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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

DÁIL ÉIREANN

Dé hAoine, 11 Nollaig 2015

Friday, 11 December 2015

Chuaigh an Ceann Comhairle i gceannas ar 10 a.m.

Paidir.
Prayer.

Finance (Tax Appeals) Bill 2015: Report and Final Stages

Deputy Michael Lowry: I move amendment No. 1:

In page 19, to delete lines 10 to 28.

I refer to section 29(9) of the Bill, which provides that the High Court may direct that an appeal may be reheard by the new Appeal Commissioners in circumstances where a case stated is completed and signed by one of the incoming Appeal Commissioners. This does not make any sense. The very same commissioners who completed and signed the case stated are being asked to rehear the appeal. If the High Court has a problem with a case stated, there is an existing remedy which is to remit it to the Appeal Commissioners for amendment, not rehearing. This is the normal procedure and it is catered for in the proposed section 949AR(2). The Minister of State should understand that appeal hearings are hugely time consuming and take months and sometimes years of preparation. They are hugely expensive for the taxpayer and the Revenue alike. As such, section 949AR(2) already provides for the appropriate mechanism for the High Court to remit a case stated without the requirement to restart the whole process again. The Bill should not expose the taxpayer to the time and cost of having an appeal reheard in circumstances where the appeal has already been determined. The principal point is that any appeal determination already made should stand and not be capable of being reversed whether it was won or lost under any circumstances. Appeals that have been adjudicated on and in respect of which determinations have been made should not, under any circumstances, be reversed. I ask for confirmation that it is the intention of the Bill that this situation remains the same. In other words, where an appeal is still in the process but has been adjudicated upon by the outgoing commissioners, the decision should stand and not be impacted by the measures within the Bill.

It is all very fine for the Revenue Commissioners, with the huge resources at their disposal, to wish to undertake an appeal rehearing but the imposition on the taxpayer is enormous. Anyone who has had any dealings with an appeal, whether a business, private entity or anyone else, will understand that the process is hugely expensive. It is fine for the Revenue Commissioners

who are, in effect, dealing with public money but individuals and companies must find their own resources and that can be an enormous imposition on them. Once a decision has been made by the Appeal Commissioners, it should be sacrosanct. Section 29(8) and section 29(9) should be deleted from the Bill.

Minister of State at the Department of Finance (Deputy Simon Harris): I thank Deputy Lowry. Part 3 of the Bill contains provisions on the arrangements for transitioning from the old appeals process to the reformed appeals process. Provision has been made for the treatment of appeals that have already been made and are at various stages of the process when the new appeals process comes into operation. An additional matter which has had to be taken into account has been the coinciding of the Bill with the retirements of both current Appeal Commissioners and the appointment of new commissioners following a competitive process conducted by the Public Appointments Service. Deputy Lowry's amendment relates to one of those transitional arrangements. He proposes an amendment to section 29 of the Bill which contains provisions relating to situations where the necessary steps have not been taken in respect of appeals to the High Court on a point of law against determinations of the Appeal Commissioners. The current procedure for an appeal to the High Court is by way of an arrangement called a "case stated". The latter is a statement of the facts as found by the Appeal Commissioners and the point of law on which the opinion of the High Court is sought. The practice adopted to date has been for both parties to the appeal to agree the contents of the case stated before it is signed by the Appeal Commissioner who determined the appeal. Due to the unsatisfactory way in which this procedure has operated, there are some unfinished case stated proceedings outstanding on the retirement of the current Appeal Commissioners. The Bill seeks to provide for this situation.

As a mechanism to facilitate the more expeditious resolution of appeals, the Bill provides that a case stated may be completed by a different Appeal Commissioner where the Appeal Commissioner who had heard the appeal had ceased to hold office before the completion of the case stated. In the interests of justice and as a safeguard for the parties, both parties can agree to a complete rehearing of the appeal by a new Appeal Commissioner instead of proceeding directly to the High Court. I emphasise that this is where both parties are in agreement. Where both parties are not in agreement, the new Appeal Commissioner may proceed to complete and sign the case stated for the High Court. As an additional safeguard, the High Court is given the discretion to refer the matter back for a rehearing by the new Appeal Commissioners where it considers in the particular circumstances that justice would not be served by the High Court proceeding to deal with the appeal. The effect of the Deputy's amendment would be that the High Court could not order that such appeals be reheard by new Appeal Commissioners.

The Bill endeavours to strike a balance between the expeditious resolution of appeals and ensuring that the parties to an appeal are treated fairly in the unusual situation where a case stated is required for the High Court but cannot be completed by the same Appeal Commissioner who determined the appeal. Some of the unfinished cases stated have been outstanding for some considerable time and it is not desirable at this stage that they should have to start at the beginning of the re-appeal process again. The transitional provisions I have outlined were inserted into the Bill on the advice of the Attorney General's office, which considered that provisions intended to ensure the expeditious resolution of appeals should be subject to the approval of the High Court which is best placed to ensure the interests of justice are not prejudiced by other considerations. This is a very reasonable approach and for that reason the Minister for Finance is not in a position to accept Deputy Lowry's amendment.

Deputy Michael Lowry: There are unusual circumstances here where one Appeal Com-

missioner has retired and the other is due to do the same this week. There are several cases before those outgoing Appeal Commissioners which have been determined and dealt with. It is obvious that the outgoing Appeal Commissioners will have left office before the case stated is agreed between the parties. In that circumstance, I presume the incoming commissioner can sign the case stated based on the hearing that has taken place and on the findings of fact. In other words, the new commissioner cannot adjust the facts. The evidence is there, the facts are established and findings of fact are made. Can the Minister of State confirm that in those circumstances the integrity of that appeal decision stands?

Deputy Simon Harris: I can confirm that is the case.

Deputy Michael Lowry: Can the Minister of State confirm that when a case stated goes before the High Court, the only reason for that court to refer it to the new Appeal Commissioners would be in circumstances where it requires amendment because there has not been agreement between the two parties?

Deputy Simon Harris: The High Court will have the discretion to refer it back to the new Appeal Commissioners where it feels that there are circumstances in which justice is best served by it doing so.

Deputy Michael Lowry: The norm heretofore has been that the High Court has the jurisdiction to make the decision but if it is not satisfied or if there is some gap in the finding, it can refer it for amendment rather than a full rehearing. Is that still possible under this Bill?

Deputy Simon Harris: This refers purely to transitional measures whereby, as the Deputy correctly says, both parties have not agreed to the case stated, the Appeal Commissioner has signed off on the case stated and referred it to the High Court and the High Court feels justice is best served by sending that back to the Appeal Commissioner for a hearing. It gives the High Court that flexibility, which is fair in the interests of natural justice, to refer a case back where the case stated has not been agreed by both parties but the Appeal Commissioner has signed off on it to refer it to the High Court. It is a discretion we are giving the High Court because of the pretty unique transitional situation in which we find ourselves.

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 2 and 3 form a composite proposal and may be discussed together by agreement.

Deputy Peadar Tóibín: I move amendment No. 2:

> In page 34, line 2, to delete "Subject to subsections (2) and (3), every" and substitute "Every".

Transparency is the ally of a citizen and in most cases involving central, local government or tax affairs where there is transparency, it usually results in better behaviour by all involved. The purpose of these amendments is to remove the rules which to all intents and purposes mean that appeals will be heard in private. I understand the arguments for this change but in the round we believe it is important to have transparency in this system. This trend within the Bill runs counter to the trend elsewhere regarding openness and transparency and is not necessary to protect the rights of taxpayers. A decision was made on this on Committee Stage but the Government is going further than what was suggested with regard to the level of transparency

that is necessary. As it is worded, the Bill brings in private hearings and transparency will be lost as a result.

Deputy Simon Harris: I thank the Deputy. There were differing views on this matter on Committee Stage. Deputy Michael McGrath had a view very different from that held by Deputy Pearse Doherty and the Minister listened carefully to what was quite a robust debate.

These amendments concern the holding of public hearings in respect of tax appeals. Part 4, chapter 4, section 949Y of the Bill provides for a default position of public hearings. This is subject to the right of a taxpayer to a private hearing on the request to the Appeal Commissioners. It is also subject to the Appeal Commissioners' discretion on whether to hold a hearing or part of a hearing in private where they consider that the circumstances specified in subsection (2) of the new section 949Y Taxes Consolidation Act 1997 apply. These circumstances include the need to maintain the confidentiality of sensitive information, to protect a person's right to respect for his or her private or family life, or in the wider interests of justice and the public interest. The effect of Deputy Tóibín's and Deputy Pearse Doherty's amendments would be that all appeal hearings, without exception, would be held in public, with no allowance for Appeal Commissioners' discretion or the wider interest of justice and the public interest as outlined.

The proposal for public hearings was contained in the Revenue Commissioners' submission to the Minister's public consultation on the reform of the tax appeals system. The reason given for the proposal was that it would ensure transparency and accountability, issues the Deputy raises, and enhance public confidence in the tax system. The public would see that the tax system was being administered in an even-handed way by Revenue and subject to an oversight by the independent and impartial Tax Appeals Commission. Such a move would also have been in keeping with some examples of international practice and with other Irish administrative appellate fora where public hearings are the norm. Revenue also referred in its submission to the fundamental principle of our law enshrined in the Constitution that court proceedings should be held in public. While justice must be done it is also important for justice to be seen to be done. When the Minister published the Bill, he did so being persuaded of the merits of these views and decided to legislate for a system of public hearings that would contain the necessary safeguards to ensure that certain matters were not in the public domain.

During the pre-legislative scrutiny of the Bill by the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, conflicting views on the matter were expressed by various members from a variety of political parties and none and by other stakeholders also. Support for public hearings was also expressed by Deputy Pearse Doherty and Revenue but other parties, including the Irish Tax Institute and several committee members, expressed strong views against public hearings citing reasons such as the reluctance of taxpayers to take an appeal if hearings were to be held in public and the impact on business of the release of commercially sensitive information. Ultimately, while allowing for the possibility of public hearings, the committee stated in its report to the Minister that it would prefer to give an appellant discretion in the choice of a public or private hearing and the Minister's decision to accept the committee's recommendation was influenced by the strong views expressed at its hearings. The Minister sees the potential benefit of public hearings and would like and does intend to keep the matter under review as the new appeals system becomes established. For the reasons I have outlined, however, and following the discussion on Committee Stage and the views presented to the Minister, I am not in a position to accept the amendment.

Amendment put and declared lost.

Deputy Peadar Tóibín: I move amendment No. 3:

In page 34, to delete lines 4 to 25.

Amendment put and declared lost.

An Ceann Comhairle: Deputy Fleming is substituting for Deputy Michael McGrath. Is that agreed? Agreed. Amendments Nos. 4 to 7, inclusive, and 9 to 18, inclusive, are related and may be discussed together.

Deputy Sean Fleming: I move amendment No. 4:

In page 39, line 19, after "appealed to" to insert "the Circuit Court or".

I welcome the opportunity to move the amendment, which my colleague, Deputy Michael McGrath, submitted. Of the 14 amendments in this group of amendments, six are in the name of Deputy Michael McGrath. When we have dealt with them, only one amendment will remain to be dealt with. This is the biggest element of the debate. Amendment No. 4 is to allow an appeal to the Circuit Court, and I will give the reasons it is proposed and then deal with each of the amendments in Deputy Michael McGrath's name.

We generally support the thrust of the Bill in updating the legislation. We all know from experience and records that 26% of tax appeals in 2012 and 2013 were decided in favour of the taxpayer. This means there is a need for the Appeal Commissioner. The Oireachtas Joint Committee on Finance, Public Expenditure and Reform, which considered the matter last year, was told there is sometimes up to €800 million in question where assessment has been made but collection deferred pending a resolution. I welcome the fact that, as the Minister of State said, the legislation will require the Appeal Commissioners to publish a written determination for each case within 90 days rather than just announcing a decision. It is very important and will help bring certainty to the tax system, given that people will see how decisions were arrived at. In due course, it will lead to a reduction in appeals going to the system. Practitioners who are dealing with cases can see how similar cases were decided in the past and what the outcome was, and potential appellants can use the information to decide whether they want to make an appeal. Without the written determinations, taxpayers might not know a similar case had been decided previously.

It is important the names are not published, and I agree that an element of confidentiality for the taxpayer must be maintained. We gave an example of two supermarkets on the main street of a town. If the owner of one supermarket makes an appeal and has to put every detail of his or her margins out in public at an appeals hearing, the competitor will be very interested. It would not have been right to do this. The Minister of State acknowledged that there were divergent views at the committee. My view was that taxpayers should not have to bare all to deal with their tax affairs.

I am surprised that the right to an appeal to the Circuit Court is being removed from the legislation. The essence of the amendments on which I am speaking is to reinstate the appeal to the Circuit Court which is provided for in the legislation. I am disappointed and feel it is unnecessary to remove this option. I strongly argue that the amendments be accepted. The wording of the amendments is specific regarding the Circuit Court. The only alternative provided for in the legislation is to appeal on a point of law to the High Court, and we all know how expensive it is to do so. It does not deal with the substance, full facts or interpretation of the case, and

something can be amiss. Just dealing with a point of law is a very narrow approach to allow an appeal to the High Court. While the Government will claim that a right of appeal continues to exist, it will be a very narrow, discrete right of appeal. It is only on a point of law and has nothing to do with the tax issue at hand. We are wrong to remove the option of the Circuit Court. We are possibly straying into difficulty by giving Appeal Commissioners too much power in terms of making determinations that should be a matter for the courts. I am concerned about this measure.

Two concerns have been expressed about the Circuit Court, including the lack of specialist judges with expert knowledge in some cases. While some judges would not have the expertise, others would. It is not beyond the wit of the Courts Service to identify Circuit Court judges who could take responsibility for hearing tax cases. Given that there are not many cases, one would not need many judges, and they would not need to be dedicated judges for this purpose but judges who happen to have a particular interest or expertise. This could have been facilitated and dealt with well. It should be taken into account today.

Another concern about the Circuit Court is the fact there are delays in it. If there is a delay, it should be dealt with. The answer is not to abolish the right of appeal to the Circuit Court. It is almost like solving the long queues for an accident and emergency service by closing the service. It is a nonsense philosophy. In society the impression is sometimes given that if one gets rid of the hospital, one has solved the problem, whereas the problem has just been moved somewhere else.

We discussed the Circuit Court in the committee hearings we had before the legislation was drafted, which were very helpful. The committee was informed that in 2013, only 14 cases were appealed to the Circuit Court and in the five years from 2010 to 2014, only 46 cases were appealed to the Circuit Court. The Circuit Court option is a safety valve that has not been overused or abused. It is important, and for the sake of the dozen cases per year, the option should remain. I do not understand why the Department of Finance and Parliament would go to so much trouble to amend legislation to remove a safety valve that allows a taxpayer to go to court and let a judge decide. Nobody is saying all the appeals will be successful. We are going to enormous trouble to remove the small safety valve that would make the legislation better. I do not understand the philosophy. There was no problem with ten or 12 cases per year going to the Circuit Court. I do not understand why we are trying to solve a problem that does not exist.

Many cases have been decided in the Circuit Court in favour of Revenue. The taxpayer will not win all the cases. It gives greater certainty for the future process if a Circuit Court decision backs up the decision of an Appeal Commissioner. It would strengthen the process and lead to more certainty and a reduction in the number of appeals. A tax adviser would be able to consider cases that had come before an Appeal Commissioner, see which decisions had been backed up by the Circuit Court, and determine whether to bring similar appeals forward. It would give greater certainty to the taxpayer, the Revenue Commissioners and tax practitioners. One of Deputy McGrath's amendments specifies that, in the case of the appeal to the Circuit Court being reinstated, hearings would be held in the circuit where the taxpayer resides rather than bringing everybody to Dublin. As it stands, people in west Cork have to travel to Dublin for their High Court hearings. It would be better if justice could be dealt with locally.

I have given the background, but it would be wrong not to discuss the individual amendments. Amendment No. 4 proposes, in page 39, after "appealed to" to insert "the Circuit Court or". This page of the Bill states, "The Revenue Commissioners shall give effect to any deter-

mination made by the Appeal Commissioners unless the determination has been appealed to the High Court". I want to change it to "unless the determination has been appealed to the Circuit Court or the High Court". Amendment No. 6 is on a similar situation in a subsequent subsection. Again, it proposes to change the provision to "unless the determination is appealed to the Circuit Court or to the High Court". It should be included in this subsection dealing with the Revenue Commissioners giving effect to the determination.

Amendment No. 7 in the name of Deputy Michael McGrath, which would insert "or a notice of appeal to the Circuit Court was served" in page 40, line 35, moves on to the section on the publication of the results. They should be published in accordance with what is provided in the legislation, that is, where appealed to the High Court under Chapter 6, but include the Circuit Court.

Amendment No. 8 is a slightly larger amendment that inserts a new paragraph on page 41. It deals with the publication of determinations. A report on determinations should be amended by the Appeal Commissioners to state: "the result of any appeal to the Circuit Court or the High Court arising out of the determination, together with the result of any subsequent appeal from such a decision of the High Court to the Court of Appeal." There should be a clear reference in the report of a case having been taken to the Circuit Court, as there is already a reference to the High Court.

Amendment No. 9 is large and substantially on the same topic. It deletes lines 19 to 38 on page 41. This section deals with appealing against determinations. The amendment contains a few provisions that the Minister of State has seen in previous amendments. It goes without saying that each of these amendments permits the right to appeal to the Circuit Court and not just the High Court. The mechanics of how that right would be transposed into legislation are contained in amendment No. 9. The first paragraph deals with appeals to the Circuit Court and High Court and the second paragraph states: "A party may by notice in writing appeal a determination to the Circuit Court." That appeal must be lodged within 21 days. The amendment proposes to confer appeal jurisdiction on the Circuit Court in order to avoid dragging people from Donegal to Dublin. People will understand this. The next paragraph states: "An appeal to the Circuit Court shall be heard as a *de novo* rehearing of the appeal." That is to say, it should not be dealt with as a review, but as a new case. If an appeal of a decision is not served within a particular time, the matter can be stated to the High Court. Under the next paragraph, an appeal can be brought to the Circuit Court as well.

Paragraph (9) deals with the mechanics involved after a case has gone to the Circuit Court and is then before the High Court, as the legislation does not provide for this. Either the appellant or the Appeal Commissioners would retain the right to go to the High Court after going to the Circuit Court. The final paragraph states: "The Circuit Court's decision in respect of an appealable matter shall be final and conclusive but this is without prejudice to the provisions of this Chapter concerning appeals to the High Court." The Circuit Court can give a determination on whether a matter that has been dealt with by it is appealable to the High Court.

Amendment No. 17 is on the section under which the Revenue Commissioners give effect to decisions of the High Court or the Court of Appeal and the Supreme Court. It goes without saying that a person can take a case to the Supreme Court, as the legislation provides for that, but we want to delete "the High Court that is appealed to the Court of Appeal under section 949AS". Some technocrat somewhere understands what this means, but we are inserting "Circuit Court". That is in amendment No. 18, which is the final one in Deputy Michael McGrath's

name in this group. I ask the Minister of State to respond.

Deputy Peadar Tóibín: This is the opposite of what happened with the previous amendment, when the Government moved in respect of a view of the committee. This time, it has decided not to move. I am curious to know why the Minister is travelling down this road. It is not particular to this Bill, as a pattern has developed across a number of Bills in recent times. The Customs Act 2015 springs to mind. The new normal seems to be a narrowing of the opportunity for an individual to access an appeal. The difference between access to the Circuit Court and access to the High Court is significant in terms of distance, funding, timing, etc. Why has this become the new normal? As Deputy Sean Fleming stated, it must be an important part of the right of any citizen to appeal to the courts, and not just on questions of law. If someone is aggrieved with a judgment, it should then be decided upon. We would reject wholeheartedly any effort to limit or make more expensive the rights of citizens in this regard.

Deputy Simon Harris: I thank the Deputies. I partook in this discussion on Committee Stage with their respective party spokespersons. I accept that we have different views on the matter, so I will outline our rationale for proposing this.

The current appeals process allows for an appeal by a taxpayer against a determination of the Appeal Commissioners to a judge of the Circuit Court. This Circuit Court stage is a complete rehearing of the appeal and the proceedings do not take any account of what may have transpired at the Appeal Commissioners stage. It is the determination of the Circuit Court judge that prevails. A complete rehearing can only be justified if there are reasons to suppose there were poor decisions on matters of fact or a particular problem with the Appeal Commissioners. No Deputy is suggesting that this is the case.

Prior to taking a matter to the Appeal Commissioners, all taxpayers who have a dispute with Revenue have the option of seeking a review of its decision. This would be done by a Revenue officer who was not involved in the decision or by an independent external person who had appropriate expertise.

As I did on Committee Stage, I strongly refute the assertion made by Deputy Pearse Doherty on Second Stage that there was a policy pattern of the Government trying to remove the right of access to the Circuit Court for citizens and that the intention behind the proposal was to prohibit people from appealing. Rather, the Minister is not persuaded of the necessity of having an appeal to the Circuit Court and considers that the disadvantages significantly outweigh the advantages. This Bill is about ensuring that we have a modern and expeditious, but fair, process in place. The reforms contained in the Bill will ensure a more robust, transparent and streamlined procedure under which a route of appeal to the Circuit Court is not required and is not one over which the Minister can stand. The Appeal Commissioners are specialist expert tax tribunals and the Minister is determined that this status be acknowledged and, where possible, strengthened by the Bill. Under the new appeals regime, the Public Appointments Service, PAS, selects candidates for appointment as Appeal Commissioners based on the specific requirements of the job and looks for appropriate tax and legal experience and qualifications. This is not a reflection on the expertise and skills of current and former Appeal Commissioners, merely a statement of the strengthened provisions to ensure that appellants continue to get high levels of professional service. A Circuit Court judge may encounter a tax case only infrequently. It may seem rather peculiar to establish an expert tribunal only to allow an appeal by way of a full rehearing at a forum that does not have and, in fairness to the Circuit Court, does not profess to have the same expertise in tax matters.

The Bill contains provisions that will underpin this specialist expertise with fair and impartial appeal proceedings and a clear independence from Revenue. The reform is intended to produce a better resourced, more efficient and transparent Appeal Commissioners stage. It will see more flexible and active case management by Appeal Commissioners, publication of written determinations and a streamlining of the case stated procedures, which I discussed with Deputy Lowry, for appeals to the High Court. In contrast, the *modus operandi* of Circuit Court rehearings appears anomalous and the continuation of the Circuit Court stage of the appeals process has the potential to undermine much of the proposed reform.

Our tax appeals system has remained largely unchanged since 1853. Rather than taking the view that it has stood the test of time, we should accept that it requires a significant and long overdue overhaul. At that time, a taxpayer could appeal a decision to the special commissioners - the predecessors of the Appeal Commissioners - and to the county court judge. However, these special commissioners did not have the same independence from the Revenue Commissioners as the current Appeal Commissioners. It was reasonable, in the circumstances which obtained in 1853, to provide for an independent avenue of appeal for taxpayers.

Furthermore, the current tax appeals process is out of step with the procedures of other expert appellate tribunals. For example, some decisions made by public bodies can only be appealed by way of an appeal to the High Court on a point of law. This is an issue I presume Deputies Sean Fleming and Michael McGrath agreed with when they were on this side of the House. Examples of the bodies to which I refer are An Bord Pleanála, the Financial Services Ombudsman, the Information Commissioner, the Irish Financial Services Appeals Tribunal, the Labour Court, the Refugee Appeals Tribunal, the Rent Tribunal, the Social Welfare Appeals Office, the tenancies tribunal of the Private Residential Tenancies Board and the Valuation Tribunal in respect of commercial rates. Unfair dismissal cases were appealable from the Employment Appeals Tribunal to the Circuit Court but this has now ceased following the recent establishment of the Workplace Relations Commission. Deputy Tóibín asked a very valid question as to why this is the case. Why is it that successive Governments have put in place expert tribunals to try to develop an expertise and specialisation to ensure citizens and, in this case, taxpayers have the right to access that expertise and have their situation reviewed by experts? I refer the House to the Supreme Court judgment in the 1997 case of Henry Denny & Sons (Ireland) Ltd *v*. Minister for Social Welfare, which is particularly relevant. In that case, the Supreme Court Justice said:

> I believe it would be desirable to take this opportunity of expressing the view that the courts should be slow to interfere with the decisions of expert administrative tribunals. Where conclusions are based upon an identifiable error of law or an unsustainable finding of fact by a tribunal such conclusions must be corrected. Otherwise it should be recognised that tribunals which have been given statutory tasks to perform and exercise their functions, as is now usually the case, with a high degree of expertise and provide coherent and balanced judgments on the evidence and arguments heard by them it should not be necessary for the courts to review their decisions by way of appeal or judicial review.

That is why, as governments have done in the past, this Government is putting in place those expert tribunals to hear such appeals.

The other issue to which reference has been made is cost. I accept that going to the High Court is costly. I am not sure it is as costly as some of the figures that have been put on the record of the House during the debate on this Bill. It must be remembered that even if the Circuit Court stage was retained, it would clearly remain open to Revenue to appeal the Circuit Court

determination against it so taxpayers might find themselves before the High Court in any event. The suggestion, therefore, that by removing the Circuit Court we are putting all these High Court costs on people does not stand up to scrutiny. At present, even with the Circuit Court stage, it is open to Revenue to appeal to the High Court.

It appears that a series of the proposed amendments, particularly those tabled by Deputy Tóibín, are intended to completely replace the current High Court stage of the appeal process with an appeal to the Circuit Court. While, at face value, such a move might appear to have merit - as it might prove to be a less costly avenue of appeal - I contend that it would give rise to serious disadvantages. Many tax appeals involve substantial potential tax liabilities and very complex technical tax issues. They may also involve the determination of matters, the outcome of which might go beyond the immediate appellant and be of relevance to a wide body of taxpayers. High Court judgments clearly carry much more authority than those of the Circuit Court and can have significant value in terms of setting precedent in determining how our tax system is to be administered. The need for certainty on the administration of our tax system is paramount and the High Court plays a crucial role in providing this certainty in terms of points of law. Such a restricted avenue of appeal would have the effect of seriously compounding the problems associated with a deficit of specialist expertise that I have already outlined. Furthermore, many appeals currently bypass the Circuit Court and it is likely that problems being experienced with the capacity of some Circuit Courts to process tax appeals would be even more pronounced were it to be the only appellate forum after the Appeal Commissioners, although I accept the point made by Deputy Fleming in this regard.

This Bill is an honest attempt to provide for an efficient expert tribunal to address disputes that arise between taxpayers and the Revenue Commissioners. I believe it achieves that. There will be a more robust structure in place after the passage of this Bill. Retaining the Circuit Court stage in a reformed, streamlined and better-resourced process is not a position over which the Minister can stand. The appeals process is one of a range of avenues of redress open to taxpayers who feel aggrieved either by decisions made by Revenue officials or by the behaviour of such officials. Taxpayers also have access to Revenue's internal and external review processes as well as avenues such as judicial review and to the courts, up to and including the European Court of Justice in relevant cases. By providing for the recruitment and selection of suitable experts and for streamlined procedures for the making and hearing of appeals, the Bill aims to ensure an efficient, cost effective use of public resources and of the costs incurred by a taxpayer in bringing an appeal. The proposal to allow rehearings before the Circuit Court runs contrary to this objective and ignores the fact that the expertise lies within the Appeal Commissioners in this area. Retaining the Circuit Court stage of the appeals system has the potential to unnecessarily and inadvertently undermine the reforms being introduced. For those reasons, I am not in a position to accept these amendments.

Amendment put and declared lost.

Deputy Peadar Tóibín: I move amendment No. 5:

In page 39, line 19, to delete "High Court" and substitute "Circuit Court".

Amendment put and declared lost.

Amendments Nos. 6 and 7 not moved.

Deputy Sean Fleming: I move amendment No. 8:

In page 41, between lines 16 and 17, to insert the following:

> "(5) A report shall subsequently be amended by the Appeal Commissioners to state the result of any appeal to the Circuit Court or the High Court arising out of the determination, together with the result of any subsequent appeal from such a decision of the High Court to the Court of Appeal.".

I am moving this amendment on behalf of Deputy Michael McGrath. I do not understand why it was not part of the group of amendments we have just discussed because, as a lay person, it appears to be germane to it. Amendment No. 8 briefly proposes the insertion of a new paragraph on page 41, after lines 16 and 17. This section relates to the publication of decisions by the Appeal Commissioners. Subsection (4), after which the provision in the amendment would be inserted, provides that "A report shall be published in a way that, in so far as it is possible, does not reveal the identity of any person whose affairs were dealt with on a confidential basis during the proceedings concerned (being proceedings that were not held in public)." We have disposed of that matter and I propose to add that "A report shall subsequently be amended by the Appeal Commissioners to state the result of any appeal to the Circuit Court or the High Court arising out of the determination, together with the result of any subsequent appeal from such a decision of the High Court to the Court of Appeal." Perhaps the Minister of State will confirm that he understands the purpose of including the Circuit Court. There is merit in what he said and I accept it. However, my point is that where the Appeal Commissioner have made a determination to publish its report, it seems that the outcome of a subsequent appeal to the courts would not be included in the publication of the determinations. Will the Minister of State explain that? I understand that it is a different legal process. The publication of the report, which is specifically provided for in this section, will only be available on the Internet. There will be no hard copies available. If those decisions are subsequently reversed in court, it should be recorded in those reports, perhaps the report of the next year or whenever the decision is made. Is provision made in this regard?

The Minister of State referred earlier to An Bord Pleanála and the final decisions it issues. Sometimes in such cases that is not the end of the matter because it might be referred to the High Court and then be sent back again. The Minister of State has referred to a number of expert bodies with technical knowledge, all of which issue annual reports. Those reports are not completely helpful if they contain decisions that are subsequently appealed to a higher court and ultimately reversed. The reports might meet statutory requirements but they do not give the full picture. Can a mechanism, through which the full details of the outcome of cases on the conclusion of the process would be published, be put in place such that a person does not have to check the High Court records to get that information?

Deputy Simon Harris: The Minister and I understand what the Deputy is trying to achieve by this amendment. While we do not disagree in principle with what is proposed - I had exchanges with Deputy Michael McGrath on this issue on Committee Stage - I am unable to accept the amendment for the following reasons.

As Deputy Fleming will be aware, one of the key reforms being introduced is that the Appeal Commissioners will be required to publish on the Internet a report of all their determinations. This report will have to state whether an appellant has requested that a statement of the case be prepared by the Appeal Commissioners in regard to the making of an appeal to the High Court against the Appeal Commissioners' determination. This will provide an indication to all that determinations may have been revised by the courts at a later stage. As stated, while I can

see the potential benefit of the Deputy's proposal in regard to making the full and final outcome for each appeal available, I am of the view that it would be impractical to implement and would be an onerous burden on the Appeal Commissioners. The Appeal Commissioners are responsible for their own stage of the appeals process. With the limited exception of whether the High Court might refer an appeal back to them for determination, they cease to have any involvement in an appeal after it has been determined by them. In fact, it may take several years for an appeal to be finally determined by the courts. The parties to any court proceedings are the taxpayer and the Revenue Commissioners rather than the Appeal Commissioners. The Appeal Commissioners are not a notice party to a subsequent appeal to the courts and will not be aware of any subsequent court proceedings or decisions if the parties settled the matter by agreement among themselves. There is no obligation on the courts to notify the Appeal Commissioners of their judgment. It is not appropriate that they would be required to do so.

In the normal course of events, court decisions are published by the Courts Service and the public has access to the decision at that stage. While I am not in a position to accept the Deputy's amendment, I reiterate that an Appeal Commissioner in publishing a determination will have to indicate therein that he or she has been asked by the Appeal Commissioners to prepare a case to make an appeal to the High Court and so it should be flagged at that stage for the citizen or any interested party that there is potential for the case to be moved on to the High Court. For the reasons I have outlined, it is not possible for the Appeal Commissioners, who are not a notice party, to be aware of what is going on in the High Court. Given their independence from Revenue and taking into account the independence of the courts, I am not sure it would be desirable for that to be the case.

Deputy Sean Fleming: I understand what the Minister of State said and I am sure he understands the point I make. I accept it will not be dealt with specifically in this legislation. I acknowledge that paragraph (c) provides that the Appeal Commissioners must indicate in their statement if a case has been referred to the High Court. I accept that some of the cases that proceed to the High Court will be between the taxpayer and the Revenue Commissioners and that, as the Minister of State said, the Appeal Commissioners might have no involvement in that regard. Perhaps it could be provided for somewhere in the system that the Revenue Commissioners in a report each year would publish the details of the outcome of cases in which they were involved. As these cases will have been heard by the High Court, confidentiality will not be an issue. What I am proposing would be useful.

The mentality in public life is such that each silo, on the conclusion of a process, is required to publish only details of that process that are relevant to it, but such information would not be the full picture. I accept that it is possible to access the full details of cases on the High Court website. However, in terms of public administration generally and in the interests of the citizen, it would be helpful if, for example, the Revenue Commissioners would publish these details annually in a report. Perhaps they already do so. If not, perhaps a provision which would meet the spirit of what I am proposing could be introduced in the future.

Deputy Simon Harris: I do not disagree with the Deputy that we should ensure that as much information as possible is available in an easy to digest way for the public. I am sure that is something on which all of us in this House can agree. I am informed by Revenue that they do refer to and provide data on High Court cases in their annual report. Perhaps the Deputy would reflect on that and if he comes up with a way of improving that process, we can discuss it on a further occasion.

Amendment, by leave, withdrawn.

Amendments Nos. 9 to 18, inclusive, not moved.

Bill received for final consideration and passed.

Finance (Local Property Tax) (Amendment) (No. 2) Bill 2015 [Seanad]: Order for Second Stage

Bill entitled an Act to amend the Finance (Local Property Tax) Act 2012 and to provide for related matters.

Minister of State at the Department of Finance (Deputy Simon Harris): I move: "That Second Stage be taken now."

Question put and agreed to.

Finance (Local Property Tax) (Amendment) (No. 2) Bill 2015 [Seanad]: Second Stage

Minister of State at the Department of Finance (Deputy Simon Harris): I move: "That the Bill be now read a Second Time."

The objective of the local property tax introduced in 2012 is to broaden the domestic tax base and to replace some of the revenue from transaction-based taxes with an annual recurring property tax. Our reliance in the past on transaction-based taxes proved to be an unstable source of Government revenue. In contrast, the experience internationally has been that property taxes are a stable and secure source of funding. Stability should be at the core of our public finances now and in the years ahead. Moreover, the local property tax enables us to achieve the goal of stability in a way that does not directly impact on employment. This Government has been resolute in its determination to do all in its power to protect and support the creation of jobs. As a measure which is a tax on assets, not employment, the local property tax will not adversely affect job creation.

The local property tax is fair and equitable, as the owners of the most valuable properties pay the most. Properties valued over €l million are subject to a higher rate of 0.25% on the excess over €1 million. The local property tax legislation provides appropriately in relation to ability to pay and conforms to international norms. The local property tax is now well established as an important element of our taxation system. It is essential that its position is maintained and, as research, including recent reports I have read from the OECD, and experience internationally consistently show, taxes on immovable property are among the taxes that are least detrimental to growth. We all want to see our economy continue to grow at sustainable levels into the future.

Given its significance, and conscious of the concerns of home owners over increasing property prices and potential effects on their local property tax liabilities, particularly in urban areas, the Minister for Finance asked Dr. Don Thornhill to conduct a review of the operation of the local property tax, LPT. The review focused in particular on any impacts on LPT liabilities due to property price developments over recent years. Dr. Thornhill is well known to Members of

this House as a distinguished former public servant who chaired the interdepartmental group on the design of a local property tax in 2012. I thank Dr. Thornhill, on behalf of many of us, for his work on this report.

In his report on his review of the LPT, which was published on budget day, Dr. Thornhill makes a number of recommendations. His main recommendation is for a revised system whereby a minimum level of LPT revenue in each local authority area would be determined by Government, ideally having regard to the apportionment between local authority areas of the historic yield. This, in turn, would allow for the estimation of LPT rates for each local authority area and the application of these by taxpayers and Revenue. Local authorities could adjust this rate upwards by a factor of up to 15%. This new system is recommended by Dr. Thornhill with a possible interim deferral of the next valuation date until November 2018 or November 2019. The Minister for Finance announced in budget 2016 that he would propose a postponement of the revaluation date for the LPT from 2016 to 2019. The Bill is designed to give a statutory basis to that commitment. The deferral of the revaluation date means that home owners will not be faced with significant increases in their LPT in 2017 as a result of increased property values. This gives sufficient time for the other recommendations in Dr. Thornhill's report to be considered fully by the next Government.

In addition to the postponement of the revaluation date of residential property for LPT purposes, the Bill will give effect to two of the recommendations in the report, involving LPT relief for properties affected by pyrite, and relief for properties occupied by persons with disabilities. The legislation provides for a relaxation in certain limited circumstances of the requirement for the certification of pyrite damage by a competent person for the purpose of LPT relief. Moreover, in respect of reliefs for properties occupied by persons with disabilities, the changes currently being administered by the Revenue under its care and management provisions will be covered by the legislation, dispensing formally with a requirement that adaptations to property had to have been grant aided by a local authority. It is showing more flexibility regarding how the properties people with disabilities live in interact with the LPT system. Eligibility for LPT exemption for properties occupied by incapacitated persons is being relaxed in order that they will no longer, for example, have to have been the recipient of a court award or an award from the Personal Injuries Assessment Board, PIAB. I will elaborate on these later. Issues relating to the implementation of other recommendations in the Thornhill review report will be a matter for consideration by the incoming Government.

I will outline to the House the main provisions of the legislation. Section 2 concerns a minor technical amendment to section 3 of the principal Act to correct an omission in a cross-reference to the sections contained in Part 2. Section 3 amends section 8 of the principal Act, which relates to an exemption from the charge to local property tax for second-hand properties purchased during the year 2013 and occupied by the purchaser as his or her main residence. The section, as introduced, specifies the period of exemption as the liability dates in the years 2013 to 2015, inclusive, which dates correspond to the years 2013 to 2016, inclusive. The general rule, contained in section 14 of the principal Act, relating to the treatment of properties exempt on a particular valuation date is that they continue to be exempt until the following valuation date. As a result of the retention of the current valuation date of 1 May 2013 for an additional three years, the next valuation date will be 1 November 2019 instead of 1 November 2016. The amendment is required to change the reference in section 8 to 2016 to 2019 in line with the postponement of the next valuation date until 1 November 2019.

Section 4 amends section 9 of the principal Act which relates to an exemption from the

charge to local property tax for new properties purchased from a builder in the period from 1 January 2013 to 31 October 2016, which is the date immediately preceding the deferred valuation date of 1 November 2019.

Section 5 amends section 10A of the principal Act, which relates to an exemption from the charge to local property tax for certain properties that have been damaged by pyrite. As recommended by Dr. Thornhill, this exemption is being extended to include some additional scenarios. Up to now, the exemption has been available for properties that have been certified by a competent person such as an engineer as having significant pyrite damage following assessment and measurement in accordance with regulations made by the Minister for the Environment, Community and Local Government. Currently, Revenue is precluded from approving an exemption where a property owner has not obtained the required certificate of damage. Dr. Thornhill recommended that the exemption continue on this basis. However, he considered it should be extended to certain properties that have been shown to have the required level of damage but that have not been certified by a competent person in accordance with the relevant regulations. When the exemption was introduced it was envisaged that all properties that would be accepted into the remediation scheme to be operated by the Pyrite Resolution Board would undergo testing of the underfloor hardcore building material and certification of the level of pyrite damage. However, in some cases, the board is satisfied that the property has the required level of damage without carrying out such testing to verify this. In the absence of testing, the certificate of damage completed by a competent person that is required by Revenue is not available. For this reason, Dr. Thornhill recommended that evidence of acceptance into the remediation scheme be accepted by Revenue in lieu of this certificate.

Dr. Thornhill also considered that properties that are remediated as a result of a successful claim against an insurance company should be exempt. This could happen where builders have insured their properties against structural defects or property owners have insurance policies that provide cover for structural defects. The rationale for this extension of the exemption is that an insurance company would only pay out on foot of a claim for the cost of remediating a property where it was satisfied that the presence of pyrite had caused significant damage to the property. A similar rationale underlies the recommendation that the exemption be extended to those properties that are remediated by the builder or property developer who built the particular property. It was considered that remediation, or the provision of the funds for remediation, would happen only where the builder was satisfied that the presence of pyrite had caused significant damage to a property. While builders may unilaterally volunteer to remediate a damaged property, remediation may also come about following the institution of legal proceedings against a builder or against the person who provided the building material containing the pyrite. The changes are being implemented retrospectively. Thus, in the case of remediation by the Pyrite Resolution Board, the effective date will be the date of acceptance into the remediation scheme. In the case of remediation by insurance companies and builders, the effective date will be when the remediation has been completed and certified or when sufficient funds to carry out the remediation have been provided by the relevant party.

Section 6 amends section 10B of the principal Act, which relates to an exemption for residential properties that are acquired because of their suitability for occupation as a residence by certain severely incapacitated individuals or that are adapted to make them more suitable for this purpose. Eligibility for the exemption depends on an individual being permanently and totally incapacitated, because of a mental or physical infirmity, from being able to maintain himself or herself. When this exemption was introduced, an incapacitated individual was re-

quired to have received an award from the PIAB or a court in respect of a personal injury or, alternatively, to be a beneficiary under a trust that was established specifically for the benefit of the individual. However, in practice, there are individuals who are permanently and totally incapacitated to such an extent that they are unable to maintain themselves and whose condition is so severe that it dictates the type of property they can live in and who would be eligible for the exemption were it not for the fact that they have not received the required award or benefited from a public trust fund. For this reason, the Minister for Finance decided in May 2014 to relax these conditions. The exemption no longer depends on the receipt of an award from the PIAB or a court or the establishment of a public trust fund for the disabled individual's benefit. Instead, the nature and extent of the individual's incapacity is established by the submission of relevant information to Revenue. The individual's doctor is required to provide information on the individual's condition and why the particular property or adaptation was considered to be necessary. The Minister for Finance asked Revenue to implement this new procedure on an administrative basis until he had the opportunity to make the necessary legislative amendments, which we are endeavouring to make under the legislation.

The Government agreed to the Minister for Finance's proposal to postpone the next valuation date for local property tax from 2016 to 2019 in line with a recommendation made by Dr. Don Thornhill in his recent review. The valuation date is the date on which property owners are required to establish the market value of their properties. Section 7 amends section 13 of the principal Act to retain the current valuation date of 1 May 2013 for an additional three years up to and including 2019. The Bill provides for the next valuation date to be 1 November 2019 instead of 1 November 2016. This postponement means that property owners will not be faced with significant increases in their local property tax liability in 2017 as a result of increased property values since May 2013. It also allows sufficient time for the other recommendations made by Dr. Thornhill to be considered fully by all political parties and Independent Members and for decisions to be made by the incoming Government.

Section 8 amends section 14 of the principal Act which contains the general rule in relation to the treatment of properties that are exempt on a particular valuation date. Such properties continue to be exempt until the following valuation date.

Section 9 amends section 15A of the principal Act, which relates to a relief that is available in respect of certain properties adapted to make them more suitable for occupation by a person with a disability. The relief takes the form of a reduction in the chargeable value of a property where the adaptation work has the effect of increasing the chargeable value. A condition for the relief, as introduced, was that the adaptation work had to be grant-aided under one of the local authority schemes available for this purpose. However, as I stated, in practice there are people with a disability who occupy properties that have been adapted to make them more suitable for this purpose but where, for various reasons, the adaptation work was not grant-aided by a local authority. For this reason, the Minister decided in May 2014 to relax this condition and the relief no longer depends on the receipt of a local authority grant. Instead, the nature and extent of the disability is established by the submission of relevant information to the Revenue Commissioners. The disabled person's doctor is required to provide information relating to the disability and why the particular adaptation was considered to make the property more suitable for occupation. At the request of the Minister for Finance, this was implemented on an administrative basis and this Bill will give effect to the procedure in legislation and on a retrospective basis.

In addition to this new procedure, Dr. Don Thornhill recommended a change to the way in

which the allowable reduction in the chargeable value of a property is calculated. Currently, the allowable reduction is linked to the maximum grant that would have been payable under the relevant local authority scheme and to the amount of the increase in the chargeable value of a property that is attributable to the adaptation work that was carried out. This is being changed to a reduction of a fixed amount of €50,000, which coincides with the width of the local property tax valuation bands. This change will ensure most people who carry out adaptation work that increases the chargeable value of their property will benefit from a reduction in their local property tax liability of the amount attributable to each one-band increase in value, which is €90. This new method of calculating the allowable reduction in the chargeable value of a property is being implemented with effect from the next liability date of 1 November 2016 with respect to local property tax that will be payable for 2017.

Section 10 amends section 35 of the principal Act, which relates to the submission to the Revenue Commissioners by liable persons of returns relating to residential properties. The information to be included on a return includes, for example, the liable person's assessment of the market value of the property, a claim for an exemption or a deferral of payment and the preferred payment method. In the normal course, a liable person who submits a return relating to a particular valuation date does not have to submit another return until the following valuation date, when the market value of the property has to be reassessed, unless circumstances change in the intervening period. As a result of the retention of the 1 May 2013 valuation date for an additional three years, the number of years for which returns do not have to be submitted is also extended. This amendment provides for an extended period that includes the year 2019.

Section 11 amends section 153 of the principal Act, which contains the list of bodies from whom the Revenue Commissioners may request information. The Revenue Commissioners may only request information that it reasonably requires for the purposes of establishing, maintaining and ensuring the accuracy of its register of residential properties and its administration of the local property tax. The list of such bodies includes, for example, the Local Government Management Agency, the Private Residential Tenancies Board, the Minister for Social Protection and the National Asset Management Agency. Following from other amendments made in the Bill, this amendment adds three new bodies to the list from which information may be requested to verify eligibility for an exemption being claimed by a liable person. The Pyrite Resolution Board may be asked to provide information on properties accepted into its remediation scheme. The Personal Injuries Assessment Board and the Courts Service of Ireland may be asked for information on awards made to certain individuals with disabilities.

In short, the Bill attempts to postpone the revaluation date to 2019 to provide certainty to people, put on a legislative basis the more flexible conditions that have been put in place on an administrative basis since 2014 for people with disabilities and adaptations to their property and how it interacts with the local property tax, and make much sought after and much-needed changes relating to homes affected by pyrite. I commend the Bill to the House.

Deputy Sean Fleming: It is very timely to discuss this Finance (Local Property Tax) (Amendment) (No. 2) Bill 2015 today. There is one good element to its substance, which is the deferring of the revaluation date for the local property tax from 1 November 2016 to 1 November 2019. The issues of exemptions for people affected by pyrite and disabilities are also welcome but they are more of a public relations announcement than a substantive matter if we consider the number of people who have benefited from those exemptions to date.

This debate is timely because we are in December and almost every household in the coun-

try will have received a letter from the Revenue Commissioners in the past couple of weeks about paying the local property tax for 2016. It states, "I am writing to you in regard to payment of your local property tax (LPT) for 2016", and the next sentence indicates that the "Finance (Local Property Tax) Act 2012 provides that the local property tax for 2016 is payable on or before 1 January 2016". That is only a couple of weeks away, so our discussion is very timely. We will discuss the people who must pay it rather than the exemptions mentioned by the Minister of State.

On the other side of the letter, the Revenue Commissioners indicate that with people making a single payment, if they pay by debit or credit card, they must make the payment any time but no later than 7 January 2016, which is a few weeks away. For those paying by single debit authority, the payment must be completed online by 7 January 2016, with the Revenue Commissioners deducting the local property tax amount from the current account on 21 March 2016, unless an earlier date is specified. A number of people use the phased payment method. If a person opts for deduction at source from a salary or occupational pension, the first payment for 2016 will be the first pay date in 2016. If a person has it deducted at source from certain social welfare payments, it will be deducted on a phased payment basis, with the first payment in 2016. Where a person has it deducted at source from a Department of Agriculture, Food and the Marine payment, it will be taken from the Department's payment in 2016, which is interesting, as it could come at the end of the year. Some people might get an extra 11 or 12 months interest-free credit with that. People paying by monthly direct debit will see the first payment made on 15 January 2016.

It is timely we are discussing this tax now, as it is due to be paid by most householders in the next couple of weeks. It is fortunate that the Minister of State is here today as an amendment of mine on Committee Stage relates to flooding. Before he leaves the House today, I want the Minister of State to give a commitment in respect of houses currently flooded that they will not have to pay the local property tax for 2016 to 2018, inclusive. The Government has the ability to proffer some gesture from Government funds to these people. We can discuss the detail of the amendment on Committee Stage. The point is very clear. The Taoiseach has said the Minister of State is going to Bandon, Crossmolina, Athlone and Portumna, among other places, in the coming weeks. The Minister of State cannot say that flooding is terrible but people must pay their local property tax at the start of January.

If a Government empathises with its citizens, it could not go down that route and no self-respecting Government will send people to hold hands, stand with them in wellington boots in knee-high water and tell them not to forget to pay the local property tax. It is not on and the Government could not seriously ask people to do it. It will have to take immediate action with the issue and I hope there will be an announcement in the Chamber that there is a little bit of empathy and common sense arising from the hardship and suffering of citizens suffering flooding at the moment. It should be recognised by the Government rather than having it exploit a photo opportunity in boats, with cows stranded in fields and elderly people forced from their houses. We want to see a little follow-through from the Government in the local property tax payment.

We need to see evidence of that here today.

It is also very relevant that the Minister of State, Deputy Harris, is in the Chamber dealing with this Bill. My colleague, Deputy Michael McGrath, submitted a parliamentary question to him on 17 November regarding the amount of money for flood relief works in 2015. The Minister of State indicated that "the total funding allocation, current and capital, for the Office

of Public Works [...] overall Flood Risk Management Programme in 2015 is €87.815 [million]" and that this includes expenditure on capital relief works and other items, such as various surveys. He went on to state "the largest element of funding is allocated for the OPW's flood relief capital works activities at €61.284 [million]". He further stated:

> Expenditure to 31st October, 2015 on the OPW's overall Flood Risk Management Programme is approximately €35.691 million. There have been unanticipated delays in the progression of some flood relief schemes but the outturn for expenditure in 2015 on the Programme overall is projected to be €73.323 million. The OPW intend to apply to the Department of Public Expenditure and Reform to carry forward an element of the capital saving ...

That capital saving is money that this House voted for him to spend on flood relief works. This is not a saving. It is another example of the public service using a crazy term to describe something. There was no saving, it is just money that was not spent. Money not spent is not money saved-----

Deputy Simon Harris: Why?

Deputy Sean Fleming: -----it is to be spent next year. The Minister of State said in the reply to which I refer that he was allocated money for flood relief works this year and then he said to his senior colleague, "Sorry, Minister, I could not spend it. Can I carry it forward to next year?" What good is that to the people he will be meeting over the next week or two?

Deputy Simon Harris: The Government led by the Deputy's party did that every year.

Deputy Sean Fleming: What he is saying-----

Deputy Simon Harris: It is multi-annual funding. You do not understand it.

Deputy Sean Fleming: Before I came down here this morning, a Cheann Comhairle, I checked the record of the funds carried forward last year, the unspent funds from 2014 carried into 2015. It was dealt with by the Minister, Deputy Howlin, or perhaps the Minister of State, at the finance committee earlier this year. There was indeed unspent money in various Departments but not in the OPW. He might have handed back money from current expenditure but there was no carry-forward of unspent money for flood relief work from last year.

An Ceann Comhairle: We should get back to what is in the Bill now.

Deputy Sean Fleming: I will conclude on this point. The Minister of State is saying €15 million of unspent flood relief money will not be spent this year-----

Deputy Simon Harris: Yes.

Deputy Sean Fleming: -----and many households that are being asked to pay local property tax will be subjected to flooding because he did not do his job this year.

Deputy Simon Harris: That is not true.

Deputy Sean Fleming: That is the essence of what is happening here today. What I am saying in respect of this legislation is that we want a commitment from the Government. That commitment could even take the form of a gesture because the Government is good at gestures. Let it be a token; the Government is good at token efforts.

Deputy Simon Harris: The Deputy is the most partisan Member of the House.

An Ceann Comhairle: Deputy Sean Fleming should try to keep himself quiet.

Deputy Sean Fleming: The Minister of State should at least make some effort for the people out there so that they will not have to pay local property tax in the first week of January in respect of houses they will not be able to live in over Christmas. If that is not reasonable, I do not know what is. Is the Government so out of touch with the people regarding the payment of property tax next January that it will ask those whose houses and properties were flooded to pay it? I have an amendment dealing with this issue that is in order but I am covering the main point now. The reason those people's homes and properties are being flooded is that the Government is out of touch. I do not know which radio station I heard the Minister of State speaking on this morning but I was shocked-----

Deputy Simon Harris: I was not on the radio this morning.

Deputy Sean Fleming: He said-----

An Ceann Comhairle: Hold on a minute.

Deputy Simon Harris: Sorry.

An Ceann Comhairle: Thank you. Would Deputy Sean Fleming please stick to what is in the Bill? We will not have these conversations across the floor.

Deputy Sean Fleming: We need a local property tax exemption for people whose homes and properties have been flooded. We have an exemption in there for pyrite-----

An Ceann Comhairle: It is not in the Bill as it stands. We can get to it when the Deputy tables an amendment. We will deal with it at that point.

Deputy Sean Fleming: This is Second Stage. It is about the broad basis of the Bill. In respect of properties that were flooded, I do not know when the Minister of State said it, whether it was today, yesterday or the day before, but it was reported on some radio station this morning that he said this Government is the most proactive ever in the context of dealing with flooding-----

Deputy Simon Harris: Yes.

Deputy Sean Fleming: -----and with people whose houses are flooded and who have to pay local property tax. The purpose of this legislation is to deal with local property tax. He said that all the plans can be viewed on the website. The Minister of State is living in a virtual world. He must come out of his website and into reality. Telling people in Portumna and Athlone that they can view his plans on the website will be no good and he cannot be taken seriously.

An Ceann Comhairle: We are not dealing with flooding. The Deputy should get back to discussing the Bill.

Deputy Sean Fleming: When he has funding to prevent flooding in people's houses, he should actually use it. I will deal with that matter specifically when I move my amendment on Committee Stage. I am not opposing the broad thrust of the legislation because we agree with the extension to 2019 that the Minister of State has included in it. However, we would not need to be here today if he or the Minister for Finance had accepted our amendments to the

Finance Bill on exactly this point earlier in the year. This could have been done and dusted but the Government voted down our amendments at that time. I am pleased the Minister is doing a complete U-turn and is coming back to accepting the principle of the amendment we proposed regarding an extension of the revaluation date until 2019. I welcome that belated U-turn and his coming back to support a Fianna Fáil policy that was voted down by the Government earlier this year in the debate on the Finance Bill. The local property tax yield in 2014 was €491 million and the estimate for 2015 is approximately €440 million. Some of the reduction is probably due to the fact that a number of local authorities have reduced the rates in their areas. As we said, the valuation date is 2 May 2013. Most people assume it is being done in good faith. I am not aware of the number of cases in respect of which the Revenue Commissioners have followed up in this regard.

One issue that was mentioned by various people before is the valuation date of 2013. I am concerned that it might lead to a situation where people selling houses will be marketing them as pre-2013 and post-2013. Those that are pre-2013 will have their valuations fixed on that date, while the effective valuation date for those who were lucky enough to be able to purchase a new house post-2013 will be in 2016.

It is important to confirm that the valuation date being extended to 2019 relates to those who had a valuation date of 2013. For people who buy in 2016, the valuation will be fixed until 2019 but the second-hand house market is particularly important. If a house that was valued legitimately and properly in 2013 continues to be owned by the same person, that valuation will hold until 2019. However, if the semi-detached house in the other half of the same building is sold, the new owner will pay the property tax on the increased value. There will be two houses, side by side and part of one structure, but one will have a pre-2013 valuation and the other will have a valuation based on 2016 prices. There is an anomaly there which I will ask the Minister of State to address. Perhaps it can be dealt with, although it is not provided for in this legislation. I do not have a particular amendment on it but it is a point I would like the Minister of State to consider as the debate on the Bill proceeds.

We come to the issue of pyrite. I am a little scathing about the big play made of this and the page and a half of the Minister of State's script dealing with pyrite. We all agree that there should be an exemption for the people whose houses are affected by pyrite. The Minister of State's words indicate he agrees but his actions do not reflect that. I understand that, up to September, only 76 households were excused from local property tax as a result of problems with pyrite. The Minister of State, the Government and the Minister for the Environment, Community and Local Government made a song and dance with regard to an exemption for pyrite and now we find that up to the end of September only 76 households received the benefit of that. It really is making a mountain out of a molehill in terms of publicity. We have a mountain of publicity but a molehill when it comes to the number of houses that are actually excluded from the local property tax. More than 2,000 people have applied for the exemption. Just 5% of those who have applied for the exemption have been awarded it. The Minister of State will have to revisit this issue to ensure the cases of those who have applied are dealt with fairly, promptly and quickly. I suppose another consultants' report will have to be obtained to enable the Government to decide how best to proceed.

I would like to mention another issue pertaining to the recognition of houses that arises in the context of the local property tax. The Minister of State and I had this exact discussion in the House on 23 October last, when I initiated a Private Members' Bill only for it to be voted down by the Government. People who live in some apartments and managed estates are being taxed

on the double for services because they are paying management fees and the full value of the local property tax. Some, although not all, of the services for which they are paying through their management fees should be provided by local authorities. I introduced the Management Fees (Local Property Tax) Relief Bill 2015 earlier this year to deal with this anomaly. I thank Senator Darragh O'Brien, who has championed this matter in the Dublin area and got the party to approve the legislation. I proposed the Bill in the Dáil on his behalf, essentially because he was unable to introduce it in the Seanad due to the prohibition on tabling finance Bills in that House. I am sure he has subsequently discussed the legislation at length inside and outside the Seanad. I hope he has done so in his constituency and the other constituencies that are affected by this issue.

One of the amendments I intend to propose on Committee Stage today reflects the essence of the Management Fees (Local Property Tax) Relief Bill 2015. The Minister of State will note that the amendment proposes to amend the Finance (Local Property Tax) Act 2012 by including the following provision in it:

> Where a liable person is obliged to pay an annual management fee in respect of a relevant residential property and said management fee is paid in full, then such person shall be exempt from having to pay part of his or her local property tax in a relevant year, the amount of that part being any of the following:
>
> (a) equal to one third of the management fee;
>
> (b) €300; or
>
> (c) equal to one third of the local property tax;
>
> whichever amount is lower.

I stress that this would apply where the management fee is paid in full. It would be a modest amount of money in each case. We went through the details of the costings of such a measure when we considered the Bill I proposed in October. It would cost €17 million. There are people who are paying on the double, in effect. Perhaps the Minister of State would give this proposal a second thought.

I genuinely agree with what has been said about people who have had their houses adapted for disability purposes. I also agree with what has been said about pyrite, although I would be happier if the Government did some of what it has said it is going to do. It needs to implement the proposal to give some people who have been affected by pyrite an exemption from the local property tax. There is still a list of exempted properties, including properties in unfinished estates. I think one of the categories accepted by the Department of the Environment, Community and Local Government for the purposes of exemption involves estates where there are no footpaths running up to the front doors of houses. Will the Minister of State agree today to my proposal that houses which have water running in their front doors and out their back doors and washing all and sundry in front of them - they may or may not have footpaths to their front doors - should be exempt from the local property tax? The houses that are being affected by the current flooding should have such an exemption. The Oireachtas should provide for that today. We will have an opportunity to make such provision as this Bill progresses. I think most people will agree that this proposal is fair and reasonable. I would also like to propose, even if it does not relate exactly to this Bill, that the Government should commission a report on the possibility of giving an exemption from commercial rates to businesses affected by flooding.

Assistance of this nature should not be confined to people affected by flooding who have to pay local property tax on their houses.

I would like to make a further point about this matter as it applies to the question of commercial rates, which is relevant because legislation on it is being drawn up by the Department of Finance. Although the Minister of State will have the backing of this House when over the coming days he goes to places that have been affected by flooding, how will he be able to look at businesses that have been flooded while reminding the owners of those businesses to pay their commercial rates at the beginning of 2016? I suggest he needs to be in a position to say to those whose businesses have been destroyed that the Government understands that this is going to cost them a great deal of money, regardless of whether they have insurance cover. The Government needs to make it clear not only that it is showing empathy to people whose businesses have been destroyed by exempting them from commercial rates, but also that it is standing with householders whose houses have been flooded by relieving them of the requirement to pay the local property tax. I look forward to hearing the Minister of State's response to the issues I will be raising during the course of the debate on this Bill. I hope he accepts the principle that people who have been flooded out of it in recent times should not be asked by the Government to pay the local property tax in the first week of January 2016.

Deputy Peadar Tóibín: Ba mhaith liom i dtús báire freagra a thabhairt ar an méid a bhí le rá ag an Aire Stáit faoi "stability" i gcomhthéacs an cáin mhaoine áitiúil. Dúirt sé go bhfuil an cáin seo mar shaghas tacaíochta do "stability". It is clear that the Minister of State has not been listening to the Irish Fiscal Advisory Council's latest pronouncements in which it refers to the Government's actions as a threat to stability. Obviously, stability has many seams. I refer to fiscal stability and social stability, for example. We know the Government has created enormous social instability over the past five years in whole swathes of our society. In health care, almost 100,000 people will spend time on trolleys this year. In housing, hundreds of thousands of people are in mortgage distress, are waiting for houses or are paying exorbitant rents. People are suffering. Some 3,000 children are being told to stay on painkillers for six months while they wait for dental work. Young children who are growing are waiting for far longer than they should to gain access to Our Lady's Children's Hospital, Crumlin for back operations. These are examples of the social instability that has been caused by the Government over the past while.

Fiscal stability is very important as well. The Minister of State spoke about broadening the tax base. In fact, the Government has taken €750 million out of the tax base this year. It is shifting the tax base towards corporation tax. Although corporation tax is welcome, I emphasise that it is not being paid at the rate at which it should be paid. It is extremely unstable. The Government is shifting progressively away from personal taxation, which is a stable form of taxation, and towards corporation tax, which is extremely unstable at the moment.

Deputy Anthony Lawlor: Personal taxation depends on jobs and on people working.

Deputy Peadar Tóibín: Exactly. There is no doubt about it.

Deputy Anthony Lawlor: There would be no guarantee of that under Sinn Féin's policies.

Deputy Peadar Tóibín: I welcome the fact there should be taxation on jobs.

Deputy Anthony Lawlor: Sinn Féin wants to increase taxes.

Deputy Peadar Tóibín: In 2004, 2005 and 2006, Bertie Ahern shifted taxation from personal taxation towards stamp duty, which applies in a very unstable section of the economy. The current Government is doing the exact same thing and thereby creating instability.

Deputy Simon Harris: No.

Deputy Peadar Tóibín: Incredibly, some 140 companies pay 70% of all corporation tax. The focus on this narrow sector of society reminds me of the focus on another narrow sector of society - the construction industry - some years ago. The Government has created an unbalanced economy, with 90% of exports coming from the foreign direct investment sector. Countries like Denmark and Austria provide approximately 40% of their own exports indigenously. We provide 10% of our exports indigenously. That leaves us extremely exposed. Exposure to shocks is an instability in itself. If, God forbid, the US President who is elected at next year's election in that country decides to change significantly the tax scenario upon which this country focuses its strategy, that shock could significantly reduce both the tax base on which we have become more dependent and this country's level of exports, which make up a considerable element of gross domestic product.

I would like to make another point in response to the Minister of State's remarks about "stability". The Irish Fiscal Advisory Council has spoken about an output gap. We have gone from a very high peak in the Bertie days to a very deep trough in the era of the current Government. There is a degree of pent-up spending. There is also deflation because of the recession that occurred. That, accompanied by the Government's gouging of billions of euro from the economy, has led to the significant but volatile bounce-back we are seeing at the moment. The Irish Fiscal Advisory Council is of the view that the output gap is shrinking so much that an inflationary aspect would emerge in this country's economy if €4 billion were taken out of personal taxation in the form of the universal social charge. In other words, the accentuated pro-cyclical system we are in would continue. The Government's policy for taxation over the next five years is to take €4 billion out of personal taxation in the form of the universal social charge. If the Government does that, then, according to EU rules, the money will have to be taken from public services. Therefore, not alone is the Government destabilising the economy and shifting the stability of the taxation base in doing so, it is also destabilising future public services.

Another issue raised by the Irish Fiscal Advisory Council in the context of stability relates to the fact that mid-term forecasting by the Department of Finance is not accurate. The council said the Department needs to use more accurate tools and highlighted the inaccuracy in the corporation tax estimates. Interestingly, anybody who took an interest in the banking inquiry would be aware that one of the main issues arising was that the forecasts of the Department of Finance were not accurate. Fortunately, a significant level of external factors are blowing behind the country and bringing it to a healthier economic space. These factors include low interest rates, favourable exchange rates, quantitative easing - which is flushing cash through the system - and low oil prices. However, we should not forget that in Bertie Ahern's time as leader of the Government, there were extremely low external interest rates blowing behind the economy and we had little control over those.

What we need to do to create stability is to create a stable, indigenous export sector, which hardly exists here at present. This sector is very small in comparison to those of countries of a similar size. We also need to ensure we have a broad taxation system that focuses on ability to pay. In the 1980s, a school of economic thought existed which suggested that taxation would be better levied based on the ability to pay. The Government has sought to divorce itself from

that concept and separates taxation from ability to pay and the reason this Bill is before us is the failure in that regard. When the Government introduced the property tax, it stated that property was a form of wealth and income within a household and, therefore, that it is a reasonable way to focus on the wealth or income of a family. However, the truth is the crash we have experienced has sundered the value of houses and the income or wealth of families. For example, people could face a property tax on a house worth €300,000 but they could owe €400,000 on that property. In that case, the property tax is a tax on their debt, which is incredible.

I know a pensioner in my constituency who worked all her life but who finds things tough. Her heating oil was stolen from her tank during the summer and she had to replace it. In order to be able to afford that, she stopped getting up early and now gets up around noon, thereby saving money by not having breakfast. She has a small lunch and then goes to her daughter's house where she has dinner. She has done this to save enough money to get the oil to heat her house. Despite her low income and circumstances, this woman must pay property tax.

We now face an extreme situation where tens of thousands of people throughout the country are knee-high in water, with farms waterlogged and people in extreme difficulty. Some of these individuals cannot even live in their houses at present.

Deputy Anthony Lawlor: The Deputy should be asked to stick to the Bill.

Deputy Peadar Tóibín: They are likely to have to eat their Christmas dinner elsewhere. Members of the Government will stand in the photographs highlighting this disaster while the people to whom I refer will still be expected to pay their property tax. That is cynical.

I find this Bill cynical because it represents an admission that the value of a house no longer represents the wealth of a family. A recent study has shown that if house prices continue to rise, the average rate of property tax will increase by €189 per family.

Debate adjourned.

Business of Dáil

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): Notwithstanding Standing Orders or anything in the Order of the Dáil of 10 December 2015, there shall be no suspension of the sitting today.

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

Finance (Local Property Tax) (Amendment) (No. 2) Bill 2015 [Seanad]: Second Stage (Resumed)

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

Deputy Peadar Tóibín: If property price inflation continues, the average family will face a property tax bill approximately €180 higher by 2019. As a result, the Fine Gael backbenchers from south Dublin and elsewhere come into the House and create a racket and burn the ear off the Minister for Finance. They say that now, as the election approaches, people are facing a massive increase in property charges on their houses and ask what the Government is going

to do about it. They say seats are on the line and call for a change in policy. Cynically, the Government decides to freeze the charge and leave it to the next Government to make a change. The question that should be asked is whether property reflects the wealth and income of a family. It does not because the crash has sundered that relationship and the Government thinks the people are naive in regard to what it is doing through this Bill today.

This Bill is an admission that the local property tax system is broken. For a long time, Sinn Féin has been saying the property tax is an unfair and broken model. We need to ensure we have a fairer model.

Deputy Anthony Lawlor: Will Sinn Féin vote against this today?

Deputy Peadar Tóibín: There are no Labour Party Deputies present in the House. However, Labour Party Deputies have been singing about this matter during the past year. Where they are on local authorities with Sinn Féin, which has been using its mandate to reduce local property tax, they have been criticising what Sinn Féin has been doing and saying it is hollowing out the income of local authorities, which is required for local authority services. Now we will see the Labour Party is happy to row in behind Fine Gael on this Bill and do what, in effect, Sinn Féin was trying to do, namely, ameliorate the impact of an unfair tax on those finding it difficult to pay that tax. It is disappointing no Labour Party Members are present.

I am also disappointed that this Bill just tinkers around the edges of this tax and does not address the issue as it should. Exemptions are mentioned but Sinn Féin in government would exempt every family from the property charge. We would seek a taxation system that reflects ability to pay. The Labour Party has spoken about a wealth tax for properties valued at over €1 million. Very little has been achieved in that regard. The property tax has a greater impact on those on low incomes.

It is a pity this debate is being rushed. I take it that, as a result of what the Chief Whip has announced, we may get a longer time to debate the Bill.

An Leas-Cheann Comhairle: There are just two and a half hours for this debate. The Deputy has 16 of his 30 minutes remaining.

Deputy Peadar Tóibín: Sinn Féin has submitted amendments and I hope we will have time to debate them. It will be a travesty if we do not. I hope the Government will respond and say that it will amend the Bill to ensure that exemptions will include people suffering as a result of the floods. Mention was made of exemptions from the tax for people whose homes have been affected by pyrite but only 80 people have benefited from that exemption. Only 5% of those people whose homes are affected have benefited so far and the paperwork required to deal with gaining recognition of their pyrite problem has almost cost more than what has been gained through the exemption.

I am disappointed the Minister has not sought to provide a similar exemption for those affected by the mica block issue in Donegal or for the people in Longboat Quay or in Riverwalk Court in County Meath. Many people live in accommodation which is not fit for purpose and does not comply with safety regulations, yet the Government is blind to that in respect of this tax. These residents are left outside the scope of the exemptions and are forced to make declarations on their own behalf. It is unfair to place the legal pressure on their shoulders. This is, unfortunately, a failed tax and no level of spin can change that. The Government is coming to the table for two reasons: to admit the value of a home does not equate to the tax one pays and

to put a cap on it because there is an election around the corner and Government party Deputies are under considerable pressure.

An Leas-Cheann Comhairle: To answer the Deputy's question, two and a half hours have been provided for Second Stage and 30 minutes for Committee Stage. That was ordered yesterday.

For the Technical Group, I call Deputy Catherine Murphy, Deputy John Halligan, Deputy Shane Ross, Deputy Paul Murphy, Deputy Richard Boyd Barrett, Deputy Clare Daly, Deputy Mick Wallace and Deputy Joan Collins.

Deputy Catherine Murphy: There are four of us sharing the slot if that is all right.

An Leas-Cheann Comhairle: There is a total allocation of 30 minutes.

Deputy Catherine Murphy: When the Minister of State made his opening statement he referred to property tax being a secure fund. Motor tax was a secure fund and local authorities were previously provided with resources from it through the local government fund. The guarantee from 1997 was that the fund would be ring-fenced. Property tax has essentially become a replacement for the local government fund.

When one tracks motor tax year on year, one can see how it has been stripped down to the point where there will not be a general purpose fund and local property tax will be that fund. In fact, an amount is taken each year as a subvention for Irish Water. There is no reference to that in the Bill this year but there has been a reference in previous years so I assume that will continue to be the case. This is exactly what is happening, so let us frame it correctly. The 2016 to 2019 period gives people certainty in terms of valuation and benefits those who have the most expensive homes, in particular ones that do not have a mortgage. It is noteworthy that the measure is coming in advance of a general election. This picks up on a point made by the previous speaker, although I would not be giving Fine Gael the election at this stage-----

Deputy Peadar Tóibín: No.

Deputy Catherine Murphy: -----about coming back in 2019.

Deputy Simon Harris: It could be a Sinn Féin and Fianna Fáil Government.

Deputy Peadar Tóibín: Or a Fianna Fáil and Fine Gael Government.

Deputy Catherine Murphy: It is obvious that the county that pays the most is Dublin. There are net contributors to the fund and net recipients.

There are positive changes on pyrite but only a very small number of people have availed of relief. There is a big omission in terms of people whose houses have tested positively for pyrite but do not yet have damage. Who would buy such a house? What value does such a house have? That is the big omission in terms of giving people relief. There is a blight on locations until such time as people feel there is certainty about the potential damage. No engineer carrying out a structural assessment would give a clean bill of health to a house that has been proven to have pyrite. An engineer will be alert to that if an estate has pyrite in it. That is a big gap.

The inability to pay is not addressed. The rate at which people are charged if they pursue the inability to pay option is approximately 4%, when European Central Bank money is in the

negative in terms of borrowing rates. That is punitive and it is very unfair that there should be some benefit to the Exchequer from people who have been able to prove an inability to pay on very tiny amounts of money. Perhaps the Minister of State would address that in his response.

It is difficult to understand the disability categories but it appears there are some positive elements to the scheme. Could a simple explanation be provided? This week we had a big exposé on fairly simple forms not being filled in. I do not know if the Minister of State filled in a tax form recently, but I helped somebody to fill one in and it was pretty difficult. In this case the form was from Revenue. The forms are complicated. Could we have an assurance that we could get them in simple English because different local authorities have different criteria? Reference was made to a cost to the Exchequer but it is the people's money as it comes from the local property tax. I always find that language pretty odd given that it is a cost on people's pockets.

In terms of net contributors and net recipients, the Small Firms Association and IBEC said property tax was a good thing before it was introduced because they thought it would broaden the tax base and that there would be a prospect of reducing commercial rates. Of course, they were fooled because all it amounted to was a replacement tax. Property tax is not additional. There are several major flaws. First, people are being charged for property when they are in negative equity. They are paying property tax on a debt. In terms of how the tax is distributed, a small number of local authorities are net contributors and a larger number of local authorities are net recipients. The difficulty is that there is not an equality of service. One could end up being a net contributor in a county such as the Minister of State's county of Wicklow or my county of Kildare where there are growing populations and needs but that is not factored into the equation. Those counties are punished by virtue of the fact that their baseline was not established at a particular point in time. The needs and resources model was pretty unsatisfactory from that point of view.

If, for example, one looks at staffing levels, the staffing in Meath, for example, is 50% of the staffing in Kerry. I understand Kerry is a net contributor as well, but in Meath the staffing is 50% less. How does one provide services with a lower number of staff? In some local authorities, for example in County Kildare, there are two swimming pools. We need another swimming pool in north Kildare and I have gone on about it for years. The standard is one swimming pool for every 50,000 people and in Kildare we have one swimming pool for every 100,000. That is not factored into a cost to be maintained. If one does not have a service, that is too bad. That is a very substantial flaw if one is asking people to pay a property tax for services and there is not an equality of services for those people. It is possible to make a very clear comparison with people in other local authorities who are perhaps getting a reduction and paying less in property tax but have better services. To be perfectly honest with the Minister of State, this is a very flawed model and I have highlighted some of the flaws that are inherent in the system in the short time available to me.

Deputy Paul Murphy: What we have from the Government are some pre-election crumbs. They are not even crumbs from the Government's own cake but crumbs from the people's cake that the Government has taken from them in the form of the property tax. Even then, it is giving tiny crumbs of it back to them. I can see the leaflets now from Fine Gael in particular but also from the Labour Party, which is completely hypocritical considering the points Deputy Tóibín made about the arguments Labour Party councillors have made on local councils. They will target areas with higher property values explaining that Fine Gael and Labour have managed to stave off the revaluation of people's homes, saving them a certain sum of money. I do not

think people will buy that because they are not stupid. They know the Government - Fine Gael and Labour - introduced the property tax in the first place and so while they say they are saving people from yet more attacks, they did introduce this austerity tax.

On the issue of property tax, the Government is in danger of making a bad mistake of mistaking forced payment and forced compliance with the property tax with the idea of the acceptance of it. They are not the same thing. There continues to be an absolute hatred of the property tax. It is seen for what it is, which is not this talk of broadening the tax base when in reality, it hits ordinary people with yet another unfair, indirect and regressive tax. For PAYE workers and self-employed people, it comes out of the same pay packet. It is just another way of hitting them and, fundamentally, it was and is a bailout tax.

12 o'clock

People see it for what it is and they feel increased resentment that was reflected in the opposition to the water charges precisely because of the forced compliance. The Government definitely patted itself on the back for breaking the campaign of non-payment and the boycott of the property tax. There was a very successful majority boycott of the household tax and then the Government quite deliberately handed that over to Revenue in the form of the property tax and gave it extremely draconian powers to force payment. The reality is that through doing so, it broke non-payment and forced people to pay either through stealing directly from their wages or forcing them to pay in anticipation that their wages would be robbed. People like me were forced to pay because they wanted to move homes or in my case, wanted to fulfil an election commitment I made to move into my constituency. It does not lessen my opposition and that of the Anti-Austerity Alliance or the people to the property tax. In fact, it has increased people's resentment of this tax because they feel it is fundamentally unjust. It, together with the supposed recovery that people did not see when they looked around and the nature of water as a vital resource for people, is a key reason the anger and the movement were so great on the issue of water charges. This was an issue where people knew they could fight and mobilise in massive numbers. It is a year and a day since we had 60,000 to 70,000 people outside the Dáil. In particular, the fact that Revenue would not be involved in the case of water charges, draconian powers would not exist and people would be able to boycott successfully gave impetus to what became a massive majority boycott of the water charges.

The Government has itself to thank for that in terms of the property tax it pushed through and the way it robbed the property tax from people. A total of 57% of people boycotted the first bill while 52% boycotted the second bill. I received information on foot of a freedom of information request to Irish Water that sought to get accurate payment figures. These people do not understand the word "information". It is a case of freedom of obfuscation from the point of view of Irish Water, which deliberately avoids answering the questions again and again to avoid giving the real figures because they are so damning from its perspective and that of the Government. It comes back to the opposition built up over all the austerity attacks and taxes imposed by the Government.

A left-wing Government is needed. We need to clear out the establishment parties. We need a Government that excludes Fianna Fáil, Fine Gael and Labour, that implements genuine anti-austerity policies and that puts people's needs at the heart of society rather than profit and the interests of the 1%. Some of the first actions of such a Government would be the abolition of water charges and Irish Water but also the abolition of the property tax. At that moment, if we have a left-wing Government or one that implements that policy, if there are Labour Deputies left in this House, I can imagine them screaming, as they do repeatedly whenever they are on any programme where they get an opportunity to talk about it, about how the property tax

is really a wealth tax and that it is incredible that we have a Left in Ireland that is supposedly against a wealth tax - the only socialists in the world who are against a wealth tax. This is complete nonsense. A report issued by TASC a couple of days ago, entitled The Distribution of Wealth in Ireland, goes into figures relating to wealth distribution in some detail. These figures come from the CSO and Credit Suisse. There are many interesting facts in the report, one of which is that 70.5% of households own their own home. For people who own one home, it is really stretching things to describe that as wealth. It is a means of people achieving a basic human need and right, which is the need for shelter. It does not amount to wealth. It does not raise any money for them. It is simply the place where they live and it is entirely unjust to tax people's family homes.

The other fact revealed by the report is the extremely concentrated nature of wealth distribution in Ireland. The top 20% of the population own 72.7% of wealth, which is higher than the euro area average of 67.6%, while the bottom half of the population only owns around 5% of wealth. When one looks at the top 10%, the richer segment in our society, one can see that it owns most of the net wealth in Ireland at 53.8%. The top 5% own 37.7% while the top 1% owns 14.8%.

We should scrap these unjust austerity taxes and replace them with a real wealth tax. In terms of what would be raised by a real wealth tax, the Anti-Austerity Alliance has proposed a tax on net wealth in excess of €1 million. One can work that out from the Central Bank's quarterly bulletin figures, which give a figure of €601 billion for net household worth in the fourth quarter of 2014. Applying the distribution suggested by Credit Suisse to the Central Bank figures gives a total of €226.37 billion concentrated in the hands of 90,000 millionaire households who make up the richest 5%. If one allows a threshold of €1 million for each millionaire, it means €136 billion would be subject to a wealth tax and, therefore, €1.36 billion could be raised for each 1% in millionaire's tax. For example, a 2% emergency tax in 2016 could raise €2.7 billion. That is a wealth tax - a tax that primarily hits wealthy people's financial assets and other assets as opposed to people's primary single residence that does not amount to a wealth tax anywhere but in the heads of Labour Party propagandists who are trying to discredit the Left. The property tax should be abolished and we should introduce a real wealth tax.

Minister of State at the Department of Finance (Deputy Simon Harris): This is not a debate about flooding. I would like to respond to some of the extraordinarily partisan remarks made by Deputy Fleming in the middle of a national weather emergency. These remarks are regrettable because many Members from all sides of this House have been working with local communities in extraordinarily difficult situations. I do not think anybody other than Deputy Fleming's party has decided to be partisan about what is a national emergency. I thank all of the agencies, particularly all of the volunteers the length and breadth of this country, who are helping communities affected by flooding, particularly those on the western and southern coasts and in the midlands. The inter-agency response has been very good. We have seen members of the Defence Forces, members of the local authorities, members of the OPW, mountain rescue, civil defence and local residents and businesspeople doing their very best to fight back the waters and the rain. We saw a month's worth of rain fall in 24 hours in parts of this country last weekend. A week on, sadly, more bad weather is on the way.

I will make a couple of points. Under the capital plan, we will spend €430 million on flood relief schemes from 2016 to 2021. That means that we will spend more on flood relief schemes in the next five years that we did in the past 20 years. This is not a partisan comment. It is a reflection of the fact that we are experiencing more adverse weather and an acknowledgement

of the fact that we spent €410 million on flood relief from 1995 to 2015. We will spend €430 million on it in the next five years.

I do not live in a virtual world but the last time we discussed the Finance (Tax Appeals) Bill 2015, the Deputy stressed the importance of making information available to the public. When I point out to the Deputy and indeed the public that the Catchment Flood Risk Assessment and Management, CFRAM, website, which can be accessed at *www.cfram.ie*, contains significant mapping that the previous Government started and this Government finished in respect of 300 areas in this country that are at risk of flooding, something we need to do under the EU floods directive, I believe it is important to make information available to our citizens. The most important thing is what we do with that information now. By this time next year we will have schemes devised under CFRAM whereby we will know exactly the solutions and options for each of these communities. It is important we all work together on that.

No one is going to stand in wellies and have photographs taken anywhere. Bertie is gone. That was the old way of doing things. What I have done this week, instead of rushing around the country to be seen in wellies up to my knees in water, is to work here with the Government to try to put in place a package of measures that can, in so far as possible, support people who have been affected. We have a €15 million fund, with €10 million available for households through the Department of Social Protection and its community welfare officers. In some towns and villages affected by flooding, community welfare officers are even calling to people's homes and helping them to fill out the forms. There is hardship funding, funding to replace carpets and materials and to repair structural damage. That is important.

Yesterday for the first time, I and the Minister, Deputy Coveney, announced a business relief scheme. The Deputy is right that there are people who cannot access flood insurance and who have been flooded. They need assistance to get their businesses back open. We have €5 million which will be administered through the Red Cross. The first €5,000 is effectively on an honour system. People will fill out a very simple form which will be available on the Red Cross website, hopefully today, but if not, tomorrow. People should be in a position to apply for that and I expect payments of up to €5,000 to start to be made towards the end of next week or the very start of the following week. There will be a phase two for those who have had significant damage. They can seek a further level of support of up to €15,000. They will need receipts for that and it will take longer to assess. Our priority is to get an initial payment of up to €5,000 to every business that has been affected.

On flood insurance, we have a memorandum of understanding in place between Insurance Ireland and the Office of Public Works whereby we are exchanging information. As part of the interdepartmental group on flooding, the Department of Finance is reviewing the country's position on flood insurance. That group is due to report in the spring.

We will discuss the issue of the property tax shortly, I am sure. As the Deputy knows, there is already a situation whereby if somebody's home is uninhabitable, it may be exempted from property tax. Property tax is self-assessed, based on the value of a house. If a home is flooded, its value will obviously have a bearing on the figures submitted to Revenue. We all need to work together on this. There are difficult days ahead and I work with Members on both sides of this House for the best possible outcomes for all our communities experiencing very bad weather.

I would not have minded Deputy Fleming's comment if I thought he did not understand,

but as I know he understands, it does upset me. He knows very well how flood relief schemes and funding work. He knows better than many of us and has been around here a long time. He knows it is impossible to predict various stages of funding. For example, we might decide we want to put a flood relief scheme in place in Bray, a town I know well. It cannot be predicted that the contractor may go out of business and a new contractor may have to be hired. We want to put a flood relief scheme in place in Bandon and somebody takes a legal challenge. We cannot spend the money until we have the authority to go ahead with the scheme but every single cent of that funding will be spent on flood relief. I can assure the Deputy of that. More money will be spent on flood relief in the next five years than has been in the previous 20. That reflects climate change and the severe weather conditions which we are likely to continue to experience.

Some other issues were raised in respect of this Bill. It is a simple Bill and does not claim to do some of the things some Deputies would like it to do. It is not going to abolish property tax. This Government believes property tax does not have an adverse impact on job creation and does not make any apology for wanting to pursue full employment relentlessly. We believe taxes that are not based on work help to keep a positive climate in place in terms of job creation.

On the ability to pay, there are a number of provisions in place in respect of deferrals. Deputies will be aware of that. Deputy Tóibín suggested we were pandering to south Dublin Deputies. He told a very colourful story. I nearly thought he was thinking of joining the Fine Gael Parliamentary Party, he seemed to have so much detail on the various views of all my colleagues and what they say at meetings. He ignored one very big aspect. Dr. Don Thornhill wrote a report which suggested that the date be postponed. He is a very eminent former civil servant and he was the one who made the recommendation on the deferral. It is not true either to suggest that property prices have risen only in Dublin. We have seen property prices increase outside Dublin by over 14%. A revaluation may have meant that lower value homes which would, I think it is fair to say, be mostly outside the greater Dublin region, would have faced a larger percentage increase in the local property tax. The idea that this is a Dublin-centric measure might be a nice political concept but it does not tally with reality.

I take Deputy Murphy's points on ensuring exemptions are easy to access and are not tied up in bureaucracy. Measures in respect of people with disabilities that have been in place on an administrative basis since 2014 will be given a legislative underpinning. They are relatively complexity-free in that Revenue will accept a doctor's note or doctor's evidence. That is much less burdensome for a person with a disability than what was originally envisaged.

I am conscious of the need to debate the Committee Stage amendments so I commend the Bill to the House.

Question put and agreed to.

Finance (Local Property Tax) (Amendment) (No. 2) Bill 2015 [Seanad]: Committee and Remaining Stages

Section 1 agreed to.

Amendment No. 1 not moved.

Section 2 agreed to.

An Leas-Cheann Comhairle: Amendments Nos. 2 and 3 are related and may be discussed together.

Deputy Peadar Tóibín: I move amendment No. 2:

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

"3. (1) The Local Government (Household Charge) Act 2011 is hereby repealed in its entirety.

(2) This repeal will be deemed to have come into operation on the date of enactment of this Act.".

The purpose of the Sinn Féin amendment is to exempt everybody in society from the local property tax, LPT. We seek to repeal the LPT to build a link between income and taxation in order that there is some recognition for the level of taxation a person pays on the basis of that income. Everybody in this Chamber will have had dozens of people come to them over recent years who are living in properties valued at €200,000 or €300,000 but may have no income coming in. I know people who are scrimping at a phenomenal rate. They live a subsistence type of life, eking out everything they can themselves and not purchasing very much in order that they can survive and pay a mortgage. The Government does not recognise this and charges them a property tax. We all know individuals who are put to the pin of their collar. The Government does not allow for these situations.

Our strong view is that if we want to build a stable tax base, we need to have a firm linkage between tax and ability to pay. If we want to ensure we do not have another crash, we need to ensure personal taxation is the source of revenue and that we do not go towards less stable, more volatile corporation taxes, for example, as our tax base.

The Government brought through legislation on the basis that property value is some kind of representation of the wealth of the family, yet today it has come back to the table saying that the value of a house is no longer in its eyes a proper representation of the wealth of the family. By 2019, the average house price will have risen by €68,000, leading to an extra €180 per house in this tax. The Government realised it needed to apply a brake. There is a fault in the system. If taxation were allowed to develop in exactly the way the Government had envisaged, it would all of a sudden create increased havoc for families. A lot of the problem is that the Government seeks to reduce the taxation on upper earners. USC has been cut for those on more than €70,000 by €180 million when housing gets €69 million or health gets €18 million. There might be some confusion on this. I point out that Sinn Féin is not opposing each of these sections. It is looking at local authority level and anywhere else to ameliorate the damage this tax is doing to people. The purpose of our amendments is to repeal this unfair, noxious tax in its entirety.

Deputy Anthony Lawlor: I find the hypocrisy of Sinn Féin extraordinary. It seeks the repeal of this tax, which it has been consistent about South of the Border, whereas North of the Border in Newry where Sinn Féin is in control of the local council it has increased the rate while the non-domestic regional rate is maintained at the same level. Sinn Féin is hypocritical when it says "Let's get rid of it down the South and let's screw the people in the North of Ireland". What it has done in the last number of weeks has been to renege on tax and allow it to be taken over by Westminster. It has handed it back and neglected the people it says it represents on so-

cial welfare in the North of Ireland by handing back the role of funding of that to Westminster. It shows the cowardice of Sinn Féin. Down here it hypocritically seeks the complete repeal of the legislation, but in the North of Ireland where it is in control of a lot of local councils, it increases the pain of people who are in difficulty and suffering in places like Newry. This year alone, Sinn Féin increased the local rate within Newry from 0.007289 in 2014 to 0.007570 in 2015. That was done by Sinn Féin councillors in Newry.

Minister of State at the Department of Finance (Deputy Simon Harris): Deputy Lawlor has summed up the position very well on behalf of the Government. It shows the hypocrisy of Sinn Féin policies North and South. The Bill is one in which the Government is undertaking to legislate in a number of areas where we gave commitments arising from the report of Dr. Thornhill. The Minister made it clear on budget day that it was his intention to do that. There will be a space and opportunity for all political parties in the not-too-distant future to spell out their economic visions. I advise that it will be important for the figures to add up and for parties to ensure that they do not do anything to impact adversely on job creation. If a party talks about wanting a united Ireland, it seems weird that it wants to have an income tax system in the Republic that does not tally with the taxation system in Northern Ireland. Does the party really propose, as we saw in its budget submission this year, that the marginal tax rate in this jurisdiction should be almost 20 percentage points higher than the marginal tax rate a short drive up the road in Belfast and that taxes on business in this jurisdiction should be much higher than in Northern Ireland? From the perspective of citizens in the Republic of Ireland and, I hazard a guess, Northern Ireland, that does not do much to encourage an all-Ireland economy.

The local property tax is forecast to collect €440 million in 2015. These receipts would be lost if the LPT was abolished and there is an onus on everyone to spell out how that would be replaced. I am sure Sinn Féin will do so and the Irish people can adjudicate on its proposal. Obviously, the loss of €440 million would be a substantial loss to the Exchequer, in particular given the point Deputy Tóibín made earlier. Under the terms of the Growth and Stability Pact, Ireland may not introduce discretionary revenue reductions unless they are matched by other revenue increases or expenditure reductions. This means that Government must consider very carefully any tax changes as any reduction will have to be offset elsewhere. I am further advised that there would be significant administrative issues and costs associated with such a measure for Revenue.

While the introduction of a value-based property tax was part of our obligation under the EU-IMF programme when it was first negotiated by Fianna Fáil in 2010 and remained a condition of the programme following subsequent reviews, the arguments in favour of a property tax go well beyond our obligations under the programme. The introduction of a property tax is part of a much broader approach to taxation of property, its aim being to replace some of the revenue from transaction-based taxes, including stamp duty on property, which had proven to be a very unstable source of Government revenue. We all know how costly such mistakes were to the Irish economy. The OECD has highlighted that annual taxes on land and buildings have a relatively small adverse impact on economic performance. I refer the House to the report, Searching for an Inclusive Growth Tax Grail: The Distributional Impact of Growth Enhancing Tax Reform in Ireland, on the benefits of having a property tax rather than having an economy without one. Therefore, the Government does not intend to repeat the mistakes of the past and I am not in a position to accept the amendment.

Deputy Peadar Tóibín: There will be bonfires in the Falls Road, the Creggan and maybe even County Tyrone now that Lord Kildare here has joined the fight for Irish unity and the free-

dom of this country.

Deputy Anthony Lawlor: Not on a lower tax basis.

Deputy Peadar Tóibín: I welcome that greatly.

An Leas-Cheann Comhairle: Let us stick to the Bill.

Deputy Peadar Tóibín: The fiscal powers of the North are, unfortunately, located in London.

Deputy Anthony Lawlor: Sinn Féin has handed them back more.

Deputy Peadar Tóibín: My party alone of all the political parties in the House is working tooth and nail, night and day to bring those fiscal powers from London back to Ireland. That is our clear objective.

Deputy Anthony Lawlor: Will Sinn Féin remove the property tax in Northern Ireland?

Deputy Peadar Tóibín: We welcome the sunny day that we will have those taxes back in this country.

Deputy Anthony Lawlor: Will Sinn Féin remove the property tax in Northern Ireland?

An Leas-Cheann Comhairle: Deputy Lawlor had his say.

Deputy Anthony Lawlor: Let him say it, please.

An Leas-Cheann Comhairle: No one interrupted you, Deputy Lawlor.

Deputy Peadar Tóibín: There is no doubt in my mind that on the sunny day when fiscal power has been returned to Ireland from London, we will order our taxation system in the manner we seek to here also.

Deputy Anthony Lawlor: It is what it seeks to do down here.

Deputy Peadar Tóibín: Some of the political parties in this Chamber often say that while Sinn Féin is in government in the North, it is not a real government and is only an Administration.

Deputy Anthony Lawlor: Sinn Féin was allowed to increase the rate.

An Leas-Cheann Comhairle: Deputy Tóibín has the floor.

Deputy Peadar Tóibín: On the flip side, however, when we talk about fiscal powers, they complain about our policies on fiscal powers in the North. It is incongruous to say on the one hand that the Administration is not the same as the Government down here and then to blame that Administration for its lack of taxation powers in the North.

Deputy Anthony Lawlor: Sinn Féin has the right to increase the rate.

Deputy Peadar Tóibín: The SNP is fighting tooth and nail like us against London to stop the Tory cuts within society. That does not mean that there does not need to be public services provision. The tax-to-GDP ratio in this State is far lower than the average in Europe. With re-

gard to taxation, we have a bit to go before we can say that we are taxing people too much. The Netherlands has one of the highest marginal rates of taxation in the EU and one of the highest levels of foreign direct investment. As such, it is nonsense to say that personal taxation is a tax on jobs. It is not. We are clearly saying that if one believes personal taxation is a tax on jobs and that jobs are good, the logic is to go down the Renua road and gut taxation further.

Deputy Anthony Lawlor: The small man in the semi-D in Newry is being taxed higher because of Sinn Féin.

Deputy Peadar Tóibín: Our worry is that the Fiscal Advisory Council is saying Fine Gael is a threat to stability.

Deputy Simon Harris: It did not say that.

Deputy Peadar Tóibín: It did not say so in so many words. I admit that I am paraphrasing. It said the party's taxation policies and the shift from personal taxation to a volatile corporation taxation sector is very damaging.

Deputy Anthony Lawlor: Sinn Féin wants that system in the North of Ireland.

Deputy Peadar Tóibín: It is also talking about the reduction of USC constituting a threat of inflation or to the delivery of public services. Sinn Féin is saying, "By all means create a broad tax base, but do so in a way that reflects the incomes of individuals". Why design a tax rate that is ignorant of the incomes of individuals? For nearly 300 years, western society has been trying to order its tax to take individuals' incomes into consideration. The Bill admits that the tax does not take incomes into consideration. Why alter the key element of the tax in the first place and divorce it from the value of the house? The Bill is an admission that the tax in its own right does not work. The Government should bring it to its full fruition and take a bit of advice from Sinn Féin in the future.

An Leas-Cheann Comhairle: I note to Members that we have 18 minutes left and I would like to keep contributions as brief as possible.

Deputy Simon Harris: In the interests of time, I note that while I disagree with the various assertions Deputy Tóibín made for many reasons and while the tax powers may be in Westminster, I presume that Westminster does not write Sinn Féin's budget submissions, which is what I have a difficulty with in terms of the difference in marginal tax rates. I will wait to debate the other issues during the election and move on to Deputy Clare Daly's amendments.

Amendment put and declared lost.

Deputy Peadar Tóibín: I move amendment No. 3:

In page 3, between lines 14 and 15, to insert the following:

"**4.** (1) All payments made by liable persons under the Finance (Local Property Tax) Act 2012 shall be reimbursed where such payments are payments liable to be made for the year in which this Act is enacted.

(2) Reimbursements under *subsection (1)* shall be of the same amount as the amount of tax paid by the liable person and shall be paid through the same method as the method through which the payment was received.".

Amendment put and declared lost.

Section 3 agreed to.

Section 4 agreed to.

SECTION 5

An Leas-Cheann Comhairle: Amendments Nos. 4 to 8, inclusive, are related and may be discussed together.

Deputy Clare Daly: I move amendment No. 4:

In page 3, line 25, after "it," to insert "or".

Maybe Deputy Lawlor will be as interested in this issue, which affects his constituents and their inability to access their lawful entitlement to an exemption from property tax when they have pyrite, as he is in the welfare of Northern Ireland citizens.

Deputy Anthony Lawlor: I am very interested.

Deputy Clare Daly: This group of amendments deals with the Government's changes to the pyrite exemption which are better than what was in place but not good enough.

Deputy Anthony Lawlor: I am very aware of this.

Deputy Clare Daly: My amendments seek to make the Government's changes in this Bill a little better than that under several headings. I am a bit worn out with this issue which we have been discussing since the local property tax, LPT, was introduced. The Government's change to the effect that once properties have been included for remediation in the scheme or have been remediated by the insurer or developer, they can automatically access their property tax exemption is a good one. We still, however, have the problem I am trying to address in amendment No. 5 that the Minister for Finance has decided that the only properties which gain an exemption are those with a damage condition rating of 2 or 1 with progression. As we have articulated many times here, there are properties which have damage, which have pyrite, as established by an underground infill test costing the home owner thousands of euro, or are in an area where we know pyrite is present so we can say the damage is there but has not developed enough to get a damage condition rating of 1 with progression. This means that property is valueless or worse because the owner cannot decorate, extend or sell it but cannot access the lawful pyrite exemption because the Government has set the bar too high for damage. My amendment No. 5 seeks that where damage is present, the homeowner should be able to avail of the exemption if the area has pyrite or tests have been carried out.

Amendments Nos. 6 and 7 try to address the way the Bill is worded, which suggests that the Revenue Commissioners may ask for any number of items to support the application for the exemption. By not including the word "or", the section could read that Revenue must ask for the full list of items. It will need the address, but apart from that, one of the other items should be enough for the home owner to access the exemption. The amendments make it clear that Revenue will not look for a ridiculous amount, which I would think is what the Government would want and could accept.

Amendment No. 8 concerns the duration of the exemption. I note and welcome that the

Government has increased the exemption period to six years for properties with serious damage. That is a very good thing. If a house has a building condition assessment, BCA, rating of 2, has been included in the scheme and has been remediated, it will get the exemption for six years. This does not, however, deal with the other category of people.

The Minister of State needs to consider the bigger pool of houses, those which have not been included in the scheme, have not been remediated, do not have a BCA of 2 and which are still valueless. My amendment is critical because it states that if the houses have damage in a pyrite area, they should be exempt indefinitely until the property is remediated or a green certificate has been issued. Unless one of those criteria has been met, the property remains valueless and the Government is levying a tax on it. This group of amendments is trying to incorporate that significant group of property owners whose property has pyrite, whose property is valueless but who, even with the changes the Government is bringing forward, cannot access their lawful exemptions.

Deputy Simon Harris: I know Deputy Daly appreciates Deputy Lawlor's interest in this and it is an issue he has raised. I accept Deputy Daly's bona fides on this issue which she has been pursuing for some time. The Minister for Finance and I are very aware of the issues she is trying to address with her proposed amendments. I acknowledge the stressful situations that individuals face when issues arise post-completion or when building works are not completed to the required acceptable standard. This is particularly difficult when issues manifest in people's homes that they have worked hard to purchase and maintain which, when not resolved, impact greatly on the lives of those affected.

This amendment seeks to exempt properties from local property tax, LPT, where the property has a BCA which establishes a damage condition rating of above 0. I am advised by the Department of the Environment, Community and Local Government that the damage condition rating is classified as follows: 0, none, which means no damage or only aesthetic damage that could be attributable to pyrite-induced heave; 1, minor, meaning some damage that could be attributable to pyrite-induced heave or other causes; and 2, significant, meaning significant damage identified that is consistent with pyrite-induced heave. A property must have a damage rating of 2 to be included in the pyrite remediation scheme provided that the Pyrite Resolution Board is satisfied that the damage has been caused by pyrite.

The BCA to which the Deputy refers is the first stage in the process of identifying and assessing the presence of pyrite in the hard core infill material underneath the building and whether it has caused or is likely to cause structural damage to the building. This assessment must be carried out by a suitably qualified person such as an engineer. It is a non-invasive assessment based on an internal and external visual inspection of a building which aims to determine the presence or absence of apparent damage that is consistent with pyritic heave and to quantify the extent of such damage. It is not, however, capable of establishing that the presence of pyrite is the cause of the damage. This is our fundamental problem with the Deputy's proposal. The damage could be due to other causes such as subsidence or substandard building work. Actual pyrite damage can be established only by analysing a sample of the hard core material in a laboratory to determine its susceptibility to expansion as a result of various chemical reactions. The BCA assesses the extent of the damage and this damage condition rating determines the requirements for sampling and laboratory testing by a geologist and for reinspection to establish whether damage is progressing. At the end of the process a certificate is completed by an engineer stating the category assigned to the building. It is this certificate that must be submitted to Revenue when claiming the exemption, and that will continue to be required in making a claim

for the LPT exemption.

On foot of the report and review of LPT, however, which the Minister commissioned and which was submitted to him by Dr. Don Thornhill, the Minister has decided to extend the exemption to some additional categories of properties that have been badly damaged by pyrite but have not obtained the required certification of damage. These are properties that have been accepted for the remediation scheme where the Pyrite Resolution Board is satisfied that laboratory testing is not necessary to establish the damage is caused by pyrite. The exemption will also be available for properties that have been remediated, either as a result of a successful claim for structural damage under an insurance policy or by the builder who built the property. Alternatively, either of these parties could have compensated the property owner with sufficient funds to remediate the property.

Dr. Thornhill considered it important to emphasise the self-assessment nature of the valuation of a property for LPT purposes. It is a matter for the property owner in the first instance to calculate the tax due based on his or her assessment of the market value of the property. Issues such as structural damage to the property and the established presence of pyrite in a particular area would be a relevant factor to be taken into account when self-assessing the value. It was made clear during the passage of the Finance (Local Property Tax) (Amendment) Act 2013 that the exemption being provided at the time for homes affected by pyrite would be restricted to properties with significant pyritic damage and that not all damaged properties could avail of the exemption. The Minister believes the Deputy's proposal is far too broad. It seeks to exempt properties which have a damage rating of minor which, while it could be attributable to pyrite-induced heave, could also be attributable to other causes. The Minister is not prepared to go beyond the measures recommended by Dr. Thornhill in his report.

In line with the extension of the valuation date to 1 November 2019, the period for which exemptions apply, including that for pyrite, is also extended by an additional three years. Furthermore, depending on when in the period an exemption first applies a pyrite-damaged property could be exempt for up to eight years. This could provide significant additional relief to people in the most affected categories.

As the Minister has advised in exchanges the Deputy has had with him on many occasions, a liability to LPT should apply to all owners of residential properties, with a limited number of exemptions. Limiting the exemptions available allows the rate to be kept low for those liable persons who do not qualify for an exemption and ensures the tax base is as broad as possible. There is a cost to any tax exemption and keeping exemptions as targeted as possible minimises the need for other taxpayers to pay higher rates or for the Government to reduce investment in public services.

On amendment No. 7, Revenue will seek only relevant details. Not all the items specified on the list will be relevant for each property and not all will be automatically requested. However, it is likely that items other than the address will be relevant in particular circumstances. Therefore, I am not prepared to accept the amendment. The Revenue has advised the Minister for Finance that it will take a reasonable approach when seeking information to establish the exemption. The exemption, where merited, should be provided with as little hassle as possible to the home owner and the Revenue will seek only the information it needs and deems relevant to make the determination.

Deputy Clare Daly: Would that it were so. Sadly, part of my reason for tabling the amend-

ment is the bitter experience of homeowners who have found inconsistency in the Revenue's approach to these matters. It should be perfectly easy for the Revenue to know which estates and general areas are affected by pyrite and which are not. The Bill leaves too much scope for the Revenue to make onerous requests, which is not good for the Revenue or the homeowner. The issue is one's perspective on the issue. The Government is regarding it from the point of view of limiting exemptions, whereas I am regarding it from the point of view that anybody with a dwelling in the areas affected by pyrite has a valueless property.

The reason for the problem with the original legislation was that the Government was making it far too onerous for homeowners to prove they were affected by pyrite and the cost was prohibitive. While we have largely removed the under floor testing, which costs thousands of euro, it is not good enough. If a person's neighbour's house and hundreds of other houses in an area have pyrite damage, the chances are that his or her house will also have pyrite damage. If somebody from Tipperary, or somewhere there is no pyrite damage, chances his or her arm, the Revenue will tell him or her to move along. The symptoms are clear. There are engineers in these areas. It affects tens of thousands of houses. It is not huge. The presence of pyrite is an important barometer.

There is not enough consistency in the Revenue's approach to self-assessment. It is critical. There are properties where we know for a fact there is pyrite damage, but the damage is not bad enough yet. That is why we need the amendment, and I will press it. A category of people have their backs against the wall and they are in the worst category. We need to build a remediation process that gives people closure by providing certification or remediation. There is no other way of restoring the value of the properties. Until this happens, these people must be exempt from LPT.

Amendment put and declared lost.

Deputy Clare Daly: I move amendment No. 5:

In page 3, between lines 25 and 26, to insert the following:

"(b) the property has a BCA rating of more than zero, regardless of whether or not a hardcore infill test has been carried out, or".

Amendment put:

The Dáil divided: Tá, 17; Níl, 44.	
Tá	***Níl***
Cowen, Barry.	***Butler, Ray.***
Daly, Clare.	***Buttimer, Jerry.***
Fitzmaurice, Michael.	***Byrne, Catherine.***
Flanagan, Terence.	***Byrne, Eric.***
Fleming, Sean.	***Carey, Joe.***
Mac Lochlainn, Pádraig.	***Conaghan, Michael.***
Mathews, Peter.	***Connaughton, Paul J.***
McGrath, Finian.	***Conway, Ciara.***
McLellan, Sandra.	***Corcoran Kennedy, Marcella.***
Murphy, Catherine.	***Creed, Michael.***

Murphy, Paul.	***Deasy, John.***
Ó Fearghaíl, Seán.	***Doherty, Regina.***
O'Sullivan, Maureen.	***Doyle, Andrew.***
Shortall, Róisín.	***Durkan, Bernard J.***
Smith, Brendan.	***Feighan, Frank.***
Tóibín, Peadar.	***Fitzpatrick, Peter.***
Wallace, Mick.	***Griffin, Brendan.***
	Hannigan, Dominic.
	Harrington, Noel.
	Harris, Simon.
	Howlin, Brendan.
	Keating, Derek.
	Kehoe, Paul.
	Kenny, Seán.
	Kyne, Seán.
	Lawlor, Anthony.
	Lyons, John.
	McEntee, Helen.
	McFadden, Gabrielle.
	McGinley, Dinny.
	Mitchell O'Connor, Mary.
	Murphy, Eoghan.
	Neville, Dan.
	Noonan, Michael.
	O'Dowd, Fergus.
	O'Mahony, John.
	O'Reilly, Joe.
	Ryan, Brendan.
	Shatter, Alan.
	Stagg, Emmet.
	Stanton, David.
	Tuffy, Joanna.
	Varadkar, Leo.
	Wall, Jack.

Tellers: Tá, Deputies Clare Daly and Mick Wallace; Níl, Deputies Emmet Stagg and Paul Kehoe.

Amendment declared lost.

Deputy Sean Fleming: On a point of order, as the time for debate has concluded and before the Leas-Cheann Comhairle puts the vote, 13 amendments were to be discussed on the Bill but

only 30 minutes were allocated and five amendments debated.

An Leas-Cheann Comhairle: That is not a point of order.

Deputy Simon Harris: No.

(Interruptions).

Deputy Sean Fleming: One amendment dealt with houses that were flooded-----

Deputy Jerry Buttimer: The Deputy only had four Members with him.

Deputy Sean Fleming: -----and exemptions from the local property tax.

(Interruptions).

An Leas-Cheann Comhairle: This issue was addressed yesterday.

Deputy Simon Harris: We were dealing with the Bill while the Deputy was being populist.

Deputy Sean Fleming: I would conclude were those opposite not jeering.

Deputy Jerry Buttimer: We are not jeering at all.

Deputy Sean Fleming: Since we were not allowed to put the amendment-----

Deputy Jerry Buttimer: The Deputy only had four Members with him.

Deputy Sean Fleming: -----exempting those households from the property tax, I oppose this approach.

An Leas-Cheann Comhairle: I must put the question.

Deputy Simon Harris: We have already put measures in place for the people whose properties have been flooded.

An Leas-Cheann Comhairle: As the time permitted for the debate has expired, I am required to put the following question in accordance with an order of the Dáil of 10 December: "That each of the sections undisposed of is hereby agreed to, the Title is hereby agreed to in Committee, the Bill is accordingly reported to the House without amendment, Fourth Stage is hereby completed and the Bill is hereby passed."

Question put:

The Dáil divided: Tá, 45; Níl, 17.	
Tá	***Níl***
Butler, Ray.	***Cowen, Barry.***
Buttimer, Jerry.	***Daly, Clare.***
Byrne, Catherine.	***Fitzmaurice, Michael.***
Byrne, Eric.	***Flanagan, Terence.***
Carey, Joe.	***Fleming, Sean.***
Conaghan, Michael.	***Mac Lochlainn, Pádraig.***
Connaughton, Paul J.	***Mathews, Peter.***

Conway, Ciara.	***McGrath, Finian.***
Corcoran Kennedy, Marcella.	***McLellan, Sandra.***
Creed, Michael.	***Murphy, Catherine.***
Deasy, John.	***Murphy, Paul.***
Doherty, Regina.	***Ó Fearghaíl, Seán.***
Doyle, Andrew.	***O'Sullivan, Maureen.***
Durkan, Bernard J.	***Shortall, Róisín.***
Feighan, Frank.	***Smith, Brendan.***
Fitzpatrick, Peter.	***Tóibín, Peadar.***
Griffin, Brendan.	***Wallace, Mick.***
Hannigan, Dominic.	
Harrington, Noel.	
Harris, Simon.	
Howlin, Brendan.	
Keating, Derek.	
Kehoe, Paul.	
Kenny, Seán.	
Kyne, Seán.	
Lawlor, Anthony.	
Lyons, John.	
McEntee, Helen.	
McFadden, Gabrielle.	
McGinley, Dinny.	
Mitchell O'Connor, Mary.	
Murphy, Eoghan.	
Neville, Dan.	
Noonan, Michael.	
O'Donovan, Patrick.	
O'Dowd, Fergus.	
O'Mahony, John.	
O'Reilly, Joe.	
Ryan, Brendan.	
Shatter, Alan.	
Stagg, Emmet.	
Stanton, David.	
Tuffy, Joanna.	
Varadkar, Leo.	
Wall, Jack.	

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

Question declared carried.

Messages from Seanad

An Leas-Cheann Comhairle: Seanad Éireann has accepted the Finance Bill 2015, without recommendation. Seanad Éireann has passed the Dublin Docklands Development Authority (Dissolution) Bill 2015, without amendment.

Appropriation Bill 2015: Second Stage

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I move: "That the Bill be now read a Second Time."

The Appropriation Bill 2015 is an essential element of financial housekeeping that, as Deputies are aware, must be concluded by the Dáil this year. The Bill serves two primary purposes. First, it is necessary to authorise in law all the expenditure that has been undertaken in 2015 on the basis of the Estimates that have already been voted on by the Dáil. The amounts included in section 1 and Schedule 1 to be appropriated for supply services all relate to amounts included in the Estimates set out in the Revised Estimates volume 2015 of €41.7 billion in aggregate, voted on by Dáil Éireann in March 2015, as well as the Supplementary Estimates of €1.4 billion, also agreed by the Dáil in 2015. Second, the passage of the Appropriation Bill 2015 is essential to provide a legal basis for all existing voted expenditure to continue into 2016 in the period before the Dáil votes on the 2016 Estimates.

1 o'clock

Under the rolling multi-annual capital envelopes introduced in budget 2004, Departments may carry over from the current year to the following year unspent capital up to a maximum of 10% of voted capital. The multi-annual system is designed to improve the efficiency and effectiveness of the management by Departments and agencies of capital programmes and projects. It recognises the difficulties inherent in the planning and profiling of capital expenditure and acknowledges that capital projects may be subject to delays. The carryover facility allows for a portion of unspent moneys, which would have been lost to the capital programmes and projects under the annual system of allocating capital, to be made available for spending on programme priorities in the subsequent year. The Appropriation Act determines definitively the capital amounts that may be carried over to the following year. The aggregate amount of proposed capital carryover is just under €112 million, which represents less than 3% of the total capital programme of €3.8 billion. The proposed amounts to be carried over by Vote are set out in Schedule 2 of the Bill. The 2016 Revised Estimates volume, to be published in the coming days, will set out detailed financial and key performance information for Departments and offices. In Part II of the Estimates, for each Vote availing of the capital carryover facility, a table will be included listing the amounts to be deferred by subhead.

Deputies will be aware that the first payroll payments of 2016 are to be paid to staff and pensioners on 1 and 4 January 2016. Departments and offices must have the funds for these payments in their commercial bank accounts before the end of this year to ensure that staff and pensioners have access to their money by the due dates. In addition, An Post makes certain

payments on an agency basis on behalf of the Department of Social Protection. To disburse payments to social welfare recipients in the first week of January 2016, An Post needs to be pre-funded before the end of 2015 to be in a position to convert electronic funds transfer payments from the Department of Social Protection into real cash and physically transfer it to its network of post offices throughout the country. The idea is that we pay before end 2015 moneys that are to be paid out on 1 January. These Exchequer pay and pension and social welfare payments will form part of the supply services for 2016 and, consequently, the funds to cover these costs will be included in amounts disbursed from the Central Fund to the paymaster general's supply account as part of the 2016 supply issues and will come under moneys voted by the Dáil in 2016 in respect of which the usual processes and mechanisms for voted moneys in 2016 will apply. However, as the funds need to be available in the paymaster general's supply account before the end of the year, to facilitate timely payment section 3 of the Appropriation Bill includes a specific provision to allow for an advance from the Central Fund to the paymaster general's supply account of the appropriate amounts of money. Any amounts advanced to the supply account will be repaid to the Central Fund in January.

I remarked at the outset that the Appropriation Bill is an essential element of housekeeping which those of us in the Dáil are required to undertake. The passing of the Bill will authorise in law all of the expenditure that has been undertaken in 2015 on the basis of the Estimates debate and voted on by the Dáil during the year. Of fundamental importance to those who depend on our essential public services, the passage of the Appropriation Bill will allow the payments required to deliver these public services to continue into 2016 in the period before the Dáil approves the 2016 Estimates.

I commend the Bill to the House.

Deputy Sean Fleming: I am pleased to have an opportunity to contribute to the debate on the Appropriation Bill 2015. As the Minister said the purpose of this Bill is to give legal sanction to all expenditure by Departments as approved under the Estimates and Supplementary Estimates processes, the latter of which we discussed recently.

The Estimates are based on the choices made by Government in terms of its priorities for 2015. As spokesperson for Fianna Fáil, I do not accept many of the choices made by the Government in 2015. The budget allocations for 2015 were set out in the Budget Statement in October 2014, which included the Estimates figure for 2015. What we are being asked to approve today is how the Government spent that budget. I said in my contribution to the debate on that budget, and have continually said in the months since, that that budget could be categorised as tax cuts for the wealthy. Last year's budget provided for a reduction in the top rate of tax for those earning over €70,000 while those earning below €70,000, when account is taken of the water tax, were worse off as a result of it. That is only one of the choices made by this Government. While some of the choices made by this Government were reasonable, others were unfair and showed a callous attitude by this Government towards Irish citizens and how removed from reality it is in terms of the position of people on the ground.

During the last couple of months we witnessed a bonanza increase in corporation taxes from foreign direct investments in Ireland. While these are matters outside the control of anybody in Ireland, including the Government, these are welcome funds. I would like to see that continue. It is because of these additional taxes that our finances are strong. In light of this, there was no reason for Government to make many of the particular choices it made during the course of this year in terms of not providing proper public services. In regard to the homelessness issue, there

was much comment during the debate on last year's budget about people, including families, sleeping rough on the streets of Dublin, which the Government promised to do much about. The legacy of the Minister for the Environment, Community and Local Government, Deputy Kelly, who is a member of the Labour Party, in that regard is one of having increased the rate of homelessness and the number of people on housing waiting lists for social housing. His legacy is one of abject failure when it comes to homelessness and housing. While the Government has talked the talk and said that it has a plan in place in this regard, one day it is a plan of €3.6 billion for the next six years and the following day it is a plan of €4.2 billion for the next eight years. I am not sure how much money it proposes to spend in this area during the next decade but I do know it is not doing the job this year. The Government thinks that saying it has a plan in place for five, six or seven years time to deal with these issues is acceptable but it is not. Its plan will not be achieved in the lifetime of this Government or the next yet it is planning expenditure beyond the latter, which is too far away to take seriously.

In terms of health services, the crisis in our accident and emergency departments continues and nurses are now proposing to strike next week in the interests of patient safety in the context of the unsafe environments in which nurses are operating and patients are being cared for. There are currently 400,000 people on hospital waiting lists, which is embarrassing. A couple of years ago people were being seen within a reasonable timescale. Now people are waiting up to 15 months for a consultant appointment, following which, if they require a scan, they then have to wait a further lengthy period for it. Many of the patients who are having to wait 15 months for a consultant appointment are elderly people who are crippled with pain, for which they are on pain-killers, and need operations. I recently received responses to representations on behalf of several patients about the waiting times for particular appointments, which I am ashamed to forward on to those people because I know the distress receipt of them will cause. Opposition Deputies should not have to cover for Government in relation to how bad a service is being delivered through the Department of Health.

In terms of crime, the number of burglaries in rural and urban areas continues to increase. This issue is not being adequately addressed. Another topical issue is the flooding experienced last week and the previous week and that is expected to occur this weekend. The OPW is not properly addressing this issue. The Minister said on radio this morning that the OPW plans in this regard are available on its website. Plans on a website are of no assistance to people whose houses were flooded last week. It is hoped not too many houses will be similarly flooded this weekend. As I said, plans on a website will not address this problem.

In regard to the Department of Children and Youth Affairs, the choice of Tusla last year to cut grants to voluntary organisations was a bad one. All-in-all this Government made a number of bad choices this year. I accept that a lot of the money spent was properly spent on good services but the Government's choices in terms of the allocation of resources available to it this year were poor. As I said earlier, most of the additional revenue available to it went to high earners by way of a reduction last year in the top income tax rate for those earning over €70,000. They were the principal beneficiaries in 2015. 2016 is another year. In terms of 2015, those whose income was over €70,000 were better off and those whose income was below that amount were worse off. We see that on the streets with the record number of new cars and the new posh restaurants that are full again on Friday and Saturday nights but ordinary people are sitting at home watching television because they do not have the money to go out. A further indictment of the Government is that even with tight resources and the need for money for critical services, there is a high deferred surrender of €112 million in respect of capital supply services

to be carried forward into next year. I agree with the principle of carrying funds forward for capital purposes but the House, through the Estimates process, voted for work to be done in this calendar year. However, the Government parties have turned around at the end of the year to say they are sorry they were not able to do that and that they will try to do it next year and carry the funds forward.

The Government should be ashamed of the largest carryover, which is €41 million on the part of the Department of the Environment, Community and Local Government. The Department is responsible for homelessness and housing. How can it have €41 million unspent this year with people sleeping on the streets? My colleague, Deputy Cowen, highlighted this issue and asked how much would be unspent and carried over during the Estimates debate. He was given vague answers but we have the real answer today for the first time. This amount is unspent by the Minister with responsibility for housing and homelessness. People will be homeless over Christmas and others will not have proper social housing. Despite all his talk, the Minister is not even utilising the funds he was given by the House properly. Shame on him for having such a large unspent allocation. If he did less talking and more work, action would have been taken on these issues.

I also have concerns about other unspent allocations. The Government should have had its house in order and ensured that projects were undertaken. A sum of €6.5 million remains unspent by the Garda for various projects that are needed. The money should have been utilised this year. For example, closed circuit television cameras could have been erected at junctions on all the main motorways out of Dublin. The *Irish Independent* published maps showing where burglaries are happening along the M7, M8, M9 and M11 and that issue could easily have been tackled during the year. I was contacted by various organisations the funding of which was cut by Tusla this year. I obtained a detailed list from the Minister for Children and Youth Affairs. Organisations that received funding of €41 million in 2014 had their funding cut by €3 million this year, yet €3.5 million remains unspent in the Department. There were cuts right, left and centre for organisations dealing with children in abusive scenarios. The Minister had money sitting in a bank account and he chose not to utilise it properly.

This is unsatisfactory. Bad choices are the Government's legacy for 2015. Those on an income in excess of €70,000 are better off while those on less than €70,000 are worse off. The Government made bad choices for those dependent on public services. One will remain homeless if one is in that position today. I will vote against the Bill.

Deputy Sandra McLellan: Clearly, the Bill represents moneys spent and is just a rubber-stamping mechanism. As a result of the fact that the Bill gives effect to what we have voted on during the year, and what has been spent during the year, we are merely engaged in a procedural motion which, in the past, went through without any debate. To some extent it is good we are having this 45 minute debate, although the cost will be almost €1 billion for every minute of our discussion. In order to engage in a serious debate about such expenditure and really to get to the heart of the issues relating to what has led to the need for this €43 billion of expenditure, included in which is a Supplementary Estimate of €1.4 billion, we need substantially more time. In addition, more forensic analysis would be required. It is unfortunate to say the least that the Estimates every year have been highly dubious. They are presented in the full knowledge that substantial additional funding will be required in the near future, particularly for the Departments of Health, Education and Skills and Social Protection in order that they might continue to function and move forward. Each year, therefore, we have a budgetary process during which Estimates are knowingly presented with a shortfall included.

Other criticisms can be levelled at the process. A recent report by the OECD concluded that, "Scrutiny of the budget by TDs is under-developed by international standards, with the Cabinet in control 'to the point of dominance'." The organisation's officials made recommendations and suggested reforms that would allow parliamentarians to better influence and critique financial allocations and priorities. They stated that Ireland did not have a good track record on budget oversight and is at the bottom of the international rankings of the parliamentary engagement point of view. The OECD report suggests that the annual Estimates should be considered and voted on by the Dáil before the start of the budget year. Currently, the Dáil vote takes place after the year has begun. The current Estimates process, as evidenced today, is just a rubber-stamping job. The report also proposed a parliamentary budget office. This office would equip Deputies to engage more effectively on budgetary matters, for example, with policy costings and analysis of taxation and expenditure measures. There is merit in their proposals and hopefully in the future these rubber-stamping exercises will end and real debate will happen.

Rather than having this cursory debate on the Appropriation Bill, why not have the debate that is required on the OECD report or, for that matter, the Constitutional Convention reports, in particular, the convention report on Dáil reform? One of its proposals, which would be of major benefit to the Opposition, is to remove the constitutional bar on proposing amendments even if they are positive. The reason for the bar is that they may lead to a charge on the Exchequer or the people. Let us hope both reports and their proposals and recommendations do not end up like many things here, gathering dust on some shelf.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I thank both Deputies for their contributions. It is difficult to listen to a representative of Fianna Fáil talk about making economic choices. They ruined the country and crashed the economy and we have spent the past five years picking up the pieces after them.

I will refer to a number of issues raised by Deputy Sean Fleming. He mentioned a bonanza increase in taxes outside the control of the Government. The reason corporate taxes are up is corporations are making profits again. More people are at work and we have rebuilt a successful economic model. That is the reason more cash is flowing into the State coffers and that we can plan with some confidence into the future. We have put the dark days of Fianna Fáil behind us and we can look to, and plan with a sense of optimism for, the future. However, there are challenges and there are legacy issues, some of which the Deputy mentioned. Homelessness is an issue and that is why this year we reversed a decade of Fianna Fáil policy during which not a single social housing unit was built. The party abandoned the concept of social housing and funding local authorities to buy or lease properties from developers. We are building social housing again. A total of 3,000 units were provided this year, with in excess of that number to be built next year, while an additional 10,000 people will receive the housing assistance payment. There will be more gardaí as well 2,260 more teachers. Under the new early childhood programme, 75,000 children will get a second free year of preschool education.

Flooding is an important issue right now and that is why climate change and flood prevention featured so prominently in the capital programme. Over the next six years, we will expend more money than was spent over the past 20 years on flood defences. We will spend more than that if we have the capacity to do so because I have requested the OPW to outline how much could be spent year-by-year. That will be our number one priority. Proper flood defences need to be provided. People are looking at the weather forecast and, unfortunately, another inundation is due over the country in the next 24 hours. Every State agency has been mobilised to try to mitigate the damage as much as possible for the poor, unfortunate families that face hav-

ing their homes flooded. We have established two separate funds. One will be administrated through the Red Cross to deal with businesses that were never compensated in the past. The Department of Social Protection has a €10 million fund to help households that have special needs payments immediately on foot of damage done. Unfortunately, more might be done because of the dreadful weather we have been experiencing.

The final point relates to capital carry-over, which is a good budgeting issue. Rather than people scrambling at the end of the year to spend money because they must, where a project cannot be concluded for planning, objection, legal or a variety of reasons, a proportion can be carried into next year. The amount I am recommending is less than 3% of the capital programme. That is prudent, wise and a good way to do our business.

Question put and declared carried.

Acting Chairman (Deputy Seán Kenny): We proceed to Committee Stage in accordance with the order of the Dáil from yesterday.

Appropriation Bill 2015: Committee and Remaining Stages

Section 1 agreed to.

SECTION 2

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I move amendment No. 1:

In page 3, lines 31 and 32, to delete "one hundred and one million," and substitute "one hundred and eleven million,".

This is a technical amendment to correct a typographical error. The sum in the Schedule is correct but a "one" became a "zero" in section 2, so I hope we can correct that technical error.

Amendment agreed to.

Section 2, as amended, agreed to.

Sections 3 and 4 agreed to.

Schedules 1 and 2 agreed to.

Title agreed to.

Bill reported with amendment and received for final consideration.

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

The Dáil divided: Tá, 45; Níl, 11.	
Tá	***Níl***
Butler, Ray.	***Boyd Barrett, Richard.***
Buttimer, Jerry.	***Fitzmaurice, Michael.***
Byrne, Catherine.	***Fleming, Sean.***

Carey, Joe.	*Kitt, Michael P.*
Conaghan, Michael.	*Mathews, Peter.*
Connaughton, Paul J.	*McGrath, Finian.*
Conway, Ciara.	*McGrath, Mattie.*
Corcoran Kennedy, Marcella.	*Murphy, Paul.*
Creed, Michael.	*Ó Cuív, Éamon.*
Deasy, John.	*Ó Fearghaíl, Seán.*
Doherty, Regina.	*Smith, Brendan.*
Doyle, Andrew.	
Durkan, Bernard J.	
Feighan, Frank.	
Fitzpatrick, Peter.	
Griffin, Brendan.	
Hannigan, Dominic.	
Harrington, Noel.	
Harris, Simon.	
Howlin, Brendan.	
Keating, Derek.	
Kehoe, Paul.	
Kenny, Seán.	
Kyne, Seán.	
Lawlor, Anthony.	
Lyons, John.	
Mac Lochlainn, Pádraig.	
McEntee, Helen.	
McFadden, Gabrielle.	
McLellan, Sandra.	
Mitchell, Olivia.	
Mitchell O'Connor, Mary.	
Murphy, Eoghan.	
Neville, Dan.	
Noonan, Michael.	
O'Mahony, John.	
O'Reilly, Joe.	
Ryan, Brendan.	
Shatter, Alan.	
Stagg, Emmet.	
Stanton, David.	
Tóibín, Peadar.	
Tuffy, Joanna.	
Varadkar, Leo.	
Wall, Jack.	

Tellers: Tá, Deputies Emmet Stagg and Paul Kehoe; Níl, Deputies Éamon Ó Cuív and Sean Fleming.

Question declared carried.

Houses of the Oireachtas Commission (Amendment) Bill 2015: Second and Subsequent Stages

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I move: "That the Bill be now read a Second Time."

The Houses of the Oireachtas Commission came into existence on 1 January 2004 under the Houses of the Oireachtas Commission Act 2003. The founding commission legislation in 2003 led, in summary, to two consequences: the commission became the sanctioning authority for expenditure and for deciding on staff numbers, up to the grade of principal officer, and the provision of services and related matters to the Oireachtas, where this authority formerly rested with the Department of Finance; and the system for the allocation of budgets to the Oireachtas changed from the annual Civil Service Estimates and "Vote" procedure to a different process involving a three-year budget drawn from the Central Fund. The new budget is set every three years following negotiations with the Department of Public Expenditure and Reform, formerly the Department of Finance. The budget is approved at political level by the commission and the amending legislation then presented to both Houses.

Under the terms of the inaugural commission Act, a three-year budget, covering the period 2004 to 2006, was provided for the commission. Further Acts were enacted in 2006, covering the 2007 to 2009 period; in 2009, for the 2010 to 2012 period; and 2012, for the period up to the end of this year. Additionally, in 2013 legislation was enacted to give the commission responsibility for the translation into Irish of statutory instruments and the publication and periodic review of An Caighdeán Oifigiúil. Deputies will also recall the recently passed Houses of the Oireachtas (Appointments to Certain Offices) Act 2015, under which the method of appointing the Clerks and Clerk Assistants of the Dáil and Seanad was revised. They will also be aware of the recent announcement of an open competition for appointment to the post of Clerk of the Dáil, who will also be Secretary General of the Houses of the Oireachtas Service.

A new Oireachtas Commission Act is now required as the financing provided under the 2012 Act expires on 31 December. The Houses of the Oireachtas Commission is an independent body. It is, in effect, the governing board which oversees the provision of services to the Houses and their Members by the Houses of the Oireachtas Service in accordance with the Houses of the Oireachtas Commission Acts. The primary functions of the Houses of the Oireachtas Commission are to provide for the running of the Houses of the Oireachtas, to act as governing body of the service, to consider and determine policy in respect of the service and to oversee the implementation of that policy by the Secretary General. The commission is composed of 11 members under the chairmanship of the Ceann Comhairle. The Cathaoirleach of the Seanad is an *ex-officio* member, as is the Secretary General. There are also seven ordinary members, four of whom are appointed by the Dáil and three of whom are appointed by the Seanad, and one member appointed by the Minister for Public Expenditure and Reform. The Minister's representative must also be a Member of either House.

The Houses of the Oireachtas Commission has no role in regulating the business of the Houses, which is a matter for the Committee on Procedures and Privileges of each House. The commission is not responsible for the management and day-to-day operations of the Houses. The Secretary General has overall responsibility for these functions in accordance with the Houses of the Oireachtas Commission Acts. The commission does not set the level of remuneration payable to Members of the Houses. Salaries, pensions and allowances are determined by the Minister for Public Expenditure and Reform. The commission is accountable to the Parliament. It presents annual reports on its work to both Houses together with estimates and accounts of its expenditure. The Houses of the Oireachtas Service is the public service body that administers the Houses of the Oireachtas on behalf of the commission as the governing authority. The functions of the service are set out in legislation. They can be broadly summarised as the provision of professional advice and support services to the commission, the Houses and their committees and the Members of both Houses.

The primary purpose of this Bill is to make available the funding for the commission for the coming three-year period. The Bill proposes to make available to the commission a sum not exceeding €369 million to carry out its functions of the Oireachtas for the three-year period from 1 January 2016 to 31 December 2018. This sum has been agreed between the commission and me. It takes account of foreseeable expenditure over the next three-year horizon. The figure of €369 million over three years comprises €131 million in 2016, €120 million in 2017 and €118 million in 2018. The €131 million figure for 2015 represents an increase of €19 million over the expected outturn of €112 million this year. The bulk of the increase - €14 million – relates to the forthcoming general election. The increase covers payments in respect of termination allowances and pensions for former Members and secretarial assistants. Clearly, we cannot be exactly prescriptive about how many people will be voluntarily or involuntarily terminated, to adopt the unfortunate word that is used in these circumstances.

The remainder of the increase in funding for the Houses of the Oireachtas Commission from this year to next year - just under €5 million - relates to an increase in staffing levels that is required to support enhanced security arrangements, as recommended by An Garda Síochána; the Oireachtas television channel, which is to run 24 hours a day, seven days a week; enhanced ICT services; Dáil reform measures such as longer sitting hours, increased budget scrutiny and pre-legislative scrutiny; the much-needed updating of the various forms of technological equipment in operation in both Houses of the Oireachtas, including upgrading of the electronic voting, sound, voting panel and broadcasting systems; and an increase in the provision of legal services arising from legal cases being taken against the Houses of the Oireachtas currently. In summary, the extra expenditure projected for 2016 over 2015 is either a direct consequence of the forthcoming general election or emanates from demands to meet security, technological and legal costs, which I am informed by the commission are unavoidable. The Estimates for 2017 and 2018 show a decrease from the 2016 levels, due primarily to what we hope will be the non-recurrence of next year's general election. We may have to keep an open mind on that one.

As I have said, the funding issue is the primary purpose of this Bill. However, this opportunity is also being used to make a number of amendments of a more technical nature. I would like to provide Deputies with details of some of the technical amendments I have included in the Bill. First, under section 8 of the Ethics in Public Office Act 1995, as amended, the initial assessment and transmission of complaints from the public against Members of the Houses can only be undertaken by the Clerk of the relevant House. This creates an impediment to the processing of such complaints when the relevant Clerk post is vacant. The proposed section 8

in the Bill before us allows the relevant Clerk Assistant explicitly to exercise those functions. Second, with regard to section 2 of the Bill before us which deals with copyright, Oireachtas copyright was vested by section 195 of the Copyright and Related Rights Act 2000 in each House. This provision was enacted before the Houses of the Oireachtas Commission was established. The right of the commission to exercise such power on behalf of the relevant House, together with a power to delegate the exercise to the Secretary General, is being made explicit in the current Bill.

Third, with regard to paragraphs (b) and (c) of section 6, the Houses of the Oireachtas Commission has made a request to me in the interests of administrative convenience to include an enabling provision in the Bill to allow the secretarial assistants of Members who are elevated to posts at Minister or Minister of State level to continue to remain under the scheme for secretarial assistance, rather than being seconded to Government Departments as is currently the case. In addition, I have been asked to provide for these costs to be borne by the commission, rather than being spread over the Votes of the relevant Departments or offices as they are at present. Currently, the commission bears the cost of secretarial assistance for non–office holding Members under Schedule 1 to the Houses of the Oireachtas Commission Act 2003. The change being proposed under this Bill would extend that arrangement to secretarial assistance for all Members. It is better for secretarial assistants to stay under the same system, rather than moving in and out of the system as they do at present.

Fourth, I draw the attention of Deputies to the amendments being provided for in sections 2, 5 and 6 (a) of the Bill in connection with the substitution of the term "grant" for "grant-in-aid" in section 4 of the 2003 Act and Schedule 1 to that Act. This follows a change in Government accounting procedures that was instigated by my Department, whereby arrangements under which bodies and funds, etc., were allowed through grants-in-aid to retain unspent moneys at the end of the year have been superseded by grants systems in the interests of expenditure control. The term "grant-in-aid" is no longer in use and references to it in individual sections of the Houses of the Oireachtas Commission Acts require, therefore, to be amended. Fifth, section 4 of the Bill corrects a typographical error in the 2003 Act and section 7 of the Bill is a cross-referencing update to Schedule 2 to the principal Act concerning the treatment of the commission's receipts in its accounts. Sixth, section 9 provides for the repeal of provisions in the 2003 Act which have been made redundant by the repeal of the Freedom of Information Acts 1997 and 2003 and their replacement by the Freedom of Information Act 2014, the repeal of the Civil Service Commissioners Act 1956, and certain amendments effected by the Civil Service Regulation (Amendment) Act 2005. I commend the Bill to the House.

Acting Chairman (Deputy Seán Kenny): The next speaker is Deputy Sean Fleming.

Deputy Brendan Howlin: He is earning his keep today.

Deputy Sean Fleming: I welcome the opportunity to speak on the Houses of the Oireachtas Commission (Amendment) Bill 2015. I accept and agree with everything the Minister has said in outlining the purpose of this legislation. I will not repeat much of what he has already put on the public record. Essentially, the Houses of the Oireachtas Commission has its own independent function but it needs a budget. It is being given a budget of €369 million for a three-year period. The Minister has explained why there are different figures for each year. I understand that an annual Estimate will come before the House each year as well. My main concern would be that we will have a debate on the annual Estimate and that is happening. It has been suggested that if we ever have fixed-term parliaments - I appreciate that this would require a

constitutional amendment - we could establish a Houses of the Oireachtas Commission for the lifetime of each one. That is for another day. I do not think any Member here can oppose this legislation. I think everybody here is a democrat who supports the democratic institutions of the State. It is irrelevant who the individual Members of the Oireachtas are. It does not matter whether I am here, the Minister of State is here or anyone else is here. This Parliament is bigger than any one of its Members. For that reason, it is important that a proper Oireachtas system is in place.

I would like to make a few points. Having spoken to some senior staff during the week, I understand that the Houses of the Oireachtas Commission has lived well within its budget in recent times. I think the staff said during the week that there was an under-spend of €12 million, which is good. I am not sure if I picked it up correctly, so I will not tie myself to that figure. I thought I heard someone mention it. The cost of the banking inquiry is included in the cost of the budget for this year, so that is an achievement rather than these expensive trips down to tribunal land, which is a gravy train for barristers.

The Oireachtas must be judicious in how it does its business and must be careful with regard to legal fees. We should not let the Bar Council run procedures in this House or allow the Oireachtas be overly prescribed. This is the national Parliament and most of us are reasonably responsible people. Individuals often fly their own kites but not everything we do should be led, said and dictated by expensive barristers who would enjoy trips to the Four Courts on behalf of the Oireachtas on occasion. We must be judicious in defence of cases to protect the integrity of the Houses but if there is something that is beyond defence, we should accept that and not force it through the courts.

2 o'clock

I am a member of the Oireachtas audit committee, which consists of four or five Deputies, some outsiders and a former Secretary General. I am happy to be a member of that committee and would like to mention some observations from my experience of it. I would like to see further development of the Oireachtas website, because many people have difficulty finding information on it. Perhaps we need more training or the system needs updating. In regard to staff, perhaps the Secretary General of the Oireachtas or whomever is in charge will take notice of this comment. From the Civil Service viewpoint, there seems to be a division within the minds of those who run the Oireachtas between House staff and Members' staff. I estimate that Members employ up to approximately 400 staff because most Deputies and Senators have two staff available to them and there are approximately 600 people employed by the Houses. Therefore, we have up to 1,000 members of staff.

I have noticed that training in the areas of health and safety, IT and courses updating skills is concentrated on House staff rather than Members' staff, although the latter are often the people in contact with the public on behalf of the Oireachtas. Often the only contact the staff of some Members who operate away from the Oireachtas have is when they encounter a problem with IT or broadband or when a printer is not working and they have to make contact looking for a technician to visit the constituency office to fix the problem. The permanent structure in the Houses does not involve itself sufficiently with the 400 staff who work for Members and there is division in people's minds regarding them. One day I asked how many people had attended a particular training course and was told a high percentage had attended. However, when I asked how many were House staff and how many Members' staff, I discovered that very few Members' staff had attended. There seems to be a mindset whereby House staff from Members' staff are perceived as being separate and I call for improvement in that area.

I am not pointing this out by way of criticism. We all see things from different viewpoints. When the Minister, Deputy Howlin, started working in the Oireachtas he probably shared a room with five others and they shared a phone and the services of a single secretary. Things have moved on and changed since.

Deputy Brendan Howlin: I was in a room with two future Presidents.

Deputy Sean Fleming: Good. The number of non-House staff has increased significantly in recent decades and that needs to be factored into the general approach of the Houses of the Oireachtas Commission.

My final suggestion may not be relevant to the commission but rather, perhaps, to Standing Orders. I would like to see the Ceann Comhairle elected by secret ballot rather than by an open vote. A secret ballot would increase confidence in a Ceann Comhairle elected in that manner. While that matter is not germane to this legislation, it is germane to the Houses of the Oireachtas Commission. Perhaps the incoming commission will consider what changes are required to deal with that. I commend and support the Bill.

Acting Chairman (Deputy Seán Kenny): Deputy Sandra McLellan, I understand, is replacing Deputy Mary Lou McDonald. Is that agreed? Agreed.

Deputy Sandra McLellan: I have a concern, one Sinn Féin has indicated previously in this Chamber, at the obvious lack of proper representation on the commission. This lack is particularly significant considering the commission's remit and responsibilities. The commission's primary function is to oversee the provision of services to the Houses and their Members by the Houses of the Oireachtas service, the parliamentary administration.

The work of the commission is more than just a box-ticking exercise. The commission has specific responsibilities. Among these are the oversight of the expenditure of the Houses and the payment of all salaries and expenses for Members and staff. The commission appoints the Clerk of the Dáil and the Secretary General of the Houses of the Oireachtas Service. It produces strategic plans, annual reports and estimates, provides translation services from one official language into the other and a lot more besides. These are important responsibilities. The decisions the commission makes have consequences for every Member of the Dáil and Seanad as well as for every member of staff employed here.

Logic would suggest that the commission should have the widest possible representation. However, the commission which currently consists of 11 members, is chaired by the Ceann Comhairle, has four Deputies appointed by the Dáil, three Senators appointed by the Seanad and one member appointed by the Minister for Public Expenditure and Reform, the so-called Minister's representative'. The body is made up entirely of members of Fine Gael, the Labour Party and Fianna Fáil. Sinn Féin, the Technical Group, other Independents and Oireachtas Staff are excluded. Therefore, a significant portion of Deputies are not represented on the commission. The decisions the commission makes affect us all and without suggesting that it should become unwieldy, it makes sense that after ten years in existence, it should become more reflective of the make-up of the Oireachtas so that all of the parties in the Houses and the staff are included in its membership.

The membership of the commission should be expanded to get a broader and more comprehensive input into the decision-making process and to ensure wider considerations are given to the day to day running of the Houses. It makes sense that a more inclusive representation on the

commission would ensure that the Houses of the Oireachtas provide the best possible services and the most up to date and relevant modern facilities to complement and enhance a modern day democratic institution.

The argument may be made that expanding the membership of the commission may incur an additional cost. Currently, the Ceann Comhairle, who chairs the commission, and the Cathoirleach of the Seanad do not receive an allowance. Deputies who are members of the commission receive an allowance of €8,740 per annum, while Senators get one of €5,989. The Minister's representative is entitled to an allowance but the current representative does not draw it down. We suggest it is possible that allowances could be reduced to accommodate additional members or that, by voluntary agreement, allowances would not be drawn down at all. Whatever the case, the additional costs are minimal. To put these costs in perspective, consider the enormous sums paid out in pensions to, for example, former Taoiseach John Bruton who is on a pension of €126,000. Brian Cowen has a pension of €134,000 and Charlie McCreevy a pension of €108,000. Former Fianna Fáil Minister of State and fraudster Ivor Callely is struggling by on a pension of €62,000, while former Fianna Fáil Minister for Communications and ex-con Ray Burke has an eye watering pension of over €95,000.

Acting Chairman (Deputy Seán Kenny): The Deputy should not refer to people outside of the House.

Deputy Brendan Howlin: Not in derogatory terms.

Deputy Sandra McLellan: I take that on board. Contrast these bonanza, lottery-style pensions to the minimal costs of putting additional members on the commission, which would make the latter more relevant and, perhaps, more efficient because it would be taking a wider spectrum of opinion and experience into account in its deliberations.

Deputy Catherine Murphy: I have spoken on the equivalents of this Bill on a number of previous occasions and will probably make the same points again now. I support the point made by Deputy McLellan regarding representation on the commission. It is totally inadequate that the only Opposition Deputy included on the commission is a Fianna Fáil Deputy. The commission is an important body and it requires a different balance to provide the kind of oversight required. I met the Minister on numerous occasions over the years on one of the criticisms I have and I thought a change was going to be made but, unfortunately, there was not. I speak in the context of the Technical Group, which is a recognised group from the point of view of Standing Orders. The privileges that come with that are very important in terms of speaking rights, being able to ask questions on Leaders' Questions, to have representation on committees and other aspects of the work of the Oireachtas. However, even if such a group is made up almost entirely of the Opposition, no secretarial support is provided to run the group, which is in marked contrast to the political parties in this Dáil that were elected in the previous general election. We have done an analysis, which I have given to the Minister on a number of occasions. There are approximately 20 secretarial assistants. Parties decide to break down the figures in various ways. Fianna Fáil has 15.2 secretarial assistants and Sinn Féin has the equivalent of 11.2 staff entitlements for a parliamentary group. I do not say the Technical Group is equivalent to a political party in terms of the work but its work cannot be done on fresh air. When a group is resourced to do at least the minimum, that aids the smooth running of the Oireachtas. The arrangement the 31st Dáil put in place for the Technical Group was that we each paid for two members of staff on a job-share basis. That means, for example, that I had to become an employer and that means having to deal with Revenue for taxation purposes.

The staff members do not have the same rights and entitlements as their co-workers in Leinster House, including when the Dáil concludes, which leaves people in a fairly precarious position. To be honest, that particular aspect alone is very unfair. The work cannot be done properly without staff. It is a big regret that not even the minimum was done in this regard.

I have some questions about the terminology used in the legislation. For example, is there any significance in the change from "grant" to "grant-in-aid"? The Minister might well have explained that in his opening speech but perhaps he could repeat it when he wraps up.

Deputy Brendan Howlin: Yes.

Deputy Catherine Murphy: I wish to understand the implications of the change.

The fund of €369 million is a lot of money but this is the national Parliament and it does cover every aspect of its work. People tend to think of the expenditure being exclusively for the salary of politicians but it covers everything included in the running of the Houses from heating to the upkeep of the building.

Section 6 deals with the change in the presentation of the commission's accounts to allow for payment for secretarial assistance to all Members rather than restricting it to non-officeholders. That seems to imply that Ministers and Ministers of State will be the new people included in that staff allocation. Perhaps the Minister could confirm that and what the cost is, as it appears to be a new cost, or perhaps I have misunderstood the way it is presented.

The key point is the oversight. I think it will be down to the make-up of the next Dáil and it depends on which side of the House one is positioned. The kind of checks and balances that should be built in are not included because if the Government gets a very large Dáil majority, that is disproportionate and one does not have the oversight one would normally have in a more balanced arrangement. None of us knows what the result of the next election will be, but there is a strong possibility that there will be another Technical Group based on current opinion polls. It is difficult to say whether I will end up being part of that if I get elected or if I end up with an entity that has more than seven seats. That is all irrelevant from that point of view. What is relevant is that there is a fair approach to the running of the Oireachtas because having been the Whip for the Technical Group for almost the past five years, it is pretty difficult to do the kind of co-ordination that is required, in particular when an event such as the so-called prom night occurs, for example, when one has no staff and one is trying to gather people together late at night to organise speaking arrangements and other such matters. It is a very unfair approach. It treats in a very unfair way a mandate that is as valid as any other. There is a big gap and it should have been addressed.

The Minister sent a letter to the Houses of the Oireachtas Commission that was quite supportive of some level of supports but, unfortunately, the Houses of the Oireachtas Commission did not see it that way and we got nowhere with it, which is very regrettable.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I thank the three Deputies for their contributions to this debate. Some of the matters raised will be the subject of discussion in the next Parliament because we are in the final phase of this particular Oireachtas.

There are a number of points to which I wish to refer briefly. On legal fees, I very strongly underscore the point made by Deputy Fleming. We must be very careful that we have control

in the Houses of the Oireachtas in terms of legal fees and that perhaps we would tender on a competitive basis for it.

Deputy Fleming also made a very valid point about staff integration. It is an issue I had not considered. There is no aim in terms of training and upskilling and there should be a more integrated system. That is something we can put on the agenda for whoever happens to be here the next time. None of us can be certain of that.

The election of the Ceann Comhairle is an issue that was raised previously. I am no lawyer although the place is full of lawyers, but since the Constitution provides that all sittings of Dáil Éireann shall be in public, I am not sure it is possible to have a secret vote, because we are talking about the sitting of Dáil Éireann and I do not know whether it would be constitutional to do that, as it is the first action under the Constitution. I would need legal guidance on that.

I am very sympathetic in terms of the commission membership, a point made by Deputy McLellan and Deputy Catherine Murphy. We need to have a mechanism that allows the new commission to be as representative as possible of the Houses because there are real powers devolved to the commission and that again is something that will be raised in the next Dáil.

In terms of staffing for Independent Members, I am sympathetic to the point of a co-ordination of such Members, but a point all of my colleagues on the Government side of the House make, and in fact colleagues in parties on the opposite side of the House make as well, is that each Independent Deputy gets a significant sum of money that individual Members of parties do not get and they could devote that to structuring whatever supports they need. That is a valid point because-----

Deputy Catherine Murphy: It is paid in respect of every Member.

Deputy Brendan Howlin: In truth, it goes to a political party, and from that the political parties organise their supports. The Deputy is saying the money we get for that is individuals' money but there is then collective money that needed to be done on top of that. We need a balance between them. I am supportive of co-ordination in general terms and I understand the point about being a hirer but no individual Member, be they from Fianna Fáil, Sinn Féin, Labour or Fine Gael, sees a cent of that money. It is all well spent within the organisation to provide parliamentary supports. If all the money that went to Independents was simply put into a fund as opposed to given to individual Members, they could have similar supports, but that is something that might be addressed in the next Dáil. I provided a copy of my speech to explain the grant-in-aid issue and I think it is clear about that.

The final point made by the Deputy concerns secretarial assistance. This is just at a request of the House itself. When I became a Minister, my secretarial assistant, who spent many years here on the payroll of the Houses of the Oireachtas, was taken off that payroll and put on the payroll of my Department. For continuity and simplicity, it is better that all secretarial assistants are treated the same way rather than hopping in and out of it. That is what is intended by that.

Question put and agreed to.

Bill reported without amendment, received for final consideration and passed.

Deputy Brendan Griffin: I move: "That the Bill be now read a Second Time."

I thank the Minister for State for being here. I appreciate the opportunity that has been given to back bench Deputies like myself to move Private Members' Bills. This very positive reform has come about in recent years.

The purpose of this Bill is to make deliberately ramming a Garda vehicle a specific offence. It applies to a vehicle operated by a member of An Garda Síochána in the course of his or her duties. The aim is to try to reduce the shocking number of rammings. The figures I have been provided with show that from 2010 to 2013, there were 244 incidences of Garda vehicles being rammed. We have seen some very tragic cases where serious injuries and even fatalities have resulted from such incidents, and we need to stop them. We need to stamp this out. I think everybody in the House will agree with me when I say that an attack on the Garda is an attack on everyone. It is an attack on the State and the people of this country. We need to do everything possible to produce as strong a deterrent as possible to eliminate this risk. It is probably idealistic to say we could eliminate it but we certainly need to reduce the possibility of it happening.

At the moment, there is not enough of a deterrent to stop this when it happens more than once a week according to the most recent figures I have. When this is the case, Parliament and we as Members of Parliament need to act to protect members of An Garda Síochána as much as we can. That is what this Bill is about. I appreciate that there are measures in law that address these circumstances, for example, the Non-Fatal Offences Against the Person Act or the Criminal Damage Act. These measures are helpful, but as I pointed out, the figures show that they are not working and are not stopping this from happening. We need to send out a very clear and unequivocal message to perpetrators of such intolerable crime that they will not get away with it, that it is stepping well beyond a line that should never be crossed and that the full rigours of the law will meet them if they do that. This is why I want to see the ethos of this Bill move forward. If the Bill is not enacted during this 31st Dáil, perhaps the spirit behind it might help to shape some future legislation. Ultimately, it does not matter to me whether it is this Bill or part of another one that is enacted. I just want to see the maximum level of protection extended to our gardaí in the course of their duties. They put their lives on the line day in, day out. Without them our society could descend into complete chaos. Members of An Garda Síochána have a unique role and we need to do as much as we can to protect them. I welcome the fact that the Bill will not be opposed. I want to see the State reacting on this issue.

There are other measures outside of legislative change that would also help to protect gardaí in the course of their duties. For example, in cases where Garda cars are rammed by vehicles, officers would stand a better chance of avoiding injury or worse if those vehicles were reinforced or armoured. I acknowledge the efforts of the Minister for Justice and Equality, Deputy Fitzgerald, in recent times to acquire new, stronger, reinforced vehicles. With the recovering economy and public finances we have a great opportunity to catch up on the lost years of the economic crash. We can try to make this the norm when purchasing Garda vehicles into the future. We should give our gardaí the best possible chance in a vehicle by making it reinforced with armoured glass in certain cases. It will cost more, certainly, but what price can one put on a life and certainly on the lives of those who are trying to protect the citizens of this country from the perpetrators of crime? This needs to be a policy direction that we take as the norm and not the exception.

Ramming cases cause a huge number of lost hours for our gardaí. People have to take time off work because of injury acquired in such instances. Without sounding crass or putting a monetary price on this, it is actually costing the State a huge amount when a garda is injured and has to take leave from work. Of course, the human cost always comes first but, as lawmakers, we also need to consider all the facts. I recently sought figures on the exact extent of the problem and how many hours are lost. I was not able to acquire such figures but, anecdotally, from speaking with members of An Garda Síochána and liaising with those who know what is going on, I am aware that this is a problem. We have an opportunity to address it. I do not want to sound crass by talking about the economic costs but we have to talk about them too. There are huge savings to be made if we take the proper policy approach.

In order to assist gardaí in the course of their duties and reduce the number of cases in which gardaí find themselves pursuing criminals in the countryside or in urban areas, many preventative measures could be put in place to help the overall situation. I spoke in this House a number of weeks ago in respect of strategic locations in rural areas. We could create as much of a deterrent as possible in those areas by strategically locating CCTV cameras. In the case of my own constituency, I referred to the Dingle Peninsula. To get onto the Dingle Peninsula, which has a population of over 10,000 people, one needs to pass either Boolteens Bridge on the south side of the Slieve Mish Mountains, or through Curraheen or Derrymore on the north side. Those are the only ways in or out without taking a boat. There are not too many boats sailing this time of year. Surely those locations are ideal for placing a Garda camera, just to see who is coming and going. It would not be big brother or the State going mad. It would be a simple preventative measure that would help people sleep easier in their beds and give gardaí an extra chance. It would not prevent crime but would create an extra deterrent.

By creating more deterrents and by placing more cogs in the wheel, we will get to a much better place. Similarly, a number of burglaries took place on Valentia Island off south-west Kerry last year. The island has a bridge connecting it to the mainland. There is one way in and one way out. The ferry only operates a couple of times a year and it is not exactly an ideal high-speed getaway mechanism. Why not have cameras on the bridge to see who is coming and going when something occurs? Hopefully, nothing would occur if we had those measures. It is the same with the Beara Peninsula. I see my colleague, Deputy Harrington, is here. He knows the lie of the land there. Leaving Kenmare to get onto Beara from the north side, there is only one road. It is similar throughout the country. There are strategical locations that people need to pass through. The gardaí in each division would be able to identify them easily. It is not a very expensive thing to do with modern technology.

Let us use technology to our advantage. God knows the criminals have been using it to their advantage for long enough. We need to do more in that regard. It would help reduce instances in which gardaí find themselves having to pursue criminals in the countryside, including those who have committed burglaries and other offences. It would be a positive step forward.

We also need to start helping communities to help themselves. While a State-led, top-down approach is very welcome, with more visible and mobile, better-equipped gardaí and more recruits coming through, we also need a ground-up approach. At community level we need to invest more in things like the community alert schemes, with which I am very familiar from my own location at home. Individual homeowners are not currently in a position to be able to afford extra security items like security lighting, cameras in the home, electronic gates or other measures. Maybe we can look at allowing people to write off such items against tax, giving them a rebate or reducing VAT in order to make it more affordable. That would be part of the

multi-cogged approach I have spoken of. I have heard other ideas from Deputies in the Chamber that we certainly could implement and that would help the overall situation.

I acknowledge the opportunity to introduce the Bill and thank the Minister of State, Deputy Harris, for attending. During the week, I saw the report which showed that 1,500 staff in the Phoenix Part could be freed up for front-line duties. We need to address that and get those gardaí out onto the front line. We need to consider our approach to the Garda Reserve. Perhaps we can get more people in to do administrative duties through the reserve and thus free up trained, front-line gardaí to get out there and do the jobs they want to do. We should prioritise getting more gardaí out on the beat, visible and mobile.

I noticed figures published recently which show the rates of burglaries per 100,000 in the population. Thankfully, my own county of Kerry was one of the lowest. I was glad to see that. Listening to certain elements in the media and certain public representatives in recent months, one would think it was the wild west and that law and order had completely broken down. As public representatives, we need to be conscious that when we speak we need to be doing so with the public good in mind. We need to be conscious that it frightens people, perhaps unnecessarily, when they hear talk of crime epidemics or waves of crime. We have a responsibility to be objective and to call it as it is without overemphasising matters or frightening people. God knows there are enough things frightening people at present. When there is a problem, it needs to be discussed here but we need balance and for people to approach the issue responsibly. Those who are listening to the debate and who are most tuned in to it are the people who are most vulnerable. I have met many individuals who are living in fear. It is a horrible feeling to be afraid in one's own home. We should not be contributing to that in any way unless it is warranted.

I thank the Ceann Comhairle and welcome the contributions of Members on the Bill. As I said, I want to see the issue addressed and to bring attention to what is obviously a problem, given the figures. Perhaps the Bill and the particular wording of it are not necessarily the way forward, but I want to see the issue addressed somehow. If it can be done through other legislation or if the provisions in my Bill can be incorporated into other legislation, that is fine by me. We have seen many attacks on other members of the emergency services over recent years. Recently, I tried to obtain conviction rates and sentencing information, but it is very difficult to get these figures. The Central Statistics Office does not seem to be able to produce them when required and I have not been able to get them from the Department either.

I acknowledge that there was a Bill some years ago dealing with attacks on members of the emergency services, but where it fell down was perhaps in respect of the mandatory element of sentencing. We must look at the area again and, if we cannot have mandatory sentences, let us consider increasing sentences or providing some other deterrent. Ambulance personnel, the fire brigade and various members of other services have been attacked in various ways in the course of their work, which is not acceptable. As with attacks on gardaí, these are attacks on the State and on every citizen, and that cannot be tolerated. I very much welcome the opportunity to present my Bill and I look forward to hearing the views of the Minister of State.

Minister of State at the Department of Finance (Deputy Simon Harris): On behalf of the Minister for Justice and Equality, Deputy Frances Fitzgerald, who is unable to be here this afternoon, I thank Deputy Griffin for bringing this Bill before the House. It is clear that the subject matter of the Bill is one to which we can all relate. We are very conscious of the important work done by people operating in front-line duties, in particular An Garda Síochána and the

difficulties and challenges its members face every day. It is imperative that gardaí are protected in carrying out their work and that the law reflects and responds to the situations in which they find themselves. There is great general concern about the protection of gardaí when serious incidents occur and great sympathy, particularly where such incidents result in injury to or the death of a member of An Garda Síochána. The spirit and intention behind Deputy Griffin's Private Member's Bill is clearly to protect gardaí in difficult front-line and emergency situations.

There are a number of offences on the Statute Book which address the activity which the Deputy wishes to criminalise, the ramming of Garda vehicles. The Criminal Justice (Public Order) Act 1994, as amended, provides explicit statutory protection for peace officers, including members of An Garda Síochána, in offences involving assault to or obstruction of a peace officer in the execution of his or her duty. Section 19 of the 1994 Act provides that any person who assaults a peace officer acting in the execution of his or her duty is guilty of an offence and is liable on conviction on indictment to a fine or to imprisonment for a term not exceeding seven years. This maximum prison penalty was, in fact, increased from a five-year term under the Criminal Justice Act of 2006.

The general law relating to assault is contained in the Non-Fatal Offences against the Person Act 1997 which deals comprehensively with a wide range of assault provisions, the more serious of which carry heavy penalties. The assault and related provisions in the 2006 Act apply to assaults on all sectors of our community, which of course also includes members of An Garda Síochána. The 2006 Act provides for penalties of up to five years for an offence of assault causing harm and for a penalty of life imprisonment for an offence of causing serious harm. The maximum period of imprisonment provided for here exceeds the ten-year term proposed in the Deputy's Bill. In addition, section 2 of the Criminal Damage Act 1991 provides for an offence where a person intends to damage property, or is reckless as to whether any property is damaged and intends by such damage to endanger the life of another, or is reckless as to whether the life of another would be endangered. This offence, which is of particular relevance in the context of an activity such as ramming a Garda vehicle, carries a penalty of up to imprisonment for life. Again, the maximum term of imprisonment applicable here significantly exceeds that proposed in the Deputy's Bill.

Deputies will agree that there is already a considerable wealth of legislation in place to enable the prosecution of those who would seek to damage Garda property or indeed to injure members of An Garda Síochána by ramming their vehicles or otherwise. However, it is clear that the Deputy's Bill arises from concern for the safety of members of An Garda Síochána, which is something we all share, and from a desire that perpetrators of crimes against gardaí should not go unpunished.

As Deputy Griffin has outlined, section 1 provides for a definition of "child" as a person under 16 years of age. It also defines "Garda vehicle" and "ramming". Section 2 provides that the legislation would apply to the deliberate ramming of a Garda vehicle or of a vehicle being operated by a member of An Garda Síochána while he or she is on duty. Section 3 provides for a penalty of a period of imprisonment of up to ten years where a person other than a child is found guilty of an offence under the Bill. Section 3 also provides that the legislation would not apply where a court was satisfied that there was no deliberate intent or that it would be unreasonable for it to be known that the vehicle was a Garda vehicle or that it was being operated by a member of the Garda Síochána while he or she was on duty.

The Minister has made a few technical comments and what she hopes are constructive

suggestions on the Bill. I will outline these to the House. A child is defined in the Bill as any person under the age of 16 years. The Deputy is no doubt aware that for the purposes of legislation on the protection of children and the juvenile justice system generally, children are defined as being persons under 18. As such, it would be problematic to provide for different age limits within the Statute Book. To do so would be to fail to have regard to consistency in our policies and, indeed, approach to young persons. More generally and in relation to the sanction provided for, Deputy Griffin's Bill provides that a penalty of up to ten years should apply. However, the fact remains that sentencing is at the discretion of the Judiciary and that, as in all criminal justice proceedings, the specific circumstances of each case must be taken into account by the court before a sentence is decided upon. An increase in a penalty on the Statute Book does not necessarily mean that an increased penalty will be applied.

A key issue with the Bill as drafted is that it does not appear to achieve what was intended. It does not provide for an offence of ramming a Garda vehicle. Section 3 states that in any case where a person is found guilty of an offence to which section 2 applies, a period of imprisonment of up to ten years will be specified. However, section 2 does not contain an offence provision. It merely states that the Act applies where a Garda vehicle is deliberately rammed. This could be interpreted as meaning that where any offence is committed and a Garda vehicle is rammed in the process, the Act applies with a penalty of up to ten years. This could have the unintended consequence of a lower penalty being applied. For example, if an offence of recklessly damaging property with intent to endanger the life of another or an offence of causing serious harm was committed and a Garda car rammed in the process, the Act and the penalty in the Act could be applied. As such, it would be a penalty of up to ten years rather than life imprisonment as currently provided for under section 2 of the Criminal Damage Act and section 4 of the Non-Fatal Offences against the Person Act. That said, these are drafting issues which the Minister points out in an effort to be constructive and the House can have no doubt of Deputy Griffin's sincere motivation and intent in bringing forward this Bill. I very much welcome the opportunity it provides to debate important issues relating to the protection and care of members of An Garda Síochána.

That the Government is committed to An Garda Síochána can be in no doubt. Deputies are aware of the Government's recent and unprecedented allocation of €875 million in capital funding for the justice sector, with an allocation of €18 million for Garda station refurbishment, €46 million for new Garda vehicles, an additional investment of €205 million for new technology and the recruitment of 600 new gardaí in 2016. These developments demonstrate the Government's commitment to investing in 21st century policing by ensuring An Garda Síochána has the personnel, vehicles and technology to be modern, effective, mobile and responsive in preventing and tackling crime in both urban and rural communities.

The Government's response to crime is focused on two main objectives: investment in An Garda Síochána and a strengthening of the law on serious and repeat offenders. To that end and as Deputies are aware, the Minister for Justice and Equality has introduced the Criminal Justice (Burglary of Dwellings) Bill which is before the Houses. The Minister will also shortly publish a bail Bill. Both Bills will strengthen the existing law by protecting the public from crime committed by prolific offenders and improving the safety of all communities throughout the country. These are challenging times for An Garda Síochána and the Minister is determined to provide the force with all the tools necessary to meet such challenges. A further example in this regard is the recent establishment, for the first time in this jurisdiction, of a DNA database system to assist An Garda Síochána in the investigation of crime.

I thank Deputy Griffin once again on behalf of the Minister for his continued work and interest in criminal justice matters. We are all immensely grateful to An Garda Síochána for its outstanding dedication and commitment and for the important and all too frequently dangerous role its members play in our society. While it is clear that there is quite a comprehensive body of legislation in place to provide for the prosecution of this type of assault, the Minister supports the objective of the Deputy's Bill and will, therefore, not oppose the proposal.

Deputy Sean Fleming: I compliment Deputy Griffin on introducing this Bill. I am pleased to hear the Minister of State at the Department of Finance say that the Minister for Justice and Equality does not oppose the Bill. I presume the legislation can in due course move to Committee Stage where the drafting issues etc. can be teased out in further detail.

This legislation asks the Oireachtas to support the Garda Síochána in its difficult job. The job is difficult in urban and rural areas. The gardaí need to know they have the support not just of the Parliament but of the people. They put their lives on the line. Two gardaí lost their lives recently going out on what appeared initially to be routine calls. They never suspected the outcome and the tragic loss to their families and their colleagues. These were deliberate attacks on the Garda Síochána and because the gardaí are the line of defence which protects the citizen these were attacks on all of us. That is why I support the principle of the Bill and look forward to our party working on Committee Stage on the drafting of the various sections to improve the wording and I appreciate what the Minister of State said on this.

I note the Garda Síochána Inspectorate's report, which was published recently, dealt in detail with Garda vehicles. I think it will be discussed at a meeting of the Oireachtas Joint Committee on Justice, Defence and Equality. While the report did not discuss ramming of Garda cars, it made some recommendations on the Garda fleet that are worth following up. Most interesting was that while the Garda Síochána is prioritising the purchase of marked vehicles, 53% of the fleet are unmarked cars. I was surprised at that. It shows the tremendous work the gardaí do behind the scenes. We do not realise they are in front of or behind us and are not all out on motorways trying to catch us speeding. They are doing other work in difficult situations such as night time surveillance, dealing with anti-social behaviour when they have to be in unmarked cars. Some people complain about lack of Garda visibility in their area but an unmarked car might be there all night. If the car was marked people would feel more secure. There is a balance to be struck because a marked car is no good for detective work but the Garda is moving to having more marked cars. People need to feel secure and to see gardaí on the beat on the street.

Approximately ten years ago, on a Friday night in December, I was driving from Portlaoise to Carlow at 8 p.m. or 9 p.m. It was pitch dark and a lorry struck my car. It was a head-on crash. The air bags filled in the car. It was the first time this had happened to me and it was a frightening experience. I thought the car was going to blow up because there is a smell like a gunshot when the airbags fill, which I had not known. My wife and I had to scamper out the other door. What I found remarkable was that within ten minutes four unmarked Garda cars were on the scene. It was a national secondary route, the N80. The cars came from Portlaoise and Athy but I understood there are far more unmarked Garda cars than I had ever appreciated. I saw it first hand. It was good that they were on the scene. That is important.

I heard on the radio this morning about an accident when a car that was being chased hit another car. There were two Garda cars passing from one division or Garda district to another but one was not sure where the Garda car in pursuit was. I understand that it is standard procedure in most other European countries that the person in the station can see where the car is on the

road. It is some form of global positioning system, GPS, monitoring system. We would support any improvement that can be made in that area.

The Garda Inspectorate's report mentioned too that gardaí should all be trained in Garda driving. We all think we know how to drive and have passed our driving test but to be a Garda driver requires extra skill in difficult situations. The gardaí have to overtake on the left and right, which we do not normally do. I support the Garda Síochána and Deputy Griffin's Bill and look forward to discussing it on Committee Stage with whoever is here after the election.

Deputy Noel Harrington: It gives me pleasure to support Deputy Griffin's Bill to make it an offence to ram a patrol car. We live in a changing society. Decades past, the gardaí were respected and their authority was not questioned. That sadly has changed and criminals ignore the authority of a garda and will do anything they can to avoid arrest. More Garda activity now takes place in patrol cars. There are more patrol cars in urban and rural areas, marked and unmarked. They do quite a good job of enforcing the law. Unfortunately, criminal gangs have become more mobile. If detected carrying out a crime they will do what they can to evade arrest and if that means ramming a Garda car many will not think twice about it. The most horrific injuries suffered by gardaí in recent years have come as a result of criminals ramming patrol cars. Many of these were life-changing injuries and unfortunately some gardaí have been killed.

The Minister of State spoke about the difficulty of setting a defined sentence for ramming patrol cars but it should be benchmarked against attempted murder because that is the risk. Many criminals now drive Jeeps or high-powered, high velocity, heavy vehicles, many with what could euphemistically be described as protection barriers. They are killers. They have the potential to wipe people out in a patrol car that has very little or no protection, like any car that we might drive.

The offence Deputy Griffin is trying to introduce is appropriate. I accept that there is legislation to provide for offences such as this. None of us going to work has to face the prospect of being deliberately rammed but we need to take a belt and braces approach to the existing legislation to deter criminals from thinking they will get away with ramming a patrol car. There is a greater sentence for the murder of a garda and this offence should be benchmarked as something similar to attempted murder.

3 o'clock

I welcome the introduction of the Bill and look forward to the Government assimilating it, in whatever way is appropriate, into the Statute Book in order to protect the members of the Garda Síochána.

Deputy Eoghan Murphy: I too congratulate Deputy Griffin on the Bill and am very much of the view that it must become law. The Minister has outlined areas that could be enhanced in the drafting process. The Bill is essentially a statement that a direct attack on a garda is not the same as a direct attack on an individual citizen, given that an attack on a garda is an attack on us all, and a special law and penalty must apply when people commit such a crime intentionally and in full knowledge of what they are doing. It is very important that there be a strong statement in law and from the Oireachtas that such an intent to strike at a garda is not allowed and that the harshest penalties will be applied. When people attack members of the police force who are there to protect us all, they are attacking society.

The Minister of State's commitment to the Garda Síochána is very welcome, particularly the money that is being invested in it. The Minister of State's statement outlined that €18 million

will be provided for the refurbishment of Garda stations, and it is essential. I recently visited Donnybrook Garda station in my constituency to report a minor crime, and it is badly in need of refurbishment. There is the question of how we present the Garda Síochána to the people. Some of our Garda Síochána buildings are not in a fit state and do not present the gardaí well. If we do not present the Garda Síochána well to the public, there will be less respect. It is essential that the buildings get the basic maintenance of cleaning. It is also essential that the infrastructure be put in place so gardaí can do their work appropriately.

The Minister has also committed to providing €205 million for new technology, which is essential. When I reported a minor crime, it took a long time for the garda, who had to take a written statement. Everything was done in writing. The video recording equipment was not digital but used tapes. With gardaí spending so much time working with outdated technology, it is welcome that so much money is to be invested. I hope it is spent well and quickly. There is a relationship between how we protect and how we resource the Garda. The two go hand in hand, as Deputy Griffin said in his opening statement. While we did not always have the funding we wanted, now that the economy is recovering, albeit still fragile, and people are back at work, it is great that the money is there to invest in vital areas such as the first line of defence, namely, the Garda Síochána, and helping them to do their work. It is a fantastic initiative by Deputy Griffin. It is fantastic that the Government is not opposing the Bill but supports it. We should have a positive statement from the Oireachtas that we will make it law.

Deputy Alan Farrell: Like my colleagues, I commend Deputy Griffin on bringing the Bill before us and the Minister of State's response on behalf of the Minister for Justice and Equality, Deputy Fitzgerald. If we were to go through the names of the 88 members of the Garda Síochána who have died in the service of the State, quite a number of them died in road traffic accidents. This is because they are the front line and put their lives on the line to protect the State and the individuals in it. From Henry Phelan in November 1922 to Tony Golden in October this year, the 88 members served the State with distinction and made the ultimate sacrifice in the service of their communities and the country.

Deputy Griffin's Bill is worth debating and examining from the aspect of the Department of Justice and Equality regarding what Deputy Eoghan Murphy referred to as isolating the intent of a criminal or individual attempting to evade prosecution for deliberately ramming a vehicle in the knowledge that his or her actions might result in the death of a person, whether a garda or, through an accident, another individual, as has happened in the past. Deputy Griffin presented statistics on the number of vehicles affected and the knock-on effect of the loss of the vehicle to the Garda Síochána on a temporary or permanent basis and the loss of garda hours through the victim's injury or permanent incapacitation, which can result from such vehicle collisions.

Although the Government has invested an unprecedented €875 million in Garda infrastructure, as the Minister of State helpfully outlined, the other side of it is the investment in high speed pursuit vehicles to enable gardaí to keep up with criminals who are usually in vehicles that are superior to the standard two litre diesel Garda vehicle. The other side is something Deputy Harrington referenced, which is that a proportion of criminals use Jeeps and similar larger vehicles with bull bars which, in a ramming incident, can cause catastrophic damage to the vehicle.

The Minister of State has outlined a number of pieces of law on the Statute Book and he is right about the Non-Fatal Offences Against the Persons Act 1997 and other provisions. However, I agree with the thrust of the Bill, which is to mark this particular crime out as a severe

crime that warrants a punitive sentence up to and including the revision of bail laws which we are considering. The Criminal Justice (Burglary of Dwellings) Bill, which allows for consecutive sentences for individuals who are caught and prosecuted while another case is pending against them, within two years, clearly marks such a person out for special attention, as does Deputy Griffin's Bill. An individual who commits such a crime should be severely punished. While life imprisonment for attempted murder or the like is a very clear message, criminals may receive parole or slightly shorter sentences due to circumstances which the particular judge on the day takes into consideration and which do not get into the newspapers. We are aghast when an individual receives a shorter sentence than we think is justified. This is by no means an attack on the Judiciary, only a fact. Unfortunately, people who receive a sentence of ten, 15 or 20 years do not serve the full term.

The Garda Commissioner and the Minister have done much work regarding the resources allocated to the Garda Síochána. Recruitment was started this year with 550 new gardaí recruited, and 600 will be recruited next year, in an attempt to rebuild the numbers of gardaí on the beat and available to serve in our communities. It is essential if we are to give people peace of mind. Deputy Sean Fleming referenced the fact that most Garda vehicles are unmarked and he spoke of one road traffic collision on a secondary route when five unmarked vehicles showed up. This proves that gardaí are there even if one does not see them. In rural areas, the closure of Garda stations has led to a significant amount of concern. As some of my colleagues who are based in constituencies with large rural areas can attest, the perception of a non-availability of gardaí is a driver of fear, which often fuels itself. Despite this, a significant seven-year survey of crime in general by a professor at the University of Michigan with Irish connections showed that the crime levels were directly linked with unemployment as opposed to issues such as the number of gardaí or stations. According to the Central Statistics Office, 75% of burglaries occur in the Dublin region.

An Ceann Comhairle: Let us get back to the Bill, please.

Deputy Alan Farrell: I will. My point is that Garda vehicles and their availability play an important role in the duties of gardaí. Whether they are marked or unmarked, their presence is essential for policing and protecting all of us as citizens as well as the authorities within the State.

In the context of the ramming of vehicles, I wish to make a further point about other people on the front line, for example, the fire brigade services, ambulance crews etc. This has been debated in the Chamber previously and discussed by the general public when vehicles or individuals were attacked while attending a scene. In this light, perhaps incorporating the Bill's provisions in other legislation should be considered during the next Dáil.

My final point is for the drafters of Government legislation. Ten or 15 Acts govern the sentencing of individuals in cases of offences against the person. I wrote "plain English" while listening to the Minister of State's reference to incorporating this Bill's provisions in a number of similar Acts. It would not be impossible for the next Government to amend such legislation appropriately instead of adding yet another Act to the Statute Book. If one wants to reduce legal costs, as a rule-----

An Ceann Comhairle: The Deputy's time is up.

Deputy Alan Farrell: I will finish on this note. If one wants to reduce the cost of legal

services and ensure that people can interpret legislation, putting everything in one Act makes it easier to interpret and, therefore, reduces the cost to the consumer. I commend Deputy Griffin on introducing this Bill.

Deputy Pádraig Mac Lochlainn: I apologise for not being present when it was my turn to be called.

We support the motivations behind the Bill. In Donegal, we lost two fine officers, Gary McLoughlin and Robbie McCallion, in 2009. Killed in the line of duty, they were the victims of reckless drivers. It was devastating for our communities and, most of all, their families. It was a sad time in Donegal, so I sympathise with the motivation behind the Bill. What we disagree with is mandatory sentencing. Unfortunately, it has not proven a good approach to law, as I will explain. The Bill seeks to introduce a mandatory scale of sentencing of up to ten years for the Judiciary to apply in the specific case of ramming a Garda vehicle. However, the current law provides for up to ten years' imprisonment for dangerous driving in addition to substantial fines. Given the circumstances of the case, it is for the Judiciary to impose a suitable sentence.

Related to the Bill is the wider issue of mandatory sentencing. Calls for mandatory sentencing feed into public distrust in a dangerous way that works to undermine and subvert the rule of law. The reality of mandatory sentencing is that it uses up scarce resources in terms of time and money when judges, in the interests of justice, must wrestle with ill-conceived laws. Such an approach would increase the number of trials and subsequent delays in the criminal justice system when people accused of offences that carry mandatory sentences pleaded not guilty.

Mandatory sentences contribute significantly to the cost of imprisonment. Such costs result in either more taxes on citizens or significant tax takes being diverted from hospitals and schools to fund the results of ill-conceived political projects. According to the Irish Penal Reform Trust, IPRT, for every $1 million spent on California's mandatory sentencing laws, 60 serious crimes are prevented. However, that same $1 million would prevent 160 serious crimes if spent on training and assistance for families at risk or 258 serious crimes if spent on encouraging children to graduate from high school.

If the intent of the Bill is to assist the Garda in carrying out its duties more effectively, I recommend that we consult the recent report of the Garda Síochána Inspectorate. It outlined that issues with vehicles continued to be a source of frustration for many gardaí, including vehicle allocation and concerns over whether some vehicles were fit for purpose. The ability to acquire vehicles is also constrained due to the requirement of adhering to the procurement process while attempting to purchase vehicles on the open market at a time when most vehicle stocks are depleted. Under the current budgetary process, the Garda is tied to an annual plan that does not adequately support a long-term vision. In cases where Garda cars are rammed, what are needed to protect gardaí are better, stronger and more powerful vehicles deployed in areas that are more likely to suffer such incidents.

In order to build public trust in the judicial function, my party and I propose that the State introduces a sentencing council that would provide sentencing guidelines to the Judiciary. Similar councils are in place in England, Wales and Scotland and comprise a good model. This would ensure that sentences handed out for criminal offences in courts are consistent and accountable. A key strength of the sentencing council model is that it involves a range of key stakeholders, such as victim support groups, academics, senior police officers, senior parole officers and the wider public in the process of establishing sentencing guidelines for the Judi-

ciary. As members of the Judiciary would be the majority members of the sentencing council and a senior member of the Judiciary would chair it, they would still be central to the process. However, the sentencing guidelines issued would ensure that the Judiciary stuck to the range provided for the category of offence before it. For example, if we engaged with the public and people involved in the criminal justice system on the question of what the appropriate range of sentences for ramming Garda vehicles was, we could provide a range of sentencing options to judges that would have to be applied in every case. One could achieve the desired level of accountability without there being mandatory sentencing.

Under the council's sentencing guidelines, the Judiciary would also have to indicate clearly why it had sentenced an offender within that range, taking into consideration the impact on the victim and the blameworthiness of the offender. This would ensure consistency and accountability across the court system and the State. Our proposed sentencing council would develop sentencing guidelines, monitor their use and assess their impact on sentencing practice. It may also be required to consider the impact of policy and legislative proposals on sentencing, when requested by the Government to do so; promote awareness among the public of the realities of sentencing; publish information on sentencing practice in our court system; consider the impact of sentencing decisions on victims; monitor the application of the guidelines, better to predict the effect of them; and play a greater part in promoting understanding of, and increasing public confidence in, sentencing and the criminal justice system.

Sinn Féin understands the motivation behind Deputy Griffin's Bill, but we need to say to the men and women of the Garda Síochána, who are at the front-line dealing with very dangerous criminals and protecting our communities, that we have robust laws and will give them robust resources to deal with that. This Bill is not the proper approach to take and, therefore, we cannot support it. Careful deliberation, consultation and work with the Garda to ensure they receive the resources needed to apply existing laws is needed.

Deputy Anthony Lawlor: I congratulate Deputy Griffin on having his Bill debated in the House. For a long period, many of us have been looking for reform of the Dáil so that more backbenchers would have their Bills discussed on the floor of the Dáil. Many of us have published Bills during the past five years, most of which have not been debated in the House. I was lucky to have a Bill I proposed incorporated into legislation by the former Minister for Transport, Tourism and Sport, Deputy Leo Varadkar. It is important to signal that backbenchers and other Members have a role to play in proposing legislation. Deputy Griffin has put much time, effort and research into the Bill to get it as far as the Dáil. The Bill was chosen by a lottery system and everyone knows the chances of winning the lottery are quite small. It is like that today. The Deputy has won the lottery - it may only be the Dáil lottery but some of us who are in that lottery system fail to have our balls drawn out, excuse the expression.

I will make a number of comments on the Bill. There should be a minimum sentence for ramming Garda vehicles. We all talk about an upper limit of, for example, ten years but a mandatory minimum sentence for ramming a Garda vehicle might deter criminals. When one examines the situation, most of those involved in criminal activity are repeat offenders and they are not deterred from ramming Garda cars. They have no understanding of the importance of human life. Many of them are on a high, whether from drugs or alcohol, have long criminal records and have no concern for the lives of others on the road, whether it is the life of an ordinary citizen or a garda.

The Garda car is now the Garda office. In most rural areas, where Garda stations have been

closed down, the Garda car is a garda's office. We are in the process of recruiting an additional 600 gardaí, which I welcome. The last Fianna Fáil Administration closed down Templemore and this administration has opened it back up again. An additional 600 gardaí will be recruited for 2016 and the Garda vehicle will be their office so we need to provide that office with more protection. Those of us who work in an office would not like someone to come to our office and cause us bodily harm. There is protection for that. The reality of the situation is that most gardaí regard their Garda patrol car, whether marked or unmarked, as their office. Perhaps the Minister of State will consider a minimum sentence for ramming a Garda vehicle.

I welcome the addition of 600 gardaí but I ask the Minister of State to correspond with the Commissioner on this issue. Kildare is one of the most deprived areas in the country in terms of Garda numbers. I am being very parochial. As I have said, most gardaí work from patrol cars.

I welcome Deputy Griffin's Bill. We must protect gardaí who are doing their duty and protecting us against the criminal element, whether first-time or repeat offenders. We need to put in place strong legislation with a strong commitment to make sure there is a huge deterrent to ramming a Garda vehicle. As Deputy Farrell said, we should also consider including the vehicles of the fire and ambulance services in this legislation.

Deputy Seán Kyne: Cuirim fáilte roimh an reachtaíocht seo agus déanaim comhghairdeas leis an Teachta Brendan Griffin as ucht a chuid oibre ag ullmhú an Bhille seo. Is post andainséarach é a bheith i do gharda agus cuideoidh an reachtaíocht seo le cúrsaí sábháilteachta sa Gharda Síochána.

I welcome Deputy Griffin's initiative in producing and publishing the Bill. It is timely because the Government has invested a great deal in the Garda Síochána in recent years in difficult circumstances. It has reopened Templemore and budgeted for an extra 600 gardaí to be recruited in 2016 in addition to the 500 recruited in 2014. It is great to see the Minister's initiative in reopening Templemore and putting gardaí back on the beat. There have been increases in the Garda fleet. There has been €34 million spent on new Garda vehicles since 2012 and an additional €5.3 million will be spent on 260 new Garda cars to assist the gardaí in its pursuit of mobile gangs. That is in addition to the 370 cars that have been added so far this year. There is a commitment on the part of the Government in respect of resources for the Garda, its fleet of vehicles, officer numbers and other initiatives on the establishment of the policing authorities, the planned bail laws and the Criminal Justice (Burglary of Dwellings) Bill that was introduced recently.

Marked Garda cars are very visible so there can be no excuse that they cannot be seen or known. They are marked to be seen, to act as a deterrent and to denote to everyone that they are different from ordinary cars. That is the important point - no one can say they did not realise it was a Garda car. They are marked differently. Those that are marked are marked differently for that reason. The Deputy has highlighted that and the Bill provides for unmarked cars to be treated differently because unmarked cars and the gardaí who use them are more covert in their operations.

There are other marked vehicles that come under attack, for example. On bonfire night, in particular, there seems to be an increasing number of attacks on ambulances and fire brigade vehicles. I do not know if it is mainly minors who are involved in this type of behaviour but it is equally as despicable as those vehicles are responding to calls from members of the public. The penalties applicable under existing legislation include imprisonment and disqualification from

driving. Is there a mandatory sentence or a guide for judges on disqualification from driving?

This Bill will copper-fasten and further highlight the crime of ramming Garda cars and I support its contents. I acknowledge that anybody who rams a Garda car is, by definition, a dangerous driver. If they have no regard for peacekeepers, they certainly have no regard for the ordinary citizens on our streets - our families, children and friends. That must be highlighted by further deterring and highlighting the law on ramming Garda cars. This Bill will achieve that and act as a further deterrent to those people and be a life saver for gardaí and all citizens. It will make our roads safer. The putting in place of a mandatory sentence of the level provided for in this Bill will surely act as a deterrent to the ramming of Garda vehicles, thereby saving the lives of gardaí and other people on our roads.

I commend Deputy Griffin on the introduction of this Bill and welcome the Minister of State's statement that the Government does not propose to oppose it, although it is likely Committee Stage will be taken by a future Government. It is important every provision possible is put in place to ensure the safety of our peacekeeping forces, including the members of An Garda Síochána who are, in general, unarmed and do a difficult job on our roads and in maintaining peace. I welcome the provisions of this Bill in that regard, which it is hoped will act as a deterrent to those people who might act against our Garda Síochána.

Minister of State at the Department of Finance (Deputy Simon Harris): I again thank Deputy Griffin on behalf of the Minister for Justice and Equality for bringing forth this Bill. It is clear from Deputies' interventions that we are agreed on the need to ensure and, where possible, strengthen the protection of the Garda Síochána in the line of duty. Gardaí frequently find themselves in situations which most of us would not even wish to contemplate. On a daily basis, the Garda Síochána deliberately and voluntarily embrace danger so that we can be safe. This selfless dedication to their vocation deserves not only our recognition and thanks but our practical support.

Those who would cause injury to, or attempt to cause injury to, a fellow citizen deserve to be called to account before the courts. Those who would cause injury to a member of the Garda Síochána in the course of his or her duty must also be brought to book and punishment must be swift and proportionate. As I outlined earlier, the Oireachtas has already legislated in relation to assault of a general nature by way of the Non-Fatal Offences against the Persons Act 1997, which provides for proportionate penalties of up to ten years for assault causing harm and life imprisonment for assault causing serious harm. The Oireachtas has also recognised the special position of peace officers, including members of the Garda Síochána, by way of the Criminal Justice (Public Order) Act 1994, which makes specific provision for assault of a peace officer acting in the execution of his or her duty. The heinous nature of such an assault is recognised by the severity of the penalty of up to seven years imprisonment. The Criminal Damage Act 1991 makes express provision for criminal activity such as the deliberate ramming of a Garda vehicle, which recklessly endangers life, with a penalty in this regard of up to life in prison.

As Deputies will appreciate, the Minister, Deputy Fitzgerald, has not been slow in bringing forward legislation in the criminal justice area with a view to enhancing Garda powers and protection and, in doing so, has sought to build on and strengthen existing criminal legislation with a view to ensuring that the perpetrators of crime in our society do not go unpunished. The Minister is supporting the legislative measures which she has brought forward with practical ones. In particular, the increased investment in new Garda vehicles will provide the Garda Síochána with additional high powered vehicles, marked and unmarked patrol cars, cars for

surveillance and covert operations, motorcycles for high visibility road policing and vehicles for public order policing, all of which will result in more visible and responsive patrolling of motorways and rural communities, increased surveillance of criminal gangs and enhanced night-time public order policing.

I would like to respond to some of the issues raised during this debate, including the need for refurbishment of Donnybrook Garda station, which was raised by Deputy Eoghan Murphy. As Minister of State with responsibility for the Office of Public Works I will ask my officials to discuss this issue with the Garda housing unit. The Garda station refurbishment programme launched by the Minister for Justice and Equality and the Garda Commissioner in Athlone recently provides for an ambitious programme of upgrade and refurbishment of significant Garda stations and the construction of new Garda stations in large centres where they are required. It is only right and proper that our gardaí have facilities that are fit for them to work in and that the public has easy access to such facilities and can expect to visit their gardaí in modern and safe buildings.

The issue of rural crime and burglaries in general was also raised during this debate. This is an issue of which the Minister is very aware. Burglary is a persistent and highly damaging crime. As I mentioned, earlier this year, following an urgent review of the overall approach to dealing with burglaries the Minister published the Criminal Justice (Burglary of Dwellings) Bill 2015. This legislation targets repeat burglary offenders through bail measures and provisions concerning the imposition of consecutive sentencing for repeat burglary offending. The key objective of this legislation is to target a cohort of persistent offenders who prey on law abiding households and clearly have no concern for the damage and distress which they inflict on others. It is hoped to have this new legislation enacted as soon as possible. When enacted, this legislation will underpin the concerted drive which is now being made by An Garda Síochána against those involved in burglary and other property crimes, which is co-ordinated under Operation Thor. This is a new multi-strand, national anti-crime operation which will entail a broad range of activities to tackle burglars, organised crime gangs and prolific offenders, as well as working with our communities to prevent crime. The Garda approach includes additional high visibility patrols and an increase in checkpoints to tackle criminal gangs using the national road network, of which we have all, I am sure, evidence in our own communities.

In regard to the point raised by Deputy Fleming in relation to the recently published Garda Inspectorate report, I can assure Deputies that the reform agenda currently under way in the justice sector is aimed at modernising the Garda Síochána and ensuring that its resources are used to best effect. In regard to how consideration of the report is to be progressed, the Minister, Deputy Fitzgerald, intends to send that report to all of those to whom recommendations are directed and will request them to respond within a reasonably short timeframe, having regard to the size and scope of the report.

The Minister understands and thanks Deputy Griffin for his sincere motives in bringing forth this Bill and for the opportunity it provides us as a House to reassert and send out a message of support to members of An Garda Síochána as they go about their daily business on behalf of all of our communities. The Minister in supporting the underlying objective of this Bill does not intend to oppose it.

Deputy Brendan Griffin: I thank all Members who contributed to this debate, which I think has been helpful in highlighting the problems in this area and what we can do to extend further protection to members of An Garda Síochána. I thank the Minister of State, Deputy

Harris, for coming to the House to deal with the Bill. I welcome that the Government is not opposing the Bill.

As I said earlier, what I am interested in is the achievement of the ultimate goal of this legislation. I am open to any amendments or technical changes that would make this stronger legislation and thus better law and thereby extend the maximum level of protection to An Garda Síochána. I am open to whatever needs to be done to ensure that is achieved. I take this opportunity to acknowledge the contribution of the Minister, Deputy Fitzgerald, to the Department of Justice and Equality since her appointment as Minister with responsibility for that Department. She has been a proactive and reforming Minister and has shown great mettle in her Department. I commend her for her work on the legislation on burglaries, bail and tagging, which is an issue I have been raising for a number of years. I believe we need to utilise technology to the best possible advantage of this State. There is a role in this regard for electronic tagging and it should be pursued.

I thank Deputy Sean Fleming for his contribution. I was not aware that 53% of Garda vehicles are unmarked. While I am sure each of those vehicles is needed it is important the percentage of Garda vehicles that are unmarked is reduced. I know that the process of expansion of the fleet has commenced and I acknowledge the great work that is being done in that regard and the unprecedented investment in this area. As I said, what we need now is for all Garda vehicles, in terms of there being high power and high speed capabilities, to be the norm rather than the exception. Deputy Fleming's proposal in relation to GPS monitoring and driver-training is helpful and needs to be considered in the future. I acknowledge that a Bill brought forward by Fianna Fáil proposed the putting in place of CCTV surveillance on our motorway network, similar to that proposed by me in this Bill in relation to strategic rural locations. This proposal, if pursued, could have a positive impact in this area.

I thank Deputy Harrington for his contribution. The Deputy spoke about an issue that is at the very heart of this Bill, namely, the lack of respect for members of An Garda Síochána that has crept in slowly over time. This trend of loss of respect needs to be reversed. We should never allow a situation whereby a police force is beyond question but equally we should never allow a situation whereby gardaí in the course of their duty are spat at or verbally or physically abused. That is central to what I am trying to prevent because the criminals who perpetrate the crime I am trying to clamp down on do not think twice about what they do, and that is the nub of the problem. They have a general lack of respect for An Garda Síochána and the uniform and that needs to change. Deputy Harrington equates this crime to attempted murder. He is right and there can be no soft line on this.

I thank Deputy Eoghan Murphy for his contribution. He referred in particular to the opportunity that will arise with the improving economy and the recovery in public finances to better resource gardaí. There will be a great opportunity and it is about prioritising expenditure. We have significant catching up to do but a great start has been made and we need to keep that going. As the Deputy said, an attack on a garda is an attack on us all. Gardaí are on the front line. They are vulnerable and they put themselves between the criminals and communities and individuals, and therefore they need additional protection. They need to be treated differently in the eyes of the law because they are doing a special job.

Unfortunately, as Deputy Farrell pointed out, 88 members of the force have lost their lives in the course of their duties protecting citizens since 1922. That is an incredible number when one considers that even in the House today, the highest number of Members to participate in a

division was approximately 60. Gardaí do an amazing and remarkable job and everybody in the House needs to give them 100% support. Deputy Farrell, like many others, referred to the need for high-powered vehicles to give gardaí the best opportunity. He also referred to attacks on other emergency services personnel, to which I also referred in my opening contribution. Perhaps the spirit of this law could be incorporated into laws that protect these personnel. Deputy Kyne referred to difficulties the emergency service personnel face on bonfire night. Unfortunately, attacking emergency personnel is not seen in enough people's eyes as a line that should not be crossed. People should be in no doubt that this is unacceptable. This is so far past the line that it cannot be seen anymore. Such attacks should not happen, but unfortunately they do.

I thank Deputy Mac Lochlainn for his contribution and for his research on the issue. I am open to differing views on this legislation. We agree on much more than we disagree and I welcome his comments on establishing a sentencing council and doing things differently. Perhaps that needs to be explored but my fear is that, in a criminal's mind, it is an option to ram a Garda vehicle when he is trying to evade arrest by gardaí and it is not the exception. We need to make every effort to expunge that mindset. I call on Sinn Féin not to oppose the Bill. There will be an opportunity, on a later Stage one hopes, to make a contribution on what can be done to strengthen this law to make it the best possible to protect gardaí. If we could take an all-party approach to this, it would send out a strong message. The Deputy's input is welcome and would be welcome again on a later Stage.

Deputy Lawlor referred to the developing trend of patrol cars being used as offices by members. A number of my good friends have joined the force and they spend a great deal of time out and about in the patrol car. Given the hours they spend in it, they are more vulnerable and this legislation is trying to address this issue and increase protection for them. The Deputy also acknowledged that criminals do not see a deterrent for their behaviour, and that needs to be tackled.

Deputy Kyne referred to the number of new Garda vehicles that have been brought into service. It is a move in the right direction and we need to keep going that way. The Deputy referred to high-powered vehicles in particular, and I welcome his comments. We need to balance the scales and give gardaí the best opportunity. As the Deputy said, if they do not think twice about attacking a peacekeeper, children or other vulnerable people will not come into their thoughts. We cannot tolerate that and, therefore, we cannot take a soft approach. There is no excuse for that behaviour and, as a Parliament, we need to come down heavy on it.

I thank all those who contributed. The Bill is trying to extend more protections to gardaí, which will mean more protection for citizens. As a Parliament, we could all work together on this to bring forward the best possible law and perhaps extend it to cover emergency services personnel. I hope it will progress.

Question put and agreed to.

Ramming of Garda Vehicles Bill 2015: Referral to Select Committee

Deputy Brendan Griffin: I move:

That the Bill be referred to the Select Committee on Justice, Defence and Equality pursuant to Standing Orders 82A(3)(*a*) and 118 of the Standing Orders relative to Public Busi-

ness and paragraph (8) of the Orders of Reference of Select Committees.

Question put and agreed to.

Coroners Bill 2015: Second Stage [Private Members]

Deputy Clare Daly: I move: "That the Bill be now read a Second Time."

I acknowledge it is the 11th hour as we have almost reached the Christmas break but I am glad we are discussing this legislation. Earlier this week, when I thought I might not be around for a few weeks, this was the only item of business that I would have been gutted to miss. It is not that other issues are unimportant but this Bill is particularly special and getting this to the next Stage is an opportunity for us to do something important for women. I thank Deputy Joan Collins who had undertaken to stand in if I was absent today and I also thank the Government, having amended the schedule originally and taken the Bill off, for agreeing to putting it back on. I am also especially glad to hear the Minister has indicated that she will not oppose the Bill and will allow it to pass Second Stage. I am keen that we try to follow that up and get the legislation into committee because this is the culmination of a huge volume of work that has not been done by me. I am only standing on the shoulders of others. I am humbled to introduce the legislation and I am conscious that all I am is a voice and a vehicle for the efforts of others who have led the fight on this issue, many of whom are in the Visitors Gallery. They are responsible for putting the issue centre stage.

I refer to the incredible, almost unspeakable, bravery of the husbands and partners affected who had to deal with their own grief and personal loss alone and then, on top of that, had to battle to have inquests held to find out what happened to their wives and partners. I also refer to the resilience and tireless crusading by people such as Dr. Jo Murphy-Lawless and all the other educators, midwives, student midwives and birth activists who have striven to raise public awareness to make maternity services safer for women. Their efforts are reflected in this Bill. It is mad to think that almost ten years ago, on 20 December 2005, the then Government approved the drafting of legislation that later became the Coroners Bill 2007. That Bill incorporated many of the recommendations of the coroners review group in 2000 and the coroners rules committee from 2003 in order to update and overhaul the functions of the coroner, which is currently governed by the Coroners Act 1962. We all know a hell of a lot has changed since 1962 and it is absolutely unacceptable that this issue has not been addressed before now. It has been on the Government's books but there has been no progress to date, which is not good enough.

Women's lives matter and we have a chance with this Bill to acknowledge that and address inadequacies in the current system. My Bill largely takes the 2007 Bill and makes two crucial additions. The first would amend section 53 of the Act, dealing with circumstances in which a coroner must hold an inquest to include all cases of maternal deaths, and the second amends section 75(1), which covers mandatory post mortems and special examinations, again in the case of maternal deaths. This would be absolutely critical. The original Bill refers to "investigation" but, to be honest, it would be up to the coroner whether the process would go further, which is just not good enough.

This Bill is simply about triggering an automatic inquest into a maternal death, which is a death during or following pregnancy up to six weeks post partum for any hospital or maternal care unit or other location where women are under the care of an obstetrician or midwife. Why

do we need this? It is an urgent matter that we enact this into law in the lifetime of this Government. The reason is best expressed in the letter written by the children of Ms Sally Rowlette to the Minister for Health, Deputy Varadkar, last year. They stated:

> We miss our mum so much every day. Can you please make sure this will never happen to any other mum again and make our hospitals safe? We have to learn from these tragedies to help minimise and stop them occurring for others.

Sally's husband, Seán, and Michael Kivlehan, who lost his wife, Dhara, days after the birth of their son, met the Minister, Deputy Varadkar, earlier this year but have yet to see realised any of the promised improvements they were told would be put in place. That is why this legislation is urgent.

We hear much about Ireland being one of the safest countries in the world in which to give birth but in the absence of accurate statistics, it is a groundless assertion. In 2007, two courageous obstetrics consultants pointed this out in a public letter to the *Irish Medical Journal*, indicating that our national maternity mortality statistics were under-reported, suffered from poor validation methods and were not reliable. That is a fact. In 2007, Tania McCabe lost her life, and she was followed by Evelyn Flanagan later that year. These were the first of the eight cases where public inquests eventually ruled that medical misadventure was the cause of death for healthy, pregnant young women. The others were Jennifer Crean, Bimbo Onanuga, Dhara Kivlehan, Nora Hyland, Savita Halappanavar and Sally Rowlette. We are here in their memory, battling for their families, and also as people who never knew these women. We are saying that this cannot happen to other women in 2015 and it is just not good enough.

In 2009, moves were made to collect accurate figures for maternal deaths with the establishment of Maternal Death Enquiry Ireland. In its first report in 2012, it stated that data collection was only slowly improving and that it remained incomplete. It identified problems such as an inconsistent approach to data classification, a lack of a national approach and the need for a question on pregnancy status at time of death to be included in all coroner certificates. It also pointed out that there was incomplete engagement on behalf of many of the hospitals, particularly general hospitals with maternity units. One of the fears seemed to be that these institutions were fearful of litigation. Instead of being open, transparent and accountable to patients, they instead ran for cover and went on the defensive when families sought to ask questions and have concerns answered.

That was well articulated in some of the interviews given by Seán Rowlette and Michael Kivlehan, who spoke about counteracting sorts of cover-ups when they needed full disclosure. Although their wives cannot be brought back, they do not want others to suffer in the same way. They spoke about the arrogance and incompetence that they saw in our maternity services and how they had to battle for years to get inquests. We know others never got an inquest. When I asked the relevant Minister about this earlier in the year, she said she was not really keen on the idea as it could impose unnecessary further distress on the families of the deceased. The people in the Gallery are testament to the experience that people need answers and closure; a public inquest is the only way in which to deliver that. Deaths by medical misadventure are an unintended outcome of an intended medical action. An inquest does not apportion blame or anything like it but it allows the opinion to be entered on the death certificate.

Last year, after the deaths of babies in Portlaoise, the Minister, Deputy Varadkar, correctly stated that those families had been lied to. Lying has been a persistent reality for the families

in the Gallery and those which have faced the tragedy of maternal deaths. We know that has been true for a considerable period, from Helen Moynihan in 1981 to Antoinette Pepper in 1988, whose family fought resiliently to try to get an inquest into her death. They still have not achieved that goal but I put on record again a call for an inquest into her death. What all these families share is the experience when seeking answers of meeting well defended and very partial explanations. They were often told there would be internal investigations and they should not worry. They had to fight for inquests and they needed to know why healthy women who had come early and appropriately for antenatal care - all fully in the care system - had died. They would not know the answer without an inquest.

We know from inquests into the deaths of these eight women that vital information was withheld and they were often not privy to the internal investigations and reports until the HSE was ordered to produce them by coroners in public hearings. We know that although hospitals and the HSE indicated there would be changed guidance and protocols to deal with similar events in future, they were not implemented and carried through fully. That is a shocking statement and I am in no way saying it lightly. If the HSE recommendations issued on foot of the inquest following Tania McCabe's death had been made enforceable national policy, Savita Halappanavar may not have died. It is also the case in the death of Dhara Kivlehan. If her inquest had not been obstructed and delayed for four years from when she died in 2010 to the inquest in 2014, Sally Rowlette, who died in 2013 in the same hospital from the same failure, may not have died either. This is an incredible statement about a health service in 2015 but it is true. That is why it is critical that not only should we allow the Bill pass today but we should get it through Committee Stage and begin to make it operational.

The Maternal Death Enquiry Ireland team released its latest briefing document this week and between 2011 and 2013, there were a total of 27 maternal deaths occurring during or within 42 days of pregnancy. People were interested in the death of 88 gardaí in the history of the State, which is significant, but there have been 27 maternal deaths in two or three years, which is much more dramatic. Of those deaths, seven were classified from direct causes and, of those, only three had inquests. Knowing what we do from inquests about lack of care and appropriate and timely diagnosis, it is clear we needed those other four inquests into the deaths. This could only be done properly with an automatic public inquest. We have two to three maternal deaths of all categories in Ireland every year, which is a phenomenal figure. We need to know in full why a death happened and what lies behind it.

4 o'clock

We cannot rely on confidential inquiries because hospitals and the HSE hide behind them. That is a fact. The only way to get transparency is through accountability, with public inquests so that families get answers but also to enforce genuine accountability on the part of the HSE. Unfortunately, as matters stand, we do not have that.

All pregnant women need to know that the maternity services and the HSE will be accountable for both genuine continuity of care and an end to the fragmentation of services. They need to be able to rest assured that there will be excellent communication between doctors, midwives, themselves and their families and that there will be an end to complacency and to not listening to these women and their families. We should have an international gold standard in terms of maternity care rather than rhetoric from the HSE. The idea of an automatic coroner's inquest will give families the truth, it will give transparency and it will give the wider community a way to hold the HSE to account.

Many of these conclusions are based on the outstanding work of Dr. Jo Murphy-Lawless,

who is in the Gallery. These are her words. She has been a pioneering crusader on these issues and the awareness that exists in Ireland with regard to these matters would not have happened without her. I want to refer to the wonderful exhibition by the Elephant Collective that many of the women are involved in, which is very aptly titled "Women's Deaths Remembered: Picking Up the Threads, Remaking the Fabric of Care". It is based on a knitting exhibition to remember all the women who died tragically in the care of our maternity services. It involves beautiful paintings, a documentary, and a wonderful remembrance of those vibrant young women, but also a reminder of the importance of making changes for the future. They very poignantly use the name "the Elephant Collective" on the basis of the behaviour of elephants which, it appears to me, are much more civilised than human beings or many institutions in Irish society. When an elephant gives birth, the rest of the herd surrounds her to protect her and her calf. What we are being asked to do today, in pushing this Bill, is to be that herd, in essence.

Our society has let women down. We have to be honest about that. This extends from the Magdalen laundries to symphysiotomy to our current lack of bodily integrity in respect of abortion and to the eight women who so unnecessarily lost their lives through medical misadventure. It is not just those eight women, it is also about those others who did not even get an inquest. We must learn from those tragedies. It is that simple. We must raise awareness about this issue. We have to ensure there is an automatic inquest and vastly improved disclosure methods in terms of hospitals and the HSE reporting on tragic and adverse incidents in our maternity services. It is only by doing this that we can open them to more public scrutiny and give women in Ireland and their loved ones and families the type of care they rightly deserve.

Minister of State at the Department of Finance (Deputy Simon Harris): On behalf of the Minister for Justice and Equality, Deputy Fitzgerald, who regrets that she is unable to attend this debate, I thank Deputy Clare Daly for bringing forward this Bill, which raises very important issues. Like the Deputy, I note the presence in the Gallery today of those who have lost people very close to them in tragic circumstances. The Minister asked me, in particular, to express her deepest sympathy to them and the other families bereaved by maternal death for the dreadful loss that they and their children have experienced. At the outset, I confirm that the Government intends not to oppose the Coroners Bill 2015, as the Minister very much appreciates the intention behind it. The Government will be bringing forward substantial amendments on Committee Stage and I will explain why that has to be the case.

Deputy Clare Daly's Bill has two distinct elements. It contains a small number of provisions that would introduce mandatory post mortems and inquests into any maternal death. Under the Bill, this would include any woman who dies during pregnancy or within six weeks after delivery and who, at the time of her death, is receiving inpatient or outpatient care at a hospital, maternity unit or birth facility or has been discharged from one within the previous six weeks. The Bill also contains a very large number of provisions on the entire coroner system, which, in effect, reproduce the whole of the Coroners Bill 2007. The latter was presented to the Seanad on 20 April 2007 and completed Second Stage on 4 October 2007. It was subsequently restored to the Order Paper by this Government.

I do not propose to enter into a section-by-section discussion of the Bill before us. I would prefer to focus on the key issue of maternal death but I must also briefly address the overall framework for the coroner system proposed in the 2007 Bill, as the Deputy has effectively incorporated that into her Private Members' Bill. The Coroners Bill 2007 proposed a major overhaul and restructuring of the entire coroner system. For example, the current fragmented system, of some 40 different coroner districts under the responsibility of local authorities, was

to be replaced. Responsibility for coroners would be transferred to the Minister for Justice and Equality, with a new post of chief coroner and a new central coroner service to provide enhanced support to coroners and to liaise with bereaved families.

Inevitably, in light of the major challenges confronting public finances, the 2007 Bill was then postponed for some years, although this Government has retained it on the Order Paper. The Minister is extremely conscious of the importance of the coroner system, and as she has indicated in replies to parliamentary questions over the last year, she has already directed her Department to undertake a comprehensive review of the 2007 Bill. The aims of the Minister's review are to identify how best to deliver an integrated, reformed structure that will support coroners more effectively, within the Government's current financial possibilities; to bring the 2007 Bill up to date for legal and forensic developments, particularly to ensure full compatibility with the European Convention on Human Rights; and to put in place improved support to ensure that bereaved families receive a prompt, responsive and effective service, recognising that coroners already strive to do so within the constraints of the existing administrative framework. That review is making good progress and will continue its work into early 2016. It is absolutely clear that the 2007 Bill, and, therefore, the overall content of the Deputy's Bill, is fundamentally outdated. The Government intends, therefore, to propose extensive amendments to the Private Member's Bill on Committee Stage, to ensure that any reforms will be addressed within the detailed review that is being prepared for the Minister, because that is the best way to ensure they are effective and properly resourced.

I turn now to the principal concern of Deputy Daly in presenting the Bill, namely, to introduce a new requirement for mandatory post mortems and inquests into maternal deaths. The Minister is very sympathetic to the concerns which motivate this Bill. Every maternal death is a tragedy and, as those present here today observing our debate remind us, one with which the bereaved family must go on living. Maternal deaths tend to be complex events. It is often difficult to identify and collect quickly all the key facts, both for the bereaved family and, sometimes, for the health professionals, particularly if the mother has been transferred between hospitals in emergency circumstances. The Minister is strongly of the view that bereaved families in this situation are entitled to a prompt, transparent and sensitive response to their questions and concerns.

The Coroners Bill 2007 already proposed a legal requirement to report any maternal death to a coroner. The Minister intends to keep that proposal but she considers that there are strong arguments for examining whether an inquest should be legally required in cases of maternal deaths as defined by this Bill. Every maternal death would thus be recognised as a serious incident. A full, accurate and impartial account of the circumstances leading to the death would be given in public and would be available to the bereaved family. Mandatory inquests could help to ensure that lessons can be learned from these very tragic cases, with a view to helping maternal healthcare facilities reduce the risk of other such deaths occurring. There are, however, also some concerns that would need to be considered. One important concern is that not every maternal death raises issues requiring further investigation and, in those cases, the bereaved families might be exposed to additional grief and distress if an inquest were compulsory despite their wishes. However, the Minister wishes this question to be fully examined and is sympathetic to the objectives of the Bill in this respect. This question is already being looked at within her Department's review and she wants to consider this issue further.

The Private Member's Bill could benefit from considerable amendments to ensure that it is legally valid and an appropriate instrument to ensure that the coroners system can provide the

best possible high-quality public service. I think Deputy Clare Daly might be open to that. The question of mandatory inquests for maternal deaths is a complex issue and the Minister would like to give it in-depth and thorough consideration, in consultation with the Minister for Health and other stakeholders. I assure Deputies that the Minister will carefully reflect on today's contributions and the points made as she undertakes that consideration. In conclusion, and on behalf of the Minister for Justice and Equality, I thank Deputy Clare Daly again for bringing this Bill forward, particularly as the motivation behind it is well-intentioned and commendable. I want again to acknowledge the deeply difficult and distressing issues which are raised for those who have lost their loved ones through maternal deaths. The Minister will continue with the review she has instructed her Department to undertake. It will continue into early 2016. The Minister does not intend to oppose this Bill.

Deputy Mick Wallace: I welcome the Bill, particularly the new provisions proposed by Deputy Clare Daly to seek to make inquests mandatory in all cases in which a woman dies in the care of maternity services before, during or after giving birth. For far too long, the HSE has defaulted to defensiveness and denial when things have gone wrong. It has refused to engage with the causes of sometimes catastrophic mistakes in maternity services. It has forced families into long and exhausting fights for justice after the deaths of loved ones. By refusing to face up to and acknowledge the mistakes that have been made, the HSE is making it inevitable that more mistakes will be made. By defaulting to denial, it is prolonging the suffering of bereaved and devastated families.

As it stands, maternal deaths fall into the category known as "deaths reportable to coroner". Other reportable deaths include the deaths of children in State care or detention, deaths due to possible negligence, misconduct or malpractice, and cases of suicide. When a coroner receives notice of a reportable death, he or she will investigate it and decide whether any further action is necessary. An investigation is relatively cursory by comparison with an inquest, as it does not involve an intensive examination of the circumstances of a death. An inquest is the only mechanism by which all the circumstances of a death can be fully investigated and a verdict on the cause of death issued. Without this kind of comprehensive investigation in cases of maternal death, the same mistakes will continue to be made over again and women who should be alive may die through medical misadventure or negligence.

It is shocking that all eight inquests into maternal deaths since 2007 have issued verdicts of medical misadventure leading to death. It is inexcusable that, in every case, the families had to fight tooth and nail for an inquest to be granted in the face of total intransigence from the HSE. It is devastating that the delays in granting an inquest into the death of Dhara Kivlehan may have contributed to the death of Sally Rowlette, who died in the same hospital as Dhara Kivlehan and from the same condition. If the hospital in question had learned lessons from Dhara's death, Sally may have been diagnosed and treated in time to save her. If it was standard for automatic inquests to happen in the case of every maternal death, all the women who have died through medical misadventure before, during or after childbirth in Irish hospitals might still be with us.

Transparency does matter. Owning up to mistakes matters. It literally saves lives sometimes. It is inexcusable that what we are seeking does not happen as a matter of course. We know from the eight inquests to which I have referred that information was withheld from families and that internal investigations and reports were withheld until the hospitals and the HSE were ordered to produce them by coroners in public hearings. We know that hospitals and the HSE said they would issue changed guidance and protocols to deal with similar events in the

future, but they did not do so in many cases. If they did produce such guidance and protocols, they did not comply with them or did not carry them through fully. The HSE battened down the hatches in every case and hoped for the storm to pass. For the families, the storm can never pass until they get the truth.

In too many arenas of life in Ireland, there is a tendency to cover up and to deny. Ranks are closed when we raise questions in here about NAMA, the operation of An Garda Síochána and the breaches of international law at Shannon Airport. In most cases, the first port of call is to protect the organisation before protecting the public. In all of these cases of maternal death, the HSE has behaved in much the same way. Its instinct is to protect the organisation, regardless of the effect this has on patient care or bereaved families. In the past year, we have seen the HSE threaten legal action against HIQA to try to stop it from publishing a report that was commissioned following the deaths of five babies in a hospital's maternity unit. The report showed that the hospital in question had failed to learn from recommendations made in previous reports. It made it clear that there was a widespread lack of urgency in responding to risks in the hospital. It contained stories of bereaved mothers who were reprimanded for crying. It told of how one deceased baby was brought to its mother in a tin box carried on a wheelchair. The bereaved women were wrongly given the impression that their babies' deaths were isolated incidents. They were met with defensiveness, cover-ups and unfulfilled assurances. As I have said, the instinct is to cover up, deny and pretend everything is okay. It is not good enough. While the Bill can only address one aspect of the HSE's organisational instinct to cover up, we need better transparency right across the board within the HSE.

More generally, the Bill before the House will help to make Ireland more compliant with human rights values. The European Court of Human Rights has in several judgments noted the crucial role of coroners' inquests in fulfilling the State's obligation under the European Convention on Human Rights to investigate any death involving public authorities or institutions. The European Court of Human Rights has also interpreted Article 2 of the convention as providing for more extensive investigation of the circumstances of death. It has indicated that an extension of the scope of inquests is required to meet the obligations of the convention. The more information we have the better if we want to prevent avoidable deaths and improve services. These families should not have had their suffering so awfully compounded by having to fight to find out what happened to their loved ones. Things must change so that no family ever has to go through this exhausting, devastating and traumatic process again. Deputy Clare Daly's Bill will certainly help in that regard.

Deputy Pádraig Mac Lochlainn: I commend Deputy Clare Daly on the presentation of this important Bill, which my party will be strongly supporting. The Bill seeks to ensure maternal deaths result in automatic inquests. As it stands, maternal deaths are treated as deaths which must, as a rule or practice, be reported to the coroner. However, inquests are not automatically granted in these cases. Between 2007 and 2013, eight inquests were held following maternal deaths. All eight cases resulted in rulings of medical misadventure. The Minister of State mentioned the European Convention on Human Rights, Article 2 of which clearly outlines the responsibilities of every member state in terms of its duty to investigate deaths that take place in suspicious circumstances, or in circumstances that leave them open to question. Too many families in this State have been left facing the wall of bureaucracy on their own without the required supports. I want to say clearly today that the State is profoundly failing in its responsibilities under the European Convention on Human Rights and the Government knows it.

As the Chairman of the Joint Committee on Public Service Oversight and Petitions, I have

been working in co-operation with my colleague, Deputy Stanton, who is the Chairman of the Joint Committee on Justice, Defence and Equality. When both committees jointly held a day of hearings on this matter earlier this year, a range of experts made presentations and outlined the failure of this State to live up to its responsibilities. The transcripts of those hearings have been sent to the relevant Ministers, but what needs to be done is not being done. We have been faced with Bill after Bill in recent weeks, some of which have gone through all Stages in one day. When the Government wants, it can get Bills through the Office of the Attorney General and through all Stages. Therefore, there is no excuse for not having completed and made the necessary changes to the Coroners Bill 2007 by now. There is an opportunity to deal with this now. I fully support Deputy Daly's Bill going to Committee Stage. Apparently, we will have a couple of weeks of this Dáil after Christmas. We need to reconvene and the Government needs to take that opportunity to get this issue over the line before a new Government comes into power. It is a profound failure that this issue has not been addressed.

As such inquests are not automatic, families who should be spending their energy dealing with horrific loss must instead fight for the true facts of what led to the death of their loved ones. This situation is neither rational nor just. Deputy Daly has highlighted the fact that legislation dealing with the deaths of women who give birth in hospitals is urgently needed. Sinn Féin concurs with that view. The only way in which one can improve the lives of citizens in this State is not to congratulate ourselves on things that go right, but to examine openly and without fear or obfuscation the circumstances that lead to wrong results and to ensure the tragedies referred to by Deputy Daly are not repeated.

The culture of defend and deny that is rampant throughout this State in response to a fear of litigation not only costs the State millions as a result of medical negligence cases but also prevents safer and better quality of care for patients. The Irish Medical Council states:

> Patients and their families are entitled to honest, open and prompt communication with them about adverse events that may have caused them harm. Therefore you should;
>
> - Acknowledge that the event happened;
>
> - Explain how it happened;
>
> - Apologise if appropriate;
>
> - Give assurances as to how lessons have been learned to minimise the chance of this event happening again in the future.

Therefore, when patients or their families are treated with resistance and concealment of facts pertaining to a death or injury, is it any wonder they seek the path of litigation? The position taken makes little sense. In cases where information is not forthcoming, it is usually that information that is most useful in preventing the same tragic events occurring in the future. As Dr. Jo Murphy-Lawless of Trinity College has pointed out:

> A maternal death casts a deep chill over the entirety of a maternity unit. Given the legal neutrality of a coroner's inquest in determining how a woman died, staff too would benefit from what we can learn through the inquest process.

I want now to highlight a related issue. Some time ago I published a Bill, to be known as "Jake's Amendment", to amend the Coroners Act 1962 to allow for a coroner to return a verdict

of iatrogenic suicide. That Bill followed from the death in March 2013 of 14 year old Jake McGill Lynch who, shortly after being prescribed the antidepressant Prozac, ended his own life using a firearm. Jake, who was diagnosed with Asperger's syndrome, was given the antidepressant drug, despite research stating that the drug has no benefit for children with Asperger's syndrome and despite the emerging evidence of harm. In the midst of their grief, Jake's parents had come to understand that their personal tragedy was one that has been shared by thousands of families whose loved ones had died as a result of antidepressant-induced suicide.

Jake's parents wanted the Coroners Act to be amended in order that a coroner could return a verdict of iatrogenic - medically induced - suicide where such is the case. This is an issue that must be highlighted. A verdict of suicide returned in accordance with the provisions of the Act of 1962 must be differentiated from a verdict of iatrogenic suicide. Iatrogenic suicide is the ending of one's own life where the effect of medical treatment undertaken by the deceased, including any prescribed medication, is the primary cause of such an action.

My Bill is in the system but, as the system here is a lottery, it is the luck of the draw whether it will ever make it into the House. This is frustrating, as I have repeatedly called for it to be taken. Therefore, when the Government is considering the Coroners Bill 2007 and addressing the issues raised by Deputy Daly today, I urge it to look also at the issue of iatrogenic suicide. In the case I mentioned, the coroner made a finding that gave some comfort to the family. One hopes lessons will be learned from that. I urge the Minister of State and his officials to take note of that when they consider these issues.

The Coroners Act of 1962 is no longer fit for purpose and should have been repealed and replaced with an amended version of the Coroners Bill 2007 as a matter of priority. In the amended version of the 2007 Bill, there should have been a comprehensive list of verdicts open for a coroner or a jury, as the case may be, to return. This list should have contained provision for verdicts such as those mentioned by Deputy Daly or me today.

Sinn Féin supports and commends Deputy Daly's legislative proposal. It makes sense for families suffering tragic loss, in the context of preventing the recurrence of such tragedies, and of reducing traumatic and financially prohibitive legal actions.

Deputy Sean Fleming: On my behalf and on behalf of Fianna Fáil, I support Deputy Clare Daly on bringing forward this legislation, the Coroners Bill 2015. Essentially, the Bill focuses on one issue, the need for an automatic inquest into all maternal deaths. We should all be ashamed that the Coroners Bill 2007 has been sitting on the shelf for so many years without having been completed. It is urgent that it is completed, although it probably also needs to be updated and modified.

Many people listening to this debate might wonder what we are talking about. When we talk about maternal death, we are talking about the death of a mother during pregnancy or within six weeks of giving birth. This has been spelled out, but not everybody knows what we mean by maternal death. I thank Deputy Daly for bringing forward this legislation, and I hope it gets to Committee State as soon as possible with a view to enactment in legislation as quickly as possible. Fianna Fáil will support that.

We all have personal experience of the issues we discuss and that is often what makes us good legislators. We are not normally here on a Friday afternoon and are usually out in our constituencies meeting people and dealing with their personal experiences. Much of what we

say here is based on the views of the people we meet, which we must reflect. I am not aware of many maternal deaths in my immediate area, but I have some experiences of relevant issues. One case I am familiar with concerns a similar issue, the death of baby Mark Molloy in the maternity unit of Portlaoise hospital. In that case, the parents were lied to by the HSE and they had to fight hard for an inquest. Eventually, they got an inquest, but had to fight on again and again because the system here is geared to protect those in the system. It is not geared to protect the citizen.

Baby Mark's parents were not told the truth and senior HSE management covered up the circumstances surrounding his death. I have often wondered whether it is a criminal offence to cover up a death. I do not know, but I have asked the question several times and have said the issue should be examined. I believe those in the HSE who covered up deaths in situations such as this are not fit for office. Their actions should be examined. It is not right that people can cover up and deny responsibility for a death and pretend it did not happen. They try to explain it away and hope the people asking questions will go away. Thank God that many parents fight for the truth in these situations.

I also know of a mother who was giving birth in Portlaoise hospital but who had to be transferred urgently by ambulance to the Coombe hospital in Dublin. Halfway there, she deteriorated and had to be taken to Naas hospital. Thankfully, she survived. The reason she was brought to Naas was to save her life. There was no maternity unit in Naas hospital so it was not possible to save the life of the child. She spoke to me subsequently about her experience saying that she could not get information on what had happened. This is the nub of what is wrong. People know mistakes have been made but refuse to admit the truth and try to cover it up. Perhaps they feel they will be embarrassed if the truth comes out and that they will not look good, so they want to protect themselves and protect the organisation and hope things will go away. Telling the truth would solve the anguish of many parents in those situations. It does not correct what went wrong but it is important to get to the truth. The withholding of the truth is a double injustice for many of the families concerned.

An additional flaw in the way the situation is structured within the HSE in recent times is that the State Claims Agency manages all the legal defence cases on behalf of the State. There is now an absolute separation of the settlement of a case by the State Claims Agency from the people who were involved when the incident occurred. Nobody in the HSE cares because once cases go to the State Claims Agency it is off the books of the HSE and it has nothing to do with it anymore. In some cases of children who have suffered catastrophic injuries at birth, the case is settled in two years or it could even be seven years. That time lapse is causing further problems because lessons are not being learnt. Too many internal private reports within the HSE are not being shared. People are embarrassed and they might try to do something in one hospital but the information is not being shared. That is a complete breach of governance.

As has been said about other organisations, it is the first function of the HSE to protect the HSE. Anyone who runs into difficulty with any section of the HSE will find that once senior management gets involved there will be a clampdown on information and the first instinct is to protect the HSE. That has happened in several organisations. It happens in local authorities, education and training boards and right across the State. It is probably human nature that people react to protect themselves from an allegation or accusation but that should not be the case. People want the truth more than anything else. That is the reason we must take this matter out of the hands of those who currently deal with it to ensure there is an automatic inquest in all those situations carried out by somebody utterly independent of the organisation where the

incident occurred. When one has a complaint one is always told that one is an isolated case and that it is the first time it ever happened. Everybody can empathise with that nonsense and that standard line from many organisations.

A confidential maternity death inquiry based in UCC was carried out which showed an increase in the number of maternal deaths in the 2010 to 2012 period. The report showed also that the number of maternal deaths in this country has risen sharply and the pregnancy-related death rate is now higher here than in the United Kingdom. The rate of maternal death based on hospital reports and other sources is four times higher than the official figures gathered by the Central Statistics Office from death certificates. That says it all. Official Ireland records deaths in a certain way but when one digs deeper one will find that the truth is different. I am being hard on many public organisations but, unfortunately, the evidence of that single statement proves that what official Ireland records is not the truth or the full story and it is part of a cover up. People must accept that.

There were 38 recorded maternal deaths between 2009 and 2012. Some of them may have been directly due to obstetric causes while others were caused due to pre-existing conditions and other such issues. The number is very high. We owe it to Tania McCabe, Evelyn Flanagan, Jennifer Crean, Bimbo Onanuga, Dhara Kivlehan, Nora Hyland, Savita Halappanavar and Sally Rowlette, who all died of medical misadventure, as determined by inquests to deal with that issue. In those situations 14 children lost their mother and the families had to fight to get to the truth. People should not have to fight to get to the truth. That should be basic and endemic to every organisation. That is the reason the legislation is required, if for no other reason.

I support the passage of Deputy Clare Daly's legislation. We should have dealt with the Coroners Bill 2007 long before now. I hope there is time to deal with it. The Minister of State, Deputy Simon Harris, has seen how quickly we can deal with legislation. This is the sixth separate item of legislation I have dealt with in the House today. Four of them were completed in two hours and a number of items were guillotined. Deputies were able to come to the House and in a guillotined debate lasting less than two hours approve a budget of €369 million for the next three years to run the Oireachtas. That was no problem. The House can dispose of legislation within hours if it chooses to do so. We have had four examples of the Government guillotining legislation. It is possible if we want to get something done. Christmas is coming. We are near the end of our term. We can deal with legislation and dispose of it following two hours of debate. This is the sixth item of legislation I am dealing with today but, unfortunately, this Bill is not being completed today; unlike the first four, it is being shoved off to a committee. I ask the Government to show the same sense of urgency in getting the Bill through Committee, Report and Final Stages in the next week as it has shown in the first four legislative items that were guillotined through the House today.

Deputy Richard Boyd Barrett: I commend Deputy Clare Daly on bringing forward this amendment Bill. I also pay tribute to the families who have lost loved ones, who have come here today and have campaigned for this change to make the Coroners Act 1962 what it should be, in order to deal with the situations and circumstances of today. An overhaul of the Bill is long overdue. We must ensure that people who lose loved ones in maternity services have full justice and get full disclosure and information about the tragic circumstances without having to fight for it, often against the impulse of institutions, hospitals and authorities to cover things up when mistakes have been made. Their refusal to acknowledge mistakes, for fear of the legal consequences or financial cost to the State, whatever the reason, it leads institutions to cover things up or to deny mistakes and misadventure, causes additional pain, suffering and frustra-

tion for people who have lost loved ones. The Government cannot act a moment too soon to do everything in its power to ensure that sort of injustice and cruelty is not visited for one moment longer on people who are already suffering tragic circumstances.

I know personally of the distress caused following a death when I lost a daughter within a few weeks of her being born. There was no instance of medical misadventure but it was a shock to lose my own daughter. In the weeks leading up to her inevitable death all we wanted was information, the truth about what was happening, because it is hard to understand that one is going to lose someone that one loves and that one wants to live.

We must do everything we can to ensure that people who suffer these tragedies and who are victims of medical misadventure get full disclosure, accountability and the truth about everything that has happened to their loved ones. That is particularly important given the State's terrible history when it comes to the treatment of women and the suffering that has been caused because of the State's attitude towards women. It is doubly important that on the specific issue of maternal deaths during or after pregnancy there is a requirement for the fullest possible investigation. It should not be left to the whim of the coroner to ensure there is a full inquest. I commend Deputy Clare Daly and hope that the Government will not just not oppose this Bill but will move it through the House and bring about this necessary and overdue change as quickly as possible.

I also want to take the opportunity to raise a particular case which concerns an infant death in maternity services. There was a similar battle by the parents of that infant for the truth about the death of their daughter, Jennifer Anna McGarry. I talked to her parents again today because I was aware that this Bill was before the House and it was an opportunity to raise the issue. I first met Stephen and Catherina McGarry, who are from Sallynoggin in my constituency, in late 2013 when they told me their terrible story involving the tragedy and the injustice they then faced. They faced this injustice more recently at the hands of the HSE, but this dates back to the death of their daughter Jennifer Anna in 1991 in the Coombe hospital, when it would have been under the Department of Health. They are still seeking the full justice, disclosure and accountability that they have not received in respect of the death of their daughter.

I will briefly outline what happened. Jennifer Anna was born on 28 November 1991 and died on 14 February 1992 in the Coombe hospital. The registrar's report of the time described the birth as a routine delivery. In fact, a subsequent investigation reported that midwives said that it was far from routine and was a very traumatic delivery involving the use of forceps, which resulted in catastrophic spinal injuries to Jennifer Anna and her subsequent death. An internal post mortem was held following her death, but the requirement under the Coroners Act that the case be referred to the coroner was not discharged by the hospital. It never passed on the details of the case to the coroner to look at. Subsequent to that and without the permission of the parents, the baby's organs were taken and the parents never got them back. As they described it, they buried a shell. This happened without their permission. Catherina became ill a year later and had a stroke. She had a number of miscarriages when they tried to have children afterwards. They certainly believe there may be a connection between the traumatic delivery and death of their daughter and her subsequent health problems and inability to have a child. As they see it, this ruined their lives and their hopes for their lives.

They have been fighting ever since for a proper investigation into this case. Twenty-three years later, after campaigning against every kind of obfuscation, frustration, denial and, as they would see it, cover up, a report was produced in November 2015. I suspect it was partly

because I tabled parliamentary questions in November 2013 and because of the continuous, relentless and courageous campaigning of Stephen and Catherina. This investigation acknowledged everything they had contended all along. It said that there should have been a Caesarean section at an earlier time in Patient X's labour due to the failure to progress the labour and that this would have resulted in Baby X - Jennifer Anna - not being delivered by forceps, thereby most likely preventing the injury to her spinal cord that occurred and that eventually resulted in her death. It also acknowledged the failure to hand the case over to the coroner and that consent should have been obtained for the removal of Jennifer Anna's organs.

The other part of this story is that the doctor at the centre of this who carried out the forceps delivery subsequently moved to England and, in the years afterwards, was the subject of 40 separate complaints by mothers whose babies he had delivered and was ultimately suspended from practice. Judging from the evidence in England and the reports, it appeared that he was somebody who had systematically engaged in medical misadventure or negligence, whatever you want to call it.

Stephen and Catherina got an apology, but they have not had accountability or a real explanation. Most recently, this case has been raised by Deputy Martin in the past couple of weeks. Catherina and Stephen have asked to meet the Minister to explain what they want. To put it simply, they want a fully independent investigation that establishes why the Coombe hospital broke the law in not referring this case to the coroner and why it took 23 years to force some kind of investigation - one that has still not really acknowledged why the incident happened and who was responsible. I appeal to the Minister of State not just to support this Bill but to consider this case and the need for more robust legislation in this area when it comes to reportable deaths of children in maternity services and the requirement for full inquests, and, in this specific case, the need to give Stephen and Catherina the meeting with the Minister that they want and an independent investigation into the death of Jennifer Anna, which has dominated their lives ever since and caused them such hardship and suffering.

Deputy Seán Kyne: I welcome this legislation from Deputy Clare Daly. We have often been told in other debates that our maternity services are the safest in the world and, clearly, in the majority of cases, they are, but when deaths occur, they are highlighted very often on television and in court proceedings. Coming from Galway, we all know about the tragic case of Savita Halappanavar in the very recent past.

This seems to be a very sensible Bill, and I welcome the Government's support for it, but what could be a simple change to the existing Coroners Act is being delayed because of the welcome necessity for a complete overhaul of the entire coroner system. That is regrettable, because an automatic inquest in the case of maternal deaths, as outlined in Deputy Clare Daly's Bill, seems very sensible and something that should be done automatically.

I know that a complete overhaul of the coroner system is being examined. I have been led to believe there will be an increased emphasis on delivering leaner, better integrated and more customer-focused public services. I will address better integrated and more customer-focused public services in respect of Part 7 of the Bill, which concerns the conduct of an inquest. Section 47 states:

> A coroner shall, whether by post or such other means as he or she considers suitable, arrange for the notification of any or all of the following persons—

(a) a family member of the deceased,

(b) any witness whose presence is required, and

(c) any interested person of whom the coroner may be aware and who, in the opinion of the coroner, ought to be notified, at least 14 days before an inquest is to be held, of the date, time, place and subject of the inquest.

I want to speak about this not in respect of maternal deaths but in respect of a particular case.

To protect the privacy of the individuals involved, I will not name names but I want to highlight the situation that arose. I discussed the matter previously with the former Minister, Deputy Shatter, and the Minister, Deputy Fitzgerald, at an internal meeting. A constituent came to me - we will call her Mary - who had lost her mother. Her father had passed away previously and she had no siblings. Her mother died at home, alone in a town some miles away from Mary. Like any death, there was the grief and everything that goes with it. There was an autopsy and pathology examinations. What followed that was a very long period of waiting for the pathology results to come through. I have checked with colleagues here who are doctors and they say normally it should not take more than a couple of months. This went on for months and months. Meanwhile, I had contacted the coroner, who was very helpful but said the pathology reports were still awaited and that an inquest could not be ordered until they arrived. Mary herself was on to the coroner and it was the same story. The coroner eventually rang Mary to say they were still waiting for the pathology report. That was coming up to a year after Mary's mother's death.

Subsequently, a friend of Mary happened to be in town one day and by chance met Mary's mother's carer. The carer expressed shock that Mary had not been at the inquest into her mother's death. Mary was not at the inquest because she had not been notified of it. She did not have a clue that inquest was going ahead a year after her mother's death. This put Mary into another period of shock and grieving as she dearly wanted to be at the inquest. She had things to say, which I will not get into, about care and mental services in particular. Further to that, when she went looking for a copy of the inquest report, she was charged for it. She subsequently had the charge overturned on appeal but it was a further annoyance. Mary was deeply upset that while she was at work one day an inquest into her own mother's death was taking place and she did not have a clue about it. When she contacted the coroner subsequently, she was told the coroner had notified a local garda in the town. Mary did not live in that town and the garda did not have a correct number for her. He stated that he told Mary's uncle about it but Mary's uncle did not tell Mary. They may not have been getting on or he may have felt it would have been better that she not attend the inquest. He may have been trying to protect her or something of that nature.

In any reform of the legislation relating to coroners and the Coroner Service, there needs to be a better system. No way should an inquest into a death take place when the next of kin does not know about it. If the person does not go that is his or her own business but to not even know about it is scandalous. It caused Mary grave upset. In section 47 there needs to be a specific reference to something like registered post or whatever in order to ensure the next of kin knows about the date and place of an inquest. When I highlighted this to the former Minister, Deputy Shatter, and his successor, Deputy Fitzgerald, they both felt it should be examined. I want to put the issue on the record of the Dáil, particularly for the people from the Department who may be involved in a future Bill.

Minister of State at the Department of Finance (Deputy Simon Harris): I thank Deputy Clare Daly and all those who contributed to the debate about these very important issues. I reiterate that it is the Minister's intention that the Government will not oppose this Bill on Second Stage. The Minister very much appreciates the intention behind the Bill and what the Deputy is trying to achieve.

As the Minister has asked me to indicate, the legislation will require substantial amendment on Committee Stage for the reasons she has outlined. From my reading of all the material, I think it boils down to two issues: the ongoing review that she has in the Department of the Coroner Service to make sure we can modernise it and get it right; and the issue of mandatory inquests, to make sure there is not any unintended consequences whereby a bereaved family might find itself having to participate in an inquest which it may not wish for in certain circumstances. They are the two points I would make in the context of the Minister not opposing this Bill.

A number of contributions from Deputies confirm and underline the important contribution made by the coroners system and the value placed on it by bereaved families. That says a great deal about its value. Deputy Mac Lochlainn referred to transcripts of the joint committee hearing which considered the importance of ensuring the coroners system complies with the European Convention on Human Rights. After that hearing, the Minister requested copies of the transcripts and they are being fully considered in the context of her review.

As I have already indicated, the underlying issue is the need to make sure we have a comprehensive review of the coroners system which gives a solid financial and administrative basis to that system in order that it can be modern and fit for purpose. This is an issue which the Minister, Deputy Fitzgerald, has signalled is a priority for her. It needs a well-thought-out, revised framework for coroners and needs to be matched by appropriate financial resources also. The Minister's review aims to ensure a solid foundation to modernise the coroners system and to ensure that the quality of service is in place that Members of this House and, most particularly, bereaved families would wish for. I can inform the House on behalf of the Minister that the review is already well progressed. The Minister wants me to reassure Deputy Daly and all Deputies who have contributed that it will take full account of all the important issues which have arisen today.

On Deputy Boyd Barrett's point about transparency and consent in respect of organ retention at post mortem examinations, this is a very important issue. I can confirm to the Deputy that it is being considered in the context of the Minister's review of the Coroners Bill. I will certainly bring to the Minister's attention the specific, very difficult and sensitive case the Deputy raised.

I want to express the Minister's appreciation to Deputy Clare Daly for bringing the Bill forward. I confirm that the important issues that have been raised will be given in-depth consideration and will be integrated into her review of the coroners legislation. In particular, I thank the bereaved families who have been here to observe our debate. I thank them for their presence, which reminds all of us of the absolute importance of getting this right.

The Government does not oppose this Private Members' Bill, subject to the need for amendment as I have already outlined, to ensure that it will be legally valid and that it will lead to the effective outcomes I am sure Deputies on all sides wish to see.

Deputy Clare Daly: I will try to be as brief as possible. I am conscious it has been a long

day here, particularly for people in the Visitors Gallery, many of whom have travelled very long distances to be here. At the heart of this is the right to know. Too often in Irish institutions, as Deputy Wallace pointed out, when a mistake is made, the automatic instinct is to cover up, deny and make the problem worse. We have encountered that in many of our actions in respect of cases of Garda malpractice, where families may have lost a loved one through a murder or whatever. It is the same mentality that families here have met from the HSE and the health services. It is just not good enough. A modern society has to be accountable to its citizens. It has to behave openly and transparently in the interest of the public good.

As I acknowledged at the start, I appreciate the fact that the Government allowed this to be discussed today because it was off the agenda. It is important that the Government has agreed not to oppose it. That certainly never has happened to me in five years in the Dáil. This is the first thing that was not opposed, so that is a positive and I am not making light of it.

I am really strongly urging the Government not to lead people on. I am not unrealistic either. I know that it is the end of the lifetime of this Dáil and that there are only a couple of weeks of business left. It will be difficult to get this into a committee but I strongly urge the Government to do so.

Only the Government side can send business to a select committee, and only it can get this Bill to Committee Stage. I beg the Government to do that. From what she has said, I understand that the Minister is going to propose many amendments to the Bill. Many of them are to do with the rest of the Bill or the old Bill, and the work is well under way. That is grand. I accept it. However, I want to concentrate on the points made about this aspect, because we are very clear, and those who have done the research are very clear, that an automatic inquest is the way forward. While the Minister is most definitely not ruling that out, she did not say she was definitely providing for it either in the speech she put on the record today.

5 o'clock

One of the points that concerns me slightly is the fact that the Minister referred to the arrangement provided for in the original Act, and which *de facto* exists now, whereby the coroner is required to investigate a maternal death. That is a different thing. The problem is that after an investigation, it is entirely at his or her discretion whether to hold an inquest. Really, it would only provide a legislative basis for the current rule of practice. At the heart of this is that when a reportable death is notified to the coroner, all he or she has to do is make inquiries as to whether a doctor can certify the cause of death. If the coroner has a doctor who signs off to the effect that it was a death from natural causes, there will not be a further investigation. That fulfils the requirement to investigate. In the case of Bimbo Onanuga, the coroner decided that there was no need for an inquest because the post mortem report carried out by the hospital was accepted as a full explanation of her death. When her partner fought valiantly for the inquest, the inquest told a horrendous story. I was there for part of it and, my God, was that hospital culpable. A verdict of medical misadventure was returned. That is the problem with requiring only an investigation. That is why we need it to be an inquest. An inquest is a public hearing where organisations whose actions are being questioned cannot hide, which is absolutely critical.

A point was made about whether there would be unnecessary inquests which would cause distress to families. I am, obviously, very sensitive about this and would like to ensure it would not occur, but we are talking about inquests in cases of maternal death. A maternal death within the timeframe we indicated earlier is a death from any cause related to or aggravated by pregnancy or its management but not from accidental or incidental causes. As such, maternal death

in those circumstances would not lead to an inquest, and I think we are covered. The examples given of Baby McGarry and the family of Antoinette Pepper show that all families want this. Everybody wants closure and information. Given that the coroner has decided to grant an inquest into the death of Baby McGarry, and given that Antoinette Pepper's death occurred four years before that, the need for an inquest in her case is firmly back on the table. I reiterate that.

It is unusual that the Department of Justice and Equality is discussing this issue. It is a bit peculiar. What we are talking about here is really a health service matter, and the requirement for women and their families to have an assurance that we have gold-standard maternity services in place. However, it is clear from many instances to which other Deputies have referred over the past period that we have a dysfunctional maternity service. Sadly for many of those in the Visitors Gallery, some of the assurances given by the Minister that matters would be addressed have not been followed up. That is a very real problem. The noted journalist Sara Burke, who has done extensive work in this area and investigated many of the cases, made the point that many of them related to poor and negligent care but that there were also a lot of other common factors. All the cases were initially denied and ignored until somebody blew the whistle or kept the pressure on. Families had to fight hard.

Another key concern and trait was that catastrophic cases were not learned from. That is a huge problem. Given that an independent panel reviews the deaths of children in care, why do we not have a similar provision in respect of deaths in maternity units? It is an absolute must and would make things better for all. That is the key point and it is the motivation. Recommendations have been made by juries or coroners following inquests as to how to prevent similar deaths in the future and the HSE gave assurances that lessons would be learned and that clinical care and practice would change, but they did not. If they had, we would not be here and some of the families would not have suffered the losses they did. The point has been made that there was not even a nationally accepted definition of maternal sepsis even though there had been an assurance that there would be following the case of Tania McCabe. Following the inquest and investigation into the death of Savita Halappanavar, we found out that no definition had been put in place. Even basics are not in place. Statistical sleight of hand has been used to cover up the figures. The reality is that this is not the safest country in the world in which to give birth. There are huge problems of dysfunctionality in maternity services and there must be a complete and utter radical overhaul of that service.

The Minister for Health initiated a national maternity strategy to review this area, but there are concerns that this will not take on board some of the key contributions made by women and midwives. We have a rather structured and patriarchal system of maternity care in this country, which utterly needs to be tackled if we are going to get justice and the best levels of care. What has been done today is important. It is a stepping stone in raising awareness that would not have happened without the work of the people in the Visitors Gallery. It puts on the map the Elephant Collective exhibition, which is going on a nationwide tour. That will help to educate people. In particular, it firmly puts the need for us to address the deficiencies in our maternity services centre stage. Things are too rooted in the old Ireland, the Ireland that allowed us to have women shackled in Magdalen laundries, which did not have a problem with women's pubic bones being sawn open to facilitate more deliveries of children and which did not have a problem expelling thousands of women out of this country every year to have routine abortions. It is just not good enough. Women know best for themselves and their bodies. Their families and loved ones know best how to get answers in their cases. We owe it to them and we really owe it to the children and partners of the women who are already dead to ensure that it does not

happen again.

We are a bit tired and emotional after the week we have had, but it is an emotional subject too. It has been an utterly harrowing journey for the crusaders in the Visitors Gallery and the Government owes them. Deputy Mick Wallace made the point that his policing Bill was passed on Second Stage but never went any further. I acknowledge that work has been done on this and accept the Government's bona fides in its assurances that the Bill will inform the new coroners Bill. However, I assure the Minister that people will not accept going down the road of an investigation. Public scrutiny is the only way forward for the institution currently called the HSE and for the management of many of our hospitals. I hope we have done a good day's work here today. I thank sincerely the people who are here to support us.

Question put and agreed to.

Coroners Bill 2015: Referral to Select Committee

Deputy Clare Daly: I move:

That the Bill be referred to the Select Committee on Justice, Defence and Equality pursuant to Standing Orders 82A (3)(*a*) and 118 of the Standing Orders relative to Public Business and paragraph (8) of the Orders of Reference of Select Committees**.**

Question put and agreed to.

The Dáil adjourned at 5.10 p.m. until 12 noon on Monday, 14 December 2015.