retirements agreement was reached on the recruitment of 600 new recruits to the Defence Forces. Following analysis at the end of February, a gap in officer grade and of ordinary listed personnel was identified. In June last, we advertised for 600 new recruits to the Defence Forces, in respect of which we received more than 10,000 applications. Given the number of applications and the need to properly examine them, including undertaking the normal processes of medicals, interviews and so on, it was September before those to be recruited were identified. In excess of 400 new recruits are currently in training. The objective is to bring the strength of the Defence Forces as close as possible to the 9,500 target by the end of this year. Deputy Mac Lochlainn will be aware that this issue was raised and discussed at some length today during our discussions on the Defence Force Supplementary Estimate.

Deputy Pádraig Mac Lochlainn: PDFORRA represents the overwhelming majority of our Defence Force personnel. It is important we take its analysis seriously, in particular the quotations of its general secretaries and outgoing presidents, some of which Deputy Ó Fearghaíl has already highlighted.

In recent years, the Army barracks in Mullingar, Castlebar, Cavan, Lifford, Letterkenny and Longford have been closed, which has sapped the morale of the Defence Forces personnel in terms of their having to relocate and the impact of this on their families. It is stated in a media report today that 56 2nd field engineers, who are also known as the searchers who assist the Garda Síochána in dealing with gangland and gun crime, are being relocated to Athlone, as a result of which their response time will be quadrupled. Members of this House who represent areas wherein the Defence Forces are based will have received representations on this issue.

Morale in the Defence Forces has been sapped, not alone by this Government but by the process, over the past couple of years. I had the honour last week of visiting Collins barracks in Cork with other members of the Joint Oireachtas Committee on Justice, Defence and Equality where I saw first-hand the professionalism and commitment of our Defence Forces. While there we were taken out on the *L.E. Ciara* by the naval force, the personnel of which are visionary, professional, innovative and dynamic. We must let our Defence Force personnel know that we value the role which they play and will try not to turn their lives up-side-down, in terms of retraining, forced relocation - that is what is happening whether we like it or not - barracks closures and so on. The Minister cannot offer a blanket defence all of the time to what we are hearing from the people on the front line.

Deputy Alan Shatter: We have moved a wonderful distance in this country. I do not mean that sarcastically. It is particularly interesting and important that Sinn Féin are concerned about the future of the Defence Forces and its operational capacity. For a long time Sinn Féin Party members did not recognise - at least their predecessors did not - the Defence Forces and often saw some of them as targets. It is refreshing to hear Deputy Mac Lochlainn's concerns.

We are involved in a reorganisation which has resulted in some barrack closures. People are uncomfortable with change. We cannot continue to operate the Defence Forces in the year 2012 on the basis on which they operated in the 1980s or early 1990s. Change is inconvenient. It does affect people. However, membership of the Defence Forces involves change. Very often a promotion involves relocation to a new barracks. People in the Defence Forces have opportunities to develop a range of skills. There is an understandable resistance to change but

this change that is being effected is one that members of the Defence Forces should celebrate as it provides new opportunities and ensures we can maintain strength at 9,500, thus not degrading the Defence Forces through reduced numbers. There would be no benefit in keeping barracks open with inadequate numbers. This is about learning the lessons of how Defence Forces can best operate.

As regards personnel and how they will be affected by the reorganisation, individual preferences to serve in particular geographical locations will be considered in the context of maintaining Defence Force capability. In so far as practicable every serving member whose unit is being moved will have the opportunity to move with his or her unit or to take up a new appointment within or close to his or her existing location. Every effort will be made to accommodate members of the Defence Forces. Inevitably, some personnel will have to change location in order to fill appointments in the new organisation. However, every effort is being made to minimise the impact of this. Decisions in respect of all affected locations and units are currently being worked out. The reorganisation is being dealt with in the context of consultations with the representative bodies.

When it comes to identifying whether a particular unit with particular skills should be located in Cork, Athlone or Dublin, I must rely on the operational judgments and expertise of the Chief of Staff and those working under him. I am not, as Minister, going to take it on my shoulders to assume I have the military expertise to know where to properly locate individuals. Prior to our announcing the location of the headquarters of the two brigades a substantial campaign to maintain brigade leadership in Athlone was conducted. Certain guarantees were given that the numbers in the barracks in Athlone would be approximately 1,000. I understand it will work out at between 970 and 980 in practical terms, as there is always some movement. This results in Athlone barracks having a larger number of members of the Defence Forces located there than when I took up this position. When Deputy O'Dea was Minister the maximum number of members of the Defence Forces in Athlone was 900. I will not second-guess operational decisions either with the Chief of Staff in the Army or the Commissioner of An Garda Síochána. It is for the Chief of Staff to determine how best to implement the re-organisation and to decide where particular skills or capabilities should be.

When I say there is opportunity in all of this for members of the Defence Forces, those who want to acquire different skills will have an opportunity, where appropriate, to change units. Certainly some members will be asked to move to a different location in the context of the rearrangement being made, but this is not a new thing in the Defence Forces. When one joins the Defence Forces one does not join on the basis of being positioned in a particular barracks for 21 years. This is not the way it works in practice, it is not the way it could work in practice and is not the way it works in practice with any army, navy, air force or defence force anywhere else in the world.

Deputy Pádraig Mac Lochlainn: Unfortunately the Minister referred to Sinn Féin's position on the Defence Forces. I am very proud of our Defence Forces. I am proud of the role they have played throughout the world in peacekeeping. I am deeply sorry that in periods in history they were brought into conflict with republicans due to the conflict in the North of Ireland. It was a great tragedy. I am very proud of our Defence Forces and I am proud of the role they have played in our communities and of the role of the Reserve Defence Force. I want to be very clear on this. Fine Gael, the law and order party, which absolutely berated the previous Government on these issues is now telling us that PDFORRA, which represents members of the Defence Forces on the front line, is wrong and irresponsible when it speaks about the impact

on its members. Soldiers cannot say these things due to their position and must speak off the record to the media to say this will have an impact on their ability to support the Garda in tackling crime. One cannot ignore this. The law and order party of Fine Gael, which relentlessly berated the previous Government about these matters, is now telling us that is a different world. It now says that these organisations, which it freely quoted in the Chamber in the past, are now not worth listening to. Come on.

Deputy Seán Ó Fearghaíl: We might do well not to politicise these discussions as much as we have been doing today. The Minister has a job of work to do to convince representative bodies of his commitment in this area. I accept his intentions are positive but it might be useful if he could report to us at some stage that he has been actively engaging with the representative bodies. He did not attend the annual conference, and perhaps he might have been able to communicate more effectively his position on this if he had been there. He was ably represented by the Minister of State. It would be good for the Minister to engage as directly as it is possible for him to do.

Deputy Alan Shatter: I have met PDFORRA in the past. I attended a previous conference. The Minister of State attended the most recent conference. It is very valuable and important that he is engaged in this matter. With regard to the suggestion I do not listen to PDFORRA, the representative bodies are very important in the Defence Forces and they have been very constructively engaged in addressing a series of issues. I distinguished the constructive, helpful and informative engagement that takes place most of the year and of course there will be disagreements on some issues. This is the nature of the way the world works when one has a representative body on one side and a Department on the other. I like to constructively work through issues when they arise. I merely made the comment that unfortunately when it comes to annual conferences people say things or perhaps exaggerate complaints because of the atmosphere these conferences create-----

Deputy Seán Ó Fearghaíl: A bit like political party conferences.

Deputy Alan Shatter: -----or perhaps the need to ensure the media, who are absent from the Chamber today, take some notice of an issue relating to defence.

I very much welcome Sinn Féin's support for our Defence Forces. I recognise its recognition that on this side of the island there is only one legitimate army, which can call itself Óglaigh na hÉireann; its recognition it should simply have a political wing and no longer have a military wing; and the fact that the military wing does not exist. I welcome all of this. However, let the Deputy not re-invent history. The Defence Forces were not drawn into an unfortunate conflict which was taking place in Northern Ireland. Conflict took place in Northern Ireland. It was a conflict of murder and mayhem in which many people lost their lives who should never have lost their lives and in which the Provisional IRA was fully engaged and saw the Defence Forces of this State as its enemy-----

Deputy Pádraig Mac Lochlainn: Absolutely untrue.

Deputy Alan Shatter: -----in so far as either the Defence Forces or the Garda Síochána sought to engage and through investigative work and intelligence work curtailed the ambition of those who existed on this island who were committed to killing other people. Let us not rewrite history but let us also not dwell on history because-----

Deputy Pádraig Mac Lochlainn: You just rewrote history yourself. You did a fine job.

Deputy Alan Shatter: It is much better that we have these rows in this Parliament than re-engage in other areas.

Deputy Pádraig Mac Lochlainn: What about the murder and mayhem in Israel? What about your friends in Israel who are responsible for murder and mayhem? You welcomed the Minister. What about those people who commit murder and mayhem in Palestine when you are welcoming the Minister?

An Leas-Cheann Comhairle: Deputy please. We have finished with the question.

Deputy Alan Shatter: I am not sure what relevance Palestine has to our discussion on the Defence Forces.

Deputy Pádraig Mac Lochlainn: You endorse them fully so do not use words like murder and mayhem when you endorse that type of approach in Palestine.

Deputy Alan Shatter: The Deputy should not articulate prejudices in this Parliament.

Deputy Pádraig Mac Lochlainn: No. Your factual statements-----

An Leas-Cheann Comhairle: Could we have some calm please?

Deputy Alan Shatter: The Deputy should not articulate his prejudices in this Parliament.

Deputy Pádraig Mac Lochlainn: Statements of fact you have made on the record.

An Leas-Cheann Comhairle: Order please.

Public Sector Pay

7. **Deputy Brendan Smith** asked the Minister for Defence if he will give an undertaking to maintain the border allowance for those Defence Forces personnel currently in receipt of it; and if he will make a statement on the matter. [48501/12]

158. **Deputy Seán Ó Fearghaíl** asked the Minister for Defence if he will maintain the border allowance payment in the Defence Forces; and if he will make a statement on the matter. [48827/12]

Deputy Alan Shatter: I propose to take Questions Nos. 7 and 158 together.

Border duty allowance was introduced in January 1972 and is still in existence. It was introduced because of some activities going on in Northern Ireland with which Deputy Mac Lochlainn will be familiar. Border duty allowance is similar to security duty allowance which is payable to Defence Forces personnel engaged on extended security duties in non-Border areas, for example cash escorts. Persons in receipt of Border duty allowance do not receive security duty allowance.

The Department sought to cease payment of Border duty allowance under the modernisation agenda contained in the Towards 2016 defence sector action plan. Following disagreement between the Department and the representative associations this issue went to binding third party adjudication. The adjudicator found in favour of the association and ruled that the allowance should continue to be retained on a personal to holder basis for those personnel who were

in receipt of it on 3 February 2009.

Accordingly Border duty allowance has been ceased for new entrants since February 2009, at which time there were 1,017 recipients. The allowance is being phased out as current holders retire or leave the Defence Forces and at the end of October 2012, 761 personnel were in receipt of the allowance.

As the Deputy is aware, the Department of Public Expenditure and Reform undertook a review of allowances and premium payments across the public sector and proposals were brought to Government for decision. Further to this, the Department of Public Expenditure and Reform published the results of this review of allowances and the outcome of the Government decision on its website at *www.per.gov.ie*.

Additional information not given on the floor of the House.

In the interests of bringing forward these savings to the pay bill, the Department of Public Expenditure and Reform wrote to the Department instructing management to immediately engage with staff interests with a view to securing their early agreement to the elimination of certain Defence Forces allowances payable to current beneficiaries including Border duty allowance. Accordingly the issue of allowances, including Border duty allowance, is currently the subject of discussions between management and the representative associations under the conciliation and arbitration scheme for the Defence Forces. The Deputy will appreciate that as discussions under this scheme are confidential to the parties involved it would not be appropriate for me to comment further on this issue at this juncture.

Deputy Seán Ó Fearghaíl: Does the Minister accept that the Border allowance received by a declining number of members of the Defence Forces is part of core pay and covered by the Croke Park agreement? Will he, in his dealings with the Minister for Public Expenditure and Reform, fight to ensure the allowance, which is essential to those who hold it, is retained? Will he give the House that assurance?

Deputy Alan Shatter: It was during Deputy O'Dea's time as Minister for Defence that the allowance was terminated and that the aforementioned conciliation process took place. This ensured that, from 2009 onwards, the allowance would not continue. There is now a legacy such that more than 700 members of the Defence Forces, a substantial number of whom are not engaged in Border duties, are in receipt of the allowance as a result of an adjudication.

With regard to the review of allowances by the Department of Public Expenditure and Reform and the outcome of the Government decision, in the interest of reducing the pay bill, the Department of Public Expenditure and Reform wrote to my Department instructing management to engage with staff interests immediately with a view to securing their early agreement to the elimination of certain Defence Forces allowances payable to current beneficiaries, including the Border duty allowance. The issue of allowances, including the Border duty allowance, is the subject of discussions between management and the representative associations under the conciliation and arbitration scheme for the Defence Forces. That is part of the procedural approach prescribed under the Croke Park agreement. The Deputy will appreciate that, as discussions under the scheme are confidential to the parties, it would not be appropriate for me to comment further on the issue at this juncture. I do not want to say anything that might prejudice the discussions. The approach I have outlined is part and parcel of addressing legacy issues that need to be addressed in circumstances in which the resources of this State are limited and must

be used carefully and wisely.

Irish Red Cross

8. **Deputy Robert Troy** asked the Minister for Defence if he will provide an update on the situation with regard to the governance of the Red Cross; and if he will make a statement on the matter. [48504/12]

(Deputy Alan Shatter): Pursuant to the Red Cross Act of 1938, the Irish Red Cross Society was established by Government order in 1939 as an independent charitable body corporate with full power to manage and administer its own affairs through its governing body, its central council. At first, the 1939 order underwent piecemeal changes only but, following a turbulent period in the recent history of the Irish Red Cross, earlier this year the Government approved the Irish Red Cross Society (Amendment) Order, which represented the most wide-ranging and fundamental set of changes to have occurred since the establishment of the society in 1939.

In summary, the key changes made in the amendment order were as follows. The composition of the society's general assembly was altered to the extent that not more than 10% of its membership are now nominated by the Government. The position heretofore had been that not less than one third was nominated by the Government. In keeping with best practice internationally, the executive powers of the President of Ireland were withdrawn. Previously the President had the power to call an emergency general meeting and to nominate the chairperson of the society. In accordance with the rules of the society, the chairperson is now elected and appointed by the members of the society's general assembly. The President remains honorary president of the society and is its sole patron. The amendment order gave legal effect to the society's revised constitution and its amended rules and governance structures. The central council was renamed as the general assembly and the executive committee as the board of directors.

Pending approval of the amendment order, the society's revised constitution and amended rules had been approved at a meeting of the central council in March 2012. The changes made had been developed in close collaboration with the International Federation of Red Cross and Red Crescent Societies, IFRC, and the International Committee of the Red Cross, ICRC, and meet the rigorous standards these organisations set for good governance internationally.

The constitution and rules of the society now provide for a general assembly and board profile which introduces external expertise to the organisation. For example, the society's chairperson can now co-opt two external people directly onto the board of directors to ensure there is a good balance of professional expertise and experience. Furthermore, the society's nominations committee can also bring a number of external people, currently four, onto the general assembly, which also adds to the diversity of experience and expertise available to the society's highest deliberative authority.

Additional information not given on the floor of the House.

The society's constitution now also provides that a member of the board of directors must stand down for one full three-year term once he or she has served on the board for two consecutive three-year terms.

Following the Government's approval of the amendment order, and in accordance with the

society's revised constitution, in May of this year the Government approved the nomination of four nominees to the society's general assembly. These four individuals were carefully chosen for the value their experience and expertise can bring to the society, and I am pleased to note that three of the four were subsequently elected to the board of directors by the members of the society's general assembly. Both the approval of the amendment order and the subsequent nomination of these four high calibre individuals to the general assembly of the society represent significant and important steps taken by this Government in helping to restore the full confidence of the public in the Irish Red Cross Society. These steps, allied to the rule and constitutional changes made by the society itself, provide for corporate governance arrangements that bring the Irish Red Cross into the 21st century. There is clearly a strong impetus for change within the society itself and while a lot of important measures have been taken over the past year and a half, I urge the society to maintain the momentum it has built up.

Furthermore, the programme for Government provides for the initiation of a detailed legal review of the basis, structures and governance of the Red Cross in Ireland to improve its functioning in the light of changing circumstances. My Department has commenced work on the review and I anticipate this will result in a Red Cross (amendment) Bill during the lifetime of this Government.

Deputy Seán Ó Fearghaíl: Does the Minister intend to bring forward a new Red Cross Bill for consideration? If so, what is the timeframe? Is the Minister happy that the serious deficiencies previously identified in the accounting system of the Red Cross have been addressed? In any legislation the Minister brings forward, will there be strict time limits on the duration of appointments to the board?

Deputy Alan Shatter: On the last question, the society's constitution now provides that a member of the board of directors must stand down for one full three-year term once he or she has served on the board for two consecutive three-year terms. I am concerned in particular that some individuals were on the board repeatedly and that there was neither the opportunity for change or for others to become members of the board. Following the Government's approval of the amendment order, and in accordance with the society's revised constitution, in May of this year the Government approved the nomination of four nominees to the society's general assembly. These four individuals were carefully chosen for the value their experience and expertise can bring to the society, and I am pleased to note that three of the four were subsequently elected to the board of directors by the members of the society's general assembly.

Both the approval of the amendment order and the subsequent nomination of these high calibre individuals to the general assembly of the society represent very significant and important steps. In the context of dealing with the issue of membership, there were individuals who had been on the ruling body of the society for many years. In the recent elections, two of them did not stand. In effect, much of the reform I was anxious to achieve has been achieved in the context of dialogue in which I engaged with the society from a very early stage after my appointment. There has been a sea change in the context of the rules and regulations and the society's constitution. Work is ongoing with regard to the new legislation we have promised in this area. I cannot give an exact timeframe because of the pressures on the legislative schedule in the Office of the Attorney General but I assure the Deputy that I am committed to that legislation. It is part of the programme for Government and it will come before the House at the earliest possible opportunity.

Defence Forces Veterans Associations

9. **Deputy Thomas P. Broughan** asked the Minister for Defence if he envisages any support being provided from his Department for the Organisation of National Ex-Servicemen and Women in view of the assistance the organisation provides for former Defence Forces' personnel who are experiencing difficulties; and if he will make a statement on the matter. [48457/12]

34. **Deputy Brian Stanley** asked the Minister for Defence the supports the State will provide to the needs of ex- Defence Forces members in difficulties and to organisations such as the Organisation of National Ex-Servicemen and Women; and if he will make a statement on the matter. [48465/12]

(Deputy Alan Shatter): I propose to take Questions Nos. 9 and 34 together.

The Organisation of National Ex-Servicemen and Women, ONE, which has enjoyed the long-standing official recognition of the Department of Defence and the Defence Forces, is an organisation dedicated to looking after the welfare of ex-service personnel of the Irish Defence Forces by way of providing accommodation to homeless, elderly or disabled members in need of such domestic accommodation and shelter and other assistance that may be required. ONE is a limited company with charitable status.

In recognition of the work that ONE undertakes on behalf of ex-servicemen and ex-servicewomen, my Department provides to it an annual subvention of €40,000. This annual subvention is paid in quarterly instalments, subject to the submission by ONE of certified accounts. The funding is provided to support the general overheads of the organisation and expressly not for the provision of services that are provided to citizens, including members of ONE, from other arms of the State. This covers housing, health, social assistance, etc.

In addition to the funding provided to ONE, my Department also provides annual funding to a second officially recognised veterans association, the Irish United Nations Veterans Association, IUNVA. Membership of IUNVA, which was formed in 1990, is open to any person, serving or retired, who have successfully completed a tour of duty with a UN force or organisation.

Clearly, the work that ONE undertakes makes a very tangible difference to the lives of many former members of the Defence Forces each year. In this context, it is appropriate that I acknowledge the staff and board of directors of ONE and commend them on their ongoing hard work and commitment to the organisation over the years.

Deputy Thomas P. Broughan: I thank the Minister for the answer. He is very well aware of the tremendous work done by ONE. There has for some time been a major housing centre in Dublin in which some 550 former soldiers - veterans – have been housed. There are also units in Athlone and Letterkenny, and there is a new drop-in centre in Limerick. It costs Mr. Ollie O'Connor, the chief executive, and his staff approximately €600,000 per annum to run the services for our veterans. Given the tremendous service they have given to the State and the United Nations, in Lebanon and many other theatres, maximum support must be provided. In this regard, the Minister said €40,000 was allocated by the Government.

Does the Minister consider it a key priority of his tenure to move forward with the provision of supports for veterans in terms of housing, education, health and sport and cultural issues? Every Member of this House is aware of the contribution these people have made to our country. Some of us have made representations on behalf of former soldiers with profound housing

needs. A group of former Defence Forces personnel recently came together to establish a new veterans association, including a former colleague of ours in this building who was charged with our protection for many years. In the United States, the Veterans Association has done fantastic work over many years in the areas of education, housing and so on. There is a great deal more to be done in this State. Will the Minister return to Cabinet with a stronger case for the provision of support to the Organisation of National Ex-Servicemen and Women? My colleague, Deputy Willie Penrose, has raised this issue with the Minister on several occasions. The State must provide support to these people, particularly in the area of housing and education.

Deputy Alan Shatter: The bottom line is that this country is faced with substantial constrictions on its resources. There is no point in my pretending otherwise. I am obliged to fight my battle in Cabinet to ensure we have sufficient funding to maintain all of the Defence Forces' capabilities and meet our financial obligations to former members of the Defence Forces in regard to pensions, which are very substantial in the context of where we now stand. I was very pleased that we were able to maintain our support for ONE this year, as we did last year, and it is my intention that this support will continue. I am not in a position, however, to tell the Deputy that additional supports will be forthcoming. I would have to ask him to identify how the resources can be found to do so.

Deputy Thomas P. Broughan: I identified those resources some weeks ago, but the Minister's party was not interested.

Deputy Alan Shatter: I am happy to hear the Deputy's proposals.

In regard to some of the services to which he referred, including housing, social welfare supports and a range of health services, it is important to note that they are provided by other Departments and other agencies. They could not and never have been replicated by the Department of Defence. I assure the Deputy, however, that ONE will continue to be supported. I greatly value and appreciate the work it has done in assisting individuals who have served with distinction in our Defence Forces, some of whom have since fallen on hard times.

Apart from ONE, there are several other organisations offering support to veterans. In fact, it seems that a new one is posited at least once a year. It simply is not possible for the Department to provide funding to all of them. It is certainly my intention, however, that funding for those organisations currently in receipt of it will continue.

Deputy Pádraig Mac Lochlainn: As Deputy Tommy Broughan observed, one of the veteran housing units is located in Letterkenny, in my constituency, and I have seen the excellent service it provides. Representatives of ONE will, on the invitation of Deputy Willie Penrose, be in Leinster House next week to make a presentation. This will provide an opportunity to Deputies and Senators to learn about the services the organisation provides. Deputy Broughan says he has identified sources of funding that could support this work. Our party will keep the issue in mind in devising the alternative budget we intend to bring forward in the coming weeks. I ask the Minister to look at both sets of proposals in order to ascertain whether there is scope for additional funding for this body.

Deputy Alan Shatter: As I said, I greatly value the work done by ONE and similar organisations. I assure the Deputy that if I had some spare cash somewhere, I would happily provide additional supports. I cannot, however, make that type of commitment in the context of our overall expenditure position and the obligation on the State to spend €3.5 billion less in 2013

than we have spent in 2012. It is not open to any Minister to suggest there is an additional pot of money, and it would be irresponsible and misleading of me to do so. I am very anxious that we maintain existing supports to this organisation and I am very happy to hear anything it has to say to Members of this House. Nevertheless, it is vital that I do not mislead people in the very difficult financial and fiscal circumstances in which we find ourselves.

Written Answers follow Adjournment.

Topical Issue Debate

Cyberbullying

Deputy Michael McCarthy: I thank the Ceann Comhairle's office for allowing me to raise this issue, which I was prompted to do by the tragic events of recent weeks. Any future action in this area is already too late for the two young teenagers who were victims, in the true sense of that word, of horrifying instances of cyberbullying. There is hardly a Member of this House who does not have some type of presence on social media, whether Twitter, Facebook or otherwise. Many teenagers have almost unlimited access to the Internet and spend a great deal of time on it every day. Social media sites are a substantial component of many young people's social interactions.

For the second time in six weeks, we have seen the death by suicide of a teenager as a consequence of the distress caused to them by cyberbullying. The devastation of these deaths for their parents and wider family, friends and communities is absolutely unfathomable. We as legislators can no longer stand idly by and protest that the Internet cannot be policed and we cannot do X or Y. The time has come to address the issue with the urgency and sensitivity it requires. We must look at ways of getting around the difficulties that present in tackling this issue. It is incumbent on this Legislature to fulfil its duty to the citizens of our Republic to protect young people and safeguard their self-esteem and mental health.

There must be explicit legislation in this area. I accept that it is impossible to eliminate this type of activity entirely - we must be practical and realistic - but there is an onus on us to put measures in place that will at least begin the fight-back against this absolutely appalling and despicable activity. The popularity of social media websites has boomed in recent years in this country, an unfortunate consequence being that the prevalence of cyberbullying has likewise increased. The frightening reality of cyberbullying was documented by the anti-bullying centre at Trinity College Dublin earlier this year, with survey results showing that one in four girls and one in six boys have experienced cyberbullying, either as a victim or a perpetrator. These are very harsh statistics. Unlike traditional schoolyard bullying where individuals squared off against each other, the perpetrators of cyberbullying are usually anonymous, which can reduce the empathy felt towards the victim and removes many of the traditional restraints on bullying behaviour. Cyberbullying is 24-7 by nature, persisting long after the child has left the schoolyard.

Laws specifically designed to protect victims of cyberbullying and stalking now exist in the United Kingdom and the United States. It is entirely possible to offer some limited protection under, for example, the Offences Against the Person Act. However, it is now clear that this is insufficient and we have to go the extra mile. A new defamation bill is currently being dealt with in the House of Commons and represents a radical reform of the libel laws in that country. It contains a provision that legally compels Internet service providers to reveal the identity of those who post abusive and defamatory online messages. In return, Internet service providers will be given greater protection from being sued if they help to identify cyber bullies.

The State plans to build a new national children's hospital and, this Saturday, citizens will vote on a constitutional referendum on children's rights. This is the next logical step and there is both an urgency and necessity around this issue.

Minister for Justice and Equality (Deputy Alan Shatter): I would like to start by thanking the Deputy for raising what is a very important issue. I am aware of the growing public concern, especially after a number of recent tragic cases to which the Deputy has referred. Let me, at the outset, express my heartfelt sympathy to the families involved who have been affected by events that we are aware of and which have featured in public discussion in recent days.

Cyberbullying is a manifestation of bullying and refers to instances where it is carried on using modern technology or, more correctly, abusing that technology. It seems more prevalent among younger people but it is not confined to that group. The anonymity of cyberspace lends itself to individuals being bullied and abused by those who feel safe in the anonymity afford to them.

Bullying is essentially a form of harassment and, as such, falls within the provisions of the Non-fatal Offences against the Person Act 1997. Section 10 of the Act sets out the details of the offence and there is no doubt that bullying using technology, or cyberbullying as it is generally referred to, falls within the term "harassment". I therefore believe the current law can be used to address the problem. However, I have been made aware of difficulties in bringing successful prosecutions under section 10, especially around the need to demonstrate persistence in the harassment. I have asked the Law Reform Commission to examine this difficulty and I await its conclusions.

I understand that the issue has already been examined elsewhere, including in Scotland and Australia, and I hope that we can learn from those jurisdictions. The Deputy referred to the position in the UK. I understand the difficulty I referred to about proving persistence has been addressed, but I am not aware of any current initiatives to change its laws to address cyberbullying in particular. Cyberbullying is an extension of the bullying that has occurred, and still occurs, with texting. The latter is another means for people anonymously to put young people under pressure.

I would urge anyone who is the victim of any kind of bullying, including cyberbullying, to report it to the Garda Síochána. I would also urge parents and other family members to support and encourage victims in doing so and to make complaints to gardaí where appropriate to facilitate the Garda Síochána in bringing prosecutions. It is not simply a question of telling gardaí, but where a crime has been committed the Garda Síochána needs parents to make a formal complaint so that as a result any investigation has the capacity to bring about a prosecution.

I realise, however, that many may also require assistance in coming to understand and deal

with the problem. In that respect, I think it worthwhile to refer to several of the services available from a variety of sources. Of course, as a first requirement, parents and teachers must develop an awareness of bullying and must be especially aware of how mobile telephones and other equipment and means of communication can be used to intimidate and harass young persons.

The Safer Internet Programme, which is administered by the Office of Internet Safety in my Department, supports helplines for parents and teachers run by the ISPCC, the National Parents Council (Primary), and Technology in Education, which was formerly the National Centre for Technology in Education. Technology in Education also has a website for children. In their visits to schools under their primary schools programme, gardaí also highlight cyberbullying.

The Safer Internet Day takes place in February each year. It is an international event with an agreed theme. The theme for 2013 is "Connect with Respect" and I expect the emphasis will be on using technology in a friendly, respectful way. All of us who are working with children and young people must encourage and promote that message at every opportunity.

The law has a role to play and I hope we can increase its effectiveness in the context of any reforms that may arise from the Law Reform Commission's deliberations. I cannot emphasise enough, however, the importance of constant vigilance by family and teachers, the need constantly to remind young people themselves of the damage that bullying in any form can cause, and the need to take it very seriously. All too frequently, allegations of bullying are not taken with the necessary seriousness by adults who hear about them. Indeed, all too frequently, schools fail adequately to address instances of bullying that are reported to them.

Heightened public awareness of the problem can only contribute to a recognition that such behaviour is completely unacceptable, whether it occurs in schools, the workplace or elsewhere. The sad reality is that children can be very cruel to each other, as can adults. The anonymity of cyberspace affords a unique opportunity for those who want to do down others, or for those who themselves have been victims of bullying, are damaged by it and now want to identify victims to target. It is all too easy to use this medium in that way.

The important thing is that young people who find themselves at the receiving end of bullying on a particular social media site understand that there is no compulsion to access that site. It does not have to be part of a person's life that they visit such a site daily to see what someone is saying about them. There is a world outside cyberspace.

An additional issue, which is not given adequate consideration, is the extent to which today, in what is a very new world, people's lives - both adults and children - can be dominated by social media outlets and cyberspace connections, as opposed to them actually getting on with the real world. They can create an artificial environment in the context of which they become victims.

I feel particularly strongly about this issue. It is not just about the law or the Garda, it is about families and hearing teenagers' voices when they say they have a difficulty. It is also about properly reporting it and following up on such reports. In addition, it concerns primary and secondary school principals doing a great deal more to discourage bullying in the first place. They need to talk to young school students about their actions and the consequences. It must be ensured that this is not just a half-hour lecture that will be forgotten when the world moves on. Students should become engaged in projects so that the damage they can do, if they

engage in conduct of that nature, is clearly understood.

Deputy Michael McCarthy: I agree with the Minister that there are many roles to be fulfilled not just by law enforcement agencies, but also by parents and schools. There is also a crucial issue concerning internet service providers. I commend the Minister for Children and Youth Affairs, Deputy Frances Fitzgerald and the Minister for Education and Skills, Deputy Ruairí Quinn. The latter Minister has given a significant commitment to establish a forum to revise pre-1994 Internet anti-bullying regulations. The Minister, Deputy Fitzgerald, recently visited London where she witnessed how Scotland Yard have an entire room of computers monitoring what is happening online. She is also in contact with the Latvian Internet service provider concerning *Ask.fm.com*, which was specifically involved in the recent tragic and harrowing cases.

Unless we have explicit legislative provisions to outlaw the practice of cyberbullying it will continue. Unfortunately, however, I acknowledge that it can never be eliminated or fully outlawed. If it could be done, we would be doing so but we must begin the journey down that road.

Will the Minister indicate when the Law Reform Commission will come back with those specific proposals? I ask him to keep this issue on his Department's agenda and treat it with the urgency it requires.

Deputy Alan Shatter: I assure the Deputy that we will give this matter the urgency it requires. However, I do not want to enact laws that do not address the problem and which, in the end, just appear decorative. It is important that where Internet service providers can identify and prevent online bullying, they should engage and take whatever action is required. It is also important to deal with this from the human dimension and not simply the legal one. We should not imagine that by enacting a law this will all go away because this matter concerns human conduct. Some of those who bully online have themselves been victims of bullying, while others simply see targeting people as entertainment.

*4 o'clock*All Members can recall their own school days, when it was rare for a school to exist that did not have someone who was identified as the school bully. Unfortunately, the tragic reality is that targeting and bullying has even translated itself into public discourse in a whole range of areas and it is an interesting question as to what example that gives to young people and what impact it has on them.

All that said, it is terribly important to recognise that as a society in general, we wish to see young people benefit from the amazing new technologies that exist. New technology has had an overwhelmingly positive impact but we must ensure its use as a medium to cause distress to individuals, put them under pressure, make their lives extraordinarily difficult or contribute in any way to making a young person or adult take his or her own life is dealt with and addressed. However, one should not pretend these issues can be dealt with simply by the passing of a law.

I particularly thank the Deputy for raising this issue today, thereby giving Members an opportunity to touch on it, because that is all they are doing. I share the Deputy's view that interventions in this area by both the Minister for Children and Youth Affairs, Deputy Fitzgerald, and the Minister for Education and Skills, Deputy Quinn, are very important and welcome. The Government will work collegially to address the issue. On a personal level, I am convinced that a lot more must be done within the schools. The focus to an extent has been on what one does when one receives a report of bullying. I want to see a lot more being done to prevent bully-

ing from taking place in the first place. A lot more should be done to ensure that young people understand fully or are taught to understand the consequences of thoughtless actions they may take, which they may simply perceive as being amusing or as a way of filling time, because people amusing themselves sometimes do enormous damage to those individuals who are the butt of their amusement.

Courts Service

Deputy Noel Harrington: I thank the Office of the Ceann Comhairle for selecting this issue and thank the Minister for his attendance in the Chamber. While this issue may be a little more parochial than the previous matter, perhaps Deputy McCarthy will have an interest in it nonetheless. The imminent closure proposed by the Courts Service of the courthouses in Kinsale, Skibbereen and Clonakilty is causing some concern in west Cork. It represents a further continuation of the contraction of the Courts Service's operations in west Cork in recent years. It has already closed six District Court venues in Castletownbere, Schull, Glengarriff, Dunmanway, Millstreet and Coachford and this reduction in the number of court venues from 12 to six already has created serious difficulties for all court users. Obviously, reducing this number further by another three to three venues will cause even greater difficulties.

I am aware that late last year, the Minister and the Chief Justice established a working group on efficiency measures in the criminal court system in the Circuit and District Courts and I have had sight of the Courts Service's strategic plan for 2011 to 2014, Delivering Service, Transformation and Value. I recognise and welcome that like all State agencies, the Courts Service is in a period of change and reform. However, the issue also should be examined a little more closely because the cost savings that are being considered or which are to be achieved may not add up when one takes into account the entire picture. For example, were all the gardaí stationed in a town in west Cork obliged to travel to Cork city for hearings, it could leave an entire district without cover for six, eight and possibly even more hours during the day. I also am aware the State solicitor for west Cork has already indicated that he is encountering difficulties in getting gardaí to be available for attendance at Circuit Court hearings in Cork. In one recent case, he was informed by the superintendent that he could have two gardaí in one case and three of the gardaí on the following day. Moreover, in family cases, one could have all the litigants or concerned witnesses travelling together for up to 80 miles on one bus. Regrettably, we do not have regular scheduled public transport and this is possible. I do not believe the Minister is of the opinion this situation would be desirable.

Other hidden costs also might be considered, including Garda overtime, mileage allowances, etc. In addition, would cases be dismissed were gardaí unable to attend? I refer to another issue the Minister might take into account that is completely out of left-field. In Skibbereen, for example, if a traffic warden was obliged to attend a court day in Cork, that conceivably could lose €400 to the town council in Skibbereen. While this may be a minor issue, it nevertheless is a hidden cost.

Deputy Alan Shatter: But everyone would be able to park happily.

Deputy Noel Harrington: It is very easy to collect the aforementioned €400 in Skibbereen. Other consequences may be a little more serious. Obviously, the District Court is a court that affects most ordinary people more often. The current cost of holding District Court sittings in Kinsale, Clonakilty or Skibbereen is approximately the same, that is, €9,500 or €10,000 per an-

num. I also should mention increased costs to other State bodies, were the court venues to close in west Cork and to be relocated to Cork city.

One issue that is causing considerable concern to the communities involved is the security exposure in respect of the gardaí being obliged to travel, *en masse* in many cases, from more remote parts of west Cork to attend court proceedings in Cork city. I believe this would be a serious issue for security in the more rural villages. Allied to this, west Cork has experienced Garda closures over the past 12 months and more may be envisaged - I do not know what will emerge. I take the point the Minister always makes that, ultimately, it is gardaí who will prevent crime and while stations will accommodate, it is the availability of the gardaí that is most important. I understand these proposals are coming from the Courts Service. I believe the closures that are being proposed may be imminent and I believe time to be important in this regard. However, I sincerely ask that the Minister would consider both the spreadsheet cost of the rationalisation and the greater picture, including costs within his own Department from the Garda Commissioner's office and possible security implications from the Garda Commissioner's office to ascertain whether there is an opinion in that regard. Obviously, the general community effect for a small town of losing even a monthly sitting of a District Court is negative and perhaps also has an effect on the social, community and business life of a town. The Minister should consider these points in the context of the proposals from the Courts Service

Deputy Alan Shatter: I thank the Deputy for raising this issue. As the Deputy will be aware, under the provisions of the Courts Service Act 1998, management of courts is the responsibility of the service and as Minister, I have no role in the matter. Section 4(3) of the 1998 Act provides that the Courts Service is independent in the performance of its functions, which, of course, include the provision, maintenance and management of court buildings. However, I have made inquiries with the Courts Service and am informed that in the current financial climate, the service has been reviewing all aspects of its organisational and operational structures throughout the country with the specific objective of ensuring the service can continue to maintain the delivery of front-line court services and an appropriate level of service to court users. I understand that no court venue has been singled out or indeed exempted from the review process.

A comprehensive review of venues has recently been completed, the purpose of which was to establish a general framework within which venues could be considered for closure, taking into account a range of criteria such as case loads, proximity to an alternative venue, physical condition of the building, availability of holding cell facilities and so on. The likely impact on other justice agencies, such as An Garda Síochána and the Irish Prison Service, is also taken into account. I am informed the review identified a range of venues nationwide which, based on the criteria applied, could be considered for closure subject - I emphasise this - to a detailed assessment and the preparation of a business case in respect of each identified venue, which has now commenced.

The service has advised that the identification of venues as part of the review process does not conclusively mean that the identified venues will close. I am informed no decision will be taken on an individual venue without prior consultation with local stakeholders and I understand this consultation will be undertaken at an early stage in the assessment process in order that all views can be fully reflected in the decision-making process. It should be noted that the final decision will be a matter for the Courts Service board. Under the statute, I have no role or function in the matter.

As for the particular venues mentioned by the Deputy, I have been informed by the service that no sittings have been held in Kinsale since 1 October 2010, due to the condition of the courtroom and Kinsale District Court currently sits in Bandon. With regard to Skibbereen and Clonakilty, I am advised that the standard of the facilities, numbers of sittings and caseloads require examination. The Deputy will appreciate that the retention of venues not in use, not of reasonable standard or which are rarely used must be fully reviewed with necessary decisions taken. It is worth noting that since its foundation, the service has made great progress in improving the stock of courthouses throughout the country. Many of our county town courthouses have been refurbished and other major upgrading works have been completed in places such as Cork, Limerick, Dundalk and Castlebar.

Since its establishment the Courts Service has amalgamated more than 150 venues while at the same time the service has benefitted from a very substantial capital investment to upgrade larger courthouses, concentrating mainly on county towns. The policy has been very successful, resulting in a more efficient use of time for the Judiciary, court users and An Garda Síochána. Rather than short sittings in the smaller venues, a full day's list can be dealt with which leads to reductions in delays in the District Court.

I thank the Deputy for raising the matter and I appreciate his interest in the administration of justice in County Cork, as well as his concerns about his constituency and those who utilise existing court facilities. I know the Deputy will understand the need for the Courts Service to take the measures necessary to promote greater efficiency in the courts, and I hope the constructive engagement involving the Courts Service will result in reasoned and appropriate decisions being made on the venues.

Deputy Noel Harrington: I thank the Minister for his response. I am particularly pleased that decisions will be taken after a consultation process with stakeholders. I would be the first to say if it does not pay to have a venue, it should be shut down. That is the reality of the world in which we live. I was aware the decision would be taken by the Courts Service but it was only fair to give the issue an airing in this forum because of the possible consequences with regard to justice, gardaí, businesses and the community. I hope these elements will be considered as well as being part of the stakeholder process. Due weight should be given to the cost in pounds, shilling and pence along with secondary or associated costs.

I take the point with regard to having full days in the venues and making the best possible use of private legal firms, the Chief State Solicitor's office and public money in the use of gardaí, expenses for witnesses and so on. There are also social concerns, with witnesses and people involved in court matters travelling together. As I stated, that is not desirable. I brought the issue to this forum because there is a minor or even more significant impact on different aspects of life in west Cork. I am grateful for the Minister's response.

Deputy Alan Shatter: All the issues mentioned by the Deputy were raised by me some time ago in an official meeting with representatives of the Courts Service. It operates independently and makes independent decisions, but I am entitled to meet its representatives. It is not for me as the Minister to determine which courthouses should remain open, but those decisions will be made. I have emphasised that it is terribly important that in making these assessments, the totality of the cost implications would be taken into account. The issue could not be viewed simply from the perspective of the Courts Service budget or Estimate.

It is vital there is joined up thinking and synergy in what is going on, especially when dealing

with stakeholders. The Courts Service must engage with An Garda Síochána if, for example, there is a proposal to close a particular courthouse. The impact on manpower and availability of gardaí in a local community when a court might be sitting elsewhere must be considered, along with costing of Garda time if personnel attend at one location rather than another. There are other consequent issues that may arise.

An unseen piece of the jigsaw is the cost in court staff in locations that are open very rarely. One must consider the travel time involved, the moving of files and documentation and the efficiencies with which the Judiciary could administer justice in a court that might only have a limited number of hearings, as opposed to a court where there are a larger number of cases. The public may be better served and issues awaiting attention in the courts would be dealt with more efficiently and quickly.

Many people seek remedies in small and occasional District Court sittings, and if those people were told they could travel ten or 15 miles but that the case would be dealt with three months sooner, they would welcome it. Those at the receiving end of a criminal prosecution may want to kick the can up the road in that respect. A civil application to recover a small debt or a family law application in the District Court - for example, a dependent wife and child awaiting a maintenance order - could be dealt with more quickly if a couple of court locations were amalgamated. Instead of waiting three or four months for a hearing, the people in question would only have to wait four or five weeks, and most people would go for that option.

There is also the issue of cost in the context of the legal profession. As a member of that profession, I know that with some of the smaller courts there can be a reasonable assurance that practitioners are equally likely to be attending courts in other locations in Cork, for example, to represent clients. They would not be unduly burdened by having to move to a different District Court location.

As I understand it from the Courts Service, these locations are being reviewed, and it is not a given that from those reviews the courts under examination will close. It is important that this be considered in a comprehensive way. There is, nevertheless, an inevitability that there will be further closures to bring about consolidation and to use public resources more effectively. We must also bring efficiencies to the manner in which the courts operate.

Teaching Qualifications

Deputy Richard Boyd Barrett: I am optimistic this issue is an oversight or an anomaly that the Government can rectify. It should not cost money to do so, which should provide some relief, as it is simply a matter of trying to sort out a problem faced by teachers, particularly those in vocational education committees. It was brought to my attention by teachers in the VEC in Dún Laoghaire but I understand it may affect up to 5,000 people working in VECs.

The Education (Amendment) Act 2012 required people to be registered with the Teaching Council for them to be paid by the State. There are many teachers working in the VECs who are unable to register with the Teaching Council because they do not have degrees, although they have worked for a long time with a VEC and are very well-qualified to do their teaching job. That is certainly the case with the individuals who came to me. However, due to this legislation and a departmental directive to vocational education committees, VECs, teachers were told that they could no longer be paid out of the State purse as of the end of October.

Will the Minister of State rectify this anomaly? It is perfectly reasonable to introduce regulations on teachers' qualifications and registration. When the Act was passed, it may have been focused on the primary and secondary sectors wherein one would expect everyone to have degrees. In the vocational sector, a degree is not necessary for many people. The person who approached me was a soccer coach and had the highest possible qualifications in that regard. As he does not have a degree though, he cannot register with the Teaching Council, which means he is threatened with the loss of his job. He has worked for the VEC for 17 years. The person in the Dún Laoghaire VEC has worked there for 12 years and someone else has worked in a VEC for five or six years. Apparently, as many as 5,000 people may be in this limbo and are threatened with losing their jobs. Will the Minister of State amend the directive to allow for the teachers in question, many of whom have been working for a long time and are qualified in other ways to do their jobs, to register with the Teaching Council so their jobs will not come under threat and they can be paid by the VECs?

A related issue is that these workers should have contracts of indefinite duration, which is not currently the case. It seems that the VECs have failed in this worker's rights issue. We are referring to people who have been employed for 12 or 17 years. They are essentially working on a month-to-month basis with a guillotine hanging over their jobs. Does the Minister of State understand my point on the need to act on this matter and to ensure these teachers do not lose their jobs? The Teaching Council should be told to allow them to register and the VECs should be instructed to give contracts of indefinite duration to those who have an entitlement to such so they can have security of employment.

Minister of State at the Department of Education and Skills (Deputy Sean Sherlock): I am taking this matter on behalf of the Minister for Education and Skills, Deputy Quinn, who is travelling on Government business.

A number of developments will impact on teachers in VEC schools during the coming school year. First, the commencement of section 30 of the Teaching Council Act 2001 will prohibit the payment of people employed as teachers in recognised schools unless they are registered with the Teaching Council. I take the Deputy's point in this regard. The second major development will be enhanced requirements from April 2013 for registration with the Teaching Council as a further education teacher. The requirement for registration will be increased from a degree-level qualification to a requirement to hold a teacher training qualification in addition to an undergraduate level award.

Individuals without recognised qualifications who were employed in a teaching position or eligible to be employed in a teaching position in a recognised school at the time of the establishment of the Teaching Council in 2006 were deemed registered with the Teaching Council in its first year. Teachers were advised at the time to seek registration with the council and to ensure that their registrations were maintained. If such people availed of this entitlement at the time and subsequently maintained their registrations, there is no change to their position. A dispensation was given at the time and there is no basis for it to be given again.

It has been the policy of the Department of Education and Skills for some time that only qualified and registered teachers should be employed by schools. Current recruitment procedures direct schools to ensure that teachers proposed for appointment to publicly paid posts must be registered with the Teaching Council and have qualifications appropriate to the sector and suitable to the posts for which they are proposed.

Since 2006, any unregistered person employed by a VEC in a teaching post has been on notice that, once section 30 became law, there would be no basis to continue paying him or her. Therefore, such persons can have no reasonable expectation of continued employment beyond the period of time that it takes the school to source a registered teacher. It is expected that section 30 will be commenced later in the school year. This will ensure that only registered teachers are employed in teaching positions in our schools. Separate provision will be made for urgent situations where no registered teacher is available.

Notice of the imminent commencement of section 30 and the Teaching Council's registration requirements has been in the public domain for some time. Sufficient time has been available for individuals to engage with the Teaching Council to gain registration. It is the Government's view that all teachers should be appropriately qualified. This is surely the minimum that our children deserve. The commencement of section 30 is intended to buttress that policy and will be to the advantage of ensuring a quality education for all.

Deputy Richard Boyd Barrett: I understand that the Minister of State is working from a prepared script, which is fair enough, but I need him to address the issue. I understand the current position, but a dispensation is necessary. In the case I raised, and I suspect many others, the necessity of registering was not clear to teachers in 2006. A large number of teachers who have been working for many years, who possess qualifications and who are needed in their schools are not registered. They can no longer register because the Teaching Council will not allow them to do so. A dispensation should be made for this group of teachers so they do not lose their jobs.

It seems the legislation was focused on the primary and secondary sectors and did not take into account the peculiar characteristics of vocational education, including the different subjects and types of qualifications that do not necessarily fit neatly into the degree model required by the council. This needs to be recognised and accommodated. There are likely many teachers with different types of qualifications who should be allowed to register.

The Minister of State did not respond to my point on people's rights as workers. One is supposed to be entitled to a contract of indefinite duration after three years, yet the VECs do not seem to have provided them. Will the right of these workers to be employed be upheld?

I appeal to the Minister of State to provide a dispensation and to require the Teaching Council to allow teachers to register. It would be fair and reasonable. Will he address my points?

Deputy Sean Sherlock: I respectfully assure the Deputy that I am working from a prepared script because I want to allow him the time-----

Deputy Richard Boyd Barrett: I was not being critical.

Deputy Sean Sherlock: I know, but I want to internalise what we are saying. Given that this is a technical issue, it is important that my reply be carefully scripted.

The position is clear. We understand that some people in the mainstream primary, post-primary and post-leaving certificate, PLC, space, such as the gentleman to whom the Deputy referred, have contracts of indefinite duration and are employed in place of teachers. Where such an individual has been employed in an unqualified capacity since 2006, has allowed his or her registration to lapse and has taken no steps to become qualified in the intervening years, it will be a matter for that person to decide whether to take an approved, unpaid leave of absence

to gain the necessary qualifications for registration. As long as he or she remains unregistered, his or her capacity to be paid as a teacher in the public sector will be limited to the kind of short-term unforeseen employment which will be permissible under the ministerial regulations. From 1 April 2013, under the Teaching Council registration regulations 2009, the threshold for entry on the registry will increase in all categories of registration. Since the Department has already set registration as a requirement for employment in the above circulars, this higher threshold applies automatically in terms of employment from 1 April next independently of the section 30 requirements. The commencement of section 30 will reinforce the Department's longstanding position that education in recognised schools funded by the State must be delivered by appropriately regulated professionals. I do not think anybody would argue against that. This position must be maintained in the interests of providing the best possible education for the very students about whom we are talking.

School Accommodation

Deputy James Bannon: I thank the Ceann Comhairle for affording me the time to discuss this very important issue in regard to an application by Lanesboro community college, Lanesboro, County Longford, for additional temporary school accommodation, namely, a general purpose classroom, a science laboratory, an office and a sports hall. The extended accommodation is necessary in light of the considerable increase in enrolment over the past number of years and, in particular, September 2012.

I am delighted to say that since I first raised the issue with the Department and since I spoke on the Education and Training Boards Bill 2012 some weeks ago, the Department of Education and Skills has made an allocation for two new classrooms at Lanesboro community college. This funding will allow for the replacement of an existing prefab and the building of an additional classroom. I welcome this news and thank the Minister for ensuring this dynamic and highly progressive school is to get a long-needed extension to its built environment.

Following the closure of the local convent in Lanesboro, which was amalgamated with the VEC, the school is bursting at the seams. The number of students is way beyond the capacity of the current building provision. In fact, for the past number of years, enrolment has been rising steadily. There has been an increase of 89 students in the past six years alone. Current accommodation is totally unacceptable to accommodate such numbers.

There is a severe shortage of classroom space to accommodate classes and to allow for subject options. Leaving certification physics, biology, chemistry, agricultural science and junior certificate science are all forced to share the same room. This is unacceptable in 2012, and I pointed this out on several occasions.

On a visit to the school in March of this year, I was shocked to see teachers having to conduct meetings with parents in corridors and hallways. As I am sure the Department took into consideration my many submissions, I do not need to stress that the current situation at the school is a health and safety concern. Classroom space is necessary to cope physically with the increased volume of students. It is also essential to facilitate teaching and learning within the school.

Apart from the overcrowding of the science room, the computer room is also a general purpose classroom. The school music room is small and very close to other classrooms leading to

unacceptable levels of noise. There is no general room available for study during the day. The school office is too small with no privacy for the school secretary, parents or inspectors and is an unhealthy environment.

While I believe there are no current plans to fund a sports hall, the provision of physical education for the students is extremely difficult given the limitations of space and the complete lack of an area for indoor sports. I am sure the Minister is conscious of the urgent need to get all students involved in sporting activity in the interests of long-term health and well-being. We had reasonable success in the midlands earlier this year with our Olympians. For a second level school to be unable to provide for indoor sports for its students is an indictment of the Irish education system and a lack of awareness of the part physical activity plays in academic success and overall student development. I hope that in the not too distant future, I will be welcoming funding for a sports hall at Lanesboro community college.

The amalgamation of schools across rural Ireland was promoted not only as a cost-cutting exercise but as a positive benefit for students with resources to be centralised and improved. Certainly, the students of Lanesboro community college have not had such an experience until now. For them overcrowding has been a difficult and ongoing problem. This is despite the wonderful work carried out by the principal, Jimmy Flanagan, and his excellent staff with the generous assistance and support of the board of management, and in this regard I mention my party colleague, the mayor of Longford, Sean Farrell, Adie Farrell, who is synonymous with education in Lanesboro, Willie Dinnegan and the parents. With the backing of Department funding, their professionalism and goodwill can be matched by a more realistic school built environment.

Deputy Sean Sherlock: I thank the Deputy for raising this issue which I am taking on behalf of my colleague, the Minister, Deputy Quinn. The fact the Deputy raised it gives us an opportunity to clarify the current position in regard to the application for additional accommodation at Lanesboro community college, Lanesboro, County Longford.

I am aware that enrolment at the school on 30 September 2012 was 176 mainstream students and 25 post-leaving certificate students. Enrolment at September 2011 consisted of 167 mainstream students and 65 post-leaving certificate students. This reveals a slight increase of nine mainstream students but a reduction of 40 post-leaving certificate students for the 2012-13 school year.

In November 2011, the VEC submitted an application for capital funding to the Department for a major extension at Lanesboro community college. However, the Deputy will be aware that in view of the very real need to ensure that a child has access to a school place, the delivery of essential mainstream classroom accommodation will be the main focus for capital investment in schools in the coming years.

The VEC subsequently submitted a revised application that focused on the need for classroom accommodation along the lines of the case outlined by the Deputy. To assist with the assessment of the school's further application, an inspector visited Lanesboro community college in September. On the basis of the inspector's visit, the Department approved funding to construct two permanent classrooms at the school. This decision was conveyed to County Longford VEC on 17 October 2012 and a formal letter setting out the level of grant and the conditions associated with the grant aid was furnished to the VEC today, so the Deputy's timing is impeccable.

County Longford VEC has expressed satisfaction with the grant approved. The responsibility for delivering the project has been devolved to the VEC and it will now be a matter for it to progress the project through the various stages from architectural planning to construction. The Department's letter of approval contains guidance that will assist the VEC in this regard. I thank the Deputy for giving me this opportunity to outline to the House the current position in regard to the application for capital funding for Lanesboro community college.

Deputy James Bannon: As the Minister said, I made numerous representations to his Department about Lanesboro community college, and his comments are very much appreciated. I welcome the good news on behalf of the college and I extend my thanks and those of the college to the Minister. I will continue to work for the provision of a sports hall at the college, although I accept that the current economic climate makes such projects difficult to fund. I am also conscious of the physical and academic benefits of access to regular sports and exercise. This is very important at Lanesboro college.

I also welcome the news that Ardscoil Phádraig in Granard, County Longford, is to get four new classrooms. This is a very good day for education in County Longford. Much tough representation has paid off.

On a less positive note, however, I must refer to the ongoing fall-out from the failure to site the headquarters of the amalgamated Longford-Westmeath Vocational Education Committee in County Longford. As is clear from the records of the Dáil and committee meetings, there was an investment of approximately €2 million in Longford VEC headquarters prior to the announcement that the headquarters of the amalgamated Longford-Westmeath body was to be located in Westmeath. The cost-effectiveness and central location of Longford VEC was ignored for what can only be regarded as political expediency. Following the closure of Connolly Barracks, this loss was a massive blow to Longford. The annual rent paid by Westmeath VEC for its headquarters is €118,300 as opposed to a nominal sum of €13.33 payable on the Longford headquarters. This decision is surely not cost-effective. As I have said in the House, it appears that somebody needs to do their homework on this issue.

Acting Chairman (Deputy Terence Flanagan): The Deputy is over time.

Deputy James Bannon: To refer back to the community college-----

Deputy Sean Sherlock: The Deputy should have regard to other people.

Deputy James Bannon: I have not finished. To return to the facilities for Lanesboro community college, the sports hall is urgently required and I hope it will be given approval quite soon.

Deputy Sean Sherlock: With all due respect, the Deputy raised an issue and I replied to it. We should stick to our guns on this matter. The issue has been expedited satisfactorily and I know the Deputy will speak highly of the collegiality of his partners in Government when he relates this to the people on the streets of Longford. I sincerely thank him for raising this matter.

Deputy Niall Collins: I move amendment No. 131:

In page 75, line 2, to delete "3 years" and substitute "2 years".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Niall Collins: I move amendment No. 132:

In page 75, line 30, to delete "5 years" and substitute "1 year".

This pertains to section 85 which provides that the Minister shall, in consultation with the Minister for Finance, not later than five years after the commencement of the chapter, commence a review of its operation. The amendment seeks to have the review take place a year after the legislation is commenced, for obvious reasons.

Minister for Justice and Equality(Deputy Alan Shatter): The amendment would reduce the period of commencement of a review of the operation of a personal insolvency arrangement under the legislation from five years to one year. This would be the statutory requirement for a review. I have examined the issue of the length and scope of a review period and had hoped to be in a position to bring forward an amendment on the matter today. However, I intend to introduce an amendment in the Seanad providing for a review after three years. That would apply to all the new insolvency processes under the Bill. I assure the Deputy that whereas the statutory review will be after three years, it is my intention to keep the legislation under continuing review. As I have said, I will look at how the legislation is operating after the first year and if amendments are required, we will not be delayed in any way by a statutory review.

The statutory review will probably be a look back at how the legislation operated over a period of years. The original idea was that it would be five years, but I believe reducing it to three years is appropriate. It will provide an opportunity for us to get past teething issues that might arise under the legislation and to see how it works in practice. A formal statutory review after one year would not necessarily give us that information. Indeed, after one year we might find, on the basis that it will take people a little while to become familiar with the legislation, that there could be many arrangements under discussion that have not been finalised. The formal statutory review would be too early after a one year period. Three years is reasonable. I assure the House that I and the Government will keep a watchful eye on how this legislation works. If it becomes apparent that some aspect of it is creating a difficulty or could be modified in a constructive, fair and balanced manner to ensure the legislation works as intended, there is no question of waiting three or five years to take the appropriate action.

In that context, perhaps the Deputy will consider withdrawing the amendment.

Deputy Niall Collins: I accept the Minister's comments on my proposal of one year versus the proposed three years he intends to provide for in the Seanad. When he is making the provision for three years, will he put a time limit on the review period? Will the review period start in year three or will it finish in year three? Can the Minister provide for a definite period of time for the review in order that it will not be an open-ended exercise that might drag on? I will withdraw my amendment on that basis.

Deputy Alan Shatter: The intention would be that the review period would commence after the legislation has been working for three full years. I accept what the Deputy says. We

do not need a review period that takes, for example, a further 18 months. If there is a statutory review period, the insolvency agencies, personal insolvency practitioners, the money advice and budgeting service, MABS, free legal advice centres, FLAC, or anybody with experience of the working of the legislation will know the review will start at the end of year three and will be able to do preparatory work to examine the working of the legislation critically and constructively. I will give consideration to requiring not only that the review commences at a particular point but that the outcome of the review and any recommendations derived from it will be published within a specified period. I want to give some thought to what the period will be. It may be that it is to be published no later than, for example, six months or whatever period is appropriate. If the review is completed earlier, there will be no blockage on its publication. It is desirable not to be in a position where a review commences one year and we do not know the outcome for 18 months. That would be counterproductive and would defeat the purpose of the three-year review.

Deputy Stephen S. Donnelly: In the same vein, I have no doubt the Minister and his officials will watch this like hawks. In order that the Oireachtas committee can see how this is working, as opposed to the Minister and his officials, can the Minister consider coming before the committee or the Chamber with some initial data? For example, these could include the number of debt surrenders, the number of people who have engaged in the various processes and some case studies. Precedent will quickly be set and a small number of case studies probably account for 80% of the people. I ask the Minister to consider returning with some data for us to consider within a year.

Deputy Alan Shatter: That will happen without me needing to do anything further. It is envisaged that the insolvency agency will produce an annual report, which will be laid before both Houses. It is open to the Joint Committee on Justice, Defence and Equality to engage with the content of the report, to hear from the head of the insolvency agency if it wishes and to conduct any further hearing or inquiry it feels is appropriate. The committee, independently of me as Minister and of the Government, can review how things are going and the publication of an annual report from the insolvency agency will be of assistance in that context.

I assume the insolvency agency will be able to produce information on the number of debt settlement arrangements and personal insolvency arrangements furnished to the courts, the number approved by the court and where difficulties arose. On the other side, the Courts Service in its annual report, will replicate the information. Through the Joint Committee on Justice, Defence and Equality, the House will be in a position to do that work. It is desirable it does so.

Amendment, by leave, withdrawn.

Acting Chairman (Deputy Terence Flanagan): Amendments Nos. 133, which arises out of Committee proceedings, and 138 are related and will be discussed together.

Deputy Pádraig Mac Lochlainn: I move amendment No. 133:

In page 76, line 47, to delete "€3,000,000;" and substitute "€1,000,000;".

Personal insolvency legislation should be to assist people struggling with personal debt concerning family homes, non-commercial investments and pension provisions. It should not assist commercial investors. The reference in the Bill to debts exceeding €3 million is intended to capture buy-to-let landlords. The ECB, the IMF and a range of academic experts argued that

this is too high and must be lowered. A sum of €1 million is sufficient to capture all of those with significant personal debt. This is one of the core issues in the Bill we have a problem with and I ask the Minister to accept the amendment.

Deputy Niall Collins: The legislation refers to a figure of €3 million. Can the Minister give us an insight into how he arrived at the figure of €3 million? If one had an average mortgage in the region of €250,000-€280,000 and if we add in issues of personal debt, one could also add the mortgage of a buy-to-let property and still come up short of €1 million. A ceiling of €1 million captures the vast majority of people.

There is uncertainty in respect of the ECB. Did the Minister have discussions on the issue with members of the troika when they were in town recently? What did the members of the troika say about this? Another troika opinion is due on the matter but may not be published until next week. FLAC highlighted this as an issue and it is correct in saying that no reasons have been provided for the figure of €3 million. At the same time, no concrete reasons have been given for the ECB recommendation to reduce the figure to €1 million. Perhaps the Minister can enlighten us on how he came up with the figure of €3 million. Fianna Fáil will support the reduction of the limit from €3 million to €1 million.

Deputy Richard Boyd Barrett: I add my support and the support of the United Left Alliance for this amendment. We should all be on the same page, that the purpose of the legislation is to lift the burden of unsustainable debt from the backs of ordinary people who found themselves in difficulty through no fault of their own, simply because they were trying to put a roof over their heads in a market that had gone out of control. Those people deserve relief. It is right that legislation should be passed to offer them some relief. It is also reasonable that people who, in many cases, were actively encouraged by their banks and by advertising on television at the time to invest, to buy investment property for old age or to put their savings away, might have bought one property to let. It is reasonable to offer those people some relief. Such people are not big speculators and all of those people are captured by the threshold of €1 million. Above the threshold of €1 million, I do not see how we are talking about anyone other than professional speculators, who were speculating in the property market hoping to make large profits from the crazy property bubble that had developed and speculation in land and property. They were borrowing crazy amounts of money to pump up the bubble and I do not see any moral or economic justification for giving such people relief. I am interested to hear why the threshold is set at €3 million. Most people feel the ordinary housebuyer and the person who is doing reasonable things but was caught up in the extraordinary situation that developed during the boom, should get relief. The idea that speculators or those who were looking to profit from the market in a big way should get relief is not acceptable to most people. Legislation should not be used to provide relief to such people. I urge the Minister to accept the amendment and, if not, to give some explanation as to why not.

Deputy Alan Shatter: I thank the Deputies for their contributions. I propose to respond to amendments Nos. 133 and 138 together. Both amendments propose to reduce the indicative limit for the aggregate amount of secured debt that may be proposed in a personal insolvency arrangement from €3 million to €1 million. It is the preferred approach of the financial institutions so it is rather interesting to see some of the Deputies speaking, who normally excoriate the financial institutions, on their side. I am not saying that as a smart remark because the Deputies may not realise it. There has been a misunderstanding about this mechanism and why it is proposed.

5 o'clock The Deputy's proposals may be based on some comment of the troika, and this was raised. Such comments, in so far as any were made, were based on a complete misunderstanding of the innovative debt resolution proposals contained in the personal insolvency arrangement. This arrangement provides a rescue approach as opposed to the classical liquidation approach in bankruptcy. The Deputy is proposing that someone who has debt exceeding €1 million should be put into bankruptcy, even if using this mechanism would result, over a period of years, in creditors recouping a larger portion of the money due to them.

What we propose is not a simple option. Deputy Boyd Barrett is right. One of the important aspects of the option is to provide a mechanism whereby people who are living in what I describe as reasonable homes based on their family needs and requirements, and not mansions, are given the opportunity, instead of going into bankruptcy, to retain their homes and recalibrate their debts. That is a major objective of this measure.

We are providing an alternative to putting people in bankruptcy. Why is bankruptcy not, necessarily, the best alternative? First, because it means the official assignee will sell all the bankrupt's property to realise value. Consider a business person who has a family home that is worth €400,00 or €500,000, has borrowings of €300,000 or €400,000 and is running a small business that is going reasonably well but requires liquidity from his bank. He borrows of €400,000 or €500,000 from the bank, which brings him above the €1 million limit but he has a viable business and his financial difficulties are the result of the economic collapse, perhaps some customers have not paid him for a product or service. If the business can continue it will preserve the jobs of employees. Are we saying that individual, because the debts are personal and not corporate, should be thrown into bankruptcy, the business terminated and the employees rendered unemployed, or do we use the personal insolvency arrangement, which is a form of personal examinership? A limited liability company in financial difficulty can go into the courts and if it can be proved that with debt restructuring the business can become viable, the indebtedness worked through and some accommodation afforded by creditors, the limited liability company can continue. Why should that arrangement not be available for an individual whose debt exceeds €1 million?

Some Deputies may see this as providing an easy mechanism for speculators, and it has been misunderstood in that way. The word "speculator" is interesting. It means that anyone who has invested in anything, and was fortunate enough to get funding to invest in something worth more than €1 million, is a speculator. It might just be someone who saw a business proposition or, indeed, may have invested in property. The Deputy from Dún Laoghaire will have many constituents who may own a reasonable family home and were persuaded by their bank, in 2003 or 2004, to borrow €750,000 to buy one of the apartments being built up the road to provide a nice pension. Those same people may have a €300,000 mortgage on their own home and suddenly find that the property for which they borrowed €750,000 is now worth €300,000 and their home which was in positive equity is now just about equal to the borrowings on it. They are in financial difficulty because they cannot keep up their mortgage repayments. Are we to say to those people they must go into bankruptcy because they have debts of more than €1 million?

The provision is more sophisticated than that. The Bill provides an alternative mechanism to bankruptcy which should, and I hope will, assist people who are in homes with negative equity, but which are appropriate and not over-elaborate, and who have other indebtedness and just cannot pay, as opposed to will not pay. The measure will help to restructure their positions.

This is insolvency legislation. It does not just deal with mortgage and the family home. It applies across a broad range of areas to put in place facilities whereby recalibrating someone's finances will, over a period of years, make them financially viable and will also assist them in meeting their obligations to pay their debts. That is what it refers to.

Let us consider the buy-to-let sector. Some people borrowed insane sums of money from banks, who were throwing it at them. Deputy Boyd Barrett and I frequently disagree on issues, but I agree with the Deputy that people had choices. Some people bought multiples of apartments, thinking they were going to make a financial killing because prices were going to continue to go up, and many were encouraged by banks to have that view. Others did it because they saw it as a way to generate security for themselves many years in the future without putting money into pension schemes, for example. They were buying things they could not afford to buy. If they had put money into pension schemes arising from their employment they might have put €5,000 or €10,000 a year into a scheme. Suddenly, banks were offering half a million for an apartment and another half a million for another apartment. It did not matter that they were putting nothing into it.

A number of individuals in that situation are, I presume, engaging with the banks and meeting their obligation to pay. Inevitably, there are some who will go to into bankruptcy. What happens when they go into bankruptcy? Possession is taken of their property and of their family home, the bank sells it off and, because of the collapse in property prices, realises only a portion of what is due to it.

In the process we are putting in place, there are judgments to be made. A financial institution may take the view that a personal insolvency arrangement may not recoup as much as it should but it might, over a period of years, recoup some of what it lent. Bankruptcy might be easier for some people in those circumstances. There is a perception that the personal insolvency arrangement is some sort of lifeboat for people in that position. It certainly allows restructuring. However, for someone in that position with those sort of properties, bankruptcy may be the probable route. First, it may not be possible to recalibrate their finances in a way that would result in reasonable repayments. Second, if they go into bankruptcy they will exit eventually from the indebtedness which they might have to continue to meet through a personal insolvency arrangement.

This arrangement provides for a rescue approach, as opposed to the classical liquidation approach in bankruptcy. The rescue approach is designed not only for home mortgages, no matter how important that is and it is hugely important, but for all types of debt where a security is involved. It will include viable or potentially viable small trader type businesses whose continued existence can sustain employment and economic activity.

The limit of €3 million is not the critical element here. When the Select Committee on Justice, Defence and Equality dealt with the Bill and gave consideration to the true implications of how it would work, members suggested that if there had to be a limit it should be €10 million, because this was seen as a way of working through debt and not evading it, which bankruptcy can be to those who simply cannot meet their obligations. To a large degree, the figure of €3 million is an indicative figure to assist the approach of debtors and creditors in considering their options. There is the alternative option of bankruptcy. Secured creditors can consent not to apply the €3 million limit, by agreement. Why would a secured creditor do that? It is because they would see it as advantageous to recoup money due to them as opposed to the alternative option of a debtor going into bankruptcy.

This is not an easy option. I was asked one morning on Newstalk to explain the €3 million provision in one line. The interviewer got very stressed when I said it could not be explained in one line because a one line explanation is impossible. We are providing an alternative to the liquidation approach of bankruptcy. This is a useful option for those trying to put together workable debt resolution. If 65% of creditors do not agree to a proposal, however, it cannot be put in place. If we reduced the amount, as the Deputy suggests, it would not be long before I would be faced with requests to increase the amount to ensure personal insolvency arrangements actually work.

The sad reality is there are many individuals who might have personal indebtedness of more than €1 million who would not fall into the caricature category of the property speculator, an evil incarnate equivalent to the banking institutions. This issue has been misunderstood and the nature of the mechanism has been misunderstood. The €3 million is like a headline figure that appears to mean someone who has borrowed that amount is getting off easily so it must be bad. That is the depth of analysis that has been done when the reality is much more sophisticated. There are individuals in debt to that extent who, provided they are not concerned about the family home, would prefer the bankruptcy option. That is the reality.

At European Union level a new instrument is being considered to deal with insolvency and bankruptcy and to look at non-judicial debate alternatives to bankruptcy. There has been substantial European engagement with the Department on what we are doing in this area. I do not know to what extent what we are doing here might be taken on board by the European Commission in its proposals for insolvency that will apply across the European Union but in either December or January it will announce proposals and I know the Commission is interested in the non-judicial debt restructuring alternatives to bankruptcy that we are proposing.

I appreciate that looked at superficially a person would wonder what we are doing and where the €3 million figure came from. I was working on the assumption that this would be misunderstood from the start and it would be difficult to explain. There is an argument for this to be completely open-ended. If we take a company that is insolvent, under company law, it might be wound up or there might be a voluntary or creditors' liquidation, it might go into receivership or the company might reply to the courts for examinership. This is an attempt at an agreed examinership process. It is not court imposed and it will facilitate an individual in debt difficulty to avoid bankruptcy and will give creditors reason to engage and consider if the mechanism will offer a greater possibility of recouping some of what is owed that would otherwise be the case.

For people in difficulties with the family home, this has the added advantage that in bankruptcy, the home is sold while under this mechanism it is not. With this mechanism, however, if a home is an elaborate mansion that is substantially beyond a reasonable property to live in by way of a family home, creditors will not agree that it will not be sold and the protections provided under the legislation do not apply because of how we have addressed the family home issue.

Deputy Pádraig Mac Lochlainn: That was a long and spirited defence of the position but if people analyse the debate yesterday and today, they will see discussions of the value of engagement rings and wedding rings and being able to retain cars to the value of €1,200, even though that is a farcical idea in vast areas of this State. The public's view is that this legislation is a compassionate response to a swathe of people who purchased homes and took on debt in good faith. They listened to politicians and economists, so called experts, and took that plunge. The banks, as we all know, had the moral hazard, from the bank manager to the boards of di-

rectors. We agree that this Bill would allow for a compassionate response that would enable people in those circumstances to get themselves out of this situation. Today we were told we must be tough and think about the creditors, we must keep the car value down and the engagement ring must come from a lucky bag. All of a sudden, however, we must be more compassionate for those who were investing and who took on board much more than the vast majority of people did to put a roof over their heads.

Deputy Alan Shatter: I have already said that it is easy to present it that way.

Deputy Pádraig Mac Lochlainn: There must be consistency in how we convey the intent of the Bill to the public and I doubt it will see consistency in what is being presented here. The Minister has not explained his decision.

An Ceann Comhairle: The Deputy's time is up.

Deputy Pádraig Mac Lochlainn: The Minister gave a long and spirited defence of his position.

An Ceann Comhairle: There is a limit of two minutes on Report Stage.

Deputy Pádraig Mac Lochlainn: I will conclude. The Minister was invited by Deputy Collins to outline the rationale for the €3 million provision. People will ask where this figure came from when we are debating whether people will be allowed to keep their engagement rings or own a car that will take them from one town to another. There must be consistency and I urge the Minister to reduce the €3 million considerably.

Deputy Niall Collins: The perception exists, rightly or wrongly, that by setting the limit at €3 million, many high net worth individuals will be facilitated instead of having to go through bankruptcy. If a person enters into a PIA, and the arrangement is approved by the courts and the insolvency service, does the information become public or does it fall under the veil of secrecy that currently pertains for banking arrangements?

Deputy Richard Boyd Barrett: In the cordial spirit we are discussing this, the Minister has made some reasonable points about the threshold.

Deputy Stephen S. Donnelly: The Minister should enjoy this while he can.

Deputy Alan Shatter: It is getting close to Christmas.

Deputy Richard Boyd Barrett: I still think, however, that the figure of €3 million is hard to justify. It is reasonable to say there were those who were not speculators who bought a property, often on the advice of the bank, as an investment for their old age. They were not profiteers in any way but just did not know where to put their small savings and the bank advised them to invest them in that way.

Deputy Alan Shatter: And have another €600,000.

Deputy Richard Boyd Barrett: Yes, and that was outrageous. People actually believed their bankers were responsible people who knew what they were talking about and did that. I suspect there were many people who were like that and were not of the speculator variety. Certainly those people should be given a chance to restructure those debts.

I equally take the point about small businesspeople. Such a person might be a small trader

with debts resulting from the business and be hit by the downturn. Particularly in areas where property values were quite high, it could plausibly have taken a person to in excess of €1 million. I still believe that €3 million is somewhat problematic because with an ordinary person, who might have a loan on his or her house, one property and even some debts to do with being a small businessperson, it could perhaps take him or her to €1.5 million. One could even argue €2 million to be safe, but €3 million seems to create - to use that difficult and often misapplied term - moral hazard. Speculators, who do not deserve any relief and who helped cause the problem that we are now addressing, should not be allowed to benefit from legislation that is aimed at people who are innocent. In that regard, €3 million is a bit hard to justify and creates moral hazard for some of these speculators.

Deputy Alan Shatter: Deputy Mac Lochlainn is not listening to what I said about that issue. He is trying to equate the debt relief notice provision, which allows for the writing off of €20,000 without a compulsion to repay in circumstances where a person simply has nothing, with a whole range of stuff within that which allows approximately €6,000 worth of assets to be ignored in the context of household assets, the value of a car, educational equipment and the other things we have discussed. That is one issue. The personal insolvency arrangement is not about having all debts wiped off and walking away. It is about having much larger debts and entering into an arrangement which facilitates over a period of time at least a portion of them being discharged without the person sinking - because a person going into bankruptcy sinks - and without one's home being sold unless it is of a particular value that is just unreasonable for it to be retained. They are important and different mechanisms. It is not about providing assistance to wealthy people. Those who are wealthy will not be in this process and do not need the process. It is about people who are in financial trouble.

Deputy Niall Collins made an interesting point. He suggested that instead of this €3 million provision, people should work through their problems or they could go into bankruptcy. Working through their problems is what the personal insolvency arrangement is about. It provides a mechanism that facilitates working through it. What is the failsafe in this? There is a strange bit in this because this debate is based on the assumption that financial institutions are completely evil. They were certainly very wrong in the manner in which they advised people and are guilty of enormous failures of judgment in providing funding for projects that were insane and in not carrying out appropriate due diligence. However, the irony in this is if we take it that in most instances of this level of debt, it will be money owing to financial institutions, if what is on offer in a personal insolvency arrangement by way of debt resolution does not hold out to the financial institution the prospect of doing better by entering into it - in other words, recouping some of the debt - than they would do through bankruptcy, they will not agree to it.

An Ceann Comhairle: I thank the Minister.

Deputy Alan Shatter: The reality is that this is not an easy way out. I believe the Deputies will realise that when we start working it. There is a question about the relevance of any financial limit in circumstances where this is about trying to ensure debtors meet a portion of their obligations in circumstances in which creditors more or less agree that it would be a worse alternative for them if those individuals go into bankruptcy when we are talking about these levels. This is more about people facing up to the level of indebtedness and meeting, at least to a proportionate degree, their obligations to a greater extent than if they went into bankruptcy because they have one advantage in it. If they have a modest home, they will not be forced to sell it.

An Ceann Comhairle: Only Deputy Mac Lochlainn is entitled to speak again, if he wishes.

Deputy Pádraig Mac Lochlainn: No, I do not.

Question put: "That the figure proposed to be deleted stand."

The Dáil divided: Tá, 92; Níl, 34.	
Tá	Níl
Bannon, James.	Broughan, Thomas P.
Barry, Tom.	Calleary, Dara.
Boyd Barrett, Richard.	Collins, Joan.
Breen, Pat.	Collins, Niall.
Butler, Ray.	Colreavy, Michael.
Buttimer, Jerry.	Cowen, Barry.
Byrne, Catherine.	Crowe, Seán.
Byrne, Eric.	Daly, Clare.
Carey, Joe.	Doherty, Pearse.
Collins, Áine.	Ferris, Martin.
Conaghan, Michael.	Fleming, Sean.
Conlan, Seán.	Fleming, Tom.
Connaughton, Paul J.	Healy, Seamus.
Conway, Ciara.	Higgins, Joe.
Coonan, Noel.	Kirk, Seamus.
Corcoran Kennedy, Marcella.	Kitt, Michael P.
Creed, Michael.	Mac Lochlainn, Pádraig.
Daly, Jim.	McConalogue, Charlie.
Deasy, John.	McDonald, Mary Lou.
Deenihan, Jimmy.	McGrath, Finian.
Deering, Pat.	McGrath, Michael.
Doherty, Regina.	McGuinness, John.
Donnelly, Stephen S.	McLellan, Sandra.
Dowds, Robert.	Moynihan, Michael.
Durkan, Bernard J.	Ó Caoláin, Caoimhghín.
English, Damien.	Ó Fearghaíl, Seán.
Farrell, Alan.	Ó Snodaigh, Aengus.
Feighan, Frank.	O'Brien, Jonathan.
Fitzgerald, Frances.	O'Dea, Willie.
Fitzpatrick, Peter.	O'Sullivan, Maureen.
Flanagan, Terence.	Shortall, Róisín.
Gilmore, Eamon.	Smith, Brendan.
Griffin, Brendan.	Stanley, Brian.
Halligan, John.	Tóibín, Peadar.
Hannigan, Dominic.	
Harrington, Noel.	

Harris, Simon.	
Hayes, Brian.	
Hayes, Tom.	
Healy-Rae, Michael.	
Heydon, Martin.	
Hogan, Phil.	
Humphreys, Heather.	
Humphreys, Kevin.	
Keating, Derek.	
Keaveney, Colm.	
Kehoe, Paul.	
Kelly, Alan.	
Kenny, Seán.	
Lawlor, Anthony.	
Lynch, Ciarán.	
Lynch, Kathleen.	
McEntee, Shane.	
McHugh, Joe.	
McLoughlin, Tony.	
McNamara, Michael.	
Maloney, Eamonn.	
Mathews, Peter.	
Mitchell, Olivia.	
Mitchell O'Connor, Mary.	
Mulherin, Michelle.	
Murphy, Catherine.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Neville, Dan.	
Nolan, Derek.	
Noonan, Michael.	
Nulty, Patrick.	
Ó Ríordáin, Aodhán.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Reilly, Joe.	
O'Sullivan, Jan.	
Penrose, Willie.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	

Pringle, Thomas.	
Reilly, James.	
Ring, Michael.	
Ryan, Brendan.	
Shatter, Alan.	
Sherlock, Sean.	
Spring, Arthur.	
Stagg, Emmet.	
Stanton, David.	
Timmins, Billy.	
Tuffy, Joanna.	
Wall, Jack.	
Walsh, Brian.	
White, Alex.	

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

Question declared carried.

Amendment declared lost.

Deputy Alan Shatter: I move amendment No.134:

In page 77, to delete lines 16 to 22 and substitute the following:

"(*f*) that the personal insolvency practitioner has completed a statement under section 50 in respect of the debtor;".

Amendment agreed to.

Deputy Pádraig Mac Lochlainn: I move amendment No. 135:

In page 77, lines 33 and 34, to delete "the secured creditor concerned" and substitute "his or her creditors".

The purpose of the amendment is to broaden the scope from secured creditors to all creditors. The categorisation is too limited and could exclude unsecured creditors. We ask the Minister to consider this.

Deputy Alan Shatter: I fail to see how the amendment adds anything to the understanding of the provisions in section 88. Rather, it risks confusion by seeking to add a reference to creditors other than the secured creditors concerned with regard to the Central Bank process on mortgage arrears on the principal private residence. This is a very specific reference with regard to the debtors prior involvement with the financial institution and I oppose the amendment.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

An Ceann Comhairle: Amendments Nos. 136 and 174 are related and may be discussed together.

Deputy Alan Shatter: I move amendment No.136:

In page 77, line 44, to delete "in force" and substitute "in effect".

These are technical drafting amendments which are required to ensure consistency in the terminology used in the Bill.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 137:

In page 78, to delete lines 14 to 21.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 137*a*:

In page 78, line 26, to delete "and the factors referred to in subsection (2)".

Amendment agreed to.

Deputy Pádraig Mac Lochlainn: I move amendment No. 138:

In page 78, line 44, to delete "€3,000,000" and substitute "€1,000,000".

Question, "That the figure proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Alan Shatter: I move amendment No. 139:

In page 79, to delete lines 11 to 13 and substitute the following:

"(*e*) a schedule of the creditors of the debtor and the debts concerned, stating in relation to each such creditor—

(i) the amount of each debt due to that creditor, and".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 140:

In page 79, to delete lines 17 to 22 and substitute the following:

"(*f*) the debtor's written consent to—

(i) the disclosure to the Insolvency Service,

(ii) the processing by the Insolvency Service, and

(iii) the disclosure by the Insolvency Service to creditors of the debtor concerned,

of personal data of that debtor, to the extent necessary in respect of the Personal Insolvency Arrangement procedure provided for in this Chapter; and".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 141:

In page 79, to delete lines 23 to 25 and substitute the following:

"(*g*) the debtor's written consent to the making of any enquiry under section 90 relating to the debtor by the Insolvency Service.".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 142:

In page 83, line 18, after "process" to insert "in respect of a specified debt".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 143:

In page 83, line 23, after "Arrangement" to insert the following:

", but this subsection shall not operate to prohibit the commencement or continuation of any criminal proceedings against the debtor".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 144:

In page 84, line 7, to delete "the order" and substitute "an order".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 145:

In page 85, line 4, to delete "paragraph (a)," and substitute "paragraph (a)".

This is a drafting amendment to correct a grammatical error in the text of section 94.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 146:

In page 85, line 23, to delete "approved, by" and substitute "approved by".

This is also a drafting amendment, to correct a grammatical error in the text of section 95.

Amendment agreed to.

Deputy Pádraig Mac Lochlainn: I move amendment No. 147:

In page 85, line 33, to delete "of not more than 12 months".

The amendment is clear and seeks more flexibility than the 12 months as defined in the Bill.

Deputy Alan Shatter: The Deputy proposes to delete the current reference to the maximum extension of a personal insolvency arrangement by a period of not more than 12 months and allow the arrangement to be a maximum of seven years. I feel this is a sufficient time to work the terms of the arrangement and objectively determine, being fair to all interests concerned, whether a sustainable outcome can be achieved. If at the end of the seven year period an unsustainable situation still exists, then the parties concerned must accept this reality. Therefore, I see no merit in the Deputy's proposal to potentially extend *ad infinitum* the period of the arrangement.

Deputy Stephen S. Donnelly: Will the Minister explain why the provision for not more than 12 months is contained in the Bill? If a period of 72 months has been agreed, what is the rationale for inserting an additional one year into the legislation?

Deputy Alan Shatter: It would afford an opportunity. I will give an example. They Deputy is aware that as one goes through working an arrangement there may be temporary circumstances which result, with the assistance of a personal insolvency practitioner, in the arrangement being re-organised for a period. However, it cannot be re-organised indefinitely to go on for years and years for the sake not only of creditors, but also of debtors, because there might be an unreal view that something can be worked through which is clearly no longer the case. It is to provide a degree of flexibility while also ensuring it is for a defined period only.

Deputy Stephen S. Donnelly: For clarification, am I correct that the Minister's intention is not that the standard six-year process would *de facto* extend for another year of payment by the debtor to the creditor?

Deputy Alan Shatter: Not automatically but it may suit the debtor and creditor to agree an extra year on the basis that it would then work. It would be open to them to do so at an early stage also, but it is not the perception that the standard period should automatically be seven years.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Stephen S. Donnelly: I move amendment No. 148:

In page 85, between lines 35 and 36, to insert the following:

"(*c*) in the first three years post enactment of this Act, the maximum duration of a Personal Insolvency Arrangement shall be limited to a maximum of 48 months, after which, and on return to normality, the period should be increased again to 72 months;".

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 149 to 153, inclusive, are related and may be discussed together.

Deputy Pádraig Mac Lochlainn: I move amendment No. 149:

In page 86, to delete lines 9 and 10.

We do not believe there should be an exemption for any liabilities or debts as outlined in the Bill. Everybody should be treated the same when it comes to creditors, whether it is the local authority, the Government or the bank. Everybody should have to engage with the same process.

Deputy Alan Shatter: The Deputy proposes the deletion of the current reference to certain categories of debt in section 95. These debts, which broadly refer to charges of a local authority nature, debts owed under the Nursing Homes Support Scheme Act 2009 or arrears owed to a management company under the Multi-Unit Developments Act 2011 may only be proposed for debt resolution in a personal insolvency arrangement, and in a debt settlement arrangement although the Deputy makes no proposal on this, with the express consent of those creditors. This approach in regard to these debts is appropriate. I will give the Deputy the example of a multi-unit development in which a range of people who live in various apartments each owe a sum which is important for the services in the development. The principle is that this should be discharged because if it is not the debt will effectively fall on the shoulders of all of those who have been making their payments and utilising the services. It would be possible for the apartment management, with the agreement of others living in the apartments, to expressly consent to opt into the arrangement but if they do not the debt must be discharged. If it were not, a range of people in an apartment block, perhaps including elderly retirees, would ultimately have the cost of the debt fall their shoulders in so far as there was a shortfall of income in the block. I do not know the extent to which the Deputy has thought through that issue but I cannot accept the amendments proposed.

Deputy Stephen S. Donnelly: I seek clarification. While I am inclined to agree with Deputy Mac Lochlainn on this, I will stick to the Minister's example. The majority creditor with a veto is usually the bank. Is it correct that those who are mostly minority debtors would not be able to veto any arrangement, in which case the PIA, irrespective of whether it agreed, would effect a discharge? In this regard, one should consider the contrasting circumstances. It seems very arbitrary that a management company would still be owed money while a credit union, local business person or landlord would not.

I am not accusing the Minister of hypocrisy but believe that it is slightly hypocritical for all of us to say we, by way of this Government Bill, will discharge debts to the bank, landlord and credit union but not to the Government. Perhaps I misunderstand the Minister's position. Could he clarify it?

Deputy Alan Shatter: There are certain debts that people will have to discharge because of their nature. If there is a sum due to a local authority, it will have to be discharged because the shortfall would effectively have an impact on everybody living in the local authority area. It is not a question of paying a management company as such. Where there is an apartment block, the owners or someone exercises management control. I do not refer to money for the management company but to money to meet the running of the apartment block. We are saying that someone in the process who may continue to live in the apartment block and even have a mortgage arrangement to be resolved under the personal insolvency arrangement, and who is continuing to avail of all of the services of the apartment, including having someone cut the grass and carry out maintenance, will have to pay what is owed. The sums in question for those living in an apartment are not usually enormous in any case.

The proposal would have an impact on too many disparate individuals. We do not want to create circumstances in which owners of apartment blocks find themselves paying money to

management companies to keep engaging in this sort of process, which may make it unviable for them to participate because of the difference between the cost of participation and the sum actually due. There are certain debts, identified as a matter of policy, that will have to be paid where one goes into a PIA or DSA. Those engaged in the process for the arrangement will know their debts will have to be paid in the context of that process. They are readily identifiable.

Deputy Stephen S. Donnelly: During the process?

Deputy Alan Shatter: They will have to be paid to meet the financial obligation. It may be a question of dialogue with the management company that represents the owners; those in question are not people who are benefiting beyond just doing the job of ensuring an apartment block is properly maintained. Somebody may say it is fine to pay in six months, but the debts will not be written off or fall on the backs of the other residents who are, like the person who has failed to pay his management charge, continuing to avail of all the services that are provided within the block.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Pádraig Mac Lochlainn: I move amendment No. 150:

In page 86, to delete lines 11 and 12.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Pádraig Mac Lochlainn: I move amendment No. 151:

In page 86, to delete lines 13 and 14.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Pádraig Mac Lochlainn: I move amendment No. 152:

In page 86, to delete lines 15 to 17.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Pádraig Mac Lochlainn: I move amendment No. 153:

In page 86, to delete lines 18 to 22.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Pádraig Mac Lochlainn: I move amendment No. 154:

In page 87, to delete lines 41 and 42 and substitute the following:

"(3) The Insolvency Service shall publish a code of practice providing guidance on the matters set out in *subsection (2)*, as well as a rule that Personal Insolvency Practitioners will be paid from monies available for distribution to creditors once repayment proposals are accepted.".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Deputy Pádraig Mac Lochlainn: I move amendment No. 155:

In page 90, between lines 41 and 42, to insert the following:

"(7) The lender will also be obliged to propose a solution to the borrower's problem.".

This is similar to an earlier amendment. The objective is to ensure the practitioner does his job effectively.

Deputy Alan Shatter: Section 98 sets out a number of detailed requirements, primarily in regard to the valuation and treatment of a security held by a secured creditor in a personal insolvency arrangement. It is not clear in regard to the provisions of this section what the Deputy's proposal seeks to achieve. For example, what would his reaction be if, in the context of his proposal, the secured creditor proposed full and immediate payment of the loan or repossession of any property concerned? The provision of the new personal insolvency arrangement is a significant solution to addressing the problems of debt, in particular where a whole mortgage might be concerned. I do not envisage this amendment achieving an objective that merits its being taken on board in the circumstances. It is unacceptable and I oppose it.

Amendment put and declared lost.

Deputy Alan Shatter: I move amendment No. 156:

In page 91, to delete lines 29 and 30 and substitute the following:

(*b*) a reduction of the principal sum due in respect of the secured debt due to that secured creditor to a specified amount,".

This is effectively a drafting amendment. Its purpose is to ensure consistency between the wording of subsections (2) and (3) of section 99.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 157:

In page 93, to delete lines 5 to 8 and substitute the following:

"require the debtor to—

(*a*) dispose of an interest in, or

(*b*) cease to occupy,

all or a part of his or her principal private residence and the personal insolvency practitioner shall consider any appropriate alternatives.".

This is effectively a drafting amendment. Its purpose is to ensure consistency between the wording of subsections (2) and (3) of section 99.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 158:

In page 94, line 2, to delete "that".

Amendment agreed to.

An Ceann Comhairle: Amendments Nos. 159 and 182 are related and are to be discussed together.

Deputy Stephen S. Donnelly: I move amendment No. 159:

In page 94, between lines 3 and 4, to insert the following:

"(5) Before making an order providing for the possession and/or repossession of a principal private residence, the court shall consider the nature and value of assets available to the debtor, the extent of his liabilities, and whether the debtor's inability to meet his engagements could, having regard to those matters in the contents of the debtor's statement of affairs filed with the court, the number and ages of the debtor's dependants occupying the principle private residence, and any other matter the court considers appropriate to take into account, be more appropriately dealt with by means of a personal insolvency arrangement and where the court forms an opinion the court may adjourn the hearing of any application for repossession to allow the debtor an opportunity to enter into such of those arrangements as is specified by the court in adjourning the hearing.".

The intent is to stop the banks gaming the legislation by refusing to engage substantively in a PIA and then moving for repossession of a house. The Bill gives discretion to the judge in the case of a debtor applying for bankruptcy. The two amendments simply seek to allow to judge the same discretion when the bank moves to repossess. I am concerned and am hearing whispers that, in certain cases, the banks will refuse to engage with the debtors, apply their veto and seek to repossess their houses. An obvious case in which it is financially rational for the banks to do so is if there is positive equity in the house. This should be compared with an agreement whereby, instead of writing down the total mortgage to a serviceable amount, the banks would just say they are not interested in doing so and take the house. While a judge may be able to adjourn temporarily as the legislation stands, he cannot really apply discretion and tell the bank it is clearly gaming the system, that a very reasonable offer, backed up by the PIP, has been made, that it is not getting the house and that it should re-enter the arrangement.

Mine is a simple concept but it is genuinely very important, not because of what happens in the courts, I hope, but because of the negotiations around the table, such that a bank's representatives could not nod appropriately at negotiations and then exercise a veto to repossess a house. It is in this spirit that I ask the Minister to consider accepting my amendment.

Deputy Alan Shatter: I thank the Deputy for tabling this amendment because it highlights an important element of discussion in regard to this issue, on which it is worth spending a few

minutes.

*6 o'clock*The Deputy's amendment No. 159 essentially concerns repossession applications before the courts. It does not relate to personal insolvency arrangement applications as provided for under this Bill, although I understand the Deputy's point regarding how the law in this area could impact on the negotiation stance taken by a financial institution. Section 100 concerns matters in regard to a debtor's principal residence to which regard must be had, primarily by a personal insolvency practitioner, in preparing a proposal for an arrangement on behalf of the debtor. There is no involvement of the court under this section. Applications for repossession of property are not dealt with in the Bill. These are properly the matter of the court concerned and cannot be treated in the same context.

I accept that the Deputy's motivation in this amendment is to offer further elements of protection to home owners in arrears who may be facing repossession proceedings. His proposal is well intentioned and laudable, but it is not relevant either to this section or to the Bill in general. I understand his point regarding the negotiation mode a financial institution might assume. I assure him that in the context of any necessary revision of the Land and Conveyancing Law Reform Act 2009 following the Dunne and other judgments, I will consider the inclusion of a provision to address the Deputy's concerns. This might be along the lines of section 138 of this Bill, which provides that in the context of a bankruptcy petition, the court is required to consider whether the matter might better be dealt with by way of one of the non-judicial processes set out in the Bill.

Amendment No. 182 seeks to amend section 116 in respect of the grounds upon which a creditor may appeal to the court to set aside a personal insolvency arrangement which was agreed by majority vote. These provisions are standard, referring to both procedural deficiencies and any fraudulent type behaviour on the part of the debtor. It would not be appropriate to attribute unreasonableness to a creditor seeking to exercise lawful rights.

I must reject these amendments for the reasons I have outlined, but I thank the Deputy for raising the issue. There is a need for legislation to address the Dunne judgment and work is already under way in my Department in this regard. We have given greater priority to the legislation before us today in order to facilitate arrangements of a reasonable nature being entered into, where appropriate, through the use of a personal insolvency arrangement in circumstances where there are mortgage difficulties. The Deputy's proposal is a very worthwhile one, and it will certainly inform the preparation of the other Bill I mentioned.

Deputy Stephen S. Donnelly: I greatly appreciate the Minister's openness to taking account this matter in future legislation. In the interim, however, what can be done to prevent the banks from making possession orders? In a situation where there is positive equity in a property, I cannot envisage a bank agreeing to write down a portion of debt rather than opting immediately for repossession. Is it the Minister's expectation that this is essentially what will happen in advance of the introduction of the legislation to which he referred? If not, will he indicate the basis for his expectation that the banks might cut deals when they can simply take possession?

Deputy Alan Shatter: Financial institutions will cut deals because the reality of the current situation is that distressed borrowers are far more likely than not to be in negative equity. That is the reality we are facing. An individual who has a family home that is in positive equity might also have other borrowings against other properties. I expect the personal insolvency

arrangement mechanisms set out in this Bill will be used to cut deals in those circumstances, where the overall borrowings are not adequately secured on the totality of the property assets.

If, on the other hand, we are talking about a single property with an equity in excess of what is owed, I do not see any reason that a bank would not seek to ensure it receives the full sum ultimately due to it, whether through repossession or other arrangements. It is not for us to interfere with that arrangement because there are constitutional issues and issues relating to the liquidity of banks and capitalisation. The mechanisms set out in the Bill do not seek to facilitate individuals who have real equity in property and are simply refusing to pay what is due. If it is the case that their income does not allow them to pay, the bank might well decide to enter into some form of arrangement with them. We should bear in mind that the banks have obligations in terms of protecting their capital base and not creating additional liabilities for taxpayers in this country. In that context, I do not envisage any bank concluding that because it has adequate security and the property is in positive equity, it will waive the money owed to it by the debtor. There is no reality in that.

I anticipate that the mechanism we are discussing here will be particularly helpful in circumstances where individuals are in negative equity and their income does not facilitate them in discharging debts, in which circumstances the bank decides it will go for repossession. That situation will be dealt with under the land and conveyancing legislation, with the court being obliged to inquire as to whether the parties have engaged in a non-judicial debt resolution process. I expect the modalities would involve a presentation to the court of the totality of the debtor's income, resources and liabilities and an assessment of whether he or she is in financial circumstances to make a reasonable payment of debt. It will be blindingly obvious in such circumstances that a repossession order would not lead to the bank recovering the debt owed to it in full. Instead of dealing with the application to repossess, the court would be able to propose to the financial institution that the matter be adjourned for a period in order to allow an exploration of a non-judicial debt resolution. The court would not have the power to impose such a resolution, but this approach would create the space to allow for that option.

It is not our intention in this legislation to give individuals who are in positive equity and not paying their mortgage a free pass whereby some of the debt due to a financial institution is written off in a manner that affects its capital position and could ultimately result in the tab being picked up by taxpayers. There is a range of issues attached to that, such as the actual value of the bank, what space we get to at a point in time and whether the State's ownership of banks can be traded in for funding to recoup some of what has been put into them.

Deputy Stephen S. Donnelly: I thank the Minister for his response, but I have two caveats. First, I understand his point regarding positive equity. However, if we are thinking in terms of net benefit to the taxpayer, we must consider a situation where it is of marginal benefit to the bank to take the house, the debtors walk away with the full mortgage repaid and the State ends up having to house them. The effect on the State in such instances will be seriously negative. I look forward to a mechanism in future legislation whereby a judge can point out that a particular course of action might end up costing the State €20,000 or €30,000 per year, for example.

Second, we all know from dealing with constituents that the emotional attachment to one's home is a very powerful bargaining chip for the banks, which will claim there is nothing the court can do. I look forward to working with the Minister and his officials on these issues in the context of the forthcoming legislation.

Amendment, by leave, withdrawn.

Deputy Alan Shatter: I move amendment No. 160:

In page 94, lines 10 and 11, to delete "contained in the submission of" and substitute "furnished by".

This is a drafting amendment to improve the clarity of the text.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 161:

In page 95, to delete lines 37 and 38 and substitute the following:

"(*b*) ensure that a copy of the documents referred to in *section 103* are sent to each creditor concerned with the notice calling the meeting;".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 162:

In page 97, lines 35 and 36, to delete *"section 104*" and substitute *"section 102*".

This drafting amendment corrects a cross-referencing error in the text of section 105.

Amendment agreed to.

Acting Chairman (Deputy Joanna Tuffy): Amendment No. 163 arises from committee proceedings and if it is agreed, amendment No. 164 cannot be moved. Amendments Nos. 163 to 168, inclusive, are related and amendment No. 164 is an alternative to amendment No. 163. Amendment No. 166 is an alternative to amendment No. 165, while amendment No. 168 is an alternative to amendment No. 167. All these amendments may be discussed together by agreement.

Deputy Pádraig Mac Lochlainn: I move amendment No. 163:

In page 98, lines 24 and 25, to delete "65 per cent" and substitute "30 per cent".

There may be a difference in emphasis in the amendments from myself and Deputy Niall Collins but the intent is the same - that is, to prevent banks having a veto over this process. The objective of the Bill is to work through that section of our people who are in mortgage distress or other debt as a result of this crisis. In addition, the legislation tries to find a compassionate balance between their responsibilities, as well as understanding the unique circumstances and environment that led to where they find themselves today. We do not want to give banks the ability to stonewall. We want this legislation to benefit as many families in distress as possible. That is what this series of amendments try to do.

I would particularly urge the Minister to consider the amendment before us. We want to send a message out to creditors that they do not have a veto, or the capacity not to engage constructively in this process. We want to give people hope, so we do not wish to have an imbalance at the start of the process as people in distress engage with this and try to work their way through it. The difficulty in terms of the numbers the Minister has put in place is that they do give a veto, which is not right.

Deputy Niall Collins: I wish to speak to the group of amendments because I may not get a chance to move mine if the others fall. I am sure the Minister will appreciate that this is the elephant in the room concerning this legislation. It is the item which has been most commented upon by outside observers who are following this debate. If one looks at the figure of 65% in terms of total debt, a majority is 51% so if a majority of creditors agree to an arrangement that should be 50% or 51% rather than 65%. When one works that down the line in terms of the secure debt, which is the bank as the mortgage provider, allowing them a disproportionate figure such as 50% does not seem to make sense.

The Minister says the process will be monitored and that we will have to suck it and see once the legislation is enacted, and keep everything under review. However, this part is the main bone of contention in the Bill, so how will this aspect be monitored, given that the bank is the main creditor? At a meeting of 20 creditors, 19 of them may be spectators because the bank representative has the entire say, so how will we monitor that? Will there be sufficient feedback to prove that the Minister is right and we are wrong, or *vice versa*?

Deputy Alan Shatter: I will deal with amendments Nos. 163 to 168, inclusive, together. The amendments seek to reduce the voting proportions in respect of all creditors. A sub-class of secured and unsecured credit is required to prove a personal insolvency arrangement at a creditors' meeting.

Amendments Nos. 163 and 164 concern proposals to reduce the overall level of votes required at a creditors' meeting to prove a personal insolvency arrangement from the 65% provided for in the Bill to either 30% or 50%. This is a crucial provision with regard to the necessary voting proportions required to approve an arrangement. I consider it unlikely that, in effect, creditors would accept a non-majority vote and agree to be bound by it.

Amendments Nos. 165 and 166 propose to alter the proportions of secured credit that is required to prove a personal insolvency arrangement below 50%.

Amendments Nos. 167 and 168 similarly propose the same proportions of unsecured credit as required to prove a personal insolvency arrangement. I am not convinced that the reductions, as proposed in these various amendments, represent the best approach. They could in fact inhibit reaching an agreement that would be sustainable over a six-year period for a personal insolvency arrangement.

I have considered the various proportions but at this point I have no better alternative proposals. I do not wish to be unfair to Deputies but I have not heard any convincing arguments from them as to why accepting their proposals would enhance the likely acceptance and success of personal insolvency arrangements. I must therefore oppose the amendments.

Acting Chairman (Deputy Joanna Tuffy): The other amendments are being discussed as well, so does Deputy Collins wish to contribute on them?

Deputy Niall Collins: No. They are all the same.

Acting Chairman (Deputy Joanna Tuffy): Is amendment No. 163 being pressed?

Deputy Pádraig Mac Lochlainn: Yes.

Question put: "That the words proposed to be deleted stand."

The Dáil divided: Tá, 80; Níl, 40.	
Tá	Níl
Bannon, James.	Boyd Barrett, Richard.
Barry, Tom.	Broughan, Thomas P.
Breen, Pat.	Browne, John.
Butler, Ray.	Calleary, Dara.
Buttimer, Jerry.	Collins, Joan.
Byrne, Catherine.	Collins, Niall.
Byrne, Eric.	Colreavy, Michael.
Carey, Joe.	Cowen, Barry.
Collins, Áine.	Crowe, Seán.
Conaghan, Michael.	Daly, Clare.
Conlan, Seán.	Doherty, Pearse.
Connaughton, Paul J.	Donnelly, Stephen S.
Conway, Ciara.	Ferris, Martin.
Coonan, Noel.	Fleming, Sean.
Coveney, Simon.	Fleming, Tom.
Creed, Michael.	Halligan, John.
Daly, Jim.	Healy, Seamus.
Deasy, John.	Healy-Rae, Michael.
Deering, Pat.	Kirk, Seamus.
Doherty, Regina.	Kitt, Michael P.
Dowds, Robert.	Mac Lochlainn, Pádraig.
Doyle, Andrew.	McDonald, Mary Lou.
Durkan, Bernard J.	McGrath, Finian.
Farrell, Alan.	McGrath, Mattie.
Feighan, Frank.	McGrath, Michael.
Fitzgerald, Frances.	McGuinness, John.
Fitzpatrick, Peter.	McLellan, Sandra.
Flanagan, Terence.	Moynihan, Michael.
Griffin, Brendan.	Murphy, Catherine.
Hannigan, Dominic.	Ó Caoláin, Caoimhghín.
Harrington, Noel.	Ó Fearghaíl, Seán.
Harris, Simon.	Ó Snodaigh, Aengus.
Hayes, Tom.	O'Brien, Jonathan.
Heydon, Martin.	O'Dea, Willie.
Hogan, Phil.	Pringle, Thomas.
Humphreys, Heather.	Ross, Shane.
Humphreys, Kevin.	Shortall, Róisín.
Keating, Derek.	Smith, Brendan.
Keaveney, Colm.	Stanley, Brian.
Kehoe, Paul.	Tóibín, Peadar.

Kelly, Alan.	
Kenny, Seán.	
Lawlor, Anthony.	
Lynch, Ciarán.	
Lynch, Kathleen.	
McCarthy, Michael.	
McEntee, Shane.	
McHugh, Joe.	
McLoughlin, Tony.	
Maloney, Eamonn.	
Mathews, Peter.	
Mitchell O'Connor, Mary.	
Mulherin, Michelle.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Neville, Dan.	
Nolan, Derek.	
Noonan, Michael.	
Ó Ríordáin, Aodhán.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Reilly, Joe.	
O'Sullivan, Jan.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Reilly, James.	
Ring, Michael.	
Ryan, Brendan.	
Shatter, Alan.	
Spring, Arthur.	
Stagg, Emmet.	
Stanton, David.	
Timmins, Billy.	
Tuffy, Joanna.	
Twomey, Liam.	
Wall, Jack.	
Walsh, Brian.	
White, Alex.	

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

Question declared carried.

Amendment declared lost.

Amendment No. 164 not moved.

Acting Chairman (Deputy Joanna Tuffy): If amendment No. 165 is agreed, amendment No. 166 cannot be moved.

Deputy Pádraig Mac Lochlainn: I move amendment No. 165:

In page 98, line 28, to delete "50 per cent" and substitute "25 per cent".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Amendment No. 166 not moved.

Acting Chairman (Deputy Joanna Tuffy): If Amendment No. 167 is agreed, amendment No. 168 cannot be moved.

Deputy Pádraig Mac Lochlainn: I move amendment No. 167:

In page 98, line 34, to delete "50 per cent" and substitute "25 per cent".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Amendment No. 168 not moved.

Acting Chairman (Deputy Joanna Tuffy): Amendment No. 169 from the additional list is a substitution for amendment No. 169 on the principal list of amendments from 5 November 2012.

Deputy Alan Shatter: I move amendment No. 169:

In page 99, lines 40 and 41, to delete "shall be 14 days, but such period may" and substitute "may be".

This is a technical drafting amendment to improve the text of section 107.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 170:

In page 100, line 10, to delete "proposal for the".

This is a technical drafting amendment to improve the text of section 108.

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 171:

In page 100, to delete lines 38 and 39 and substitute the following:

"(2) The hearing of an objection lodged under *section 108(3)* shall be heard with all due expedition.".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 172:

In page 100, line 43, to delete "by the Insolvency Service" and substitute "under *section 91*".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 173:

In page 101, lines 39 and 40, to delete all words from and including "every" in line 39 down to and including "meeting" in line 40 and substitute the following:

"in respect of every specified debt, the creditor concerned,".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 174:

In page 102, line 38, to delete "in force" and substitute "in effect".

Amendment agreed to.

Acting Chairman (Deputy Joanna Tuffy): If Amendment No. 175 is agreed, amendment No. 176 cannot be moved. Amendments Nos. 175 to 180, inclusive, are related and will be taken together by agreement. Amendment No. 178 is an alternative to amendment No. 177 and amendment No. 180 is an alternative to amendment No. 179.

Deputy Pádraig Mac Lochlainn: I move amendment No. 175:

In page 105, lines 17 and 18, to delete "65 per cent" and substitute "30 per cent".

I will not labour the point and the argument is the same as we heard earlier.

Deputy Alan Shatter: Amendments Nos. 175 to 180, inclusive, essentially replicate the proposals made by Deputies Mac Lochlainn and Niall Collins in section 106 of the Bill, specifically amendments Nos. 163 to 168, inclusive, with regard to drastically altering the proportions of creditors required to vote to accept a personal insolvency arrangement. The amendments are rejected for the reasons previously outlined.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Amendment No. 176 not moved.

Deputy Pádraig Mac Lochlainn: I move amendment No. 177:

In page 105, line 21, to delete "50 per cent" and substitute "25 per cent".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Amendment No. 178 not moved.

Deputy Pádraig Mac Lochlainn: I move amendment No. 179:

In page 105, line 25, to delete "50 per cent" and substitute "25 per cent".

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Amendment No. 180 not moved.

Deputy Alan Shatter: I move amendment No. 181:

In page 105, line 46, to delete "the level of" and substitute "the extent of".

Amendment agreed to.

Deputy Stephen S. Donnelly: I move amendment No. 182:

In page 107, between lines 19 and 20, to insert the following:

"(4) In the case of a creditor unreasonably refusing to accept the terms of a proposal for a Personal Insolvency Arrangement and thereafter applying to court for an order of repossession of the debtor's principal private residence, the court may take into account such unreasonable refusal in terms of any costs arising from the application to repossess.".

Amendment put and declared lost.

Deputy Alan Shatter: I move amendment No. 183:

In page 107, lines 21 and 22, to delete all words from and including "at" in line 21 down to and including "Arrangement," in line 22 and substitute the following:

"as respects a Personal Insolvency Arrangement, at any time during which the arrangement concerned is in effect,".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 184:

In page 107, line 23, to delete "a Personal Insolvency Arrangement" and substitute "that Personal Insolvency Arrangement".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 185:

In page 107, between lines 43 and 44, to insert the following:

"(2) For the purposes of *subsection (1)(e)*, a debtor is in arrears with his or her payments for a period of not less than 3 months where—

(*a*) at the beginning of the 3 month period ending immediately before the day on which the application was made, one or more than one payment in respect of the debts became due and payable by the debtor under the Personal Insolvency Arrangement, and

(*b*) throughout that 3 month period, the debtor was in arrears in respect of any or all of those payments.

(3) On hearing an application under *subsection (1)* the appropriate court may—

(*a*) dismiss the application,

(*b*) terminate the Personal Insolvency Arrangement, or

(*c*) order that the personal insolvency practitioner prepare a proposal for a variation of the arrangement in accordance with *section 115*.".

This amendment would insert new sections 117(2) and 117(3). The new subsection (2) provides a definition of a three-month arrears period for the purposes of section 117(1)(*e*).

The new subsection (3) provides for the powers of the appropriate court in respect of an application by the personal insolvency practitioner to have the personal insolvency arrangement terminated under section 117(1). Similar provisions have already been made in sections 79(2) and 79(3) in respect of the termination of debt settlement arrangements.

Amendment agreed to.

Deputy Niall Collins: I move amendment No. 186:

In page 107, line 45, to delete "6 months" and substitute "9 months".

This is similar to some preceding amendments and pertains to the personal insolvency arrangement, PIA. Where a debtor falls into arrears, the amendment will stretch the period from six months to nine months. This is a flexibility measure.

Deputy Alan Shatter: I am opposed to this amendment, which is similar to amendments Nos. 124 to 127, inclusive, regarding the period in which a debt settlement arrangement is deemed to have failed. There is no point in revisiting the arguments on the personal insolvency arrangement.

Question, "That the words proposed to be deleted stand," put and agreed to.

Amendment declared lost.

Deputy Alan Shatter: I move amendment No. 187:

In page 108, line 14, to delete "otherwise;" and substitute "otherwise; or".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 188:

In page 108, line 20, after "debtor" to insert "concerned".

Amendment agreed to.

Deputy Alan Shatter: I move amendment No. 189:

In page 110, line 19, to delete "the amendment" and substitute "the variation".

This amendment is required for consistency with the terminology used elsewhere in the Bill. The use of the word "variation" rather than "amendment" is proposed in order to remain consistent with the text elsewhere.

Amendment agreed to.

Deputy Pádraig Mac Lochlainn: I move amendment No. 190:

In page 110, line 38, to delete "€1,000" and substitute the following:

"€650 in the case of a Debt Relief Notice and Debt Settlement Arrangement, or €1000 in the case of a Personal Insolvency Arrangement,".

The Minister may recall that I raised this issue on Committee Stage. It is a technical tidy-up and I wanted to insert it to be consistent.

Deputy Alan Shatter: The amendment allows me to agree broadly with the thrust of the proposal from the Deputy. I am of the view that the amount of €650 in regard to a debtor seeking to obtain credit without informing the other person of his or her participation in a debt resolution process under this Bill should be standardised. That amount is already provided for in section 33 in respect of the debt relief notice and in section 76 in respect of the debt settlement arrangement and does not need amendment. I will table an amendment in the Seanad to reduce the amount from the current €1,000 in a PIA to €650. I hope that Deputy Mac Lochlainn can accept this clarification and withdraw his amendment.

Amendment, by leave, withdrawn.

Deputy Pádraig Mac Lochlainn: I move amendment No. 191:

In page 113, line 23, after "creditor," to insert the following:

"and where the consent of both the creditor and debtor has been secured,".

Deputy Alan Shatter: I am advised that the proposal from the Deputy is not necessary. It would not add to the comprehension of section 130, which deals with the setting off of assets and debts between a debtor and a creditor. The balance would then likely be the subject of a debt resolution process as provided for under this Bill. The issue of consent as such does not arise in this particular context. For that reason, I am opposed to the amendment.

Amendment, by leave, withdrawn.

Deputy Stephen S. Donnelly: I move amendment No. 192:

In page 118, line 18, after "discharged." to insert the following:

"In the first three years post enactment of the *Personal Insolvency Act 2012*, all bankruptcies shall be discharged after two years. Thereafter, and on return to normality, the period of bankruptcy shall be increased again to three years.".

A few issues arise, but I will not go over one of them again, namely, clearing the debt as quickly as possible. As the Minister will see, I am in favour of temporary periods of shortening. There is an incentive to move to the UK for one year. Ireland having a term that is three times as long as is available in the next jurisdiction makes going to the UK, which we would prefer not to happen, considerably more attractive for many people. As such, three years may be too much.

Instead of discussing economic growth and so on again, I will use this opportunity to raise one or two bankruptcy issues. First, the question of bankruptcy payment orders, BPOs, has been raised urgently by the Free Legal Advice Centres, FLAC, the Money Advice & Budgeting Service, MABS, and others. As the legislation stands, the bank will be able to apply for a five-year BPO at the end of the three-year period, making it a *de facto* eight-year period. This is far too long and is not a credible option. It will allow the banks to trap people again and I urge the Minister strongly to examine the issue. I have no problem with attaching a BPO to a bankruptcy if there is income that can be used, but it should ideally be constrained to the period of the bankruptcy. This is an urgent issue.

Second, a technical issue was brought to my attention last week. Many employment contracts, particularly with multinationals, contain a clause to the effect that, if an employee enters an agreement with his or her creditors, that employee is instantly fired. One such contract will be terminated if an employee is declared bankrupt or makes any arrangement or composition with his or her creditors generally. That provision would preclude many people from using this legislation. I urge the Minister to examine this issue.

I do not believe that we have covered a third issue, namely, the conditions of the bankruptcy. One or two elements are old worldly and unhelpful, particularly that of not having a bank account. This matter should be considered in terms of the mechanics of paying.

I would prefer three years to two, but we will not go over the issue again, as I do not imagine that the Minister will accept my amendment. There is an interesting comparative issue with the UK's one-year period. It is incredibly important that the BPOs be constrained, as they restore all of the banks' power to squeeze borrowers.

Deputy Alan Shatter: I welcome that the Deputy has raised these three issues. We are considering them in the context of Seanad amendments to the Bill. I share his concerns. We have had an opportunity to work through this and consider it with regard to the BPOs. We are revisiting that in the context of our own considerations and what the Deputy has to say on the issue.

The bank account issue is important. We are considering whether we can incorporate an amendment into the Bill to deal with that issue. If people enter into a debt settlement arrangement or PIA, there is nothing in law to stop him or her having a bank account, but we do not want a situation in which financial institutions decide not to give him or her a bank account. Where individuals who are working through debts have some form of income, a bank account may be essential for that income to come in, for debt payments to be made and for there to be a very efficient and easy mechanism to see what is coming in and going out. The bank account

can be the easiest way of doing it. Clearly, if someone in a PIA or debt settlement arrangement is to have a bank account, it must be one in which there is not an overdraft facility.

I am concerned about another issue. One may not have a credit card, but there is no reason one should not have a debit card if it is usable on a bank account with no overdraft facility. The debit card is just a payment facility instead of carrying cash. I want to examine both issues. We have been giving some thought to them and will see whether we can address them.

In terms of bankruptcy, the Deputy is right. Perhaps an individual who is bankrupt can maintain a single bank account, but only in the context of there being no overdraft facility so that another level of indebtedness is not being created in the middle of a bankruptcy, which clearly would not be viable. The same issue would apply to debt cards as opposed to credit cards. It is my intention to revisit those.

The determination clauses in contracts are interesting. Clearly, one does not want individuals who are very competent in their jobs but who, for a number of reasons, have got themselves into financial trouble to find themselves unemployed. It is not in their interest nor in the interest of creditors. There is an issue of private contracts concluded between individuals and whether one can, in legislation, interfere with an existing contract. That is a particular issue which has a constitutional dimension. One can certainly provide for legislation which ensures that a clause, such as the one the Deputy mentioned, would be void in future contracts. This is an issue on which we have to consult the Attorney General's office. It is not quite as simple as it looks and we need to be careful about how we deal with it.

There are other areas and there are particular professions in which by virtue of becoming bankrupt one is not entitled to practice one's profession, and in circumstances where the bankruptcy has nothing to do with any dishonesty in the manner in which one ran one's profession. For example, someone might have foolishly borrowed money from banks to invest in property or to invest in some business having taken the view that if he or she bought some share in a business, he or she would do well out of it but has lost money on that and is in difficulty, even though he or she is competent in his or her profession and if the bankruptcy does not give rise to any judgments about his or her competency in his or her profession. There is an issue, for example, where professions are self-regulated or if there is a statutory provision. Should a bankruptcy prevent someone continuing to work in that profession? There are other issues.

One of the matters about this legislation is the huge areas it must cover and its complexity. I suspect the day it is enacted, we will all think of something we should have addressed which is why I am saying this is not cast in tablets of stone. If we discover something in the short to medium term, which should have been addressed and which we need to address, a short amendment Bill will be produced, if needs be. However, we are looking at those areas with a view to addressing them in the Seanad which means they will come back to the Dáil in the context of any Seanad amendments made which we have not discussed in the Dáil by way of formal amendment on Report Stage.

I am afraid I will not surprise the Deputy by saying I cannot agree to the two year instead of the three year issue. There is an issue about having a neighbouring jurisdiction which allows people to exit from bankruptcy within a year. As some people have discovered, it is not quite as easy as they think to get into that jurisdiction. One has to have some real connection with it. One cannot simply take a flight over and three weeks later seek bankruptcy. In Northern Ireland and in England, individuals, with their main residence and businesses based in Ireland,

have attempted to use that bankruptcy jurisdiction but they have been unsuccessful. Someone can move lock, stock and barrel and relocate and that may affect that aspect but we have to have bankruptcy legislation which we believe is reasonable.

There is a very dramatic change from where we have come in regard to the three year provision. I am afraid I cannot accept the Deputy's amendment for the period of automatic discharge from bankruptcy to be reduced from the three years prescribed here to two years. What we are doing is a significant advance on the current 12-year period. The UK is unique in its one year period. In other European countries, as the Deputy may know, the periods of time are longer. They are based on giving an opportunity for arrangements to be made in regard to a bankruptcy which may result in some value going to creditors.

Our objective here is to provide a reasonable period of time for an individual to be within bankruptcy but for bankruptcy to no longer be perceived as a penal remedy which disables individuals for the rest of their lives, or certainly for 12 years. It was the rest of a person's life when I came into office. We made a temporary change to the law bringing it down to 12 years. I am afraid I cannot accept the Deputy's amendment to reduce the three year period to a two year one.

Deputy Stephen S. Donnelly: I broadly welcome the various things the Minister said and appreciate that these issues will be taken up. I have one final thought on the bank account issue. The US is probably the most entrepreneurial country on earth and when one talks to people there about bankruptcy or failing in business, they view it as part of the normal business process on one's way to succeeding. When the Minister looks at the conditions of bankruptcy, will he keep on eye to the people in bankruptcy being able to start up new companies which is what happens in many cases in the US? It allows momentum for entrepreneurship as well as a bank account.

I take the Minister's points on the two years versus the three years. I did not think he would accept the amendment but I would like to re-emphasise that if the bankruptcy payment order is also kept to the three years, I fully accept what he said.

Deputy Alan Shatter: It elongates it otherwise.

Deputy Stephen S. Donnelly: I thank the Minister.

Deputy Alan Shatter: I agree with the Deputy that we need to change the ethos and culture. I would not regard bankruptcy as a mark of business stature but many individuals, who have developed very successful businesses in the United State providing considerable employment, were particularly unsuccessful in their early ventures into business. This is one of the reasons we are reducing the timeframe and not just to give people some hope and light at the end of the tunnel. Where people have adventurous business ideas which do not work out even though they have tried to develop them in good faith, they should not be basically disabled for many years into the foreseeable future from exercising their entrepreneurial spirit in a different venture which one would hope would be a good deal more successful than the one which may have led to bankruptcy.

Amendment put and declared lost.

Acting Chairman (Deputy Joanna Tuffy): Amendment No. 193 is out of order as it involves a potential charge on the revenue.

Amendment No. 193 not moved.

Acting Chairman (Deputy Joanna Tuffy): Amendment No. 194, in the name of Deputy Niall Collins, was discussed with amendment No. 87. How stands the amendment?

Deputy Niall Collins: I move amendment No. 194:

In page 121, between lines 7 and 8, to insert the following:

"(2) (*a*) The Minister shall within 1 month of the entering into force of this Act prescribe regulations regulating personal insolvency practitioners and imposing mandatory requirements to obtain a licence as a personal insolvency practitioner.

(*b*) The regulations shall specify -

(i) charges that can be levied by personal insolvency practitioners (including a prohibition on fees calculated as a percentage of the value of the debt recovered),

(ii) the length of time that these charges can be levied,

(iii) the qualifications required in order to obtain a licence as a personal insolvency practitioner,

(iv) the standards required of personal insolvency practitioners,

(v) penalties for failure to comply, and

(vi) a complaints process for debtors who are unsatisfied.

(*c*) The Minister shall within 6 months of the entering into force of this Act prescribe a code of conduct for personal insolvency practitioners.".

Will the Minister unveil the-----

Acting Chairman (Deputy Joanna Tuffy): The Deputy cannot discuss the amendment.

Amendment, by leave, withdrawn.

Bill reported with amendment and received for final consideration.

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

Acting Chairman (Deputy Joanna Tuffy): Deputy Collins could possibly ask his question now.

Deputy Niall Collins: Will the Minister flag any proposed amendments in the Seanad and any other items which have not come up for discussion here in order to give us a heads-up? In regard to the governance of the insolvency service of Ireland, the Minister has appointed a director designate. Will the Oireachtas Joint Committee on Justice, Equality and Defence have a role in regard to the membership of the board or the executive and the oversight and the corporate governance of that organisation?

7 o'clock Will it be done through the public advertising of positions and interviewing? Has the Minister information on that? Also, will the Minister give us an overview of how he envis-

ages the regulation of the personal insolvency practitioners, PIPs?

Deputy Stephen S. Donnelly: I wish the Minister luck with this. A final matter, which was not relevant to any of the amendments but which would be incredibly useful, is that there should be clear communication of the Minister's intent for how this should work. That would be important not just for the PIPs but also for the public. There is so much fear, worry and lack of information among the public. When this is completed there should be a small number of case studies. It could be very simple because I believe 80% of the cases would probably fit into a quite standardised set. That would provide huge comfort and certainty to many people. Perhaps the Minister would consider issuing case studies as it would let everybody know what is expected from this legislation.

Minister for Justice and Equality (Deputy Alan Shatter): To take up the point made by Deputy Donnelly, this is complex legislation which contains many new mechanisms. It is very important that we communicate to the general public how it is intended to work. The insolvency agency will have a particular function in that regard. If we achieve our objective of enacting the legislation before Christmas, an information process for the benefit of the public will start very early in the new year by way of a website and other mechanisms. After the enactment of the legislation there will be a phase of trying to assist the public to understand what the legislation is about in non-technical terms. We must be careful in doing that to ensure that nobody is misled about any aspect of it. I will rely on the insolvency service to perform that function. It has a particular function in that regard.

On Deputy Collins's query, there is no board for the insolvency service. The chief executive officer who has been appointed came through the public appointments system. There will be advertisements for the recruitment of the rest of the staff on Friday this week. In addition, there is an internal recruitment process where we can identify within my Department, for example, individuals who have the skill sets that would be of assistance to work in the agency. That will happen in addition to the outside recruitment that might be necessary. We have identified professionals who will need to be recruited from outside the public service and that advertisement will take place. It will be dealt with through the Public Appointments Service.

Deputy Niall Collins: There will not be a board?

Deputy Alan Shatter: No, but the connectivity between the agency and the Houses of the Oireachtas will be through an annual report that will be produced and laid before both Houses. The justice committee will be engaged. There is no particular reason or need, and the legislation does not provide for it, to create a board of people who have oversight in circumstances where we appoint a chief executive who can run the agency, produce its annual report and report to the Houses of the Oireachtas. The justice committee will be able to ask questions and raise issues.

I thank the Deputies for their contributions on all Stages. It has been a lengthy process since we published the heads of the Bill. That was a worthwhile process as it facilitated the justice committee receiving submissions, which contributed to the development of the legislation. I thank all the Deputies who engaged with the Bill at the justice committee stage. I also thank all the individuals and organisations outside the House who made submissions to help us fine tune and refine the Bill. I must point out to those groups or organisations and, indeed, the financial institutions that we have had to make our own judgments on aspects of the legislation. We have taken account of submissions received but the legislation is not designed in the image of

something the financial institutions want or something for which a particular group is lobbying. Indeed, the representative body of the financial institutions, the Irish Banking Federation, is somewhat unhappy with some aspects of the Bill.

I hope we have produced a balanced legislative measure that will be of genuine assistance to those who are in serious debt and are unable to discharge it, that is, those who genuinely cannot pay as opposed to those who simply will not pay. We hope we have provided the balance that will facilitate people working their way through financial troubles in a manner that is fair to both debtors and creditors. In the context of the mortgage interest issue and people in negative equity, where there are substantial mortgage repayments outstanding or arrears accumulated, we hope that this will provide a mechanism to facilitate many people, either through debt forbearance or debt forgiveness, working their way through a process which facilitates their retaining their home and seeing genuine light at the end of the tunnel.

I particularly thank Deputies who have been engaged in the marathon we have run in the last 24 hours on Report Stage. We will take on board a number of the suggestions for further improvements in the Bill, and I have mentioned some of those. We will also reflect on some of the other issues that arose. The Bill will be subject to further development, which we will have to agree with the Attorney General's office and the Parliamentary Counsel, as it goes through Committee and Report Stages in the Seanad. Deputy Collins quite fairly asked me what areas we have not addressed that will be dealt with in the Seanad. We will deal with a number of areas. There will be a new Part 5 to replace the current Part 5. It will provide extensive provisions for the regulation by the insolvency service of the new personal insolvency practitioners. I will not go into the details but there will be regulatory provisions, oversight and provisions to ensure there are indemnities to guarantee that where funds are being dealt with, those using personal insolvency practitioners are protected.

As I said in the course of this debate, many of the regulatory mechanisms already exist in other contexts. It is a question of adapting them to the insolvency legislation. A substantial amount of work has been done on that. There was an issue at one stage as to whether it would be the Central Bank or the insolvency agency that would deal with the regulatory side but in the context of providing a unified focus on the insolvency area it was decided that it would be the insolvency agency. I was optimistic that we would be in a position to bring the amendments before this House on Report Stage but we will have them for the Seanad proceedings. Members will have an opportunity to consider them when they come back from the Seanad.

There will also be a new Part providing for the revision of courts legislation, which is necessary to operate the new insolvency processes efficiently and effectively. On the various Stages we have discussed the provisions which envisage the new debt resolution arrangements being forwarded by the new insolvency agency to the court, which is essentially the Circuit Court. We are preparing an additional Part for this legislation to ensure that this is done with maximum efficiency so we will not have a backlog of arrangements waiting to be addressed, or a backlog of applications where somebody might wish to go to the court and rely on the circumstances in which one can raise an objection to an arrangement being approved. A detailed Part in that regard will be published. It will be designed to ensure that matters are dealt with efficiently, effectively and in a manner that does not incur unnecessary expenditure.

The transfer of the functions of the Official Assignee in Bankruptcy from the Courts Service to the insolvency service will take place. It makes sense that the Official Assignee in Bankruptcy is part of the insolvency service, so we will be dealing with that. We will also be improving

the practical workability of the Bill's provisions both for debtors and creditors. This is very complex legislation and we will look at whether there are other areas to consider or address to ensure that no areas of uncertainty could arise. We have been trial-testing the legislation by examining it section by section and seeing how, in practice, it would pan out in different debt scenarios, as suggested by Deputy Donnelly. Doing so is throwing up further issues we may need to address. We believe we can do so in a timely fashion during the debate in the Seanad and bring the issues back to the House. I hope I have responded fully to the query raised by Deputy Niall Collins.

I thank Members, particularly the three present in the Chamber, for the attention they have given to the Bill. The debate and discussion we had is very important. I have been on that side of the House for far too many years and they should not be dispirited by virtue of the fact we could not take on board some of the amendments tabled. Members performed an important function in tabling amendments because it gave an opportunity to tease out aspects of the Bill. It provided food for thought and in teasing out the issues, it affords us the possibility that some issue that had not been addressed comes out of left field and one realises it must be addressed. I thank the three Members present for their dedication and their contribution.

I hope the legislation will have been enacted by the time we get to Christmas. For our part, we will do everything possible to ensure it is successful in addressing the issues we are trying to address. I am of the view none of us has a monopoly on wisdom and it may turn out, in its application, to have an unintended consequence no one predicted. That may need to be addressed and, if so, we will do so with speed. I thank my officials for their substantial work on the Bill. On occasion in this House we do not acknowledge the extraordinary work of officials in Departments.

Deputy Niall Collins: They can have tomorrow off.

Deputy Pádraig Mac Lochlainn: We tried to finish it as quickly as we could.

Question put and agreed to.

Message from Select Committee

An Leas-Cheann Comhairle: The Select Committee on Justice, Defence and Equality has completed its consideration of the Europol Bill 2012 and has made amendments thereto.

Estimates for Public Services 2012: Message from Select Committee

An Leas-Cheann Comhairle: The Select Committee on Justice, Defence and Equality has completed its consideration of the following Supplementary Estimate for public services for the year ending 31 December 2012: Vote 35 — Army pensions.

Sitting suspended at 7.15 p.m. and resumed at 7.30 p.m.

Pensions and Retirement Lump Sums: Motion (Resumed) [Private Members]

The following motion was moved by Deputy Mattie McGrath on Tuesday, 6 November 2012:

That Dáil Éireann:

in view of the Government's:

— exhortations to Irish citizens to embrace austerity;

— decision to raid ordinary citizens' pension funds;

— threat to end tax relief on ordinary citizens' pension contributions in the forthcoming budget; and

— recent changes to the qualifying conditions for the contributory state pension;

calls on the Government to end the current system of paying grossly over generous pensions and massive lump sums on retirement to office holders such as Cabinet Ministers, Taoisigh, TDs, Senators, senior public servants, State regulators including the Financial Regulator, members of the Judiciary and the CEOs of semi-State bodies and State-funded banks.

Debate resumed on amendment No. 1:

To delete all words after "Dáil Éireann" and substitute the following:

"takes note of the Government's leadership and strong policy of remuneration restraint and sustainable pension reforms since taking office in March 2011, and in particular:

— acknowledges that all members of the Government accepted reductions in their pay on their first day in office;

— notes that this pay reduction will reduce the pensions paid to members of this Government on retirement;

— agrees that the pension levy stamp duty introduced by the Finance (No. 2) Act 2011 is a timely and legitimate source of revenue to the Exchequer;

— notes the significant reduction in public service pensions in payment before end-February this year introduced by the Financial Emergency Measures in the Public Interest Act 2010;

— notes the reduction in public service pensions coming into payment since end-February this year that results from the pay cut introduced by the Financial Emergency Measures in the Public Interest (No. 2) Act 2009;

— welcomes and supports major pension reforms brought forward by the Minister

for Public Expenditure and Reform, including:

— legislating for the Single Public Service Pension Scheme;

— widening the application of pension abatement and service caps across the public service; and

— introducing a higher top rate of the public service pension reduction for those in receipt of public service pensions above €100,000;

— recognises that pensions are deferred income and are property rights; and

— acknowledges that the general public policy in the Financial Emergency Measures legislation (including the pension-related deduction, pay cuts and the pension reduction) is to reduce, in a reasonable and proportionate way, public service expenditure and in particular that the pension reduction applies in a tapered and progressive manner to public service pensioners."

- (Minister of State at the Department of Public Expenditure and Reform, Deputy Brian Hayes).

Deputy Mary Lou McDonald: With the agreement of the House, I will share time with Deputy Pearse Doherty.

I am pleased to contribute to this debate, given that the issue of pensions in all its guises has loomed large in public debate in the last number of months. The state pension has been threatened, the Government has looted private pension funds, allegedly to fund investment in jobs, although the jobs have not materialised, and the issue of the large pension pots enjoyed by bankers, former politicians and senior civil servants was raised earlier today in the House.

The Government amendment to the motion is galling and bewildering. On what planet does paying oneself €200,000 a year conform with professing leadership and a strong policy of remuneration restraint? Just when we thought the brass necks of Fine Gael and the Labour Party could not shine any brighter they propose a counter motion such as this and dazzle us all the more. Far from being defenders of pay equity, Government Ministers have reduced themselves to giving voice to disgruntled senior civil servants some of whom feel hard done by on their six figure salaries. Last month, at a meeting of the Committee of Public Accounts, the Minister for Public Expenditure and Reform told the story of how, at a previous meeting, a senior public servant passed him a note complaining that he was now earning only half of what he had earned in the private sector. Poor him. The Minister's Secretary General rowed in to tell the committee that a salary of a measly €200,000 a year was not the only problem. Apparently, accountability to the Oireachtas was also an issue, and this was something he said "we needed to reflect on".

Far from delivering the democratic revolution, the Government is creating a new kind of elite at the top of the public sector. I have no doubt the irony of this is not lost on citizens. While Labour and Fine Gael Ministers clap themselves on the backs, low and middle income families are worse off under the stewardship of the Government.

Women, in particular, are feeling the brunt of Labour's austerity policies. The Minister for Social Protection, Deputy Joan Burton, has her eyes firmly set on women in her mean-spirited and unnecessary cuts to the State pension. Deputy Burton knows full well that the new requirements she introduced in September for new claimants to State pension hit women hard-

est. Many of the women affected were forced to leave work because of the marriage bar, as it was called. Many of them cared for children, families and elderly parents, and now they are penalised. Deputy Burton actually described this regressive measure, as she introduced it in September, as fair and equitable. The Government, and Labour in the middle of it, is intent on dismantling every element of progressive social policy that was fought for over the last century.

The motion before us is weak. It does not express sufficiently the support those who feel their pensions are threatened deserve. How can the proponents of the motion make an argument against the standardisation of tax reliefs in respect of pensions? That is, clearly, a fair thing to do. Under the current regime, 80% of pension tax reliefs go to the top 20% of earners. That is not fair. I do not understand why the blanket call to protect those reliefs is being made and I do not share it. Fianna Fáil, as ever, has a nerve to argue for a review of excessive pensions which they designed and delivered.

I hope the Government, in its final response to the motion, will clarify that there will be no further attack on the State pension.

Deputy Pearse Doherty: This week, an elderly couple came into my constituency office. One was 80 years of age and the other was 90. One of them was visually impaired. They were distressed because they had received a letter from the Health Service Executive to say their medical card was up for review, even though they were able to show the staff in my office that their card does not expire until 2015. The entitlement they thought they had was being snatched from them by the HSE as a result of the Government's austerity proposals.

That couple are not unique. Many couples and individuals have contacted my office about the same issue. The Government has brought tears to their eyes, as a result of the letters that have been issued in the last number of days. People are fearful of the next letter in the post. What entitlement will they lose and what extra payment will they be asked to make? For many people, such a letter will push them over the edge, financially. If the stress and strain of this was not enough, the same families turn on the television and see bankers and politicians, many of whom were involved in the destruction of the economy, and hear about the lavish pensions and lifestyles they still avail of, despite their hand in bankrupting the State. Mr. Brian Goggin, former chief executive of Bank of Ireland, gets an annual pension of €650,000. Mr. Eugene Sheehy, who is in the media, gets €529,000. I acknowledge that he has accepted a voluntary deduction, but it does not go far enough. Mr. Colm Doherty has a pension entitlement of €300,000 a year and Mr. Michael Fingleton was entitled to a pension pot of €28 million.

The list does not end there. Former Ministers and leaders of Fine Gael, Fianna Fáil and the Labour Party are in receipt of large pensions, paid by the State. Former Taoiseach Bertie Ahern is getting a pension of €152,000, former Tánaiste Dick Spring gets €121,000 and the former leader of Fine Gael, Alan Dukes, claims a ministerial pension of in excess of €94,000 on top of a Government salary of €150,000 as chairman of IBRC.

Even sitting politicians continue to claim pensions. In my own constituency, Fianna Fáil MEP Pat the Cope Gallagher continues to claim his ministerial pension of €70,000 on top of his MEP's salary of €91,000. Many of these people have not even reached retirement age. Many of them are in receipt of substantial incomes from public and private sources yet this Government allows them to be paid obscene pensions while ordinary people, like the couple I referred to at the start, are struggling to make ends meet.

Yesterday during the debate the Minister of State at the Department of Finance, Deputy Brian Hayes, told us that there were legal and constitutional obstacles to clawing back some of these pensions. I challenge the Government here and now to publicly display the advice from the Attorney General that states that. I do not accept the problem is legal or constitutional, it is political. The problem is that the Government does not have the political will to take on the bankers and their excessive pensions because they are up to their necks in it themselves. The politicians had their noses in the trough and reaped the benefits until a number of years ago. How do I know that? We simply have to look at the facts. The Tánaiste, Deputy Eamon Gilmore, only gave up his ministerial pension in 2011. The current Taoiseach only gave up his ministerial pension in 2009 and the Minister for Finance still draws down his ministerial pension, although I acknowledge he has said it goes to charity. The reality is the Government was complicit in the idea of people who are working getting a double payment and availing of massive pensions. The Taoiseach himself for nine years drew down a ministerial pension while he sat in this House before he ever reached retirement age.

This is about political will and having the appetite to go after these people while leaving alone those poor individuals who cannot sleep at night because of the austerity measures this Government has imposed on them. The Government should let them be and go after the people who bankrupted the State and destroyed the economy. Those are the people referred to in this motion and the Government should be ashamed of itself for not having the political will or courage to go after them.

An Leas-Cheann Comhairle: I call Deputy Derek Keating who is sharing time with Deputies Seán Kenny, Olivia Mitchell, Peter Fitzpatrick, Eamonn Maloney and Arthur Spring.

Deputy Derek Keating: I am happy to share time and to speak on this motion. It is a difficult motion and in the short 18 months during which I have been privileged to be a Member of this Dáil, I have spoken on Dáil Private Members' business but seldom have I pondered and reflected so much on the issues at the heart of this motion. That is because of what has been referred to as the unjustifiable, exceptionally overstated and disproportionate pensions earned by some former bank officials and chief executive officers. The Taoiseach has previously referred to the moral responsibility on some of those former chief executive officers with the banking sector who retired with these exceptional pensions. As a Member of the Dáil, I will not stand here and defend those extraordinary pensions. I recall the words of Einstein, who said that example is not the best way to teach others, it is the only way. As an individual Member of the Oireachtas and of the Government, I intend to explore every single avenue to ensure that these people, despite legally binding contractual arrangements, play their full part in our national recovery. That is the overriding commitment of this Government.

In general terms I support much of the intent of the motion except that it is not well drafted. It is not fair and balanced. I would go further and say it is dishonest. It does not take account of the work being done by this Government in a short period of 18 months. It does not take account of the significantly reduced costs of running the Government and public service, including commercial chief executive officers, having their pay reduced and capped. Deputy Mattie McGrath did not mention the fact the Government decided in its first day in office to reduce the pay and pensions of the Taoiseach, Ministers and Ministers of State. A voluntary waiver of up to 15% has been introduced for post holders with salaries in excess of the relevant pay ceilings. Perhaps it was deliberately left out of the motion that public service pay and pensions have been reduced through a public service pension levy of up to 20% at the top rate for pensions in excess of €100,000. Significantly, in the last two years, €2.5 billion has been saved in public

service expenditure.

Deputy Mattie McGrath is a survivor of the cabal that put the facilities in place to protect the high earners. I include him with Bertie Ahern, Brian Cowen and others who orchestrated the structures that protect those who are in this situation now. He cannot separate himself from that as the person who penned this motion.

On this issue, I believe the Minister for Finance is legally restricted. That is why we have an Attorney General, to advise the Government. If it did not take that advice, there could be further financial costs to be borne by the people. God knows, there are enough of those already.

Deputy Mary Lou McDonald: Publish the advice in that case.

Deputy Derek Keating: This Government is committed to unravelling and undoing the terms of those contracts that were put in place by the previous Government and I am also committed to that.

Deputy Seán Kenny: I wish to reiterate what the Government has been doing in the area of pensions, tax relief and public service pay, as I believe what the Government is doing in the area is being distorted by the Opposition.

The term "raid on pensions" is a reference to the pension fund levy of 0.6% that applies to the assets of pension funds for the period from 2011 to 2014. The money raised from the levy in 2011 amounted to €463 million, with about €490 million raised in 2012 so far and that money is being used to fund the Government's jobs initiative. The measures introduced as part of the jobs initiative include a new VAT rate of 9% on certain activities, the halving of the lower rate of PRSI and small amounts of additional current and capital expenditure. There is confidence the jobs initiative measures introduced by the Government in May 2011 are playing a role in creating and sustaining employment. Encouragingly, there are signs of stabilisation in labour market conditions and the standardised unemployment rate peeked earlier this year even though it is still far too high.

The Opposition has claimed the Government has threatened to change tax relief. The Government made no such threat. In his Budget Statement for 2012, the Minister for Finance stated he did not propose to do that. A broad consultation was undertaken with various stakeholders in the pension sector this year and that is still underway. The views of these stakeholders will be taken into account in the context of any decisions regarding an incentive regime for pension savings.

The Opposition claims this Government has not acted to address public concern about pay and pension costs. This is not the case and Opposition Deputies know this. Public service pay, as well as that of commercial CEOs in the public sector, has been reduced and capped. The Government, in its first act in office, reduced the salaries of the Taoiseach, the Tánaiste, Ministers and Ministers of State with immediate effect. All members of the Cabinet accepted reductions in pay immediately, with the Taoiseach's pay reduced to €200,000 per annum, with *pro rata* cuts applied to the pay of Ministers and Ministers of State and related office holders. These pay cuts will reduce the pensions paid to Cabinet members in future.

As everyone knows, public service pay has been reduced by 14% on average and considerably more for higher paid public servants through pension related deductions and the pay cuts. Of course there have been progressive changes to the tax system which at the margin means

PAYE, PRSI, universal social charge and pension related deductions such as mandatory pension contributions can amount to more than 60%. This is a mark of a highly progressive overall system. It is only right that those who are better paid should carry the largest burden.

Some individuals, such as those running the banks that are now in State ownership, have chosen to accept reductions in their pensions. This is welcome and I would like to see much more of it. Some people who are legally entitled to these ridiculously large pensions do not deserve them because of the mistakes and failures they made in the past. I call on others to follow the lead of the former CEO of AIB, Mr. Sheehy, and take meaningful pension reductions.

The scale of reduction in the future cost as a result of the new scheme is significant. The Department of Public Expenditure and Reform has estimated it will reduce costs by up to 30% when the scheme is in full effect in the middle years of the century. I welcome the long-term thinking contained in the scheme. I do not mind coming into this Chamber to engage in debate with the Opposition. However, I object to debating poor quality, spurious motions tabled for the sake of it. The Opposition could do better than this for the sake of a level of debate.

Deputy Olivia Mitchell: I very much appreciate the opportunity to speak on this motion. Like Deputy Keating I find myself in agreement with some of that. Last week I was gobsmacked to hear the level of pensions being paid to the CEOs in the covered banks. I presume similar *pro rata* pensions are paid to other senior managers in those banks. It would be very difficult to articulate the incredulity and outrage felt by people when that news was received, particularly by the general working population who have all to some degree suffered erosion of their own pensions and in some cases the complete vaporisation of their pensions. Even if annual pensions of in excess of €500,000 were being paid to bank executives who performed well, behaved prudently, soberly and in line with well-established prudential practice, and maintained statutory reserve and balanced portfolios, I would, and public opinion would, still consider those pensions to be excessive, unnecessarily generous and contrary to the best interests of the shareholders of the banks. Our top bankers were none of these things. They were not successful, prudent or sober. They were reckless, foolhardy and cavalier. Against that background, pensions at that level are nothing short of obscene. It is obvious that at least some of the money was provided by the taxpayers when the State rescued and recapitalised banks these people had destroyed.

What has happened is egregious beyond words. I acknowledge that the CEO of AIB has, following a letter appealing to his better judgment, responded and reduced his pension to a mere €250,000 a year. I wonder to what extent a letter appealing to people's better judgement will be successful given we are dealing with people whose sense of entitlement has survived their ruination of the country, the vaporisation of pensions and the future security of their own shareholders, and the wiping out of the pension pots of ordinary private sector workers who contributed all their working lives to very modest pension funds. We cannot depend on a voluntary response and need to go further and find a way to impose a response.

I urge the Government to look again at the advice of the Attorney General. If we are told contracts cannot be broken, we need to ascertain if there is another way of dealing with this problem. Throughout the country contracts are being broken in businesses that have not been bailed out by the taxpayer. Businesses fail, jobs disappear and pensions disappear. When the contract is gone, as businesses struggle, salary contracts are being broken up. As Deputies and public servants, we know all those contracts relating to our pay, conditions, pensions and increments were broken and thrown away. We did not like it, but we understand when the country

is broke and the money is not there, we all need to cut our cloth. What is it about that equation that bankers do not understand? As the banks have failed and gone to the wall, all bets are off as far as I am concerned. Of course, we all must do our best to sustain the pension funds of ordinary rank and file workers in banks. I find it very hard to believe, however, that the taxpayer, in rescuing banks, has any obligation through historical contractual obligations to shore up inflated pensions.

I understand perfectly the argument about property rights, but last year a levy was introduced on all private sector pensions of ordinary hard-pressed workers. There was no talk about property rights at that stage, nor should there be. It was perfectly legitimate to introduce the levy. We did not like it. Nobody liked it, but people recognised, perhaps reluctantly, that if it was going to save some jobs by allowing a reduction in VAT and PRSI, it was worth doing to try to save jobs for young people who have suffered far more from the financial and banking crisis than pensioners have. While it was accepted, it is a step too far to expect people to subvent inflated pensions of bankers and, indeed, of some of those in commercial semi-State bodies. In fairness, the Government has tried to deal with reducing pay and pensions from its first day in office, in particular with the imposition of a 20% levy on pensions of more than €100,000 for public sector workers. However, the notion of pensions linked to the pay of current holders of the same office is unsustainable. I know the new arrangements will change that and while it will not change immediately at least it will kick in when the real demographic burden hits in the middle of this century.

I applaud the Government's many significant reforms and I do not accept that there have been no reforms. The public do not know about many of them, and even if they knew about them, I suspect they would probably believe they do not go far enough. In a country that has been brought to its knees, it is absolutely understandable that there would be great resentment that the public purse should continue to subvent inflated pensions. I again urge the Government to find a way of overcoming the legal or contractual obstacles that seem to be in the way of bringing some sort of equity into the situation.

Deputy Peter Fitzpatrick: I welcome the opportunity to discuss the Private Members' motion proposed by the Technical Group. I found it quite remarkable that for such a short proposal it took me a long time to read it and even longer to understand it. In my youth in Louth and in particular Dundalk, I never had many occasions to encounter the word "exhortations". Since my youth I have had even fewer occasions to embrace the word. Thus I readily admit that I was thumbing through dictionaries.

A wise old man from Cooley once told me that we learn something new every day, and so I did today when I managed to decipher the meaning of exhortation. It is more than a little ironic that one of the definitions I uncovered referred to exhortation as "language intended to incite". Unfortunately, this Private Members' motion is little more than such. It is a poor and ill-conceived effort at point scoring.

Another aspect of the proposal that alarmed me was the reference to the "decision to raid ordinary citizens' pension funds". I do not know which of my learned Opposition colleagues wrote this but it is exceptionally emotive. The use of words such as "raid" and "ordinary citizens" is unfortunate and is a poor attempt to evoke a response with a populist issue. In the very next line the word "threat" appears, which again is a vague effort at trying to evoke emotions. The proposal in the format submitted and with such unfortunate language leads to issues of credibility and certainty. It is not just hard to read but hard to credit. The tone throughout is

lamentable and ultimately pours scorn on the proposal.

I respectfully suggest and even, dare I say it, exhort the Technical Group to reconsider. The scribe who penned the motion has spent more time on the effect than the substance. Perhaps it was intended for release last Wednesday to coincide with Hallowe'en with all its spooks and scary stories. Alarmist and populist sideshows will not fool the people. While I strongly commend the full use of language, I struggle to believe the day will come when I will overhear two mid-Louth spectators in the Grove field in Castlebellingham relaying the story of how they exhorted their team to win.

Deputy Eamonn Maloney: When the referendum is over, I will pay my return visit to the Cooley Mountains after that contribution by the Deputy, and I might meet the man who inspired him.

8 o'clock Like other speakers, I share the sentiment of the motion. However, as stated by Deputy McDonald sentiment is one thing and substance is another. The motion does not quantify what people want to say about those in receipt of large pensions and lump sums. Without quantifying this, it is meaningless. It is a little like attaching the argument which has been made by various Members on both sides of the House, including from the Labour Party, that people on salaries in excess of €100,000 should be paying more tax, with which I disagree. The man and woman in the street can see through politicians' calls for an increase in the level of taxation which does not kick in at the base on which they are on. No one has put forward the proposal that we should start with politicians' salaries, which are two and a half times the industrial wage. People in receipt of jobseeker's allowance of €12,000 per annum can see through a proposal which provides that people earning in excess of €100,000 should be paying more because they see through politicians.

Most Members of this House agree that the people in receipt of excessive pensions need to be reigned in. The word "immoral" has been used in relation to pensions by some people. However, that is not the language I prefer to use. There is no justification for any man or woman, be he or she a banker, bishop or politician, to be in receipt of a pension of €8,000 per week. That cannot be justified. The bankers are employed by us, not as legislators but as taxpayers, and they are accountable to us. No one should be in receipt of pensions of €500,000 or €600,000 and so on.

We live in an extraordinary country. When attempts are made to address issues such as property rights or upward only rents, it is stated that those involved are protected by the Constitution. This Saturday, we will vote in a referendum to protect the rights of children because the Constitution has not done so to date. Members on all sides of the House agree that these people should not be in receipt of large pensions and lump sums. It is extraordinary that these people are also protected by the Constitution. It is some Constitution given it does not do much for the ordinary man and woman. As stated by another speaker, the rich get all the pleasure. In the case of our Constitution not only do they get the pleasure, they get the protection. I do not believe, as some people have suggested, that they will go to court. Let them go to court. If they want to go to the High Court and take on us as taxpayers, let it happen.

Deputy Mary Lou McDonald: Hear, hear.

Deputy Eamonn Maloney: I doubt if they will get down the Quays to present their case because it would infuriate people. If these people want to continue to take their pensions then

it is up to people like us to stand up to them.

Deputy Mattie McGrath: Hear, hear.

Deputy Eamonn Maloney: I almost burst out laughing yesterday morning when I heard that the banks had written to the people concerned and asked them to consider taking a reduction in their pensions. That is akin to being in the ocean and smiling at a shark when one knows he is going to eat you. Writing to these people and asking them kindly to take a reduced pension is a farce. They are not going to do it. There is only one way to address this. We cannot afford to pay them and should not pay them.

Deputy Arthur Spring: It is clear that some of the signatories to this Private Members' motion have brought it forward with the best of intentions. I do not doubt their sincerity. We have an issue with pensions. I share the sentiments of colleagues in the Labour Party that we need to get this right. Our colleagues in the Technical Group have had plenty of time to mull over this and should have done better.

The Fianna Fáil brigade is engaging in an episode of collective amnesia, eager to wash their hands of any culpability for the economic mess in which we find ourselves. Their false outrage at a system which they were happy to maintain in the Celtic tiger era rings hollow. Bertie's cheerleaders and boy band are now using this democratic forum for grandstanding. Let us get to the crux of the motion, which is about kicking a political football up and down this Chamber rather than making things better. Many of the people who signed this motion are here under better terms and conditions of employment than I. Many of them will receive better pensions than I will and many have jobs to return to should they lose their seat in a future election. Those looking for fairness must be prepared to ensure fairness for all.

Deputy Mattie McGrath: About whom is the Deputy speaking?

Deputy Arthur Spring: They are all over the place and way off the mark in terms of coming in here to have a go at Government.

As regards the payment of various allowances etc., what are those in receipt of the Leader's allowance of €40,000 per annum doing with it? I have yet to see one poster erected by any of the signatories to this motion which indicates they will vote "Yes" in the children's referendum. I have not yet heard any explanation for how they spend that allowance.

Deputy Mattie McGrath: The Deputy should read the book.

Deputy Arthur Spring: All allowances which the Labour Party receives are audited and spent on political campaigns and the betterment and development of the country.

(Interruptions).

Deputy Arthur Spring: The Technical Group is way off the mark. Its members take home twice as much money as the rest of us and need to account for it.

Acting Chairman (Deputy Jack Wall): Deputy Spring must address his remarks through the Chair.

Deputy Arthur Spring: People want leaders to lead and want politicians to make decisions. It is important we focus on addressing the mess in which we find ourselves and stop

kicking the football around. The Irish people will forgive decisions but they will not forgive a mess being kicked around with no purpose. The people know there is no fantasy government under which everything will be better. They have Sinn Féin for that, a party the people gave only a small number of votes in the last election. People will not thank us for playing politics with their lives.

The following is a solution that we should explore. My anger is directed towards bankers who have retired on enormous pensions. Deputy Maloney is correct that the people would not allow cases to be taken to court. Perhaps we should examine this issue in the context of the Director of Corporate Enforcement list of indictable offences. As regards the bank guarantee, the Companies Act 1963 section 24(7)(vii) refers to a person who provides incorrect, false or misleading information in a statutory declaration under subsection (1). If on the night the bank guarantee was signed off on, when people were tickling the belly of former Taoiseach, Bertie Ahern, the issue was one of liquidity or capitalisation of the banks and the Minister and head of the Department of Finance were misled on that night then the directors of the banks should be found culpable and negligent in terms of what they have done to this country. Nobody should be paid for bankrupting a bank. Were we not propping them up, the banks would not exist and the pensions of those involved would be lost.

This matter could also be examined in the context of the Consumer Protection Act and Financial Regulations Act. When it comes to ministerial pensions and so on, some Members of this House are here under different terms to those enjoyed by others. Some Members take home more money than others. Let us have some accountability from people in regard to the amount of money they are taking home. Many of us support a vouched expenses scheme. Let us see some more vouched expenses from the other side of the House.

Deputy Catherine Murphy: We tried to have that changed.

Deputy Arthur Spring: Let us have some "Yes" campaign in respect of the referendum next Saturday.

Acting Chairman (Deputy Jack Wall): The next speaker is Deputy Joan Collins whom I understand is sharing time with Deputies Clare Daly, Mick Wallace, Catherine Murphy, John Halligan and Róisín Shortall. Is that agreed? Agreed.

Deputy Joan Collins: This motion, which many have derided, has drawn very energetic responses from many Labour and Fine Gael backbenchers. The motion highlights that ordinary people have had enough, which I am sure Government backbenchers are made aware of every day of the week. Some 10% of families in this country cannot put a decent meal on the table. Soup kitchens are opening in Galway and Athlone and there is demand for more of this type of service. People see these bankers and politicians receiving exorbitant pensions and they are very angry and want to see change. The Government is feeling this pressure also, which is why the motion is good as it will get a debate going in the Chamber. It is an insult to the people of the country that Eugene Sheehy voluntarily cut his pension by 20%. It means nothing. He will still come out with €250,000 a year. It is equivalent to 20 years' worth of the State pension of approximately €12,000 a year. He should return everything he got and ask the Irish people for forgiveness. He should be in receipt of the State old age pension only.

Two other architects of this disaster, former taoisigh Bertie Ahern and Brian Cowen, have pensions 12 times the amount of the State old age pension. Why do they consider they are

worth €3,000 a week while other pensioners try to live on €230 a week? A total of 30 former Ministers are in receipt of more than €100,000. Most of them are under 65 years of age and most are in other well-paid jobs. The Government should end the excuses it makes day in and day out in the Dáil. The maximum pay in any new public sector contract should be €100,000 with pensions at €50,000. The Government has an opportunity to come to the Dáil to ask Deputies to take a reduction in their wages. I would vote for such a measure. One can vote to change one's conditions although it cannot be imposed on one, and people in the Chamber know this damn well.

If we were serious about leading by example, we would put forward proposals to reduce wages across the board. Pensions should be capped at €50,000 to €60,000, and even this is very generous. An income of €100,000 is three times the average wage and is more than enough for people to live on. Deputies and Ministers should take less. A pension of €50,000 is four times the amount of the State pension and society should debate whether it would be adequate. It is very generous.

The contractual problem that keeps being raised can be dealt with through taxation. We know this can be done. It was done to ordinary workers through the universal social charge and the pension levy. It can also be done to these existing contracts. A tax, levy or supertax on the super wages and super pensions can be introduced very quickly. It would not require going to court or to have thousands of people on the streets. The Government's reluctance can be compared to the cuts of €45 million in pension entitlements in the budget for 2012. From September, new claimants dependent on yearly PRSI payments could experience a cut of €30 a week, which is a very significant cut to a pension of €230 a week. We know many of those affected are women.

The IMF suggests pensioners are too well off and we heard the Minister of State, Deputy Brian Hayes, saying this also. It is said they have not been hit by austerity. They have experienced cuts in home help. An elderly woman told me her uncle who is 90 depends on three hours of home help but this has been cut by another hour. This morning, the Taoiseach said all of the problems should be sent to him. If this happened, he would be inundated and his e-mail would not be able to deal with the number of representations that would be made. Old-age pensioners have also experienced cuts to the fuel allowance and home care packages. Suggestions are now being made about cuts to travel, electricity and telephone allowances and increases in taxes. I signed the motion because I agree with the thrust of it. It should be debated in the Dáil, and the other side of the House should have a genuine approach to dealing with the issue.

Deputy Clare Daly: Nothing sums up the tail of the two Irelands in which we live more than the issue of pension provisions and the double standards which prevail. Many of the Deputies have highlighted very well the absolute obscenity of the gilt-edged pensions paid to bankers and politicians, the very people responsible for the economic crisis in the first place, and those elderly vulnerable citizens being asked to carry the can for this mismanagement with the undermining of the State pension and the virtual erosion of many of the private pension schemes which are leaving many workers exposed.

It is sickening to listen to the whimpering of Labour Party backbenchers, whose points would be hilarious if it were not for the fact that they are in government and responsible for dealing with the current situation. It is absolute waffle to say nothing can be done. It is absolutely not the case. Hiding behind contractual obligations is not good enough. Asking them to hand back the money is not good enough. A Labour Party Deputy complimented Eugene

Sheehy on the meaningful contribution he made by handing back a portion of his pension. Is this what the Labour Party has been reduced to? It is a joke.

Bertie Ahern once came in here and moved a piece of legislation to benefit one individual in a tax avoidance scam. If it can be done this way, it can be done the other. Legislation can be introduced. If the Government feels it must give them the money in one hand, then take it back with the other through 100% taxation or a 100% levy. Let them live on the State pension like everybody else. There is no place for any excuse on this, but the Government is not prepared to tackle it.

The Government has no problem whatsoever engaging in erosion and sneaky actions such as last year's budget which changed the rules on PRSI contributions and left women workers in the main, who took time out of the workforce to raise their families, worse off by €1,500 per annum. This sounds like a pittance when we hear the amounts hundreds of thousands of euro bandied around when discussing pensions, but it is an annual heating bill or the difference between food and a decent standard of living. To be honest, the process of attacking the gains of the welfare state in the name of austerity which the Labour Party has gone along with so well is an absolute insult.

Behind this issue is the overall crisis in pension provision globally. It is not only in Ireland. One of the excuses thrown up is that people are living longer and we have to be able to deal with this. The solution is supposedly to make people work longer. What an absolute indictment of capitalism. We have a system where because of benefits in science and improved health, people have the opportunity to live a longer and healthier life but this is a problem. Our solution is to make them work until they go into the grave. Meanwhile, their children and young people are on dole queues throughout Europe and cannot get a job. It is the wrong way around. For people to be able to retire with dignity requires pension provision and money. It is not good enough to say we do not have the resources for this when the European economies are sitting on more wealth now than they ever had in any other period. The difference now is that this wealth is more unequally divided.

The trade union movement which is affiliated to the Labour Party fought long and hard for the welfare state and for the right of people to retire with dignity. It is now in office when private pension schemes are being eroded. We saw the debacle a number of years ago when SRT Technics and Waterford Glass workers, who spent decades paying into private pension schemes, ended up with nothing because no pension protection schemes were in place. I worked in Aer Lingus and we will not get back our contributions into the scheme, not to mind the company's contribution. Pensions are profited from and mismanaged and the Government needs to deal with this.

We need to look at this the other way around or upside down. Tens of billions of euro in pension funds are invested outside the State. The Government should creatively use the relief to invest this money in Ireland in a public works programme to put people to work and sustain pensionable jobs in future. It is the only way out of the situation.

Deputy Mick Wallace: It must be difficult for people to look at their own situation while reading what is in the newspapers and seeing what is on television. It is very difficult to stand over the position here and worse again the position with regard to the banks. I believe Deputies are paid too much. A Member referred to the leaders' allowance. If the Government proposes to create a level playing field such that none of us would get it, I will vote for it. Thus, we will

all be on the same level.

Deputy Arthur Spring: What about vouched expenses?

Deputy Mick Wallace: I would not have a problem whatsoever with vouching. If the Government introduces legislation to introduce vouching, I will vote for it. If there is legislation to do away with the allowance completely for all parties and Independents, I will vote for that also.

It must be very difficult for the people to accept the golden handshake given to people leaving this Chamber. Everyone has mentioned the size of pensions. It is frightening to believe that some are receiving €150,000 when others are trying to live on €15,000 or €16,000. The lack of fairness is difficult for people to take. People are angry that the recession has gone on for so long and over youth unemployment. They are also very angry about the excesses of the bankers. What annoys them most is inequality. This is the most soul-destroying phenomenon of all. Inequality is increasing and there are many reasons therefor. In 1980, the average chief executive in the developed world made 40 times an industrial worker's wage. In 2011, the average chief executive made 325 times that wage. This is a serious problem and it is replicated right across the board. I do not understand how the system can sustain this neoliberal philosophy in the longer term.

With regard to pensions, I read the contribution to this debate of the Minister of Strate, Deputy Hayes yesterday evening. He said pensions are deferred income and property rights. In the private sector, most pensions are deferred income and it is easy to argue they are property rights. However, in the banking industry and the public service, where there are defined benefit schemes rather than defined contribution schemes, there is not the same argument regarding property rights. Whether we like it or not, the banks that have been bailed out by Government effectively employ public servants. The banking industry is not in the private sector because the banks are standing on their feet today because of the taxpayer. Therefore, the staff are public servants and there should be far more control over their decisions. The Government should tell them what to do, not the opposite. Who is wagging the tail? There was a time when banks worked for the people but it is now the people who are working for the banks. This is the wrong way around.

It is ridiculous to ask people to take reductions in their pensions, something that has been referred to as moral persuasion. I would like to see legal persuasion rather than moral persuasion. There needs to be much more direct action on the part of the State to reign in those responsible for the terrible abuses in the pensions and banking industry.

I accept Deputy Spring's point in that I have no problem with our looking at ourselves first. It is time that we gave ourselves less money. The Minister for Public Expenditure and Reform, in answer to a question to Deputy Terence Flanagan some time ago, stated it is important to point out that legal advice from the Attorney General stipulates it is possible to apply proportionate reductions to existing pensions but that account must be taken of the fact that pension benefits are considered to be property rights, which limits the action that can be taken. Members of the Oireachtas, including Ministers, have not been insulated from the financial crisis that has affected and continues to affect all sectors of the economy, according to the Minister. To say we are not insulated in this House is disingenuous because we are. We need to take a serious look at ourselves.

Deputy Catherine Murphy: Political reform comprises one of the three main issues raised during the general election campaign. It is useful to continue returning to this as a reference point. One reform demanded was an end to the excesses in the political system, including pension entitlements. The excesses extend beyond the political system, of course, and certainly extend into the banking system and to high-income earners in the public service. It is possible to enact legislation to dip into the average worker's pay and impose a pension levy, and it is possible to regard those with private contracts, such as school caretakers, as public servants when the Government wants to impose reductions, although not allowing them to enjoy the advantages of public servants. It is possible to tell those who have a contract with a private landlord and who are in receipt of rent assistance to tell the landlord the contract is not viable and that it must be re-negotiated. We see the upshot of this on a weekly basis; tenants pretty much get their marching orders, often with children in tow. Despite this, it is not possible to deal with wealthy and powerful people who are at the epicentre of all our problems.

I cannot understand why the so-called pillar banks, when they were being recapitalised in the very early days in office of this Government, were not subject to a precondition capping excessive pensions. These pensions were no big surprise. If the taxpayer had not picked up the Bill for the banks, the same banks would have gone to the wall. In such circumstances, the very people who are now being asked to reduce their pensions would possibly be queueing to see the community welfare officer. One must ask why we are being so nice to the people in question. At a time when the working age is being extended, former Ministers are in receipt of huge pensions, in many cases long before they reach the retirement age of 65. Which one of them would institute a court challenge to insist on full payment? Is that the kind of legacy that one of them would want? It is extraordinary that there is an element of pandering and fear in respect of them.

I understood political reform was not to be about box-ticking but about turning the Oireachtas into a strong, functioning parliament. This included strengthening the role of the Parliament in its entirety as opposed to strengthening the hand of the Government. The role of the party Whip needs to be altered radically in a way that allows backbenchers to contribute fully. Instead, we saw the sham of Friday sittings and the replacement of Adjournment debates with Topical Issue debates. This is tokenistic, completely ineffective and costly to the Exchequer.

Let me deal with the issue raised by Deputy Arthur Spring on non-vouched expenses. We have not even scratched the surface when it comes to allowances. It is completely unacceptable that some allowances are not vouched, including the leader's allowance for Independents. Many of us have put this on the record perviously. The Government ruled out of order our amendments to the political funding Bill, stating they were outside the scope of the legislation. Why is this happening? Last year, the Taoiseach, Deputy Enda Kenny, got €2.18 million as a leader's allowance. Deputy Micheál Martin received €1.2 million as a leader's allowance and the Tánaiste, Deputy Eamon Gilmore, received €1.4 million as a leader's allowance. I include those who lost the Whip.

Deputy Brendan Howlin: His party.

Deputy Catherine Murphy: I understand that. The sum does not include the €5 million that goes to the political parties-----

(Interruptions).

Acting Chairman (Deputy Jack Wall): The Deputies all had their chance.

Deputy Catherine Murphy: -----and the 78 staff-----

(Interruptions).

Acting Chairman (Deputy Jack Wall): The speaker should be allowed to continue.

Deputy Catherine Murphy: That does not include the €5 million that goes to the political parties, and which was not reduced by 17% when 17% of first preferences did not go to political parties. It does not include the 78 staff to run the Oireachtas. Let us, therefore, have an honest debate about this. Most, if not all, members of the Technical Group, including me, and the Independents have no difficulty with vouching. All expenditure of public moneys should be vouched - I cannot put it any clearer than that. There must be leadership on this issue. If the Government intends to go back to the well and seek further sacrifices from the public, then we in this House must be seen to be doing the same ourselves. That is the thrust of what we are arguing for in this motion.

Deputy Róisín Shortall: I thank my colleagues for sharing time. Pension reform is an issue that has been dodged by several Administrations. Unfortunately, this Government has, thus far, done the same.

Deputy Brendan Howlin: The Deputy should have stuck around.

Deputy Róisín Shortall: The system of pension tax reliefs is undoubtedly the most regressive aspect of our tax system because it disproportionately benefits the much better-off. The more one can afford to put by - indeed, the more one's employer or company can afford to put by - the greater the subsidy one receives from other taxpayers, who may not be able to afford a pension for themselves. The present system entails a significant transfer of funds from low and middle-income earners to the better-off. In effect, it is a form of corporate welfare and, as such, is a scandal that must be tackled. There is a paucity of detailed data on pensions in this country, perhaps conveniently so. What we have here is a lack of transparency as to where a very large proportion of the tax take is going. There is an onus on the Revenue Commissioners to tackle that issue.

We do know that the spend on pension relief is some €2.5 billion per annum, which is approximately the same as child benefit. Unlike child benefit, however, which goes to every child in the country, the ESRI has estimated that some 80% of tax relief goes to 20% of earners. The pension system should be about encouraging people to save during their working life so they can enjoy their retirement in some degree of comfort and free from the concerns of poverty. It should not, as it currently is, be a vehicle for tax avoidance. All taxpayers should be treated equally. We can achieve these objectives while also making very significant savings of at least €500 million if there is the political will to do so.

Unfortunately, the Government did not target savings in the pension area in the last budget. There is no excuse for doing the same this year. There must be equity between all public and private sector workers. It is time to reduce significantly the annual cap on the amount of pension contributions for which tax relief can be claimed. This cap must include employer and company contributions as well as employee contributions. There can be no justification whatsoever for subsidising pensions above approximately €50,000 per annum. It is far preferable to opt for a cap, as was done in the United Kingdom in recent years, than to standard-rate relief.

Standard rating would remove the incentive to save for people of modest incomes of €33,000 or so. It would also lead to a significant reduction in take-home pay for workers in this category.

There is no justification for the provision of tax-free lump sums of €200,000. That figure should be reduced by at least €50,000. The current maximum pension fund of €2.3 million is completely excessive and there can be no moral or economic rationale for it. There is no justification for subsidising pensions above the level of approximately €1.5 million. It is a cop-out to say that a cap cannot be applied retrospectively. It is an affront to most decent people that there are individuals who have disgraced this country - leading lights of politics, business and banking - with pension pots in the region of €30 million or €40 million. There is an onus on everybody in this House to ensure this scandalous situation is tackled. A failure to do so will mean that none of us will have any moral authority when it comes to making savings in any other area. Unless the Government takes serious action in this regard in the coming budget, it has no moral authority to continue to govern.

Deputy John Halligan: A decade ago, the notion of limiting Irish citizens' access to pensions would have been declared a sacrilege. Today, the pension funds of ordinary Irish people have become fair game while the Government is attempting to work certain categories of employees until they drop by progressively raising the age of eligibility for the State pension. If the Government wishes to lead this country with any level of credibility and compassion, it cannot keep ignoring this issue. It is forcing men and women who work in labouring jobs, on small farms and in factories and hotels to work until they drop. That shows a total lack of compassion which will come back to haunt the Government in the coming years.

Members opposite can spin it any way they like but the bottom line is that the pay, expenses, allowances and severance packages - the golden handshakes - awarded to politicians and senior civil servants in this State are an absolute disgrace. They were scandalous when the country was doing well; in the current economic climate they are completely inexcusable. There has been ranting and raving from some on the benches opposite about allowances for Independent Members. If the Government comes forward with a proposal to abolish all allowances, we will support it. I challenge the Government to do so in the forthcoming budget, to do away with the €4 million and €6 million to which the parties are entitled. We are more than ready to call the Government's bluff on this matter. Members opposite are smiling away, but there is no prospect that this will actually be done. They should stop berating Independent Members for the lousy €3,000 they might receive every month, while they are running around with millions of euro every year. All of these payments should be abolished or, at the very least, vouched. Otherwise the Government should shut up about the allowance for Independent Members.

(Interruptions).

Deputy Brendan Howlin: Since when is €3,000 "lousy"?

Deputy John Halligan: The parties opposite get millions every year. All payments should be vouched or they should be abolished. There is an opportunity to do that in the budget next month, but it will not be done.

Deputy Jan O'Sullivan: The Deputy has described a payment of €3,000 per month as "lousy".

Deputy John Halligan: It will not be done because the Government parties would lose millions. That is enough of that.

The RTE documentary "Too Broke to Retire", broadcast last Monday, made for highly discomforting viewing for everybody in this House. How can we as public representatives stand by these exorbitant pay-outs while so many pensioners who worked hard of all their lives in anticipation of a comfortable retirement are struggling to make ends meet as they face into the hardship of further cutbacks in the coming budget? The programme included interviews with former Waterford Crystal workers who paid into pension funds for 30 or 40 years and have nothing to show for it. Many of them are already facing a pension age gap because of the increase in the age of eligibility for the State pension, a change which Age Action Ireland estimates could result in an annual income deduction of up to €1,5000 for some people for the rest of their lives. There is no compassion from the Government for those affected, no compassion for workers who gave 30 or 40 years of their life only to be left with nothing. That is inexcusable, unacceptable and disgraceful.

In the face of such injustice, it is simply wrong that we continue to bleed the public purse so that former Ministers can receive multiple pensions. These pensions are completely unrelated to age or even time in office, an arrangement which would not be permitted in any other country. This injustice is compounded by the fact that the ministerial pension scheme does not involve any deductions from salary. What has happened to Ministers of former Governments, including some Labour Party members, would not be acceptable in any other country. Protecting the pensions of public servants, regardless of income, means that spending cuts are falling on the weakest members of society. That is exactly what the Government is doing.

The rise in the qualifying age for the State pension will hit hardest those working in the private sector. They will be totally reliant on social welfare payments in the pension. As it is, the pension funds on which private pensions depend have been badly hit. With the economic cost of public sector pensions rising, they are beginning to exceed 100% of all income taxes collected from the private sector.

We are told the Government is unable to do anything about people with large pensions and those who walked off with big handshakes. The Taoiseach mentioned that today and he spoke about self-regulation. We are able to do it to workers by introducing the universal social charge. Nobody in the country believes the Government cannot bring in legislation to remove some of the payments and pensions being made to former politicians. While I am not blaming this Government, it should not tell the people it cannot do this, because it can.

Minister for Public Expenditure and Reform(Deputy Brendan Howlin): I welcome the opportunity to contribute briefly to what is a very important debate. Pensions are an important public policy issue, and it is useful and important that we debate them frankly, openly and honestly in this House.

There are misconceptions or worse about public service pensions in particular and the steps the Government has been taking to limit the cost of such pensions to the taxpayer. The first misconception is that public service pensioners are all on massive pensions. The truth is that about 1% of public service pensioners are in receipt of a pension in excess of €60,000 and only a few hundred have a pension in excess of €100,000. The Minister of State, Deputy Brian Hayes, indicated what constituted that category of people. In fact, about one third of Civil Service pensioners have a pension of €10,000 a year or less, while around half have a pension of €20,000 a year or less.

The second misconception is that public service pensioners - former teachers, nurses and

civil servants - represent an unaffordable burden. I have heard that repeatedly. The 2009 report by the Comptroller and Auditor General is often used to make this point as it estimated an overall public service pension liability of €116 billion. This figure must be properly understood. It is an actuarial assessment of accrued pension liabilities for existing staff which will be paid over many years. Above all, it must be stressed that this 2009 estimate assumed that there would be a real increase in public service pay over the long term. It is quite clear that a very different assumption would have to be made if the assessment were carried out today. The estimate also made assumptions about the indexation of pensions which need to be re-examined. The actuarial exercise indexed pensions to pay. If this was not done and it was assumed that pensions would instead track the consumer price index over the long term, the figure could fall to about €80 billion. In light of these and other considerations, I understand the Comptroller and Auditor General is re-doing this exercise. I am sure a very different picture will emerge, especially when account is taken of the new single public service pension scheme for new entrants which I introduced, and this House voted on, this year.

The third misconception is that public servants are not paying for their pensions. I have heard some echoes of that since coming to the House tonight. The position is that significant contributions are paid, generally 5% for main scheme benefits and 1.5% for spouses' and children's benefits for all staff in place since 1995. In addition, as we all know, public servants pay a pension related deduction, or PRD, which saves some €950 million annually. If the PRD is taken together with the pension contributions, current public servants make a significant input of well over 50% of today's annual public service pension outflow, which itself amounts to €2.9 billion. Therefore, on average, there is a pension related deduction of 7%. Ministers pay 10.5% at the marginal rate as a contribution their pensions.

A further misconception is that public service pensioners have not taken a cut to their pensions and that only private sector pensioners have seen reductions. The fact is that public service pensioners have had their pensions cut. Unlike many private sector pensioners, public service pensioners have been subject to the financial emergency measures legislation which imposed significant reductions of up to 12% on public service pensions in payment.

On assuming office last year, and arising from my concern about large public service pensions, some of which have been rightly referred to by Members in the debates, I amended the financial emergency measures in the public interest, FEMPI, legislation to levy a reduction of 20% on pensions in excess of €100,000, and this levy is on top of all other taxes and reductions. That was the advice I received from the Attorney General. That is as far as I could go.

The next misconception is that higher paid public servants and public service pensioners have been unduly protected. Pay cuts, including those made by this Government, operate progressively, with higher earners taking the largest cut, which means reductions in pensions will also be progressive. While the average reduction arising from the pay reductions will be around 7%, this extends to nearly 20% for the highest earners, of whom officerholders are clearly one part. For those pensioners in receipt of pensions calculated before the pay reductions, the public service pension reduction applies a progressive reduction, with rates of up to 20% for those with the highest pensions.

The new Public Service Pensions (Single Scheme and other Provisions) Act 2012 will calculate future pensions on the basis of career average earnings, not final pay. This, too, will have a progressive impact, protecting pensions for lower paid workers and flattening pensions for those at the upper echelons.

The final misconception I want to deal with is the idea that here in the Oireachtas we have a general or unfettered power to pass laws that would effectively confiscate property. I have just heard that said again. Despite the rhetoric, we in this House understand full well that the Oireachtas legislates within the Constitution and that legal issues concerning property rights are important. Reflecting constitutional rights and general public policy, the financial emergency measures Acts reduce public service expenditure in a proportionate and progressive way. The preambles to the FEMPI legislation clearly establish the measures in the context of the emergency financial measures currently pertaining in this country. There are also significant safeguards built into each statute, including an annual review and report, which must be laid before the Oireachtas in June of each year, as well as provision for me as Minister to examine cases for full or partial exemption if considered fair and reasonable in all the circumstances.

It is broadly accepted that further public service pension cuts could only be justified in the broad public interest. They would, therefore, have to make a meaningful contribution to the fiscal adjustment and would likely have to be designed in a similar fashion to the existing reduction. In other words, one cannot focus constitutionally on one category of people for exemplary treatment.

Deputy Mattie McGrath: What about the disability carers?

Acting Chairman (Deputy Jack Wall): Please allow the Minister to finish.

Deputy Brendan Howlin: I will explain it again. Pensions are a preserved property right under the Constitution. That is the legal advice. Deputies can go and get independent advice if they wish. If they want a constitutional amendment, let us consider that.

Deputy Mattie McGrath: Yes.

Deputy Brendan Howlin: Let us be honest, however, about what can be done in all the circumstances. Members opposite spoke about allowances and other matters which are well beyond the scope of this debate. I am very eager to hear that debate. If any Members of the Opposition feel they should not be in receipt of an allowance, there is a complete availability - and I will accept it immediately - of a return or denial of that allowance.

Deputy Mattie McGrath: That would take us back years.

Deputy Brendan Howlin: There is no difficulty with that. Some colleagues have done that. If Deputies want to preach that, it is available to people. In the context of the budget, I will be taking careful account of everything that is said here. I am determined that the difficult budget to be placed before this House in the first week of December will be fair and proportionate. I must remind people that in 18 months we have unwound decades of activities, some of which were strongly supported by Deputies who have since changed their opinion.

Deputy Shane Ross: I thank the Minister for his reply but I am afraid that, while there is nothing in it which is inaccurate or in error, it does not address the main kernel of the motion. The purpose of this motion was deliberately and calculatedly to look at the advantages, pensions and lump sums that people at the very top, including ourselves, receive from the State. I make this point in the context of the back and forth attacks that have taken place but it also was meant deliberately to draw attention to Members and to debate these matters in an honest and serious way. The motion included Deputies and Senators and what they receive in this debate because it is only right, as Deputy Shortall so eloquently noted, that Members somehow have

the moral authority to dictate or to tell other people how their pensions should be allocated, administered and given, if Members of this House of all sides, including people present, are perceived as doing an honest and fair job, as well as receiving equitable pensions.

This motion certainly brings Members under pressure as they are not whiter than white or particularly flawless in this regard. On this side of the House, Members receive a very generous leader's allowance and they accept that. However, they believe it is only right that this matter should be brought into the public arena, examined and debated by Members and then be exposed to the public as having been rightly examined and allocated.

Deputy Brendan Howlin: It will be.

Deputy Shane Ross: The problem with debating that particular subject in this House is that Members are judges in their own case. The people perceive the Dáil, the Seanad, Ministers, ex-Ministers, Deputies and Senators to be deciding that their own pay should be decided in this House. Even if they are not deciding precisely what is their own pay, they, including the Minister, possibly are deciding what their pay will be in some years to come.

Deputy Brendan Howlin: It was set by an independent board, as the Deputy is well aware.

Deputy Shane Ross: Yes. That is perceived to be wrong. I suggest that perhaps there are ways out of this. As Opposition Members always are accused of not making constructive suggestions, I wish to so do. Why not take it out of this House completely and utterly in order that all these matters-----

Deputy Brendan Howlin: Pay was set by an independent pay body.

Deputy Shane Ross: The Minister should wait for one minute. He should stop interrupting for a minute.

Deputy Brendan Howlin: An independent pay body.

Deputy Shane Ross: As the former Deputy McDowell said to the Minister on a television programme recently, his great forte is interrupting.

Acting Chairman (Deputy Jack Wall): Minister, please. Deputy Ross without interruption.

Deputy Brendan Howlin: Is the Deputy not aware of it?

Deputy Shane Ross: It is the Minister's only great forte.

Acting Chairman (Deputy Jack Wall): Minister, please.

Deputy Shane Ross: Would the Minister mind not interrupting me?

Deputy Brendan Howlin: Will the Deputy not learn?

Deputy Shane Ross: It is the Minister's great forte and he should keep going.

Acting Chairman (Deputy Jack Wall): Please.

Deputy Michael McCarthy: It was set by an independent commissioner.

Deputy Shane Ross: I will allow the Minister the floor if he wants.

Acting Chairman (Deputy Jack Wall): Minister, please. The Government Deputies all got their own chance in this regard.

Deputy Finian McGrath: Hear, hear.

Acting Chairman (Deputy Jack Wall): This Deputy is allowed the same time. Please allow him to address the House.

Deputy Brendan Howlin: With facts.

Deputy Shane Ross: I thank the Acting Chairman. I suggest that ordinary citizens be brought into this process. Those people who give Members the moral authority to rule in this House and make decisions of that nature should be brought into the process in the way they are brought into a jury system. They could then decide what Members are worth and specify the amount they would give to Members. I neither suggest nor accept that Members should have the great and the good judging them and their wages because they are all in the loop. For example, judges are paid far too much and are in receipt of very good pensions as well.

Deputy Michael McCarthy: That was the reason for the referendum.

Deputy Shane Ross: I do not suggest the setting up of an independent body full of political appointees. Instead, 12 ordinary citizens, men and women should be chosen. The Minister should not laugh because that is the way in which juries are set up.

Deputy Michael McCarthy: This is lowest common denominator politics.

Deputy Shane Ross: Such a body should decide how this should be done because it is most important that the moral authority of this House be preserved and respected. However, the moral authority of this House is not accepted at present because Members are perceived to be behaving in a particular manner and to be accepting the sort of wages, salaries and pensions they also allow bankers to have. How can Members' moral authority be accepted when they allow bankers to take salaries of €500,000 or €600,000 per year and state there is nothing they can do about it? Moreover, while Members were permitting such pensions, they were allocating similarly-inflated pensions to themselves. The public cannot accept this. There is nothing special about a Deputy. There is nothing particularly meritorious about the work Members are doing. However, there is a perception that Members are feathering their own nests. It is as much the Minister's responsibility as it is that of Members to spike this perception. I ask the Minister not to interrupt or to destroy ideas of this sort. He should not set up a body of quangos to revert with a similar position. I ask the Minister to treat all Members equally. I ask him to propose that expenses be vouched but that this should be done for everyone. He should reduce expenses but should do so for everyone.

Deputy Finian McGrath: Hear, hear.

Deputy Shane Ross: However, he should not allocate large lump sums to retiring Deputies and Ministers, which they do not deserve and which they have done absolutely nothing to merit. While Opposition Members are accused of being populist, on this subject the public is absolutely correct.

Deputy Finian McGrath: Hear, hear.

Deputy Mattie McGrath: I thank the Acting Chairman for his forbearance. In my concluding remarks, I wish to thank all Members on all sides of the House who spoke honestly and passionately, certainly the vast majority of them did so, as well as the members of the Technical Group who supported my motion.

Deputy Finian McGrath: Hear, hear.

Deputy Mattie McGrath: I wish to put on record that I am an ex-Fianna Fáil Deputy. I was in Fianna Fáil for all of my life, between the age of 16 when I joined until approximately two and a half years ago. I was in Fianna Fáil and I voted for the bank guarantee. I was called into this Chamber quite late at night and was told we had to vote for this measure or Europe would collapse. I certainly admit I would not do it again. I am open to learning and I put together this motion without help from anyone. I hated having Members refer to the motion this evening as being dishonest, spurious or of poor quality. Perhaps it was but it was the best of my humble effort. Moreover, it was short because it did not allow room for lengthy amendments. It was a three-line motion because, as the previous speaker stated, the public is incensed. Moreover, they are twice as incensed now because of the mess we are in and the unfortunate situation in which they find themselves, be they unemployed, disabled, carers, small-business people, small farmers or whatever. I include public servants, who do a tremendous job, hundreds and thousands of them all through the public service, both indoor and outdoor, and I am not trying to attack such people. I am not trying to be populist but have learnt a little bit.

I may have been hoodwinked for many years but those Members who attacked me from the other side of the House should know that for the four years I was in the parliamentary party, I railed against the situation. If they wished to check, they would find that on the record. I came into this Chamber and spoke against what was going on. I was the one man who fought with the late Deputy Brian Lenihan when he reversed the pension levy on senior public servants. It was a most distasteful thing to do and he had been told that the coterie of civil servants involved was 117 strong. However, I tabled notice of a motion and when the matter was investigated, it is on the record that he thanked me for so doing because when he went to check, the true figure was 860. It was a trick of the loop job. While I hate to use the word "lies", what was done to that Minister at that time was untrue. I also voted in this House to cut the pensions in the budget after discussing the matter at length with many of my backbench colleagues in Fianna Fáil. We were young first-time or second-time Deputies and we voted. On the morning of the budget, we were told by the late Deputy Brian Lenihan that the pensions were being cut. We voted for the measure but then found out subsequently that it protected the elite who had been in this House for ten years or more. They took up the ladder and left all the lads below at the bottom. Deputy Spring mentioned how some people in this House are in receipt of better pay and conditions than he is and they are. Moreover, it is the same in my case. While I do not begrudge it, I merely am stating the game is up.

The Minister opposite, as well as Members from the Labour Party and the Fine Gael Party should note how they got into this House. The party of which I was a member - they can accuse me of jumping ship or whatever but I could take no more - was dealt with severely by the public. The Government Members should note of the number of Fianna Fáil Members present because people are sick of what went on, namely, the shenanigans, the entire situation in respect of the banking crisis, the former Taoiseach, Mr. Cowen, golfing with so-and-so from Anglo-Irish Bank and all the rest. The public are sick of the shenanigans and the games. The Minister and the Government parties came into office on a platform of transparency, openness and honesty. However, this is not what people got. I recognise the Minister and all his colleagues have made

efforts - I am not here to score political points - but the people have not got what they want. They have not got what they voted for because the incoming Government accepted austerity. It then heaped on more austerity and now intends to do so again, on ordinary people who are in penury and cannot pay. The troika cannot see this. Incidentally, I have met the troika thrice as a member of the Technical Group. Were I still a party member, I would never have met them, as backbenchers simply come in to vote and to do what they are told. They obey the Whip system, which is a charade. My point is all Members know that more cannot be taken.

As for the motion not being well-timed, I waited to table it for 15 months. The Technical Group is allocated time for one motion per month and I decided to table this motion. I waited to do so because I was so sick and incensed by it. I do not suggest I am whiter than white or Smokey Joe or whatever. I have no comfortable job to go back to if I lose out here. I have had a small business for 30 years and in this, my 31st year, business has never been worse because of the economy. I have no special position to which to return and nor do I seek one. However, I wish to empathise and to try to bring to the House the messages I receive in my clinics and my office, as do all Members, from the ordinary people who are being visited by the sheriff and are being tormented by Revenue. I refer to ordinary, honest to goodness law-abiding citizens who always pays their way, who want to pay their way and who wish to provide for their families but who are being denied that obligation. Members should recall the changes that were introduced in last year's budget in respect of pension funds and which took effect this year on public servants who had been paying into that fund all their lives. Now, however, they will receive a reduced sum, as Members are capable of taking such action. People cannot understand the reason Members of the Oireachtas are a protected species and this was the reason I included Deputies and Senators in the motion.

*9 o'clock*The Minister knows, having canvassed in many elections, that the people think we are an elite group. In the past week they heard the Taoiseach and the Minster for Finance, Deputy Noonan, say that they cannot do anything about these pensions. We should devise a constitutional amendment if we must. Contractual obligations and property rights do not matter when there are cuts to carers, people with disabilities and everybody else. It is not fair.

As legislators we can change the law and force these geniuses to give up their pensions and pay, which they do not deserve because they did not fulfil their contracts. They looked to avoid their contractual obligations and were reckless. In any other job in the private sector they would have been penalised and money would have been taken from them. I do not believe that we cannot deal with the matter here. I often heard the retort when I attended parliamentary party meetings that we had to act on the advice of the Attorney General. I even asked at one stage if we had to take the advice or if we could we get a second opinion. The Attorney General is only one person, although I am not criticising the office.

There was mention of the Comptroller and Auditor General. Those pension funds, of €229,417, were mentioned when I spoke to the motion. As Deputy Ross noted, all these posts and institutions are discredited because they are self-policing. We are asking bankers to take a voluntary cut in pensions, and although I acknowledge Mr. Sheehy's actions, he still has a pension of €250,000. That does not go down with the ordinary people. We are fooling ourselves, and that is why the motion was tabled.

Most people spoke fairly on the motion but Deputy McCarthy and the chairman of the Labour Party decided to be vitriolic in attacking me. In a six-month period in 2009, when there were 55 votes in Seanad Éireann, Deputy McCarthy was present for 15 of them. In a nine-year

period he pocketed €1 million as a Senator.

Deputy Michael McCarthy: That is untrue.

Deputy Mattie McGrath: I have the figures.

Acting Chairman (Deputy Jack Wall): The Deputy should withdraw the statement.

Deputy Michael McCarthy: It is untrue. I would not expect anything less from the Deputy.

Deputy Mattie McGrath: The Deputy had his chance last night.

Deputy Michael McCarthy: I expect nothing else.

Deputy Mattie McGrath: The chairman of the Labour Party, this brilliant Deputy from Galway-----

Deputy Colm Keaveney: Deputy Mattie McGrath rubbed Bertie's belly.

Deputy Michael McCarthy: The Deputy left that sinking ship like a rat.

Deputy Mattie McGrath: The Deputy has the rat in his pockets.

Acting Chairman (Deputy Jack Wall): Deputies, please.

Deputy Mattie McGrath: The truth hurts.

Deputy Michael McCarthy: You deserted a sinking ship.

Acting Chairman (Deputy Jack Wall): Deputies must address the Chairman.

Deputy Mattie McGrath: The Labour Party chairman-----

Deputy Finian McGrath: Chairman Mao.

Deputy Mattie McGrath: The Labour Party messiah accused me of rubbing Bertie's belly. I never had a personal relationship with Bertie Ahern.

Deputy Michael McCarthy: A monkey grinding.

Deputy Mattie McGrath: The Acting Chairman might remember what was an ass and car or a gennet. There was always a belly band underneath the gennet's belly.

Deputy Colm Keaveney: The Deputy is a monkey grinding away.

Deputy Mattie McGrath: The chairman of the Labour Party is the belly band holding the fat blueshirts together.

Acting Chairman (Deputy Jack Wall): The Deputy has one minute remaining.

Deputy Mattie McGrath: The €40,000 allowance is very generous. It should be vouched, as should every other shilling. Figures have been circulated relating to political party allowances; I did not know for three years that my party was collecting €100,000 per year because I was elected against its wishes in Tipperary South. I found out the hard way but I know now. The parties are getting millions of euro. The day we do not learn something is a very bad day.

I am appealing to the Minister. He tried to achieve cuts in the public service but he failed. Why should that not happen when people in the public service can see what is going on in here? We must empathise with the ordinary people. I am not saying I have any more right than others to speak on people's behalf but I am trying to be honest. I met people today who will endure all kinds of cuts, with business disappearing. We must get real on the issue and empathise with the ordinary people.

The political funding for every party can be seen, although it is not very pleasurable reading. The Government should stop attacking us as we are willing to work with the Minister. We are willing to have the funding examined and everything vouched.

Deputy Finian McGrath: We will take the hit.

Deputy Mattie McGrath: We will take hits but we must be fair and reasonable. We cannot have bankers, senior politicians and regulators who were asleep on the job walking around with €150,000 pensions. It is an insult to the electorate, which will vote again. We must have confidence in the House or there will be trouble on the streets. I commend the motion to the House. Those opposite should vote with their conscience.

Amendment put:

The Dáil divided: Tá, 83; Níl, 45.	
Tá	Níl
Bannon, James.	Boyd Barrett, Richard.
Breen, Pat.	Broughan, Thomas P.
Butler, Ray.	Browne, John.
Buttimer, Jerry.	Calleary, Dara.
Byrne, Eric.	Collins, Joan.
Carey, Joe.	Collins, Niall.
Coffey, Paudie.	Colreavy, Michael.
Collins, Áine.	Cowen, Barry.
Conaghan, Michael.	Crowe, Seán.
Conlan, Seán.	Daly, Clare.
Connaughton, Paul J.	Doherty, Pearse.
Conway, Ciara.	Donnelly, Stephen S.
Coonan, Noel.	Dooley, Timmy.
Corcoran Kennedy, Marcella.	Ferris, Martin.
Costello, Joe.	Fleming, Tom.
Coveney, Simon.	Grealish, Noel.
Creed, Michael.	Halligan, John.
Daly, Jim.	Healy, Seamus.
Deasy, John.	Healy-Rae, Michael.
Deenihan, Jimmy.	Higgins, Joe.
Deering, Pat.	Kelleher, Billy.
Doherty, Regina.	Kirk, Seamus.
Donohoe, Paschal.	Mac Lochlainn, Pádraig.

Dowds, Robert.	McConalogue, Charlie.
Doyle, Andrew.	McDonald, Mary Lou.
Durkan, Bernard J.	McGrath, Finian.
Farrell, Alan.	McGrath, Mattie.
Feighan, Frank.	McGrath, Michael.
Fitzpatrick, Peter.	McGuinness, John.
Flanagan, Terence.	McLellan, Sandra.
Griffin, Brendan.	Moynihan, Michael.
Hannigan, Dominic.	Murphy, Catherine.
Harrington, Noel.	Nulty, Patrick.
Harris, Simon.	Ó Caoláin, Caoimhghín.
Hayes, Tom.	Ó Fearghaíl, Seán.
Heydon, Martin.	Ó Snodaigh, Aengus.
Howlin, Brendan.	O'Brien, Jonathan.
Humphreys, Heather.	O'Sullivan, Maureen.
Humphreys, Kevin.	Pringle, Thomas.
Keating, Derek.	Ross, Shane.
Keaveney, Colm.	Shortall, Róisín.
Kehoe, Paul.	Smith, Brendan.
Kelly, Alan.	Stanley, Brian.
Kenny, Seán.	Tóibín, Peadar.
Lawlor, Anthony.	Wallace, Mick.
Lynch, Ciarán.	
Lynch, Kathleen.	
McCarthy, Michael.	
McEntee, Shane.	
McHugh, Joe.	
McLoughlin, Tony.	
McNamara, Michael.	
Maloney, Eamonn.	
Mathews, Peter.	
Mitchell, Olivia.	
Mitchell O'Connor, Mary.	
Mulherin, Michelle.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Neville, Dan.	
Nolan, Derek.	
Noonan, Michael.	
Ó Ríordáin, Aodhán.	
O'Donnell, Kieran.	

O'Donovan, Patrick.	
O'Reilly, Joe.	
O'Sullivan, Jan.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Ring, Michael.	
Ryan, Brendan.	
Shatter, Alan.	
Spring, Arthur.	
Stagg, Emmet.	
Stanton, David.	
Timmins, Billy.	
Tuffy, Joanna.	
Twomey, Liam.	
Wall, Jack.	
Walsh, Brian.	
White, Alex.	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies John Halligan and Mattie McGrath.

Amendment declared carried.

Question put: "That the motion, as amended, be agreed to."

The Dáil divided: Tá, 83; Níl, 45.	
Tá	Níl
Bannon, James.	Boyd Barrett, Richard.
Breen, Pat.	Broughan, Thomas P.
Butler, Ray.	Browne, John.
Buttimer, Jerry.	Calleary, Dara.
Byrne, Eric.	Collins, Joan.
Carey, Joe.	Collins, Niall.
Coffey, Paudie.	Colreavy, Michael.
Collins, Áine.	Cowen, Barry.
Conaghan, Michael.	Crowe, Seán.
Conlan, Seán.	Daly, Clare.
Connaughton, Paul J.	Doherty, Pearse.
Conway, Ciara.	Donnelly, Stephen S.

Coonan, Noel.	Dooley, Timmy.
Corcoran Kennedy, Marcella.	Ferris, Martin.
Costello, Joe.	Fleming, Tom.
Coveney, Simon.	Grealish, Noel.
Creed, Michael.	Halligan, John.
Daly, Jim.	Healy, Seamus.
Deasy, John.	Healy-Rae, Michael.
Deenihan, Jimmy.	Higgins, Joe.
Deering, Pat.	Kelleher, Billy.
Doherty, Regina.	Kirk, Seamus.
Donohoe, Paschal.	Mac Lochlainn, Pádraig.
Dowds, Robert.	McConalogue, Charlie.
Doyle, Andrew.	McDonald, Mary Lou.
Durkan, Bernard J.	McGrath, Finian.
Farrell, Alan.	McGrath, Mattie.
Feighan, Frank.	McGrath, Michael.
Fitzpatrick, Peter.	McGuinness, John.
Flanagan, Terence.	McLellan, Sandra.
Griffin, Brendan.	Moynihan, Michael.
Hannigan, Dominic.	Murphy, Catherine.
Harrington, Noel.	Nulty, Patrick.
Harris, Simon.	Ó Caoláin, Caoimhghín.
Hayes, Tom.	Ó Fearghaíl, Seán.
Heydon, Martin.	Ó Snodaigh, Aengus.
Howlin, Brendan.	O'Brien, Jonathan.
Humphreys, Heather.	O'Sullivan, Maureen.
Humphreys, Kevin.	Pringle, Thomas.
Keating, Derek.	Ross, Shane.
Keaveney, Colm.	Shortall, Róisín.
Kehoe, Paul.	Smith, Brendan.
Kelly, Alan.	Stanley, Brian.
Kenny, Seán.	Tóibín, Peadar.
Lawlor, Anthony.	Wallace, Mick.
Lynch, Ciarán.	
Lynch, Kathleen.	
McCarthy, Michael.	
McEntee, Shane.	
McFadden, Nicky.	
McLoughlin, Tony.	
McNamara, Michael.	
Maloney, Eamonn.	
Mathews, Peter.	

Mitchell, Olivia.	
Mitchell O'Connor, Mary.	
Mulherin, Michelle.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Neville, Dan.	
Nolan, Derek.	
Noonan, Michael.	
Ó Ríordáin, Aodhán.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Reilly, Joe.	
O'Sullivan, Jan.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Ring, Michael.	
Ryan, Brendan.	
Shatter, Alan.	
Spring, Arthur.	
Stagg, Emmet.	
Stanton, David.	
Timmins, Billy.	
Tuffy, Joanna.	
Twomey, Liam.	
Wall, Jack.	
Walsh, Brian.	
White, Alex.	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies John Halligan and Mattie McGrath.

Question declared carried.

Visit of Papal Nuncio

An Leas-Cheann Comhairle: I have the honour to extend a warm welcome to His Excellency, Archbishop Charles Brown, papal nuncio to Ireland, who joins us in the Distinguished Visitors Gallery this evening.

The Dáil adjourned at 9.25 p.m. until 10.30 a.m. on Thursday, 8 November 2012.