



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Máirt, 25 Márta 2014

Tuesday, 25 March 2014

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

Paidir.

Prayer.

Ceisteanna - Questions

Priority Questions

Defence Forces Personnel

125. **Deputy Seán Ó Feargháil** asked the Minister for Defence his plans to review the 21 year limit for those members of the Defence Forces who remain fit and able, who are in good health and who are well capable of continuing to serve; and if he will make a statement on the matter. [13940/14]

Deputy Seán Ó Feargháil: Question No. 1 deals with an issue raised here previously with the Minister. It asks if he will again review the position of those soldiers serving as members of the Permanent Defence Force with 21 year contracts, many of whom are coming to a point at which their 21 years will have been served. If the Minister persists with his insistence that they retire, it will have profound implications for them.

Minister for Defence (Deputy Alan Shatter): The unsatisfactory age and fitness profile of the Permanent Defence Force was an issue of serious concern during the 1990s and the subject of severe criticism in a series of external reports, mainly Price Waterhouse Consultants and the Efficiency Audit Group, EAG. One of the key areas identified for urgent action by the EAG was the development of a manpower policy with an emphasis on lowering the age profile of Permanent Defence Force personnel. The EAG's report was accepted by the Government in 1995.

In an effort to alleviate the situation, the Government had already decided in 1993 to enlist personnel on a five year contract basis, following consultation with PDFORRA, Permanent Defence Force Other Ranks Representative Association. In 1997 agreement was reached with PDFORRA on a new manpower policy for the Defence Forces. This policy, applying to personnel enlisted after 1 January 1994, provided that service for private soldiers would initially

be for five years, with the option of extending it to a maximum of 12 years, subject to meeting standards of medical and physical fitness and conduct. Longer periods of service were envisaged for non-commissioned officers.

In 2004 PDFORRA submitted a claim under the conciliation and arbitration scheme for a further review of the terms of service applying to personnel enlisting in the Permanent Defence Force after 1 January 1994. A set of criteria was agreed with PDFORRA to provide longer careers for those who enlisted post 1 January 1994 while continuing to address the Government's objective of having an appropriate age profile to meet the challenges of a modern Defence Forces. The criteria require that any person re-engaging after 12 years' service must be able to continue to operate at their current level both at home and overseas on an ongoing basis. Re-engagement is subject to the individual soldier meeting specified criteria in regard to physical fitness, medical category, successful completion of military courses of instruction, service overseas and conduct ratings.

Deputy Seán Ó Feargháil: I thank the Minister for his reply but I regret that I do not sense the Minister is willing to change tack. We are all committed to having in the Defence Forces men and women who are fit and able to carry out the onerous responsibilities they have from time to time. Nonetheless, we are now looking at a situation where people in their late 30s and early 40s will be forced out of the Defence Forces. They will be forced out into an extremely challenging employment market. Many of them have young families and significant mortgages and they will not be able to secure employment. That is something I am concerned about and I expect the Minister is concerned about it also. PDFORRA has highlighted the economic implications for the State. It suggests the cost to the State of pushing some of these young people into unemployment is €20,000 per year.

Deputy Alan Shatter: Like any Member of the House, I am anxious to ensure those who have given long service in the Defence Forces have every possible opportunity to obtain alternative employment when they leave. Many leave the Defence Forces having gained a great many skills that facilitate obtaining employment. In the context of the age issue, it is a serious matter to ensure we have an appropriate age profile within the Defence Forces to facilitate it undertaking operational matters and meeting the obligations that fall on the Defence Forces internationally and in assisting the civil powers domestically. The point I was making is that where someone is re-engaged after 12 years' service, the maximum service period for these personnel is as follows. Enlisted personnel, up to and including the rank of corporal and equivalent Naval Service rank may not serve beyond 21 years. Enlisted personnel in the rank of sergeant and equivalent Naval Service rank may be permitted to continue in service up to the age of 50 years. Enlisted personnel in all higher ranks may serve to the age of 56 years. With the approach of 2015, the first effects of the agreement whereby privates and corporals may not serve beyond 21 years will be felt by Permanent Defence Force members in those ranks. A claim has been received from PDFORRA for a further review of the matter. In accordance with normal procedures the association's claim is being dealt with under the conciliation and arbitration scheme for members of the Defence Forces. As discussions under the scheme are confidential to the parties involved it is not appropriate for me to comment further on the matter at this time, other than to emphasise that in dealing with this issue the manpower and operational needs of the Defence Forces must be the primary consideration. It is intended to finalise negotiations with the representative association within the next few weeks.

Deputy Seán Ó Feargháil: I accept that the operational needs of the Defence Forces are primary but in an international comparison, we are looking at forced retirement between 39

years and the early 40s, compared to Malta at 55 years of age; Belgium, 56 years; Finland, 55 years; and Australia, 60 years of age. No one wants to go back to the period when we had a style of Dad's army. We are talking about retaining people in the service of the State who are physically capable of carrying out the duties assigned to them.

The Defence Forces has some of the best trained technicians in the country. They have been trained over a four-year period at a cost of €200,000 to the Exchequer. To cast them to the wind has profound implications for the Department of Defence and its budget. I hope there will be some flexibility on the Minister's part in how he approaches the negotiations on the individuals in question.

Deputy Alan Shatter: As the Deputy is aware, I cannot comment; it would be inappropriate for me to do so during the negotiations. What he is raising and, in effect, protesting against is a policy that his party stood over in government for over 14 years. It is quite extraordinary that he should now be exercised about this matter from the Opposition benches. What I am exercised about is ensuring we follow proper procedures within the conciliation and arbitration service. It is intended to finalise negotiations with the representative associations within the next few weeks and it is important that I say no more about that aspect of the matter. The Deputy is correct that we have within the Defence Forces some very well qualified personnel in various technical areas and it is these qualifications which facilitate them in gaining employment. Some of the states the Deputy has mentioned where members of their defence forces at lower levels are 55 or 60 years of age have far bigger defence forces than we do. Our objective is to have a force with a strength of 9,500. Is the Deputy seriously suggesting it is in the interests of the State or the public interest to have the substantial majority of members of the Defence Forces in the 50 to 60 year age group?

Deputy Seán Ó Fearghail: The Minister knows that I am not.

Deputy Alan Shatter: We are recruiting 400 new members to the Defence Forces this year by virtue of the fact that certain numbers retire annually and that we can bring new young people into the Defence Forces and give them job opportunities that are not currently available to them.

Defence Forces Fatalities

126. **Deputy Pádraig Mac Lochlainn** asked the Minister for Defence if he will outline all efforts by the Defence Forces and his Department to follow up on an initiative from PDFORRA in March 2001 aimed at recovering the body of a person (details supplied) when they met the then Minister for the Displaced in the Lebanese Government, Marwan Hamadeh, in the Lebanon. [13081/14]

Deputy Pádraig Mac Lochlainn: I have discussed this matter previously with the Minister. Two members of the Defence Forces, Private Hugh Doherty and Private Kevin Joyce, were killed on 27 April 1981 in Dyar Ntar, a village in south Lebanon. I wish to probe the efforts made to date by the Defence Forces and Governments to follow up on a meeting held in 2001 on the initiative of PDFORRA with representatives in Lebanon, including the Minister for the Displaced, Marwan Hamadeh. It was an important initiative and it appeared progress had been made, but I wish to hear what has happened since.

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Deputy Alan Shatter: As the Deputy is aware, Private Kevin Joyce was killed on 27 April 1981 in the village of Dayr Ntar in south Lebanon. An observation post at Dayr Ntar, near As Sultaniyah, manned by Private Hugh Doherty and Private Kevin Joyce came under attack. Private Doherty was later found dead from gunshot wounds and Private Joyce was missing. Some equipment was also missing. The attackers are unknown. The incident and the disappearance of Private Joyce have been the subject of ongoing investigation by successive Irish units with UNIFIL. Specific efforts include an immediate response and search by the contingent then serving with UNIFIL, follow-up searches and inquiries by contingents with UNIFIL, a Military Police investigation in 1985, an intensive investigation by the 88th Battalion in 2000 to 2001, and a senior officer delegation in 2005, assisted by diplomatic efforts at the highest level, to endeavour to locate the whereabouts of Private Joyce. In November 2000 the 88th Infantry Battalion conducted an investigation, the conduct of which was made easier by the withdrawal of the Israeli defence forces from south Lebanon and the consequent freedom of movement in the area. Various leads were followed on the ground and representations made to the Palestinian Authority through diplomatic channels. In March 2001 contact was made with the leading members of the Fatah organisation in Lebanon. The Fatah group claimed it had not been responsible for the disappearance of Private Joyce. However, it stated it had information on the whereabouts of Private Joyce's body. Unfortunately, the information did not materialise. The next battalion - the 89th Infantry Battalion - continued to maintain contact with Fatah but, yet again, it was unable to gain any positive information.

A senior officer delegation travelled to Beirut in May 2005 and met various people, including the then force commander of UNIFIL, a Lebanese army liaison officer and the Honorary Irish Consul, Mr. Daouk. They also met the leader of Fatah in Lebanon, Brigadier General Sultan Al Anien, who declared that he knew the burial site of Private Joyce. Unfortunately, the follow-up inquiries from this visit did not yield positive results.

Additional information not given on the floor of the House

In 2007 the then Minister for Defence visited the Lebanon and met the Lebanese Minister of Defence, Mr. Elias Murr. The Minister raised with him the disappearance of Private Joyce. Mr. Murr assured the Minister that his government would assist in whatever way possible to locate the whereabouts of Private Joyce. In the past the authorities in Lebanon have made efforts to obtain information on the whereabouts of Private Joyce, including broadcasting pictures of him on television. To date, despite all of these inquiries, no information has been elicited leading to the recovery of Private Joyce. However, I am advised by the military authorities that even though it is now nearly 33 years since this tragic event happened, the case remains open. Efforts are made from time to time in Lebanon to establish the location of Private Joyce's remains and, if located, efforts will be made to repatriate them. The Department will continue to make every effort to bring this tragic case to a conclusion.

Deputy Pádraig Mac Lochlainn: As the Minister is probably aware, I had an opportunity to meet some members of the Doherty family in County Donegal. I represent the constituency in which they live and from where Hugh Doherty came. I met some former members of the Defence Forces who had served with the two men. Mr. Eamonn Lafferty who was a member of the Defence Forces and president of PDFORRA was also present at that meeting. He was part of the initiative taken in 2001 which appeared to show promise. I want to establish specifically what happened in following up on that initiative. That meeting took place in March 2001 and was attended by the then Minister for the Displaced in the Lebanese Government, Marwan Hamadeh, and the Archbishop of Tyre who certainly appeared to be very exercised about the

matter and gave an undertaking that they would thoroughly investigate it. That was an excellent initiative. How was it followed up by the Defence Forces? What efforts did they make in this regard? Did they engage with the Minister? Was there ongoing liaison with him? There may be nothing to learn, but I want to know what happened.

Deputy Alan Shatter: In what year did that meeting take place?

Deputy Pádraig Mac Lochlainn: It took place in 2001.

Deputy Alan Shatter: In response to the Deputy's initial question, I have outlined the chronology of events. I went further on from 2001 and, unfortunately and tragically, no further information emerged. In 2007 the then Minister for Defence visited Lebanon and met the Lebanese Minister for Defence. He raised with him the disappearance of Private Joyce. The Lebanese Minister for Defence assured the Minister that his government would assist in whatever way possible to locate the whereabouts of Private Joyce. In the past the authorities in Lebanon have made efforts to obtain information on his whereabouts, including broadcasting pictures of him on television, but to date, despite all of these inquiries, no information has been elicited leading to the recovery of his remains. I am advised by the military authorities that, even though it is nearly 33 years since this tragic event happened, the case remains open. At a meeting I had in Lebanon, I believe in March last year, I again raised the issue of Private Joyce because we are all very conscious that his remains have not been found and of how this has impacted on his family, but, unfortunately, it remains the position that no further information has been made available. I know from a conversation I have had with the UNIFIL commander that they have no further information available. The difficulty is that many years have now passed and it seems unlikely that information will be brought forward, but I can assure the Deputy that he has not been forgotten. It is my intention, should I visit the troops again in Lebanon, to again raise the issue, but I cannot tell the Deputy that I have any sense of optimism.

Deputy Pádraig Mac Lochlainn: I ask that the Defence Forces examine this matter. They may need to contact the people who were involved in the meeting mentioned. Marwan Hama-deh is still alive and I ask that our diplomats in the region try to make contact with him to establish what happened after he gave that undertaking. I understand he was very exercised about the matter and made telephone calls while at the meeting. He was the Minister with responsibility at the time. I acknowledge that this endeavour may well lead down a blind alley, but it is worth examining again. I ask that the Minister liaise with the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Eamon Gilmore, to see if our diplomats could re-engage with people in Lebanon, be it the Palestinian Authority or more particularly the former Lebanese Minister to see if there was something that was missed at the time.

Deputy Alan Shatter: I have no difficulty in bringing to the attention of the Tánaiste and Minister for Foreign Affairs and Trade what the Deputy has had to say. I am sure our ambassador will, in so far as she can, look into the possibility of making progress. Should I find myself visiting Ramallah on the West Bank again, I will have no difficulty in raising the matter, but I do not have any knowledge that indicates that anyone within the Palestinian Authority knows where the remains of Private Joyce are to be found. I can only say to the Deputy that I am not optimistic that this will be resolved in a manner that would be fitting and appropriate. I wish it were so. I would very much like to achieve that outcome if it were possible.

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Defence Forces Recruitment

127. **Deputy Mick Wallace** asked the Minister for Defence in relation to the recently announced recruitment campaign for the Defence Forces, if he will be reviewing the admissibility criteria in relation to the visibility of tattoos; if there will be an appeal mechanism in place for persons whose application to the Defence Forces is refused; and if he will make a statement on the matter. [13082/14]

Deputy Mick Wallace: I understand the rule with regard to the visibility of neck tattoos was introduced in 2012. Will the Minister consider reviewing it? Is an appeals mechanism in place for individuals refused entry on these grounds?

Deputy Alan Shatter: In order to be eligible for enlistment in the Permanent Defence Force as a general service recruit, applicants must meet all of the specified criteria and standards for entry as laid down in Defence Force regulations and the associated administrative instructions. In this regard, paragraph 131 of Administrative Instruction A9 provides that "Tattooing above the collar of the shirt is prohibited". This criterion applies to all personnel who join the Permanent Defence Force and the Reserve Defence Force and is in line with requirements in other countries.

The purpose of this requirement is to prevent the induction of personnel who subsequently could not be deployed on ceremonial duties which form part of the functions of military personnel. In particular, I am advised that the reverse arms drill movement requires the tilting of the head forward and downwards on completion of the drill movement, which exposes more of the neck than is normally the case.

The military authorities have advised it is at the physical fitness testing stage of the selection process for recruitment that a determination on the matter of a tattoo is made. Where an applicant is found to be ineligible due to tattooing above the collar of the shirt, the applicant will be informed of this both orally and in writing. From time of being advised, an applicant has 72 hours to make it known, either orally or in writing, that he or she wishes to appeal the decision. A senior officer subsequently meets the applicant and makes a final decision on the matter.

There are no plans to review the admissibility criteria on the visibility of tattoos.

Deputy Mick Wallace: I am referring specifically to the case of Lee Walker from Wexford town. Originally, he passed the test in Cork but did not make the final list at the time. When he went for the test last year he passed the interview, fitness test and medical test but on the second occasion it was deemed his tattoo was too high, even though he showed me pictures in a still position and with his head tilted forward where the tattoo was not visible.

I realise that regulations and rules are in place, and he is probably outside the timeframe. An exception was made when Dave O'Riordan appealed in October or November of 2012 and he was allowed to join although he was over 26 at the time. Lee Walker is now 26. Will the Minister be conciliatory and consider giving him another chance? He has never wanted to do anything other than join the Defence Forces and it means so much to him.

Deputy Alan Shatter: I understand our Defence Forces are not in any way unique in this area. A number of armies, including the British, Australian and US armies, have a similar rule. I note what the Deputy said and I will look into the matter further. I am not familiar with the individual mentioned by the Deputy. I will make inquiries with the Defence Forces along the

lines raised by the Deputy and I will write to the Deputy.

Deputy Mick Wallace: I thank the Minister. I received a letter from Lee Walker and if it is okay with the Minister I will forward it to him.

Deputy Alan Shatter: If the Deputy has a letter he is very welcome to furnish it either directly to me or to my private secretary. He can simply pass on the letter with a compliment slip. There is no need for a covering letter, other than just to confirm it is from the Deputy, and I will revert to him after I have furnished it to the Defence Forces and sought an appropriate response.

Deputy Mick Wallace: I thank the Minister.

Defence Forces Reorganisation

128. **Deputy Seán Ó Fearghaíl** asked the Minister for Defence his views on the impact his recent organisational changes of the Defence Forces has had on the working conditions of members of the Defence Forces; and if he will make a statement on the matter. [13941/14]

Deputy Seán Ó Fearghaíl: The Minister's major initiative in July 2012 was the reorganisation of the Defence Forces and the move from a three-brigade to a two-brigade structure. Almost two years later, in the Minister's view has this change had any major implications for those serving within the forces with regard to their day-to-day operations?

Deputy Alan Shatter: The Deputy is aware, arising from the comprehensive review of expenditure in 2011, the Government decided to stabilise the strength of the Permanent Defence Force, PDF, at 9,500 personnel. Following that decision it was decided that it was not viable to retain a three-brigade structure within a strength ceiling of 9,500 personnel. A major reorganisation encompassing a reduction in the number of Army brigades from three to two was undertaken. This reorganisation to give effect to this decision is now complete and has improved the deployability and sustainability of the Defence Forces, while maintaining an all-arms versatile force both at home and overseas. The Government recognised that the reorganisation was a major change in the organisation and structure of the Defence Forces and was cognisant of the demands it placed on members of the Defence Forces and that such significant organisational change could cause both uncertainty and concern. Therefore, the implementation of the major reorganisation of the Defence Forces progressed in full consultation with serving personnel and their representative associations, including through regular meetings where issues of concern to their members were raised and then dealt with. There is a broad consensus that the subsequent organisational changes have brought significant improvements to the PDF.

The men and women of the Defence Forces always have risen admirably to the challenge of change and modernisation and this period of change for the PDF has been no exception. All options to minimise disturbance to serving personnel were explored but inevitably, given the scale of the reorganisation, it was necessary for some staff to be moved to new locations. The Defence Forces personnel support service representatives in every barrack or installation provided every necessary support to such redeploying personnel. My Department and I remain fully committed to ensuring that the Defence Forces as a whole provide a challenging and rewarding career and do so in a supportive working environment. I am satisfied both that recent structural changes have not had a detrimental impact on working conditions generally within the PDF and that the reorganisation is working well.

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Deputy Seán Ó Fearghail: Notwithstanding the Minister's remarks, I understand that before the reorganisation, there were five operational units within Dublin while there now are only two. Moreover, one is the cavalry squadron, many of the duties of which are largely ceremonial. As a consequence, Defence Forces personnel are called in regularly to Dublin from various parts of the country, including Dundalk and Athlone and from as far afield as Finner Camp, County Donegal. How can it be sensible that members of the Defence Forces are called in to do duty in Dublin from such locations, particularly from County Donegal? I suggest to the Minister this surely is having a negative impact on the operation of the force and I cannot help but wonder whether additional costs arise from such a situation.

Deputy Alan Shatter: In the context of the Defence Forces and the difficult financial circumstances that have afflicted the State as a result of the total economic and fiscal ineptitude of the Deputy's own party in government, the Defence Forces have been doing an extraordinary job. The reorganisation was necessary to ensure the Defence Forces were organised in a manner that reflected the objective strength of the Defence Forces. I presume the Deputy does not suggest the closure of a barracks in County Donegal and the reopening of another barracks in Dublin. Inevitably, where there is a reorganisation and if some barracks changes are effected, on occasions there will be movements of members of the Defence Forces from one part of the country to another, even if it is only temporary. It is part of the job and I believe is not an issue of any great concern. Moreover, it has not resulted in any excessive costs being incurred because the Defence Forces operate in an extraordinarily cost-effective way within the reduced budget that is available as a consequence of the fiscal reductions that had to be effected to enable the Government to bring the State's finances back in order.

Deputy Seán Ó Fearghail: I am highly amused that at every given opportunity, the Minister cannot resist the temptation to engage in party political sniping. I am trying to deal with very legitimate issues for the Defence Forces and it would serve the Minister better to focus on the particular issues before us. I am not suggesting the closure of an installation in Donegal or the opening of a new one in Dublin. I am simply asking if there are costs involved in the transport of personnel on a regular basis from Donegal to Dublin. Are there implications in terms of the process of transportation? Are vehicles required? Is there an implication in terms of wear and tear on particular vehicles? Are practical day-to-day difficulties arising for the operation of the forces as a result of the Minister's reorganisational process?

Deputy Alan Shatter: There are no practical day-to-day difficulties of which I am aware. The Defence Forces have managed during my period in office to come in annually on budget in accordance with the Estimates prescribed for them. I am sorry if the Deputy thinks I am engaged in party political sniping. I understand that members of his party, including his party leader, think the world started on 9 March 2011 and that they want to forget much of the devastation they visited on the country in their preceding years in government.

Defence Forces Properties

129. **Deputy Clare Daly** asked the Minister for Defence if he will halt all eviction notices and court proceedings against Curragh camp residents who are either former serving soldiers or the families of former serving soldiers until the technical assessment of the housing stock has been completed. [13717/14]

Deputy Clare Daly: This is an issue of which the Minister is obviously very well aware,

namely, the almost 30 families and individuals who are classified as overholding in the Curragh camp, particularly those against whom legal action has already been initiated. In the context of the technical assessment of the dwellings which the Minister has commissioned, would it not be an idea to hold off from actively pursuing legal action pending the outcome of that technical assessment?

Deputy Alan Shatter: I welcome the recent meeting Deputies Daly and Wallace had with officials from my Department on the issue. I hope the exchange of views and the explanations given were helpful and worthwhile from their perspective.

As I have said previously, military personnel are obliged, under Defence Forces regulations, to vacate married quarters within 21 days of retiring or being discharged from military service. The term “overholder” is used to describe former members of the Defence Forces and their families who have refused to leave married quarters when obliged to do so.

The situation of overholders continuing to occupy married quarters is no longer sustainable and measures to resolve this are being progressed. Properties located outside barracks are offered for sale to the occupants. Those located within barracks, such as the Curragh camp, are not for sale for security reasons. My Department is, in accordance with normal procedures, seeking vacant possession of married quarters which are being overheld and will continue to do so until the overholding issue is resolved. Any initiative to resolve overholding must support and complement the current policy, which dates back to 1997, of withdrawing from the provision of married quarters.

In the period since January 2013, 12 properties which were being overheld in the area of the Curragh camp have been returned by the occupants. Currently, there are 28 overholders remaining at the camp and ten of these do not pay any charges in respect of their use of the property.

I cannot support the illegal occupation of military property by those who have no entitlement. It is also important to remember that the Department of Defence does not have a role in the provision of housing accommodation for the general public and cannot provide housing for people who have no entitlement to housing provided from the public purse and whose requirement is likely to be significant, as the currently unoccupied properties are for the most part uninhabitable, with many in extremely poor condition.

In any event, the assessment of the current vacant housing stock does not change the fact that there are occupiers of houses in the Curragh camp who have no right to those houses and, therefore, the process for obtaining vacant possession must continue.

Deputy Clare Daly: Both Deputy Wallace and I were happy that Department of Defence officials took up our offer of a meeting. This issue and a number of others were discussed at the meeting in regard to accommodation in the camp. They made it clear that as a policy issue the Government does not want to see families living in the Curragh camp. I appreciate that, although I do not agree with it, and I recognise it is the Minister’s view. However, this question specifically relates to the immediate concerns of those families who, for whatever reason, were led to believe that they could stay after they left the Army, either as a result of no contact from the Department of Defence or because they were told they could continue to live there. As a result of that, some of them find they cannot get alternative accommodation because they are too old or have too many needs to qualify for social accommodation. Will the Minister consider, in

the context of the meeting we had, the possibility of his officials meeting with representatives of those families? We do not condone those people who are paying nothing while living there and we have made that quite clear. We ask that officials would meet those who are not in that category to try to reach an amicable solution. Would the Minister be willing to make the technical assessment of the properties available to Deputies?

Deputy Alan Shatter: As I have said previously to the Deputy, having dealt with the overall issue in my initial reply, it is my Department's policy to review each over-holder situation on a case by case basis. Obviously, as each case is different, I cannot pre-empt considerations that may be given. As the Deputy knows, where people are very elderly and do not have alternative accommodation, the Department has exercised discretion in how it deals with those aspects of the matter. However, the Department cannot, nor can I as Minister, stand over a situation whereby properties are occupied by individuals who make no payment of any description to the Department. My Department will continue to engage proactively, consider individual circumstances on a case by case basis and behave appropriately. I cannot go any further than that.

Deputy Clare Daly: It is a pity that the Minister cannot put it more concretely than that because, while the Department has said that it is examining the cases individually, the reality is that people do not know to which category they belong. They do not know when the postman is going to knock with a letter from the courts. They are thinking, "it might be me, even if I am 70 years of age". Obviously, there is some reassurance in the fact that it has not happened yet but they do not know that it is not going to happen. I ask that there would be a positive engagement, accepting fully that nobody in this House or to whom we have spoken in the Curragh condones people not paying rent or making a contribution in accordance with their means. That is not what this is about. It is about the very real circumstances of people who have tried, have played by the rules and who have nowhere else to go. The Department must actively engage with them, all the while recognising that individuals are different and need to be treated differently. If there is a will to take up that offer of constructive engagement, will the Minister make his officials available to meet representatives of the group of residents to try to progress the matter?

Deputy Alan Shatter: It has been the practice to meet, where appropriate, the individuals occupying the houses as opposed to some nominated representatives. I must emphasise what I said earlier, namely, that individual circumstances will be carefully examined. The Deputy is as aware as I am that there are some individuals occupying these houses who have been there for many years and who are quite clearly - to use the phrase, although I do not like it either - over-holders. In so far as there are very elderly people who may be living in a general state of stress and uncertainty, I have no difficulty discussing that further with my officials. I am aware of the fact that both Deputies Daly and Wallace raised that issue in the conversations they had with officials. The Deputies can be assured that issues of that nature are not being ignored. However, I must also be careful to ensure that people who occupy premises in the Curragh meet their rental obligations and that, in circumstances where there are legal obligations to vacate, nothing is done to prejudice the position of the State and the State's right to have those properties returned to it. Of course, there are also some security issues that can arise. As I understand it, there are also some particular issues with regard to the condition of some of the properties which are a cause of great concern.

Dáil Éireann
Other Questions

Defence Forces Fatalities

130. **Deputy Pádraig Mac Lochlainn** asked the Minister for Defence if he will meet the family of a person (details supplied). [12876/14]

Deputy Pádraig Mac Lochlainn: We have discussed this matter previously, which concerns the circumstances that led to the killing of Private Hugh Doherty and Private Kevin Joyce. Their families have requested a meeting with the Minister and I seek an update in that regard.

(Deputy Alan Shatter): The case of the death of Private Doherty, as well as the disappearance of Private Joyce to which the Deputy refers, has already been outlined in my reply to a priority question earlier. As I mentioned to the Deputy in the Dáil last month, I am always willing to meet the families. I received a request to meet with the family and my office has been in touch with them in this regard. However, following my examination of documents received, I required clarity on several issues and have asked the military authorities to have a number of documents reviewed by the Army's Provost Marshal. Once I receive a report on this, I plan to meet members of Private Doherty's family, as requested by them, at a mutually convenient time and date.

I took some time to read through the extensive documentation that was furnished to me regarding matters of relevance and in respect of which some concerns have been expressed. When my life in this House calms down slightly, I hope to be able to meet with the families. Having read all the papers about which I raised queries and which I expect to receive responses to in the not-too-distant future, I hope it will prove possible to have a meeting, if not this side of Easter, then shortly after the Easter vacation. I do not know if it will prove possible to do it this side of Easter because of various demands and commitments. I assure the Deputy a meeting will take place all the same.

Deputy Pádraig Mac Lochlainn: I welcome the Minister's commitment to meet with the family of Private Doherty. One issue of concern and alarm brought to my attention is that, during the original investigation carried out by Colonel Savino at the time, he did not interview any of the team with which the two privates served. Other issues of concern are the isolated nature of the observation post they were holding, as well as the fact bullet cases secured at the scene and ballistic evidence which may have helped identify the group responsible for the attack are now missing. Responsibility for the attack is not clear as it would have been attributed to the PLO, Palestine Liberation Organisation, at the time as the Amal militia would have been more aligned to the UN forces in southern Lebanon. There is also a concern about the fact the force's mobile reserve was withdrawn three days after the incident.

I have met with some of the Defence Forces members who served with the two privates. Would it be possible, because of their expertise in this matter, to have one or two of them present at the meeting along with the family members who acknowledge they would not have the level of expertise of the realities on the ground in southern Lebanon and the specific concerns of the investigation?

Deputy Alan Shatter: Having read through all the files and papers, there were clearly several issues of relevance to the tragic events that occurred on the day in question. It is also quite

clear to me that a report relating to these matters was severely critical of the organisation surrounding two privates being on their own at the location in question. Speaking from memory of the report, there were issues with regard to communications, maintaining response in circumstances where it seemed communications had been lost, as well as a range of other issues. Some issues, as the Deputy knows, have been raised by former members of the Defence Forces who participated in that mission. Unfortunately, from my reading of matters, I do not believe these would contribute in any shape or form to locating the remains of Private Joyce, on the assumption he was killed. They would not add to the overall sum of knowledge ultimately of these events. There was a critical report done of the circumstances surrounding what occurred. It would be my preference to meet with the families to tease out matters with them. Before I do that, I want to get responses to some queries I have raised.

Deputy Pádraig Mac Lochlainn: For a lay person, as I am in this regard, reviewing matters is important. Some of the former members of the Defence Forces, some of whom I met with the family, have detailed and expert knowledge as they were serving members in the area. The circumstances of the events involved will never leave them and they have followed all of the investigations in great detail. This is not just about recovering the body of Private Joyce it is also about understanding what happened and what lessons are to be learned. The Minister will appreciate that the family has never had closure. I ask him to consider meeting one or two members who served at the time. It could prove to be a constructive meeting. They might, perhaps, provide the Minister with an agenda outlining some of their specific concerns so as to ensure the meeting would be constructive and that he could prepare in advance for it. I am sure they would work with him in that regard. If the meeting is to be productive and successful, he should allow one or, preferably, two of the Defence Force members who served in the area to meet him, with the family and other relevant members of the Defence Forces.

Deputy Alan Shatter: It is not necessary to give me a summary of the issues involved because I have read in full the concerns raised, the critique and the questions asked about some individuals not being questioned or given the opportunity to discuss matters. However, having read the report on file, I do not see how, so many years further on, a further discussion would add greater enlightenment to these events, nor would it in any way, from what I can see, facilitate identifying who the perpetrators might have been, whether it be the Palestine Liberation Organisation, Amal or some other group. I am not aware of anything raised that would add greater enlightenment in identifying those involved, nor do I see anything that would any more readily facilitate the finding of the remains of Private Joyce. It would be most unfair of me to give rise to a perception that there was something in all of this; that, having read things in great detail and after so many years, there is something that would resolve this mystery of exactly who was engaged in this event and where Private Joyce's remains were located, other than the conclusions reached in the report on file. However, I am happy to meet the family to discuss its concerns. I am also concerned, in circumstances where this terrible tragedy occurred and where there was the loss of two members of the Defence Forces, that false hope is not given that there is some new information that will provide greater enlightenment than what we now have. Even if some of this information is correct, it is not clear that it will lead us to a helpful conclusion in bringing closure for the families.

Defence Forces Operations

131. **Deputy Clare Daly** asked the Minister for Defence if the Defence Forces personnel who were on duty on the runway at Shannon Airport on 22 February and 2 March conducted searches of US military aircraft. [13718/14]

138. **Deputy Mick Wallace** asked the Minister for Defence the reason Defence forces personnel were stationed in front of US warplanes at Shannon airport on 22 February 2014 and 2 March 2014; and if any inspections of the aircraft took place. [12966/14]

Deputy Clare Daly: This question relates to the role of Defence Forces personnel at Shannon Airport, an issue highlighted by the heroic Margareta D'Arcy. I welcome her release from prison and acknowledge the role she played in defending Ireland's neutrality. While she was in prison, on a number of occasions Defence Forces personnel were present in front of US aircraft at Shannon Airport. I hope the Minister will tell me they were there to conduct searches of the aircraft because it appeared that they were there to protect them.

Deputy Alan Shatter: I propose to take Questions Nos. 131 and 138 together.

An Garda Síochána has primary responsibility for law and order, including the protection of the internal security of the State. Among the roles assigned to the Defence Forces is the provision of aid for the civil power, ATCP, which, in practice, means to assist An Garda Síochána when requested to do so. There is ongoing and close liaison between An Garda Síochána and the Defence Forces regarding security matters. The Defence Forces have deployed personnel to Shannon Airport in response to requests for support from An Garda Síochána since 5 February 2003.

In respect of the dates of 22 February and 2 March 2014, requests for Defence Forces support were received from An Garda Síochána. With regard to inspections of aircraft, the Defence Forces have no responsibility for searching US military aircraft that land at Shannon Airport.

Deputy Clare Daly: It is obvious that the most significant threat to security at Shannon is the role of the US military. I do not know if the Minister read the article in *The Guardian* last week which revealed that the US Government sent 100 Hellfire missiles to Iraq over the past number of weeks. We do not know whether those weapons were transported through Shannon but a number of US Air Force aircraft refuelled at Shannon and were present there over the past period. It is appalling that the Minister has confirmed that none of these aircraft was searched by the Defence Forces or the Garda, yet Irish taxpayers' money was expended on having the Defence Forces there. The Minister might like to comment on the fact that a couple of days before Margareta D'Arcy went onto the runway at Shannon last year there had been a US military aircraft on the runway which had a 30-mm modified Mk 44 cannon located on the front of the fuselage in front of its wings. These aircraft carry depleted uranium. It is highly probable that the aircraft contained the ammunition to go with that. This is an erosion of our neutrality. Why have no searches been conducted?

Deputy Alan Shatter: The incident to which the Deputy refers was contrary to normal conditions that apply to foreign military aircraft overflying or landing in Ireland. It is down to the Tánaiste and Minister for Foreign Affairs and Trade that this incident was raised at the highest level with the US Embassy by senior officials in his Department. The US Embassy expressed regret over the incident and explained that it had taken place as a result of an administrative er-

ror. That is all I can say to the Deputy about the particular incident she raised.

Deputy Clare Daly: That is not good enough. The Minister is not in a position to say whether it was contrary to normal conditions because the Irish State has refused to carry out any searches of the aircraft. The Minister does not know; he is relying on the word of the US authorities. Anybody with expertise in military matters would confirm that it is highly improbable that the aircraft was carrying the cannon and not the ammunition. Depleted uranium results in enormous devastation. The very fact that it was present is a breach of our neutrality. Would the Minister please reconsider the situation and agree that he does not have the authority to say it was abnormal and that he does not know because he refuses to carry out any searches?

Deputy Finian McGrath: Turn a blind eye.

Deputy Alan Shatter: I have no knowledge - nor has Deputy Daly - of any aircraft landing in Shannon that was carrying the munitions to Iraq that she mentioned. If the Deputy has information that could confirm that she is very welcome to furnish it to me. I do not jump to assumptions regarding these matters. I cannot add to what I have said on this matter. For many years it has been the case that US aircraft land in Shannon. I do not see why that should be a cause of difficulty. It is extremely unwise for individuals to enter parts of Shannon Airport where they could do themselves harm or cause others to be harmed. Shannon is used in an appropriate manner. The Tánaiste has addressed the incident Deputy Daly raised and has received the assurances that he reported to me, as I mentioned, from the American authorities.

Deputy Mick Wallace: It is difficult for us to know if the airport is being used at all times in an appropriate manner when we do not search the aircraft. It defies all rationality that we assume that what the Americans tell us is true. Any keen follower of foreign affairs would know that the same people would say mass. The recent revelations about the National Security Agency, NSA, and what the Americans have got up to, despite repeated contradictions, have even further undermined their credibility. Without a doubt, there are arms and troops going through Shannon that are being used for illegal wars. Between Afghanistan, Yemen, Ethiopia, Somalia and Iraq, there is much illegal activity that we have facilitated. This breaches our neutrality, although we have not signed the Hague document. We still have obligations as a declared neutral country and must take some responsibility. We are renegeing on our responsibilities by refusing to search these aeroplanes.

Deputy Alan Shatter: If, in the context of aeroplanes landing at Shannon Airport during the course of this year, the Deputy can provide additional information which indicates that the arrangements and agreements relating to such landings are being violated or that armaments are being carried when they should not be, I will have the matter examined. I am open to correction, but he seems to be operating on the assumption that the arrangements in place are being violated. I cannot act on that assumption, but the Deputy is welcome to furnish me evidence of the allegations. He has referenced Somalia where there is a UN training mission in which the Defence Forces are participating. It is a difficult conflict zone and I do not know from where the reference to Somalia comes. The Deputy mentioned a number of other troubled regions in the world, but I have no information that indicates bombs or other munitions are being landed at Shannon Airport at all or regularly, as he seemed to suggest. However, he can provide the details.

Deputy Mick Wallace: We know no military aircraft has been checked, despite the fact that the Government jet, when used by the then Taoiseach, Bertie Ahern, was searched at Dulles

Airport in Washington a while back. The Minister has indicated that I should come up with the evidence to prove ammunition is passing through Shannon Airport that should not be. I am not the Minister for Defence. If the Minister wants to find out what is on the aeroplanes, all he has to do is organise a search. It is not an unreasonable request. It is little wonder the likes of Margaretta D'Arcy have to go on the runway to highlight the fact that aeroplanes are not being searched by the Government. The Minister is driving people onto the runway by refusing to organise searches.

Deputy Alan Shatter: I have not driven anybody onto a runway. It would be very unwise to drive people to such a place.

Defence Forces Operations

132. **Deputy Seán Ó Fearghaíl** asked the Minister for Defence if he will provide a progress report on the Defence Forces participation in the EU-led training mission in Somalia; and if he will make a statement on the matter. [13799/14]

Deputy Seán Ó Fearghaíl: Recently a very small but skilled and capable cadre of Defence Forces personnel has been involved in an EU-led training mission in Somalia. In this question I seek to ascertain from the Minister if he has evaluated the contribution of this small group of Irish personnel and the overall success of the mission.

Deputy Alan Shatter: I have an extraordinarily long reply and the Leas-Cheann Comhairle will have to stop me halfway through it. However, I will do my best.

EUTM Somalia which was launched on 7 April 2010 has been deployed to provide military training for members of the Somali national armed forces so as to increase their capability to ensure the sovereignty and security of the Somali state. The mission is part of the European Union's long-term strategy for the Horn of Africa. EUTM Somalia has contributed to the training of approximately 3,600 Somali soldiers to date. On 22 January 2013 the European Council adopted a decision extending the mandate of EUTM Somalia until March 2015. The new EUTM Somalia mandate involves a significant change of focus of the mission, including moving all elements of the mission from Uganda to Somalia. In December 2013 all training concluded in Uganda. The mission achieved a major milestone on 1 February 2014 when the mission commander, Brigadier General Gerald Aherne, declared full operating capability in Mogadishu. The current mandate will continue until 31 March 2015. Implementation of the mandate in Somalia is facing several challenges, including security in Mogadishu, where the position remains unstable.

Following Government approval, five Defence Forces personnel were deployed in April 2010 to the EU-led training mission, EUTM Somalia, providing a training team and certain staff posts.

3 o'clock

Ireland took over operational command of the mission in August 2011, with the appointment of Colonel Michael Beary of the Defence Forces as mission commander, and deployed additional staff to support the role of mission commander. Brigadier General Gerald Aherne succeeded Colonel Beary and took up the appointment of mission commander on 1 February

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2013. At the end of last month Brigadier General Gerald Aherne handed over command of the mission to his successor, Brigadier General Massimo Mingiardi of Italy, who attended the recent meeting of EU defence Ministers to brief us on the mission.

I would like to take this opportunity to thank Brigadier General Beary and Brigadier General Aherne for their outstanding contribution to the success of the mission and to wish the new force commander well. Ireland currently has six personnel serving with the mission, which reduces from 11 the numbers we have there, because the remaining personnel would have supported the mission commander when our Defence Forces had command of the mission.

Additional information not given on the floor of the House

The recent reduction in the number of Defence Forces personnel deployed to EUTM Somalia from 11 to six was as a result of the drawdown of Defence Forces personnel associated with Ireland's having held the post of Mission Commander and also completion of the training phase of the mission, to which Ireland contributed three personnel. Given Ireland's commitment to this mission to date, and in order to support a smooth transition between mission commanders, Government approval has been granted to retain the Defence Forces personnel in their current appointments until the end of their respective individual six-month tours of duty.

Deputy Seán Ó Fearghail: I join the Minister in paying tribute to Brigadiers Aherne and Beary for their work on this important mission. Am I right in saying the Minister has decided our forces will withdraw from this mission soon? I was surprised to hear that, given the value of the work and that there is still a desperate need in Somalia for the stabilisation work and training of the armed forces in which our forces have been involved. Why did the Minister decide to disengage from the initiative? I know there were some safety concerns, but I am conscious that we are still present in Afghanistan, where there are many challenges. The Minister has a personal interest in Mali, and many others in the House are interested in it, where the situation is also quite challenging. Why disengage from Somalia?

Deputy Alan Shatter: The mission has changed significantly since locating in Mogadishu, having initially been in Uganda. We are engaged in 14 overseas missions, including EUTM Somalia, and given Ireland's commitment to this mission to date in order to support the smooth handover between mission commanders, we granted approval to retain the Defence Forces personnel in their current appointments until the end of their tour of duty on 13 April 2014. The decision was made to end our engagement in the mission. Very few members of our Defence Forces participate in it. As the term of our engagement in missions draws to a close, a review is always conducted to ascertain whether we should deploy some additional personnel or give consideration to other missions. The decision was made that it was appropriate to withdraw the small number of personnel in this location, having made a substantial contribution to it with two outstanding members of our Defence Forces as force commanders. The Deputy can assume we continue to focus on the varied missions we are engaged in and there is no question of our disengaging in any dramatic way from our overall UN commitments.

Deputy Seán Ó Fearghail: I agree with the Minister that our commitment to the UN missions is of major importance and I appreciate our ongoing commitment. None the less, the situation in Somalia continues to be very serious. The small group of personnel made a valuable contribution and there is a continuing need to be engaged there. When considering this question I was conscious of the Government's Africa strategy and the Tánaiste's commitment to it and to peace, security, disarmament and respect for human rights, which our people in So-

malaria were working on. That work is not yet complete. Why cease our involvement while the work remains to be completed? I ask the Minister to indicate whether he has engaged with the Tánaiste and Minister for Foreign Affairs and Trade on this matter, given that the Tánaiste has been a champion of the African strategy. Indeed, that strategy is worthy of support.

Deputy Alan Shatter: I understand we have more missions currently serving overseas than at any time previously in the history of the State. We are engaged concurrently in 14 different missions. On 22 January 2013, the Council of the European Union extended the mandate of EUTM Somalia to March 2015. This third mandate implied a significant change of focus for the mission, with the inclusion of strategic, advisory and mentoring activities in addition to training. The specific training offered by Irish Defence Forces personnel is no longer required under the new mission mandate. We maintained our numbers for as long as Brigadier General Aherne was in command of the mission, but the specific training activities in which we were engaged were no longer required and, in those circumstances, it made no sense to maintain our engagement beyond the completion of the current deployment. It is no more complex than that. Should it arise at some point in the future that we can contribute to the mission in a constructive way based on our niche skills and training capacities, that will be open for consideration.

Defence Forces Recruitment

133. **Deputy Seán Ó Fearghaíl** asked the Minister for Defence his plans to increase the numbers serving in the Air Corps; and if he will make a statement on the matter. [13796/14]

Deputy Seán Ó Fearghaíl: I am trying to ascertain the Minister's commitment to developing the numbers serving in the Air Corps. I welcome his recent announcement on recruitment to the Defence Forces and wonder how the Air Corps will benefit from the initiative.

Deputy Alan Shatter: I announced the launch of a new recruitment campaign for enlisted personnel in both the Permanent and the Reserve Defence Forces on Friday, 7 March 2014. The Government is committed to maintaining the stabilised strength of the Permanent Defence Force at 9,500 personnel and the current campaign will enable this to be achieved. Recruitment of personnel to the Army, Naval Service and Air Corps is determined in line with the operational requirements of each of the three services. As such, the Defence Forces plan to induct up to 400 enlisted personnel to the Permanent Defence Force in 2014.

In regard to specific Air Corps appointments, there are currently 17 pilots in training and it is planned to recruit a further nine Air Corps cadets this year, who will serve as pilots on commissioning. In addition to the 27 aircraft mechanic apprentices currently in training, it is planned to recruit a further 20 apprentices this year. Details of these competitions will be available on the Defence Forces website, www.military.ie, when the competitions commence. Requirements for additional recruits in the Air Corps will be addressed from the general service recruitment competition which is currently ongoing and from among line officers serving or due to be commissioned in the Permanent Defence Force.

In regard to technical and line NCO promotions and appointments in the Air Corps, a new promotion scheme for NCOs was piloted approximately two years ago and a large number of promotions were made from this competition. My Department is currently in the process of reviewing the pilot and is considering some changes to streamline the competitive process. These will then be discussed with the representative association, PDFORRA. I expect the new

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promotion competition to fill line and technical NCO vacancies across the Defence Forces to commence in the next few months.

I am advised by the Chief of Staff that the required operational strength of the Air Corps remains adequate and that the Air Corps is sufficiently resourced to continue to operate effectively across all roles and to undertake the tasks laid down by Government.

Deputy Seán Ó Fearghail: I thank the Minister for his reply, much of which is positive. However, would he accept that the Air Corps is relatively small when compared internationally? If we compare Ireland with, for example, New Zealand, we find that one in four of the personnel in that country's defence force is a member of the air force, compared to one in 12 in Ireland. Do we need to develop the Air Corps to a greater extent by providing it with additional personnel to allow it to fulfil its remit?

Deputy Alan Shatter: Of course, that is one of the varied and numerous issues to be considered in the context of the Defence Force White Paper which will look to the future, to the State's needs and to the capabilities of the Defence Forces. It will look to the operational requirements, both in the context of serving abroad and at home and in providing an assistance to the civil power.

A key issue is resources. In the context of the Air Corps, there is the issue of the extent and nature of the missions that it is required to undertake and the capacity of the State, within limited financial resources, to purchase additional aircraft, and the need in that context.

As Deputy Ó Fearghail will be aware, substantial investment has been made in the Naval Service. We will see in the not too distant future the commissioning of a new naval vessel, which has cost in the region of €53 million. There is a further naval vessel under construction, which should be commissioned during the first half of next year, which has cost a similar sum of money. In the context of the Deputy's specific question, the future role of the Air Corps, the numbers within it, its capabilities and its operational needs all are issues to be considered in the context of the White Paper.

Deputy Seán Ó Fearghail: In conclusion, I ask the Minister whether he himself is committed to improving the rotary-wing fleet so that it could be expanded to include additional helicopters, especially those with over-ocean capacity. Experiences in such missions as the EUFOR mission to Chad in central Africa have demonstrated the requirement to have accessible and appropriate rotary-wing capacity in difficult situations and over difficult terrains. Obviously, one understands the financial pressure that the Minister is under, but does he have a plan to improve the level of equipment that would be made available to the Air Corps in the period ahead?

Deputy Alan Shatter: We have been able to maintain the resources and equipment of the Defence Forces at a very high level to meet the operation requirements of the Defences Forces, both in the context of the Army, navy and Air Corps.

In the context of the consideration of the purchase of any further assets for the Air Corps, that is a matter based on looking at what is contained ultimately in the White Paper on the needs and requirements, what is affordable to the State and the nature of the engagement of the Air Corps, which is important to the State but which, of course, is also limited.

European Defence Capabilities

134. **Deputy Bernard J. Durkan** asked the Minister for Defence the extent to which the Defence Forces is in liaison with other defence forces throughout the European Union with a view to ensuring compatibility in respect of procedures, operational equipment, command structures, communication and language; if he is satisfied that adequate co-ordination exists to ensure that no country throughout the European Union might be vulnerable in the event of an attack; and if he will make a statement on the matter. [12935/14]

Deputy Bernard J. Durkan: This question relates to the necessity for compatibility between the Defence Forces and other defence forces throughout Europe and those on UN deployments with a view to ensuring that each understands the other sufficiently adequately to be able to cope with emergency situations.

Deputy Alan Shatter: The Defence Forces liaise with other armed forces personnel throughout the European Union through a range of fora. These include: NATO Partnership for Peace, EU military staff, EU military committee in Brussels and European Defence Agency.

Ireland joined Partnership for Peace, PfP, on 1 December 1999. The primary aim of our PfP participation is to enhance the Defence Forces' interoperability with other professional military forces for the purpose of engaging in UN authorised peacekeeping and peace support operations led by the UN, EU or NATO. Membership of the PfP continues to allow the Defence Forces access to NATO standards, which are internationally-recognised as representing best practice in military and related matters such as operations, procurement, training, civilian co-operation, etc.

Participation in PfP's planning and review process is considered an essential requirement for preparing for UN mandated peacekeeping operations. As part of this process, Ireland has adopted a range of partnership goals - NATO standard military capabilities - which assist Ireland to be compatible with other member states' armed forces in respect of procedures, operational equipment, command structures and communications.

Through Ireland's involvement with the European Defence Agency, we are actively engaged in projects and project teams, along with other EU member states, which are addressing capability shortfalls in a number of areas, such as counter improvised explosives devices, chemical, biological, radiological and nuclear protection and cyber security.

The establishment of a political and security committee defence delegation, comprising civil and military elements, in Ireland's Permanent Representation to the EU and the detachment of Defence Force personnel to the EU military staff, coupled with our participation in EU-led civilian missions and military operations, reflect the expanding role of the defence organisation in the area of Common Security and Defence Policy.

Additional information not given on the floor of the House

In relation to the vulnerability of any member state to attack, as the Deputy will be aware the EU is not a defence alliance, and no decision has been made in relation to initiating a common defence. Common Security and Defence Policy is external to the Union. For most member states, mutual defence is achieved through membership of NATO.

Ireland also maintains bilateral relationships with other countries at both policy and opera-

tional levels, and the Defence Forces have regular staff-to-staff meeting with other militaries to exchange information and experiences.

The ongoing engagement of the Defence Forces and other EU armed forces in the fora referenced above ensures that all concerned are actively engaged in the development of concepts, procedures and capability enhancement. While adhering to international best practice in these areas, the Defence Forces and other EU armed forces are best prepared to meet their assigned roles.

Deputy Bernard J. Durkan: I thank the Minister for the comprehensive reply. Is he satisfied regarding the familiarity of the Defence Forces with the standards, equipment and training applicable in other jurisdictions throughout the European Union and by forces in deployment from the UN and to what extent is he satisfied that in emergency situations it is possible to dovetail the knowledge, activity and operational skills of all such personnel operating as a unit?

Deputy Alan Shatter: I am satisfied that the substantial engagement by the Defence Forces, both at UN level in co-operation with European Union colleagues in UN-sanctioned missions and engaging in the EU battlegroups, has ensured that in the context of its niche skill areas it has equipment of the highest standard. In the context of the EU, there is substantial movement to ensure equipment and communication compatibility. This is part of an ongoing process to ensure that Defence Forces personnel, when engaged in UN peacekeeping and humanitarian missions, have the best possible equipment available to them.

The nature of the equipment being used by the Defence Forces in the difficult UN mission at present on the Golan Heights in the context of difficulties that have arisen has proved that the resources provided to them have played an important role in facilitating their undertaking their mission and in ensuring that the Defence Force personnel's safety is maintained as best as can ever be the case when engaged in a conflict area.

Topical Issue Matters

An Leas-Cheann 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 Peadar Tóibín - the need to provide a housing solution for persons forced into homelessness;

(2) Deputy Thomas P. Broughan - the need to ensure the proper enforcement of section 55 of the Road Traffic Act 2010;

(3) Deputy Brian Stanley - the future of Ballacolla post office, County Laois;

(4) Deputy Finian McGrath - the need to ban electronic cigarettes on public transport;

(5) Deputies John Lyons and Billy Kelleher - the need to complete an independent review of emergency ambulance services in Dublin; (6) Deputy Paul J. Connaughton - the need to address the concerns regarding SUSI awarding third level grants to students and then withdrawing them;

(7) Deputy Jim Daly - the need to ensure that moneys collected under motor tax across County Cork are allocated back to County Cork;

(8) Deputy Seamus Healy - the need to alleviate the trolley crisis at South Tipperary General

Hospital;

(9) Deputy Mattie McGrath - the need for hauliers transiting Northern Ireland via the A5 to be exempt the UK road user levy;

(10) Deputy Michael Moynihan - the loss of two teachers in the Convent of Mercy primary school, Kanturk, County Cork;

(11) Deputy Pat Breen - the difficulties facing Labasheeda National School in County Clare and similar rural primary schools given the current student-teacher ratios for these schools and the need for the Minister for Education and Skills to review this criteria to allow for population fluctuations year on year in the interests of restoring certainty for the schools and communities involved;

(12) Deputy Peter Fitzpatrick - the development of the coastal walk way to prevent flooding in Dundalk and Blackrock, County Louth;

(13) Deputy Pádraig Mac Lochlainn - the need to assign a clinical paediatric diabetes nurse to Letterkenny General Hospital;

(14) Deputy Pearse Doherty - the need to assign a clinical paediatric diabetes nurse to Letterkenny General Hospital;

(15) Deputy Charlie McConalogue - the need to assign a clinical paediatric diabetes nurse to Letterkenny General Hospital; (16) Deputy Michael McNamara - the need for measures to eliminate raw sewerage from entering the environment; (17) Deputy Thomas Pringle - the need to assign a clinical paediatric diabetes nurse to Letterkenny General Hospital;

(18) Deputy Éamon Ó Cuív - iarratas Phobal Leitir Móir i gCondae na Gaillimhe an sean bheiric Garda a fháil ar léas fada ó Oifig na nOibreacha Poibli d'úsaid pobail agus a n-iarratas nach ndiolfáí é Dé hAoine seo chugainn le seans a thabhairt a cheist a phlé leis an bpobal;

(19) Deputy Seán Kyne - the need to reconsider the auctioning of the former Garda station in Lettermore, Connemara, County Galway to facilitate the use of the premises for community purposes; (20) Deputy Ciara Conway - the need to amend the income figure applied to public servants in the calculation of means for medical card assessment to reflect deductions including PRD, etc.;

(21) Deputy Dessie Ellis - the eviction of local authority tenants;

(22) Deputy Ciarán Lynch - to ask the Minister for Transport to discuss the introduction of special training for airline staff to enable them to identify victims of trafficking among passengers; (23) Deputy Clare Daly - the crisis in primary school places at junior infant level in Swords for the academic year starting September 2014;

(24) Deputy Brendan Smith - the need for the Tánaiste and Minister for Foreign Affairs and Trade to discuss and raise at the United Nations the sentencing to death of 528 Muslim Brotherhood supporters in Egypt;

(25) Deputy Mick Wallace - the staffing levels at St. Mary's national school in Enniscorthy, County Wexford, which is due to lose one of its teachers despite having 87 children on roll;

(26) Deputy David Stanton - the need to develop specific supports and services for adopted

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children, and the families of adoptees, who are experiencing post-adoption trauma; and (27) Deputy Richard Boyd Barrett - the need to protect tenants' rights in situations of receivership.

The matters raised by Deputies John Lyons and Billy Kelleher; Paul J. Connaughton; Dessie Ellis; and David Stanton have been selected for discussion.

Business of Dáil

An Ceann Comhairle: It is with deep regret that we learned of the death of our colleague, Deputy Nicky McFadden. I call on the Government Chief Whip to move a motion of expressions of sympathy by the leaders of the various parties and a representative of the Technical Group, and others who wish to speak will have an opportunity in the formal expressions of sympathy which will take place in the foreseeable future.

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

That expressions of sympathy from party leaders and a representative from the Technical Group on the death of Deputy Nicky McFadden shall be taken now, the sitting shall be suspended for 15 minutes upon the conclusion of the expressions of sympathy and Leaders' Questions shall be taken immediately on the resumption of the sitting.

Question put and agreed to.

Death of Member: Expressions of Sympathy

The Taoiseach: I think I speak for everyone in the House when I say that we are devastated by the suffering and the passing of Nicky McFadden, but if we are uplifted by her courage and by her insight into this journey, and her ability to make some sense of the savage uncertainty of life as lived, I suppose that she passed away on the feast of the Annunciation is appropriate because she begins her new life today free of the suffering that marked her last months on this earth. She brings her goodness to that place of life and light beyond the darkness. She was a woman of great joy and will bring that joy with her to her new life and place. She has gone before us and will I hope be there to meet us. I called to see her last Friday after coming back from Brussels. It is a debilitating ailment and I extend my sympathy to her children, Caren and Eoin, and her family. Go ndéanfaidh Dia grásta ar bhean álainn.

Tánaiste and Minister for Foreign Affairs and Trade (Deputy Eamon Gilmore): I join the Taoiseach in expressing our sadness at the death of our colleague, Nicky McFadden, and our deepest sympathy to her daughter, Caren, and her son, Eoin. We were all shocked when we heard some time ago of her illness and with a great deal of sadness saw her condition progress. We all understood where it would eventually lead, but, notwithstanding this, we are all struck with a great sense of sadness and loss at her passing. She was a great colleague and brought a sense of joy to the House. She was someone in whose company it was always a pleasure to be. She always had a positive outlook on life and politics. The work she did for her constituents, particularly in Athlone but more broadly in the constituency of Longford-Westmeath, in the Dáil, during her time in the Seanad and while serving on various local authorities will be remembered by all who worked with her. On my own behalf and that of the Labour Party, I express my sympathy, particularly to her son and daughter, her family, friends, the Taoiseach and her colleagues in Fine Gael. It is a sad day for all of us.

Deputy Micheál Martin: Ar dtús báire, ba mhaith liom mo chomhbhrón a dhéanamh le

clann Nicky McFadden, leis an Taoiseach agus le Páirtí Fine Gael as ucht bás Nicky. Níl aon amhras ach gur oibrigh sí go dian dícheallach ar son muintir a dúiche féin. Bhí sin soiléir do gach duine. Bhain gach duine taitneamh as a comhlúadar agus an méid a rinne sí, ní hamháin mar Theachta Dála ach mar chomhairleoir agus Seanadóir chomh maith.

On behalf of my party, I sympathise with the Taoiseach and the Fine Gael Party on the very sad loss and the passing of Nicky McFadden. We extend our sympathy to her family, her daughter, Caren, and her son, Eoin. She represented the very best of commitment to public service in the country. Very often politics can attract negative commentary, but we can stand back and reflect on the life and career of a person like Nicky McFadden, whose fundamental motivation was to serve the public as a county councillor from 1999 until 2007 and as a Senator who was delighted to be elected to the Dáil in the general election in 2011. She made an outstanding contribution and had a key interest in the arts and education. Being a member of the vocational education committee and the community college in her native town, she was genuinely committed to these issues. She was passionate about those who had been left behind in housing and ensuring people had access to education. She will be a major loss to the Dáil and public life.

Deputy Robert Troy speaks highly of Nicky McFadden's basic human characteristics. She was a very nice person who got on well with all those who came into contact with her. She bore a difficult condition bravely. Motor neuron disease strikes terror into any family or person with a diagnosis, but it did not stop her bravely organising a number of functions, with Fine Gael colleagues, particularly the Minister for Arts, Culture and the Gaeltacht, Deputy Jimmy Deenihan, to focus attention on the disease and act as a catalyst to resource research into the condition, advance treatment and, ultimately, identify a cure. She led the way in that regard and we all owe her a debt of gratitude for that bravery and commitment. Until the end, she maintained her political service to the people of whom she was so fond, her constituents across the board. Go ndéanfaidh Dia trócaire ar a hanam.

Deputy Gerry Adams: Níor chuala mé ach uair a chloig ó shin go bhfuair Nicky McFadden bás agus bhí an-bhrón orm nuair a chuala mé an scéal uaigneach sin. Ar mo shon féin agus ar son Shinn Féin, ba mhaith liom comhbhrón a dhéanamh lena teaghlach, lena mac agus lena hiníon, leis an Taoiseach agus le Páirtí Fine Gael. I did not know Nicky McFadden as well as other Members, but when I heard she was ill, on a number of occasions I went to where she sat to ask her how she was. Even when she was not able to articulate as well as she used to, she struck me as being very positive and cheerful. I did not think she was as ill as she was because of her demeanour. I extend my sympathy to the Taoiseach, Fine Gael, her family, her daughter, Caren, her son, Eoin and, her wider family.

As Teachta Micheál Martin said, motor neuron disease is a dreadful ailment. A young guy who is a gael and a friend of mine, Antrim footballer Anto Finnegan, suffers from the disease and is heading a campaign to research its causes. It might be a fitting tribute to Nicky if we resolve to do something to try to get to the causes of the disease and research how it happens and can be dealt with. For now, it is a day to celebrate a feisty, brave, cheerful and positive woman. Ba mhaith liom comhbhrón a dhéanamh leis an Taoiseach agus le clann McFadden.

Deputy Maureen O'Sullivan: The Technical Group sends its condolences and sympathy to Nicky McFadden's loved ones, family, friends and colleagues in Fine Gael and those with whom she worked as a Senator. I came into the House following a by-election in June 2009 after the death of Tony Gregory. I inherited his office on the sixth floor in LH2000. The corridor is a mixed bag, with representatives of Sinn Féin, the Green Party, Fine Gael and Independents.

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Nicky McFadden's office was alongside mine and I appreciated the advice and assistance she and others on the floor gave me when I came first. I was delighted when she was elected and that she had had the opportunity to develop her talents and skills. When she contracted motor neuron disease, I had some conversations with her. At that stage, one of my closest friends had been battling the disease for a number of years. I shared my friend's story with Nicky and the two had much in common, mainly their positive attitude towards this most cruel illness. I know what my friend and Nicky went through. I knew what lay ahead for Nicky because of the progress of this horrible illness, but she was very positive and determined and took some solace and consolation from the way my friend was battling it. It is an amazing illness in terms of how it affected my friend and the late Fianna Fáil Deputy Michael Fitzpatrick. It develops in different ways. With my friend it began from the waist down and for Michael it was from his neck. For Nicky it started with her speech, which was so cruel for somebody who was active in political life and in her own social life. I acknowledge what the Minister, Deputy Deenihan, did. I took part in the fashion show on behalf of my own friend who had motor neurone disease and of course for Brother Kevin also. My memory of that event is when Nicky walked down the catwalk with the Minister at the end of the fashion show. I acknowledge her work and determination in battling the illness. Tá brón orainn toisc go bhfuair sí bás ach ar dheis Dé go raibh a h-anam dílis.

An Ceann Comhairle: As a mark of respect we will now have a minute's silence and then suspend the sitting for 15 minutes.

Members rose.

An Ceann Comhairle: May she rest in peace.

Sitting suspended at 3.30 p.m. and resumed at 3.45 p.m.

Leaders' Questions

Deputy Micheál Martin: The morning began with the announcement by Commissioner Martin Callinan that he was resigning from his post. I noted that with regret. He is a man who gave a lifelong commitment to An Garda Síochána and gave distinguished service. That should be acknowledged in this House. It is a very sad reflection on how the Government has handled this entire series of crises in the administration of justice that things have come to this pass. Commissioner Callinan played a role in bringing a number of significant criminals to account.

It is regrettable that things have come to this pass. The Taoiseach briefed the leader of Sinn Féin, Deputy Gerry Adams, and I on yet another emerging situation that goes to the very heart of the administration of justice and would appear to strike another blow at the administration of justice in this country. It relates to tape recordings of conversations in police stations around the country. As the Taoiseach's statement indicated, one of the matters is before the courts and we are not in a position to make further comment on the specific case. The latest case follows a range of other issues such as the bugging of the office of the Garda Síochána Ombudsman Commission, the undermining of whistleblowers in connection with the penalty points saga, the refusal to respond positively to the recommendations of the Road Safety Authority in that regard and likewise to the recommendations in the report of the Comptroller and Auditor General on the matter. Central to the entire saga was the status of whistleblowers and how they are treated by the Government. The Minister for Justice and Equality, Deputy Shatter, in particular, has consistently and with persistence sought to undermine the status of the Garda whistleblow-

ers in the context of the penalty points saga - so much so that he came into Leinster House and said on the record that they did not co-operate with the O'Mahoney inquiry. That was a false statement and the Minister should withdraw it.

An Ceann Comhairle: The Deputy cannot make accusations of that nature. If he wishes he may do so by way of substantive motion.

Deputy Micheál Martin: I am sorry. It was an incorrect statement and a wrong statement and the Minister should withdraw it. He should apologise to the Garda whistleblowers. On 12 March when Bryan Dobson put a question to him on the RTE news programme "Six One" as to whether the whistleblower should be put back on the PULSE system-----

An Ceann Comhairle: Thank you, Deputy.

Deputy Micheál Martin: -----he compounded the hurt inflicted on these men when he said it was a very serious issue when a member - implying Mr. McCabe - was "liberally accessing confidential information on the PULSE system and distributing it to the general public". Mr. McCabe never did that, yet he stands accused by the Minister, Deputy Shatter, on "Six One", of having done it. He stands accused of non-co-operation on the record of this House. I put it to the Taoiseach that this is wrong. Has he spoken to the Minister, Deputy Shatter, about this? Has he asked him to unequivocally correct the record of the House and to apologise to the whistleblowers concerned for his remarks both on the record of the House and outside of the House, the import of which was to undermine them, their credibility and their character? He should withdraw his comments, and the Taoiseach, as Leader, should follow the example of the Minister for Transport, Tourism and Sport, Deputy Varadkar, and seek a withdrawal of those remarks and an apology from the Minister.

Deputy Michael Healy-Rae: Where is he now?

An Ceann Comhairle: Would the Deputy mind? He is not on Leaders' Questions yet-----

Deputy Michael Healy-Rae: He was here a while ago. He disappeared.

An Ceann Comhairle: -----but he might be there some day if he takes his time.

A Deputy: God forbid.

The Taoiseach: First of all, I would like to put on the record my appreciation of the 41 years of service given by the Commissioner, Martin Callinan, to the service of the community and the public as a member of An Garda Síochána. It must have been a very difficult decision for the Commissioner to announce his retirement. During those 41 years Commissioner Callinan dealt with very serious issues to do with the safety of this State and the safety of citizens in dealing with members of subversive organisations and serious criminals. I thank him for his service to the Irish State.

With regard to the matter I brought to the Deputy's attention and that of Deputy Adams, the Government made a number of decisions arising from that - in accepting the retirement of the Commissioner; in the appointment of the assistant commissioner as an interim Commissioner; in making arrangements for filling the post as a permanent position through an open competition; in the establishment, with terms of reference to follow, of a commission of investigation into the issue of tape recordings in many Garda stations since the 1980s and the potential impact of the contents of some of those tapes in respect of cases being heard, cases going through the

courts, cases to be followed or maybe cases that were already dealt with; and in committing the Government to establishing an independent authority for the Garda Síochána that is appropriate for the needs of this country while maintaining political accountability to the Oireachtas. These are decisions that were made this morning by the Government.

We have already decided in regard to the report of the inspectorate into penalty points. There will be statements and questions and answers this Thursday for all Members, led and finished by the Minister for Justice and Equality. The Minister has recognised the value of the information provided by the whistleblowers in bringing this to public attention. He has also said that many of the other allegations that were made have not yet been corroborated. I have dealt with that myself on a number of occasions.

The answer to Deputy Martin's question is that the Minister for Justice and Equality will deal with this matter on Thursday when he addresses the response to the penalty points issue in the report provided by the Garda inspectorate.

Deputy Micheál Martin: That is not an adequate response. I asked what the Taoiseach is going to do about it. Has he spoken to the Minister for Justice and Equality and has he asked him to correct the record? Last week the Minister for Transport, Tourism and Sport, Deputy Varadkar, was very forthright and frank in his assessment of the situation. First of all he said that the whistleblowers' contribution to this was "distinguished", which was in sharp contrast to the position of the Minister, Deputy Shatter. The Tánaiste said he should withdraw his remarks yesterday. Other Ministers - Deputies Quinn, Rabbitte, Burton and Coveney - are all in the same vein in terms of what should happen here. What has the Taoiseach done? The only two Ministers who have stood with him in trying to protect the Minister, Deputy Shatter and uphold the *status quo* have been Deputies Hogan and Reilly, trusted lieutenants that they are. What the Minister, Deputy Shatter, has done is unacceptable. His position is untenable. One cannot do as he did, coming into this House to undermine the character and reputation of individuals whom other Ministers see as having made a distinguished contribution. There is no getting out this without some straight talking and some straight answers. Did the Taoiseach talk to the Minister, Deputy Shatter? Did he tell him he should correct the record of the House and particularly the record outside the House as well? What he said on "Six One" was wrong. It was factually incorrect and further compounded what he said in this House. Is the Taoiseach of the view that his position is still tenable? Is he of the view that he does not have to apologise for what he said and that he should not withdraw his remarks made in the House about the whistleblowers?

The Taoiseach: The Minister, Deputy Shatter, has proven to be probably the most reforming Minister for Justice in the past 15 years-----

Deputy Finian McGrath: There is no confidence in him.

The Taoiseach: -----and so many issues of societal consequence that have been left lying around have been, are and will be dealt with by him as Minister for Justice and Equality.

A Deputy: Hear, hear.

Deputy Joe Higgins: He would want to reform himself for a start.

The Taoiseach: Have I spoken to the Minister for Justice and Equality? The answer to Deputy Martin's question is "Yes," and the Minister will deal with this on Thursday.

An Ceann Comhairle: Before I call Deputy Adams, I want to put on the record that the Chair has ruled on many occasions that allegations of a serious nature against an office holder can be made only by substantive motion in the House and not by innuendo or otherwise across the floor of the House. I want that to be clearly understood. People have their rights here. A substantive motion can be tabled and debate can take place. Would the Members please respect the ongoing rulings of the Chair?

Deputy Gerry Adams: While Commissioner Callinan has undoubtedly done the State some service, his decision to resign was the right one because his position had become untenable. I had prepared a series of Leaders' Questions for the Taoiseach which included a call for him to set up a Garda authority, similar to that in the North, a position which Sinn Féin has long advocated. I had argued, as we have done consistently, that the appointment of a new Garda Commissioner would be a good place to start, with a new dispensation in policing similar to the one in the North, and I was going to ask the Taoiseach to commit today to the establishment of the type of policing dispensation which would suit this century and suit this State. I was also going to ask the Taoiseach to seek the resignation of the Minister for Justice and Equality, but before I could do so, the Taoiseach sent for me and an Teachta Martin and told us of another developing scandal. I reflected between then and now that I needed to change my questions. We will wait and see what the Taoiseach makes of a new policing dispensation and we certainly try to keep him accountable on that, but really the Minister should go. At every turn he protected the Commissioner, he undermined GSOC and he discredited the Garda whistleblowers. Arguably, none of this would have come to light of those two brave officers had not highlighted what they saw as law breaking. Fine Gael generally and the Labour Party supported the Minister, but it was only when the Minister for Transport, Tourism and Sport, Deputy Varadkar, spoke out that the Labour Ministers came out. It was almost a classic case of trying to find out where public opinion was. Will the Taoiseach ask the Minister, Deputy Shatter, to go?

The Taoiseach: "No" is the answer to the Deputy's question. The issue of an independent authority for the Garda Síochána is a matter on which both Fine Gael and the Labour Party jointly agreed as far back as 2006. I believe there is an opportunity here to deal with this for once and for all, and provide a professional, competent, efficient, modern, transparent and accountable police force, by having an independent authority. The two parties, as a Government, decided and committed to doing that. This will not be an authority in the same way as the Northern Ireland authority because, as Deputy Adams knows only too well, the issues of security and policing are separate in Northern Ireland.

4 o'clock

In regard to the matters on which we made decisions this morning at Cabinet, if the House wishes there will be an opportunity for statements on it tomorrow. As I stated to Deputies Martin and Adams, as information relevant to the new issue which has arisen becomes available we will make it available to them also.

I remind Deputy Adams with regard to the area of justice and trust and public confidence in the system the situation as applied is not working properly. This is why the abolition of the confidential recipient has taken place. This is why the terms of reference are being examined by the Oireachtas Committee on Justice, Defence and Equality. It is why GSOC is doing a full presentation in respect of the penalty point issue. It is why Mr. Guerin SC is examining the question of the allegations brought to the attention of public representatives and given to me in the Dáil. It is why Mr. Justice Cooke is doing his report. All of these must come before the

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House, be debated in the House, published and made available to all Members of the House and the public. In this regard this is an opportunity to lead for a new authority which will bring the Garda Síochána right into the modern era where everybody can have absolute faith in the accountability, transparency, effectiveness, competence and professionalism of the Garda force so everybody understands the standards required and the standards which must be met. The Garda Síochána Inspectorate's report will be debated in the House on Thursday. The Minister for Justice and Equality will address it and will take questions and answers at the end.

Deputy Gerry Adams: I recounted earlier the Taoiseach sent for myself and Deputy Martin.

Deputy Finian McGrath: He did not send for the Technical Group.

Deputy Gerry Adams: On the way there a journalist told me the gist of the Taoiseach's statement, as I told him during our meeting. At the same time as we were told what was in the Taoiseach's statement the media were told what was in it. Why did the Taoiseach not come here? The Commissioner has resigned and this does not happen every day. The Taoiseach has revelations of a new scandal. It is a serious business. Should the first port of call not be here? Should this not be the place to discuss these matters? I have reminded the Taoiseach many times here that he assumed office on the promise of an entirely new way of doing politics. He had to be dragged on this issue towards the announcement on reform he made today. There is not one comma, full stop or iota of the Good Friday Agreement in any institution or agency or any protocols in this State. The people here deserve what the people of the North deserve, which is transparent accountability and a Minister with responsibility for justice who delivers it. The Minister for Justice and Equality should go. Will the Taoiseach not review what he stated earlier and do the decisive thing and ask the Minister, Deputy Shatter, to resign?

The Taoiseach: I have answered the question already. As I stated, Deputy Adams comes in here constantly and always wants information in advance of major issues in the Dáil. This is why I took the opportunity to brief him and Deputy Martin beforehand-----

Deputy Catherine Murphy: And not the Technical Group.

The Taoiseach: I might point out to Deputy Adams-----

Deputy Finian McGrath: It was disgraceful; 16 Deputies were ignored.

The Taoiseach: The Garda press office, arising from the Commissioner's own decision, issued its statement at 12.17 p.m. today. I briefed Deputies Adams and Martin at 2:45 p.m. Do not come in and state the Government is running off to journalists. Sometimes the Government is running away from journalists.

Deputy Micheál Martin: That is becoming an increasing phenomenon all right I have noticed.

The Taoiseach: In any event on this particular account Deputy Adams is wrong.

Deputy Micheál Martin: It depends on which Minister of course.

Deputy Timmy Dooley: You will be running away from the doors in a few weeks time.

The Taoiseach: The statement came from the Garda press office itself about the decision

of the Commissioner to retire.

Deputy Gerry Adams: The Taoiseach should have made a statement here. That is my point.

The Taoiseach: That is why I briefed Deputies Adams and Martin at 2.45 p.m. in the knowledge they would ask a question about it, but Deputy Adams is not interested in what I told him. All he wants is another head on a plate. My information for Deputy Adams is the Minister for Justice and Equality, on behalf of the Government, will continue to reform the justice system and will work to introduce an independent statutory authority for An Garda Síochána-----

Deputy Finian McGrath: Turn off the bugs.

The Taoiseach: -----which will bring our system into the modern era where it is transparent, accountable, professional and competent and everybody in the country can have faith in it. This is why I thought it important, as leader of the Government, to bring the information given to me by the Attorney General at 6 p.m. on Sunday to the attention of the Members of the House, having checked the validity and veracity of the issues all day yesterday and all night last night. This is a very serious matter, which is why I offer the opportunity for statements tomorrow. As I stated earlier, the Garda Síochána Inspectorate's report is due to be debated and responded to on Thursday. The Minister for Justice and Equality will be here to answer questions on it.

Deputy Seamus Healy: Before I start my question I wish to tell the Taoiseach he has espoused and stated his Government is leading a democratic revolution, but I regard it as absolutely undemocratic he should have excluded representatives of the Technical Group-----

Deputy Finian McGrath: Hear, hear.

Deputy Seamus Healy: -----from the briefing he gave to other Members of the House earlier this afternoon. He chose to exclude one third of the Opposition and I certainly hope it will never happen again.

My question is on the crisis in the health service. The Government has cut more than €3 billion and 12,500 staff from the health services in recent years. In 2014 a minimum of €619 million and another 2,600 staff will be cut. This is having a catastrophic effect on our services and the resulting crisis is being played out at local level throughout the country. South Tipperary General Hospital is a prime example. It has suffered the loss of more than 20% of its budget, or €11 million, in recent years and more than 100 staff. At the same time hospital activity and patient numbers have increased significantly and the hospital operates on a daily basis at 120% capacity. The number of patients waiting on trolleys and chairs in the emergency department of the hospital is absolutely unacceptable and is reminiscent of Third World conditions. Since the Government came to power, this democratic revolution Government about which the Taoiseach spoke, the number of trolleys and chairs increased from 750 in 2011 to 3,100 in 2013. Over the past weekend patients waited for days for admission. A total of 19 patients were still there on Monday, including a gentleman who had been there since the previous Wednesday and a lady who had been there since Friday evening.

An Ceann Comhairle: A question please.

Deputy Seamus Healy: This is an ongoing situation and the conditions are Third World. The staff simply cannot deal with the number of patients and are struggling to provide a decent

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and safe service. Will the Taoiseach apologise to patients and their families for the conditions they are being forced to endure in the emergency department? Will he immediately instruct the HSE to implement the proposal from the hospital and the HSE south-east to open additional beds at Our Lady's County Surgical Hospital in Cashel, step-down beds and additional beds in South Tipperary General Hospital and provide additional staff in the emergency department?

The Taoiseach: That is a good Second Stage speech but I suggest, given the list Deputy Healy mentioned, that he put questions directly to the Minister for Health in respect of the specifics.

Deputy Seamus Healy: I am asking the Taoiseach.

Deputy Finian McGrath: What about the Technical Group?

Deputy Seamus Healy: The Taoiseach is the leader of the Government and is responsible.

Deputy Brendan Howlin: Stop shouting down.

The Taoiseach: I will certainly convey to the Minister for Health the issues Deputy Healy has mentioned. He gave a long list of ten or 15 issues-----

Deputy Seamus Healy: I asked about a single issue which is underfunding and overcrowding in the emergency department.

The Taoiseach: -----and I cannot recall them all in sequence.

An Ceann Comhairle: Deputy, please.

The Taoiseach: When €16 billion was being spent on the health system almost 600 people were on trolleys in one day. I remind Deputy Healy despite the reductions in allocations for the health service front-line services have been maintained at the very highest level and I always pay tribute to those people working in the front-line services. I disagree with the Deputy for stating that those who provide a service in his county are operating a Third World service.

Deputy Seamus Healy: No; the Government is forcing them to operate like that.

The Taoiseach: As Deputy Healy is well aware, they work long hours at the front line, and he should recognise that. The Government seeks to change the structure from one of a two-tier system that is inequitable, that is too costly-----

Deputy Seamus Healy: The number of trolleys has quadrupled.

Deputy Brendan Howlin: The Deputy is shouting people down.

The Taoiseach: -----that is inefficient, that discriminates against people who do not have money in their back pockets and that denies access to-----

Deputy Finian McGrath: Go up to Beaumont hospital.

The Taoiseach: -----medical attention for people who need it and who do not have the financial facility to buy private health insurance. The Government seeks to move to a single-tier insurance where everyone can have the same level of treatment in respect of the treatment they need. That is the concept of universal health insurance and obviously part of that concerns the structure of primary care centres and the continued provision of sufficient allocations for front-

line services to be delivered to people.

I will take the points raised by the Deputy and will see that the Minister for Health responds to the Deputy. However, it is not a case of going around the country apologising outside every hospital one sees. It is a case of serious changes being made, with hospital groups in different localities around the country with a better range of expertise and consultancy available to them and therefore providing a better service to everyone in each of those localities. That is the intention and, as the Deputy is well aware, it is not always easy to do it overnight.

Deputy Seamus Healy: The policies of the Government and the cuts it has introduced in the health services have quadrupled the number of trolleys and chairs in the emergency department at South Tipperary General Hospital, from 750 in the year the Taoiseach came into office to 3,100 at the end of 2013.

Deputy Finian McGrath: Hear, hear.

Deputy Seamus Healy: I invite the Taoiseach to visit South Tipperary General Hospital to see that absolutely excellent hospital and its excellent staff who are at their wits' end because of the cuts the Government has introduced. If only from the point of view of human decency, the Taoiseach should take action to solve this problem. There is no excuse not to deal with this problem, because the money is available. If one considers appendix 1 of the Health Service Executive's national service plan, one will note that a sum of €30 million has been set aside to "[t]arget additional capacity and capability in areas within acute services which continue to experience increased service demand, particularly in the areas of access across [emergency departments]". Consequently, the money is available.

An Ceann Comhairle: A question please.

Deputy Seamus Healy: It is the Taoiseach's duty to make sure people have a decent health service of quality. I again ask him to visit the aforementioned hospital and, by instructing the Health Service Executive, to ensure the putting in place of additional beds at Our Lady's Hospital, Cashel, and South Tipperary General Hospital, as well as additional consultant, nursing, medical and support staff in the emergency department, because the policies of the Taoiseach and his Government have created a crisis within that department.

The Taoiseach: The Deputy first mentioned that South Tipperary General Hospital was an excellent hospital.

Deputy Seamus Healy: It absolutely is.

The Taoiseach: He mentioned that it had excellent staff, but repeated thrice in his earlier contribution-----

Deputy Seamus Healy: They are being blackguarded by the Taoiseach and the Government.

An Ceann Comhairle: Sorry, hold on a second.

The Taoiseach: -----that it was a Third World facility.

Deputy Seamus Healy: They are being blackguarded by the Taoiseach and the Government.

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The Taoiseach: He stated it was a Third World facility-----

An Ceann Comhairle: Sorry, Deputy; do you mind?

The Taoiseach: -----but now the Deputy tells me it has excellent staff and is an excellent hospital, on which I agree with the Deputy. These are not Third World facilities. I remind Deputy Healy that despite a reduction of more than €3 billion since 2008-----

Deputy Seamus Healy: No privacy and totally inadequate toilet facilities.

An Ceann Comhairle: Please.

Deputy Brendan Howlin: The Deputy will not listen to anyone.

The Taoiseach: -----€3.2 million has been provided to deal with particular elements of patient safety in respect of cochlear implants, as well as almost €2 million for patient-centred improvements in maternity care, an additional €8.3 million for the cancer care services-----

Deputy Seamus Healy: That is not what I asked. The Taoiseach can read his notes forever but he should come to see the situation for himself.

The Taoiseach: -----€2.9 million for organ donation and €35 million extra for 60,000 medical cards.

An Ceann Comhairle: Sorry, Deputy; do you mind?

Deputy Seamus Healy: A Cheann Comhairle, will he answer the question?

The Taoiseach: The Deputy comes into this Chamber and tells the people of south Tipperary that they live in Third World facilities.

Deputy Michael Healy-Rae: That is not what he said.

The Taoiseach: He then tells me in his supplementary question that they have excellent facilities and excellent staff. Deputy Healy should get his facts right before he comes in to make the next case.

Deputy Seamus Healy: The Taoiseach is creating those conditions and the Government has no excuse because it has the money.

Ceisteanna - Questions (Resumed)

European Council Meetings

1. **Deputy Gerry Adams** asked the Taoiseach the discussions he had at the European Council meeting on 19 December 2013; and if he will make a statement on the matter. [55561/13]

2. **Deputy Gerry Adams** asked the Taoiseach the discussions he had at the European Council meeting on 19 December 2013 on European defence capability and common security and defence policy; and if he will make a statement on the matter. [55562/13]

3. **Deputy Gerry Adams** asked the Taoiseach the discussions he had at the European Coun-

cil meeting on 19 December 2013 on economic and monetary union and economic and social policy; and if he will make a statement on the matter. [55563/13]

4. **Deputy Gerry Adams** asked the Taoiseach if he met German Chancellor Angela Merkel at the European Council meeting on 19 December 2013; and if he discussed with her economic and monetary union, economic and social policy; and if he will make a statement on the matter. [55564/13]

5. **Deputy Gerry Adams** asked the Taoiseach the discussions he had German Chancellor Angela Merkel at the European Council meeting on 19 December 2013 regarding bank recapitalisation, the ESM and the timetable for any progress on this matter; and if he will make a statement on the matter. [55565/13]

6. **Deputy Gerry Adams** asked the Taoiseach the discussions he had at the European Council meeting on 19 December 2013 on enlargement, migration and energy policy; and if he will make a statement on the matter. [55566/13]

7. **Deputy Gerry Adams** asked the Taoiseach if he had discussions with the British Prime Minister at the European Council meeting on 19 December 2013 regarding the issue of legacy matters and the way these might be addressed; and if he will make a statement on the matter. [55570/13]

8. **Deputy Gerry Adams** asked the Taoiseach if the issue of US National Security Agency bugging of EU Governments was discussed at the 19 December 2013 meeting; and if he will make a statement on the matter. [55571/13]

9. **Deputy Gerry Adams** asked the Taoiseach if the disaster in the Philippines was raised during the European Council meeting of 19 December 2013; the aid Europe is providing; and if he will make a statement on the matter. [55572/13]

10. **Deputy Micheál Martin** asked the Taoiseach if he had any bilaterals at the December European Council meeting; and if he will make a statement on the matter. [2178/14]

11. **Deputy Micheál Martin** asked the Taoiseach if the Ukraine situation was discussed at the European Council meeting; and if he will make a statement on the matter. [2179/14]

12. **Deputy Micheál Martin** asked the Taoiseach if he has had discussions with President Barroso recently; and if he will make a statement on the matter. [2180/14]

13. **Deputy Micheál Martin** asked the Taoiseach the position regarding the European Council statement following the June 2012 meeting; and if he will make a statement on the matter. [2185/14]

14. **Deputy Simon Harris** asked the Taoiseach if discussions have taken place at a European Council level on addressing the problem of youth unemployment across Europe; and if he will make a statement on the matter. [2193/14]

15. **Deputy Micheál Martin** asked the Taoiseach if youth unemployment was discussed at the December Council meeting; and if he will make a statement on the matter. [2199/14]

16. **Deputy Richard Boyd Barrett** asked the Taoiseach if he will report on the December European summit; and if he will make a statement on the matter. [2215/14]

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17. **Deputy Gerry Adams** asked the Taoiseach if he will report on his meetings with European Council leaders prior to Christmas. [2228/14]

18. **Deputy Gerry Adams** asked the Taoiseach if he discussed the exit of the Irish State from the EU-IMF bailout programme with European Council leaders during the meeting of the European Council on 19-20 December. [2229/14]

19. **Deputy Gerry Adams** asked the Taoiseach if he discussed the issue of the retrospective recapitalising of Irish banks with his European partners in the European Council meeting on 19 and 20 December. [2230/14]

20. **Deputy Gerry Adams** asked the Taoiseach if he discussed the impact of the European Union's commitment to strengthening its common security and defence policy on Irish neutrality with his European partners during the European Council meeting of 19 and 20 December. [2231/14]

21. **Deputy Micheál Martin** asked the Taoiseach if he has met or had discussions with President Hollande recently; and if he will make a statement on the matter. [2310/14]

22. **Deputy Micheál Martin** asked the Taoiseach if he has had discussions or met with the Prime Minister of Latvia; and if he will make a statement on the matter. [2311/14]

23. **Deputy Éamon Ó Cuív** asked the Taoiseach the discussions that have taken place at European Council meetings since he became Taoiseach; the progress made towards the development of a common European defence policy; the co-operation agreed at these meetings on military matters; and if he will make a statement on the matter. [4826/14]

24. **Deputy Joe Higgins** asked the Taoiseach if he will report on the discussions he held during the European Council in December. [7492/14]

25. **Deputy Joe Higgins** asked the Taoiseach if he will report on meetings he had with European Council leaders in December. [7493/14]

26. **Deputy Joe Higgins** asked the Taoiseach if he discussed the issue of the exit of the State from the troika with European Council leaders in the European Council meeting on 19 and 20 December; and if he will make a statement on the matter. [7494/14]

27. **Deputy Gerry Adams** asked the Taoiseach his plans to meet the European Commission President José Manuel Barroso. [8952/14]

28. **Deputy Richard Boyd Barrett** asked the Taoiseach if he discussed the issues of growth and employment at the European Council meeting in December 2013; and if he will make a statement on the matter. [9169/14]

29. **Deputy Gerry Adams** asked the Taoiseach if he will report on his meeting with EU leaders in Brussels on the Russia-Ukraine crisis; and if he will make a statement on the matter. [12754/14]

30. **Deputy Gerry Adams** asked the Taoiseach the bi-laterals he had while attending the EU summit on the crisis in Ukraine; and if he will make a statement on the matter. [12755/14]

31. **Deputy Gerry Adams** asked the Taoiseach if he met the German Chancellor at the EU summit on the Russia-Ukraine crisis in Brussels; and if he will make a statement on the matter.

[12756/14]

32. **Deputy Gerry Adams** asked the Taoiseach if he will report on his meeting with the German Chancellor in Dublin; and if he will make a statement on the matter. [12764/14]

33. **Deputy Gerry Adams** asked the Taoiseach if he raised with the Spanish Prime Minister the recent positive development in the Basque country; and if he will make a statement on the matter. [12765/14]

34. **Deputy Micheál Martin** asked the Taoiseach if he met with Chancellor Angela Merkel; the issues they discussed; and if he will make a statement on the matter. [12782/14]

35. **Deputy Micheál Martin** asked the Taoiseach if the European Council agreement of June 2012 was discussed with Chancellor Merkel on 7 March when they met; if there was a response; and if he will make a statement on the matter. [12785/14]

The Taoiseach: I propose to take Questions Nos. 1 to 35, inclusive, together.

I participated in the European Council on 19 and 20 December last. As Members will be aware, however, since then I have also participated in an extraordinary meeting of Heads of State and Government on Ukraine on 6 March, as well as the spring European Council on 20 and 21 March, where the deeply disturbing situation in Ukraine was again the dominant issue. I will start with our most recent meeting before I go back to the December Council. The extraordinary meeting of European Union leaders in Brussels on 6 March condemned the unprovoked violation of Ukrainian sovereignty and territorial integrity and called on the Russian Federation to withdraw immediately its armed forces. We agreed on a three-phase roadmap of measures that would be taken against the Russian Federation, depending on its actions. The deteriorating situation and the Russian annexation of Crimea was, of course, a central focus at the spring European Council last week. In the absence of any steps towards de-escalation by Russia, the European Council took additional measures against Moscow. We decided to cancel the next EU-Russia summit and agreed to expand to 33 the number of listed individuals to be subject to a visa ban and asset freezes. In addition the European Commission was asked to evaluate the legal consequences of the annexation and to prepare possible targeted measures. The question of the nature and scope of measures is always a complex and difficult issue and, as I stated in Brussels, inevitably will have negative economic consequences for the EU, including Ireland, as well as for Russia. It is only right, therefore, that we prepare such decisions carefully. The political elements of the EU's association agreement with Ukraine were also signed at last week's meeting. We welcomed, in addition, the Ukrainian Government's commitment to ensuring that governmental structures are inclusive and reflect regional diversity and to ensure full protection of the rights of persons belonging to national minorities.

Of course, the agenda for last week's meeting was wider than Ukraine alone. It had an economic focus and covered the European semester, Europe 2020, industrial competitiveness, banking union, taxation, climate change and energy and external relations.

Banking union remains a clear priority for the Government. My colleagues and I were particularly pleased last week to welcome the agreement reached with the European Parliament on the single resolution mechanism, which will be a cornerstone of that banking union. We now must see the formal adoption of the mechanism before the European Parliament rises for elections. The European Council held useful discussions on the European semester, the planned review of the Europe 2020 strategy and industrial competitiveness. We agreed on the importance

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of ensuring the right overall framework to promote a strong and competitive industrial base to drive economic growth and jobs.

Leaders also held a first policy debate on the framework for climate and energy to 2030. We agreed on the urgent need to further analyse the implications for member states of proposals for emissions reductions and renewable energy. I made clear that for Ireland, account must be taken of the particular role of agriculture, and the President of the Council was reassuring on this aspect. The European Council will take stock of progress on these issues at its June meeting with a view to taking a final decision by October 2014.

The Council also tackled the issue of EU energy security, which has an added urgency in view of the Ukraine crisis. The Commission has been asked by June 2014 to prepare a detailed analysis of this as well as a comprehensive plan to reduce the EU's energy dependence. I will report to the House on the European Council tomorrow and I look forward to addressing the situation in Ukraine, as well as some other agenda items, in more detail.

I will return for a moment to the December European Council, the subject of a question here, which had a lengthy agenda. It covered Common Security and Defence Policy, CSDP, economic and social policy, economic and monetary union, migration, enlargement and energy. For the first time since the entry into force of the Lisbon treaty, the European Council held a thematic debate on defence. Extensive conclusions were reached, identifying priority actions for stronger co-operation. I reported in detail to the House on January 21 on the outcome of this debate, as well as the broader discussions among leaders. I do not propose to repeat this in detail here. The December European Council reviewed the economic situation and progress on banking union, as well as in implementing the compact for growth, jobs and competitiveness. The meeting identified the main features of the partnerships for growth, jobs and competitiveness to support structural reform, with a view to concluding discussions by October next year.

The Council also addressed some of the main foreign policy issues, including the situation in Syria and the Central African Republic, as well as the Eastern Partnership, the situation in Ukraine and the WTO. The allegations of US National Security Agency surveillance were also discussed.

There was no discussion at the December European Council of Typhoon Haiyan which had struck the Philippines in November 2013. However, the European Commission and EU member states have allocated more than €178 million in humanitarian and early recovery assistance to the survivors of Typhoon Haiyan. Ireland was one of the first countries to respond to the natural disaster. Following an initial allocation of €4 million, the Government last week, through the Minister of State at the Department of Foreign Affairs and Trade, Deputy Joe Costello, announced a further contribution of €3 million. The additional funding will support local efforts to build shelters and re-establish people's livelihoods, particularly in fishing and agriculture, and protection activities for those traumatised by the disaster.

While at the European Council meeting in December, I also had informal contacts with a number of colleagues. The House will be aware that I participated in a remembrance event in Messines on the morning of 19 December with Prime Minister Cameron. Again, I have reported separately to the House on this event.

Many of my colleagues on the European Council and from the Commission were in Dublin from 5 to 7 March for the European People's Party meeting. I had informal contacts with them

at this event, as well as at the 6 March meeting on the situation in Ukraine and at last week's European Council. I was due to hold a working breakfast with President Barroso on the morning of 6 March, but it had to be postponed owing to the meeting on the situation in Ukraine and it was not possible to find an alternative time.

I had a meeting with Prime Minister Rajoy of Spain on the evening of 6 March which, again owing to the meeting on the situation in Ukraine, was postponed from earlier in the day. We discussed the economic situation in Europe, especially the challenge of youth unemployment, as well as SME financing, banking union, the Single Market, trade and energy. The Basque country was not discussed at the meeting and, as the Government has stated on many occasions, we continue to follow the situation closely, including the recent statement by the international verification body. We have repeatedly said we support any development that can lead to definitive peace in the Basque country and welcomed the declaration by ETA in that context. We continue to hope for further progress.

As Deputies will be aware, I also held bilateral consultations with German Chancellor Merkel in Government Buildings on 7 March. Over a working lunch, I updated the Chancellor on the economy and we took stock of progress on banking union and the issue of legacy bank debt. We also discussed preparations for the March European Council and the wider jobs and growth agenda, including the transatlantic trade and investment partnership.

An Ceann Comhairle: I ask for Deputies' co-operation because a number of issues have been raised in this group of questions. I suggest the first supplementary questions relate to the December Council meeting. If we get that issue out of the way, we can come back to it again. Is that agreeable to Deputies?

Deputy Gerry Adams: I was going to limit myself in this round to two supplementary questions. If I get a chance, I will come back in and ask another one.

An Ceann Comhairle: Members would prefer to take everything together.

Deputy Micheál Martin: Yes.

An Ceann Comhairle: All right, if that is the way it is to be.

Deputy Richard Boyd Barrett: What numbers have been grouped?

An Ceann Comhairle: Nothing has been grouped. The Taoiseach has answered Questions Nos. 1 to 35, inclusive, which are all related to European issues. The first few were about the December Council meeting. I am open to the House deciding on the matter.

Deputy Gerry Adams: I would like to ask supplementary questions on the situations in Ukraine and Crimea and in the Basque country. In regard to the situation in Ukraine, the Taoiseach has outlined the sanctions imposed, how these matters were discussed and how he is going to continue to work with his colleagues. The sanctions will have a very limited impact on the Russian state because of the extent to which the European Union is dependent on gas and oil supplies from Russia, as I think the Taoiseach acknowledged in his response, and that has its own economic dynamic. The Taoiseach will recall that the Russian ambassador pointed this out when he warned about the economic consequences for the State if it supported further EU sanctions against Russia. Perhaps the Taoiseach might give us his view of what the Russian ambassador said.

It is also very clear that the future of Ukraine is a matter for its people there, yet there is significant support in Crimea for unity with Russia. This concerns the issue of the application of the principle of self-determination which in the particular region has had some difficulties historically. Does the Taoiseach accept that the principle of self-determination and democratic choice must be at the heart of any solution - we cannot impose solutions, settlements or arrangements - and that dialogue is key in that regard?

That brings me to the recent development in the the Basque country. It is very disappointing and beyond me why the Taoiseach did not refer to it, given the success of the peace process here, even though there is still work to be done, as he has acknowledged. Ireland is in a position to speak with some authority on the business of making peace and not raising the issue with the Spanish Prime Minister was a missed opportunity. Again, dialogue is required. The Spanish state has not been as supportive of peace efforts as it should be. In February an international verification committee confirmed that ETA had taken the first steps towards complete disarmament, but members of the committee were then arrested and brought before a court to be interrogated about what had occurred. That is because the law which is draconian and a product of the conflict in the country - it is a bad and an emergency law - was brought into focus. As we know from our own situation, that is no way to make democratic advances. There are the issues of prisoners, prisoners' families, the dispersal of prisoners in prisons across a very wide area and the imprisonment of Arnaldo Otegi, one of the leaders of the peace process in the Spanish state and the Basque country. What I am arguing for is for the Taoiseach to use his good offices, our international reputation and the experience we have gained to persuade, encourage and request the Spanish state and the Spanish Prime Minister to embrace the process in a positive way. I welcome the Taoiseach's welcome for the announcement that ETA has begun a process of disarmament, but I ask him again to use his influence to encourage everyone involved to respond in a positive way.

The Taoiseach: In respect of the situation in the Basque country, because of the situation in Ukraine, we did not have an opportunity to have the extensive bilateral meeting we would have wished to have had. The Spanish Government has stated it is committed to the unilateral and unconditional dissolution of ETA and that there is nothing to talk to the group about. The President of the Basque country has noted that ETA has begun to disarm in an unconditional and unilateral manner and that while this is an important step, it is not sufficient. The Deputy can take it that, through the Irish Embassy in Madrid which monitors all of these developments, we will keep in close contact with the Spanish Government and other connections and avail of any opportunity that presents itself to outline our experience in building, in a very difficult period, a fragile but lasting peace, which is of importance to everybody.

On the situation in Crimea and Ukraine, Ambassador Peshkov was called in again last week to the Department of Foreign Affairs and Trade and told clearly that the Government and the Irish people did not recognise the illegal referendum held in Crimea, as a result of which Russia had annexed that part of Ukraine. At the discussions that took place in Brussels, a three-phase approach was agreed. We discussed how the freezing of assets and the imposition of visa restrictions would impact on the individuals involved. Clearly, the United States was making arrangements to do something similar in parallel.

This will change the nature of the discussion in this country about Europe and about energy in particular. The European Union cannot continue in its dependence on Russia. The decision of the European Council meeting last Friday, in respect of climate change and energy, was to press ahead with the development of the southern corridor and with further interconnectors in

the Mediterranean region in respect of gas, as well as an expansion of the possibility for gas from Spain and Portugal to be supplied to other parts of Europe, namely around the Pyrenees and onto the French system.

We have heard other leaders speak about their dependence on Russia for energy. The Ukrainian Prime Minister, Mr. Yatsenuyk, made the point that Gazprom was about to increase the cost of gas per cubic metre from €200 to over €400 and that other countries were paying that for their freedom. That is why the political elements of the agreement with Ukraine were signed by all members of the Union on Friday morning in Brussels, reducing the impact of tariffs and restrictions on goods being exported to the EU from Ukraine. Some countries in the region which are members of NATO are completely dependent on Russia for equipment and spare parts. As the Danish Prime Minister remarked to me, it is a case of living with Russia. During the Danish-led effort in Syria to remove chemical weapons, for example, the first point of contact for the Danes was with a Russian frigate. It is a case of not closing off the options and of asserting the fact that we have no difficulty with the Russian people. The point is that the political leadership in Moscow has made a unilateral move in acquiring that part of Ukraine known as Crimea. As Deputies will know from history, this country lost 30,000 fighting men in the Crimean War in the 1850s.

There was a seriousness about the meeting and general agreement that this has gone too far. People were very anxious to take steps that would impact on Russia in a way that had never been done before. The European Commission was asked by the European Council to prepare a report on further and broader economic sanctions that might be applied which would be really hurtful. However, it must be said that economic sanctions cut both ways and can have an impact on this country too. There are 200 companies in Ireland which supply goods and materials to Russia and these are important considerations.

Countries that were formerly part of the Soviet Bloc and which border Russia are fearful of invasion and are acutely aware of their dependence on Russia for their energy needs. The nature of the debate on energy independence and energy dependence will change as a result of what has happened. We can only hope that the Government of Ukraine will hold the promised free and fair elections in May. Ukraine needs cash, however, and it needs it now - a sum of €2.5 billion is required to pay for gas as well as to meet wage bills and so forth. At the meeting in Brussels the EU High Representative, Ms Ashton, presented a list of the requirements of the Ukraine army, which included shoes and jackets and all of the other basics that a standing army would need, giving an indication of how ill-equipped the army is to defend the country. It was a serious meeting with serious people putting a strategy in place. It was agreed that if there is any more escalation of the situation, broader economic sanctions will apply and will be implemented.

Deputy Micheál Martin: We are dealing with questions Nos. 1 to 35, which address a broad range of issues.

After last December's meeting of the Council of Europe the Taoiseach said again that all of the agreements meant that the toxic link between sovereign and banking debt had been broken. What he has yet to do, however, is to explain how this is actually the case. It is a year and a half since the Taoiseach and the Tánaiste declared victory on this point and spoke about a seismic shift and so forth. I have asked the basic question on a number of occasions, namely, "what exactly is Ireland looking for?"

The Taoiseach: Pardon?

Deputy Micheál Martin: What exactly is Ireland looking for in terms of the debt situation and the breaking of the link between sovereign and financial sector debt?

Yesterday my party revealed letters from Mario Draghi to our finance spokesperson, Deputy Michael McGrath. Essentially, Mr. Draghi said that he does not agree with the Government's claim that everything is progressing fine with Ireland's banks. If one reads his letter, in response to Deputy McGrath, one sees that he is distancing himself significantly from the Central Bank's assessment of the capital adequacy of our banks. This followed a letter we wrote to him in the aftermath of his comments to the effect that the impaired loans in our banks needed swift and direct action. He implies in his correspondence that further capitalisation may be required. Can the Taoiseach explain how that sits with the Minister for Finance's claims, as well as his own claims, that Ireland will be reimbursed retrospectively for past recapitalisation. Furthermore, the banking union will provide enough money to cover less than 1% of the capital base of the covered banks. Does the Taoiseach believe that is adequate? Is he happy with that? Does he believe it is an adequate amount? I think it is ridiculously low and cannot, in any shape or form, be considered adequate in terms of a resolution mechanism into the future.

On the issue of Ukraine, I welcome the decision to go to stage three sanctions. Russia's behaviour effectively partitions a former colony and that cannot be let stand with what I consider to be very weak measures, diplomatically. I get the sense that the United States is leading the charge and that the European Union is divided between those who want tougher sanctions and those who want to delay the imposition of same for various economic reasons. The Taoiseach's comments about trade some moments ago suggest that the Russian ambassador's public warnings to the Government last week are hitting home already. What position did we take at the European Council meeting? Did we support those who were looking for stronger sanctions, those who advocated holding on and waiting or did we just wait for a final agreement to emerge and jump on that particular line? We did not take any public stand on it, to the best of my knowledge.

The Taoiseach referred to the issue of surveillance in his reply. At the time of December's European Council meeting, the bugging of European governments was a very big issue. Much of that surveillance was carried out by the British facility in GCHQ. Other countries have been far more direct than us in asking about bugging of conversations and in demanding transparency from the United States and others. Have we done the same and specifically, has the Taoiseach asked the British Prime Minister whether the British Government bugged Irish communications during sensitive negotiations on Northern Ireland? Did the Taoiseach have that discussion with David Cameron?

The Taoiseach: On Ukraine and the divisions at the European Council regarding sanctions, a range of views were expressed. Some were very forthright in saying that we should move to level three sanctions quickly, while others disputed that, particularly those countries which are close to and dependent on Russia. Ireland supports the decision of the European Council in respect of the sanctions against Russian individuals and participated in the discussion about what areas might be included in a broader economic plain, be they economic or financial. There is a recognition, however, that no matter what sanctions one imposes, they work both ways in that they will impact on all countries involved. It would be far better to have a situation where Russian understands what it has done.

Another point made was that the winners should be the people of Ukraine in acting as a buffer between the East and the West. Over €11 billion in funds is on the table from the European Union and the Commission. The point made by several speakers at the Council meeting was that the conditions that applied to many of the IMF programmes for Ukraine could be very difficult. Obviously, one needs unity on this position to secure the overall unity of Ukraine. It is not true to claim Ireland did not take a position on this matter. We have been very clear about it - we support the sanctions.

Deputy Micheál Martin: Does the Government believe the sanctions should be stronger?

The Taoiseach: If they move to the next level, we will participate. Decisions were made the last day on extra individuals to be restricted, visa liberalisation and a paper being prepared on broader options if there was going to be a further escalation. Ireland is only a small country, but it has a trade figure of €1 billion with Russia where 200 Irish companies provide goods and services. Obviously, there are other markets that we have to go after.

Deputy Micheál Martin referred to GCHQ. When one is dealing with terrorists or subversives, there is, clearly, an understanding one has to have information available on what is necessary to prevent atrocities from taking place. The level of co-operation between the Garda and the PSNI is exceptionally high. The Deputy will appreciate that on several occasions in the past 18 months bombs and other potential threats have been thwarted.

Deputy Micheál Martin: I was referring to the bugging of European governments.

The Taoiseach: As far as I am aware, the United States stated it did not have any listening post in Dublin. I did not detect evidence of, as the Deputy called it, GCHQ bugging Government Buildings.

Deputy Micheál Martin: Did the Taoiseach ask the British Government if it had bugged us?

The Taoiseach: I cannot recall if I asked that specific question. However, I did raise the issue of surveillance, bugging and the protection of private data.

The Deputy also referred to breaking the link between sovereign and bank debt and what Ireland was looking for in that regard. He is aware that Ireland was first over the edge, with no tools or mechanisms to deal with it. We had to borrow €64 billion, half of it gone with the promissory note agreement, with the support of the European Central Bank. European banking union, with a single supervisory mechanism, SSM, and a single resolution mechanism, SRM, are all part of the process leading to the point where the Council decision of 29 June 2012 to break the link and the possibility of recapitalisation directly of banks can be followed through. Up to €80 billion has been left aside out of the ESM, European Stability Mechanism, to deal with the concept of direct recapitalisation. We cannot make any case on this until all of these facilities are in place, which should apply from November this year. The European Presidency and the Parliament came to an agreement on the single resolution mechanism, its regulation and the IGA, intergovernmental agreement, on 20 March. The text of the SRM was further refined in a trilogue on Friday, 21 March. The SRM regulation will be submitted to COREP, Common Reporting, on 26 March. It is expected that the IGA will be finalised through the intergovernmental conference as quickly as possible. Most people did not expect this to happen because they had doubts about how effective the Greek EU Presidency would be. Greece was commended for its diligence in getting it across the line.

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Mutualisation will occur over eight years, with contributions also taking place over eight years, with 40% in year one, 20% in year two and the remainder in equal instalments over the remaining years. It is understood contributions will follow a linear trajectory from year one, 12.5% each year, until the target is reached at the end of eight years. It was originally meant to be over ten years.

The European Central Bank will be the supervisor within the SRM. The supervisory board should be able to assess whether a credit institution is failing or is likely to fail. Therefore, in its executive session it may determine whether resolution is required, but only after having previously informed the ECB about its intention and only if the ECB, in three calendar days after receiving such information, does not make such a decision.

There is also the role between the Council and the Commission in what is determined by the Meroni doctrine. The Council maintains a role, but it is limited to the existence of a public interest and the use of the fund. The Council can only approve or object to a Commission proposal without actually amending it. The role of the plenary session in the board has been limited, depending on a certain threshold being reached. The plenary session may only adopt a resolution scheme if in the support of the fund in that specific resolution action is required above the threshold of €5 billion for which the weighting of liquidity support is 0.5%. It can also evaluate the application of the resolution tools. The legal basis for this is Article 114 of the Treaty on the Functioning of the European Union.

Ireland is looking for the structure to be in place where we can make a case, based on the decision of 29 June, for recapitalisation of the banking system. This is still very much on the table. I was glad to see these other sections being put in place which will allow the complete structure for banking union to be followed through. It is expected that the Parliament will approve it in the next few weeks.

Banks in the member states will contribute to the SRM fund. This reflects the fact that in the integrated financial markets any financial support to resolve a bank issue benefits financial stability and the health of other banks in all member states. These contributions will be calculated in a way that reflects different types of bank and their business models. Contributions will be raised annually and will be *pro rata* through the amount of liabilities, excluding own funds and covered deposits of all the institutions authorised in participating member states. Contributions will also be risk-based, reflecting different risks inherent in different types of banking activity. Progress was actually made and we do expect it to be finalised, with the structures being in place by mid-summer. We can then deal with the negotiations on the decision of 29 June.

Deputy Micheál Martin: I have a brief supplementary.

Deputy Richard Boyd Barrett: It is actually our turn.

An Ceann Comhairle: Give Deputy Micheál Martin one minute. Deputy Richard Boyd Barrett will get in; do not panic.

Deputy Micheál Martin: The so-called banking union will only provide enough money to cover less than 1% of the capital base of the banks. Is that adequate?

The Taoiseach: Obviously, it was an agreed figure. We will be happy if the banks stand up to the stress tests which will take place later this year. We hope the fund in place will be adequate. However, these are matters that will need to be reflected upon as time passes. What

is important is to get agreement on a structural fund and to make it work.

The European Central Bank will be responsible for the SSM and will begin to supervise all of the major banks in the eurozone and those member states which choose to join the mechanism. The ECB, as the common supervisor will take over the responsibility for the banks from national central banks from late 2014. Those national central banks will continue to play an important role, but the ECB will have the ultimate responsibility for the system. This provides for a differentiated approach to supervision, depending on the size and significance of the banks. It provides for equal treatment for the euro area and the non-euro area and member states so as to allow banking union to be attractive to all member states, thereby protecting the Single Market.

While there will be varied views about the adequacy of the fund -----

Deputy Micheál Martin: Nobody thinks it is adequate.

The Taoiseach: The first thing is to get the structure in place and make it work. Then, these issues can be reflected on as time goes on.

Deputy Richard Boyd Barrett: In his discussions on the economic situation in Europe at the European Council, did the Taoiseach raise the issue of the property sector, housing and homelessness? The reason I ask this is that if we were to sum up in a few words the cause of the European and global economic crisis, it could probably be summed up as “property speculation in the area of housing”. In the Taoiseach’s consideration or in that of his colleagues in Europe, is there any awareness of issues about which I have been trying to ring an alarm bell for a year and a half, that with real estate investment trusts, rising rents, growing homelessness and so on, we are starting to do it all again. We are starting to repeat the mistakes we made in the area of property and housing that led to the bubble and the crash that beggared the people of this country and brought the European economy close to the brink.

I find it extraordinary that in the reports and discussions on the situation we talk about banking union, stress tests for the banks and the viability of the banking system etc. It is all about the banks. We all know the banks want property values to rise. It is in their interests that rents rise, because this increases the value of property and their balance sheets look good. The human consequence of inflating the property market again to benefit the banks is that people are being made homeless. This is not just an Irish problem, but the problem is particularly acute here because property was so central to what crashed our economy. This is happening in Greece, Spain and is starting to happen elsewhere.

As cynical as I am about the neoliberal dogma that dominates European political and economic thought, even I cannot believe that only six or seven years after the crash caused by this issue, it is being stoked up again. I must point out that the Taoiseach’s comments, while in New York, encouraging American investors in the idea of making a killing on the Dublin property market were alarming and dangerous, because he was talking yet again about a crisis -----

An Ceann Comhairle: I remind the Deputy this is Question Time.

Deputy Richard Boyd Barrett: -----as an opportunity for investors to make money. However, this is a human crisis that lies at the heart of our economic problems. In his discussion with our European counterparts, is there any awareness on the Taoiseach’s part that treating property as a matter for speculation, particularly the area of housing, is dangerous? Is he aware there are dangerous signs a property bubble could be beginning to emerge again in this State,

fuelled by the policy of wanting to restore the banks' balance sheets and by the narrow concept of what banking is about? Even in America, the Federal Reserve Bank has a wider mandate than the ECB to ensure that areas such as employment and keeping a roof over people's heads are considerations for banking policy. US banking policy is not a model one would want to follow, but even the US has some awareness that there must be a wider mandate.

On Ukraine, I agree the Russian invasion is unacceptable. The Russian empire has long been the prison house of small nations, particularly in the areas between Russia and Europe. I agree that carrying out referendums under the barrels of tanks and guns is not a legitimate manifestation of self-determination and should be condemned. However, I find it worrying in the extreme that the Taoiseach seems to be the most gung-ho on the European side in portraying this conflict as the bad guy Russians and the good guy Ukrainian Government with Europe backing it. The other of this equation is equally nasty. There is no doubt the former Ukrainian regime was rotten, corrupt, repressive, dictatorial and backed by a nasty regime in Russia under President Putin was pretty vicious to its population. However, we have also had sight of supporters of one of the elements of the Ukrainian Government as out and out fascists - attacking TV presenters in Ukraine.

An Ceann Comhairle: Will the Deputy please put his question?

Deputy Richard Boyd Barrett: We seem to be lining up with dangerous people who have a history of corruption and dangerous far right wing political ideas and saying these are the good guys. We should not be doing this. We should be responsible and recognise this is a complex situation where big powers are manoeuvring for self interest and stirring up ethnic and national divisions which could be very dangerous and are reminiscent of what happened at the beginning of the 20th century leading to the First World War. I believe the Taoiseach is being irresponsible in presenting this as a simple black and white, good guy bad guy and is doing so in a way that could be quite dangerous.

The Taoiseach: Maybe the Deputy should apply to participate in the OSCE monitoring group. Some 500 civilians with expertise are required to monitor violence, human rights issues and aggression against Ukrainian people, whether minorities of different countries or not. There are Romanians, Poles, ethnic Russians and Ukrainians, a complete mix of people, in that country and the Deputy's stirring words might fit in very well. I am quite sure High Representative Ashton may be willing to consider an expert like the Deputy for this.

I agree that the attack on the television station and the television broadcaster was completely unacceptable. It was unacceptable to the government in the Ukraine also. Some people in this democracy certainly stray across the line at times. The Deputy may know some of them, but I do not know whether he does as I believe he is a pacifist at heart, despite his tendency to take part in marches. Ireland is not gung-ho -----

Deputy Richard Boyd Barrett: Please do not equate marching with what those thugs were doing.

The Taoiseach: I make the point that Prime Minister Yatsenyuk came to the European Council meeting twice in Brussels and made the point that when Mr. Yanukovych left Kiev, having privatised the presidential household, it was not burned or looted by the people of Ukraine, that there is no evidence of people being beaten up, raped, robbed or tortured across the country. The Ukrainian population was very civilised, despite the difficulties they faced.

It is not right for the Deputy to come in here and say that Ireland is the most gung-ho of all the European countries and that it sees this as a black and white issue. What we contributed to was a debate, where we were prepared as a member of the European Union to sign the political elements of the agreement with Ukraine so that the people operating in Ukraine could export at lower tariffs to the European Union and thereby create some semblance of economic activity and give some hope to the people.

The Deputy mentioned the United States and Europe in terms of banking and all the rest.

Deputy Richard Boyd Barrett: I mentioned housing.

The Taoiseach: Things have changed. We are no longer giving out 100% mortgages. We are acutely aware of the pressure in the housing area, particularly in the greater Dublin area and some of the cities and larger towns around the country.

5 o'clock

It has not spread with the same momentum. That is why the Government has worked in recent weeks to put together a realistic, practical response to the construction sector, which is not contributing to job creation and the general economy to the extent it should. Deputy Boyd Barrett is aware that it used to contribute 25% of GDP when it was building 100,000 houses while only 30,000 were needed. It is now down at 6% or 7% and it is building 6,000 or 7,000 houses when we need 25,000 or 30,000. We need to get from where we are to where we want to be without creating a further bubble. As Deputy Boyd Barrett pointed out, it is a seller's market in certain areas of Dublin because demand exists there. I notice the property pages of some of the newspapers are expanding again with the houses that are available.

Deputy Richard Boyd Barrett: What is the Taoiseach going to do about it? He should build some council houses.

The Taoiseach: It is very important that there be a functioning banking system. That is why we have great regard for what the credit unions and smaller operators do. That is why there has been an increase in big firms applying for commercial banking licences so that firms that use their equipment can have access to credit. That is why the budget changed the regulations for thresholds for access to credit and VAT thresholds for small firms. That is why the motor industry is facilitating finance for vehicles which is coming from places other than mainline banking. That is why the Minister for Finance, Deputy Noonan has said he is open to suggestions for a third banking force in the country so there can be competition for the provision of credit.

We are acutely aware of the housing provision problem and the Government will respond to that in the next couple of weeks with a comprehensive response for the construction sector. Deputy Boyd Barrett knows how important it is; so do we. I know the pressures on people, many of whom have families and are living in apartments that are too small and want to get a detached house. They need space and the supply of houses is not there.

Deputy Richard Boyd Barrett: Do you think tax breaks for speculators-----

An Ceann Comhairle: Would you please speak through the Chair, Deputy? Thank you. There are rules in this House and they apply to you equally as they do to everybody else.

Deputy Richard Boyd Barrett: I have a supplementary question.

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An Ceann Comhairle: I call Deputy Higgins.

Deputy Richard Boyd Barrett: So I do not get the same-----

An Ceann Comhairle: No, you do not, actually. You had two questions. Deputy Martin had ten or 15 questions.

Deputy Richard Boyd Barrett: I will put in ten questions next time.

Deputy Joe Higgins: Tens of thousands of mainly working-class youths on this island were slaughtered in Europe as a result of the rivalry between major imperial powers jockeying for influence, territory and markets when that rivalry exploded into the First World War. Has the Taoiseach learned nothing from the history of our own people and of small nations in Europe? The Taoiseach fully supports the policy of the EU towards Ukraine. Is it not obvious to the Taoiseach that the EU was avariciously pushing its own selfish economic and political agenda in Ukraine to trump the equally avaricious Russian elite represented by President Vladimir Putin and company? Of course the ordinary Ukrainian people detested the rotten Yanukovich dictatorship but is that justification for the EU to collaborate to the hilt with right-wing, semi-fascist, repulsive, xenophobic and wholly anti-progressive political forces such as Svoboda and Right Sector? The EU is conspiring with these forces to be the cat's paw of European union to advance its economic agenda within Ukraine. Does the Taoiseach support that?

Russia should be condemned for its interference in Ukraine, but does the Taoiseach not recognise the hypocrisy of his Government and the EU in pushing for sanctions when they uttered not a word against the far more bloody intervention of the EU's allies, such as the United States and Great Britain, in Iraq for example? What sanctions did any Irish Government ever support against the United States or Britain, Mr. Blair and President Bush, for the bloody, criminal invasion of Iraq that has left hundreds of thousands of people dead? Is the Taoiseach satisfied the new Government in Ukraine, which he and the EU hail as a great and new democracy, has installed billionaire oligarchs as regional governors throughout Ukraine? How does it serve the interests of the ordinary Ukrainians, working-class, peasants and poor, to install oligarchs who robbed blind the resources of the country taking advantage of the collapse of the revolting Stalinist regime?

For the poor people of Ukraine, now in the tender embraces of the troika or its equivalent, what kind of future exists in terms of lifting them out of the poverty and hardship that exist for so many when an even worse neo-liberal economic regime is to be installed? Will the Taoiseach not recognise that the people of Ukraine have the right to be left alone from interfering imperial powers, whether Russia or the EU, to decide their own future without this type of meddling, behind-the-scenes string pulling, economic pressure and blackmail from both Russia and the EU? Would the Taoiseach not state those as principles in opposition to the hypocritical policy that is being followed?

The Taoiseach: Deputy Higgins should bear in mind that the people of Ukraine wanted to join with Western countries for the development of their economy. Mr. Yanukovich decided he should do deals with Russia over their heads and the people rebelled. Mr. Yanukovich left and his party in government changed its view. Therefore this is not meddling by the EU but the invitation of the Ukrainian people and the Government in Kiev to sign political agreements with the EU instead of with Russia. It is not a case of invasion or pressure by the EU to force them to look West. I agree with Deputy Higgins that the winners here should be the people of

Ukraine. The question is whether they will be given the right to determine that in their forthcoming elections.

In Ossetia, Transnistria, Moldova and Chechnya, Russia has given passports to ethnic Russians and sent people in to take over at the equivalent of council offices and block the streets of the towns, provoking incidents and creating a need for protection. That is why protectorates have grown up, with President Putin's stated ambition of restoring the Union of Soviet Socialist Republics, USSR, to its former glory. That is why the people of Ukraine said they wanted to open their doors and borders to the EU. I disagree with Deputy Higgins's argument that Europe was forcing the pace. Europe was requested, invited and encouraged, and in response it encouraged the people in Ukraine to do business with the West. The oligarchs Deputy Higgins mentioned are very favourable in the eastern Ukraine region towards the Kiev Government and have an interest in seeing their people are able to do business with the EU. We do not want any more situations of subsidised gas, which created billions of euro for particular people over the past number of years.

Deputy Higgins argued that Europe has meddled in the affairs of Ukraine, but a number of years ago the *per capita* income of Ukraine and Poland was the same, while now the *per capita* income of Poland is many multiples of that of Ukraine. That is why the people of Ukraine aspire to getting out of the position in which they find themselves - so they can have greater prosperity, development of the economy and the right to live and have jobs.

Everybody has a right to be left alone, but that is not what happened in Crimea. I am well aware of the events of the First World War, what happened in Sarajevo and the slaughter of so many mainly young men in the so-called war to end all wars. If Lord Raglan, Lord Lucan and General Nolan had got their directions correct, we might not have lost the Light Brigade at the Battle of Balaclava in Crimea, over 130 of whom were Irish horsemen. The Deputy knows those names from history.

I do not accept that this is a case of Europe wanting to barge into Ukraine and argue that the country must join the Union. This was the wish of the people in Ukraine and it was not respected by the then President Yanukovich, so the popular revolution left him to flee to eastern Ukraine, with the government in Kiev focusing on the West. Russia clearly does not like this and it made its move into Crimea. As a response, the European Union and other countries are imposing various types of sanction. These are to counteract illegal action that is to the detriment of freedom of democracy. It is a response to the invasion of the territorial integrity of Ukraine. This territory was handed over by Khrushchev in the 1950s and has now been annexed again by Russia. This matter will continue to be a source of much difficulty in the time ahead.

An Ceann Comhairle: I call Deputy Adams.

Deputy Joe Higgins: I have a brief supplementary question.

An Ceann Comhairle: Deputy Adams has 19 questions and I am obliged to allow him in again.

Deputy Gerry Adams: I bring the Taoiseach's attention to Question No. 7, which asks if the Taoiseach discussed with the British Prime Minister legacy matters and how they can be addressed. The talks with Dr. Richard Haass and Professor Meghan O'Sullivan concluded and although I very much welcomed the positive comments by the Tánaiste in January on these proposals, that was months ago, and there has been no progress whatever since. The Taoise-

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ach may have heard at the weekend that the former Church of Ireland Primate, Robin Eames, warned politicians in the North and both governments that unless the issues of the past and the problem of parades and flags are dealt with, they will never be resolved. None of us wants to see that. It is my strong contention that the two governments must take a hands-on role in this matter, with the Irish Government acting as an equal partner with the British, or there will be a real danger that the potential and opportunity created by the Haass and O'Sullivan talks will be lost.

Is the Taoiseach conscious that there has been no progress whatever on these issues and that they need to be dealt with? We cannot wait until after the next local government elections or anything else. The governments must be very focused on the matter.

The Taoiseach: I share the Deputy's view. I went to the consular offices in New York to speak with Dr. Haass last week and I had a good conversation with him regarding his reflections on the talks and the efforts made by him and Professor O'Sullivan to make progress. Dr. Haass is coming to Tipperary for the peace prize later.

Deputy Gerry Adams: Yes.

The Taoiseach: He intends perhaps to make a comment on his analysis of what has happened. I note former President Clinton's comments in Derry that we should finish the job. He clearly put the point that this is the responsibility of the leaders of the parties in Northern Ireland, of which there are five.

Deputy Gerry Adams: I met Dr. Haass and former President Clinton, but I am asking about the Government's role.

The Taoiseach: The invitation to Dr. Haass came from the First Minister and Deputy First Minister. The Deputy's party endorsed and accepted all the findings of the Haass talks and wants them implemented, but others did not. It is now a case of leadership and focusing on where progress can be made and the differences arising. The Government has indicated it will actively support the parties in Northern Ireland in making progress, and the Tánaiste has been very active in this regard. I and the British Prime Minister at Downing Street have recommitted to this and we intend, in so far as we can, to support the goal visibly. Ultimately, as the Deputy knows, people may want to play some games before elections take place. The issue is far too serious for that. We will support the efforts of parties, including the Deputy's, to make further progress arising out of some of the platforms that the Haass talks brought about. There was some progress and he was reasonably satisfied that new platforms were built for some elements. It is not satisfactory that the process has not yet ended.

The Deputy is acutely aware that young people in Northern Ireland do not want to see a solid lump of older politics stuck in the rut of the past that does not allow people to focus on a new and exciting future. There are some very good things happening in Northern Ireland and, despite their differences, the First Minister and Deputy First Minister have been around the planet seeking investment for jobs and so on in Northern Ireland. There are some very good opportunities arising in that regard, and we support that, along with cross-Border education, health, infrastructure, etc. We will continue to be supportive. The politicians and leaders of the day will say what further progress can be made and whether we want to continue being locked in the prison of the past, which will stunt the opportunities for young people in Northern Ireland to give vent to their flair and imagination. We will work in whatever way we can with all the

parties to help them make progress.

Written Answers follow Adjournment.

Resignation of Member

An Ceann Comhairle: Before proceeding I wish to announce for the information of the House that I have received a letter of resignation from Deputy Patrick Nulty as a Member of Dáil Éireann for the constituency of Dublin West and I have laid the letter before the Dáil. In accordance with the provisions of Standing Order 174, the resignation took effect upon my receipt of the letter yesterday.

Order of Business

The Taoiseach: It is proposed to take No. 17, Companies Bill 2012 - Order for Report, Report and Final Stages. It is proposed, notwithstanding anything in Standing Orders, that in the event a division is in progress at the time fixed for taking Private Members' business, the Dáil shall sit later than 9 p.m. and Private Members' business shall, if not previously concluded, adjourn after 90 minutes; and that Private Members' business, which shall be No. 47, Restorative Justice (Reparation of Victims) Bill 2013 - Second Stage, shall, if not previously concluded, be brought to a conclusion at 9 p.m. on Wednesday, 26 March 2014. Tomorrow's business after Oral Questions shall be No. 17, Companies Bill 2012 - Report Stage (resumed).

An Ceann Comhairle: There are two proposals to be put to the House. Is the proposal for dealing with Private Members' business today agreed to? Agreed. Is the proposal for dealing with Private Members' business tomorrow agreed to? Agreed.

Deputy Micheál Martin: A growing scandal is emerging relating to the administration of justice, and a range of issues are evident regarding the penalty points saga, the undermining of whistleblowers and the Garda Inspectorate report contrasting very starkly with the O'Mahoney report on the penalty points issue. The bugging inquiry was established to consider occurrences at the office of the Garda Síochána Ombudsman Commission, GSOC. There have been attempts by the Minister for Justice and Equality to undermine GSOC and its chairman. He almost had them under the spotlight because of his general adversarial response to issues of this kind. The Minister has had a fundamental inability to respond properly to the issue of the status of whistleblowers. To top this off, for the first time in three decades we have had the resignation of a Garda Commissioner, following a very serious statement from the Minister for Transport, Tourism and Sport, Deputy Varadkar. It was a very considered and detailed statement in which he said the whistleblowers were distinguished and so on. That was followed by the Tánaiste and almost all the Labour Party Ministers. We tabled a private notice question asking the Minister for Justice and Equality about the resignation of the Garda Commissioner and were told it did not meet the criteria. I believe it is a matter of national importance that the Garda Commissioner has resigned in these circumstances. There have been revelations today-----

An Ceann Comhairle: Where is the Deputy going?

Deputy Micheál Martin: I am going to ask a question. These are very serious issues.

An Ceann Comhairle: I appreciate that, but this is the Order of Business.

Deputy Micheál Martin: I have a lot of experience in the House. It beggars belief that there is no statement in the House - that the Minister for Justice and Equality has not come

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before the House to comment on the resignation of the Garda Commissioner following the statements of a succession of Ministers about the Commissioner's comments to the Committee of Public Accounts, and about the Minister's position. It is absolutely extraordinary that the Government has not made time available today for the Minister for Justice and Equality to come in and answer questions.

The Taoiseach asked me and the Leader of Sinn Féin to meet him approximately 20 minutes before Leaders' Questions and briefed us on another emerging issue that goes to the heart of the administration of justice. It is incomprehensible that the Taoiseach thinks it is okay to mark all of that with absolute silence in the House today-----

An Ceann Comhairle: The Deputy will have to sit down.

Deputy Micheál Martin: -----and that no formal mechanism is provided for the Minister for Justice and Equality to come in to answer basic questions about why the Commissioner is resigning now. He left certain things in the air in his briefing with me on the most recent issue. The Taoiseach suggested it would do on Thursday, but the statements on Thursday are on the Garda Inspectorate's report on the fixed charge processing system, which was published on the last day before the week-long recess for St. Patrick's Day. One could be cynical and say this was deliberate. I understand the Minister for Transport, Tourism and Sport was not at the Cabinet meeting when that was discussed, even though the Minister had had it since January.

An Ceann Comhairle: The Deputy will have to sit down.

The Taoiseach: This is the Order of Business.

Deputy Micheál Martin: There is a lot of cynical stuff going on here. The only way the Taoiseach can cut through that is by making this House relevant to the issues of the day.

An Ceann Comhairle: There are procedures to be followed to do that.

Deputy Micheál Martin: Deputy Adams is correct. This was all fed to the media. That is fine. The Government does that all the time. We are becoming-----

An Ceann Comhairle: Would the Deputy also respect the Chair?

Deputy Micheál Martin: That is fine. Surely the Taoiseach agrees that in any other Dáil – I have been here – the Minister would have come in here on the day? Will the Taoiseach make time available today?

The Taoiseach: Deputy Martin is as hypocritical as ever. I asked him to come to Government Buildings to brief him and Deputy Adams on an issue that is of considerable importance to security and justice in the State and so on. The Garda Press Office issued its statement, as I said to the Deputy-----

Deputy Micheál Martin: About what?

The Taoiseach: -----at 12.17 p.m.

Deputy Micheál Martin: I am talking about the Garda Commissioner's resignation.

The Taoiseach: I will tell the Deputy what the issue was. Deputy Martin never listens.

Deputy Micheál Martin: I do listen.

The Taoiseach: The first sentence of the statement is “In the best interests of An Garda Síochána and my family I have decided to retire”. The word is “retire”.

Deputy Micheál Martin: What is the Taoiseach saying?

The Taoiseach: Deputy Martin is talking about resignations. The Garda Commissioner-----

Deputy Micheál Martin: That is semantics.

(Interruptions).

Deputy Micheál Martin: Every radio programme in the country is saying the Commissioner resigned.

The Taoiseach: The Garda Commissioner-----

Deputy Micheál Martin: The Minister for Justice and Equality should come in here.

Deputy Timmy Dooley: There is plenty of time now.

The Taoiseach: The Garda Commissioner made his own decision and issued a statement through the Garda Press Office.

An Ceann Comhairle: The Taoiseach will make the situation clear and that is it.

The Taoiseach: I remind Deputy Martin that last week we decided that there would be statements and questions and answers on the Garda Inspectorate report on Thursday. I have responded to Deputy Martin in the House already.

Deputy Micheál Martin: The Taoiseach is being cynical. He has not responded to me.

The Taoiseach: I said the Minister for Justice and Equality would deal with the issue that Deputy Martin raised.

An Ceann Comhairle: Deputy Martin should respect the Chair.

The Taoiseach: Deputy Martin never listens. I already said to him-----

Deputy Micheál Martin: This is appalling.

The Taoiseach: -----in respect of the other issue I raised - and Deputy Martin never listens-----

Deputy Micheál Martin: I listen.

The Taoiseach: -----as the information comes to us about a new issue there could be statements in the House tomorrow on that issue, if the Deputy wanted that. I offered that to the Leaders of the Opposition.

Deputy Finian McGrath: The Taoiseach did not ask us.

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The Taoiseach: On Thursday the Deputy will have all day – and I hope he sits here – on the Garda Inspectorate report on penalty points. The Minister for Justice and Equality will deal with the matter the Deputy raises. I have already said that, but of course Deputy Martin never accepts anybody's word.

Deputy Micheál Martin: We have raised a point-----

The Taoiseach: In times gone by Ministers of the Deputy's Government rejected all of this-----

Deputy Micheál Martin: -----and the Taoiseach has refused it. The Taoiseach has not said where he stands on this issue. He is the one member of the Cabinet who has not said where he stands on this issue.

An Ceann Comhairle: I will suspend the sitting if the Deputy does not sit down.

Deputy Micheál Martin: Does the Taoiseach believe the Minister for Justice and Equality is correct? Does he believe the Minister for Transport, Tourism and Sport, Deputy Varadkar, is correct?

An Ceann Comhairle: I will suspend the sitting if the Deputy does not sit down.

Deputy Micheál Martin: The Taoiseach has not responded to any of the questions I asked him in three weeks on this issue. He has ducked and dived on it all the time. He owes it to the country and he owes it to the Dáil and to the State-----

An Ceann Comhairle: The Deputy is an ex-Minister and a long-serving Deputy. Would he please respect the Chair?

Deputy Micheál Martin: It is because I am long-serving that I know a private notice question would have been accepted in any other Dáil before today. There would have been a private notice question.

An Ceann Comhairle: There are things called Standing Orders. If the Deputy wishes to come to my office afterwards-----

Deputy Micheál Martin: I have asked a very simple question.

Deputy Mattie McGrath: It should have been allowed.

An Ceann Comhairle: If the Deputy comes to my office afterwards I will explain the situation to him. There are Standing Orders and if the Deputy had learned them he would know about them.

Deputy Micheál Martin: With the greatest respect, I have asked a very simple question.

An Ceann Comhairle: The Deputy should sit down and stay quiet.

Deputy Gerry Adams: We put in a Standing Order 32 request in order to have a discussion on this matter. I made the point earlier that the Taoiseach should have come into the Dáil to make a statement. I welcome the fact that we were briefed. I was telling the Taoiseach that on my way to see him a journalist told me the gist of what he told me. This has nothing to do with the Garda Commissioner's-----

An Ceann Comhairle: We are on the Order of Business. Would the Deputy please adhere to the rules of the House?

Deputy Gerry Adams: My point is that the Dáil has to be treated with respect by everyone, especially the Government, because it is not every day that a Commissioner resigns. We do not even know whether he was aware of this morning's revelations before his retirement. That is the point the Taoiseach is grandstanding on. Rather than face up to the reality that we are playing catch-up, some other revelation will be fed out and we will play catch-up again.

An Ceann Comhairle: Would the Deputy please put his question on the Order of Business?

Deputy Gerry Adams: Will the Taoiseach not allow special time on this issue to have proper discussions so that all of the people who respect the Garda Síochána can have confidence that the administration of that service is being conducted properly?

The Taoiseach: The answer is "No." I already offered on Leaders' Questions the opportunity for statements in the House tomorrow on the emerging situation on which I briefed Deputies Adams and Martin. When I met the Deputy he said he had met a journalist who said there was another issue, but did not point out what it was.

Deputy Gerry Adams: I did.

The Taoiseach: Actually, the Deputy did not. Whether the journalist knew is no business of mine. If he or she had information to that effect it did not come from Government, because we had only concluded the Cabinet meeting making decisions about this matter very shortly before that. I note the statement from the Garda Press Office was issued at 12.17 p.m.

Deputy Micheál Martin: That is a different statement.

The Taoiseach: Whether Deputy Adams likes it or not, the senior counsel Mr. Guerin and Mr. Justice Cooke have been appointed to inquire into sensitive issues, the report of the Garda Inspectorate is due for debate and question and answer on Thursday, the Oireachtas Joint Committee on Justice, Defence and Equality is dealing with the terms of reference, and the status of the whistleblowers has been referred to many times. I have already acknowledged that these changes would not be taking place but for the fact that this information was brought into the public domain by whistleblowers, which provides us with an opportunity----

Deputy Billy Kelleher: That is why the Minister for Justice and Equality vilified them. Their characters were assassinated.

The Taoiseach: -----to follow through on the decision made today by the Government to work towards the setting up of an independent authority suitable for this Republic, with An Garda Síochána, where there is still political accountability to the Oireachtas. That serious body of work is going on and the Minister for Justice and Equality is conducting and overseeing it.

Deputy Billy Kelleher: That is the problem.

The Taoiseach: All the Opposition wants in here - particularly Deputy Martin, who never listens to anything but only follows through with his false anger-----

Deputy Micheál Martin: I only want to know whether the Taoiseach agrees with the Minister for Transport, Tourism and Sport, Deputy Varadkar. That is all.

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The Taoiseach: I can remember time and again when Ministers of Deputy Martin's ilk refused to answer any questions or to have any debate-----

Deputy Micheál Martin: We did not.

Deputy Timmy Dooley: The Taoiseach learnt that lesson well.

The Taoiseach: -----or statements with questions and answers, but went around the country with a condescending arrogance that was breathtaking to behold.

Deputy Micheál Martin: I agree with the Tánaiste and with the Minister for Transport, Tourism and Sport, Deputy Varadkar, and many other Ministers.

Deputy James Reilly: That is a lot of agreement altogether.

Deputy Catherine Murphy: The programme for Government referred to new thinking and new approaches to politics. A feature of past governments has been a very centralised, managed approach to matters. Today the Taoiseach organised a briefing for the leaders of Fianna Fáil and Sinn Féin. The Technical Group comprises one third of the Opposition. We have made it easy for the Taoiseach and Ministers to make a telephone call to arrange for someone to attend such briefings. We need to know why we were excluded. Was a decision made to exclude us deliberately? It is not right that we are told to rely on newspapers or Twitter to get information when the rest of the Opposition parties are briefed. What was the thinking behind excluding us?

The Taoiseach: I assure Deputies Richard Boyd Barrett, John Halligan, Thomas Pringle, Joan Collins and Catherine Murphy that I am prepared to brief any one of them, but I need to know from the Technical Group who its spokesperson is.

Deputy Catherine Murphy: The Taoiseach knows.

The Taoiseach: Who is its spokesperson?

Deputy Catherine Murphy: The Taoiseach has done it before.

The Taoiseach: Should we call the Deputy?

Deputy Timmy Dooley: The people outside got the information quicker than those who had gone in.

An Ceann Comhairle: Please, Deputy.

Deputy Catherine Murphy: I must object because we notified all Departments and have been briefed in the past by the Department of the Taoiseach. They know that one telephone call needs to be made to my office which will co-ordinate the rest of the Technical Group.

An Ceann Comhairle: The Deputy has made her point.

Deputy Catherine Murphy: We deliberately made it that easy.

The Taoiseach: I take the Deputy's point and thank her for reaffirming it. Briefings that take place in the future will include the Technical Group and the telephone call will be made to the Deputy's office. She will decide whether Deputy Luke 'Ming' Flanagan or whoever else will turn up.

Deputy Finian McGrath: There is no need for the dig.

Deputy Richard Boyd Barrett: The Taoiseach referred to the security of the State. I put it to him that what is at stake with the resignation of the Garda Commissioner is not the security of the State but democracy and the accountability of the State to its citizens.

An Ceann Comhairle: I am sorry, Deputy, but we have been through that issue.

Deputy Richard Boyd Barrett: It is unacceptable in the aftermath of the Commissioner's resignation and on foot of a litany of scandals-----

An Ceann Comhairle: Will the Deputy please resume his seat?

Deputy Richard Boyd Barrett: -----that the Taoiseach excluded one third of the Opposition from the briefing and refused to facilitate the making of statements in the House. The statements that will be taken later this week pertain solely to the penalty points issue. We need a statement from the Taoiseach on the resignation of the Garda Commissioner-----

An Ceann Comhairle: I ask the Deputy to please resume his seat.

Deputy Richard Boyd Barrett: -----and an end to discrimination against one third of the Opposition.

An Ceann Comhairle: Is the Deputy part of the Technical Group? If so, his spokesperson has just made that point. Is Deputy Joan Collins raising a separate issue? We are not going to go through this issue again.

Deputy Joan Collins: It is very important.

An Ceann Comhairle: I know it is.

Deputy Joan Collins: The Technical Group was excluded from the briefing today.

An Ceann Comhairle: Deputy Catherine Murphy made that point on behalf of the Technical Group. We are not going to have another discussion on it.

Deputy Joan Collins: Had we attended the briefing, we would have pointed out that the statements arranged for this week pertained to the penalty points issue rather than resignations, or retirements as the Taoiseach put it.

An Ceann Comhairle: Please arrange the debate with the Whips. I call Deputy Joe Higgins on a different issue - I hope.

Deputy Joe Higgins: I want to ask a question about legislation. However, the Taoiseach should stop digging.

An Ceann Comhairle: Just ask the question.

Deputy Joe Higgins: He must be the only person in the country who has the neck to say the Garda Commissioner retired as opposed to resigning, as if the events of the last three or six months never happened.

An Ceann Comhairle: Please ask a question.

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Deputy Joe Higgins: The Taoiseach should stop digging; he is still in denial.

An Ceann Comhairle: The Deputy can speak to the Taoiseach outside the Chamber.

Deputy Joe Higgins: Can I ask about legislation?

An Ceann Comhairle: Yes, of course.

Deputy Joe Higgins: When will the Taoiseach bring forward the workplace relations Bill and the industrial relations (No. 2) Bill? Is it Government policy to use the courts to break the democratic right of workers to engage in industrial action, as Aer Lingus, in which the Government has a major shareholding, is doing? That company is pursuing an individual representative in order to bankrupt him. Is that Government policy, with the Labour Party on board?

An Ceann Comhairle: The Deputy has made his point.

The Taoiseach: The courts struck down the legislation. The two Bills to which Deputy Joe Higgins referred, the workplace relations Bill and the industrial relations (No. 2) Bill, are due for publication this session.

Deputy Bernard J. Durkan: On promised legislation, what is the status of the climate action and low carbon development Bill which may become more important as fuel concerns increase? The international tax agreements Bill may be similarly important, given that the issues arising caused some discussion in recent times. To what extent have these Bills been agreed to by the Cabinet and made ready for publication?

The Taoiseach: The low carbon development Bill and the international tax agreement Bill are due for publication later this year.

Deputy Ray Butler: In the light of media reports on the number of people out on bail, when is the Bill to consolidate and amend the bail laws due to be published?

The Taoiseach: A lot of work has been done on the Bill in the Department, but I do not have a date for its publication. Deputy Durkan has raised the issue on around 20 occasions already.

Deputy Timmy Dooley: Is that why it is not being done?

Deputy Seán Ó Fearghail: Given that the Minister for Health is in the House, I acknowledge the progress made for the people who suffered in the Magdalen laundries and from symphysiotomies. There are only 32 survivors of thalidomide, who are represented by two organisations. The programme for Government made a firm commitment in this regard. Has the Minister met the two organisations and are we advancing towards a solution to the problem for the 32 individuals in question?

The Taoiseach: The Minister has not met them recently, but I understand the matter is before the courts.

Deputy Mattie McGrath: On the Central Bank (consolidation) Bill, when will we have something on the banks? Obviously, they are not adhering to the code of conduct. ACC Bank, which is owned by Rabobank, is trying to evict a family from a house in Kildare. When will we see action taken? All we have had are empty promises.

When will the Government hold a debate on the Children First Bill and the money misap-

propriated during the referendum proposed by our wonderful Minister for Justice and Equality?

An Ceann Comhairle: We will check it out.

The Taoiseach: The Children First Bill is due this session. I do not have a date of publication for the Central Bank (consolidation) Bill. It is a serious piece of work.

Deputy Peter Fitzpatrick: The housing (miscellaneous provisions) Bill aims to expand and strengthen the regulatory framework for social housing and provide a new system for housing assistance payments. Every day in my clinic I encounter husbands or wives whose marriages have broken down. One ex-partner will remain in the house with the family, while the other has to leave but is not entitled to social housing or housing payments. When is the aforementioned Bill due to be brought before the House?

The Taoiseach: The heads of the Bill were cleared last December and the Bill is due for publication this session, prior to the summer.

Topical Issue Debate

Ambulance Service Provision

Deputy John Lyons: In the short time available to me I wish to speak about the valuable service provided by Dublin Fire Brigade in our capital city and the ongoing review of ambulance services. Dublin Fire Brigade and Ambulance Service has operated since 1898. Dublin Fire Brigade performs a dual role, which means that either an ambulance or a crew on a fire appliance will arrive at a scene and stabilise a patient until an ambulance arrives. As a result of this dual role and the brave work of fire fighters, Dublin has one of the best survival rates for out-of-hospital cardiac arrest cases in the world. Dublin Fire Brigade is a first class example of a fire service based emergency medical service, which is recognised internationally as best practice. This model is used in many cities throughout Europe, such as Paris, Dusseldorf and Frankfurt, and also in cities such as New York and Detroit in the United States of America.

At present, the HSE pays about €9 million for the Dublin Fire Brigade to deliver this vital service for the capital city. This amounts to less than 7% of the total national budget for ambulance services, even though Dublin Fire Brigade responds to almost 40% of ambulance calls nationally.

As a Dublin Deputy, I have been contacted by many fellow citizens from all sides and staff of the fire services, including those I know personally, about the HSE plan from March 2013 and the current joint review of Dublin ambulance services by Dublin City Council and the HSE. This HSE plan from last year, details of which were revealed in *The Irish Times* recently, includes plans to take control of the Dublin ambulance service from Dublin Fire Brigade by the end of 2015. There are concerns among firefighters that the review that is currently under way will recommend this plan and not consider the exemplary service provide by the Dublin Fire Brigade, which I mentioned already.

I am out of time. I value the Dublin Fire Brigade service and the ambulance service that it offers, and anybody who lives in Dublin or receives its services will be aware that it is the best service in the country. The level of ambulance service that the Dublin Fire Brigade provides is where the bar should be set for all ambulance services throughout the country.

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As a citizen, I am fearful of any changes to the way the ambulance service is run nationally and fearful of the prospect of its being taken into the control of the HSE. I note that Swords is covered by the Dublin Fire Brigade as well. I am merely concerned that the bar set by Dublin Fire Brigade in running the ambulance service in Dublin will be jeopardised and I ask that this be acknowledged in any review that is carried out. It is the only ambulance service, I believe, that almost reaches the HIQA standards even though it is not obliged to abide by them. I am aware that another Member is speaking on this, so I will leave it at that.

Deputy Billy Kelleher: I welcome the opportunity to speak on this issue.

When one looks at the leaked report that broke over the weekend before St. Patrick's Day regarding the HSE's plans to take control of Dublin's ambulance service from the fire brigade, it prompts two questions: the key question of why, and whether it is the right direction to take.

According to the report, the HSE is seeking to remove the emergency ambulance provision from the Dublin Fire Brigade because of two key points - a lack of HIQA oversight, and cost. The difficulty my party has with this is that the report was carried out by the HSE itself. That the HSE is the one drawing up the report would indicate that it may at least be partisan or biased on this issue. I would suggest that there be an independent assessment of whether this is the right action.

As Deputy Lyons pointed out, nobody complains to us - and I am quite sure nobody complains to the Minister - about the ambulance service being provided through the Dublin Fire Brigade. It is one of the most efficient in the country. If one looks at the basic cost analysis and breakdown, they seem to be cost-efficient.

I am concerned that a service that is working reasonably well is being taken over by an organisation whose ambulance service nationally is not working well. There have been the most catastrophic incidents throughout the country, with wheels falling off ambulances, children being locked in ambulances, delays, ambulances being dispatched to the wrong county, and an incident in which a person was taken from county to county after breaking their leg at a football match in Carlow, so that by the time they ended up in hospital they had been throughout the south east.

There are inherent difficulties. I note the Minister has acknowledged that and requested that HIQA carry out a full audit, but in the meantime the least the Dublin Fire Brigade deserves is an independent assessment of the service it provides. By and large, as Deputy Lyons highlighted, the vast majority of the people of Dublin are satisfied with the service provided by the fire brigade. I would ask that the Minister request independent audit and verification as opposed to relying on the HSE to carry out a cost analysis.

Regarding oversight, I am quite definite that this could be addressed with regard to HIQA through legislation or even a statutory instrument.

Minister for Health (Deputy James Reilly): I thank the Deputies for raising this matter, which has been the subject of some speculation recently, and I welcome this opportunity to clarify the matter for the House.

Dublin Fire Brigade provides emergency ambulance services in Dublin city and county by arrangement between Dublin City Council and the HSE. The HSE National Ambulance Service also provides some emergency capacity in the greater Dublin area, as well as non-

emergency patient transport.

The ongoing development of pre-hospital emergency care involves a range of initiatives, including the development of a single national control and dispatch system. The new national system will deploy all emergency ambulance resources in the State, including emergency ambulances, rapid response and intermediate care vehicles, first responders and aeromedical services, as well as ambulances in Dublin. This move to a single dispatch system will represent a significant change in clinical governance, as Dublin Fire Brigade currently dispatches its own ambulances. The Dublin city manager and the HSE's chief operating officer have, therefore, commissioned a joint review of Dublin Fire Brigade ambulance services in Dublin city and county. I hope Deputy Kelleher heard that bit.

Deputy Billy Kelleher: I did.

Deputy James Reilly: It is not merely a HSE review.

Deputy Billy Kelleher: I note that.

Deputy James Reilly: The review will consider all aspects of ambulance operations provided by the Dublin Fire Brigade in Dublin, including the capacity and capability of ambulance services. This will inform consideration of the optimal and best-value model for provision of emergency medical services in Dublin. It is part of the process of ensuring a clinically driven, nationally co-ordinated system supported by improved technology so that emergency pre-hospital care can continue to be modernised and services can be delivered in an appropriate and timely manner to the benefit of patients.

I am aware that concerns have been raised about this review, with suggestions being made that it should be suspended or cancelled entirely, and that there is no necessity for a review as the Dublin Fire Brigade ambulance service is operating in a fully satisfactory fashion. I want to assure the House that I am fully aware and appreciative of the excellent historical tradition of service provided to the citizens of Dublin by the Dublin Fire Brigade and, in fact, due to my previous life as a GP in north Dublin, I myself can attest to that. This review should not in any way be interpreted as a criticism of that service. We are obliged, however, to ensure that pre-hospital emergency care across the entire country is ready to meet the challenges of the future. This review is being carried out with that in mind, and I look forward to the outcome of the process.

Deputy John Lyons: I appreciate the Minister's comments.

Unlike a lot of Deputies, I do not go running around the House shouting concern too often, but on this matter I genuinely feel concerned. I am concerned that we are going to throw the baby out with the bathwater here. Dublin Fire Brigade, as I stated already, is the most impressive and exemplary fire service in the country, operating a fantastic, efficient and cost-effective ambulance service for Dublin city - the one that every other citizen in this country should have. I am just a little concerned, to say the least, that any plans for the HSE to be involved in running this service will throw the baby out with the bathwater. I ask that all that can be done is done and that the voices of the Dublin Fire Brigade officers and ambulance officers, who are joint officers, are heard properly, but, most importantly, that the baby not be thrown out with the bathwater. I really do have concerns. As somebody who may need that service in the future, I have complete confidence in Dublin Fire Brigade's delivery of it. Unfortunately, the stories I hear from other places - I have a brother who is in the National Ambulance Service - are a little daunting. I want everybody to have the best service, and Dublin Fire Brigade offers the best

service.

Deputy Billy Kelleher: I concur with Deputy Lyons.

I accept the veracity of the Minister's statement that the review is not a criticism of the service provided by Dublin Fire Brigade. I also note that it is the Dublin city manager, in conjunction with the HSE, who is carrying out this report. It is not that I would question anybody's integrity in this issue, but there should at least be an independent evaluation. Who is to say that the Dublin city manager or Dublin City Council would not encourage a hiving off of the service to some other organisation? The least it deserves is an independent assessment.

The cost breakdown suggests that the Dublin Fire Brigade provides an exceptionally efficient service. When one looks at the difficulties and the complaints nationally, one can see that most of the complaints derive from outside of Dublin. Maybe the Minister should look at that as well. All I ask is that there be an independent assessment of whether moving the Dublin Fire Brigade ambulance service to the HSE would make any difference or would compromise or enhance the service. That would be useful. In general, people have not expressed any complaints about the service.

The issue of HIQA oversight is a red herring. The Dublin Fire Brigade already subscribes to that in its commitment to providing a service. With a tweaking of legislative proposals or statutory instruments, Dublin Fire Brigade could be brought within HIQA oversight in meeting HIQA guidelines.

Deputy James Reilly: I understand the concern of Deputy Lyons about what is an excellent service and anything he construes as impairing it. Far from it; this is designed to improve the service. It may transpire that the report will make unexpected findings which Deputies in this House are presupposing. It is not fair to compare an urban service like the one in Dublin with rural services in the light of the distances that must be travelled, the number of hospitals available and the density of population. A review is taking place and let us await its outcome. We will revisit the issue at that point and give everyone in the House the opportunity to engage. The ambulance service in Dublin is a critical part of infrastructural services within the city and has a long and proud tradition. I do not want to see anything interfering with this. I am a believer in not accepting the *status quo* if something can be improved and there is no service that cannot be improved. There is unanimity on this point. It is an excellent service which has nothing to fear from a review other than seeing how we can improve it further. Therefore, let us not prejudice the outcome.

Student Grant Scheme Administration

Deputy Paul J. Connaughton: I thank the office of the Ceann Comhairle for selecting this matter and the Minister for being in the Chamber to take it. This issue has come to my attention in the past few weeks and concerns students who have applied for third level grants. I will give details of three cases in which people were awarded grants and then had them taken back in different circumstances which was upsetting for them and their families. I acknowledge that we know about the difficulties SUSI had when it was first set up. With the assistance of the Minister, the kinks in the system have been ironed out and it is working much better this year. Students who have contacted me are being paid on time, which is welcome. When I heard about the first student in the past few weeks, I thought it was unfortunate; then, on hearing it

had happened a second time, I thought it was unlucky; but on the third occasion I thought a pattern was forming. When I ran it by some of my colleagues, I found it was happening across the country. I do not have the exact number which might be quite small, but it should not be happening.

The first case involves a student in Galway who received a grant in first year. The grant was paid up to Christmas in second year, but after Christmas it was no longer paid and the student was not notified that it had been stopped. When he went to see what was going on, he was not given straight answers as to why he was not receiving the grant. When he received an answer, he was told he had been receiving the back to education allowance, which came as a surprise to him because he had never sought, applied for or qualified for it. It was used as a reason he was not receiving the grant. I cannot understand why he had the grant taken from him after it had been awarded to him.

The second case involves a student from Galway who is studying in Limerick. He was told in 2012 that he would receive full fees and a maintenance grant. Some months later he found out that he was only receiving the contribution fees for a course that finished in 2013. He did not have the money in the first place, which was why he was looking for the grant. He cannot pay the full fees to the college which is withholding his qualification until they are paid. He has qualified but not in the eyes of the college. It is remarkable.

The third case involves a student from Galway who is in St. Patrick's College, Drumcondra and who was informed in writing by SUSI on 17 October that his grant had been awarded. He received an e-mail from it to this effect, but he was then informed on 17 December that the grant had not been awarded and that the fees would not be paid. He is halfway through the year and was proceeding in the belief he was receiving full fees. He is another student who cannot understand why he does not now qualify. This is causing great anger, frustration and concern for students and their families who believed they were financially safe for the year ahead. I am worried and concerned that this is happening on a wide scale. I understand there are issues with applications, but in every one of these cases SUSI had informed the students that they would receive the grants for which they had applied. We now find ourselves in a situation some months later where the grants have not been paid. This is causing great concern and anger and must be brought to a head.

Minister for Education and Skills (Deputy Ruairí Quinn): I thank the Deputy for raising this important matter. The project to establish a single authority for student grants was of a very significant scale within the education system. It required the enhancement and development of systems, management and governance structures and new ways of working in order to progress the realisation of benefits both for grant applicants and the Government. Although very considerable challenges were experienced in the initial year of operation, a comprehensive review enabled the identification of key improvements to be addressed and a focused programme of development was implemented.

Additionally, a major benefit in having a central database of information in a single awarding authority is that it enables efficient electronic data sharing with relevant authorities of income and other data necessary for a speedier and more effective processing of applications. For example, SUSI now has data sharing arrangements in place with the Department of Social Protection, the Revenue Commissioners and a range of other bodies. On occasion, these arrangements have highlighted discrepancies between the information SUSI has to hand on specific applications and the relevant data received from these other authorities. Section 24 of

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the Act allows an awarding authority to recover moneys from an applicant where it has been demonstrated that he or she was not entitled to receive a payment.

I understand from SUSI that as part of its ongoing internal examination of the quality, efficiency and effectiveness of its operation, quality checks are conducted at both grant award and payment stages on an ongoing basis. Where it is discovered and confirmed, following a reassessment of an application, that such discrepancies show that an applicant is, in fact, ineligible for grant assistance from SUSI, this is communicated to the applicant and the award is withdrawn. While any inconvenience caused is regrettable, SUSI endeavours to identify such issues at the earliest possible stage. The Deputy will appreciate that, in the context of SUSI having received in excess of 69,000 applications in year one, some errors inevitably arose in handling such a high volume of applications within a relatively short timeframe. For its second year of operation in 2013-14, SUSI has continued to make significant improvements to its systems and procedures to streamline the grant application, processing and payment process. There will be an ongoing focus on this work in 2014 to achieve ongoing improvements.

The Deputy has brought to my attention three cases, of which I was not aware. Without reservation, if he can demonstrate that a person was clearly told by SUSI that he was entitled to and was receiving a grant and that if he, in good faith, made arrangements and commitments, he will not be penalised in the way suggested in my reply. If it is bona fide, the cost will have to be carried by SUSI. If there was misinformation and SUSI stated to a student who had applied for a grant that he or she qualified for it and would receive it, the obligation rests on SUSI, irrespective of what might be said. I will explore the matter with the Deputy and perhaps he might give me the full details.

Deputy Paul J. Connaughton: I thank the Minister for the last element of his response, which is the most important. I will supply the details of the three cases. I would not have raised them if the students had not been told they would be receiving the grant. If a student is not deserving of a grant, that is another matter. The initial problem in SUSI was in getting payments out, but now they are being made a lot quicker. Mistakes can happen, but it is disturbing for families who have been told they will receive a grant and then do not receive it. I welcome what the Minister said and will supply him with the details of the three cases. I hope this is not widespread and that SUSI can focus on this issue in order that no student or family will have to deal with this situation. I hope we can bring the three cases to a positive conclusion.

Deputy Ruairí Quinn: I thank the Deputy for bringing the matter to my attention. Some 42% of third level students are receiving some grant. The amounts of money involved are substantial. If the fault in administration is clearly seen to lie with SUSI, not the applicant, the responsibility lies with it to make good on its promise and certification. It may need to change its procedures in this respect, but the Deputy has brought to my attention something of which I was not aware. We will investigate the matter.

6 o'clock

My intention is that the students will not be at a disadvantage. Having been told in good faith that they were getting the grant, they in turn made the necessary commitments and arrangements and they are now out of pocket.

Local Authority Housing Evictions

Deputy Dessie Ellis: Tenants in this State are not protected adequately from summary eviction or eviction with no justification, while local authorities can legally evict without due process. Section 62 of the Housing Act 1962 allowed local authorities to adopt a summary procedure for evicting local authority tenants without a requirement to justify the decision before the District Court or an independent tribunal. This section was deemed by the Supreme Court in 2012 to have been in direct contravention of the European Convention on Human Rights. Specifically, it was found in two cases to be in contravention of Articles 6 and 8 - the right to a fair trial and the right to respect for a person's private and family life, home and correspondence.

In April 2013 the Minister of State, Deputy Jan O'Sullivan, said a Bill to repeal section 62 would be before the Dáil in the same year. As the one-year anniversary of the statement approaches, we still have not seen the Bill. Currently, despite the ruling of the courts, there is legislative backing in the State for a local authority to summarily evict tenants without any real justification and in some cases in direct opposition to the public good and the rights of the individual and his or her family. The inaction of the Government on this issue is particularly troublesome, while a number of cases in recent times show that councils in some cases still evict people without a proper and fair hearing and without justification.

Even if section 62 were repealed, there is a need for legislative protection from eviction for tenants, given the devastating effect it can have on people and its potential to put them out on the street. In Kerry in November 2013 a pregnant woman who was unemployed and had problems with alcohol was evicted by the council and forced to find shelter in emergency homeless accommodation. That was despite the securing of a District Court order. The action was in violation of the UN bill of rights, which states that evictions must be a reasonable and proportionate response, subject to due process and fair procedures, and subject to a further state obligation to take all appropriate measures to ensure that evicted individuals are not rendered homeless.

This month, Sinn Féin councillor John Brady received an eviction notice from Bray Town Council. His family now has just under a month to vacate their home. They have lived there for 13 years without issue and are an important part of their community. The reason given was that they had done work to their home more than ten years ago when the council told them it did not have the funds to carry out the work. The eviction notice comes after a prolonged period of campaigning by Councillor Brady for the rights of local authority tenants in the area, which saw him undertake an occupation of the town council offices with two women who had been made homeless with their children.

Another case is that of Patrick Collopy of Limerick city. The 26-year-old, who is living in Bishop Street, has been told by Limerick City Council that he will be kicked out of the home he shared with his mother Rita until her death last year. After her sad death, aged just 50, Patrick received a phone call from the council telling him that he must vacate the house on the grounds of the two-year tenancy rule. He has been up to date with his rent and has never been in trouble with the law.

In those cases the evictions were not fair or reasonable and they were not in the interests of the wider public good. That is why we need protections for tenants and why section 62 must be repealed. The Private Residential Tenancies Board, PRTB, should be given a remit to work with council tenants as a residential tenancies board.

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Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O’Sullivan): I thank Deputy Ellis for raising this matter. I found the issues he raised most interesting. Each housing authority is responsible, under section 58 of the Housing Act 1966, for the management and maintenance of its own housing stock. It would therefore be inappropriate for me to comment on management issues relating to particular dwellings, as I have no function in individual cases and under the Local Government Act 2001 local authorities are, subject to law, independent in the performance of their statutory functions. It would be inappropriate for me to comment on the two specific cases raised by Deputy Ellis.

I wish to set out the position on the law under which local authorities repossess their dwellings following termination of tenancies. Section 62 of the Housing Act 1966 currently sets out a summary court procedure for repossession. The procedure withstood constitutional challenges over the years but the enactment of the European Convention on Human Rights Act 2003 resulted in further challenges. The Supreme Court declared in February 2012 that section 62 was incompatible with the State’s obligations under Article 8 of the convention by reason of the absence of procedural safeguards where there is a factual dispute as to whether a tenancy has been properly terminated for breach of the tenancy agreement. Section 5 of the 2003 Act provides that a declaration of incompatibility does not affect the validity, continuing operation or enforcement of the statutory provision in respect of which it is made.

Nonetheless, I have reviewed section 62 of the 1966 Act in consultation with the Office of the Attorney General and housing authorities and the housing (miscellaneous provisions) Bill currently being drafted provides for a revised procedure for repossessing local authority dwellings. The new procedure will involve an independent hearing on the merits of the proposed repossession where there is a dispute about the basis for terminating the tenancy, which is often the case where anti-social behaviour is involved. The housing Bill, which also provides for the new housing assistance payment and a new tenant purchase scheme for local authority housing along incremental purchase lines, will be published in the coming months with a view to being enacted by the summer. Deputies will therefore have an opportunity in the near future to debate fully the new procedure for recovering possession of local authority dwellings. The Bill will also include measures to strengthen the powers of housing authorities and approved housing bodies to secure court orders to exclude from their dwellings and estates individuals engaged in anti-social behaviour.

The legislation currently going through the Oireachtas will bring tenants of approved housing bodies under the remit of the PRTB. In future, we wish to bring local authority tenants under the same remit. While we have not been able to do everything in the one go, in principle we agree that it is the next step in the process.

Deputy Dessie Ellis: I thank the Minister of State. She is aware that there is an urgent need for the District Court or an independent authority to judge each case on its merits and to be able to question the reason an eviction is being sought and not to merely give such decisions a rubber stamp, as was the case previously.

While we accept that evictions might take place for good reasons, such as anti-social behaviour, it is imperative that such mechanisms go through a robust legal process and are judged on that basis. The previous system was most unfair in that the decision was processed through the courts and could not be challenged, and there was no input from residents or tenants. No mechanism existed to scrutinise each case and examine it on its merits.

I agree with the recent Constitutional Convention recommendation that housing should be a right. We must have a proper procedure in place in the case of families being evicted. We must put in place a mechanism to deal with that and to follow up with families in such circumstances. Being evicted should not mean a person or family will end up homeless, and we must deal with such families in a proper way. That is the crux of the issue. Like others, I have experience of neighbours who cause major trouble in their areas and whom local authorities have sought to evict. I do not want a system that involves a rubber stamp; I want a proper, legal mechanism to deal with such situations. It is extremely important that such a system be above reproach and not involve hearsay.

Deputy Jan O'Sullivan: As the Deputy said, this is a balance we have to strike. There are some cases in which people make the lives of the people who live around them a misery. As the Deputy will be aware, we will make it easier in the residential tenancies Bill in that the person living next door would not have to directly confront the people causing the problem because, for example, a residents' association would be able to do it on his or her behalf.

I am in the course of preparing the housing Bill, which will be published and debated here before the summer recess. We will address the issue covered in section 62 of the Housing Act, which was found to be in contravention of the European Convention on Human Rights.

There are individual cases, as the Deputy said, that are distressing for the people concerned, but it is a question of getting the balance right. In the small number of cases in which people cause misery to their neighbours, we must have a mechanism in place to address that. We will have an opportunity to debate these issues when the housing Bill comes before the House.

Adoption Services Provision

Deputy David Stanton: I thank the office of the Ceann Comhairle for allowing me the opportunity to raise this issue and I am pleased that the Minister for Children and Youth Affairs is in the House to discuss it with me. This matter came to my attention a short while ago when two parents came to see me. They had adopted a baby a number of years ago from a foreign country in quite poor conditions. The parents were very loving and caring, loved their daughter and provided her with everything, as one would expect, but when she reached puberty things began to go wrong. She began to self-harm, developed an eating disorder and exhibited regression and other behaviours which were very disturbing. Obviously they sought assistance, and after quite a period a diagnosis was made that the child was suffering from post-adoption trauma, post-traumatic stress disorder or other mental health problems suffered by adopted children as a result of being put forward for adoption. Not every adopted child experiences these symptoms or issues. It is related to a child being separated from his or her biological mother at a very young age. These parents eventually discovered that they had to go to an agency in the UK which provided the specialist services needed, and progress was made, but it is a slow and painful process for everybody concerned.

I have a number of questions for the Minister in this regard. Has her attention been drawn to this post-adoption trauma issue? Has any research been carried out in this country on it? I have been informed that there are currently more than 300 referrals from this country to that agency in the UK. I have also been informed that there is not any specific service here to treat this condition. I am informed that intensive psychological therapy and counselling of a very specialist nature is needed to assist families and that not only the child but the family as a whole

must receive assistance and support in cases such as this one.

I have checked with the HSE and other bodies and I have been informed that they do not provide this form of intensive therapy, which, given that families have to travel to the UK to avail of it, is quite expensive and traumatic. Will the Minister consider officially engaging private or charitable organisations outside the State to provide this level of service or to train people here in this level of service? I understand it is not possible to access that travel abroad scheme in such cases, even though the service is not available here. I have had it confirmed in writing from the HSE that the intense level of service is not available in Ireland.

I am sure the Minister will agree that this is a traumatic and serious condition. Thankfully, it does not affect every family with an adopted child, but the families who are affected need assistance and support. I am pleased that the Minister has come into the House to hear me speak on this matter and I would be grateful, following this debate, if she would arrange for this issue to be researched and examined to see what can be done in the Department and the health service to assist families who find themselves in this position.

Minister for Children and Youth Affairs (Deputy Frances Fitzgerald): I thank the Deputy for raising this issue and I have listened to what he has had to say about it. I realise that he is concerned about this issue. Adoption can be, as he said, an emotional and sometimes traumatic experience and the effects can vary at different stages of the process. We know there are many successful adoptions - of that there is no question - but there is no doubt that a range of issues can arise post-adoption. The majority of adoptions in this country are inter-country adoptions, and a range of post-adoption issues can emerge which vary in severity and type. Families very often have successful adoptions, but we have all come across situations in which families, sometimes quite unexpectedly, have to deal with very difficult issues, often because of the very difficult start some of the children had and their pre-adoption experiences in residential centres. As more and more children are adopted at a later age, having had poor experiences before they were adopted, this issue is likely to be significant for an increasing number of families.

Under adoption legislation, when a child is placed on the register of inter-country adoptions, he or she is deemed to be, as the Deputy is well aware, the fully legal child of the adoptive parents - the couple - having the same legal status as any biological child of the couple born to them within their marriage. Accordingly, in the first instance, it is open to any adopted child and his or her family to access the full range of services which are currently available to all Irish children. These include specialist psychiatric and psychological services, educational services, health services, speech and language and disability-related services as well as having access to the normal GP and family support services in their areas, whether it be a local family resource centre or a CAMHS clinic. Children facing these issues clearly have access to the services that other Irish children have. These are adopted children with all the rights that other children have. There are some private services available as well, some of which specialise in attachment and behavioural problems, which the Deputy particularly mentioned.

The Child and Family Agency advises that there are a small number of adoptive parents who seek post-adoptive support from the adoption assessment team in their area. It is interesting that some of the parents who have been through the adoption assessment go back and look for support if difficulties arise, and these are often due to attachment-related behavioural issues. I want to inform the House that the agency also funds a post-adoption service operated by Barnardos in the Dublin area. Essentially, the post-adoption service would be available from the new Child and Family Agency plus the Barnardos service and the other range of services.

The Deputy made a point about specialist services and people having a particular skill. I would think Barnardos or any of the adoption agencies would have this skill to a degree. Regarding the range of expertise the Deputy described with respect to the service that is available in England - with which I am not familiar - and whether there is an equivalent service available here, the Barnardos service could perhaps be equivalent. It is the type of service we will see developing in the years to come if it becomes clear that there is an issue here, given the thousands of children who have been adopted from abroad, and that a more specialist service is needed. I can certainly have discussions with Barnardos, given that it already does some work in this area. The Deputy mentioned training; perhaps it could establish some links with the agency in England. I can certainly explore that possibility and see what training could be done that has not already taken place here.

It is very important that prospective parents are realistic about the psychological, behavioural and health issues which may arise post-adoption, particularly where a child has spent a period of time in a residential service in institutional care prior to adoption. The Child and Family Agency advises that the adoption assessment process that all applicants must undergo in order to be considered for adoption includes education, information and discussion about these issues with people who are going to adopt. This is also very important. Couples who are adopting also need to show they can support the financial needs which may arise with regard to the child being adopted.

It is important we have increased understanding with regard to these issues and that time is spent during the assessment process discussing them with the couples. The Deputy asked about research. In 2007 the Children's Research Centre at Trinity College published a study on inter-country adoption outcomes in Ireland. This included discussion on post-adoption experiences and the publication is on the website of the Adoption Authority of Ireland.

I take the point made by the Deputy, and I have no doubt parents are looking for more and more specialist help with regard to the issues which arise in the children whom they have adopted. Very often these are attachment issues. I will take up the points made by the Deputy with Barnardos in the first instance and see whether the training needs outlined by the Deputy which must be met in Ireland can be developed.

Deputy David Stanton: I thank the Minister for her very comprehensive reply and I am very grateful to her for it and for the research put into her response. I am aware of Barnardos' adoptive parents' training network and the work done but I understand it is only in the Dublin area.

Deputy Frances Fitzgerald: Yes.

Deputy David Stanton: I am interested in whether it can be expanded nationally. In the meantime I am sure the Minister realises that parents with a hyperactive child who suffers from fears of abandonment, anxiety, aloofness and phobias and who is acting out in all types of distressing ways really do need assistance. I take the Minister's point that parents must be understanding of financial needs, but this is exceptional and it goes beyond this. It is something which is not expected and they need support. Will the Minister examine whether the treatment abroad scheme could be used in exceptional cases whereby children and families can get assistance in the UK if they find themselves in this awful dilemma whereby parents adopt a baby and love and care for the child for many years and all of a sudden, when puberty arrives, everything goes wrong? They need assistance and help.

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I understand assistance and help is there to a point in Dublin through Barnardos but it is not available nationally. We need to move fairly quickly to put in place this assistance and help. I am sure the Minister can put herself in the position of these parents. It is harrowing and difficult. The behaviours described to me are very distressing. Boys are lying, stealing and do not integrate with others. According to research it appears adopted children suffered this trauma 13.3% more than children who are not adopted. There is a need for help and assistance and a focus on this. Most of the children who are adopted thankfully have no difficulties but for some the difficulties are severe and profound. I thank the House and the Ceann Comhairle for giving me the opportunity to raise this issue and I thank the Minister for responding.

Deputy Frances Fitzgerald: I would not underestimate the help that CAMHS and other specialist child and adolescent mental health teams can give.

Deputy David Stanton: They cannot.

Deputy Frances Fitzgerald: A well-trained psychologist or psychiatrist should be able to deal with some of the issues outlined by the Deputy in terms of attachment difficulties and the problems children, adopted or not, show. They can be similar. I take the point about some specialist help being available for certain cases and we will examine with Barnardos whether there is a way to move forward on this.

Business of Dáil

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): It is proposed, notwithstanding anything in Standing Orders, that the business to be transacted after Oral Questions tomorrow shall be statements on matters relating to An Garda Síochána, and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 12 p.m. and the following arrangements shall apply: the statements of a Minister or Minister of State and those of the main spokespersons of Fianna Fáil, Sinn Féin and the Technical Group, who shall be called upon in that order, shall not exceed 15 minutes in each case and such Members may share their time; and a Minister of Minister of State shall be called upon to make a statement of reply which shall not exceed 15 minutes.

Acting Chairman (Deputy Olivia Mitchell): Is that agreed? Agreed.

Companies Bill 2012: Order for Report Stage

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Sean Sherlock): I move: "That Report Stage be taken now."

Question put and agreed to.

Companies Bill 2012: Report Stage

Acting Chairman (Deputy Olivia Mitchell): Amendment No. 1 arises out of committee proceedings. Amendments Nos. 1, 5, 91 to 133, inclusive, 166, 171, 172, 177, 201, 202, 217, 219 to 226, inclusive, 236, 237, 251, 252, 269 and 271 are cognate and may be discussed together.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Sean Sherlock): I move amendment No. 1:

In page 66, to delete lines 39 and 40.

The purpose of this amendment is to delete the definition of “licensed bank”. The definition is no longer necessary as the Office of the Parliamentary Counsel has recommended use of “credit institution” rather than “licensed bank”. This will result in uniformity of language throughout the Bill and is in line with EU law.

Amendment agreed to.

Acting Chairman (Deputy Olivia Mitchell): Amendments Nos. 2, 190 and 258 form a composite proposal and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 2:

In page 69, between lines 6 and 7, to insert the following:

“ “system of interconnection of registers” means the system of interconnection of central commercial and companies registers established in accordance with Article 4a(2) of Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009;”.

The purpose of the amendment is to define the system of interconnection of registers which is provided for by Directive 2012/17/EU of the European Parliament and the Council of 2012 and must be transposed by 14 July 2014.

Deputy Peadar Tóibín: Is the Minister of State confident all of the information shared with all member states will be treated properly, so that while there may be various methods of using information in other member states, all of the information shared will be respectfully used and managed?

Deputy Sean Sherlock: I assure the Deputy the new directive ensures all EU member states enabling electronic communication between business registers and transmitting information to individual users will do so in a standardised way by means of identical content and interoperable technologies throughout the European Union. The system of interconnection of registers shall be composed of the registers of member states, a central platform, and one or more access portals. The European e-justice portal will serve as the European electronic access point and the new directive stipulates the European Commission may by means of implementing acts specify the technical specification, defining among others the structure of the standard message format for the purpose of the exchange of information between the registers, the platform and the portal, and the technical specifications defining the structure and the use of the unique identifier for communication between registers.

Acting Chairman (Deputy Olivia Mitchell): Does the Minister of State wish to address amendments Nos. 190 and 258?

Deputy Sean Sherlock: I hope I have covered them.

Amendment agreed to.

Amendment No. 3 not moved.

Acting Chairman (Deputy Olivia Mitchell): Amendments Nos. 4, 6, 59 and 60 are cognate and may be discussed together.

Deputy Peadar Tóibín: I move amendment No. 4:

In page 77, line 34, after “activity” to insert “and be managed and controlled”.

The first two amendments are interrelated. They detail the classification of the type of company to be established in the State.

The current proposals mean that a company must conduct some activity in the State. I believe this provision was established in 1998 and the idea was to stop the brass-plating of firms in Ireland. However, the Minister of State will understand that a loophole exists, which allows a company to be registered here but to be tax-resident in another state. This is where one comes to the idea of Irish-registered non-resident companies. A major worry for me is that shockingly, the Government does not have available a figure on how many such firms are in existence and one cannot manage if one cannot understand what are the figures. Tax residence is determined by where a company is managed and controlled from, and this simple amendment effectively means that a company registered in the State must also be managed and controlled in the State and must be tax resident in the State and make annual returns. If the Government is committed to dealing with the issue of tax avoidance, this is a great opportunity to so do.

It is important that Ireland does so for a number of reasons. Ireland’s standing has reduced quite significantly internationally as a result of the understanding many countries have on the level of effective corporation taxes that firms pay. While the Minister of State might shrug and believe it is a matter of perspective, there are metrics and surveys to show that Ireland and the International Financial Services Centre in particular have fallen in standing as a result of the current scenario. The second important issue in this regard is that some of the details have shown that for some of these firms, effective tax rates can be between 1% and 6%. Given that most of the people for whom Members work, that is, the Irish public, pay taxes far in excess of this rate, it seems logical and fair that highly profitable firms which are registered here also would pay taxes commensurate with the level of profits they make. I ask the Minister of State to use this opportunity finally to close this loophole.

Deputy Sean Sherlock: At the outset, I do not propose to support these amendments. This series of amendments proposes to insert the words “managed and controlled” into sections of the Bill. When one considers it, the objective appears to be to cause all companies registered in Ireland to be tax resident in Ireland. One must think carefully about this and neither I nor the Minister, Deputy Bruton, is in a position to consider the full impact or consequences of any change to tax law because such an exercise, for the purposes of this Bill, comes within the remit and the function of the Minister for Finance. Moreover, the proposed amendments are illegal under both European Union and international law. The provisions would fall foul of the European Union law on freedom of establishment, which is a core aspect of European Union law. Compliance with this is monitored closely by the European Commission and Ireland recently has been required by the Commission to change a provision of Irish law, which requires that at least one director of an Irish company be resident in Ireland. This provision, as proposed, would go much further and effectively would require all management activities to occur within the State. This clearly would be a hindrance to cross-border trade within the European Union and would trammel significantly the ability of a company from another European Union member state to establish itself in Ireland. Furthermore, the proposal would put Ireland in breach of obligations under double taxation agreements with other countries. This is completely unprecedented and would be highly prejudicial to Irish commerce and to Ireland’s reputation internationally. Consequently, for these reasons I will not be accepting these amendments.

Deputy Peadar Tóibín: The Minister of State observed it is under the remit of the Department of Finance to focus on this issue. He also stated this amendment could do damage to Ireland's interpretation. I do not know whether the Minister of State has been watching the same television shows or reading the same newspapers as have I, because Ireland's reputation internationally has been trammelled. While this issue may be under the remit of the Minister for Finance, it is within the remit of the Government and this amendment provides the Government with an opportunity to resolve the issue.

Deputy Sean Sherlock: As one Government Minister among many, we have spent considerable time over the past three years in travelling abroad and encouraging investment. I recently have returned from the mid-west of the United States, where Ireland's reputation regarding the potential for foreign direct investment is very strong. A clear message is coming from the United States of America, to name one country as an example, that there is a clear intent on the part of companies to explore the options of investing in a country like Ireland. Specific meetings have been held with specific target companies through IDA Ireland, companies have been brought out through Enterprise Ireland and no one I have met has mentioned anything about our reputation. The opposite is the case and while I would be interested to see the set of metrics to which the Deputy has access - if there are reputational issues - when it comes to a decision by a company to invest in Ireland, based on the companies that have been attracted here even over the past 24 months, it is clear there is significant interest in Ireland in respect of inward investment and creating jobs.

Amendment put and declared lost.

Deputy Sean Sherlock: I move amendment No. 5:

In page 77, line 35, to delete "licensed bank" and substitute "credit institution".

Amendment agreed to.

Deputy Peadar Tóibín: I move amendment No. 6:

In page 79, line 13, after "administration" to insert ", management and control".

Amendment put and declared lost.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 7, 9 and 218 are related and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 7:

In page 83, to delete lines 23 and 24 and substitute the following:

"(3) In *subsection (2)*, "person" means, for the purposes of *paragraph (b)* of it, the company referred to in that paragraph."

The purpose of amendment No. 7 is to correct the incorrect cross-reference in subsection (3) from paragraph (b) to (a). The purpose of amendment No. 9 is clarification. Deletion of the word "it" and its replacement with "the company" makes it clearer that the company shall notify the registrar of the authorisation of a person as being entitled to bind the company in the prescribed form. The function of amendment No. 218 is to clarify to whom the notification requirement applies. Section 1081 restates section 229(1) of the 1990 Act. The obligation to

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notify the Stock Exchange under section 229(1) only applies where shares have been purchased either by the company that issued the shares or by a company that is that company's subsidiary.

Section 1081, as it stands, extends this obligation beyond existing law to where shares are purchased by a body corporate, which includes companies incorporated abroad. This amendment is in line with the existing law and purports to maintain it.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 8 and 10 to 12, inclusive, may be discussed together.

Deputy Sean Sherlock: I move amendment No. 8:

In page 88, line 35, after "Where" to insert "the board of directors of".

The purpose of these amendments is for clarification. The Bill, as it stands, has been interpreted as meaning the board of directors must be registered with the Companies Registration Office. That is not the intention of this section, which is drawn from existing law, Regulation 6(3) of the European Communities (Companies) Regulations 1973, SI 163 of 1973. It provides that where a company chooses to appoint a person to fully bind the company on its behalf, such a company must notify the registrar in the CRO, who will register the person as the company's registered person. Where a company revokes such an authorisation, the person will be considered as a registered person until the registrar is notified in the prescribed form of this revocation.

The purpose of such a provision is to reduce red tape for companies that wish to authorise a registered person to have full authority to exercise any power of the company. This will save banks and other third parties from having to search through the minutes of the company's board meetings to check whether a person is authorised to bind the company. This authority is limited by any power of management of the company exercisable by its board of directors or where this Bill requires a power to be exercised otherwise.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 9:

In page 89, line 1, to delete "it" and substitute "the company".

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 10:

In page 89, line 6, after "by" to insert "the board of the directors of".

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 11:

In page 89, line 8, after "Where" to insert "the board of directors of".

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 12:

In page 89, line 24, after “by” to insert “the board of the directors of”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 13:

In page 92, lines 13 and 14, to delete “if a company has appointed a registered person” and substitute “if there be a registered person in relation to a company,”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 14:

In page 92, lines 16 to 18, to delete all words from and including “countersigned” in line 16 down to and including “purpose.” in line 18 and substitute the following:

“countersigned—

(a) by the secretary or a director of the company; or

(b) by some other person appointed for the purpose by its directors or a committee of its directors authorised by its directors in that behalf.”.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): I wish to advise Members that a footnote has been omitted from amendment No. 244. The footnote should indicate that the reference to section 1019 in this amendment is a reference to the section being inserted by amendment No. 206. Amendments Nos. 15, 206 and 244 form a composite proposal and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 15:

In page 93, to delete lines 1 to 15.

I have been asked by the Bills Office to inform the House that there is a problem with a footnote to an amendment in this grouping. Amendment No. 244 ought to be accompanied by a footnote to state that section 1019, to which it refers, is being inserted by amendment No. 206.

The purpose of these amendments is to correct an unintended change caused by the Bill’s structure and to revert to existing law in accordance with the policy intention. Section 45, which is the official seal for sealing securities, restates section 3 of the Companies (Amendment) Act 1977 and provides that a company may have an official seal which is a facsimile of the common seal for the purposes of sealing securities issued by the company and sealing documents creating or evidencing securities so issued.

Section 3 of the Act of 1977 does not apply to private limited companies. The policy is to restrict the scope of section 45 to public companies and to re-enact the existing law. Thus, this section should be deleted for private companies limited by shares. New sections are proposed to be inserted in the relevant parts to provide for PLCs, PUCs and PULCs. Such public companies shall have an official seal which is a facsimile of the common seal and which has on its face the word “securities” or the Irish language equivalent.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 16 and 17 are related and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 16:

In page 98, line 11, after “*subsection (3)*” to insert “, and without prejudice to *subsection (7)*”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 17:

In page 98, line 27, after “that Act and” to insert “, without prejudice to *subsection (8)*”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 18:

In page 106, line 4, after “shares” to insert the following:

“but, for the purposes of this definition, a company shall not be regarded as a subsidiary if it is such only by virtue of *section 7(2)(a)(ii)* or *(e)*”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 19:

In page 107, line 6, after “this Act” to insert “, other than in *section 70(11)(c)*”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 20:

In page 111, between lines 8 and 9, to insert the following:

“(5) Any director of a company who knowingly contravenes, or knowingly permits or authorises a contravention of, a preceding provision of this section shall be guilty of a category 3 offence.”.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 21 to 25, inclusive, 208 and 209 are cognate and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 21:

In page 111, line 13, to delete “shares in the company of any class” and substitute “relevant shares, of the class concerned, in the company”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 22:

In page 111, line 14, after “those” to insert “relevant”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 23:

In page 111, line 18, to delete “each other person who holds shares in the company of any class” and substitute “each person who holds relevant shares, of the class concerned, in the company”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 24:

In page 111, line 21, after “the” where it secondly occurs to insert “relevant”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 25:

In page 111, to delete lines 26 and 27 and substitute the following:

“(6) In-

(a) *subsection (5)* “relevant shares”, in relation to a company, means shares in the company other than shares which as respects dividends and capital carry a right to participate only to a specified amount in a distribution;

(b) *subsection (5)(a)(ii)* “non-member” means a person who is not holder of shares (as that expression is to be read by virtue of *section 71(4)*) in the company.”.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 26 and 27 are related and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 26:

In page 112, to delete lines 11 and 12.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 27:

In page 112, line 25, to delete “company.” and substitute the following:

“company;

(f) to allotments of bonus shares.”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 28:

In page 113, between lines 35 and 36, to insert the following:

“(12) If, before the commencement of *section 70*, the directors of a company have been granted authority, pursuant to *section 20* of the Act of 1983, to allot relevant securities (within the meaning of that *section 20*) and that authority is in force immediately

before that commencement—

(a) neither *section 70* nor this section shall apply to the allotment, after that commencement, of relevant securities by the directors pursuant to that authority (which authority shall, in accordance with its terms, be taken to remain in force); and

(b) section 20 (other than subsections (4) and (9) thereof), and sections 23 and 24, of the Act of 1983 shall apply to that authority and any allotment of relevant securities on foot thereof,

but, on the expiry of that authority, *section 70* and this section shall apply to any allotment thereafter of shares in the company (or the grant of any right to subscribe for shares in the company or to convert securities into such shares).

(13) For the purposes of *subsection (12)* □—

(a) “Act of 1983” means the Companies (Amendment) Act 1983;

(b) the reference to the grant of an authority includes a reference to the conferral, by the articles of the company, of an authority; and

(c) the exclusion of the application of section 20(4) of the Act of 1983 by *paragraph (b)* of *subsection (12)* shall not be taken as preventing the renewal of the authority concerned under *section 70* and this section, but if that authority is so renewed, *section 70* and this section shall apply to any allotment, or the grant of any right, as mentioned in *subsection (12)*, that occurs after that renewal of authority on foot thereof.”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 29:

In page 126, line 12, to delete “2 daily newspapers” and substitute “one daily newspaper”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 30:

In page 131, lines 40 and 41, to delete all words from and including “may,” in line 40 down to and including “capital,” in line 41 and substitute the following:

“may for any purpose (with the result that its company capital is thereby re-organised)”.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 31 and 32 are related and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 31:

In page 133, line 26, after “transferor” to insert the following:

“, save that if the share concerned (or one or more of the shares concerned) is not fully paid, the instrument shall be executed by or on behalf of the transferor and the transferee”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 32:

In page 133, to delete line 27 and substitute “(3) The”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 33:

In page 142, to delete lines 21 to 23 and substitute the following:

“(4) Subject to this Part, the acquisition by a company of its own shares shall be authorised by—”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 34:

In page 143, line 1, to delete “any member of the company” and substitute the following:

“any member holding one or more shares in the company conferring the right to vote at the meeting concerned”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 35:

In page 143, lines 16 and 17, to delete “30 days” and substitute “21 days”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 36:

In page 150, between lines 12 and 13, to insert the following:

“(6) No authorisation is required to be given under *subsection (3)* by any body corporate unless it is a company formed and registered under this Act or an existing company.”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 37:

In page 151, lines 14 and 15, to delete “or referred to in *paragraph 82* of that Schedule”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 38:

In page 152, between lines 1 and 2, to insert the following:

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“(9) Notwithstanding anything in the preceding subsections of this section, but without prejudice to any contrary provision of—

(a) an order of, or undertaking given to, the court;

(b) the resolution for, or any other resolution relevant to, the reduction of company capital; or

(c) the company’s constitution,

a reserve arising from the reduction of a company’s company capital is to be treated, both for the purposes of this section and for purposes otherwise, as a realised profit.”.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 39 to 41, inclusive, 45, 46 and 86 are cognate and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 39:

In page 153, line 33, after “relevant” to insert “entity”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 40:

In page 153, line 36, after “relevant” to insert “entity”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 41:

In page 153, line 38, after “last” to insert “entity”.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 42 to 44, inclusive, are cognate and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 42:

In page 154, line 1, after “statements” to insert “, respecting the company alone,”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 43:

In page 154, line 8, after “statements”)” to insert “, respecting the company alone,”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 44:

In page 154, line 12, after “statements”)” to insert “, respecting the company alone,”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 45:

In page 154, line 15, after “relevant” to insert “entity”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 46:

In page 154, line 41, after “relevant” to insert “entity”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 47:

In page 156, to delete lines 39 to 42, and in page 157, to delete lines 1 and 2.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 48 to 54, inclusive, are related and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 48:

In page 158, to delete lines 24 to 27 and substitute the following:

“(2) In *subsections (3) and (4)* “relevant sum” means—

(a) any sum for the time being standing to the credit of the company’s undenominated capital;

(b) any of the company’s profits available for distribution; or

(c) any sum representing unrealised revaluation reserves arising on a revaluation of all the fixed assets of the company.”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 49:

In page 158, line 34, to delete “or debentures”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 50:

In page 158, line 35, to delete “or debentures”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 51:

In page 159, line 11, to delete “or debentures”.

Amendment agreed to.

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Deputy Sean Sherlock: I move amendment No. 52:

In page 159, line 14, to delete “or debentures”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 53:

In page 159, line 16, to delete “or debentures”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 54:

In page 159, line 21, to delete “or debentures”.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 55 to 58, inclusive, are related, with amendments Nos. 56 to 58, inclusive, forming a composite proposal. Therefore, amendments Nos. 55 to 58 may be discussed together.

Deputy Peadar Tóibín: I move amendment No. 55:

In page 163, line 11, to delete “one, at least,” and substitute “a majority”.

I am sure the Minister of State will just agree to these amendments and reciprocate my good wishes. Amendments Nos. 56 to 58 deal with the bond of €25,000 in circumstances where there is no director resident in Ireland. A more realistic approach would be to set €25,000 as the minimum, 4% of company turnover or 2% of the wages bill, whichever is higher. A bond is particularly relevant in circumstances where an employee or employees are left with unpaid wages, which could be as much as two months' pay, plus redundancy. In those circumstances, it would fall back on the State to make those payments from the insolvency fund. These amendments, therefore, are designed to save the Exchequer money.

Deputy Sean Sherlock: The Deputy is taking a novel approach, which I admire, but I am not in favour of adopting these amendments. The Deputy's proposals impose unduly oppressive conditions on legitimate businesses. The suggestion that a majority of directors should be EEA-resident may particularly dissuade foreign direct investment companies from doing business in this country, which would be bad for Ireland and for Irish commerce generally. Section 138, which re-enacts existing law, ensures that companies which do not have at least one director who is resident in an EEA state must put in place a bond, in the prescribed form, that becomes payable to a person nominated by the registrar or the Revenue Commissioners. The purpose of the bond is to discharge any fine imposed on the company in respect of an offence committed by it and prosecutable by the registrar or for the purpose of discharging certain fines and penalties imposed on it by the Taxes Consolidation Act 1997. The moneys can also be used to cover expenses that are reasonably incurred in the collection of said penalties. The bond cannot be used for any other purpose. Therefore, the amendments proposed do not achieve any legitimate policy goal. Their sole effect is to create an arbitrary restriction on non-EEA companies trying to do business in Ireland. In that context, the Government will not support the amendments.

Deputy Peadar Tóibín: There is serious exposure of employees right through the system.

We have seen a plethora of employees in recent years having to fight very hard to ensure they get their entitlements. These amendments seek to ensure that workers who have expended their energies, brain power and efforts to make a profit for a company or business are protected. They would be protected using the mechanism outlined in the amendments. It would be a policy objective of the Government to ensure that employees are fully protected in every case. It would also be a policy objective of the Government to reduce the State's exposure to potential shortfalls in the context of redundancy and insolvency. Unpaid remuneration in these times of contraction is all too common. I would urge the Minister of State to reconsider these amendments.

Deputy Sean Sherlock: The Deputy has not said anything with which I would disagree, in principle. There is no question about the importance of the protection of employees. However, the corpus of law that would deal with that issue effectively is employment rather than company law. We have a very enhanced labour relations structure in this country. We also have an insolvency fund which is run by the Department of Social Protection. It is on that basis that we will not support the Deputy's amendments. We do not propose to incorporate the spirit of those amendments, as articulated by the Deputy, into company law because we feel that protections for employees already exist within employment law. Therefore, as I have already stated, we will not be accepting the amendments.

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

Amendment declared lost.

Deputy Peadar Tóibín: I move amendment No. 56:

In page 163, line 14, after "€25,000" to insert "or 4 per cent of turnover or the total wages paid, whichever is the greater".

Amendment put and declared lost.

Deputy Peadar Tóibín: I move amendment No. 57:

In page 163, line 18, to delete "purpose" where it secondly occurs and substitute "purposes".

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

Amendment declared lost.

Deputy Peadar Tóibín: I move amendment No. 58:

In page 163, line 22, after "accordingly)" to insert the following:

"or in the case of unpaid remuneration the amount payable under the redundancy and insolvency schemes".

Amendment put and declared lost.

Deputy Peadar Tóibín: I move amendment No. 59:

In page 165, line 37, after "on" to insert "and managed and controlled".

Amendment put and declared lost.

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Deputy Peadar Tóibín: I move amendment No. 60:

In page 166, line 17, after “trade” to insert “and is managed and controlled”.

Amendment put and declared lost.

7 o'clock

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 61, 68, 69, 136, 141, 159, 178, 188, 189, 232, 235 and 254 are drafting amendments and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 61:

In page 170, line 19, to delete “In the case of” and substitute “Subject to *subsection (1)*, in the case of”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 62:

In page 175, to delete lines 8 and 9 and substitute the following:

“(iii) in the case of a married person or civil partner, the name or surname by which he or she was known previously to his or her marriage or civil partnership.”.

The purpose of the further amendment to this section is to make provision for a married person or civil partner and by making the section gender neutral by providing for his or her. This subsection is drawn from existing law and clarifies the use of the terms “surname” and “former forename”.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 63 and 183 are related and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 63:

In page 176, between lines 11 and 12, to insert the following:

“(9) If a person appointed a director of a company before the commencement of this section has, subsequent to his or her appointment but before that commencement, become disqualified under the law of another state (whether pursuant to an order of a judge or a tribunal or otherwise) from being appointed or acting as director or secretary of a body corporate or an undertaking, then *subsection (1)* shall apply to such a case as it applies to a case of a director becoming so disqualified after that commencement.

(10) For the purpose of the application of *subsection (1)* to the case first-mentioned in the preceding subsection, *section 150* shall apply as if the following subsection were substituted for *subsection (8)*:

“(8) The company shall, within the period of 3 months after the commencement of this section, send to the Registrar a notification in the prescribed form of the change and of the date on which it occurred.”.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 64 and 65 are related and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 64:

In page 180, line 4, after “tax” to insert “or the universal social charge”.

The purpose of these amendments is to insert a reference to the universal social charge, USC. As the Bill stands, there is a prohibition on the payment of remuneration to a director free of income tax. It is, however, silent regarding the USC. It is proposed this section be amended to include the USC, so that it shall not be lawful to pay a director a remuneration free of income tax and the USC.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 65:

In page 180, line 14, after “tax” to insert “and the universal social charge”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 66:

In page 180, between lines 32 and 33, to insert the following:

“(3) Without prejudice to the generality of that subsection, *subsection (1)* operates to enable, subject to a limitation (if any) arising under any of *paragraphs (a) to (c)* of it, the directors of the company to exercise all powers of the company to borrow money and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof.”.

The purpose of this amendment is to reflect existing law by helpfully clarifying that directors are granted powers to borrow money and create charges.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 67:

In page 182, to delete lines 31 to 34 and substitute the following:

“**162.** (1) A resolution in writing signed by all the directors of a company, or by all the members of a committee of them, and who are for the time being entitled to receive notice of a meeting of the directors or, as the case may be, of such a committee, shall be as valid as if it had been passed at a meeting of the directors or such a committee duly convened and held.”.

The purpose of this amendment is to provide a helpful clarification regarding committees. The section contains supplemental provisions about meetings. The purpose of subsection 1 is to enable directors to decide on any particular matter without coming together for a formal meeting. As committees are also to be allowed use written resolutions, reference to them is included in the first part of the sentence.

Amendment agreed to.

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Deputy Sean Sherlock: I move amendment No. 68:

In page 189, line 29, to delete “*subsections (1) and (2)*” and substitute “*subsections (1) and (3)*”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 69:

In page 189, lines 31 and 32, to delete “*subsection (3)*” and substitute “*subsection (4)*”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 70:

In page 194, line 6, after “company” to insert “(being a bankrupt member who is entitled to vote at the meeting)”.

The purpose of this amendment is for clarification. Again, notice of every general meeting shall be given to the assignee in bankruptcy of a bankrupt member of the company, that is to say, a bankrupt member who is entitled to vote at the meeting as opposed to a bankrupt member who is not entitled to vote.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 71:

In page 195, between lines 36 and 37, to insert the following:

“(4) *Subsection (4)* shall apply unless the company’s constitution provides otherwise.”.

The purpose of this amendment is to determine the period which must elapse before a meeting must be adjourned for lack of a quorum. The time for the initial meeting has been shortened from 30 minutes to 15 minutes. The amendment to this section allows for the period to be modified by the company’s constitution.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 72:

In page 213, line 21, after “liabilities” to insert the following:

“(being the debts and liabilities identified for the purposes of *paragraph (d)* and so far as not already paid or discharged)”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 73:

In page 219, between lines 12 and 13, to insert the following:

“(5) *Subsection (5)* does not apply—

(a) if the services to the other computer there mentioned are provided by means

of the technology commonly known as cloud computing or by any other distance hosting solution; or

(b) to the extent that regulations under *subsection (6)* provide that it shall not apply.”.

The purpose of this amendment is to widen the section’s scope so as to provide for different methods of storing virtual information. As the Bill stands, the use of the term “server” is too restrictive and many companies now use cloud or hosted solutions to address IT technical requirements.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 74 and 158 are related and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 74:

In page 222, to delete lines 36 to 40, and in page 223, to delete lines 1 to 13 and substitute the following:

“**219.** (1) *Subsections (3) and (4)* shall apply to any case in which a provision of this Act requires or authorises a notice to be served on or given to a member of a company by the company, or an officer of it, but save to the extent that the constitution of the company provides otherwise.

(2) *Subsection (5)* shall only apply if there is contained in the company’s constitution a provision to the effect that it shall apply (but nothing in this subsection shall prevent alternative and reasonable provision being made in the constitution with regard to one or more of the matters set out in that subsection and, to the extent that such alternative and reasonable provision is made, that provision shall apply instead of that subsection).

(3) A notice referred to in *subsection (1)* shall, save where the means of serving or giving it specified in *paragraph (d)* is used, be in writing and may be served on or given to the member in one of the following ways:

(a) by delivering it to the member;

(b) by leaving it at the registered address of the member;

(c) by sending it by post in a prepaid letter to the registered address of the member;

or

(d) if the company’s constitution permits the use of electronic means to serve or give the notice or the conditions specified in *subsection (4)* are satisfied, by electronic means.

(4) The conditions referred to in *subsection (3)(d)* are—

(a) the member has consented in writing to the company, or the officer of it, using electronic means to serve or give notices in relation to him or her;

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(b) at the time the electronic means are used to serve or give the notice in relation to the member, no notice in writing has been received by the company or the officer concerned from the member stating he or she has withdrawn the consent referred to in *paragraph (a)*; and

(c) the particular means used to serve or give the notice electronically are those that the member has consented to.

(5) Any notice served or given in accordance with *subsection (3)* shall be deemed, in the absence of any agreement to the contrary between the company (or, as the case may be, the officer of it) and the member, to have been served or given—

(a) in the case of its being delivered, at the time of delivery (or, if delivery is refused, when tendered);

(b) in the case of its being left, at the time that it is left;

(c) in the case of its being posted (to an address in the State) on any day other than a Friday, Saturday or Sunday, 24 hours after despatch and in the case of its being posted (to such an address)—

(i) on a Friday — 72 hours after despatch; or

(ii) on a Saturday or Sunday — 48 hours after despatch;

(d) in the case of electronic means being used in relation to it, 12 hours after despatch.”.

The purpose of these amendments is to improve the ability of companies to service notice in a modern and effective manner.

Amendment agreed to.

Amendments Nos. 75 to 77, inclusive, not moved.

Acting Chairman (Deputy Peter Mathews): Amendment No. 79 is a physical alternative to Amendment No. 78. They may be discussed together.

Deputy Peadar Tóibín: I move amendment No. 78:

In page 228, to delete lines 16 to 35, to delete page 229, and in page 230, to delete lines 1 to 6 and substitute the following:

“**226.** The Act of 1990 is amended by inserting the following in Part X:

“205E. (1) In this section—

‘amount of turnover’ and ‘balance sheet total’ have the same meanings

as in section 8 of the Companies (Amendment) Act 1986;

‘relevant obligations’, in relation to a company, means the company’s obligations under—

(a) the Companies Acts,

(b) tax law, and

(c) any other enactments that provide a legal framework within which the company operates and that may materially affect the company's financial statements;

'tax law' means—

(a) the Customs Acts,

(b) the statutes relating to the duties of excise and to the management of those duties,

(c) the Tax Acts,

(d) the Capital Gains Tax Acts,

(e) the Value-Added Tax Act 1972 and the enactments amending or extending that Act,

(f) the Capital Acquisitions Tax Act 1976 and the enactments amending or extending that Act,

(g) the statutes relating to stamp duty and to the management of that duty, and

(h) any instruments made under an enactment referred to in any of paragraphs (a) to (g) or made under any other enactment and relating to tax.

(2) This section applies to—

(a) a public limited company (whether listed or unlisted), and

(b) a private company limited by shares, but it does not apply to a company referred to in paragraph (a) or (b) that is of a class exempted under section 48(1)(j) of the Act of 2003 from this section or to a company referred to in paragraph (b) while that company qualifies for an exemption under subsection (9).

(3) The directors of a company to which this section applies shall, as soon as possible after the commencement of this section or after this section becomes applicable to the company, prepare or cause to be prepared a directors' compliance statement containing the following information concerning the company:

(a) its policies respecting compliance with its relevant obligations;

(b) its internal financial and other procedures for securing compliance with its relevant obligations;

(c) its arrangements for implementing and reviewing the effectiveness of the

policies and procedures referred to in paragraphs (a) and (b).

(4) The directors' compliance statement (including any revisions) must—

(a) be in writing,

(b) be submitted for approval by the board of directors,

(c) at least once in every 3 year period following its approval by the board, be reviewed and, if necessary, revised by the directors, and

(d) be included in the directors' report under section 158 of the Principal Act.

(5) The directors of a company to which this section applies shall also include in their report under section 158 of the Principal Act a statement—

(a) acknowledging that they are responsible for securing the company's compliance with its relevant obligations,

(b) confirming that the company has internal financial and other procedures in place that are designed to secure compliance with its relevant obligations, and, if this is not the case, specifying the reasons, and

(c) confirming that the directors have reviewed the effectiveness of the procedures referred to in paragraph (b) during the financial year to which the report relates, and, if this is not the case, specifying the reasons.

(6) In addition, the directors of a company to which this section applies shall in the statement required under subsection (5)—

(a) specify whether, based on the procedures referred to in that subsection and their review of those procedures, they are of the opinion that they used all reasonable endeavours to secure the company's compliance with its relevant obligations in the financial year to which the annual report relates, and

(b) if they are not of that opinion, specify the reasons.

(7) For the purposes of this section, a company's internal financial and other procedures are considered to be designed to secure compliance with its relevant obligations and to be effective for that purpose if they provide a reasonable assurance of compliance in all material respects with those obligations.

(8) Where the directors of a company to which this section applies fail—

(a) to prepare, or to cause to be prepared, a directors' compliance statement as required by subsections (3) and (4)(a) to (c),

(b) to include a directors' compliance statement in the directors' report as required by subsection (4)(d), or

(c) to comply with subsections (5) and (6), each director to whom the failure is attributable is guilty of an offence.

(9) A private company limited by shares qualifies for an exemption from this

section in respect of any financial year of the company if—

(a) its balance sheet total for the year does not exceed—

(i) €7,618,428, or

(ii) if an amount is prescribed under section 48(1)(l) of the Act of 2003 for the purpose of this provision, the prescribed amount,

and

(b) the amount of its turnover for the year does not exceed—

(i) €15,236,856, or

(ii) if an amount is prescribed under section 48(1)(l) of the Act of 2003 for the purpose of this provision, the prescribed amount.

205F.(1) The auditor of a company to which section 205E applies shall undertake an annual review of—

(a) the directors' compliance statement under subsections (3) and (4) of that section, and

(b) the directors' statement under subsections (5) and (6) of that section, to determine whether, in the auditor's opinion, each statement is fair and reasonable having regard to information obtained by the auditor, or by an affiliate of the auditor within the meaning of section 205D, in the course of and by virtue of having carried out audit work, audit-related work or non-audit work for the company.

(2) The auditor shall—

(a) include in the auditor's report appended to the company's annual accounts a report on, and the conclusions of, the review undertaken under subsection (1), and

(b) where any statement reviewed under subsection (1) is not, in the auditor's opinion, fair and reasonable—

(i) make a report to that effect to the directors, and

(ii) include that report in the auditor's report appended to the annual accounts.

(3) Where, in the auditor's opinion, the directors have failed—

(a) to prepare, or to cause to be prepared, a directors' compliance statement as required by section 205E(3) and (4)(a) to (c),

(b) to include a directors' compliance statement in the directors' report as required by section 205E(4)(d), or

(c) to comply with section 205E(5) and (6), the auditor shall report that opinion and the reasons for forming that opinion to the Director of Corporate Enforcement.

(4) Section 194(6) applies, with the necessary modifications, in relation to an audi-

tor's compliance with an obligation imposed on him by or under this section as it applies in relation to an obligation imposed by or under section 194.

(5) A person who contravenes this section is guilty of an offence.””.

Three dissenting voices have centred around this element of the legislation, namely the Office of the Director of Corporate Enforcement, ODCE, the Revenue Commissioners and the Irish Congress of Trade Unions, ICTU. One of the main complaints about this Bill is that it has been so long coming to the fore that it reflects much of the thinking of pre-crash Ireland. We have learned much since then, especially that light-touch regulation can cost an economy dearly. When ICTU, the ODCE and Revenue are agreed on a provision of the Bill it is important for the Oireachtas to take notice of it.

The OCDE stated it was not prepared to endorse the mitigated directors' compliance statement provision recommended by the company law review group for the following reasons. As the body responsible for encouraging compliance with company law, including the preparation of books of account which give a true and fair view of a company's state of affairs, the ODCE finds unacceptable a proposal which omits reporting on obligations that may materially affect the company's financial statements. The proposal that a company may rely at the directors' discretion on internal or external advisers to help secure compliance is unnecessary. It would also institutionalise a heavy advisory cost. The provision of the auditor review of the directors' compliance statement has been entirely deleted, which was a key recommendation of the auditing review group. The proposal that a company has in place appropriate arrangements or structures to secure compliance is unclear. It appears possible that the appropriate structure can be independent of any arrangements of procedures for securing compliance. The proposed definition of material compliance no longer requires the arrangements of structures to be placed.

Section 44 of the 2003 Act is considered by many of these organisations to be superior.

Deputy Sean Sherlock: This section contains the form of directors' compliance statement as recommended by the company law review group. Having analysed the provisions contained in the 2003 Act, the group determined that such extra duties, as set out in the Act, would do little to increase compliance. In fact, it would actually result in an increase in red tape at significant cost to businesses. The set-up cost to a business was estimated at €90,000 with the ongoing annual costs at €40,000. A streamlined version of the directors' compliance statement proposed by the group removed the requirement that the statement included a declaration that the company has complied with all other enactments that could affect its financial performance. This was found to be the most burdensome aspect of the statement, as well as the least relevant as companies are already legally obliged to comply with all Acts. Their inclusion in the statement does not add any substantive duties.

A majority of the group, including members representing the Financial Regulator and other public bodies, agreed to a more balanced version of the statement. There is a strong EU impetus towards less unnecessary regulation to make EU businesses more competitive. This amendment would create unjustifiable and disproportionate costs on Irish businesses without adding value in terms of protection and would disadvantage Ireland competitively as it would go beyond other countries and perhaps beyond the regime north of the Border. The directors' compliance statement as it stands has broad support from industry and regulators alike. For these reasons, it is intended to preserve the directors' compliance statement, DCS, as it currently stands within the Bill. On that basis, we do not propose to accept the amendment.

Deputy Peadar Tóibín: The fight against red tape and extra costs will always be and has always been the argument for getting rid of regulation. By its nature, regulation has an extra cost and creates a level of red tape for businesses. Nobody is arguing that we should get rid of regulation totally. Irish businesses would be more competitive if they were not required to write up health and safety statements or if we got rid of all regulation that exists to prevent problems and ensure firms adhere to their responsibilities to their staff, their environment, community and government.

The point is whether there is a balance between responsibilities to the greater community and the responsibility to make a profit for the shareholders. We need to set the balance there. However, a substantially watered down version of what we require has found its way into the Bill. The Bill is weaker and vaguer. The majority of the concerns of ICTU and the ODCE etc. were ignored. In my experience it is seldom we have seen such strong statements from the three disparate organisations in critique of this element of the legislation. If we are to learn anything from the collapse of the past number of years, it should be that regulation, when necessary, is valuable, saves money in the long term and reduces the cost burden for the State.

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

Amendment declared lost.

Amendment No. 79 not moved.

Deputy Sean Sherlock: I move amendment No. 80:

In page 233, to delete lines 34 and 35 and substitute the following:

“(10) Any reference in this section to a contract —

(a) shall be read as excluding a reference to a contract the decision as to whether to enter into it is taken, or falls to be taken, other than by the board of directors or a committee of which the first-mentioned director in *subsection (1)* is a member;

(b) shall be read as including a reference to any transaction or arrangement, whether or not constituting a contract, but, in a case where the transaction or arrangement does not constitute a contract, a like limitation to that which applies under *paragraph (a)* applies to the construction of reference provided by this paragraph.”.

The purpose of this amendment is to provide clarification. The Bill, as it stands, may lead to a misinterpretation that could result in a situation where directors may feel obliged to seek board approval for minor matters such as opening deposit accounts. This was never intended to be the case.

Amendment agreed to.

Amendment No. 81 not moved.

Deputy Sean Sherlock: I move amendment No. 82:

In page 240, line 32, to delete “private company limited by shares ” and substitute “company formed and registered under this Act or an existing company”.

The purpose of this amendment is to provide clarification. The wording as it currently

stands is misleading in the context of the overall approach and layout of the Bill and suggests, incorrectly, that company types other than private companies limited by shares are not required to give approval under this section.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 83:

In page 242, to delete lines 8 to 10 and substitute the following:

“(b) the amount of a company’s relevant assets shall be determined in accordance with *section 239(2)*; and

(c) there shall not be reckoned any arrangement entered into in accordance with the Summary Approval Procedure.”

The purpose of this amendment is to provide exemptions in regard to arrangements which have already been properly approved in accordance with the summary approval procedure.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 84:

In page 245, between lines 37 and 38, to insert the following:

“(7) No approval is required to be given under this section by any body corporate unless it is a company formed and registered under this Act, an existing company or a wholly owned subsidiary of a body corporate.”

The purpose of this amendment is to correct an omission. The amendment provides that no approval is required to be given under this section by any body corporate, unless it is a company formed and registered under this Act, an existing company or a wholly owned subsidiary of body corporate. As the Bill stands, subsection (6) of section 28 of the Companies Act 1990 has not been included and the amendment rectifies the position.

Amendment agreed to.

Deputy Peadar Tóibín: I move amendment No. 85:

In page 264, between lines 32 and 33, to insert the following:

“(d) a certificate of tax compliance,”

I have dealt with a number of businesses in my constituency over the past number of years. One example of such businesses concerns a young man with a young family who set up a construction company and sub-contracted work to a contractor. Over a period of seven or eight years, he allowed the contractor to build up a level of credit, on the understanding the contractor was tax compliant. Half way through the period, the young man invested a considerable amount of money in his business but subsequently found out the contractor was not tax compliant for six or seven years, but was still trading and operating. As a result, the young man’s business collapsed because of the level of exposure built up over that period.

It is important that we ensure that companies operating in these areas are tax compliant. This amendment provides that companies making an annual return must provide a certificate

of tax compliance as part of the process. This is to ensure that no company can continue to be registered if it is not fully tax compliant. There may be an issue with regard to synching annual returns with tax returns, but it is intended that the tax compliance certificate be available for the most recent year. This would be a positive move and would give confidence to all elements of the supply chain that whoever they are dealing with is not in danger of hammering them or exposing them to risk.

Deputy Sean Sherlock: I am given to understand that a company's tax compliance can be checked out with the Revenue Commissioners, but the Chair may correct me on that.

We do not support the amendment, but I believe compliance can be checked.

Acting Chairman (Deputy Peter Mathews): That would be confidential.

Deputy Sean Sherlock: Perhaps we can provide some clarification on that.

This is not a logical inclusion in a company's financial statements, but the Deputy may have alluded to this in his statement defending the amendment. Financial statements relate to the company's financial performance, not to its tax obligations. Fiscal accounting addresses tax obligations. If the Government was to consider a requirement to require businesses to obtain and publish a certificate of tax compliance, it would do so in tax law, not company law, in order to catch both company and non-company businesses that also pay taxes. The introduction of this requirement would be entirely without precedent across the European Union. It is on that basis the we do not propose to support the amendment.

Amendment put and declared lost.

Deputy Sean Sherlock: I move amendment No. 86:

In page 270, line 26, after "company's" to insert "entity".

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 87 and 88 are related and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 87:

In page 273, lines 30 and 31, to delete "a record of all goods purchased, and of all goods sold (except those sold by way of ordinary retail trade)" and substitute "a record of all transactions whereby goods are purchased and whereby goods are sold".

The purpose of these amendments is to make certain that all transactions must be recorded in writing, especially in cash businesses. The proposed change will align the company law requirements with those in regulation 27(1)(b) of the VAT regulations and section 886 of the Taxes Consolidation Act 1997 in regard to the keeping of records.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 88:

In page 274, line 2, to delete "of the services provided or purchased" and substitute "of all transactions whereby services are provided and whereby services are purchased".

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): With the indulgence of Members, I would like to comment on a point made on amendment No. 85 by Deputy Tóibín. In so far as the Minister of State mentioned that there was an overlap with company law, it may be worth looking into the point Deputy Peadar Tóibín made. As Acting Chairman, I am just being helpful. I do not know whether I have transgressed my role as Acting Chairman.

Deputy Sean Sherlock: To be helpful, my intention was to suggest we should look into it.

Acting Chairman (Deputy Peter Mathews): I sensed that, which is why I am making the comment.

Deputy Peadar Tóibín: I move amendment No. 89:

In page 274, line 40, to delete “or at such other place as the directors think fit”.

This is another effort to ensure compliance. This amendment would restrict the holding of all returns to the company office. It is an effort to maintain high standards, accountability and ease of access to records for the authorities of the State.

Deputy Sean Sherlock: On the face of it, the amendment makes sense, but in the age of cloud computing and remote servers it would place an imposition on businesses because the amount of physical storage facilities they would have to make available could be restrictive if located in city centre locations, for example. Many small offices are located in city centre locations where space is at a premium and would be unable to cope with storing the volume of records that would require to be stored. The amendment would substantially hinder or block outright the use of shared service centres, an area in which Ireland has a particular interest. Since there would be no tangible benefit for any stakeholder and it would be detrimental to Irish commerce, the amendment is - I do not want to use the word “undesirable” - not one we support.

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

Amendment declared lost.

Deputy Sean Sherlock: I move amendment No. 90:

In page 278, lines 18 and 19, to delete all words from and including “assets,” in line 18 down to and including “loss—” in line 19 and substitute the following:

“assets, liabilities and financial position, as at the end of the financial year, and profit or loss, for the financial year—”.

This is a helpful clarification to ensure the section is consistent with the requirements outlined in the Companies Act 1963. It provides that individual and group accounts shall give a true and fair value of the assets at the end of the financial year and the profit or loss for the financial year for both the company and the group.

Acting Chairman (Deputy Peter Mathews): I think it is a “true and fair view” rather than a “true and fair value”, is it not?

Deputy Sean Sherlock: It is a “true and fair value.”

Acting Chairman (Deputy Peter Mathews): Is it? It has moved on since my day.

Deputy Sean Sherlock: I have three people here who will back me up.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 91:

In page 301, line 31, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 92:

In page 301, line 32, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 93:

In page 301, line 35, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 94:

In page 301, line 38, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 95:

In page 301, line 41, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 96:

In page 302, line 6, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 97:

In page 302, line 10, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 98:

In page 302, line 13, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 99:

In page 302, line 15, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 100:

In page 302, line 17, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 101:

In page 302, line 21, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 102:

In page 302, line 23, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 103:

In page 302, line 32, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 104:

In page 303, line 4, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 105:

In page 303, line 25, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 106:

In page 303, line 27, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 107:

In page 303, line 30, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 108:

In page 303, line 36, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 109:

In page 303, line 39, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 110:

In page 303, line 42, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 111:

In page 304, line 3, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 112:

In page 304, line 6, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 113:

In page 304, line 9, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 114:

In page 304, line 13, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 115:

In page 304, line 32, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 116:

In page 304, line 34, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 117:

In page 305, line 2, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 118:

In page 305, line 4, to delete “bank’s” and substitute “institution’s”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 119:

In page 305, line 7, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 120:

In page 305, line 8, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 121:

In page 305, line 10, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 122:

In page 305, line 11, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 123:

In page 305, line 19, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 124:

In page 305, line 26, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 125:

In page 305, line 27, to delete “bank’s” and substitute “institution’s”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 126:

In page 305, line 30, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 127:

In page 305, line 31, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 128:

In page 305, line 33, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 129:

In page 306, line 33, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 130:

In page 306, line 36, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 131:

In page 306, line 42, and in page 307, line 1, to delete “licensed bank” and substitute “credit institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 132:

In page 307, line 1, to delete “bank” where it secondly occurs and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 133:

In page 307, line 6, to delete “bank” and substitute “institution”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 134:

In page 313, to delete lines 14 to 19 and substitute the following:

“(a) shall be shown in the company’s entity financial statements as a deduction from the company’s capital and reserves (and the profits available for distribution shall accordingly be restricted by the amount of such deduction); and

(b) shall be shown in the company’s group financial statements, if any, as a deduction from group capital and reserves.”.

This is a minor technical amendment which the Parliamentary Counsel deems necessary.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 135:

In page 313, to delete lines 20 to 26 and substitute the following:

“(2) Where a company, or a nominee of the company, holds shares in its holding undertaking or an interest in such shares, the profits of the company available for distribution shall be restricted by the amount of the consideration paid for such shares or

interest.”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 136:

In page 325, line 19, to delete “*subsections (3) to (6)*” and substitute “*subsections (3) to (5)*”.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 137 to 140, inclusive, 142, 143, 199, 200, 233, 234, 249, 250, 256, 257, 259, 260, 262 and 263 are cognate and may be discussed together.

Deputy Sean Sherlock: I move amendment No. 137:

In page 334, line 18, to delete “shall appear in typeset, and not written, form” and substitute “, and any date or dates thereon, shall appear in typeset form”.

The purpose of these amendments is to consolidate sections 3 and 4 of the Companies (Miscellaneous Provisions) Act 2013 into this Bill. Sections 3 and 4 provide for the electronic filing of documents with the Companies Registration Office.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 138:

In page 334, line 25, after “signature” to insert “or of a date”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 139:

In page 336, line 11, to delete “shall appear in typeset, and not written, form” and substitute “, and any date or dates thereon, shall appear in typeset form”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 140:

In page 336, line 18, after “signature” to insert “or of a date”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 141:

In page 337, line 23, to delete “(6)(c)” and substitute “(6)(a)”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 142:

In page 338, line 32, to delete “shall appear in typeset, and not written, form” and substitute “, and any date or dates thereon, shall appear in typeset form”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 143:

In page 338, line 39, after “signature” to insert “or of a date”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 144:

In page 342, line 1, after “Registrar” to insert “a copy of”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 145:

In page 342, lines 20 and 21, to delete all words from and including “The” in line 20 down to and including “signing;” in line 21 and substitute the following:

“With respect to the statutory auditors’ special report referred to in *subsection (1)* (a copy (as that expression is to be read in accordance with *section 353(5)*) of which is to be delivered to the Registrar), the original of that report shall be signed by the statutory auditors and bear the date of such signing;”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 146:

In page 345, lines 16 to 18, to delete all words from and including “(1) A” in line 16 down to and including “company.” in line 18.

The purpose of the amendment is to ensure this exemption which aims to provide small indigenous Irish companies with audit exemptions is not inadvertently given to a small Irish parent company with substantial non-Irish subsidiaries. The proposed amendment deletes subsection (1) which implies that an Irish company with substantial foreign holdings would benefit from the exemption. The policy intention behind the audit exemption is to give benefit to small indigenous companies.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 147:

In page 348, line 25, after “undertakings” to insert “(but this paragraph is subject to *subsection (6)*)”.

The purpose of this amendment is to make provision for the fact that foreign subsidiaries in a group do not have to file annual returns in the CRO. This amendment is linked with the amendment to section 360.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 148:

In page 349, between lines 16 and 17, to insert the following:

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“(6) There shall not be reckoned as a subsidiary undertaking for the purposes of this section (other than for the purposes of the expression “subsidiary undertakings” in *subsection (2)*) an undertaking that is not a company registered under this Act or an existing company and the construction provided for by *subsection (1)(a)* (of references to each of the relevant bodies) shall be read accordingly.”.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 149:

In page 378, between lines 10 and 11, to insert the following:

“(2) For the avoidance of doubt, in the case of a mortgage or charge created over both—

(a) an interest in anything specified in any of *paragraphs (a) to (d)* of *subsection (1)*; and

(b) any property, assets or undertaking not falling within any of those paragraphs, the mortgage or charge shall, other than to the extent to which it is created over an interest in anything specified in any of the foregoing paragraphs of *subsection (1)*, be regarded as a charge within the meaning of this Part.”.

Amendment agreed to.

Acting Chairman (Deputy Peter Mathews): Amendments Nos. 150 and 151 which are related are being discussed together.

Deputy Sean Sherlock: I move amendment No. 150:

In page 381, to delete lines 17 and 18 and substitute the following:

“(a) Form 60, 60A or 60B set out in the Schedule of Forms to the Land Registration Rules 2012 (S.I. No. 483 of 2012) as amended by the Land Registration Rules 2013 (S.I. No. 389 of 2013), or”.

The purpose of the amendment is to address any ambiguity there might be as regards the definition of a charge. This section reflects the intent, namely, that charges over cash, deposit accounts, shares, securities and other items listed would not require registration. As the Bill stands, the language is ambiguous, as it could mean that a mortgage or charge, which could involve a number of assets, including, say, one of the excluded ones such as cash, does not have to be registered at all. This was not intended.

Amendment agreed to.

Deputy Sean Sherlock: I move amendment No. 151:

In page 381, to delete lines 27 to 41, and in page 382, to delete lines 1 to 10 and substitute the following:

“(6) If rules are made under section 126 of the Registration of Title Act 1964 or, as the case may be, section 48 of the Registration of Deeds and Title Act 2006—

(a) replacing a form that is referred to in *subsection (4)(a)** or *(b)*, as appropriate,

the reference in that provision to the form shall be read as a reference to the form as so replaced, or

(b) amending a form that is so referred to, the reference in that provision to the form shall be read as a reference to the form as it stands so amended.”.

As the Bill stands, the reference to form 112 is incorrect since the Land Registration Rules 2012 came into effect. The relevant form is now form 60. The purpose of amendment in deleting subsection (6) is to clarify that the priority of judgment mortgage is governed by the Land and Conveyancing Law Reform Act 2009. Closer inspection has shown that in order to achieve the desired result, subsections (7) and (8), both of which relate to subsection (6), also needed to be deleted.

Amendment agreed to.

Debate adjourned.

Restorative Justice (Reparation of Victims) Bill 2013: Second Stage [Private Members]

Deputy John Halligan: I move: “That the Bill be now read a Second Time.”

This Bill seeks to introduce a requirement for offenders to make reparation for damage caused by crimes. The reparation can relate to medical costs for victims or damage caused to property. The Bill also provides for recognition to be afforded to offenders who voluntarily make reparation prior to trial. It also provides for the making of reparation orders by a court for the purpose of compelling an offender to make reparation.

Before speaking on the Bill I should make it quite clear that the Bill has absolutely nothing to do with sentencing, and I will not speak about mandatory, minimum or maximum sentencing. I have gone into great detail in introducing this Bill, as I have spoken with gardaí, who were extremely helpful, and a legal team which was very good in giving information and contributing to the layout of the Bill. I have also spoken to community groups and people who deal with victims of crime. Some of those groups were represented at a press conference this morning.

Between 2004 and 2012 the rate of home burglaries in Ireland increased by an average of 13%, with the increase as high as 40% in some parts of the country. Current statistics indicate that one in every 222 people is a victim of burglary every year. Based on Central Statistics Office, CSO, information for 2012, 75 burglaries are reported daily nationwide, equating to one burglary every 19 minutes. In rural areas in particular, the incidence of burglary has increased, and this has been compounded by the closure of rural Garda stations and the improved road network, which gives urban gangs ready access to rural areas.

The average value of goods taken in a burglary has been estimated at €1,868, but the consequences for victims go far beyond a missing television or laptop. The American use of the term “home invasion” to describe a burglary sums up the nature of a domestic burglary to a victim. A report by Eircom Phonewatch indicated that one in five victims rated burglary as being as upsetting as losing a job, and there is a growing body of international research on the health impacts of burglaries for victims. A study by a North Carolina school of medicine on different types of crime revealed that burglary victims compared the experience to being personally violated. Many victims also have anxiety disorders and problems with sleeping months after

the burglary. Children may also be negatively affected by burglaries, especially if they see how hard it is for parents to deal with burglary.

Home burglaries maim and traumatise victims for the rest of their lives. They also induce a feeling of violation for the victim in the very place in which they are entitled to feel most secure. There is no doubt every Deputy sitting here is aware of a case in which a victim of home burglary could not settle into a house after the event, and many have had to leave their homes. The entire country was horrified to read about the shocking case in west Clare recently in which a 68-year-old man abandoned his home and checked into a nursing home after being terrorised.

Recently, the Irish legal process has become increasingly effective in listening to the voices of victims of crime, and for that it should be commended. The victims' charter marked an important development by firmly establishing that throughout the system victims have needs which must be addressed. The fact that the State funds voluntary organisations in supporting victims of crime is also welcome. However, although victims are increasingly considered a stakeholder in the criminal process, many of the needs of victims are not met. Over a third of criminal offences heard in the Circuit Court every year relate to fraud, theft and burglary, and there is no minimum or mandatory sentence for burglars. Two out of the three people brought to court in connection with the case of Mr. Michael McMahon in Ennis walked free, and I know of cases in which people with 100 convictions have been freed. Only a fifth of burglary convictions lead to jail terms of more than five years, and almost half attract sentences of three years, or far less at times. Adding insult to injury, many robberies are carried out by repeat offenders, and half of the convicted burglars who serve sentences in the community reoffend within three years, according to CSO and Probation Service figures. The Minister for Justice and Equality has indicated that the rate is far too high.

Criminals know there are fewer gardai on the roads and as a result they know there is less chance of being caught. I am proposing a deterrent of a different nature, as it puts the victim first. Last year calls to the national crime victims' helpline relating to property crime doubled. Victims of a burglary or robbery accounted for almost a quarter of all contacts during the year and representatives of the helpline indicated that these burglaries had a major long-term effect on people in an emotional and financial sense. On top of this stress, victims face layers of red tape with insurance companies in trying to recoup some losses, which is not right.

Compensation for victims of crime has been established as a key right in a number of jurisdictions. The European Council directive on compensation to crime victims, into which this Government has opted, requires all member states to have a national scheme guaranteeing fair and appropriate compensation to victims of crime. There are other pieces of EU law facilitating the provision of compensation from the offender to crime victims. There is a regulation on jurisdictional enforcement of judgments in civil and commercial matters, which provides that a victim may sue an offender for damages in the same court which deals with the criminal proceedings if possible under national law. In this country, neither the criminal injuries compensation tribunal nor section 6 of the Criminal Justice Act 1993 applies to victims of burglary. It is here that the State fails in its duty to offer the fair and appropriate compensation to victims of crime to which we have committed in the European Union. The Criminal Justice Act 1993, section 6, provides that, where a defendant is convicted of an offence, the court may make an order requiring him or her to pay compensation for personal injury or loss suffered by the victim as a result of the offence. The decision on whether the compensation order should be made is at the discretion of the court. This fails victims.

I propose that judges order those found guilty of burglary, regardless of whether a custodial or community sentence is handed down, to repay the costs of what they have stolen and the damage caused. That is restorative justice and reparation of victims. It has been said that restorative justice includes the victim meeting the perpetrator. All statistics show that most victims do not want to do that. They are too traumatised to meet that person and many are afraid. It is not included in the Bill because I have spoken to many victims and victim support groups and they want compensation. They want to be heard. Victims need Government support.

This Bill proposes restorative justice, a response to crime that focuses on restoring the losses suffered by victims, holding offenders accountable for the harm they have caused. It is difficult to put a monetary value on the harm. Jewellery and cash account for approximately three-quarters of all items reportedly stolen in burglaries. Approximately €10.7 million worth of jewellery and cash was taken in burglaries in the last six months of 2013. Sentimental items, such as wedding rings, cannot be replaced. It would give victims some satisfaction to know there is a price to be paid for breaking into their homes. Restorative justice is based on the idea that because crime hurts, justice should heal. The victim of a burglary deserves justice in the same way as any other victim. If that justice has to come about via deductions from a criminal's means of living, be it wages, pension or social welfare, so be it. I have no doubt the argument will be made that the Bill's proposals infringe on the rights of the accused in some way. I am more interested in defending the rights of homeowners than in someone who wants to break into a home to steal and make a person's life miserable. We need to send a clear message to burglars that there is a price to be paid for breaking into someone's home.

By this time tomorrow night hundreds of homes will have been broken into throughout the country. People's lives will have been changed forever because personal items will have been stolen, their homes violated, money taken and they may have been injured. We owe it to the victims to do this. Everyone knows I am a socialist and believe firmly in rehabilitation. I do not believe in turning the key and throwing it away. I have always spoken out for victims and for human rights. This Bill aims to protect the human rights of thousands of victims throughout the country.

It is not right, whether somebody receives social welfare or earns large sums, that he or she can violate another person's home and steal money and property. It is not right that he or she may not face even a custodial or community sentence. It is not right that he or she may be given bail but it is right that victims are heard. At the very least he or she must pay back what has been taken. I cannot put my hand in someone's pocket whether I am unemployed or not and steal from it. If I am caught I must pay it back. Many argue the person may be unemployed or not have money. I have great sympathy for people who are unemployed but that does not give them, or anyone who is working, the right to violate a person's human right.

When I raised this on Leaders' Questions some months ago the Tánaiste indicated if this Bill came before the Dáil the Government would look on it favourably. I have shown the Bill to members of the Garda Síochána, who have been very good to me, and to victims' groups all over the country. I have met barristers and people who have been victimised. I made a point of speaking to people in my city. I went to 30 homes last week and this is what they want. They urge the Government to do this. Will the Minister of State support this Bill? If he wants to propose amendments he can show them to me. I would be very careful in rejecting this Bill if I were the Government. It is the first time a restorative justice, reparation of victims Bill has come before the Dáil and hundreds of thousands of people are looking for restorative justice and their human rights.

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Deputy Finian McGrath: I thank the Leas-Cheann Comhairle for the opportunity to speak on the Restorative Justice (Reparation of Victims) Bill 2013. I thank and commend Deputy Halligan for putting this Bill together and for bringing it before the House. It is excellent work because it puts victims first and puts forward solutions to crime and justice issues. This is not the first time Independent Deputies have shown the lead on issues of national importance or brought legislation to the House.

It is also very relevant to the debate today when the Minister for Justice and Equality has once again taken his eye off the ball of crime and justice issues. It is a disgrace that serious issues do not receive the time and emphasis they deserve. The Minister shafts whistleblowers and is involved in cover-ups and spin, while citizens are robbed, burgled or shot down on the streets. The Minister does not have the courtesy to attend this debate tonight. These are the issues that need to be dealt with. It is unacceptable that the Minister for Justice and Equality does not listen to the strong views of the majority in this House. It is a disgrace that he does not listen to the citizens or pay heed to the whistleblowers, distinguished people who have done this State a great service.

There are many burglaries in many communities, events about which the upper echelons and the elite do not hear. Most of the people being robbed are poor. Working class people are being hammered and others turn a blind eye. Many crimes are not reported. There is widespread intimidation. Families are threatened every night with guns or barrels of petrol placed outside their houses with threats of being burnt out if they say anything. These people need our help. We need to consider common sense solutions.

The Bill seeks to introduce a requirement for offenders to make a reparation for the damage caused by their crimes. The reparations could pay for victims' medical costs or repairs to damaged property. The Bill also provides for recognition to be afforded to offenders who voluntarily make reparations prior to their trials and for court orders to compel offenders to make reparations.

Two particularly important sections are sections 5 and 6. Section 5 enables an offender to make pretrial reparations in respect of the cost of medical treatment. That is a common sense provision. Section 6 would enable an offender to make reparation for the cost of replacing or repairing items of property. Many people are under financial pressure in this time of austerity and they need and deserve any few euro they can get. This legislation aims at supporting victims and making sure offenders understand the consequences of their actions.

I want to mention the sad hit and run case of Shane O'Farrell. The perpetrator had more than 40 previous convictions and was at large on 2 August 2011 when he killed the 23 year old Shane O'Farrell. The O'Farrell family feel let down by the justice system of this State. This is another miscarriage of justice for victims and their families. I commend my colleague, Deputy Halligan, on bringing this Bill before the House and I urge all Deputies to support it.

Deputy Catherine Murphy: I thank Deputy Halligan for tabling this Bill. I will focus my remarks on the crime of burglary, which is particularly difficult for people. As gardaí who have responded to burglaries point out, the repercussions extend beyond the property that is stolen to emotional impacts that can last a very long time. Sometimes people never again feel safe in their homes. It is a civil right to feel safe in one's own home. I recently received an e-mail from an individual who wrote that she and her husband put every penny together to make a deposit on their house in 2007. They now have one child and another is on the way. Their house

and the neighbouring house have been burgled and a car parked across the road was broken into. I know of housing estates in north County Kildare where practically every house has been burgled. The victims are often working to put every penny together to pay their mortgages. At the very least they should be able to feel safe in their own homes.

Restorative justice should not be used to mitigate responsibility but it could add to the consequences. It can be appropriate in the case of low level crimes, including in particular youth anti-social behaviour and vandalism. However, it requires an investment in police and community time. The victim rather than the offender should have the choice in deciding whether to permit reparations and the payment of reparations should not be allowed to diminish the legal process. Depending on the crime, some victims may wish to see the offender face prison.

Burglary is a difficult crime to solve. The ratio of Garda resources around the country is unbalanced. With the exception of Dublin and Limerick, there is a weak connection between recorded crime statistics and the level of service available. Divisions in Kildare and Meath fare worst, with 661 people per garda in Kildare and 628 in Meath. These figures compare badly to Sligo and Leitrim, with 317 people per garda. Detection rates of selected common crimes reveal a similar or significantly worse level of criminality in Kildare compared to other divisions. Kildare had the fourth highest rate for detected burglaries in 2012, as well as the fifth highest rate for robbery, extortion and hijacking offences. There is a direct relationship between these rates and the allocation of resources. The seven Deputies from County Kildare sought to meet the Garda Commissioner on this issue. We met with an assistant commissioner who told us that resources are organised on the “what you have you hold” principle. The policing plans laid before this House every year purport to take into consideration demographics, crime statistics and available personnel but they do no such thing. Even in respect of diversion programmes for young people, which are significantly less expensive than locking people up, Kildare has two Garda youth units for 210,000 people. Tipperary has four units for 158,000 people and Kerry has six units for 145,000 people. Kildare has a disproportionately young population. I do not argue for reductions in Tipperary and Kerry but resources in Kildare need to increase if we are to divert people from crime.

Deputy Thomas Pringle: I welcome the opportunity to contribute to the debate on the Restorative Justice (Reparation of Victims) Bill 2013 and I commend my colleague, Deputy Halligan, on bringing it before the House. I urge the Government to accept the Bill so that it can become part of our criminal justice system. The contributions thus far have focused on burglary rates across the State. The burglary rate increased by 13% between 2004 and 2012 and in certain parts of the country it increased by more than 40%. It appears that criminals are responding to the cuts in Garda numbers by stepping up their activities because they know there is a strong likelihood that they will get away with their crimes. In my county of Donegal, a number of aggravated burglaries have been perpetrated against elderly people. In one case an elderly woman was unable to return to her home after she experienced an aggravated burglary and has since died in a nursing home. Over the past several weeks, thousands of people have attended meetings across County Donegal to highlight their concerns about burglaries and the impunity the perpetrators appear to enjoy.

This legislation deals with restorative justice. If it is applied to the crime of burglary, it would allow compensation to be paid to a victim for loss of property and personal injury. That is an important part of the legislation. Restorative justice is well understood across society, particularly in the context of anti-social behaviour, joy riding and other less serious crimes.

8 o'clock

Communities understand what is involved where perpetrators of crime do work within the community to reflect their view that they know that what they have done is wrong.

However, this Bill does things differently, which is welcome, and puts the victim of the crime at the centre of the process. It has been recognised by victims' groups that victims feel left out in the criminal justice process. Upon enactment of this legislation, the perpetrator of the crime will have a direct responsibility to provide reparation to the victims of his or her crime, and that is an important principle to establish.

The Bill provides for a system of pre-trial and post-trial reparation whereby somebody who is due to be tried for a series of burglaries or whatever can, in advance of the trial, start the process of reparation, and this can be taken into account when it comes to sentencing for the crime. There are instances in which a form of reparation such as this may be more appropriate. I refer to young first-time offenders who are caught early. The prison system is not the way to deal with them because in prison they learn how to become real criminals and come out to continue a life of crime, whereas a system of reparation such as this will make them understand the need to compensate their victim and force them to think about the impact of their crime on the victim and the hurt caused. That could play an important role in diverting offenders away from a life of crime that the criminal justice system is not able to play. While prison is supposed to be rehabilitative, it is not. It breeds, rather than rehabilitates, criminals. A system such as this could have the potential in those circumstances to allow offenders to be diverted away from crime in the future.

What is proposed in this legislation is not intended to be a replacement for those who need a custodial sentence for the crimes that they have committed. Along with a custodial sentence, there can be the reparation as well. That is a welcome part of it too. I commend the Bill to the House.

Deputy Mattie McGrath: I too compliment Deputy Halligan on bringing forward this Bill and raising it here on Leaders' Questions. He gave plenty of notice of it. If the so-called reforming Minister was interested, he would be here tonight.

It is important that we go out and support the community. At present, the community cannot see any justice out there. People are under siege on a daily basis from robberies, intimidation, all kinds of crime - and, in the city where we are tonight, on a twice-weekly basis, cold-blooded murder. Marauding gangs are roaming the streets, literally making a laugh of An Garda Síochána, which we all must support.

I salute Community Alert and Neighbourhood Watch and compliment Muintir na Tíre on the work they do at community level in trying to be a source of support and sustenance to the unfortunate victims. I also salute the restorative justice programme in Nenagh and the work it has done there. There are models out there.

It is time the Government of so-called reform, new agenda, NewERA and new transparency levelled with the people and became honest in one respect, and took on and accepted this Bill. If the Minister graces us with his presence, no doubt he will reject it, just as he rejected the Scrap and Precious Metal Dealers Bill 2011, which I introduced. He told us all he would bring in his own Bill and mine was rubbish, but we still have not seen it, and houses, jewellers' and families' belongings are being plundered on a daily basis. What is wrong is that the figures

are being manicured, as with everything else the Government does. I can tell the Minister of State, Deputy Perry, that everything is massaged. There is PR and spin. When the Taoiseach went overseas, the spinning top spun a little, they went off-message a little and the Minister for Transport, Tourism and Sport, Deputy Varadkar, gave a different spin. Spinning will only go so far before one is found out, and the Government is badly found out at this stage.

On the closure of Garda stations, the Minister closed his own one. I heard on a programme on RTE recently that there was robbery after robbery beside the station, opposite the station and everywhere in the street, but the Minister professed that he did this to be fair to everybody else. The criminals know there are no gardaí on the street. The new roster is a disaster. Sometimes there is a third of my county with one garda in the station and one garda in a patrol car. In the name of God, I ask the Minister of State, Deputy Perry, does that amount to justice or protection of the people? Under the human rights Acts, surely the public is entitled to be protected and not to be at the mercy of these fraudsters. There were three incidents in my area only last week. One man was robbed in the middle of the street, a woman going to Mass was stopped by a pretend garda and robbed, and then the criminals visited a day-care centre containing nothing but nice furniture and wrecked the place looking for money. They did not care and they will not be caught. The crime figures are being massaged. No garda under the rank of sergeant is allowed to update PULSE with ordinary crimes. The crimes are not on it at all. The figures are controlled and contrived. We are not getting the figures. We all know it. There are robberies occurring around us every day of the week. In fairness to what gardaí are there, I salute them. They do their best.

Where is the judicial reform we were promised? As for this so-called reforming Minister, I heard even Labour Party Ministers state they would not call for his head because he was the most hard-working and reforming Minister they had ever seen. Where is the judicial reform? Where is it? It is not there. Where was the fairness in the children's rights referendum when we voted €3 million and €1 million of it was misappropriated? There was no debate in the House on that either. Where was the Minister to be challenged when I challenged him in May last about his behaviour towards gardaí? The Labour Party and Fine Gael backed him, but no doubt that file might re-emerge soon. I challenge the Minister on judicial reform. It has come to my notice often that the public are afraid to walk the streets and the criminals are laughing and jeering at them. If criminals have the money, they can go in and give €5,000, €20,000 or more in cash to a barrister in court to defend them for a couple of minutes. I want to get this reforming Minister to have the Revenue Commissioners visit the courts, especially the Four Courts, to see the cash in these brown envelopes handed over, and the poor victims are left there. I heard of an incident this week in which a peace commissioner was called after signing a summons. He had to go to the court and stand up and face the family and be asked by a barrister, who sometimes acts for the State, whether he had seen this man's mother and whether he knew why the gardaí had searched her house, where drugs were found. Is this justice? The criminals are running the country. It is the lunatics running the asylum.

This reforming Minister is going around the world in the Government jet. He thinks he is some latter-day prince. The Taoiseach even told him he could not have it. The Minister is entitled to that. He is above and beyond us all. He might grace us with his presence tomorrow to rubbish this Bill too.

Deputy Michael Healy-Rae: First, I thank and acknowledge the Technical Group for allowing me some of its speaking time and compliment Deputy Halligan on bringing what is an excellent Bill before the House. It will be a defining moment in this Government if the Minister

tries to reject this Bill, because it would be a mean-spirited person who would try to find fault with what is being put before the House tonight and tomorrow night. It is an excellent Bill that the majority of right-minded people the length and breadth of this country would support and endorse because they would appreciate the sentiment and thrust of it. What Deputy Halligan is saying is correct: those who do harm to somebody else, who invade another person's privacy or who damage property or steal property should be made pay for it.

I respect the Minister of State, Deputy Perry, for being here tonight. I have no difficulty whatsoever with Deputy Perry - he is doing his job - but I will say something about the man who should be sitting in his seat tonight, the Minister for Justice and Equality, Deputy Shatter. Of course the Minister should do Deputy Halligan and the Technical Group, who are bringing this Bill before the House, the courtesy of sitting there, listening to the debate and taking it all on board and then coming forward with his own suggestions and proposals. Whether he is going to accept or reject it - and we know he is probably going to reject it - the least the man should do is give them the courtesy of listening to the debate. Unfortunately, when one is dealing with somebody who is so arrogant - beyond belief - that he would not even say hello to one outside in the corridor, one is dealing with an unusual individual. I do not mind saying that on the record because all of my colleagues and his own colleagues know it is the truth. If God made us all the same, I suppose it would be a funny world.

Why is crime on the increase? I will tell Members why crime is on the increase. This Minister for Justice and Equality and the Government have misled the people in the fight against crime. The Minister came into the House and said he was closing Garda stations to save money. When I proved on the record that it costs more to keep a Garda station closed than to keep it open, he changed his tune. Then, he said he was closing the Garda stations to provide better policing on the ground. When I asked him a question about whether the hours in Garda stations were being replaced, the Minister replied that they would be deployed in community centres and post offices. He bought mobile vans to put gardaí into. He changed his mind again and did more U-turns and came out with more differing statements on the issue. The man who resigned today backed him up 100%. They were joined at the hip on this issue. The Garda stations could not have closed in Ireland only for the collusion between the Minister for Justice and Equality and the Garda Commissioner, who were joined at the hip.

An Leas-Cheann Comhairle: The Deputy is talking about a person outside the House.

Deputy Michael Healy-Rae: I am talking about a person who was in a job whereby he closed down our Garda station and I will make no apology to the Leas-Cheann Comhairle or anybody else for highlighting that fact. I am sorry.

An Leas-Cheann Comhairle: The Deputy should focus on what is in the Bill and what could be in the Bill.

Deputy Michael Healy-Rae: I am telling the truth and one cannot be caught out for telling the truth. If other people told the truth, it might be a different country. I am saying that these people worked in collusion to close our Garda stations. I have no denying where I came out of, a place called the Bog Road in Kilgarvan. Up that road, we had a Garda station. It was closed and, over the past month, three houses have been broken into on that road. On my oath, it never before happened. Why were they not burgled before? Our local garda used to be up and down the road at odd hours and different times, such as 1 a.m or 1 p.m, doing his duty. The patrol car had to come up from Tralee and gardaí had to sign in to show they were in the locality and doing

their rounds. That is all gone. Why is it gone? It is because the Government and this Minister closed the Garda stations. That is why crime is on the increase and it will continue to increase.

This is on the shoulders of the Labour Party and Fine Gael. Councillors from the Labour Party and Fine Gael up and down the country can answer to the people when they are knocking on the doors for local elections. They can say they supported the Government in closing down rural stations that people held so dear for many years.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry): I propose to share time with Deputies Connaughton, Stanton and Kyne. On behalf of the Minister, Deputy Shatter, I thank Deputy Halligan for bringing forward the Bill, which seeks to provide for the payment of reparation to victims of offences in respect of medical costs or damage to property at the pre-trial and post-conviction stages.

The programme for Government contains a commitment to enacting legislation to strengthen the rights of victims of crime and their families, to ensure that victims and their needs are at the heart of the justice process and that rights to information, advice and other appropriate assistance are met effectively and efficiently. In this regard, preliminary work is under way in the Department of Justice and Equality on legislation to give effect to the EU victims directive. The purpose of the victims directive is to ensure victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings. The provisions of the directive are currently being examined with a view to bringing forward comprehensive legislation to deal with victims' rights.

While the Minister appreciates the Deputy's efforts in bringing forward this Private Members' Bill, which aims to make strong provision for victim reparation, he believes acceptance of the Bill would give rise to a number of significant difficulties. His concerns relate to victims' rights, conflict and overlap with existing law and proposed legislation, the rights of accused persons and the practical difficulties the Bill would create for the criminal justice system, especially An Garda Síochána. In addition, the Minister is planning to bring forward a number of improvements on victim compensation in the forthcoming criminal justice (community sanctions) Bill. I will shortly explain these proposed improvements in more detail. The Minister considers that these improvements are more appropriate and will be of better assistance to victims than the provisions of this Bill.

Accordingly, while the Minister supports the broad intention of the Bill, he believes that more considered provisions are required to achieve a fair and balanced reparation process. The Government will therefore be opposing the Bill on Second Stage.

I now propose to state in detail the main reasons the Government is opposing the Bill. First, as regards victims' rights, the Minister is concerned that the Bill's provisions are limited to compensation for medical expenses and replacement or repair of property. No provision is made for compensation for pain and suffering or loss of earnings caused to the victim of an offence. The Minister is also concerned that the provisions of the Bill do not require the consent of the victim to the payment of compensation by an offender. This matter has been the subject of controversy in a number of recent cases where financial compensation offered by an offender was regarded as a mitigating factor by the court at sentencing, even where the victim had indicated that she did not wish to accept the compensation. Such cases have given rise to a perception that offers of compensation can facilitate offenders to buy their way out of imprisonment for offences without due regard to the victim's interests. The Minister believes that this

sidelines the victim rather than placing the victim at the heart of the criminal justice process.

The Minister's second concern relates to conflict and overlap with existing law and proposed legislation. Part 3 of the Bill proposes the introduction of a system of post-conviction reparation. However, the Statute Book already contains provisions allowing the courts to make compensation orders against convicted persons. The Criminal Justice Act 1993 gives the courts a statutory power to order a person convicted of an offence to pay compensation to a person who has suffered personal injury or loss resulting from the offence. Section 6 of the 1993 Act provides that a court may, on application or otherwise, make a compensation order against a person convicted of an offence instead of or in addition to dealing with the offender in any other way, unless it sees reason to the contrary. Section 7 provides for payment of compensation to District Court clerks for transmission and attachment of earnings orders. Section 8 provides for the suspension of a compensation order pending an appeal against a conviction. Section 9 provides for the effect of a compensation order on civil proceedings in respect of the injury or loss that gave rise to the compensation order. It is also open to a person who has suffered personal injury or loss resulting from an offence to pursue a civil claim for damages against the offender.

Having carefully examined the provisions of section 15 of the Bill, which proposes that a court would be required to make a post-conviction reparation order when imposing a sentence upon a person who has been convicted of an offence involving personal injury or damage to property, the Minister believes that the section would give rise to a number of difficulties. The provisions overlap and conflict with section 6 of the Criminal Justice Act 1993, which is not proposed to be repealed by the Bill. There is no limit on the monetary amount of reparation that can be ordered, even where the offence is a minor one tried by the District Court. No provision is made for compensation for pain and suffering or loss of earnings caused to the victim of an offence. No provision is made for a case where the offender disputes the amount of the reparation calculated by the Garda Síochána. There is no provision for cases where the victim does not wish to accept reparation. No provision is made on children found to have committed offences or for any linkages with the Children Act 2001. There is no requirement for the means of the offender to be taken into account.

The Minister intends to bring forward some improvements on victim compensation in the forthcoming criminal justice (community sanctions) Bill. In early February, the Government approved the drafting of this Bill, which will replace the Probation of Offenders Act 1907 with modern provisions dealing with community sanctions and the role of the Probation Service in the criminal justice system. The general scheme of the Bill has been submitted to the Oireachtas Joint Committee on Justice, Defence and Equality for pre-legislative consideration. The Minister proposes to introduce a limited and specific restorative justice approach to District Court proceedings for minor offences. It is intended that it will deal with cases such as minor assaults or minor criminal damage where the offender accepts responsibility for the wrongdoing and offers to make reparation, for example, by paying for medical expenses or repairs to a vehicle or property, and the victim is willing to accept the reparation offered by the offender. Victim consent is essential to any restorative justice process. Restorative justice is meaningless or even harmful without it. Where all of those criteria are satisfied, the District Court can take them into account in deciding whether a discharge order or binding over order, which will be similar to an order under section 1 of the Probation of Offenders Act 1907, would be an appropriate way of dealing with the offender.

As regards section 6 of the Criminal Justice Act 1993, the Minister is of the view that it is necessary to break the link between the payment of compensation and the sentencing of the of-

fender in criminal proceedings, especially for more serious offences. From time to time, issues can arise with sentences imposed in cases where financial compensation offered to the victim by the offender is regarded as a mitigating factor by the court when sentencing the offender. This is particularly inappropriate in cases involving serious offences, where the requirement to impose an appropriate penalty for the crime should not be confused with the court's power separately to award compensation to the victim for personal injury or loss. For that reason, the Minister intends that the criminal justice (community sanctions) Bill will amend section 6 of the 1993 Act to disconnect the payment of compensation from the matters that the court may take into account when sentencing the offender. The amendment will provide that a compensation order can only be made in addition to any other sanction and not instead of a sanction.

Moving to the rights of persons accused of committing offences, the Minister is concerned that the provisions of the Bill regarding pre-trial compensation could result in unfair penalisation of accused persons who do not plead guilty. Sections 5 and 6 of the Bill provide that a person accused of an offence involving personal injury or damage to property may, not later than 30 days before the trial commences, give notice to the Garda Síochána of his or her intention to make reparation for the cost of medical treatment required by the victim or the replacement or repair of any property required as a result of the offence.

Section 11 provides for recognition by a court at sentencing to the level of pre-trial reparation paid by the offender. Where the offender did not make full or partial reparation before the trial, the court is to be informed of that fact prior to a sentence being imposed. When deciding the sentence to be imposed, the court must have regard to whether full reparation has been paid by the offender and the promptness of such reparation. The Minister is concerned that section 11 would unfairly penalise accused persons who do not indicate at least 30 days before trial that they intend to plead guilty. The accused person may have not paid reparation before the trial because he or she wanted to put forward a defence such as self defence, or challenge the admissibility of evidence. No provision is made for persons with mental illness whose fitness to be tried may have been at issue and could not therefore indicate an intention to plead guilty. In addition, the provision would treat children found to have committed offences in the same way as adults, without providing for any linkages with the Children Act 2001.

As I mentioned earlier in relation to the existing compensation arrangements under the Criminal Justice Act 1993, the Minister would also be concerned that this provision confuses the requirement to impose an appropriate penalty with the court's power to award compensation for personal injury or loss. The Bill makes no provision for a case where the accused person, or indeed the victim, disputes the amount of the pre-trial reparation calculated by the Garda. Also, no provision is made for cases where an accused person who pays pre-trial reparation decides afterwards to plead not guilty and is acquitted at trial or cases where a conviction is overturned on appeal.

Finally, the provisions of the Bill would give rise to a number of significant practical difficulties in its operation, especially for the Garda Síochána and the Probation Service. Section 7 provides that where pre-trial reparation is to be effected by an accused person under sections 5 or 6, the Garda Síochána must ascertain the costs of reparation and serve on the person a pre-trial reparation notice which will inform the person of the amount to be paid, the means of payment and the due date for payment. The Minister is of the view that it would be completely inappropriate for the Garda Síochána to have any role in ascertaining the amount of compensation payable to the victim of an offence, particularly in a case where the accused person has not been convicted of the offence. In any event, the quantification of damages and compensation

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relating to criminal cases is not a function for which the Garda Síochána has the necessary expertise or staff resources.

Section 13 provides that where a person has been convicted of an offence and has not made full reparation before the trial, the judge will be obliged to ask the Garda Síochána to ascertain the costs of making post-conviction reparation to the victim. Section 14 would require the Garda Síochána to ascertain the cost of post-conviction reparation. As with section 7, the Garda should not have any function in relation to determining compensation payable to the victim of an offence. Providing for involvement of the Garda Síochána in determining compensation for victims of offences would place substantial demands on existing Garda resources and would require significant additional resources for such a role to be effectively carried out. That would have implications for Garda staff numbers and costs. Given the existing constraints and demands on Garda resources at present, the Government could not agree to impose additional functions on the Garda which would have a major impact on its capacity to detect and investigate offences.

Section 18 provides that where a post-conviction reparation order is made, but the offender does not pay the reparation in full by the due date for payment, the Probation Service may ask the court to fix a hearing date for the purpose of making an attachment of earnings order. The Minister believes that it would be inappropriate for the Probation Service to have any role in relation to payments under a post-conviction reparation order. The Probation Service has no role in relation to court-ordered payments, such as fines or compensation under section 6 of the 1993 Act. The making of payments under a reparation order is not something that can or should be supervised by the Probation Service.

I thank the Deputy again for bringing the Bill before the House. While the Minister shares his concern to ensure that the rights and needs of victims of offences are a central consideration in the criminal justice process, he cannot agree that the Bill will achieve that aim, in view of the difficulties and issues raised by the provisions of the Bill. It is with regret, therefore, that the Government will not agree that the Bill be read a second time.

Deputy Paul J. Connaughton: I thank the Leas-Cheann Comhairle for the opportunity to speak on the Bill, which I welcome. I understand where Deputy Halligan is coming from in introducing the Bill. Many of the measures to which he referred should be included in any Bill introduced by the Government to address those concerns.

Deputy Mattie McGrath and Deputy Healy-Rae are in a fantastic situation. No matter what the topic is they seem to use the same speech for everything. In the ten minutes they spoke they never mentioned the words “restorative justice” once. They seem to have an unusual fascination with the Minister for Justice and Equality, Deputy Shatter. Perhaps they should seek help in that regard.

Deputy Halligan raised an important point, especially about burglaries because they are an issue of concern. Anyone who goes to joint policing committee, JPC, meetings or deals with the subject will be aware that while crime levels have reduced in certain areas, burglary is a consistent problem. I do not accuse Deputy Halligan of doing so but perhaps other Opposition Members are guilty of stating that when JPC figures go down that the figures must be massaged yet they are the truth when they go up. We must strike a balance in what we say and avoid giving the impression that marauding gangs are going around. The language used is quite unusual.

Restorative justice is a considerable part of what Deputy Halligan is talking about and what the Government must consider. Before I was elected as a Deputy I was a youth worker for four years. I did work with Garda youth diversion projects. I worked with teenagers who were getting into bother and committing petty crimes and burglaries. To go back to something Deputy Pringle and Deputy Catherine Murphy said, the last thing we should do with those people is throw them into prison because the moment one does one sends them down another road altogether, a road they do not need to go down. They do not come out of prison any better than before they went in.

I brought a group to St. Patrick's Institution - I am thankful the situation there is changing - with the idea of discouraging them from involvement in criminality. It scared me more than it scared them. There must be a greater focus on how we stop crimes happening. We can never put enough funding into youth groups such as Foróige, Youth Work Ireland and Garda youth diversion projects. It is important to get people involved and to provide resources to set up facilities in areas with high crime rates.

There will be always an element of crime such as burglary and the issue is how one deals with this. One of the main theories put forward for crime rates in Galway is that it is due to easy access provided by the motorway. Criminals can come out of the city, drive down the motorway, pick off nearby towns and villages and go back to the city. Garda resources is an issue. I accept the Minister is doing more in that regard. Rural Garda stations have become a major source of concern. I understand those concerns. Galway is no different from the rest of the country and was affected more than most areas. To be honest, some of the stations that were on the list for closing a year ago were already effectively closed as they were open for only short periods. The main issue raised with me by gardaí relates to squad cars, their ability to get around and the quality of the squad cars available. Criminals have very high-powered cars and have the ability to move quickly. We need to resource the Garda properly and get a handle on crime. Recent programmes run by the Garda Síochána have had success in bringing many of these people to justice but a great deal more needs to be done. I can think of one village in County Galway, Kiltullagh, where a certain family has been terrorised in the past number of years. The Leas-Ceann Comhairle will be aware of this. These people certainly need a great deal more help and protection.

I welcome much of what Deputy Halligan said but there is frustration about the provision of legal aid. One of the concerns is that people who continually re-offend are given legal aid. I understand that civil liberty groups will have concerns about this but we need to examine that aspect. One of the points Deputy Halligan made is that we must ensure that crime cannot be seen to pay. A principle of this measure is that people are made pay back for the expense they caused. The Minister of State has laid out why that might not always suit the victim. If somebody is consistently re-offending and legal aid is consistently paid for them, where are the consequences to stop that person re-offending if he or she continues to get an easy run?

That brings me on to the issue of sentencing. We must get a grip on this element because many of the burglaries are being run by well organised gangs who know where they will hit. They stalk certain houses and know when people are in or out. We must send a firm message in whatever legislation is brought forward from this measure, and we should take on board a great deal of what Deputy Halligan has said, namely, that crime will not pay in this case, that we are keeping an eye on these people, that Garda resources will be increased and that we are putting more money into Garda youth diversion projects to discourage crime. Prevention is better than cure. We have not adequately resourced some of these groups. I refer to Foróige and Youth

Work Ireland. A great deal more could be done and I welcome much of what Deputy Halligan is trying to bring forward.

Deputy David Stanton: I am glad to have the opportunity to speak to this Bill. I commend Deputy Halligan on bringing it forward. It is important we debate these issues in the Chamber. I recognise the amount of work that has gone into preparing it and I listened to his speech and agree with a great deal of what he said. Unfortunately, there are technical issues with the Bill, as were mentioned by the Minister of State, which make it impossible for the Government to accept it. However, the general thrust of and thinking in the Bill are correct. The Deputy is aware that the Minister has published the criminal justice (community sanctions) Bill and referred it to the Committee on Justice, Defence and Equality, which I chair. We have called for submissions on this Bill. The Deputy has until 4 April to make a submission and then we hope to have some hearings on it and to report back to Government shortly after that. We have done that with quite a number of items of legislation. I would welcome if the Deputy would consider making a submission to the committee on these issues. One of the sections of that Bill proposes a limited and specific restorative justice approach in regard to District Court proceedings. The Minister is already taking on board the genesis and thrust of what the Deputy is talking about. The heads of that Bill have been published and we are engaged in the process of pre-legislative scrutiny. This legislation is useful because, with the Deputy's permission, we will take it into account in the work of the Committee on Justice, Defence and Equality.

The committee has published some work on penal reform which also feeds into the thinking the Deputy has brought forward this evening. We have discovered in some jurisdictions the number of people in prison has been brought down and the level of crime has fallen. There are things that can be done to reduce costs in this area, to reduce the number of people in prison and to reduce the level of crime at the same time. Finland is a case in point. Members of the committee visited Finland and we examined what they have done there. Its prison population has dropped, the level of crime has dropped and the associated costs have dropped. We held hearings on this area and it is amazing to discover what is happening in Ireland. Our probation service is doing tremendous work. I draw the House's attention to the Young Persons Probation family conference. That is a particularly good piece of work. It sets out that:

A family conference is a meeting involving the young person and members of his/her family, the victim and relevant others. It is ordered by the court and run by Young Persons Probation. At the meeting the young person's offence will be discussed with regard to its effect on the victim, the community and on the young person's family.

The conference will explore ways that the young person takes responsibility for his/her behaviour, for the consequences and where possible to put things right by making good the damage.

Much of what the Deputy is talking about is already occurring. IASIO, for instance, is doing amazing work in this area. Another group is the Care After Prison organisation in Aungier Street. It links up with prisoners before they leave prison, prepares them for release and meets them when they leave prison. The last time I visited that organisation they told me they had a 100% success rate of prisoners not re-offending by supporting them on release and guiding them.

The Joint Committee on Justice, Defence and Equality recently discussed the concept of a community court. Deputy Mattie McGrath mentioned what is happening in Nenagh. The com-

mittee is strongly considering the concept of a community court and we had hearings on it a number of weeks ago. Under this concept a person who commits a low level offence is brought almost immediately before a court if they plead guilty to the offence and they are invariably given a community sanction or community service of some sort. They start that immediately and are monitored for six months and if they stay out of trouble for six months, their record is sealed. That has happened in Manhattan in New York. The first community court was the court in Midtown in Manhattan and it has managed to clean up a great deal of crime in Manhattan, Time Square, Central Park and so forth. There is a great deal of new thinking in this area.

The Deputy's Bill is on the right track. There are technical difficulties with it but we would welcome if the Deputy made a submission to the Committee on Justice, Defence and Equality on the Bill that is before us, the criminal justice (community sanctions) Bill which contains a great deal of what the Deputy has in this Bill. We do not need to duplicate the work. The general scheme of that Bill has been published and we are working on it but it is important to debate these issues here tonight.

Deputy Seán Kyne: I, like others, commend Deputy Halligan on his Bill. It takes a great deal of work, effort and research to publish a Bill such as this. I commend him on the effort he has made. This concept of this Bill is interesting. Many people have different view on the whole area of justice. This measure relates to burglaries and minor criminal offences, not to serious offences. In the case of murder some people have strong views about capital punishment - that people should be locked away in prison and the key thrown away. In the case of less serious crime, there are people who would query the issue of prison versus rehabilitation versus community service and the like. It is an interesting debate and concept and one that can be examined further.

The principle of restorative justice is to hold the offenders to account and to give them an insight into the real impact of their crimes. We hear of victim impact statements in court and the harrowing reports that are made about crime. It is important that offenders realise and accept that. It would also allow victims to get answers from offenders and receive an apology. Studies have shown restorative justice delivers up to 85% satisfaction to victims who participate in programmes. Older studies show mixed results, but more recent studies show it can reduce recidivism by up to 14%, which is a positive result. It is not designed to replace existing criminal justice proceedings, but it can be an alternative for minor offences and, alongside the criminal justice system, deliver benefits.

The concept is based on who has been hurt, what needs arise and who has the obligation to address these needs. The stakeholders are those who have caused harm and their families, those who have been harmed and their families, and the community at large. Under existing law such as the Criminal Justice Act 1993, there are statutory powers to order a person convicted of an offence to pay compensation. The court may also make a compensation order. Arrangements for compensation payments to the District Court include an attachment of earnings order. It is also open to a person who has suffered personal injury to pursue a civil claim.

It is worth examining the position in other countries, including New Zealand, where much work has been done on this issue. It began with the introduction of family group conferences for young offenders through legislation in 1989. Three Bills have been passed giving greater recognition and legitimacy to restorative justice, encouraging its use where appropriate and allowing and requiring the restorative justice process to be taken into account in sentencing and considering parole. Pre-sentencing conferences in district courts now form part of the most

common restorative justice process operating in New Zealand.

I am concerned about a number of issues with regard to the Bill, including the consent of victims. A victim may not want to receive compensation and may be of the view that by paying compensation the perpetrator is buying his or her way to a reduced jail sentence. This is of concern, but there is a precedent for it. There are also issues to do with the Garda. We know gardaí are under a lot of pressure and under the Bill, they would be required to ascertain the cost of reparation. There may be differences of opinion between the offender and the victim. Will there be recourse to appeal? Will the Garda's decision be final? I have concerns about resourcing. Issues are also raised about the age of offenders if children are involved and also with regard to persons with a mental illness.

The Government has plans in this area. As Deputy David Stanton stated, the criminal justice (community sanctions) Bill is with the Oireachtas Select Committee on Justice, Defence and Equality. I understand it deals with limited and specific restorative justice measures with regard to District Court proceedings for minor offences, including minor assault and minor criminal damage, where the offender accepts wrongdoing and offers reparation.

The general thrust of the Bill is positive and I welcome it. I welcome Deputy John Horgan's role. I am sure that with his consent some of the ideas could be taken on board and brought into law.

Deputy Billy Kelleher: Deputy Niall Collins sends his apologies for not being able to be here. He would have welcomed the opportunity to speak on this issue.

Debates on crime may not always be based on rational thinking; sometimes they are emotive and try to stoke up fear. I welcome this debate for a number of reasons. For many years we have sometimes used crime as a political weapon to strike fear into people for reasons which are not necessarily correct. At this stage as a society we must address a number of fundamental issues, including the causes of crime, why crimes are more prevalent in some areas than others, the difficulties in the provision of services to ensure crime is minimised in certain areas, and the impact crime has on a further downward spiral of living standards in some areas. This is a key issue for many State agencies with a role to play in this area.

When we speak about justice, very often we examine the issue in very simplistic terms of An Garda Síochána, the courts, jails, criminals and victims. There is a broader issue at stake which we need to address - that some communities are continually crying out for assistance and help in dealing with crime. Very often this involves the insidious creep of low-level crime which over a period of time escalates. One then finds communities under siege and people end up being embarrassed about saying from where they come. We must target resources at the very early stages. When one speaks to professionals such as teachers and social workers, many of them can identify the children who will end up in Mountjoy Prison or on Rathmore Road at an early stage. They are almost destined for a life in and out of the juvenile courts, progressing to being sentenced for participating in criminal activity as young adults. The fact that they can be identified so early leads me to believe there is much we could do to try to ensure as much support as possible is provided. There may be issues of dysfunctionality in the family, including alcoholism, drug addiction and psychological problems. Many issues form a backdrop to the reasons for engaging in crime. I do not want to oversimplify the issue, but we owe it to certain communities where criminality is present continuously. Many people are crying out for help. They are trying to rear their children in these difficult environments, which is unacceptable. I

remember travelling some years ago to Leicester and other areas in England to discuss anti-social behaviour orders. Many opinions were given on how they would impact on civil liberties and individual rights and their introduction would amount to a charter to prosecute very young people. The purpose of the anti-social behaviour order I was trying to ensure would be introduced was to reward juveniles by not including them in the criminal justice system at an early stage and steering them along a path towards co-operation with the authorities and away from a path of crime.

Groups of youths gather and, by and large, most of them behave themselves, but there is an intimidatory aspect to some of the congregations in certain areas. One knows there is always peer pressure and that some individuals do not want to be there. There is the slow incremental creep of anti-social behaviour, perhaps with the use of alcohol and drugs and involving low-level criminality. We should be more proactive in trying to discourage youths from taking this pathway. I am not trying to oversimplify the issue, but if large cohorts of youths consistently gather in places where they can be monitored in terms of illegal activity, there should be a way to intervene at an early stage, rather than waiting for them to break the law in a serious way. We speak about the provision of youth facilities and soccer, rugby and GAA pitches, but we need greater interaction with An Garda Síochána through community policing and juvenile liaison officers who do wonderful work.

We need an assistant Commissioner with responsibility for community policing. Involvement in community policing should not be seen as a dead end, somewhere to park a member of An Garda Síochána, but as a central role in policing. The structure of the police force means that one must work and be involved in dealing with serious crimes to have better promotional prospects. A central tenet of any good police force involves the concept of community policing. We should, therefore, have an assistant commissioner with responsibility for community policing in order that it will be seen as almost an essential element by a member of An Garda Síochána in terms of career advancement. I believe that at times, we do not value appropriately the work of those members of An Garda Síochána who call to a house to discuss a problem with a young person. Such gardaí know their community intimately, they also know the other professionals in that community, be they teachers, social workers or people in leadership positions in sports organisations or elsewhere, whereby there is a whole-of-community approach working to try to ensure that children and young adults do not end up heading to the children's court or another court at the first point of contact. I believe this area to be critical.

On restorative justice, I compliment Deputy Halligan on raising this issue and publishing the Restorative Justice (Reparation of Victims) Bill 2013. I believe it is on foot of substantial work that was done after a report was commissioned in 2007 on the principle of restorative justice and how it would work, as well as the impact it would have on society, on the individual who perpetrated the crime and, more important, on the victim or victims of crime. The key issue in this regard is that justice obviously must be seen to be done. There must be an expeditious approach to this issue. One cannot have victims of crime hanging around for a long time while waiting for the justice system to respond either through the restorative justice system or through the traditional criminal courts. A more expeditious type of justice system is needed and I believe this is a key area that must be addressed. For example, in respect of the subject of bail, Members refer repeatedly to the revolving door syndrome. There is no point in Members pretending otherwise, as week in and week out, the revolving door syndrome means that people who have just been committed to prison are released again. I am not someone who advocates locking people up and throwing away the key. I am far from that position and represent a con-

stituency that has a prison located in the middle of it. I see how people and families are torn apart by the fact that one of their loved ones - a son or a daughter, although it mainly is sons or husbands - has been locked up for a long time. This of course has a devastating impact on a family.

Equally, however, one must be conscious that in the case of a person who commits a serious offence, there at least must be a genuine perception, in the context of both the criminal and the community itself, that an element of protection will be afforded to a community by the fact that a person is prosecuted, sentenced and will serve a certain length of time. However, when a person is imprisoned, supports and training programmes must be in place. Some effort must be made to ensure that a certain level of rehabilitation has taken place for a person who comes out of prison. For example, many people find it extremely difficult in prisons because of pressures that exist within the structures of prisons themselves. I refer to drug addiction, drug abuse, the intimidatory aspects of prison life and what flows therefrom. One must give people who have been sentenced to prison the chance whereby on leaving prison, they at least have been afforded the opportunity to work in a rehabilitative programme that would be of benefit to them and to broader society. Members repeatedly talk about this requirement and there has been a move from Victorian-type thinking in which it simply is a case of punishment to a rehabilitative-type of prison. However, I wonder whether Members genuinely are doing enough in this regard as with the best will in the world, one could argue that Members perhaps cut these things short because prisoners and their families probably do not vote. Perhaps that is the real reason but it is not good enough. It is necessary to have genuine programmes in place in the prisons. First and foremost, in the case of individuals who have major problems and are addicted to drugs, there at least should be adequate facilities to allow them the opportunity to try to kick the habit. Moreover, it is essential that other rehabilitative programmes are in place. However, at present we are only pretending that such programmes are in place. Were such individuals, who were addicted to drugs, to enter Mountjoy Prison today and were they to make up their mind on the spot that they wished to enter a rehabilitative programme, they could be waiting for a while. I genuinely do not believe this is good enough. Were even that sort of commitment and effort to be made, I would welcome it.

In the few minutes remaining to me, I wish to discuss restorative justice itself with particular emphasis on low-level crime. Deputy Stanton has referred to the projects under way in Nenagh and elsewhere but more important, the larger schemes in operation in New York undoubtedly show that if one has community-type courts and community-type service, one deals with low-level crime at the least complex area where there are the most obvious benefits. In other words, low-level crime is dealt with through community courts and through community service. The community takes ownership of the problem because more than likely, the problem arose from one of the community's own people and that community benefits in turn from the service the offender in question provides to it. It is a genuinely simple idea that should be explored because when one considers it in greater detail, it is more complex than just comprising community courts, service and reward. There is a need to ensure that a streamlined service is in place at which all these matters can be dealt with.

Critically, central to all this is the issue of the victim. Some victims may not seek restorative justice. They may want a person to serve the sentence they consider to be appropriate and may not want any contact with the criminal. While that is their right and entitlement, I believe that were one to begin to break down the barriers between them and us, that is, between those who never break the law and those who always are breaking the law, one could try to understand that

most of these people are one's own seed and breed. One must ensure there is some semblance of understanding that people are not born to be criminals but that it is due to the system and to isolation. Societal problems and many other reasons explain why a kid ends up in conflict with his or her community and the law and ultimately is incarcerated. I believe much work must be done in this regard. Many of the reasons and causes are known but I do not believe they have been addressed adequately. I refer to young people who clearly are being identified at an early age by professionals as being people who are vulnerable and are at high risk. However, it appears as though the State through its various services only gets in contact with them when they have committed an offence that would merit a criminal prosecution. I consider this to be simply unacceptable.

On the other end of the scale, victims of crime sometimes feel very isolated and vulnerable because they do not believe the system looks after their interests. They do not believe the system looks after their needs and requirements in ensuring the perpetrator of the crime is punished. The word "punished" sounds fine, provided that at some stage there is a rehabilitative process in place. Regardless of whether it is for a low-level crime or a serious crime, if there is a prosecution or the imposition of community service through a community court, there should be a rehabilitative programme in place. There almost should be an obligation on Members to ensure that when people come out of prison, they at least will have had a chance of bettering themselves while incarcerated.

Deputy Pádraig Mac Lochlainn: I welcome the introduction of this Bill to the House and commend Deputy Halligan on his preparation of it. My party and I welcome the spirit of this Bill and will be supporting its progress to Committee Stage. However should the Bill get to that Stage, Sinn Féin will seek to amend it in order to strengthen it further. I will speak further about this a little later in my contribution. Restorative justice is an approach to responding to criminal and other harmful behaviour that enables the perpetrator of a criminal or other harmful act to offer restitution or reparation to the victim or the victim's community or both. It identifies crime or anti-social behaviour as an act against an individual or community rather than against the State.

9 o'clock

Sinn Féin sees an increasingly important role for restorative justice in the justice system across the island because we believe that in a great many cases it is more socially effective than retributive justice as it results in higher victim satisfaction, a lower incidence of repeat offending and a greater chance of offender rehabilitation and reintegration into the community. In the meantime, we are committed to expanding and improving the use of restorative justice, including community restorative justice and community mediation programmes, both within and alongside the existing justice systems North and South.

Although we may agree loosely with the idea that those who commit offences of theft should pay back the costs of the goods they have stolen, the manner in which this Bill suggests that the money should be recouped is not something we could definitively support. Section 19 deals with attachment of earnings orders where an offender has failed to pay the sum of money in full by the set dates. Section 19(c) allows a court to make an attachment of earnings order to a person in receipt of a social welfare payment. This automatically raises questions. As Members know, social welfare payments are often calculated in regard to households. I and my party would worry that where an attachment order is made in respect of an offender, there is a chance that the partner or child of the offender will suffer unfairly due to the behaviour of his or

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her partner or parent. This is one area we would seek to amend should this Bill reach the next Stage. Of course, we will work constructively with the Deputy on that. There is also the worry that if one cuts far enough into someone's salary or social welfare payment, one could leave him or her in a situation in which he or she could not survive financially, and this is another area of concern to us.

In order for this Bill to be fair, we would need to work to ensure that strict conditions are placed on attachment orders. We must also be mindful of the danger of placing an attachment order on someone who is already struggling to be an upstanding citizen and the possibility that, rather than being restorative, this could actually have the opposite effect, causing someone to become more detached from society. If both parties agree to such a mechanism then it is fair to call it restorative justice, but attaching an order for payment to someone's salary or social welfare payment who does not want to pay is certainly not what we would know as restorative justice.

In the North of Ireland restorative justice practices have come on in leaps and bounds, but here in the Twenty-six Counties we have much more to do. Although there are some good examples across this State, we have much more work to do. Indeed, the Joint Committee on Justice, Defence and Equality is looking at this very issue. Although restorative justice can be very labour-intensive, it is nowhere near as costly as incarcerating people for non-violent crimes. It is time we started to give real consideration to alternative strategies in this State.

I reiterate my initial point that we support the passage of this Bill to Committee Stage. Should it get there, we will work closely with the Deputy to strengthen it and to take into account some of the concerns I have outlined in my contribution.

Debate adjourned.

The Dáil adjourned at 9.05 p.m. until 9.30 a.m. on Wednesday, 26 March 2014.