



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Déardaoin, 27 Meitheamh 2013*

*Thursday, 27 June 2013*

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

*Paidir.*

*Prayer.*

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## Leaders' Questions

**Deputy Billy Kelleher:** The new Central Bank code on mortgage arrears favours banks, and the balance of power still lies with the banks in regard to repossessions. This new code leaves families all over the country who are currently in arrears in huge difficulty. It is a charter for home repossessions. It favours the banks and there is no independent oversight. Will the Minister agree that banks, because of their impaired balance sheets and the pressures they are under in trying to address their mortgage loan books, will become very aggressive in repossessing homes? There is no independent oversight with regard to sustainable solutions and if there is an appeals process, it is within the bank. Will the Minister agree that for the 90,000 families who are in arrears of 90 days or more on their mortgages, this code of conduct holds no hope? Many of them are outside the protection of the code because they are outside the moratorium on repossessions. Banks will begin to get very aggressive from 1 October this year because of this new code of conduct. We said that independent oversight was needed. We believe this code offers nothing other than favouritism to the banks with regard to repossessions.

David Hall of the Irish Mortgage Holders' Organisation said it was reprehensible that the Central Bank was rolling over and giving the banks everything they wanted. FLAC has also said that it is disappointed with the new code, as it favours bankers. Everybody would like to see a situation in which there was independence, oversight and monitoring of fair and sustainable solutions. It has been said that families are still watching Sky and not paying their mortgages. We have situations in which families are now on the basic levels of sustenance with regard to food, shelter and heating. They cannot partake in society and they cannot provide for their families in a sustainable way. This code offers no solution and certainly no hope to the 90,000 families who are struggling on a daily basis to pay their mortgages and live with some decency and dignity.

**An Ceann Comhairle:** I call the Minister to reply.

**Deputy Eric Byrne:** The Deputy's party did not leave them with their dignity.

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**Deputy Finian McGrath:** Deputy Byrne was elected to give it to them.

**An Ceann Comhairle:** Deputies, I have called the Minister.

**Minister for Social Protection (Deputy Joan Burton):** As we listen to the Anglo Irish Bank tapes, they sound more and more like the vampire tapes. I am not going to go into all of the history of the Deputy's party, but the issue is that those people sucked the lifeblood out of the country, and those in the Deputy's party had a large element of responsibility for that.

**Deputies:** Hear, hear.

**Deputy Barry Cowen:** What is the Minister trying to say? What is she implying?

**Deputy Joan Burton:** They could come in and tell us exactly what they knew and when they knew it, but let us move on to the code of conduct on mortgage arrears. It is important to remember first the steps the Government has taken since coming to office to address the situation. It started off in a situation in which we had an extended period of forbearance, and that has been extremely important in keeping roofs over the heads of families. Second, the banks were initially in a set-up in which they were going to kick the can down the road indefinitely. This is not possible if we are to sort out the finances of the country and get the country back to work and to some level of economic prosperity. The actions by the Government, including the code on mortgage arrears, have been to continue to protect families while setting up mechanisms and measures that allow for sustainable debt resolution for the very families about whom the Deputy speaks. I and every other Deputy in the House understand that they are suffering and are in great difficulty.

The targets that have been set with regard to the principal banks and the covered institutions are to provide sustainable mortgage solutions for 30% of distressed borrowers by the end of September and for 50% of distressed borrowers by the end of 2013. The targets will become progressively more demanding such that the vast majority of distressed borrowers will have been offered solutions by the end of 2014. The Dáil and the Seanad spent a considerable amount of time examining legislation on the Insolvency Service of Ireland in order to provide options for certain borrowers who had debts that were not sustainable in the long term. The Deputy referred to Mr. David Hall who stated on "Morning Ireland" that there was no immediate risk to borrowers. This is a process which must be pursued in the interests of recovery for the country and the families concerned to the point where debts will be sustainable. I thought that was the policy of Deputy Billy Kelleher's party.

**Deputy Billy Kelleher:** The Minister has said the banks sucked the lifeblood out of the country. She is now setting out a code of conduct for the banks to suck the lifeblood out of families. There is no independent oversight. She spoke about sustainable solutions and resolution mechanisms, but the banks will be deciding what is sustainable. Families will have no role in defending or arguing their case. The bank will present the borrower with what it views as a sustainable solution. It is unacceptable that we will not have independent evaluation or oversight of what banks offer with regard to sustainable solutions. Of course, we want the banks to provide sustainable solutions, but they must be sustainable for the families concerned. That is my difficulty with the code of practice. It does not cater for families in significant distress and under huge pressure, both financially and psychologically-----

**Deputy Robert Dowds:** Your policies hugely inflated house prices.

**Deputy Emmet Stagg:** You put them in distress.

**An Ceann Comhairle:** Please, Deputy Billy Kelleher's time is nearly up.

**Deputy Billy Kelleher:** I remind the Deputies opposite that the election took place two and a half years ago.

**Deputy Emmet Stagg:** The problems are still there.

**Deputy Aodhán Ó Ríordáin:** We are coming here everyday to clean up Fianna Fáil's mess.

**Deputy Billy Kelleher:** The solutions-----

**An Ceann Comhairle:** Will Deputies, please, speak through the Chair?

**Deputy Finian McGrath:** Deputy Aodhán Ó Ríordáin will not have to come for here much longer.

**Deputy Billy Kelleher:** We still have no solutions.

**An Ceann Comhairle:** The Deputy should not respond to the interruptions.

**Deputy John Halligan:** He is not allowed to speak.

**An Ceann Comhairle:** If Deputies do not stay quiet, I will suspend the sitting. This is nonsense. I ask Deputy Billy Kelleher to make his point. He should not make speeches; he should just ask a question.

**Deputy John Halligan:** That is not his fault.

**Deputy Billy Kelleher:** The Minister does not get it.

**Deputy Kathleen Lynch:** We get it.

**Deputy Billy Kelleher:** Approximately 145,000 families are in mortgage distress. Looking for scapegoats or pointing fingers is not a solution for those families who are watching this debate and hoping a solution will be found. Even at this stage, is it possible to include something in the code of conduct that would, at least, allow independent oversight and evaluation of proposals for sustainable solutions? It is completely on the side of the banks and anyone with common sense will realise that they will become aggressive in repairing their distressed mortgage books.

**Deputy Joan Burton:** I am concerned that the Deputy is attempting to unduly distress families who are already worried enough and want a solution to the difficulties which have been ongoing for four years or more in many cases. If he is seeking to help families in distress, he should have the courtesy to speak about facts and what the code of conduct provides for. It provides for a structured system over this year and next for families to engage with their lenders in finding a sustainable solution to their debt problem.

**Deputy Timmy Dooley:** For the banks.

**Deputy Joan Burton:** When the Deputy's party was in government, its solution was simply to kick the can down the road. Kicking the can is understandable in the early stages of a crisis-----

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**Deputy Timmy Dooley:** The Government is kicking the can into borrowers' faces.

**Deputy Joan Burton:** -----but it is not sustainable if the families are so indebted that they cannot sustain where they are living. The code of conduct, the Insolvency Service of Ireland and the mortgage advice and information telephone line-----

**Deputy Timmy Dooley:** It is a code for the bankers.

**An Ceann Comhairle:** Stay quiet, please.

**Deputy Joan Burton:** -----provide a series of mechanisms to help people in terrible distress about their debts to find a solution. Deputy Billy Kelleher suggests the Central Bank should not engage in such a process. Fianna Fáil's way with the banks is, basically, any old way.

**Deputy Timmy Dooley:** The Government's way is to support the banks.

**Deputy Joan Burton:** This process will help the country by helping distressed borrowers and families to keep a roof over their heads.

**Deputy Timmy Dooley:** This is a process for evictions.

**Deputy Joan Burton:** What does that involve?

**Deputy Timmy Dooley:** Evictions.

**Deputy Joan Burton:** For a small number of families, it may involve the resolution offered by the Insolvency Service of Ireland. I suggest to the people who may be alarmed by what Deputy Billy Kelleher has said this morning that they contact the mortgage and arrears advice telephone service run by the Department. We also provide an independent accounting advice service for families who are approaching the stage of resolution and have to make a decision. This process is like buying a house in that it involves important financial decisions. Through the mortgage arrears resolution process of the Central Bank, the Insolvency Service of Ireland and the Money Advice and Budgeting Service, we have put in place a series of measures to allow families to seek advice and guidance before they make their critical decisions for their futures and family homes.

**Deputy Billy Kelleher:** The banks will decide at the end of the day.

**Deputy Mary Lou McDonald:** Whether vampires exist in reality, the characters we heard on the now infamous tapes are not fictional. All of us can appreciate the disgust, although not the shock, people felt at hearing the macho diatribes between these individuals. The disgust felt by the tens of thousands of families across the State who are in mortgage distress is all the deeper. To listen to Mr. David Drumm describe how he planned to go to the Central Bank with his arms swinging to demand "the moolah" for his bankrupt bank is revealing. We know there will be no option for struggling families to refuse to pay the moolah or to pluck the figures from their posteriors.

It is all the more shocking to be confronted with the details of a new code of conduct for mortgage arrears on the same morning that we hear these revelations. The Minister has indicated this is part of a supportive process, but I challenge her on that claim. It abolishes the previous limit of three contacts per month from banks to customers in arrears. In other words, it allows opportunities for the harassment of families already under pressure. It introduces a three

month notice period before a bank can move to seek a repossession order, or eight months in the case of new arrears cases. Whatever about kicking the can down the road, this appears to be a case of acting with indecent haste. The code of conduct is best understood as part of a wider, co-ordinated attack on struggling homeowners. The Government has already passed legislation to make it easier to repossess family homes and tax the family home. At the behest of the troika, it has now introduced the new code of conduct which ignores much of the advice given by organisations that work with struggling homeowners. I ask the Minister to explain to those families with whom she has sympathised this morning the difference in treatment between the macho men of the banking world and the struggling householder.

**Deputy Emmet Stagg:** The Deputy's party voted for the guarantee.

**Deputy Finian McGrath:** Deputy Emmet Stagg's party voted to extend it twice.

**Deputy Joan Burton:** I find Deputy Mary Lou McDonald's comments interesting. I recall discussing at length with her predecessor as finance spokesperson in this House the reasons the Labour Party was voting against the bank guarantee and advising him to consider doing the same. I do not know why he did not or would not do so. All I can say about the impact of banking issues on the lives of families who are worried about holding onto their houses is that Deputy Mary Lou McDonald needs to think a little about the structures the Government has put in place. I agree with her that the country should never have been brought to this point, but I remind her that her party, among others, voted for the guarantee.

**Deputy Timmy Dooley:** The Minister's party has voted to extend it twice.

**Deputy Joan Burton:** It has resiled from that position ever since. The record of the House shows what happened.

**Deputy Finian McGrath:** The Minister thinks she is still in opposition.

**Deputy Joan Burton:** We have to deal with the catastrophe visited on the country and its people. Those who voted for the bank guarantee, including Sinn Féin, handed us the responsibility, as citizens and as a country, to deal with the awful and irresponsible actions about which we hear on the tapes. Deputy Mary Lou McDonald referred to those involved as the men after the moolah. If there is responsibility to be taken, it must be taken by everybody who voted for the guarantee.

**Deputy Finian McGrath:** Is the Minister blaming Fine Gael now also?

**Deputy Joan Burton:** The representatives of Sinn Féin are among those who have to take responsibility because they were leading lights in agreeing to the guarantee.

**Deputy Finian McGrath:** Fine Gael supported the guarantee also.

**Deputy Pádraig Mac Lochlainn:** The Minister is taking cynicism to a whole new depth.

**Deputy Joan Burton:** Can I comment on what we have set out in relation to families?

**Deputy Pádraig Mac Lochlainn:** The Minister is the queen of cynicism.

**Deputy Kathleen Lynch:** Sinn Féin did not know what it was doing. It was supporting Fianna Fáil.

**Deputy Pádraig Mac Lochlainn:** The Minister is the queen of spin.

**An Ceann Comhairle:** Do the Deputies have any idea how they sound on radio and television? I ask them to, please, allow the Minister to respond without their smart remarks.

**Deputy Kathleen Lynch:** I would not mind if they were smart.

**Deputy Joan Burton:** We have set up a process. Anyone who has ever been involved in debt resolution - I am speaking as an accountant - will appreciate that it is necessary to get the borrower and the lender to come together to reach an agreement that allows the borrower to recover and get back on his or her feet and also allows the lender to recover proportionate amounts of money that are recoverable. If one examines the detail of the Central Bank code of conduct, one will find that it refers to contact that "is proportionate and not excessive". Anyone who has ever been owed money, even at a domestic level, will know that people who owe money get so stressed that they turn away and fail to engage. We are providing for an engagement process that will allow families to reach a sustainable solution. If Sinn Féin is holding out the prospect of anything else, or suggesting there should not be an actual resolution between the borrower and the lender, it is making a false promise that cannot be delivered on, even if it does not intend to do so. We must help families to sort out their difficulties, slowly but surely. The structures are now in place to facilitate this. The Department of Social Protection provides support for 12,000 families, in terms of their mortgage interest payments, on a monthly basis. It also provides a telephone advice line that is run through the Citizens Information Board and funds the Money Advice and Budgeting Service. The Government and the Dáil recently established the Insolvency Service of Ireland. We now have the structures in place to allow families to come to sustainable solutions. That is what I want for families. I hope it is what Sinn Féin wants also.

**Deputy Mary Lou McDonald:** The Minister is an accountant and that was an accountant's answer, if I ever heard one. We all know that there has to be a resolution process for families in debt.

**Deputy Joan Burton:** I thank the Deputy.

**Deputy Mary Lou McDonald:** That has never been contested. The Government is proposing a process that will give the banks a veto.

**Deputy Joan Burton:** No.

**Deputy Mary Lou McDonald:** The Government is not providing for a level playing pitch for the struggling household and the macho men, many of whom are still in place in the financial system.

**An Ceann Comhairle:** Perhaps the Deputy might ask a question.

**Deputy Mary Lou McDonald:** It is neither even-handed nor fair to pit the moolah boys against the struggling householder.

**Deputy Kathleen Lynch:** Did the Deputy's party appreciate that when it voted for the bank guarantee?

**Deputy Mary Lou McDonald:** I ask the Minister to revisit her accountant's mindset and perhaps factor this in. She and her colleagues are always telling us how right they were on the

banks.

**Deputy Aodhán Ó Ríordáin:** We were.

**Deputy Mary Lou McDonald:** If that is the case, why did they leave the Anglo Irish Bank boys who treated the State with such contempt in place for five years after the guarantee on salaries of €175,000 and more?

**Deputy Aodhán Ó Ríordáin:** Where is Anglo Irish Bank now?

**Deputy Mary Lou McDonald:** They are presiding over circumstances in which none of these moolah men has been brought to account.

**An Ceann Comhairle:** May we have a question, please?

**Deputy Mary Lou McDonald:** Not one of them has faced time in jail.

**Deputy Patrick O'Donovan:** The Deputy should ask the man sitting beside her about that.

**Deputy Mary Lou McDonald:** The Government certainly does not have a charter for harassing them. There is one law for the rich and another for the poor.

**Deputy Aodhán Ó Ríordáin:** Where is Anglo Irish Bank now?

**Deputy Timmy Dooley:** The Deputy should go to Clontarf Garda station and make a complaint.

**Deputy Mary Lou McDonald:** The Minister is polishing her halo with regard to the banks.

**An Ceann Comhairle:** Will the Deputy, please, put her question? She is over time.

**Deputy Mary Lou McDonald:** That only makes what the Government is doing at this time all the worse. It has protected these people.

**An Ceann Comhairle:** The Deputy did not hear me. Would she, please, put her question?

**Deputy Ruairí Quinn:** She does not have a question.

**Deputy Mary Lou McDonald:** The Government has allowed them to stay in highly paid positions. At the same time, its response to the plight of struggling homeowners has been heartless.

**An Ceann Comhairle:** I again ask the Deputy to put her question.

**Deputy Emmet Stagg:** She should set aside the script.

**Deputy Mary Lou McDonald:** According to figures released last week, the number of people in arrears has increased for the 14th quarter in a row since September 2009.

**An Ceann Comhairle:** We are not here to make speeches.

**Deputy Emmet Stagg:** She is nearly at the end of the script.

**Deputy Mary Lou McDonald:** This has happened on the Government's watch.

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**An Ceann Comhairle:** I ask the Deputy to resume her seat and the Minister to respond to her.

**Deputy Joan Burton:** Is there a question?

**Deputy Mary Lou McDonald:** Excuse me, a Cheann Comhairle-----

**An Ceann Comhairle:** The Deputy is now one minute over her time.

**Deputy Mary Lou McDonald:** -----you gave the Minister considerable latitude.

**An Ceann Comhairle:** I did not. Will the Deputy, please, resume her seat?

**Deputy Mary Lou McDonald:** I would like to be afforded the same courtesy.

**An Ceann Comhairle:** I also gave the Deputy latitude.

**Deputy Mary Lou McDonald:** I wish to put my question.

**An Ceann Comhairle:** Put the question, please.

**Deputy Martin Ferris:** Stop interrupting her.

**Deputy Mary Lou McDonald:** Where did it all go so horribly wrong?

**Deputy Ruairí Quinn:** It went wrong on the night of the bank guarantee.

**Deputy Mary Lou McDonald:** Since when does the Labour Party back the big bankers and punish families?

**An Ceann Comhairle:** Will the Deputy, please, adhere to the Chair?

**Deputy Mary Lou McDonald:** Is that now the way of the Labour Party and its accountant Minister?

**Deputy Joan Burton:** I doubt that any accountant in Ireland knows as much about banks and banking as certain elements of Sinn Féin.

**Deputy Pádraig Mac Lochlainn:** There the Minister goes again. She is just the same as the Taoiseach. They always resort to the low blow.

**Deputy Joan Burton:** The knowledge any of the rest of us has pales by comparison with Sinn Féin's relationship with the banks and their moolah.

**Deputy Paul Kehoe:** They know where the safes are.

**Deputy Joan Burton:** It is unbecoming to let something that is so important to families degenerate-----

**Deputy Ruairí Quinn:** Yes.

**Deputy Timmy Dooley:** To banks.

*(Interruptions).*

**Deputy Joan Burton:** It is unworthy of Deputy Mary Lou McDonald.

**Deputy Martin Ferris:** The Minister has no consideration for families whatsoever.

**Deputy Joan Burton:** It is not her normal standard to make such comments.

**Deputy Mary Lou McDonald:** Of course, the Minister's comments are entirely worthy.

**Deputy Martin Ferris:** The Minister is on the side of the bankers.

**Deputy Joan Burton:** Deputy Mary Lou McDonald asked where it had all gone wrong. Unfortunately for the country, it went wrong on the night of the bank guarantee-----

**Deputy Dessie Ellis:** It went wrong long before then.

**Deputy Timmy Dooley:** The Government has extended it on a number of occasions.

**Deputy Joan Burton:** -----when Sinn Féin and others decided to transfer the debt to the backs of the people.

**Deputy Mary Lou McDonald:** The Government has extended it.

**Deputy Joan Burton:** That is why it is so tragic and sad to listen to the tapes.

**Deputy Barry Cowen:** Where are the tapes of the promises the Labour Party made before the election?

**Deputy Joan Burton:** In the three years after the bank guarantee, the country lost 250,000 jobs. The connection between this and Deputy Mary Lou McDonald's question is that many of the families in question are now struggling to meet their mortgage payments. What have we done as a Government?

**Deputy Mary Lou McDonald:** The Government has penalised the people in question.

**Deputy Joan Burton:** We have set up a procedure to find a resolution between the borrower and the lender.

**Deputy Pádraig Mac Lochlainn:** It voted to extend the guarantee repeatedly. The Government extended the guarantee again and again, even when it knew the full facts.

**Deputy Kathleen Lynch:** Hindsight is great.

**Deputy Pádraig Mac Lochlainn:** All we get from the Minister is spin and cynicism. The *Sunday Independent* devotes its front page to it every weekend.

**Deputy Clare Daly:** I am sure the Minister appreciates how sickened people are by what are called "the vampire tapes". Does she appreciate that the questions people are asking do not really relate to who said what to whom, or to whether politicians were just incompetent or incompetent and corrupt? They are asking what the Government intends to do about it. To be honest, slagging Fianna Fáil and waffling on as the Taoiseach did here for the past two days does not really cut it.

*11 o'clock*

The Minister might be interested to know that 26 members of the Czech Republic Parliament are in custody at the moment for crimes of a less serious character than what went on in

Ireland five years ago. Five years ago, the banking crime of the century - the theft of billions from men, women and children in this country - took place, and nothing has been done.

The Taoiseach told us yesterday that it takes time and that we are preparing a book of evidence, the exact same line that was given two years after the crisis. It is utter nonsense. What other crime would be treated in this way? Where is the fraud squad? Where is the Criminal Assets Bureau? This is what they were set up for. Any other crime scene would have been surrounded and the evidence taken. It was six months before the Garda made a visit to Anglo Irish Bank and two years before it even got the passwords to its computers.

The reason it is different is that there is a different attitude to crimes committed by people in suits. They are not considered to be real crimes. Also, of course, there was a fear that if the Garda had gone in, a connection to the political establishment might have been revealed. Now, we are expected to believe that a newspaper whose owner this time last year took Seán Fitzpatrick to the European Championships and then quashed the printing of those photographs is at the forefront of investigative journalism. We are expected to believe that the Garda Commissioner, who we know has a legal responsibility under the Garda Síochána Act to inform the Minister of serious matters of public interest, did not inform the Minister about these very serious tapes, yet they ended up in the hands of one of the Garda's favourite sources of information.

The greatest challenge is that we are expected to believe there is something unusual here. There is nothing unusual here.

**An Ceann Comhairle:** Will you put your question, please, Deputy?

**Deputy Clare Daly:** The only thing that is unusual is the scale of the arrogance, the scale of the delays and the scale of the inaction. I want to ask the Minister two questions. These are crimes. Why are the people who committed them not in jail? If the Minister, who is in power, says our laws are inadequate, what is she doing about them?

We have heard a lot from the Labour Party about how it did not vote for the bank guarantee. It voted for every other cut to pay for it. There is €25 billion in bonds in the Central Bank-----

**An Ceann Comhairle:** Deputy, will you please resume your seat?

**Deputy Clare Daly:** -----to cover the promissory notes on behalf of the Government. We know that once they are issued, this becomes sovereign debt. Given that-----

**An Ceann Comhairle:** Deputy, please.

**Deputy Clare Daly:** -----it has been revealed that this decision was made on misinformation, will the Government now commit to cancelling and not paying those bonds? It should not make the Irish people pay for the crimes of others.

**An Ceann Comhairle:** I want to be quite clear. We have now got into a habit. It is nearly 11.05 a.m. There are two minutes to ask a question and three minutes to answer, with one minute for a supplementary question. I am going to start sticking to that rigidly. I will switch off the microphones if Members do not adhere to the rules.

**Deputies:** On both sides.

**An Ceann Comhairle:** On both sides, yes.

**Deputy Billy Kelleher:** Tell the Taoiseach that.

**An Ceann Comhairle:** Will you please adhere to the rules? The Minister has three minutes to reply.

**Deputy Finian McGrath:** The Labour Party is heckling.

**An Ceann Comhairle:** I will chair the House, if Deputy McGrath does not mind.

**Deputy Joan Burton:** First, in view of what happened on a previous occasion, we all have to be very circumspect in what we say here in regard to matters that are due, I understand and I hope, to come before the courts early next year. It is right and proper that people who have been involved in what has happened to this country - this major disaster - should come before our courts. However, I do not think anything should be said here that would jeopardise the courts' ability to deal in the proper way with these matters.

Second, in regard to the tapes that have now been released, we have legislation before the Dáil as we speak which concerns the powers of the Oireachtas to carry out investigations. We have had no less than four scoping inquiries. The first was by Klaus Regling, the second was by Governor Patrick Honohan and the third was by Peter Nyberg, and we also had a fourth inquiry into the functioning of the upper echelons of the public service in the context of the events that took place, which was carried out by experts from Canada. We have had a great deal of inquiry and investigation into what happened. What is important is that we should be able, with all of the material that is available, to proceed to an appropriate inquiry.

With regard to arraignments before the courts, obviously, the operation of the justice system and the prosecutorial system in Ireland is properly independent of the Government of the day. However, I can say to the Deputy that the Garda and the prosecution authorities have, via the Attorney General and the Minister for Justice and Equality, indicated that it is expected that the prosecutions will be under way in court in the new year.

**Deputy Clare Daly:** The Minister's point about due process or the system being potentially tainted is utter nonsense. There are facts here. Laws were broken, this criminal activity happened and those who were responsible for it have not been brought to book. I do not believe the people out there are interested in Oireachtas inquiries. The critical thing they are interested in is that those responsible be brought to account, and, more important, that everybody else who is paying the price for their crimes be released from that life sentence.

**An Ceann Comhairle:** Will you put your question, please, Deputy?

**Deputy Clare Daly:** The Minister, unlike in the past when she was in opposition, has an opportunity to do that now. Why is she asking - forcing - the Irish people to pay for the crimes of these bankers while they walk free? The Government has the power to cancel the bonds that are under the Central Bank. Let the ECB take a hit rather than special needs assistants, parents and mortgage holders. The choice is now with the Government. Harking back to the past will not cover it on this one.

**Deputy Joan Burton:** For the record, there have been a number of occasions on which comments were made in the House by previous officeholders which seriously jeopardised, if not totally prevented, prosecutions that might otherwise have been undertaken. It is important that the Deputy acknowledge that there is an independent justice system, an independent Judi-

ciary and an independent prosecution system.

With regard to what I said in opposition, because I am very clear about what I said in opposition, I said that the arrangements that were made would have to be renegotiated. I specifically set out how the promissory note and the other arrangements could be renegotiated. Unfortunately, once a guarantee is given by a sovereign, unless the sovereign totally defaults, there is no way of repudiating a guarantee.

**Deputy Richard Boyd Barrett:** Of course there is.

**Deputy Joan Burton:** Is Deputy Daly suggesting that this country should have defaulted and been plunged into totally penury? If that is her solution, it is not an opinion I share.

### Order of Business

**Minister for Social Protection (Deputy Joan Burton):** It is proposed to take No. 19, Protection of Life During Pregnancy Bill 2013 - Second Stage (resumed), to adjourn at 3 p.m. today if not previously concluded; and No. 4, Prison Development (Confirmation of Resolutions) Bill 2013 - Order for Second Stage, Second and Remaining Stages.

It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 5.45 p.m. tonight and shall adjourn on the conclusion of Oral Questions; the Second and Remaining Stages of No. 4 shall be taken today and the following arrangements shall apply: the proceedings on the Second Stage shall, if not previously concluded, be brought to a conclusion after two hours, the opening speeches of a Minister or Minister of State and of the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group, who shall be called upon in that order, shall not exceed 15 minutes in each case and Members may share their time, the speech of each other Member called upon, who may share their time, shall not exceed ten minutes, and a Minister or Minister of State shall be called on to make a speech in reply which shall not exceed five minutes; the proceedings on the Committee and Remaining Stages shall, if not previously concluded, be brought to a conclusion after one hour by one question which shall be put from the Chair, and which shall, in regard to amendments, include only those set down or accepted by the Minister for Justice and Equality; Topical Issues will be taken on the conclusion of No. 4, and the Order shall resume thereafter with Oral Questions; the Dáil will sit tomorrow at 10.30 a.m. and adjourn not later than 1.30 p.m.; there will be no Order of Business within the meaning of Standing Order 26 and, accordingly, the business to be transacted shall be as follows: No. 2, Criminal Law (Human Trafficking) (Amendment) Bill 2013 [*Seanad*] - Second and Remaining Stages, for which the following arrangements shall apply: the proceedings on Second Stage shall, if not previously concluded, be brought to a conclusion after two hours, the opening speeches of a Minister or Minister of State and of the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group, who shall be called upon in that order, shall not exceed 15 minutes in each case, and such Members may share their time, the speech of each other Member called upon, who may share their time, shall not exceed ten minutes, and a Minister or Minister of State shall be called upon to make a speech in reply which shall not exceed five minutes; the proceedings on Committee and Remaining Stages shall, if not previously concluded, be brought to a conclusion after one hour by one question which shall be put from the Chair, and which shall, in regard to amendments, include only those set down or accepted by the Minister

for Justice and Equality; and the Dáil will sit on Monday, 1 July 2013 at 11 a.m. and adjourn not later than 7 p.m.; there will be no Order of Business within the meaning of Standing Order 26 and, accordingly, the business to be transacted shall be as follows: No. 19, Protection of Life During Pregnancy Bill 2013 - Second Stage (resumed), to adjourn at 7 p.m. if not previously concluded, and any divisions demanded on that day shall be taken immediately after the Order of Business on Tuesday, 2 July 2013.

**An Ceann Comhairle:** There are five proposals to be put to the House. Is the proposal that the Dáil shall sit later than 5.45 p.m. agreed to? Agreed. Is the proposal for dealing with No. 4, Second and Subsequent Stages of the Prison Development (Confirmation of Resolutions) Bill 2013, agreed to? Agreed. Is the proposal for dealing with Topical Issues agreed to? Agreed. Is the proposal for dealing with the sitting and business of the Dáil tomorrow agreed to? Agreed. Is the proposal for dealing with the sitting and business of the Dáil on Monday, 1 July 2013, agreed to? Agreed.

**Deputy Billy Kelleher:** We do not oppose the Order of Business, but we are beginning to find that there is a lack of order to the business at the end of sessions. Legislation seems to be pushed through during Monday sittings, to which I am not objecting, but at other stages during the year we have a difficulty in keeping the House going. Would the Government be able to streamline the presentation of work to the House in a more structured way? This is just an observation. Regarding Dáil reform, practical reforms might be of assistance. Last year we had all-party agreement in the House on the survivors of symphysiotomy. Is any legislation required to address the outstanding issue for the people concerned whose lives were destroyed?

**Deputy Michael Healy-Rae:** They have waited long enough.

**Deputy Billy Kelleher:** They have waited many years. Is there a need for legislation to address the difficulties they have experienced?

**Deputy Joan Burton:** On the first point, one of the problems is that some of the demands of the legislation, for example, the complexities of the banking resolution legislation and the insolvency services legislation, mean the timing of the flow of legislation has been difficult. It is matter for the Whips and if the Deputy cares to arrange a discussion with them, it is possible and desirable to engage in some forward planning for the next session.

On the survivors of symphysiotomy, Deputy Caoimhghín Ó Caoláin presented a Bill before the House. There are no proposals from the Minister on legislation, but it is not just of concern, it is also being actively examined and discussed by the Minister and his departmental officials.

**Deputy Mary Lou McDonald:** The Minister is correct that Deputy Caoimhghín Ó Caoláin introduced a Bill which sought to lift the Statute of Limitations for the survivors of symphysiotomy. I ask her to encourage the Minister for Health to assist in the passage of that legislation. Outside that, there are broader redress issues.

I welcome the publication yesterday of Mr. Justice Quirke's recommendations for redress for the survivors of the Magdalen laundries. Will the Government commit to holding a full Dáil debate on the detail of that report and the shape of the proposed scheme of supports and redress for the women concerned? I have made an initial reading of the report. There are some strong points made in it, but there are also some very worrying elements such as the requirement that the women concerned sign a waiver and forgo the option to pursue the State or any of its agencies for future damages. Given the scale of this travesty and the length of time the women

concerned have waited for an apology and recognition, it is very important that this House have a full opportunity to discuss, debate and consider Mr. Justice Quirke's recommendations.

**Deputy Joan Burton:** I will mention the Deputy's concerns about the survivors of symphysectomy to the Minister. Everybody in the House shares these concerns and the Minister and his officials are working on the issue. I pay tribute to the Magdalen women for their bravery and dignity. Mr. Justice Quirke's report is being studied and examined in detail by the women concerned and their supporters and advisers. The report sets out a series of options and it is a matter for the women concerned to have some time to reflect on and consider what they want to do. The line taken in the previous redress arrangements was only about lump sums, whereas Mr. Justice Quirke differs dramatically, recommending a two-track process, including lump sum payments, income support and continuing arrangements for the women concerned for the rest of their lives. These are very valuable proposals and the women concerned will wish to reflect on them, particularly given the fact that many of them are elderly. The proposals include specific medical service arrangements for enhanced medical card provision. These are very important and innovative proposals. Perhaps Sinn Féin might request at a Whips' meeting appropriate arrangements to debate the report in this House.

**Deputy Mary Lou McDonald:** Does the Minister think we should have a debate?

**Deputy Joan Burton:** It is matter for discussion with the Whips. First, the women concerned should have the opportunity to study the report which is very innovative and bears study and examination. In my experience of people who received redress under the previous arrangements whereby there was a single lump sum, very often the outcomes for them were not as valuable as they might have been if there had been the provision, as proposed in the Quirke report, of continuous services and financial support for the rest of their lives. That is a valuable suggestion.

**Deputy Richard Boyd Barrett:** Although they will probably get no credit for it, the Cypriot people's protests over the banking crisis in their country have resulted in what has been called a revolutionary reversal of policy in Europe on how we deal with banking crises and the possibility now that senior bondholders rather than ordinary citizens would pay the price for such a resolution-----

**An Ceann Comhairle:** Where is the Deputy going?

**Deputy Billy Kelleher:** Cyprus; it is a large island.

**Deputy Richard Boyd Barrett:** Are we likely to see new legislation on foot of this announcement about a new way of dealing with banking crises in this country?

**An Ceann Comhairle:** Is legislation promised?

**Deputy Joan Burton:** Not yet.

**Deputy Bernard J. Durkan:** On promised legislation, when will legislation be introduced to provide for the exchange of criminal records information with other EU member states and other states, with particular reference to discussions on banking or other crimes that might have implications for this jurisdiction and others? I refer to the criminal records (information systems) Bill and the criminal justice (corruption) Bill. I understand the heads of the first Bill have been approved but that the Bill has not been published. I am not certain of the status of

the criminal justice (corruption) Bill.

**An Ceann Comhairle:** We will find out for the Deputy.

**Deputy Bernard J. Durkan:** Both Bills have a relevance in the present context and I would be grateful for their expedition.

**Deputy Joan Burton:** The heads of both Bills have been cleared. The criminal records (information systems) Bill is expected later this year. A date has not been set for publication of the criminal justice (corruption) Bill.

**Deputy Michael Healy-Rae:** I ask about the licensing of health care facilities Bill which is necessary to provide for a mandatory system of licensing of public and private health care facilities.

**Deputy Joan Burton:** There is no date for publication as yet.

**Deputy Brian Walsh:** I understand the Spent Convictions Bill has passed all Stages in the Seanad. I acknowledge that much progress has been made but despite our best efforts here, thousands of people are emigrating to seek employment in foreign countries. Many are precluded from gaining employment overseas because of a conviction they hold, perhaps as a result of a minor indiscretion in their youth. When is the Bill expected back before this House?

**Deputy Joan Burton:** It is currently on Report Stage in the Dáil.

**Deputy Timmy Dooley:** There has been much public comment on the issue of advertising of alcohol and alcohol sponsorship in a sports setting. The Joint Committee on Transport and Communications is compiling a report on this issue. When does the Government intend to bring forward the sale of alcohol Bill which I hope will deal with some of the concerns expressed in society?

**Deputy Joan Burton:** The Minister of State, Deputy Alex White, is working on an alcohol Bill which will be available later in the year. The Minister for Justice and Equality, Deputy Alan Shatter, is also working on legislation to deal with alcohol. It is hoped this will be available by the end of the year.

**Deputy Seán Ó Fearghail:** The programme for Government commits the Government to addressing the plight of the survivors of thalidomide. We all join with the tributes to Mr. Justice Quirke and to the Government for the initiatives in addressing the plight of the Magdalen women. There are only 32 survivors of the thalidomide drug. On the previous occasion when we raised it in the House the Taoiseach indicated that the matter would be pursued by the Minister for Health. Will the Minister indicate if the Minister for Health has met with the survivors of thalidomide? If this is not the case, will the Minister inform the House if he intends to do so at an early date?

**An Ceann Comhairle:** It is not strictly in order.

**Deputy Joan Burton:** I understand there may be discussions ongoing but I cannot say anything more than that.

**Deputy Denis Naughten:** I compliment the publication of Mr. Justice Quirke's report which in my view is a very novel approach. I refer to a similar approach taken with regard

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to children profoundly damaged by State-administered vaccines. The Minister's Department was given responsibility to issue compensation to those families on foot of the report. It took a number of years for that report to be published and since its publication it has gathered dust. I ask the Minister and the Minister for Health to implement this report. These are very elderly parents of profoundly disabled children. They want a public acknowledgement that their children were damaged and that provision will be made for them in the future. This matter needs to be addressed urgently.

**Deputy Joan Burton:** I will speak to the Minister for Health and I will revert to the Deputy.

### **Equal Status (Amendment) Bill 2013: First Stage**

**Deputy Pádraig Mac Lochlainn:** I move:

That leave be granted to introduce a Bill entitled an Act to promote equality in the functioning of public bodies, to provide that regard be had by public bodies to the desirability of reducing socio-economic and other inequalities, to provide for the carrying out of equality impact assessments in respect of measures that are likely to have a significant impact or effect on the equality of opportunity between persons, to provide for the administration by the equality authority of various matters pertaining to this Act, to amend the Equal Status Act 2000, and to provide for related matters.

**An Ceann Comhairle:** Is the Bill opposed?

**Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe):** No.

Question put and agreed to.

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

**Deputy Pádraig Mac Lochlainn:** I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

### **Message from Seanad**

**An Ceann Comhairle:** Seanad Éireann has passed the Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013, without amendment.

### **Topical Issue Matters**

**An Leas-Cheann Comhairle:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Andrew Doyle - the impact of proposed legislation in the US on the availability of J1 visas to Irish students; (2) Deputy Michael Creed - the need to conclude a

bilateral adoption agreement with the Russian authorities; (3) Deputy Derek Keating - the need for the Minister to bring a report to the House on the Private Residential Tenancies Board, including what responsibilities and powers the PRTB has, and where, for example, a tenant may vacate a previously rented accommodation and where the refundable deposit may not have been returned to the tenant by the landlord; (4) Deputy Patrick Nulty - the need to maintain history as a compulsory subject for the junior cycle at second level; (5) Deputy Éamon Ó Cuív - the need to make provision for services for those school-leavers with a significant disability; (6) Deputy Aengus Ó Snodaigh - the urgent need for additional funding for housing adaption grants; (7) Deputy Tony McLoughlin - the need to review the rules of eligibility for the rural school transport scheme and in particular the loss of the service to Ardvarney national school, County Leitrim; (8) Deputy Brian Stanley - the primary school building programme for Portlaoise and Ballyroan; (9) Deputy Brendan Griffin - the need for more beds to be opened at the new West Kerry Community Hospital; (10) Deputy Pat Deering - the progress made with the redeployment of 25 staff from the Department of Agriculture, Food and the Marine to the Garda central vetting unit; (11) Deputy Eamonn Maloney - the compensation scheme to victims of the Magdalen laundries; (12) Deputy Seán Crowe - the crisis facing families of seriously ill or impaired individuals who are having to wait years for a housing adaption grant, housing aid for older person's grant, or mobility aid grant; (13) Deputy Joe Higgins - the news given to workers in the ESB regarding the deficit in their pension fund; (14) Deputy Mick Wallace - the ongoing protests in Brazil; (15) Deputy Stephen S. Donnelly - the Central Bank's updated code of conduct on mortgage arrears; (16) Deputy Niall Collins - the future of Abbeyfeale Courthouse, County Limerick; and (17) Deputy Richard Boyd Barrett - the new European banking insolvency regime and implications for Ireland.

The matters raised by Deputies Éamon Ó Cuív, Pat Deering, Eamonn Maloney and Michael Creed have been selected for discussion.

### **Protection of Life During Pregnancy Bill 2013: Second Stage (Resumed)**

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

**An Ceann Comhairle:** Deputy Denis Naughten has 14 minutes remaining.

**Deputy Denis Naughten:** I was about to make the point last night that the argument about suicide and the defence being made for its inclusion in the legislation is based on the Supreme Court judgment in the X case, that we must act on that judgment because this is now the interpretation of the Constitution and we cannot introduce legislation which contravenes the Constitution. Law is not always logical. Usually the problem arises with historical law, not with new law.

I remind Members of the controversy in this House and in committee in 2009 on the issue of blasphemy. Members will recall that blasphemy is specifically provided for in the Constitution. Bizarrely, since the adoption of the Constitution in 1937, it took until 1961 for such a law to be introduced. In 2009 the issue was debated in the House when the then Minister for Justice said:

As regards the offence of blasphemous libel, I believe we would all agree that the optimal approach and certainly the one that I would probably find most preferable would be to

abolish it altogether.

The Minister argued that his hands were tied, that he had no option but to introduce legislation to provide for blasphemy because it was specifically referenced in the Constitution. Yet, when that legislation was first published and brought before the House by the former Attorney General, Michael McDowell, it did not include a provision on blasphemy.

Subsequently, the legislation was pursued by the late former Minister, Brian Lenihan, who did not include a provision on blasphemy either. It was Mr. Dermot Ahern, his successor, who put forward an amendment. During the Committee Stage debate on the provision, there was a very interesting discussion. Deputy Charles Flanagan, Jim O’Keeffe and I contributed, as Fine Gael Members, as did the Minister, Deputy Rabbitte, of the Labour Party and Deputy Ó Snodaigh of Sinn Féin to argue cogently that we should not introduce a law on blasphemy notwithstanding the reference to it in the Constitution. It was proposed instead that the Constitution should be amended at the first available opportunity. It was indicated that we would not be in contravention of the Constitution if we indicated that it was our intention to amend and clarify it at the first available opportunity. It is interesting to look at the contributions. Deputy Charles Flanagan made the point that we were placing on the Statute Book an amendment laced with subjectivity which would be difficult to enforce. He said it was impractical and would create even more problems. The same argument applies to the issue of suicide, which is not specifically mentioned in the Constitution. It figures in the debate on foot of an interpretation by the Supreme Court as to what the Constitution actually means. Where there was a specific provision in the Constitution, a coherent argument was made by Members who are now on the Government benches that it should not be legislated for but rather that we should amend the Constitution to remove an unworkable, impractical provision.

The suicide provision in the Bill is impractical, unworkable and full of subjectivity. I have articulated some of my concerns already. A further concern is that it is impossible to disprove suicidal ideation. Professor Veronica O’Keane, who gave evidence to the joint committee on two occasions, made the coherent argument that if a woman states that she is suicidal, a practitioner has no option but to believe her. There is no way to disprove the claim. I do not believe that women would make false claims, but there is no medical way to assess that whatsoever. I spoke to a psychiatrist during the week who pointed to an electrician who was rewiring a socket and said “That man over there is equally qualified and capable of making the determination in relation to suicidal ideation as someone like me with years of experience”. Specifically in relation to suicidal ideation, it is impossible to make the determination. There is no medical assessment available.

It is disingenuous of the Government to talk about implementing the X case judgment. It should be crystal clear. Rather than introduce an Irish solution to an Irish problem, it should be straightforward and honest about stating it wants to provide for a limited form of abortion in this country. In fairness to the Minister of State, Deputy Kathleen Lynch, she has made her position quite clear on that up to now. In fairness to the vast majority of the members of the Labour Party, that is their position and view.

**Deputy Ruairí Quinn:** Yes.

**Deputy Denis Naughten:** Legislation should be published on that basis to facilitate a discussion of the pros and cons of it rather than to use suicide as a Trojan horse to bring in this particular mechanism.

**Deputy Barry Cowen:** What about the Constitution?

**Deputy Denis Naughten:** The difficulty is that the suicide provision provides for a more liberal abortion regime than exists in the United Kingdom. There are no term limits on it, which means it provides legally for late-term abortions. I acknowledge that it is not the intention of the Government or parliamentary draftsman to make that provision, but the Bill as drafted so provides. All the evidence from those in favour or against the legislation which we heard at the joint committee made it clear that late-term abortions can have serious mental health outcomes for women. We can all agree on that.

In raising specific issues of concerns on late-term abortions, I turn to the evidence of Dr. Sam Coulter Smith, the master of the Rotunda. He stated to the joint committee:

The fact that there is no gestational limit in respect of the third scenario relating to suicidality is a major ethical issue for obstetricians. I will illustrate this with two scenarios. First, let us consider the case of a patient who is 25 weeks' gestation. If she is deemed to be sufficiently suicidal to require a termination of pregnancy by one or more psychiatric colleagues, an obstetrician who is tasked with dealing with this situation is faced with an enormous ethical dilemma. Delivering a baby at 25 weeks' gestation could lead to death, due to extreme prematurity or it could lead to a child with cerebral palsy or with other significant developmental issues for the future.

That is the evidence he gave to the committee. What happens to a woman who is suicidal due to having a foetus with a serious abnormality and a very limited lifespan of perhaps minutes or hours after birth? Medical science allows this determination to be made, usually around the threshold of viability at 21 to 23 weeks. What if a woman is suicidal on the basis that she does not want to give birth to this particular baby? In order for the obstetrician to meet the medical requirements set out in the legislation, there is a need for the sake of the woman's mental health and the threat of suicidality that the foetus is not born alive. That means it is vitally important that the foetus is made unviable *in utero*. That causes huge ethical issues not only for medics but for many in the Oireachtas. I hope the Minister deals specifically with that issue in his reply on Second Stage or on Committee Stage. It is a genuine concern and anomaly in the legislation as drafted. It is a weakness in the legislation that there is no specific provision for the unborn who is potentially viable outside the womb to ensure that a medical procedure shall not impede all efforts to sustain life on the complete emergence of that baby after birth from the body of the woman. These are the terms of an amendment I have put down for discussion on Committee Stage. While it is not the intention of the legislation to create this anomaly, it causes problems as drafted and must be clarified.

It is important to consider suicide and the approach of the courts. I refer to the case of *Cosma v. Minister for Justice, Equality and Law Reform*. In that case, a woman who did not want to be deported from the State expressed suicidal ideation as her reason for requiring the court to quash the deportation order. She made the case that if she was returned to her country of origin, she would die by suicide. The High Court rejected the evidence presented in support of the claim of threatened suicide. The court found that the applicant had no treatment plan and was not undergoing therapy, without either of which the court could not determine whether there was a real and substantial risk to her life, which is the test set out in the X case. If the High Court is correct on that, its judgment is contravened by the legislation before the House. If a woman is receiving treatment or an alternative of treatment is available to her for suicidal ideation then she is legally not entitled to a termination under section 9 of the Bill, yet the High

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Court determination was that in order for there to be a real and substantial risk she must be receiving treatment. There is a contradiction in both of those and the High Court determination is based on the Supreme Court judgment.

The final point I want to make is that the Government, at the time of its initial decision in December last, as I referenced earlier in my contribution, made the point that it would introduce primary legislation and regulations. As the House will be aware, there are regulations to come in this regard. At the time, the Taoiseach made it crystal clear that we would have both the primary legislation and the regulations in front of us to consider during the passage of this legislation. We have not seen any regulations. We have not been given any indication as to the content of those regulations and it is wrong to be considering the primary legislation without the secondary legislation also being before us. Both, in the case of this legislation, work hand in hand. It is difficult to interpret the intention of the legislation and I have raised some difficulties with the interpretation as currently drafted. I presume the Minister's defence in that regard will be that the matter will be provided for in regulations. We were promised by the Taoiseach in December last that we would have the regulations in tandem with the primary legislation. We have not seen those regulations. We should have those regulations. It is difficult for this so-called reformed parliamentary democracy to debate an issue with one hand tied behind its back when we have not seen the other element of the legislation. I would hope that in advance of the completion of Second Stage we would see the publication of those regulations.

**Minister for Education and Skills (Deputy Ruairí Quinn):** I am sharing time with Deputy Donohoe.

I am glad that I had the opportunity to hear Deputy Naughten, a man whom I respect and whose knowledge of matters in this House is fairly extensive, but I must say, with no disrespect to the point of view that he expressed, that when one resorts to the minutiae of Supreme Court interpretation in a Second Stage debate, it would appear that many on the other side of this debate recognise that the country has moved on in this matter and a rearguard action is being engaged in.

I welcome the Bill to the House. As the second longest-serving Deputy in this House, I have for many years witnessed first hand the division, pain and political reluctance to deal with the sensitive issue of abortion since the Eighth Amendment of the Constitution Bill was passed in 1983. That referendum was an inspired political stunt to win the support of the so-called pro-life lobby during one of the most tumultuous periods of our democracy. Prior to the calling of the 1982 general election, the then Taoiseach, the late Mr. Charlie Haughey, published the wording of an amendment to protect the life of the unborn that had been imposed upon him by the pro-life lobby. Immediately and sadly, former Taoiseach, the late Dr. Garret FitzGerald, endorsed it and promised a referendum on it in April 1983. I have always been of the personal view that the wording in that amendment was flawed from the outset. While it may have been an astute political tactic to win votes in elections, the wording of the amendment was anything but astute.

The pro-life lobby had become exercised by the jurisprudence of the Supreme Court in the 1970s, which, the lobby claimed, had begun to find unenumerated rights within the wording of the Constitution. The case which generated most concern in this regard was *McGee v. Attorney General*, where the Supreme Court held that the imprescriptable rights of the family conferred a broad right upon spouses to privacy in marital affairs and, in effect, legalised the import of contraceptives. The fear that the courts may introduce abortion rights through the back door was

what led the pro-life campaign to amend the Constitution. The irony is that once they extracted a pledge from intimidated politicians to do just that, the wording of the eighth amendment actually gave rise to the very situation which they sought to avoid. If we are to learn anything from this episode, it is that the Constitution is not something to be tampered with lightly.

Indeed, I recall the Attorney General of the Fine Gael-Labour coalition of that time, Mr. Peter Sutherland, providing legal advice which stated that the proposed wording would essentially pit the rights of the mother against the rights of the unborn child. In the event, with Deputies under intense pressure from the pro-life lobby, the alternative Sutherland wording was rejected, yet that alternative wording was endowed with accuracy and foresight. The X case, in 1992, to which many in the House have referred already, shocked and appalled Ireland. It also led the Supreme Court to rule that the Eighth Amendment meant the right to life of the mother had to be balanced against the right to life of the unborn child.

Ever since, we have known what is the constitutional interpretation of Article 40.3.3°. There is, of course, a right to life for the unborn child, but there is also a constitutional right for the mother to have her life protected. However, that fundamental, constitutional right has never been vindicated in real and practical terms by these Houses. Instead, over many years we have had to watch a steady stream of women travel to Britain to access abortion services to uphold their health. I hope the stream will be reduced somewhat by this legislation.

I want to put on the record of the House my personal appreciation and admiration for the three brave women who took *A, B and C v. Ireland* to the European Court of Human Rights in Strasbourg in recent years. I want to reflect for a moment on the different personal circumstances of these three women because they are sad examples where, in 21st century Ireland, the human rights of women to have an abortion here may have been accepted in theory but were denied in practice. They are good examples of why we need this legislation.

The first applicant was unmarried, unemployed and living in poverty. She became pregnant unintentionally, believing that her partner was infertile. She had four young children, all at that time in foster care as a result of problems the applicant had experienced as an alcoholic. During the year preceding her fifth pregnancy, the applicant had remained sober and had been in constant contact with social workers with a view to regaining custody of her children. She considered that a further child at this critical moment in her life would jeopardise the successful reunification of her existing family. She decided to travel to Britain to have an abortion. The United Kingdom's National Health Service refused to carry out the operation at public expense and she had to borrow the money for treatment in a private clinic from a moneylender. Her difficulty in raising the money delayed the abortion by three weeks. She had to travel to England alone, in secrecy and with no money to spare, without alerting the social workers and without missing a contact visit with her children. On her return to Ireland she experienced pain, nausea and bleeding for eight to nine weeks, but was afraid to seek medical advice because of the prohibition on abortion.

The second applicant was single when she became pregnant unintentionally. She was advised by two different doctors that there was a substantial risk that it would be an ectopic pregnancy, where the foetus develops outside the uterus. The applicant was not prepared, either to become a single parent or to run the risks associated with an ectopic pregnancy. She travelled to England for an abortion. On her return to Ireland she started passing blood clots and, since she was unsure whether this was normal and could not seek medical advice in Ireland, she returned to the clinic in England two weeks after the abortion for a check-up. The impossibility for her

to have an abortion in Ireland made the procedure unnecessarily expensive, complicated and highly traumatic.

For three years, the third applicant was treated with chemotherapy for cancer. The cancer went into remission and the applicant unintentionally became pregnant. When she discovered she was pregnant she was unable to find a doctor willing to make a determination as to whether her life, not her health, would be at risk if she continued to term or to give her clear advice as to how the foetus might have been affected by the tests she had undergone. Given the uncertainty about the risks involved, the applicant decided to have an abortion in the United Kingdom.

These cases are all incredibly sad and damning indictments of our long reluctance as a country to legislate for the X case. For too long, our democracy has been cowed by vested interests into fear and submission and into not legislating for the constitutional rights of pregnant women to have their lives protected in a medical emergency. I very much welcome the fact that we are, for the first time, dealing with this issue in a way that might make some of these cases a thing of the past. I am impressed by the reasoned and mature contributions from Deputies on all sides of the House. I welcome that this Parliament is dealing with this matter not on strict party lines but as legislators with one common goal, to ensure the constitutional rights of women in Ireland are upheld and vindicated. In doing so we must have regard to the judgment of the Supreme Court in its entirety.

For over 20 years, successive Governments have dodged this issue. I am proud, as a Labour Party Deputy, a social democrat, a feminist and a father, to be at last speaking on this Bill. We have waited so long. I believe it will give women access to the rights they are entitled to under the Constitution of this Republic. However, I would like us to be able to go further. We should be able to legislate for abortion in the cases of the health of the woman, fatal foetal abnormalities and other reasons as well. In essence, I believe it is the woman's right to choose and that we, especially men, should both respect and support their decisions. Many hold the view that our Constitution does not allow us to go beyond what this Bill proposes to do, but that is no reason that it should not be supported. The best should not drive out the good, so to speak.

Finally, this Bill will not be compulsory when enacted. People who abhor abortion in any form whatsoever will not be compelled to avail of its provisions. Ninety-seven years ago in this city the Proclamation of the Republic proudly proclaimed a new kind of Ireland. In a republic, different faiths and moral points of view should be both heard and respected but no faith, however dominant and however sincerely held by those who profess it, should be allowed to prevail over the wishes of minorities of citizens, particularly when it is intended to enshrine those beliefs into law. At one time the dominant church in this country held the view that it could impose its belief system on the law of this land in the name of the Republic. That day is over, and the enactment of this legislation will ensure that we arrive to a point where women in the Republic of Ireland do have the right to choose.

**Deputy Paschal Donohoe:** Any attempt to understand the human condition and what it means to be human must focus on the role of empathy, the ability to imagine the circumstances of another and to envisage their pain, conditions and hopes. Empathy is central to our efforts to create rules and norms for our society and to live peacefully with those we do not know. It demands that even if we do not know our neighbour, we should strive to imagine their plight.

However, empathy has limits. There are some circumstances that are beyond the ability of some of us to imagine. Ideation, to borrow a concept from this debate, can only get one so far. I

find myself in this situation when discussing this Bill. As I have said previously, I find it impossible to imagine the terror and despair that a woman will experience when facing the potential loss of her own life while carrying life and the potential of life within her. Perhaps that is one of the reasons that discussing and deciding on this Bill is so fraught.

Jonathan Haidt, an American psychologist, has recently described the nature of these debates in his book *The Righteous Mind - Why Good People are Divided by Politics and Religion*. In this work he argues that we are intrinsically moral and that this makes it possible “to produce large co-operative groups, tribes and nations without the glue of kinship”. He concludes that “morality binds and blinds”. While there is great wisdom in his understanding of how morality binds us together, I disagree with his conclusion regarding its divisive consequences. My experience, based on hundreds of conversations on this Bill, is that everybody is genuinely striving to empathise. However, I cannot achieve this. While I might be able to walk in the shoes of others, I cannot identify with the journey to the hospital or for thousands of others the journey to the boat or the aeroplane.

Faced with this difficulty, I have continually focused on two duties: first, that the State must do everything possible to keep mother and child alive and healthy; second, that those involved in this dilemma must be protected by the law as they operate within the law. These two duties lead me to two consequences. The first is that the law must be absolutely clear. We have learned to our catastrophic cost the price of lack of clarity in the law in other parts of our society. Why should this be any different? The second is that a woman faced with the risk of losing her life should not face the vista of the State making a choice for her. It is our responsibility, as legislators, to create a framework within which such choices can be made and not make those choices for her.

That is the reason I support the Protection of Life During Pregnancy Bill. In the aftermath of the publication of the Ryan report I articulated in this Chamber my view that we should legislate for the 1992 Supreme Court ruling in its entirety. That judgment is affirmed by this Bill. As many Deputies have noted, the X case ruling identified that a woman has a constitutional right to termination in certain circumstances. Sections 7 to 9 of this Bill identify how these circumstances will be identified and responded to. Sections 10 to 14 prescribe how a review of this response must happen. Section 15 of the Bill makes clear how the wider State can ensure that the operation of this Bill is always consistent with its intent and aims. While new legislation will be passed by the Oireachtas, we are not changing the law. We are operating within Bunreacht na hÉireann. This is an incredibly narrow set of circumstances but that should not blind us to the intrinsic pain and solitude of each circumstance, the need for clarity and our duty to provide it.

I will make three points about the Bill. The first is about the issue of conscience. An impression has been created that some of us voting for this Bill are doing so against our conscience and our will.

*12 o'clock*

If there were a free vote on the Bill in this Chamber, I would vote for it because the bare minimum that we, as legislators, must be able to provide for those we serve is clarity and certainty. It is abundantly clear, to anyone on either side of the debate, that clarity and certainty are lacking. I reject the inference that my conscience is not present in the hundreds of conversations I have and decisions I make on other issues.

The second point is on the concern that, by providing clarity and certainty, terminations will be more likely and abortion for social reasons will be inevitable. Of those who have this concern I ask how the regulation of something can make it more likely to happen. A retort is that by enshrining this Bill in primary law, precedent and purpose are created. However, this primary law is operating within the framework of the Constitution and specifically governed by Article 40.3.3°. It operates within the Constitution and the law; it does not change it. The contention about the wider availability of abortion in other jurisdictions appears to ignore the inconvenient truth that the people living in these jurisdictions want it. It also ignores that truth that many legislators in these jurisdictions are seeking to amend the law based on their own views and those of their people. I am against the availability of abortion for social and economic reasons. I support the Bill because it deals with other reasons.

The third point I wish to address is that some of the voices in this debate should reflect on their past judgments and the consequences of Article 40.3.3° and the defeat of a referendum that sought to deal with the issue of the threat of suicide. Let me quote Francis Bacon: "It is as hard and severe a thing to be a true politician as to be truly moral." I really know what that means now in regard to this Bill. However, we have a duty to be consistent with our own laws and judged by our own courts, on which our citizens, including women, depend. The Bill upholds that duty.

**Deputy John Halligan:** I acknowledge the Government's determination in bringing forward the Bill. That it took the death of Savita Halappanavar and the spotlight of the world's media to bring about action is a tragic shame, as has been acknowledged by very many in government.

I am afraid that the Bill has been divisive. It is truly a disgrace that such an important issue has been so starkly simplified as involving a dichotomy between the pro-life and pro-choice sides. If the debate should be pro-anything, it should be pro-women's health and welfare. That is what was spoken about in the Supreme Court. In bringing forward the Bill the Government is attempting to legislate for a 21 year old Supreme Court ruling. I will be supporting the Bill. I would be loath to do anything to delay its passage. The unfortunate paradox is that, considering the 21 years it has taken for an Irish Government to get off the fence and finally legislate for the Supreme Court's ruling, the Government's response is minimal. It is dated and takes no responsibility for current concerns surrounding abortion, on which all opinion polls have been clearly decisive.

The Bill will provide no reassurance for the estimated 1,200 Irish women carrying a foetus with a fatal abnormality who must travel abroad for a termination every year. Neither will it offer any support to those women who are pregnant through incest or rape. Women who did not want to become pregnant face enormous consequences for their having been violated.

The number of sexual offences rose by almost 50% between 2007 and 2011 and by another 6.3% last year. It must be acknowledged that only a small percentage of rapes, for instance, are reported. Of the nearly 2,000 sex crimes committed in 2011, only one in six resulted in charges being brought. Financial support for domestic abuse services is being hacked away year on year. It is interesting that the Safe Ireland survey entitled, On Just One Day, showed that on 6 November last year 22 pregnant women sought help from domestic abuse charities. Campaigners believe the number of pregnant women who are being abused could be as high as one in eight. Despite this, instead of supporting women who become pregnant as a result of violence, the Bill carries the potential sentence of 14 years imprisonment for those who procure

an abortion in this country. That is warped justice.

The Bill lends far too much credence to the suspicion clearly held by some Deputies to the effect that women may falsely claim to be suicidal in order to procure an abortion in this country. We have no idea how many pregnant women die by suicide. A pregnant woman faces the same risk of death by suicide as a non-pregnant woman. Many suicides are actually recorded as open deaths. Faced with the prospect of proving their state of mental health, many distressed women, I strongly suspect, will travel discreetly to the United Kingdom to have an abortion rather than subject themselves to the inquisitorial process the Bill prescribes for those wishing to avail of its provisions.

With regard to the possibility of false claims of suicidal ideation, there is no denying that desperate people do desperate things. If I were the parent of a 14 year old child pregnant as a result of rape who wanted to have an abortion, would I take her to the general practitioner and tell him or her my child was suicidal? I would if it meant she did not have to travel to another jurisdiction. Can we not think about this? At least 12 women travel outside the country every day for an abortion.

Anecdotal evidence suggests hundreds of women are using DIY abortion pills bought online, thereby risking excessive blood loss, womb infection, blood poisoning and even death. There has been a significant rise in the seizure of unregulated Internet ordered pills by the Customs service in recent years. There are many reasons women seek an abortion and we cannot continue to push these cases under the carpet and pretend they are not happening. The women concerned are asking to be heard, but they are being ignored.

I acknowledge and respect the closely held and widely varying views of Deputies on this issue. I will not be arrogant enough to demand that anyone should change his or her views, although I have been literally tormented by some of the pro-life crowd to change my views, in spite of the fact that I have told them consistently that I will not do so. What has happened to some Deputies who happened to be speaking about women who had been raped, who were carrying a child with a fatal foetal abnormality or who had been victimised has been well recorded. We have been called everything; we have been sent offensive, obscene literature, and people have come to our houses after midnight. The most offensive remarks have been made to us and even members of our families. How Christian is that? We live in a democracy and must allow people to act according to their conscience.

I call on the Government and all political parties to stop hiding behind the Whip system. Someone asked me whether the Whip would be applied if one were to make the death penalty mandatory. It would not be applied because the death penalty is absolute. How many horrendous mistakes have been made across the world in this regard? I accept that one cannot remove the Whip on the Government side; if it were, the country would not be governed at all. There has to be some order and discipline, but perhaps the Whip should have been removed on this issue.

It is a matter of showing compassion on both sides. I have met some people on the pro-life side who show no compassion when they say a woman who is raped and becomes pregnant should have to go through the pregnancy for nine months. Yesterday I met a group concerned about fatal foetal abnormalities. Someone did say, I believe, that if the remains of the foetus were to live for one second, that would be it. What about the trauma women suffer, which affects some of them for the rest of their lives? Compassion must be shown.

With regard to commercial abortion, if a woman wanted an abortion after seven months, I would have to think about it. I would be open minded, but I am not absolute on everything. This is where the pro-life movement - I hate using the description "pro-life"; I am pro-life because I do not like to see a child die anywhere in the world - has lost the argument. The people are way ahead of all of us on this issue, as opinion poll after opinion poll has shown. Between 75% and 78% support the Government regarding this Bill, while 83% believe that if a woman is raped, forcibly impregnated and violated, she should be able to have an abortion and 87% say that abortion should be allowed in cases of fatal foetal abnormality. Why do we not listen? We are always quoting what the people want, and this is what they want. It is disappointing that provisions relating to rape and fatal foetal abnormality are not included in the Bill, but I have no hesitation in supporting it.

**Deputy Thomas Pringle:** I welcome the opportunity to contribute to the debate on this important legislation. The Bill comes before the House following years of inaction, but I commend the Government on putting those years of inaction to an end. I will support the Bill, although it does not go far enough in a number of cases, which I will outline, and it provides for a number of penalties, which should not be included. As previous speakers said, the people are way ahead of politicians on this issue and they have shown much more compassion and understanding of the difficult situations in which many women find themselves. The issue of terminating a woman's pregnancy to save her life, or even her physical and mental well-being, is much less controversial outside the House than inside, and this has been the case for much longer than people care to realise.

Although the eighth amendment to the Constitution, made after the 1983 referendum, asserts that the unborn have an explicit right to life from the time of conception, subsequent referendums strongly suggest that public opinion began to focus on the rights of the mother. In the immediate aftermath of the X case, the Government put three referendums to the people: the twelfth, thirteenth and fourteenth proposed amendments to the Constitution. The twelfth amendment provided for the removal of suicide as a ground for abortion, the thirteenth amendment provided that women be given the right to travel outside the State for abortion, and the fourteenth amendment provided that information about abortion be available in the State. If Ireland is as opposed to abortion as suggested by some, one would have expected the twelfth amendment to pass and the thirteenth and fourteenth amendments to fail, but the opposite happened. By a two-to-one majority the people voted to reject the twelfth amendment, thereby endorsing the Supreme Court's decision on X. They also voted to allow women the right to travel for abortion and the right to information about abortion. In doing so, a majority of the people demonstrated their support for abortions in line with the X case.

A decade after the original case, the then Taoiseach, Bertie Ahern, held another referendum, effectively asking the same question as in the failed referendum in 1992 regarding suicide. The people gave the same answer: "No". In 2013 this issue has again become the topic *du jour* although, despite the controversy, opinion polls show that a clear majority support legislating for the X case, including the so-called suicide clause, and polls even show a majority in favour of terminations in cases of fatal foetal abnormality, incest or rape or when a woman's health is at risk. By continuing to ban abortion, we do not prevent it; we just export it, disguise it and deny it, instead of addressing these women's genuine needs, not all of which are provided for in this Bill. I am sceptical about accessibility for those that are addressed, but I recognise that this is a step forward.

While I understand that provision for abortion for instances of rape and incest would need

to be put to the people, there is scope to legislate for abortion in cases of fatal foetal abnormality without infringing the Constitution. It is possible to interpret Article 40.3.3° in such a way that “the unborn”, which is protected therein, does not include foetuses with fatal abnormalities. The courts have not considered this legal issue and there is no binding precedent excluding such an interpretation. Moreover, the Legislature has the power, and the duty, to legislate under the Constitution. When Mr. Justice McCarthy criticised the Legislature for failing to regulate the terms of Article 40.3.3° in the X case in 1992, he was speaking of a duty that existed prior to that case. The interpretation and regulation of Article 40.3.3° is not limited to the circumstances arising in the X case. That case showed how the general principle of vindicating unborn life with due regard to the equal right to life of the mother justified a termination in the particular circumstances of suicide risk. A different set of factual circumstances, such as those of fatal foetal abnormality, could also legally justify a termination of pregnancy given that these unborn foetuses will not live independently. It is, therefore, within the Legislature’s power to act on this possibility and regulate for these circumstances and, in such instances, the Legislature has a moral as well as a legal duty to act now and include abortion in cases of fatal foetal abnormality in the legislation. The State argued in the European Court of Human Rights that if the women had gone before the Irish courts, there was a strongly possibility they would have ruled in their favour, and, therefore, the question of constitutionality does not arise.

I would like to address a number of arguments and misconceptions regarding this Bill, which it is important to clarify. There has been much discussion to the effect that the lack of a time limit in the Bill will result in late-term abortions, but this is not an accurate assumption. However, the omission of a timeframe for termination of pregnancy is necessary in order to deal with instances in which a woman’s life is at risk late in pregnancy. If there was a timeframe, legally, the mother would be left to die, and in that instance both the mother and foetus would die, thereby contravening the protection of life. Where the foetus could live independently, the pregnancy would be terminated - whether as a result of risk to life from physical illness or from suicidal ideation - by induction rather than abortion. This aspect in particular is causing a great deal of confusion. There is, unfortunately, an opinion spouted by some that women will fake suicidal ideation, but this is a flawed argument. While everyone speaks of removing the taboo from mental health, in this debate some people are suggesting that women would go so far as to lie to a three-member panel of medical practitioners because they feel like having an abortion. If a woman truly felt that way, she would get the boat to the UK. The scenario is so restrictive in the Bill that someone who is suicidal would probably travel to the UK anyway to avoid such scrutiny. However, overall, this argument results in further stigmatisation of the sensitive issue of mental health and is most unwelcome to the debate.

Let us not forget that the Bill will not amend the law on abortion. It is legislating for something that has been deemed legal since 1992 by conservative middle-aged men in the Supreme Court and it is a far cry from abortion on demand and the inaccurate perception that the same thing that happened in the UK will also happen here. If people cared to read the British legislation enacted in 1967, they would realise that a referendum would be needed to allow legislation even remotely similar to that Abortion Act, and there is no possibility of the same thing happening here through this Bill and the Constitution.

I have concerns about the legislation. Conscientious objection allows for a personal opinion to interfere with a professional duty. I understand that not all relevant medical practitioners would be comfortable with carrying out the procedure, but if that is part of their job, I can see this being problematic in the longer term if and when such cases arise. What will happen in

an emergency situation, for example, where no other practitioner is available to carry out the procedure at that point in time? The Bill should include a provision to the effect that medical practitioners with a conscientious objection have a duty of care to patients in those types of emergency situations to ensure they are transferred without delay to the care of another professional who does not share that objection.

I also have concerns regarding the powers the legislation bestows on the Minister, especially the power to suspend a service where there is an ongoing investigation. While I appreciate the need to ensure these provisions are not exploited by any person or institution, it is also important that no Minister should have the capacity to exploit the legislation. Suspension of service must take place only when it is completely necessary and should be revoked as soon as possible to avoid potential loss of life during the suspension period.

It is vital that any procedures deemed permissible under this legislation are carried out without undue delay. In cases of risk to life from physical illness, any such risk should not have to be immediate or inevitable before doctors can act. The certification process envisaged in the legislation should include a timeframe for terminations to take place in order to ensure that any delay does not lead to an emergency.

**Deputy Kathleen Lynch:** That can be done via regulation.

**Deputy Thomas Pringle:** Section 22 of the Bill states that it is an offence for a woman to “intentionally destroy unborn human life”, an offence for which she will be liable to imprisonment for “a term not exceeding 14 years”. If the Bill is not amended in this regard, there are serious implications for women seeking an abortion for any reason other than the avoidance of an immediate threat to their life. It will be perfectly lawful for those women to travel outside the State and have an abortion for medical or social reasons. It will be perfectly lawful for clinics outside the State to give them all the information they need on how and where to have that abortion. However, if a woman has an abortion on this side of the Irish Sea, she is liable to imprisonment for up to 14 years. The crime that merits this sentence is not having an abortion but having it in the wrong place.

The State, through the Health Service Executive, currently offers post-abortion medical and support services in locations throughout the country. These services provide what is described as non-judgmental follow-up treatment for women who have had abortions. What will happen if a woman, having taken an abortion pill she ordered online and now experiencing complications, seeks medical treatment or is rushed to hospital haemorrhaging? Under the proposed legislation, if she reveals what she has done, the hospital surely cannot be expected to be non-judgmental in the face of what the Oireachtas is defining as an appalling crime. It is fundamentally wrong that a woman in that situation would face imprisonment for up to 14 years.

An estimated 4,200 women travel from the Republic to Britain and other European countries each year to end a pregnancy. For most of them, this Bill will not permit them to have the procedure in their own country. More could have been achieved in this legislation. I do, however, recognise its importance and, as such, I will be supporting it.

**Deputy Peter Mathews:** I thank the Ceann Comhairle for allowing me time to contribute to this debate. The safety and well-being of mothers, babies and families - of every citizen of this country - have been very well served by the medical professions for as long as I remember. That is because every doctor, upon qualifying, makes the hippocratic oath, the solemn pledge

which underpins the wonderful care and service they provide to society and to individuals, regardless of gender or age. Hippocrates was born somewhere between 470 BC and 460 BC and did not belong to any religion. Christianity had not yet even arrived. The taking of the hippocratic oath by all newly qualified medical practitioners is confirmation of the seriousness of their position in society and the commitment they make to the care of patients entrusted to them during their lifetime. Doctors need constant reminding of the seriousness of that pledge and it should ideally be displayed in all medical institutions.

The text of the hippocratic oath is as follows:

I swear in the presence of the Almighty and before my family, my teachers and my peers that according to my ability and judgment I will keep this Oath and Stipulation:

To reckon all who have taught me this art equally dear to me as my parents and in the same spirit and dedication to impart a knowledge of the art of medicine to others. I will continue with diligence to keep abreast of advances in medicine. I will treat without exception all who seek my ministrations, so long as the treatment of others is not compromised thereby, and I will seek the counsel of particularly skilled physicians where indicated for the benefit of my patient.

I will follow that method of treatment which according to my ability and judgment, I consider for the benefit of my patient and abstain from whatever is harmful or mischievous. I will neither prescribe nor administer a lethal dose of medicine to any patient even if asked nor counsel any such thing nor perform act or omission with direct intent deliberately to end a human life. I will maintain the utmost respect for every human life from fertilisation to natural death and reject abortion that deliberately takes a unique human life.

With purity, holiness and beneficence I will pass my life and practice my art. Except for the prudent correction of an imminent danger, I will neither treat any patient nor carry out any research on any human being without the valid informed consent of the subject or the appropriate legal protector thereof, understanding that research must have as its purpose the furtherance of the health of that individual. Into whatever patient setting I enter, I will go for the benefit of the sick and will abstain from every voluntary act of mischief or corruption and further from the seduction of any patient.

Whatever in connection with my professional practice or not in connection with it I may see or hear in the lives of my patients which ought not be spoken abroad I will not divulge, reckoning that all such should be kept secret.

While I continue to keep this Oath unviolated may it be granted to me to enjoy life and the practice of the art and science of medicine with the blessing of the Almighty and respected by my peers and society, but should I trespass and violate this Oath, may the reverse be my lot.

This is the profound and solemn oath which doctors take upon themselves. The Bill before us asks doctors in this country to break that oath. Section 9(1), which deals with the risk of loss of life from suicide, states:

(1) It shall be lawful to carry out a medical procedure in respect of a pregnant woman in accordance with this section in the course of which, or as a result of which, an unborn human life is ended where—

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(a) the medical procedure is carried out by an obstetrician at an appropriate institution, and

(b) subject to *section 19*, three medical practitioners, having examined the pregnant woman, have jointly certified in good faith—

(i) there is a real and substantial risk of loss of the woman's life by way of suicide, and

(ii) in their reasonable opinion, that risk can only be averted by carrying out that medical procedure.

This presents a dilemma for medical practitioners, as those of us who attended the hearings of the Oireachtas Joint Committee on Health and Children already know. No Government Minister attended those hearings in May to any significant extent, although they may have done in January.

**Deputy Kathleen Lynch:** I did.

**Deputy Peter Mathews:** Not for long.

**Deputy Kathleen Lynch:** I was there for an entire morning.

**Deputy Peter Mathews:** I said no Government Minister attended. With respect, you are a junior Minister. The 15 senior Ministers have collective responsibility.

**Deputy Kathleen Lynch:** This must be the first time the Deputy has introduced respect into his contributions on this issue.

**Deputy Peter Mathews:** The psychiatrists said that if a woman is in a very distressed situation, and anxious, which is very understandable, and says that she does not wish to accept the medical treatment they may offer, the only way left to avert the risk of suicide is to certify this as a lawful procedure. That goes against the hippocratic oath. They explained that dilemma to us. Furthermore, when the psychiatrists have certified that the procedure has been complied with, the obstetrician receives that certificate to carry out the procedure. They said that this is a dilemma that is repugnant also to their hippocratic oath, knowing that their fellow doctors have been, as it were, checkmated into that situation. This is a very grave matter. It was brought out in the hearings. It is a matter of enormous weight that a human life - that of a little baby, maybe under 15 weeks - can be ended. Another doctor, Mr. James Sheehan, who with Maurice Neligan and others founded the Blackrock, Galway and Hermitage clinics, and who has given more than 50 years' medical service to families, to men, to women and to babies - to everybody throughout his career - said only yesterday, with the wisdom of a long career, "Peter, when people terminate a pregnancy at that stage, it is killing an unborn baby, and you are to use that word, because we in the profession have to do that procedure. It is killing an unborn baby." That is very sad. That is why, at the core, I cannot support this Bill.

We have heard different discussions about the legal situation and we have been misled. I want to read into the record the following article that appeared in the *Sunday Business Post*, written by Dr. Maria Cahill under the headline "There is no legal requirement for suicide exemptions":

Although the European Court of Human Rights specifically requested that Ireland pro-

vide legal clarity in relation to lawful medical treatments in pregnancy, the political rhetoric surrounding the introduction of the Protection of Life during Pregnancy Bill has been a model of legal obfuscation.

The government has been keen to emphasise that it is obliged to legislate to introduce abortion on the grounds of suicidal intent, and both the Taoiseach, Enda Kenny, and the Minister for Health, James Reilly, have, on countless occasions, presented this ‘obligation’ as deriving from law: from the Constitution, the European Court of Human Rights or the Supreme Court.

As long as this political rhetoric about legal obligation holds sway, frank debate about the terms and merits of the legislation is almost impossible. Indeed, so long as this political rhetoric is unchallenged, there is no necessity for the minister to present the legislation as medically justifiable and legally legitimate; he can simply say that he has no choice.

Is the government constitutionally obliged to legislate for a Supreme Court judgment? No, as a matter of law. The Constitution gives permission to the Dáil and the Seanad to legislate, rather than imposing such an obligation on them. There are examples dating all the way back to 1965 of the court establishing that various rights exist, only to have 14 successive governments decline, in the lawful exercise of their discretion, to legislate to provide an express statutory footing for these rights.

The only constitutional obligation is that legislation must remain within the terms of the Constitution. In this instance, the right to life protected in Article 40.3.3<sup>o</sup> must be fully vindicated.

Is the government legally obliged to legislate for a suicide-based exemption from the right to life because of the European Court of Human Rights ruling in the case of *ABC v Ireland*? No, as a matter of law. The rules of the committee of ministers require that Ireland should adopt measures that are “effective for preventing the recurrence” of the breach that was found in the case of *ABC v. Ireland*.

Applicant C, following an internet search, diagnosed that her cancer might return during her pregnancy, and then went to England to have an abortion. She was not suicidal. A suicide-based exemption from the right to life would not have clarified her legal position at all.

Apart from the fact that the Oireachtas is under no constitutional obligation to legislate for the X case, is a future court bound by that precedent to allow suicide-based exemptions from the right to life? No, as a matter of law. The X case is in a separate category of judicial decisions because of what it did not decide. As every first-year law student learns, a precedent is only binding in relation to the points that were decided in the case. All the points that were “entirely overlooked or conceded without argument” are not part of the decision, as the Supreme Court itself ruled in 1965. If a point is not argued before the judge, the judge cannot make a decision on that point, and there is therefore no precedent on that point. If it were to be otherwise - if precedents could be made based on what the judges did not decide in court - then we would not be living under the rule of law.

I sat in the Chair yesterday and heard Deputies making their speeches, very importantly because of the gravity of the Bill and the responsibility on our shoulders. Those in the medical profession have vindicated the lives of mothers and children, and more beyond, through

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their superb service, making Ireland one of the safest places in the world to be a patient or to be looked after in the course of pregnancy. The Minister of State should read and re-read the article I have read out, because it shows that there is no necessity to legislate. In a telephone conversation this morning Mr. James Sheehan of the Blackrock Clinic said that the men and women who are his peers qualified before and around the time of legislation for abortion in England, and they know exactly what happened in England: young doctors did not wish to go into obstetrics and gynaecology as a speciality and there was a fall-off in the numbers going into those disciplines, because this legislation was at variance with their hippocratic oath and with all their good instincts to serve society, families and people. Introducing such a legal framework here will almost certainly have the same result.

Another person who told me she was against this legislation is Sister Consilio Fitzgerald, who runs Cuan Mhuire. She has served Ireland and dealt with the fallout from abortions, including the addictions that often follow abortions. She is a midwife too, by the way. People do not know that. She knows that no expectant mother ever wanted for the best attention and for everything necessary to save her life.

I go back to the repugnant dilemma that this law puts on psychiatrists and obstetricians in certifying the unavailability of suicide. I want to read into the Official Report, on a matter of personal conscience, the letter I wrote to the Taoiseach last Friday:

Re: Personal Conscience and Passage of Proposed Legislation for Abortion in Ireland under The Protection of Life during Pregnancy Bill 2013 and Articles in Bunreacht na hÉireann.

Dear Taoiseach Enda,

I have carefully considered the above Bill and Bunreacht na hÉireann.

In recognition of the deeply and sincerely held conscientious reservations of many Fine Gael Parliamentary Party members (Legislators) and in accordance with Article 115 (page 8) of the EPP Party Platform Document adopted by Fine Gael at the EPP Statutory Congress, Bucharest, Romania, 17-18 October 2012 which states:

“We consider that it is necessary to respect the right of conscientious objection.”,

the only reasonable and correct basis for voting in respect of the proposed Legislation is that there should be a Free Vote, without imposition of a Whip, for each Fine Gael Parliamentary Party member, out of respect for the informed personal conscience of Legislators in voting on such important proposed Legislation which goes to the core and impacts directly Articles 40.3.1, 40.3.2, 40.3.3, 15.5.2, and 28.3.3 of the Constitution all of which Articles deal with matters of Life and basic Human Rights.

I respectfully ask that you would support a Free Vote for each Fine Gael Parliamentary Party member out of respect for informed personal conscience during passage of the above Bill.

I wish to assure you of my loyalty to Fine Gael, traditional Fine Gael values and the values of the EPP.

I fully respect your Presidency of the Fine Gael Party, your Leadership of the Fine Gael Party and your Office of Taoiseach of the Government of the Republic of Ireland.

Please accept my kindest personal best wishes,

Yours sincerely,

Peter Mathews.

The Minister for Health also received this letter. When doctors qualify they voluntarily take the hippocratic oath to serve the people of this country. We too make a solemn prayer every morning before the commencement of business in the House:

Direct, we beseech Thee, O Lord, our actions by Thy holy inspirations and carry them on by Thy gracious assistance; that every word and work of ours may always begin from Thee, and by Thee be happily ended; through Christ our Lord. Amen.

This is not a Catholic badge to put on the oath to which doctors have sworn from the time of Hippocrates, 500 years before Christianity. This is basic philosophy on the dignity of human life.

At the public hearings on abortion, people who had the experience of abortion had asked to give their gentle and truthful testimony but were declined. Some of those people attempted suicide after their abortions. They now have teenage and adult children. They could have told us of their first-hand experience, what this law seeks to address, yet they were declined. We have a Bill going through on prostitution and prostitutes were listened to. This is not right. I hope we are in a civilised society and everyone understands the gravity of what we are about. I hope everybody has - I expected the same when I joined this House - the right to speak on matters as grave as this.

Since Thursday, I have received over 100 letters, texts, e-mails and phone calls from doctors who said this Bill is wrong. The last letter I got today was from a consultant gynaecologist, Dr. Courtney, with 35 years' experience who was in charge of Cavan hospital. In it he stated:

I worked for 35 years as a consultant with the best results in Ireland and the UK and was never curtailed by law to save women's lives.

Wars come and go. Famines come and go. But abortion comes and stays and eats its way into the heart of a people as it has done in England. Seven thousand, four hundred [abortions] in 1966. One hundred and fifty thousand in 1972. Two hundred thousand today.

**An Leas-Cheann Comhairle:** I must ask the Deputy to conclude.

**Deputy Peter Mathews:** The letter continues:

As Lord David Steel has discovered when it comes, it does not go. Abortion is the most heinous deed a man or a woman can be part of. James Reilly's claim that he will control it is childish.

James Sheehan, Sister Consilio and their colleagues have said that once the legislative framework comes in with section 9, we can be certain, by reference to other jurisdictions in which they have worked, that it will lead to increased numbers of abortions. James Sheehan told me that every time a procedure, as it is called, or a termination happens in those circumstances, it is killing an unborn child. We have got to do it. That is what is repugnant.

**Deputy Barry Cowen:** I rise to speak on this issue with a heavy heart. I acknowledge the

great difficulty and no little effort on the part of everyone associated with the preparation and consultation in the writing of this legislation. I am particularly mindful of the Minister for Health and his staff, the Government as the Executive, the health committee chairperson and its members and those who made contributions to the committee, as well as the vast numbers of members of the public who sought to advise, educate and solicit information from Members.

I also acknowledge members of the public who sought and continue to seek to persuade, to guide and to direct Members in a certain direction. The majority of them did so and are doing so in a respectful and dignified manner. Many of my constituents have discussed the proposed legislation with me. Some had preconceived opinions, some opinions evolved as the process developed, some had opinions based on religious beliefs and faith. I respect their stance and their views. I respect their rights as constituents to engage with me and others who they elected to legislate.

That is, of course, the essence of democracy. That is democracy at work and, ultimately, we will all be elected or defeated on our ability to listen, to learn, to engage, to advise, to draw conclusions and to decide and legislate. Having decided to support or reject this legislation, it is incumbent on all Members to explain their actions and set out their reasons. To that end, I welcome this prolonged debate. I welcome the opportunity to speak on the legislation and to explain the reasoning and methodology behind my motivation and intention to support the legislation. I implore all Members to do likewise and to explain their reasons for voting in favour or against the proposed legislation.

Some may say they are obliged to vote in favour of the legislation because of the imposition of the Whip. They may want to explain they are not necessarily in favour of it but are voting for it or *vice versa*. It is only right, fair and proper that such duplicity is explained to their constituents. Some Members wish to sit on the fence and check the way the wind is blowing through opinion polls. They may have a preconceived idea that because their constituency is perceived to be conservative, they then should not support the legislation. It may sound crazy to think that this might be the way some Members perform on many issues, particularly this one. Unless all Members avail of this opportunity afforded to them in this debate, then that perception and accusation may well follow such Members for many years to come.

One of the most abiding conversations that has stayed with me over the course of recent months is one I had with a priest in my constituency, not my parish in case people draw the wrong conclusion. We discussed the legislation briefly, its contents, its ramifications and its merits or otherwise as the case may be. I explained I felt compelled and torn by virtue of one's obligation to adhere to the Supreme Court decision. Whether we agree with that decision, it obliges this House and its Members to act on its instructions as legislators and provide legislation which reflects its interpretation of Article 40.3.3<sup>o</sup> of the Constitution. The decision of the European Court of Human Rights in the *A, B and C v. Ireland* case obliges us also to provide legal clarity for medics to carry out their duties, without fear of retribution, in their efforts to adhere to the constitutional right of the mother at the unfortunate expense of the unborn in limited circumstances. The priest's response and contribution to that conversation was to say that one had to be firm and true to one's beliefs and interpretations specifically in this regard. Any member of the public would be cognisant of the sincerity of that viewpoint and of that stance. Any effort to stray from that or to court popularity or the popular persuasive influence of others within one's constituency would be rightly exposed.

Termination of pregnancy in these limited and most awful of circumstances, no matter how

limited the occasions, and in the case of the threat to life by means of suicide - which has only been once as per the X case in 30 years - is a very sensitive and complex issue, and I continue to respect all views in the regard.

Like the Taoiseach and many others here, I am a Catholic; I was reared and educated in what I believe to be the best Catholic traditions. I espouse its principles and beliefs. I cannot claim, no one can, to always adhere to much of its teachings and so forth, but I am confident, comfortable and at ease with the decision that has to be taken. I almost wish that it could be that I was of a different mind or had drawn different conclusions or opinions of my constitutional obligation to legislate according to the Supreme Court decision. That decision has become very controversial and many people disagreed with it at the time it was taken and people still disagree with it. It was for that reason that there were two constitutional referenda seeking to reverse the decision by excluding the right to termination on the grounds of self-destruction, referenda in which I voted "Yes".

When the Tánaiste, Deputy Gilmore, in his efforts to pronounce and exaggerate a soundbite - I am sure he was very sincere in his own right - said that doing nothing, as had been the case for 20 years, was no longer an option, that was disingenuous and untrue. It was possibly an effort, as was the case recently and since the election - because the election was fought and won fairly and squarely by the current Government and it wants to rerun it on numerous occasions - to slur and sully Fianna Fáil. That is a trait, I might add, and I hate to bring this into this debate, that is now shared by the Taoiseach, Deputy Kenny, who this week, in response to the Anglo Irish Bank tapes, could not resist the temptation or the obligation that he feels to accuse Fianna Fáil of collusion with Anglo Irish Bank. No matter how wrong or how obscene that allegation was and is, let it be known that that statement alone has the potential to put the deathknell on the credibility of an Oireachtas inquiry into the banks.

To return to the issue at hand, the reason for those referenda was that there was no doubt but that the law in the country, as a result of the interpretation of Article 40.3.3° by the Supreme Court in the X case, was that a woman was entitled to a termination of her pregnancy if there was a real and substantial risk to her life, including a risk from self-destruction. If that was not the law then there would not have been any need for two referenda, so the law stands. If a pregnant woman presents herself at a maternity hospital today claiming to be suicidal, the law and the medical guidelines have at their disposal the right to termination.

If the proposed legislation excluded termination on the grounds of self-destruction, such a right would still exist in Irish law, and women would still be legally entitled, as they are now, to seek a termination on the grounds of self-destruction, notwithstanding that it is not contained within the legislation. If the proposed legislation expressly excluded a right to termination on the grounds of self-destruction, it would clearly be in conflict with the Supreme Court decision in the X case and, consequently, would be unconstitutional.

This is the reality of the situation that I face as a legislator and that is the basis on which I will be voting on the legislation. The constitutional reality is inescapable. I believe that the prevailing law, which has been set by the Supreme Court, needs to be defined in legislation. My personal opinion is that the Bill is a good faith measure. It is very restrictive, more restrictive than the *status quo*. I would not support any legislation which I believe would open the floodgates to an unrestricted abortion on demand regime.

As I have repeatedly said, I respect all views, even if I differ in my own. It is essential that

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all views are aired in this our republic. With regard to this matter, views have been aired twice in national referenda. We now have to legislate in compliance with the Constitution.

**Deputy Billy Timmins:** I cannot support this Bill as it requires me, as per sections 9 and 22(4) to legalise the intentional destruction of unborn human life where there is a real and substantive risk of loss of a woman's life by way of suicide. In other words, if a woman is in such a difficult place that she is contemplating suicide as a result of her pregnancy, this Bill will legalise the direct and intentional killing of the unborn child. This is in spite of the fact that almost 100% of medical practitioners have given evidence that abortion is not a treatment for suicide and, in so far as it can be established, it is more likely to cause long-term damage to the woman and certain death to the unborn. If these sections are removed I have no difficulty in supporting the remainder of the Bill, and I hope the Minister will remove them or give a commitment to remove them in the next few days.

Some Members have spoken about the vitriolic material they have received. We all received this. It is inexcusable. It happens on several issues. Some members of the public are angry at what they see as a break in trust as many Deputies and Senators gave commitments and played on the beliefs and fears of the people. In so far as I can establish, I did not send out any letters at election time or issue press releases in support of any pressure groups on this issue and I am not aligned to any pressure group.

However, the most worrying material I have received is that which has come from certain medical professionals who, with a few rare exceptions, are totally opposed to legislating for the threat of suicide as a ground for abortion. I have all the material to hand, to which very few Members have referred. We heard from 11 psychiatrists on 13 December; 120 psychiatrists in a petition, some representatives of whom came into the Chamber to inform Members; 12 gynaecologists on 9 December and only yesterday from 39 GPs from Cork and Kerry. That is what worries me, not the material that threatens me and dooms me to hell or otherwise, but material from the medical professionals who are the people who will have to implement this legislation and who, almost to a man and a woman, are totally opposed to section 9 of the Bill.

*1 o'clock*

I have heard many fine speeches in the Oireachtas on the issue of human rights since I was first elected to this House. While in the Army, I served with the United Nations in Lebanon and saw at first-hand how important and difficult it was to defend human rights. Many Irish people lost their lives in doing so. Speeches come easily, but deeds are a little harder. This legislation is primarily about human rights because it proposes to violate the most basic human right, namely, the right to life, of the most vulnerable section of our society, unborn citizens. Whether one is a Catholic, Hindu, an atheist or Jewish, the core issue is the same. If the Bill was run through a computer programme, it would fail to pass. It is built on sand and history will show that to be the case.

There are many similarities between the approach the House and the public are taking to this legislation and to the bank guarantee and the economic boom. There seems to be broad support from the media and those with a different view are painted as being out of step or having an ill-founded basis for opposition. The collapse of the economy and recent revelations on the bank guarantee clearly show how ill served the public was by the herd mentality, but we learned nothing. I will rehearse what the mainstream media had to say in late 2008 about the economic boom and the banking crisis. An editorial in the *Irish Examiner* on 1 October 2008

headed “€400bn bailout - A welcome and decisive move” stated: “It was a brave positive move, the government has acted on a national scale with the financial future of all of us in mind”. On the same day the *Irish Independent* stated: “Lenihan’s masterstroke has bought us time to sort out our own problems ... Finance Minister Brian Lenihan has made a wise choice”. *The Irish Times* cautioned, however: “While Taoiseach Brian Cowen and Minister For Finance Brian Lenihan are being commended for their leadership and the template of the solution provided, the devil, as always, will be in the detail”.

Dealing with serious social issues during economic difficulties is not good practice. I propose to break my contribution on the strangely named Protection of Life During Pregnancy Bill 2013 into two parts. First, I will speak about the Bill and its flaws and, second, discuss the process of the policy decision.

The core of the Bill is section 9 and the risk to life of the pregnant woman from suicide. In seeking to understand and deal with the Bill I attended the Oireachtas hearings in January and May and met many groups and individuals inside and outside the Oireachtas. I respect all of the views held on this most emotive of issues and many of those to whom I have spoken have experienced great tragedy and suffering. However, it is clear from reading the Bill that for the first time an Irish Government is proposing to introduce a law that provides for the direct and intentional targeting of the life of the unborn child. This is clear from sections 9 and 22.

I acknowledge the time and effort all of the witnesses who attended the Oireachtas hearings put into their contributions. Some have received more coverage than others. One of the witnesses at the January hearings who strongly supported the legislation spoke about saving women’s lives and sought reassurance that she and her colleagues would not go to jail. I am confident that everyone in the House would support any measure to address such concerns. However, the following correspondence was subsequently sent to the Chairman of the Joint Committee on Health and Children:

Dear Mr Buttimer,

I would be grateful if you could present the enclosed statement to your committee tomorrow, Thursday. It goes as follows:

“We the undersigned obstetrician/gynaecologists see no obstetrical advantage in changing the current law on abortion.

We are concerned that legal intervention could interfere with Irish obstetricians being able to treat pregnant women to the best of their ability.”

The letter was signed by Dr. James Clinch from Dublin, Dr. John Monaghan from Ballinasloe, Dr. Michel Brassil from Ballinsloe, Dr. Eileen Reilly from Galway, Professor Michael Foley from Dublin, Dr. Eamon McGuinness from Dublin, Dr. Trevor Hayes from Kilkenny, Professor Dermot MacDonald from Dublin, Professor Michael Foley from Dublin, Dr. Hugh O’Connor from Dublin, Dr. Naveed Kwaja from Ballinsloe and Professor Colm O’Herlihy from Dublin. Prior to the hearing in May, I contacted one of the signatories of the letter who did not give evidence and he expressed the view that the legislation would not clarify the matter because the medical practitioner would ultimately have to make a clinical judgment call. I ask the Minister to show me where in the legislation are women’s lives saved.

I am happy to support the Bill, with the exception of section 9. I have received countless

representations from members of the medical profession on the provision on suicide and section 9 who have been almost unanimously opposed to this measure. One of the more profound examples was the evidence presented by Dr. Sam Coulter-Smith, the Master of the Rotunda. I will rehearse his submission in the hope commentators will read it before making glib comments in the media. I ask them to deal with the issues he raised rather than accusing me and others who hold similar views of ulterior motives. He stated:

My name is Dr. Sam Coulter-Smith. I am master of the Rotunda Hospital in Dublin. My submission to the committee today is based on my views and the views of my consultant colleagues at the Rotunda Hospital following consideration of the draft heads of the Bill ... In respect of loss of life from self-destruction there are a number of issues that need to be raised. First, this is an extraordinarily rare situation with the incidence of suicide in pregnancy of the order of one in 500,000 pregnancies as per United Kingdom figures. Second, our psychiatric colleagues tell us that there is currently no available evidence to show that termination of pregnancy is a treatment for suicidal ideation or intent and, as obstetricians, we are required to provide and practice evidence-based treatment ... It, therefore, creates an ethical dilemma for any obstetrician who has requested to perform a termination of pregnancy for the treatment of someone with either suicidal ideation or intent. Third, this legislation, I am sure, is designed to create clarity and reassurance for both health professionals and patients alike.

The fact that there is no gestational limit in respect of the third scenario relating to suicidality is a major ethical issue for obstetricians. I will illustrate this with two scenarios. First, let us consider the case of a patient who is 25 weeks' gestation. If she is deemed to be sufficiently suicidal to require a termination of pregnancy by one or more psychiatric colleagues, an obstetrician who is tasked with dealing with this situation is faced with an enormous ethical dilemma. Delivering a baby at 25 weeks' gestation could lead to death, due to extreme prematurity or it could lead to a child with cerebral palsy or with other significant developmental issues for the future. This outcome would be entirely iatrogenic and the responsibility of those clinicians who have agreed to be involved in the process. This is a source of serious concern for myself and my colleagues.

Another clinical scenario which provides a difficult ethical dilemma is a situation whereby at a woman's 20 week anatomy scan a significant but non-lethal malformation is discovered. The patient, for a variety of reasons, may decide that she cannot continue with the pregnancy and it is causing her significant mental health issues with risk of suicide. The obstetrician is left in the unenviable position of, by law, having to look after the best interests of the baby but also the understanding of the mother's issues. It would, therefore, seem appropriate in a case where there is a risk of self-destruction that there is no gestational limit applied in this situation as this creates a major ethical dilemma for us.

My overriding concern, however, in relation to the whole area of self-destruction and termination of pregnancy to prevent same, relates to the lack of evidence to show that termination is of any assistance in this scenario and that we as obstetricians and gynaecologists must be able to stand over the decisions we make as being based on good medical evidence.

In relation to the infrastructure and resources it is my view, and that of many of my colleagues, that the inclusion of suicidality within the legislation may, and I stress may, in the long term lead to an increased demand for termination in this country. We currently do not have any real understanding of how big that demand may be. Currently in excess of

5,000 women a year go from Ireland to the UK to have termination procedures performed. We cannot be certain how many of these women would decide to use this current legislation as a means of obtaining a termination in this country and even if unsuccessful in obtaining a termination in this country, a huge amount of time and resources will be spent on the assessment of these patients ... In conclusion, I welcome this draft legislation, particularly in the area of real and substantial risk to the life of the mother which pertains to physical illness. I think, however, that there are significant concerns in all areas of the medical profession in relation to this Bill when it comes to suicidality. Our overriding concern relates to the lack of evidence to show that termination of pregnancy is an appropriate treatment for women who are deemed to be at risk of suicide. As obstetricians we are expected to practise evidence-based interventions and first and foremost to do no harm. This legislation should help in providing clarity and reassurance to professionals and patients alike. To enact and underpin the idea that termination of pregnancy is a solution or a treatment for a patient at risk of committing suicide when there is no evidence to support that intervention creates an ethical dilemma for our profession.

To make matters a little more difficult there is no gestational limit mentioned in the draft at which this termination might happen. This opens the possibility for iatrogenic prematurity with all the risks of infant morbidity and mortality. Who will be responsible for these interventions? I also confirm to the committee that we as a profession, and particularly in my hospital, have concerns about the potential for increased demand for termination services in this country as this may be an unintended consequence of this legislation in its current form.

Those remarks were made by Dr. Sam Coulter-Smith, who is the master of the Rotunda Hospital, rather than by Deputy Billy Timmins or any spokesperson for a pro-life group. I hope the Minister can address those concerns. I did not hear them addressed at the close of the hearings.

I have listened to some speakers who have questioned the suggestion that “abortion is not a treatment for suicide” and expressed weariness at its continuous use. Surely this is the issue at stake. By allowing abortion upon a threat of suicide, the Government would be legislating for a treatment that is not evidence-based. It is impossible to predict suicide accurately. Abortion exposes some women to mental health issues. Section 9 of this proposed legislation will potentially put women’s lives at risk. If this section was not in the Bill, I would happily support the remainder of the legislation. I will do so if the Minister removes this section on Committee Stage or Report Stage. International experience has shown that the inclusion of such a measure results in a liberal abortion regime. It is difficult to understand the nuances of this issue, particularly when one hears two psychiatrists arguing from different sides. However, there is widespread opposition from psychiatrists to the inclusion of suicide as a ground for abortion. Professor Kevin Malone stated in his submission to the Joint Committee on Health and Children: “By foregrounding a theoretical risk of suicide in women, and enshrining “suicidality” in Irish law, the proposed legislation runs the risk of further invisibilizing, normalizing, and at worst exacerbating the much more real and volatile threat of increased suicide risk in Irish men, and potentially accelerating suicide risk in young women also.” Ms Sunniva McDonagh SC said: “I want to mention what was decided in the X case because we cannot leave out of the picture the fact that the Supreme Court formulated the test without the benefit of medical evidence or best psychiatric practice”. Dr. John Sheehan, who is a consultant psychiatrist at the Mater Hospital, said “[T]here is no evidence base to indicate that abortion prevents suicide”.

Professor Malone, who is a consultant psychiatrist at St. Vincent's Hospital, has said "I wonder how [abortion] can overnight become a recommended psychiatric treatment in Ireland".

In their submission to the Oireachtas Joint Committee on Health and Children, three Irish perinatal psychiatrists with over 40 years of combined clinical experience said they had not seen a single case in which termination of pregnancy was the treatment for a mental disorder. However, since 1992, the HSE has assisted six minors who were in State care in travelling abroad for abortions on the grounds of suicide. A psychiatrist was involved on each occasion. How can this conflict be resolved? As many other speakers have said, the judgment of the European Court of Human Rights in the case of *A, B and C v. Ireland* does not require Ireland to legislate for abortion. It merely requires us to clarify what the law is. Equally, there is no constitutional duty to legislate for the Supreme Court decision. The judgment in the *X* case, with respect to the permissibility of abortion as a treatment for suicidality, is not a formally binding precedent. It is not binding because the issue was conceded without argument and therefore does not form part of a binding precedent. At the hearings, Mr. Paul Brady, who is a barrister, and Dr. Maria Cahill of the UCC faculty of law quoted Mr. Justice McCarthy and Mr. Justice Brian Walsh in support of this argument. Mr. Brady said:

It is well established that neither a constitutional provision nor even a statutory provision can be construed on the basis of a concession if it were to be binding *in rem*. It is unfortunate that .... legislators should feel under some strait-jacketed legal obligation to bind themselves to what was a concession in that decision.

I believe the legislation before the House may be unconstitutional. Contrary to what many commentators have said, a commitment to legislate for the *X* case was not in the programme for Government. I ask them to read what the programme for Government says. I have grave reservations about the whole process. I made reference to this in earlier speeches and at the committee hearings. The media has shown little interest in examining the detail. It was clear from the expert opinion presented at the hearings and the correspondence from medical practitioners that legalisation for the threat of suicide as a ground for abortion does not save women's lives. The hands of the expert group were tied, in contrast to the commitment in the programme for Government, which states:

We acknowledge the recent ruling of the European Court of Human Rights subsequent to the established ruling of the Irish Supreme Court on the *X*-case. We will establish an expert group to address this issue, drawing on appropriate medical and legal expertise with a view to making recommendations to Government on how this matter should be properly addressed.

Some nominations from professional bodies to the expert group were not chosen. Why was this? How were the eventual members selected? While this is very much a secondary issue, it is important nonetheless.

The laws we enact influence our culture and our behaviour. Ireland does not have a culture of abortion. I believe this legislation will change that. The message I received when I spoke to the members of the Women Hurt group was very clear. It resonated with me more than most of the submissions I receive. They referred to the pain and suffering they experienced after they had had abortions. They described their negative experiences and how they felt afterwards. Women from different countries and cultures have this - the mental health consequences of having had an abortion - in common. As women who have been hurt by abortion, they fear this

legislation will give rise to a social acceptance of it. Many friends and colleagues who hold sincere and genuine beliefs will support this Bill, but I cannot do so. I have spent many months meeting groups and individuals and reflecting on their views. I disagree with some of them, but I accept that they are all genuine. If there was an easy solution to this problem, it would have been resolved some time ago. While this legislation may pass, I do not think it will address our problems - instead, it will increase them. I remind the House that Norma McCorvey, who was central to the 1973 *Roe v. Wade* case in the US, sought a judicial review of the decision in her case many years afterwards.

Voting against this legislation will result in my losing the Fine Gael Whip. I deeply regret this. I and other family members have served Fine Gael at local and national representative level for a total of over 100 years. I have knowledge of what is the Fine Gael ethos. When this law is enacted, it will not sit lightly with it. The way this issue has been presented to the public can best be reflected in the following words:

“How we Learn”

Great truths are dearly bought. The common truth,Such as men give and take from day to day,Comes in the common walk of easy life,Blown by the careless wind across our way.

Great truths are greatly won. Not found by chance,Nor wafted on the breath of summer-dream;But grasped in the great struggle of the soul,Hard-buffeting with adverse wind and stream.

Not in the general mart, ‘mid corn and wine;Not in the merchandise of gold and gems;Not in the world’s gay hall of midnight mirth:Nor ‘mid the blaze of regal diadems;

Wrung from the troubled spirit in hard hoursOf weakness, solitude, perchance of pain,Truth springs, like harvest, from the well-ploughed field,And the soul feels it has not wept in vain.

I will conclude by giving another example of the many concerns that have been raised with me. Dr. Bernard Nathanson, who was one of the foremost pro-abortion activists in the US, admitted in his 1996 autobiography that he had “helped usher in this barbaric age”. He described the four steps that are usually followed by those who want to liberalise abortion law. First, they find a hard case, even if it is not fully relevant. Second, they create fear, doubt and confusion and even grossly exaggerate or lie about the facts. Third, they find a convenient pro-life group that is easy to hate and demonise or scapegoat it. Fourth, they legalise abortion on mental health or suicide grounds. Does this sound familiar to the House? I will conclude by reiterating that I would be happy to support this Bill if section 9 were removed. I remind the House that the questions raised by Dr. Sam Coulter-Smith, rather than by me, have not yet been answered.

**Deputy Mary Lou McDonald:** I would like to share time with Deputy Catherine Murphy.

**Acting Chairman (Deputy Charlie McConalogue):** Is that agreed? Agreed.

**Deputy Mary Lou McDonald:** I am pleased to speak on this legislation. In 1992, the Supreme Court found that the Constitution guaranteed a woman the right to terminate a pregnancy lawfully and within the State where there is a real and substantial risk to her life, including where that risk is the threat of suicide. Two referendums and a European Court of Human Rights judgment have copper-fastened this established constitutional right. The report of the expert group on the judgment in the case of *A, B and C v. Ireland* was published last November. It found that legislation and regulations in accordance with the X case would give constitutional, legal and procedurally sound effect to the European Court of Human Rights judgment. This approach, far from being a prescription for so-called abortion on demand, will underpin the extremely restrictive nature of the 1992 ruling in the X case to include suicide. Some people have sought and will continue to seek to undermine the need to include suicide. I have found many of the arguments they have put forward in this regard to be disrespectful to women. In some instances, they have been deeply hurtful. Many people have chosen to forget, or to omit to mention, that the Supreme Court ruled in 1992 that where the threat of suicide posed a real and substantial risk to the life of the woman, and where no other intervention could save her life, then a termination of the pregnancy is lawful. That was the case in 1992 and that is the case today. It is worth remembering the precise circumstances of the X case, where a 14 year old child was raped and brutalised. That 14 year old child was pregnant and suicidal and the courts vindicated her right to terminate that pregnancy and not carry it to term. If we want to speak frankly in respect of people's position on this legislation, we have to go back to the specifics of the X case. I view it as a barbaric notion that a raped, brutalised, pregnant and suicidal child would be forced by the State to carry that pregnancy to term. That, for me, does not add up ethically or morally, and it does not add up legally, as we know given the Supreme Court has so judged.

I recognise that, for many, this debate is by definition a difficult one. There is a diversity of views which have been thoroughly aired in recent months and, indeed, years. That is legitimate and healthy. However, for over 21 years the Oireachtas failed in a basic duty to deliver legislation that provides clarity for medical practitioners and the necessary protections for pregnant women whose lives are at risk. Therefore, I welcome the introduction of the Bill. Successive Governments have failed our women on this issue and the body politic, in its entirety, has failed them. I commend Labour and Fine Gael on introducing this legislation and on ensuring adequate time for debate in advance of a final vote before the summer recess.

It is clear the vast majority of citizens want this legislation, although that does not mean they are, to use the term, "pro-abortion" or in favour of abortion. It is a simple recognition of the fact that in real-life situations where a woman's life is at risk, there is an expectation that interventions will be made to save that woman where all else has failed. I know it is difficult for some Members of the Oireachtas to hear the fact that the majority of people support this legislation. There is a minority view which is strongly and sincerely held, and I respect that, but we are, after all, a democracy. After a delay of 21 years and all of the heat and sometimes rancour that has surrounded this debate, I believe the democratic will of the people should be reflected in their democratic institutions.

Quite frankly, I fail to see any parallel between this legislation and the bank guarantee. In fact, I cannot imagine a more stark contrast. In the case of the bank guarantee, as instanced by Deputy Timmins, far-reaching and devastating decisions were made under a cloak of secrecy and in a rushed and pressurised manner. One could hardly say this is the case with this legislation. Far from it. In fact, it has been marked by delay and, I believe, cowardice of a monumen-

tal scale on behalf of the political establishment.

Many bodies, individuals and institutions outside of the world of politics have strong views on these matters. I am thinking in particular of religious institutions and the churches. I believe in a pluralist society. I believe in space for healthy debate and I absolutely respect the right, indeed the responsibility, of people from the churches to state their position and to lead a discussion among their congregations. However, I have to say that some of the remarks made by the Roman Catholic bishops have been factually inaccurate and most unhelpful. As an individual and as a practising Roman Catholic and regular mass-goer, I believe any threat to excommunicate members of the Roman Catholic Church on the basis of their stance on this legislation to be utterly indefensible and oppressive.

The bishops say, and we hear some echoes of this argument in this Chamber, that the Government is under no obligation to legislate for the X case. That is simply wrong. We are legislators. We are elected to legislate not just for ourselves or on the basis of our personal dogma or ethos; we are elected to legislate on behalf of the people. We also have an ethical and moral responsibility to deliver legislation that supports and protects the constitutional rights of our people. This legislation is quite simply about recognising and setting up the constitutional right of a pregnant woman to have her life saved where her life is in jeopardy. It is as simple as that.

That is what is in train in the Oireachtas. We are legislating for the constitutional right of a woman to a termination where her life is at risk. The legislation reflects the restrictive nature of the Supreme Court judgment and subsequent referendums. It will not lead to a more permissive regime - that is simply not the case. Deeply questionable arguments and tactics have been employed in the course of this debate by some, and I am uncomfortable with that. It is simply untrue to say that the Government, or indeed any of us who want to see this legislation on the Statute Book, are not listening to those who oppose this Bill. I have listened very carefully and respectfully to the argument from the other side. Every hue of opinion and expertise has been given a full opportunity to come before the Oireachtas and its Members to argue their case, share their views and give professional opinions.

This is a democratic State. We are a democratic people. Our laws are shaped by our Constitution - the people's Constitution. The religious institutions, churches, interest groups and lobbies all have a crucial and valuable place in our society but, in the final analysis, it is we who are elected to the Oireachtas who are responsible for bringing forward our laws. As decided by the people, the courts interpret our Constitution, the Oireachtas delivers our legislation and the people elect us as legislators.

I welcome this legislation. Sinn Féin will be bringing forward some amendments but I believe this is a really positive day and a positive period for us in that, at last, we are simply doing what needs to be done to doubly ensure the lives of the small number of pregnant women who will sadly find themselves in a position where that precious life is imperilled.

**Deputy Catherine Murphy:** First, I want to state that I am in favour of legislating for the X case. Not only do I think we should legislate, I believe that, as democrats, we have a duty to legislate. The only question for me is whether the legislation goes far enough.

In 1992 and 2002 proposals were put to the people in a referendum to restrict further the right of Irish women to abortion by removing the right to abortion on grounds of suicide. The people of Ireland rejected these proposals on both occasions. The Supreme Court found it in-

excusable that the Oireachtas had not legislated - it is the job of the courts, after all, to interpret laws whereas it is our job to make them. We have had our instructions from the people and we have a responsibility to stand up and take responsibility. I cannot think of another case of a constitutional amendment where the people gave their instructions and those instructions were ignored not for years but for decades.

The legislation is the bare minimum, in my opinion. The tragic case of Savita Halappanavar could unfortunately happen again even after this legislation is passed. The Savita Halappanavar case demonstrated in a way that was readily understood the kind of risk a pregnant woman can be exposed to, even in very limited circumstances. That was readily understood and many people were very scared as a consequence of that case. We are expecting people to abandon their anonymity, as her family and Deirdre Conroy did, so that people can understand and that understanding can help us make laws. Deirdre Conroy went through four years of legal wrangling in the European Court of Human Rights although the issue could have been considered by our courts.

It is inexcusable not to include the heartbreaking issue of fatal foetal abnormalities. There are Deputies on the Government side who also believe that. To force a woman to continue with a pregnancy to term when there is no prospect of giving birth to a baby that is compatible with life is barbarous. For most women and couples who find themselves in this unfortunate situation it will have followed the great joy of being told there was a pregnancy. They will have looked forward with great hope to the birth of a live, healthy baby. They will have considered names, shared the news with family and friends and been asked if it is a boy or a girl. They will be looking forward with great hope. They will then have received the devastating news that there will be a pregnancy but no baby at the end of it. To force any woman to continue with such a pregnancy to almost full term is horrific. There is a compassion in Irish people that finds that unacceptable. Irish people would not want to put a woman or a couple - very often it is deeply felt by both - through that. Instead of fulfilling a duty of care to that woman, which is where the focus should be, we force so many of them to seek that compassion and care in hospitals in Liverpool, Manchester or London. That is shameful.

Pregnancy may be a natural occurrence but it is not without risk. Only yesterday I met a young woman who was so damaged by such a pregnancy that she cannot physically have a baby and will have life-long adverse health consequences. Yesterday I also met a GP who talked about the experience of his daughter Ruth. Her baby was diagnosed with fatal anencephaly at 13 weeks and she travelled to England for a termination. He said:

If she had continued with the pregnancy, she would have effectively been a life support machine. Every day in hospitals, doctors and families have to make decisions to switch off machines. Is this not a similar position?

I ask that today on behalf of him and Ruth.

I understand that neither rape nor incest can be included in this legislation because it would be unconstitutional. That would require a further referendum, which we should commit to and which I would support. We occasionally meet people who have experienced incest or rape recently or in the past. People who have experienced incest will often talk about the guilt they still feel, even though they were only children. The only role people such as myself can play is to encourage them to go for counselling. So many rapes go unreported, often because the victims have no expectation that the courts will dispense justice or they want to be sure they can re-

main anonymous. Instead, they seek support from organisations such as the rape crisis centres. In many cases it takes great courage to walk up that street, up those steps and through that door. On many occasions women feel they have themselves been put on trial when their cases go to court. They know the rape crisis centres will deal with them in a confidential, compassionate and sensitive way. This morning, some woman may well visit rape crisis centres. Whether the rape is recent or historic, it has taken great courage for her to get there. This morning, disgracefully, a van belonging to the Pro Life Campaign pulled up outside the door of the Dublin Rape Crisis Centre in Leeson Street. The photograph is there. There is no traffic around the van. It is sitting outside the centre with a sign that reads, "The abortion bill won't make women safer." The confidentiality that women looked for was breached this morning by this. It is completely unacceptable that this should have happened. It screams at them that women would be safer if this Bill were not passed. It interferes with the confidentiality they thought they were going to have in visiting the Dublin Rape Crisis Centre. It shows the lengths to which this organisation will go. The Pro Life Campaign is trying to dismiss the incident by saying the van got stuck in traffic. The photograph shows there is not a car, bike or bus anywhere near it. It was deliberate. It is disgraceful. These women were violated by a rape, they often feel violated by the fact that they cannot get justice, and now they are being violated again by this. It is outrageous.

**Deputy Alex White:** I agree.

**Deputy Catherine Murphy:** I thank the Minister of State. This legislation is the bare minimum. When Deputy Clare Daly put forward her Bill some of the Government Deputies, including those in the Labour Party, made speeches saying they would wait for this legislation. The impression they had, in good faith, was that this legislation would be a little bit beyond what is presented. I accept there is a limit on what can happen because of the Eighth Amendment, which I would favour removing, but it does not go far enough. I question whether it will meet the needs of the European Court of Human Rights, and we could be back here sooner than we think. Instead of being instructed to do things from outside, I hope we can grow up and start recognising that Irish people have moved on and that women in this country can be trusted. That should come across in this discussion. We should take the responsibility of saying this is what we need to do in a modern country that has a duty of care to women, particularly when they experience rape, incest or fatal foetal abnormality. From that point of view, although the proposals in this Bill are an improvement, it does not go far enough.

**Deputy Michael McNamara:** I agree with much of what Deputy Catherine Murphy said, especially her condemnation of the antics of the group that parked its van outside the Dublin Rape Crisis Centre.

It is a tragedy when an expectant mother forms the belief that she cannot carry a pregnancy through to fruition to give birth to a life. The right to life is the most basic of human rights that this and every State must vindicate. Equally, only a State with a blatant disregard for human rights, such as some kind of warped theocracy, would seek to hold expectant mothers as prisoners of their pregnancies. The fact that for 20 years since the X case judgment this Legislature has refused to address the reality that thousands of Irish women have decided to terminate their pregnancies and have travelled to the UK and other jurisdictions to have this procedure, and continue to do so to this day, is an indictment of this House and our entire body politic.

Eighty-three women who received abortions in England and Wales in 2011 gave home addresses in County Clare. It is reasonable to assume that many women from Clare did not give their real addresses and that many others received abortions in jurisdictions other than England

and Wales.

In the first of three referenda on this issue in 1983, Article 40.3.3° of the Irish Constitution was inserted by the Eighth Amendment of the Constitution:

The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.

Subsequent referenda established the right to travel for the purposes of a termination and the right to receive information about such services abroad and crucially, for the purposes of this legislation, rejected a Bill which removed as a ground for the termination of pregnancy a real and substantial risk to the life of the mother by self-destruction. Such had been the finding of the Supreme Court in the X case. In that case, Mr. Justice McCarthy noted:

[T]he right of the girl here is a right to a life in being; the right of the unborn is to a life contingent; contingent on survival in the womb until successful delivery. [He concluded that] On the facts of the case, which are not in contest, I am wholly satisfied that a real and substantial risk that the girl might take her own life was established; it follows that she should not be prevented from having a medical termination of pregnancy.

Those are the parameters within which this House must legislate. Both Government parties agreed to examine the decision of the European Court of Human Rights in the A, B and C v. Ireland case, in advance of the last election. Indeed, Ireland like every other state which is a party to the convention on human rights, undertakes to abide by the final judgment of the court in any case to which it is a party. In the A, B and C v. Ireland case, it was affirmed:

[T]he Court does not consider that the prohibition in Ireland of abortion for health and well-being reasons ... exceeds the margin of appreciation accorded in that respect to the Irish State

However, the court concluded that the Irish authorities had failed to respect the private life of the third applicant by reason of the absence of any implementing legislative or regulatory regime providing an accessible and effective procedure by which the third applicant could have established whether she qualified for a lawful abortion in Ireland in accordance with the Irish Constitution. In seeking to provide that clarity, I am concerned that the Protection of Life during Pregnancy Bill, as it currently stands, may not adhere to the Constitution. When sections 7, 8 and 9 are read in conjunction with section 22, there appears to be no duty of care to preserve the life of the unborn as far as is practicable when carrying out necessary medical procedures in respect of a pregnant woman and, as a result, the Bill may be found to be unconstitutional.

I am aware that in carrying out a medical procedure referred to in sections 7, 8 or 9, a reasonable opinion must be formed and that opinion must be formed having regard to the need to preserve human life as far as practicable, that the risk to the life of the mother can only be averted by carrying out the medical procedure. However, while carrying out that medical procedure, it would appear that the Bill as currently drafted would permit the intentional killing of the foetus even if it might otherwise survive the procedure. I do not believe that to be the intention of the Bill, nor do I believe that it would be constitutional to legislate in that manner and I look forward to clarification from the Minister on this crucial matter before the Bill passes through these Houses. The last thing we need, 21 years after the X case, is for this Bill to be referred

to the Supreme Court and found to be unconstitutional. It is a virtual certainty that the constitutionality of this Bill will be tested, either through a referral from the President, or otherwise.

The second matter I wish to raise is the Taoiseach's suggestion to the Dáil that it is not permissible under the Constitution to include in this legislation a provision for abortion in cases of fatal foetal abnormality. However, in the case of *D v Ireland*, another European Court of Human Rights case, decided in June 2006, the Government of Ireland presented a very different story to the Court. In that case D, the mother of two children, became pregnant with twins. She was informed by her obstetrician that one foetus had stopped developing at eight weeks gestation. In the 17th week of pregnancy it was confirmed that the second foetus had a lethal genetic condition. She felt unable to tolerate the physical and mental toll of a further five months of pregnancy with one foetus dead and with the other dying. She did not consider any legal proceedings in Ireland at that point, but rather made arrangements to travel to the United Kingdom for an abortion, which she underwent. She chose the medical induction option, leading to 24 hours labour, as she felt it was the option most respectful of the second foetus. She felt that there was a culture of concern in this hospital which she found reassuring. She did not have time to remain in the UK to have counselling on the genetic implications for future pregnancies, although she was given some statistical information about the recurrence of this abnormality. She transported the foetus to Ireland for a discreet burial by a sympathetic minister.

The Government's submission to the Court stated:

[T]he foetus was viable in the X case whereas in the present case there might be an issue as to the extent to which the State was required to guarantee the right to life of a foetus which suffered from a lethal genetic abnormality. The meaning of "unborn" in Article 40.3.3° had attracted some public and academic comment. However, there had been little judicial examination of the meaning of "unborn" and certainly no case comparable to the present. Accordingly, although it was true that Article 40.3.3° had to be understood as excluding a liberal abortion regime, the courts were nonetheless unlikely to interpret the provision with remorseless logic particularly when the facts were exceptional. If, therefore, it had been established that there was no realistic prospect of the foetus being born alive, then there was "at least a tenable" argument which would be seriously considered by the domestic courts to the effect that the foetus was not an "unborn" for the purposes of Article 40.3.3° or that, even if it was an "unborn", its right to life was not actually engaged as it had no prospect of life outside the womb. In the absence of a domestic decision, it was impossible to foresee that Article 40.3.3° clearly excluded an abortion in the applicant's situation in Ireland.

On the basis of these submissions, the court found that if the question of whether Article 40.3.3° excluded an abortion in the case of a fatal foetal abnormality was novel, it was, nevertheless, an arguable one with sufficient chances of success to allow the initial burden on the Government to be considered satisfied. Accordingly, the European Court found that a legal constitutional remedy was, in principle, available to the applicant in Ireland to obtain declaratory and mandatory orders with a view to obtaining a lawful abortion in Ireland. This obviously begs the question - was the Government wrong in what it told the European Court of Human Rights on 6 September 2005, or was the Taoiseach wrong in what he told the Dáil yesterday?

**Acting Chairman (Deputy Charlie McConalogue):** Deputy Seamus Healy is sharing his 20 minutes with Deputy Gerry Adams.

**Deputy Seamus Healy:** I welcome and support this legislation which is limited and restric-

tive. This is a sensitive issue which is very difficult for some people to deal with - indeed for many people. The expert report expressed this well when it stated that abortion is a difficult, painful issue in this country and elsewhere. It also observed that the reasons are not hard to understand: intense ethical, religious, social, political and intimate personal issues coincide. That is quite correct. The issue must be dealt with in a compassionate and understanding way. However, it has to be dealt with urgently. We cannot continue a situation where women's lives are at risk or where the medical profession is unclear about the legal position. As legislators, 21 years' later, we must accept our responsibilities in this area.

In my view there is an overwhelming middle ground, a very significant majority of the public, who are in favour of the provisions in this Bill. That overwhelming middle ground would be prepared to go further to include in the Bill provisions to deal with fatal foetal abnormality, inevitable miscarriage, pregnancy arising from rape and incest. Many polls in the recent past and earlier have shown that this is the view of a significant majority.

The history includes the 1983 referendum, the X case in 1992, the two referenda of 1992 and 2002 and the European Court judgment in the A, B, C v. Ireland and D v. Ireland cases in 2010. It is clear that the Supreme Court found that a termination is lawful in Ireland where it is a matter of probability that a woman faces a real and substantial risk to her life and where that risk can only be averted by a termination. The late Mr. Justice Niall McCarthy said at the time that the delay which had taken place at that stage was not only unfortunate, it was inexcusable. Remember, we are now 21 years further down the road. It is inexcusable now. We have had both court cases and the people have spoken on the issue on two occasions in 1992 and 2002, respectively. They supported the contention that suicide as a real and substantial risk to the life of the mother should be included. It is now necessary for the Oireachtas to legislate based on the X case judgment and the judgment of the European Court of Human Rights.

Some people have indicated that the legislation is very liberal. We must remember that it is governed by the Constitution, the 1983 amendment thereto and the X case judgment, in which the court referred to a real and substantial risk to the life of a woman which could only be averted by a termination. To say the legislation is liberal and to refer to the situation in Britain is, at best, misleading. The British legislation refers to the health of a woman, whereas the Bill refers to a real and substantial risk to her life.

A number of issues in the legislation which should be dealt with have been referred to in other contributions. One to which I want to come back is the question of fatal foetal abnormality, which issue has been put clearly on the agenda by the group, Termination for Medical Reasons. It has spoken to Members in a briefing in the AV room in Leinster House. This is a sad, tragic issue which many families find themselves confronted by. There are almost 1,500 cases of fatal foetal abnormality in Ireland annually. These are real people with real stories of the injustice of having to travel to seek a medical termination and treatment. These families feel the denial of treatment in Ireland and the requirement to go abroad is very unfair and unjust. A number of eminent legal people have argued that termination in a case of fatal foetal abnormality is constitutional. This view is supported by the Government's submissions in the D v. Ireland case before the ECHR. The judgment in the D v. Ireland case states:

Accordingly, although it was true that Article 40.3.3° had to be understood as excluding a liberal abortion regime, the courts were nonetheless unlikely to interpret the provision with remorseless logic particularly when the facts were exceptional. If therefore it had been established that there was no realistic prospect of the foetus being born alive, then there was

“at least a tenable” argument which would be seriously considered by the domestic courts to the effect that the foetus was not an “unborn” for the purposes of Article 40.3.3° or that, even if it was an “unborn”, its right to life was not actually engaged as it had no prospect of life outside the womb. In the absence of a domestic decision, it was impossible to foresee that Article 40.3.3° clearly excluded an abortion in the applicant’s situation in Ireland.

The Government argued that the D case could have been dealt with in the Irish courts and that such terminations could be found to be constitutional. That issue must be revisited in the legislation to provide that fatal foetal abnormality is covered.

Section 22 of the Bill also falls to be addressed. The provisions of the section criminalise a pregnant woman. There is a legal precedent whereby a pregnant woman affected in a situation such as that under discussion may be excluded from committing an offence and facing a 14 year sentence of imprisonment. There is a widespread view that this is an unusual situation and that the legislation should be amended. There is a view across the House that this is, in fact, a provision which should not be contemplated.

The time limits in the legislation also fall to be addressed. The time limits in respect of reviews must be shortened from three days to one and seven days to three, respectively.

Another matter which must be addressed is the omission of provisions on the duty of care owed by institutions to persons availing of the services provided for in the Bill. We must also include a provision to protect women and doctors from harassment.

I have tabled amendments on fatal foetal abnormality, time limits, the duty of care and protection from harassment which will I hope be discussed on Committee Stage. I hope we can enact legislation which covers these areas. I welcome and support the Bill. It is limited and restrictive in scope.

*2 o'clock*

**Deputy Gerry Adams:** Personally, I am not in favour of abortion. That is my strongly held view, but I am not here to legislate for me, especially not on this issue. Like other Members of the Oireachtas, I have a duty and responsibility to legislate for citizens, in this case pregnant women whose lives are at risk. Therefore, I and Sinn Féin will support the Protection of Life During Pregnancy Bill.

Sinn Féin believes that Irish society has a responsibility to not only address the issue of abortion but also address the fact that thousands of Irish women travel to Britain each year for abortions. We also believe that all possible means of education and support services should be put in place to prevent crisis pregnancies. We believe that the way to tackle the issue of abortion is by way of comprehensive education, full access to child care and comprehensive support services, including financial support for single mothers, and that full information and non-directive pregnancy counselling should be freely available.

Personally, I am strongly opposed to any attempt to criminalise or be judgmental of women who have had abortions. Who here in this Chamber - or, indeed, outside this Chamber - has the right to judge these women? I am concerned that this Bill could potentially lead to a woman, in whatever circumstances, being sentenced to up to 14 years in prison.

The fact is that the lives of some women are placed at a real and substantial risk due to their

pregnancy. In these cases only a termination of the pregnancy, as distinct from the termination of the life of the unborn, although that can be a consequence of the intervention, will save their lives. That is already accepted practice in this State. It is also the current legal position, as is an intervention where the woman's life is at real and substantial risk due to the threat of suicide. If passed into law, this Bill will legalise a termination only where there is a real and substantial risk to the life of the mother, including a risk of suicide.

This legislation has been a long time coming and the issue that gives rise to it has been at the centre of considerable debate and controversy for many years. The tragic death last year of Ms Savita Halappanavar, and the evidence emerging out of the inquest, refocused attention. It also underlined the urgent need for legal clarity for doctors and protection for pregnant women. The HSE report on Ms Halappanavar's death was published in the past few weeks and on the same day as this Bill, and because of its direct relevance to the legislation, I wish to comment on it. I take the opportunity again to extend my deepest sympathy to Mr. Praveen Halappanavar and all the relatives and friends of Savita. Like the outcome of the inquest, the report has far-reaching implications. It is extremely serious and distressing that the report found that Ms Halappanavar's death had resulted from inadequate assessment and monitoring of her condition and a failure to offer all options to her. University College Hospital Galway's non-adherence to clinical guidelines relating to the prompt and effective management of sepsis, severe sepsis and septic shock from the time of first diagnosis contributed significantly to her death. We may never be able to state definitively that this Bill, if it had been in force at the time of Ms Halappanavar's hospitalisation, would have saved her life. However, there are good grounds, based on expert evidence, for believing that this would have been the case, as a termination would have been regarded as a life-saving option to which Ms Halappanavar should have had timely access.

The background to this debate goes back further, however, to 1992, when a 14-year-old girl became pregnant as a result of rape and was suicidal. The then Attorney General sought an injunction preventing the girl from travelling with her parents to have an abortion abroad. The case, known as the X case, went to court and the Supreme Court ruled that a termination of pregnancy was lawful if it could be shown that there was a real and substantial risk to the life, as distinct from the health, of the mother. In 2010, the European Court of Human Rights ruled that the State violates the rights of pregnant women by refusing to allow them to receive lawful terminations in the event that a pregnancy could threaten their lives. The decision by the European Court of Human Rights made it clear that there is an onus on the State to legislate under the terms of the Constitution and the decision in the X case. Regrettably, previous Governments failed to face up to this issue. It has taken 21 years for this legislation to be produced.

It is a fact that there are sharply divided opinions on this issue and that was clearly evident during the recent Joint Committee on Health and Children hearings. Most of the focus in those hearings was on the issue of suicide, with a number of medical people and politicians giving evidence that abortion is not a treatment for suicide. Nobody contends that it is. They also claimed that this could open up the possibility of large numbers of women using the threat of suicide to secure a legal abortion. I believe that these arguments are disrespectful to women and impossible in the light of the proposed legislation. I share the view of the former Supreme Court judge Mrs. Justice Catherine McGuinness that the proposals are "sufficiently rigorous" to ensure that very few cases will be dealt with in respect of the threat of suicide.

For our part, Sinn Féin has set out its clear position on abortion. Our policy, which is not in favour of abortion, has been settled policy for us for some time. In the Northern Ireland Assembly, we opposed and voted against the proposed extension of the 1967 British Act to the

North. We believe, as I stated earlier, that all possible means of education and support services for women should be put in place.

The legislation being proposed by the Government aims to address the issue of a pregnant woman whose life is at risk and who requires a medical termination, and the need for legal clarity for doctors involved in such a procedure. It does this in the context of existing constitutional law as interpreted by the Supreme Court in the X case. Sinn Féin has stated consistently that legislation is required in line with the X case judgment and in compliance with the A, B and C v. Ireland judgment and the expert group recommendations. In fact, it is long overdue. I commend the Minister, Deputy Reilly, on his introduction of this legislation.

There is now a widely held view - according to recent opinion polls, a clear majority view - in Irish society that legislation along the lines originally set out in the heads of the Bill, and now in this legislation, is necessary. It is not perfect legislation. Notwithstanding this, judged in the round, and taking into account the pressing need for long overdue legislative certainty and clarity, Sinn Féin will support this legislation.

**Deputy Michael Creed:** This is certainly the most difficult and contentious piece of social legislation I have discussed in my years in the Oireachtas, and it has consumed a great deal of time for all Members, including myself, over the past number of months, particularly since the report of the expert group and the chain of consultative arrangements that were put in place subsequently.

One of the points I want to make at the outset is that lobbying is part and parcel of the democratic process. Personally, I very much regret the attempt to demonise one side of the debate based on the actions of a small minority. It is true to state that this has been, by and large, a dialogue of the deaf. There has been very little willingness to have real and open engagement, particularly on the extremes of both sides of the argument, and I suppose one must bear in mind also that the vast majority of people have not spoken at all on the issue. It is unfortunate that the actions of a small minority have been elevated to such importance as to provide a justification in some respects for the demonisation of one side of the argument. I have been the subject of quite a good deal of representation - it was ongoing up to this very day - on the matter. I would say that 99% of it has been respectful and conveyed in an appropriate manner. While in most cases we have had to agree to differ on the issue, those involved behaved in an exemplary manner. In that sense, I want to put on the record some correspondence I received from the Carrigrohane Union of Parishes, which is the Church of Ireland parish in my constituency. It wrote to me recently in respect of this legislation, stating:

We, as members of Carrigrohane Union of Parishes,

Thank you for the time you have taken to listen and are ashamed of the abuse you may have received in the name of the Church and Christ.

Are concerned about possible lax interpretation of the legislation and ask that as a public representative you are vigilant in the application of the Act.

Request that in the legislation requiring the annual reporting of notifications of terminations to the Health Minister before 30th June each year, that this is reinforced by requiring the Health Minister to present it to the Dáil for consideration, so that the government is seen to be accountable.

27 June 2013

We offer you our prayerful support in your difficult role as a public representative, and pray for healing and forgiveness so that we can know the blessing of God is in our nation.

They go on to say, “You have listened... you have faced formidable pressures... we may not agree about everything, but you have our respect. Thank you.” That summarises, by and large, the tenor of many of the representations I have received. That is from the Church of Ireland but I have also engaged directly with members and clergymen from most of the Christian churches, including the Catholic Church, and I encountered the same tenor. Lobbying is part of the process and we must be cognisant of that.

There is a view that we do not need to legislate and that we could continue to ignore what is an established constitutional right since 1992. I accept there is no legal imperative to legislate. Neither the Supreme Court ruling nor the judgment from the European court in the *A, B and C v. Ireland* case specifically obliges us to legislate. The European court ruling obliges us to clarify. I sat through the health committee hearings in January after the publication of the expert group report and the hearings in May after the publication of the heads of the Bill. I listened to constitutional experts, obstetricians, gynaecologists, psychiatrists, perinatal psychiatrists and representatives of all the churches. It became abundantly clear that this is enormously complex. While clarity is necessary, it is difficult to see how the appropriate clarity can be provided outside the legislative process.

Some people have suggested guidelines as an appropriate instrument. In that respect I will refer to the current Medical Council guidelines that relate to abortion. The guideline states: “Abortion is illegal in Ireland except where there is a real and substantial risk to the life (as distinct from the health) of the mother. Under current legal precedent, this exception includes where there is a clear and substantial risk to the life of the mother arising from a threat of suicide. You should undertake a full assessment of any such risk in light of the clinical research on this issue.” For me and most reasonable people, those guidelines are quite vague relative to what is contained in the legislation, where there is an onus of consultation with a number of medical practitioners before an entitlement to a termination can be vindicated. I quote the guidelines merely to show that the current Medical Council guidelines are unsatisfactory. The legislation is an improvement in the sense that the woman seeking a termination under the suicide provision will be obliged to go before a panel of three medical people, two of whom shall be psychiatrists. This is not provided for in Medical Council guidelines. Guidelines are not the be-all and end-all in respect of clarity and in that sense do not serve to advance the euphemistic pro-life interest, as I see it.

Another point must be made in respect of what is already an established constitutional right since 1992. It emerged in a response to a parliamentary question tabled recently by my colleague, Deputy Timmins. He asked the Minister for Children and Youth Affairs in respect of the *C* case to provide information on the number of girls in the care of the State “that were taken to Britain or elsewhere for an abortion following a court decision, following testimony from a psychiatrist for the State that she was suicidal for each year from 1998 to date in 2013; the psychiatrist involved on each occasion; and if she will make a statement on the matter.” The Minister replied as follows:

I am advised by the HSE that six minors who were in State care were assisted in travelling abroad for abortions since 1992. The circumstances in each case are complex and unique to the individual involved. In the interests of confidentiality and given the very low numbers involved the HSE is constrained from providing details of the individual cases.

The HSE has confirmed that it acted within the legislation and in the best interests of the children involved in all cases. In each of the six cases a psychiatrist was involved in providing an assessment of the mental health needs of the child. In four of the six cases a court hearing was convened.”

Under the constitutional right established since 1992, six children in the care of the State who were pregnant have had that right vindicated. It is not as if this legislation is establishing a new legal right. It is providing the clarity required for how that legal right may be interpreted and in many respects, in the context of how it was accessed or vindicated up to now, it is making it more restrictive in terms of the obligation to consult more widely.

In respect of the suggestion that we are not required to legislate, the reason I quote that reply and the Medical Council guidelines is that the right already exists, but how the right is vindicated is shrouded in uncertainty. Some have already vindicated it. Guidelines are wholly inadequate in my view in the context of the guidelines that already exist under the Medical Council. Others say we can deal with this by regulation. However, regulations must be underpinned by some form of primary legislation, so it is a circuitous argument. Given the complexity of the issue, I believe the only way to provide the required clarity is to proceed by way of legislation.

There are a number of issues I wish to raise with the Minister. Framing this legislation has been something of a high-wire act in trying to move within the parameters of the X case judgment in 1992, the A, B and C v. Ireland judgment, the constitutional provisions of Article 40.3.3° and the expert group report. That is the space within which the legislation is framed. I have raised a matter previously with the Minister, so he might address it in detail in his reply to the debate. It has been raised in the public domain most recently by the former Director of Public Prosecutions, DPP, Mr. Eamonn Barnes. He argued, perhaps more cogently in a legal way than I could when I raised the issue in the health committee hearings on the heads of the Bill, that whether we like it or not there is an Article 40.3.3° in the Constitution. It states that the State recognises the equal right to life of the unborn and in so far as practicable shall by its laws seek to vindicate that right. As a father, husband, brother and son in respect of my relationships with the women in my life, I find it difficult to grasp that equal right to life. In my family circumstances I would certainly elevate the right to life of the mother. I believe most people would, notwithstanding the difficulty of the situation.

However, in the legislation are we not legally elevating one right above the other beyond what was envisaged in the 1982 amendment to the Constitution by granting, in section 13, a right of appeal to one party above the other in respect of entitlement to a medical procedure to terminate a pregnancy? That is the point both I and the former DPP have raised. Would it not be appropriate that an authorised medical officer - I am not anxious that this matter would become bogged down in a legal sense - appointed under this legislation would be empowered to act if it sees fit and bearing witness to all the medical evidence, to represent the interest of the unborn in any proceedings that might be undertaken under sections 7, 9 or 13? The latter two are the sections dealing with an entitlement to a termination under the suicide provision or entitlement to an appeal where a decision has been refused by the appropriate panel. In the interests of ensuring the constitutionality of the Bill, this is something that raises fundamental issues about what we have provided for in the context of an appeal. I say this because it is against the background of Article 40.3.3° that this legislation will undoubtedly be adjudicated upon, either by referral by the President after consultation with the Council of State or by way of subsequent challenge by some third party. There is a danger that the constitutionality of the legislation might be undermined by that failure or the elevation of one party's entitlement above

another. I say this cognisant of the flaws in the provision that was inserted in the Constitution and how it has since been interpreted. In many respects, the referendum outcome has been a bitter harvest for those who, in 1982, advocated for a referendum. They certainly did not envisage the outcome although wiser counsel in many quarters did in 1982 predict it as a possibility. I would like to see the comprehensive, legal Government response to this issue.

I thank the Minister for his engagement with me and others on the Bill to date. Reference has been made to Lord Steel's legislation in the United Kingdom and to the French and Californian experiences. I am conscious of these. It is important, in framing our legislation and given its complexity and the fact that there was very little meeting of minds among all the experts we heard, that we put in place an effective review mechanism. Its genesis, but certainly not the finished article, is encompassed in the legislative provisions for notifications. I wish to raise with the Minister some of the weaknesses I noted, and I hope he will be in a position to improve upon these on Committee Stage. There is a requirement under section 20 to report to the Minister where a medical procedure referred to in section 7(1), 8(1) or 9(1) is carried out. The glaring omission is that there is no reporting or review mechanism concerning decisions made under the appeal system. That should be addressed. Section 20(3) states:

The following information is specified for the purposes of *subsections (1)(a) and (2)(a)*:

(a) the Medical Council registration number attached to the registration of the medical practitioner who carried out the medical procedure referred to in *section 7(1), 8(1) or 9(1)*, as the case may be, in respect of the pregnant woman concerned;

While I can understand the reason for this requirement, it clearly highlights the glaring omission of an equally or more important requirement to provide to the Minister the Medical Council registration numbers of the three medical practitioners who, under the legislation, jointly certify that an entitlement exists. This is because the three medical practitioners are effectively the gatekeepers. It is stated that perhaps one pregnant woman in 500,000 is genuinely suicidal and that nobody wants the death of that woman on his or her hands, but it is surely as important to know the identity of the three medical petitioners who certify an entitlement as the identity of the medical practitioner who carries out the medical procedure. Could the Minister commit to addressing this omission?

Section 20 states the Minister shall publish all the information he is furnished with by the appropriate institutions. A simple additional requirement would be the placing of the publication before the Houses of the Oireachtas by the Minister. I hope the Minister can accede to this based on conversations we have had on this matter.

It is ludicrous to talk about Oireachtas reform if the Executive continues to assume it knows best and that it is the only authority that may be dealt with. It is important that we review the impact of this legislation, particularly given the international experience and the facts that we are fallible and may get it wrong. Most people want to deal with emergency circumstances in which a woman's life is in danger owing to a physical condition or, perhaps more contentiously, a threat of suicide. We need to know annually how the legislation is working. In the process of reviewing the legislation before Committee Stage, could the Minister examine the two issues I have drawn attention to in regard to notification?

Section 15 requires the HSE to submit to the Minister a report on the operation of the chapter in question. I refer to the certification of identity on review. The purpose is to ascertain

whether there are doctors who will automatically provide certification without due regard to best medical practice. The Minister stated he will not hesitate to use the powers afforded to him under the legislation, as drafted, to suspend a service in that instance. We will only know the answer by having an effective reporting mechanism. I would like the Minister to assure us that this matter will be dealt with.

I am prepared to support the legislation on Second Stage. It is the culmination of a very extensive consultation process. It does not involve an easy decision; it is difficult. I have gone to extremes to listen to and engage with all sides. I found the engagement process to be constructive in 99% of cases. There is an established constitutional right to be borne in mind. We would not trespass lightly on any other established constitutional right. I have heard the view that the judgment is flawed. I could imagine the hullabaloo that would have arisen if the Government had decided, in respect of the most recent ruling on its inappropriate handling of the children's rights referendum, that it was only a Supreme Court ruling and did not have to be taken very seriously. We have waited a long time to bring the required clarity to this issue. Doing so challenges all of us and forces us to deal with enormously complex issues. As lay people charged with legislating, we must take account of eminent persons in all the appropriate fields, who have failed to agree. The legislation is a measured step. In the context of suicide, which is the most contentious aspect, it is balanced in the sense that the entitlement to a termination on grounds of suicide must be in the context of those certifying entitlement in this regard being satisfied that no other form of treatment would effectively protect the life of the mother.

**Deputy Niall Collins:** I welcome this opportunity to speak on the Government's Bill. I have said from the start that Fianna Fáil will not treat this issue as a political football as it is very complex, sensitive and personal. All sections of this Bill were thoroughly debated at the Oireachtas committee hearings and there was substantial input from legal, medical and psychiatric experts. Abortion has provoked debate throughout the country since the referendum in 1983 when the eighth amendment, inserting Article 40.3.3°, was made.

I am using the word "abortion" as it was explained by the experts that every pregnancy is terminated and that the vast majority of pregnancies terminate after a normal delivery in maternity units. In the 30 years since 1983, there have been many changes, and at least we are now allowed to have a rational and respectful debate in the Oireachtas.

This Bill was discussed at two lengthy hearings of the Joint Committee on Health and Children, in January and April this year. It is only right that respect was shown to all Deputies and Senators and that the varying views and, most importantly, the legal, medical and psychiatric experts who are at the coalface were listened to at length.

Various forms of contraception are widely available and regulations were introduced years ago to allow for the availability of the morning after pill without prescription to prevent unwanted pregnancies. Sex education is provided in schools, as well as in the home, and Ireland has become a more open society. It is no longer dominated by the teachings of the Catholic Church and has become more pluralistic. There is no doubt that there was a considerable shift in public opinion following the unfortunate death of Savita Halappanavar. Rightly or wrongly, the media attention her death received both at home and abroad was a turning point in people's attitudes. People believe there should be legislation to allow doctors to intervene to save the life of a mother when it is in danger, while making every attempt to save the life of the unborn. All churches have the right to their opinion, but even though 84% of Irish people in the latest census declared themselves to be Catholic, it appears they are no longer dominated by the teachings

of the Catholic Church because in the most recent MRBI poll more than 75% of people agreed that the Bill was acceptable. The churches have an obligation to inform their members about the Bill, but it is also important that this information be based on fact and truthfulness.

There are concerns about the issue of suicide and section 9 deals with the issue comprehensively, more so than the current law. The Bill requires a review panel to be set up to offer every woman the assistance she requires, something which is not in place currently.

Some Members have found it extremely difficult on a personal level to even consider voting for termination in any circumstance and there are those who believe the legislation is a reasonable response to a sensitive issue. I have examined the heads of the Bill closely, but I also informed myself on the choices for legislators. I base my comments on legal and medical facts, which is why I support the Bill, as I firmly believe it is the right thing to do as a legislator but also as a husband and a father. I genuinely do not believe there is an alternative to this legislation which the Government has published as a result of the ECHR judgment in the *A, B and C v. Ireland* case. The judgment acknowledged that only the Irish people could decide on Ireland's position on the termination of pregnancy but stated there was an obligation on the Government to provide a legislative pathway. In other words, legislation is required to provide for what is contained in the Constitution. Article 40.3.3° of Bunreacht na hÉireann provides: "The State acknowledges the right to life of the unborn and with due regard to the equal right to life of the mother, guarantees in its laws to respect and, as far as practicable, by its laws to defend and vindicate that right". There has been constitutional protection for the unborn for the past 30 years and there still will be after the Bill is passed. We need to be clear with the people and reiterate this fact as much as possible.

This legislation will provide doctors with legal protection when they are acting to save lives in emergencies and will ensure terminations are rare and only necessary when the life of the mother is in danger. At the joint committee hearings Dr. Gerard Burke described it as "reflecting common sense and reflecting the manner in which obstetricians currently practise and the Bill will make little, if any, change to the way patients are treated." This is important as groups with their own agendas are misconstruing the legislation and making exaggerated claims of floodgates being opened and our maternity hospitals suddenly turning into "abortion clinics". Nothing could be further from the truth. The Bill is more restrictive than the current law. There is no constitutional protection in the United Kingdom or America and, therefore, the floodgates will not open as a result of the legislation. Abortion will only take place in exceptional circumstances. The Bill provides that it will be an offence to intentionally destroy human life and a person who is found guilty of this offence will be imprisoned for up to 14 years.

The floodgates have not opened since 1992 when Article 40.3.3° was interpreted by the Supreme Court in *X v. Ireland*. The court concluded that a termination of pregnancy was permissible only when it was established as a matter of probability that there was a real and substantial risk to the life of the mother if such a termination was not effected. Basically, since 1992 abortion has been legal and, in an article in November 2000, Professor William Binchy accepted this by saying, "As a result of the holding in *X*, abortion is lawful." At the time he and others were calling for a referendum to allow medical intervention for mothers during an emergency but ensuring abortion would be illegal in Ireland. An all-party Oireachtas committee, chaired by the late Brian Lenihan, completed a report in response to the *X* case. It included evidence from experts in the legal and medical professions and a referendum was held in 2002. The report included a Bill - the Protection of Human Life in Pregnancy Bill 2002 - which provided for medical intervention when the life of the mother was in danger, as well as repealing sections

58 and 59 of the 1861 Act. The referendum fell by less than 10,000 votes. Two referendums seeking to reverse the decision of the Supreme Court in the X case were held and both attempts failed. It is the law since 1992 and it still is the law that women have the right to seek a termination on grounds of self-destruction.

Under this legislation, there will be a review panel comprising an obstetrician and two psychiatrists who will assess the woman and offer assistance and treatment. The woman may appeal any decision and this has to be held within seven days. The legislation will repeal sections 58 and 59 of the Offences against the Persons Act 1861 and provide a legal framework for doctors who work in maternity hospitals every day to save the lives of both babies and mothers. As the evidence from the masters of the maternity hospitals and obstetricians from hospitals outside Dublin showed, every effort is made at all stages of pregnancy to save the lives of both, even when there is a medical emergency that endangers the life of the mother and, with medical advances, the number of weeks after which the unborn is viable is decreasing every decade. In the 1990s survival was only possible after 26 weeks gestation, but, thankfully, this is now much lower at 23 weeks gestation. The Medical Council, the Institute of Obstetricians and Gynaecologists and the College of Psychiatrists of Ireland have welcomed the Bill. They believe it will strengthen the council's guidelines which have covered this issue for many years without legislative backup. A number of doctors who gave evidence to the committee believe the Bill is too restrictive and needs to do more than clarify existing law. I do not agree with expanding the Bill to allow a more liberal approach to abortion. Let us not forget that the people will ultimately decide if there is to be any change to Article 40.3.3°.

There should be strict monitoring of the number of interventions that result in abortions in order that any spike can be investigated. It is welcome that the Bill requires such interventions to be notifiable to the Minister for Health. This will prevent the floodgates from opening, as perceived, and will also be in keeping with the intentions of the legislation. The Bill is a reasonable, conservative and restrictive legislative response to the findings of the ECHR judgment, which is why I support it.

It is refreshing and welcome that we have had such a respectful debate on this issue. Everybody has been lobbied, but more and more we need respectful debate in the House. We need political leadership which we did not see, for example, this week from the Taoiseach on the Anglo Irish Bank tapes. He acted with a presidential decree like President George W. Bush and showed no respect for the House. A great deal of respect has been shown in other debates, but we did not witness respect this week for the House, politicians and the profession of politics. Unfortunately, instead of uniting the body politic against the cabal of bankers in the former Anglo Irish Bank who blatantly lied to the regulator and civil servants and going after them, we were engaged in a political blame game which besmirched politics. It was disgusting to see the Taoiseach engage in that. I was particularly disgusted by his reference to an "axis of collusion", which serves only to let the clique at Anglo Irish Bank off the hook. It is not good enough. It was a sick smear and the Taoiseach should not have done it. Paul Williams confirmed on "Morning Ireland"-----

**Acting Chairman (Deputy Seán Kenny):** The Deputy must speak to the motion.

**Deputy Niall Collins:** I am speaking to the motion. I am making a comparison between the respectful debate we have had on the Bill and what was said in this House earlier in the week. It was not good enough for the Taoiseach to behave like that. Paul Williams has confirmed that the tapes do not include any recordings of politicians, yet the Taoiseach chose to besmirch

Members of this House instead of seeking unity among the body politic. The Taoiseach knows the truth of what happened, his party knows the truth, and the Irish people know the truth. He should not be making those types of allegations against Members of this House. He came in here and tried, in a sleeven fashion, to smear all politicians.

**Acting Chairman (Deputy Seán Kenny):** Will the Deputy speak to the motion?

**Deputy James Reilly:** What the Deputy is saying has nothing to do with the motion. He is taking advantage of the debate on a serious social issue to seek to absolve Fianna Fáil of its role in past events.

**Deputy Niall Collins:** The Taoiseach cannot come in here and talk about an axis of collusion.

**Acting Chairman (Deputy Seán Kenny):** I ask the Deputy to return to the motion.

**Deputy Niall Collins:** I am returning to the motion. There is nothing in the tapes to support the slur against the body politic by the Taoiseach this week. There is nothing to support what he said regarding the absence of files in his Department and the Department of Finance. That is all on the public record. Why is he going about the place digging a hole? He should do the decent thing and withdraw his remarks regarding an axis of collusion. If he is so concerned about tapes, why have we not had an inquiry into the Lowry tapes?

**Acting Chairman (Deputy Seán Kenny):** I have asked the Deputy to speak to the motion.

**Deputy Niall Collins:** I am speaking to the motion. My point relates to respect for politics, something for which the Taoiseach showed no regard. He is acting like a political thug and boot boy. In behaving in such a party political fashion he is showing no respect for his office.

**Deputy Michael Creed:** That is unacceptable, Acting Chairman.

**Acting Chairman (Deputy Seán Kenny):** I have repeatedly advised the Deputy that his remarks must relate to the Bill that is before us.

**Deputy Niall Collins:** My comments are relevant. We must take stock of debates in this House. It simply is not good enough to have the Taoiseach and members of his Government acting as they did this week. They want to let the bankers off the hook and dump the whole issue onto a political kangaroo court.

**Deputy James Reilly:** I ask again that the Acting Chairman intervene. I am shocked that the Deputy would take advantage in this way.

**Acting Chairman (Deputy Seán Kenny):** I will have to suspend the sitting for five minutes if the Deputy does not speak to the motion.

**Deputy Niall Collins:** I am making these points in the context of the respectful debate we have had on the Bill before us today. We did not, unfortunately, see the same respect for the body politic from the Taoiseach this week. His remarks should be withdrawn for the sake of the profession of politics. They were sickening to hear. I am entitled to make these points.

**Deputy James Reilly:** Not in the course of this debate.

**Acting Chairman (Deputy Seán Kenny):** I will conduct the proceedings, Minister. Is

Deputy Collins ready to conclude?

**Deputy Niall Collins:** I will conclude in two minutes. Do I have time remaining, Acting Chairman?

**Acting Chairman (Deputy Seán Kenny):** Yes, five minutes, but I ask the Deputy to confine his remarks to the Bill we are discussing.

**Deputy Niall Collins:** Article 40.3.3° of the Constitution protects the life of the unborn. I would not support any watering down or attempted removal of that Article under any circumstances. I understand such removal is a policy goal of the Labour Party. It is not a position shared by me or by my party. When Fianna Fáil in government brought forward a referendum proposal in 2002 to address this issue, Fine Gael opposed it in a very cynical manner. Throughout this debate, members of that party have maintained that nothing was done for 20 years. This is another example of politics being besmirched. We had a referendum in 2002, before the Minister, Deputy James Reilly, was ever in politics.

**Deputy James Reilly:** It seems that any comments which offend Fianna Fáil sensitivities are deemed to be a besmirching of politics.

**Deputy Niall Collins:** This Government will not acknowledge the lies that were told to its predecessor by Anglo Irish Bank. If Fine Gael had been in government at the time, it would have been lied to in exactly the same fashion.

**Deputy James Reilly:** We would at least have left some notes in the Taoiseach's office.

**Deputy Niall Collins:** It is the same in the debate on the termination of pregnancies, the Fine Gael Party can never stick to the facts.

**Deputy James Reilly:** There were no notes in the Taoiseach's office about any of this.

**Acting Chairman (Deputy Seán Kenny):** The Deputy, without interruption. I remind the Deputy again to confine himself to the motion that is before the House.

**Deputy Niall Collins:** The Fianna Fáil Party submitted a freedom of information request on this matter and we received volumes of files, most of them redacted. For members of this Government to come in here and claim there are no files is a complete lie.

**Acting Chairman (Deputy Seán Kenny):** The Deputy must speak to the motion.

**Deputy Niall Collins:** They should show some respect instead of going around like political thugs and boot boys with their sleveen type accusations.

**Deputy James Reilly:** The Deputy is describing himself.

**Deputy Niall Collins:** They should have some respect for Members of this House. The body politic was lied to by the bankers. Members of the Government have plenty of experience in banking themselves. If they were in government they would have been lied to in the same way.

**Deputy James Reilly:** What does any of this have to do with the Bill we are discussing?

**Deputy Niall Collins:** I am responding to what the Minister said. He and his colleagues

should stop going around in a dictatorial fashion declaring that what happened is the fault of everybody else. They have tried to establish a political kangaroo hanging shop, but it will not work.

**Acting Chairman (Deputy Seán Kenny):** The Deputy has two minutes remaining.

**Deputy Niall Collins:** I advise the Government to learn from the manner in which the debate on this Bill has been conducted and show some respect for people. The arrogance on the benches opposite is out of control.

**Deputy James Reilly:** We have a long way to go to reach the level of arrogance displayed by the Deputy's party in government.

**Deputy Niall Collins:** The Minister is not here long enough to speak about that. He came here in 2007, just as I did. He is not around the place long enough to talk about the arrogance of others.

**Deputy James Reilly:** I experienced four years of the previous Government's arrogance.

**Deputy Niall Collins:** Arrogance is coming in here and seeking to establish a political kangaroo court. Arrogance is coming in here and misleading the country with claims of there being no files or records in regard to what happened with Anglo Irish Bank.

**Acting Chairman (Deputy Seán Kenny):** The Deputy will have to speak to the motion.

**Deputy Niall Collins:** I have concluded.

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** Without wishing to digress further from the debate, it seems Deputy Niall Collins has identified the new Fianna Fáil party line, namely, that its leaders were not knaves but merely fools. I assure him that I never considered Brian Cowen or Brian Lenihan to be knaves, but their capacity to believe everything they were told by the banking sector shows they were very much fools. When anybody who comes to my office looking for anything, I do due diligence and think twice before giving them what they want.

**Acting Chairman (Deputy Seán Kenny):** The Minister should confine his remarks to the Bill that is before the House.

**Deputy Leo Varadkar:** That is something one learns very quickly in politics.

I welcome the opportunity to contribute to this debate and articulate my support for the Bill. This legislation is not about suicide, which I will address in detail in due course. Rather, it is about protecting women whose lives are threatened during pregnancy and assuring doctors that they can do their job without fear of prosecution. If I were asked two years ago whether I believed legislation on this issue was necessary, I would have offered my considered view that it was not and that the current legal position was safe. I might have pointed to the very low pregnancy mortality rates in this country - in many years the lowest in Europe - and that abortions only occurred in Ireland where they were medically necessary. In short, I would have made the case that if the system is not broken we should not seek to fix it.

Various events in the past two years have changed my view on the question of the necessity or otherwise of legislation. The first issue is our discovery that guidelines, circulars and

other legal instruments which are not underpinned by legislation will often come unstuck. This occurred most recently in respect of the motorised transport grant and the mobility allowance scheme, where a decision issued by way of circular did not have a legislative underpinning. Likewise, in the case of the Children First guidelines, we have seen the necessity of providing a legislative basis. Going back further, we all know what happened with nursing home charges when they were not underpinned by legislation. The message has gone out again and again that Governments cannot rely on guidelines, circulars or policy documents in the absence of a legislative framework. It seems clear in the case of the issue we are discussing that guidelines or anything of that sort are not an alternative to legislation.

Another factor in changing my position on the need for legislation was the judgment of the European Court of Human Rights. “C” was a real woman who was recovering from cancer when she became pregnant and sought advice as to whether a termination was in her best interest. She could not get an answer to that question from the medical profession in Ireland. It went back and forth between ethics committees but nobody would give her an answer. Subsequently she had to go to the United Kingdom and have a surgical abortion at a later stage when she could perhaps have been told either that she did not need one at all or that she could have had it done as a medical abortion earlier on. That was not done because of the absence of a proper procedure to determine whether somebody’s life was at risk and needed a termination. That is one of the reasons we have to change this situation. We also know from the testimony given by the Masters of the various maternity hospitals that 20 or 30 terminations occur in Ireland every year on medical grounds because they are necessary to save the life of the mother.

The Savita case changed things a lot for people in this country. The case was not handled well. There was a catalogue of errors and many things went wrong. This woman died of multi-organ failure secondary to septicaemia, secondary to a septic miscarriage. Everyone knows in medicine that when somebody is ill from an infection, the things one tries to do are, first, to treat with antibiotics but always to try to remove the source of the infection. The doctors in that case should have done so and should have done so early or, at the very least, should have had that conversation with the patient, but they did not. The patient and her husband requested a termination and were probably right in their diagnosis that a termination was necessary to save her life. Under this legislation what would happen at the very least? Under this legislation, if somebody requests a termination, a second obstetrician will be brought in to give an opinion and, at the very least, that second obstetrician might make the case go differently. Had this law been in effect at the time Savita Halappanavar might well have survived. The truth is that terminations are sometimes required to save the lives of pregnant women in cases of sepsis, cancer, PET, malignant hypertension and others and we need to ensure our laws provide for and facilitate this and to ensure there is no delay in performing such a procedure, where it is necessary.

Some people try to say this is not an abortion. They talk about it being “indirect” or “dual effect”, the kind of things I have never seen in my medical textbooks. The reality is that the procedure is the exact same as it would be if it was a social abortion. It is interesting that many of the people who argued vociferously, with conviction and all the arguments behind them to support the view that these were not real abortions, no longer make that argument because it is not valid. I may not have been able to attend all of the hearings, as other Members did, but I am a qualified medical doctor; I have a degree and higher diploma in obstetrics and did study psychiatry at least as part of my degree. Therefore, I do know something about these areas, even though some may think they know better.

That is not where the concern arises in connection with the Bill. It arises, in particular, in

connection with the provision on suicide. Many Members of the House are concerned that the provision might be misused, that psychiatrists and obstetricians might certify abortions where they are not necessary to save the life of a mother and that they may be afraid not to do so because if a case does arise where they do not sign off or certify a termination and the woman goes on to kill herself, they may be blamed. That is the other chilling effect. We have talked a lot in recent weeks about the chilling effect. Members are concerned that we may introduce a whole new form of chilling effect, whereby psychiatrists and obstetricians may sign off on a termination inappropriately for fear that they might get it wrong. That is the reality where medicine combines with the law.

I can certainly understand the genuine concerns of many Members about the suicide provision in the legislation. That, however, ignores the fact of where we are now and the current legal position, as a result of the deeply flawed 1983 amendment to the Constitution and the Supreme Court's interpretation thereof in the X case. The current law in Ireland is that even a psychologist, someone who is not a psychiatrist, who is not even a doctor, can certify that a termination is necessary to save the life of a suicidal woman in the State. Thankfully, that does not happen or, at least, we do not think it happens. That is the current legal position in Ireland. The Bill is much stricter. It is much stricter than the current situation. It requires two psychiatrists and an obstetrician to certify that an abortion is necessary. They certainly cannot do it on the basis of suicidal ideation or tendencies. It has to be suicidal intent. They can only do it if they are convinced that this is the only means by which the woman's life can be saved. If the woman's life is not saved, it is a certainty that the life of the unborn will go too.

This is not pro-life legislation. I am not going to pretend that it is, but it is certainly more pro-life than the existing legal position. There are Members in this House who are legitimately concerned that this provision will be misused. This provision and this legislation are much tighter than the *status quo*. If the *status quo* is not being abused, why do these Members believe a law that is much tighter and stricter than the current legal position will be abused? Any law can be abused, but this law contains more safeguards than other laws and the existing legal position and on that basis it is much safer to legislate as we are doing than to allow the situation to continue as it is.

We must also consider the alternatives. This legislation will be tested in the courts which will decide on it either on the referral of the President or through a challenge to its constitutionality. Those who would not like to address the issue of suicide in the Bill must understand that can only be done by a third referendum on deleting self-destruction as a ground for abortion in the State. We have had two referendums on that issue. As is always the case in referendums, people vote all sorts of ways for all sorts of extraneous reasons, but they did vote "No" on two occasions in these referendums. I do not think it would be possible to ask people to vote a third time on that issue without asking other questions also, such as their view on allowing terminations on the grounds of rape, or alleged rape, or incest or the health of the mother or a foetus not compatible with life. People within and outside the House who are pro-life and who are calling for referendums should be careful what they wish for because they do not know, for example, exactly how big a Pandora's box they would open if this went back to a referendum. Public opinion has changed a lot and changed dramatically, even in the short number of years I have been in this House and that needs to be reflected in the strategies people put forward.

It is important to mention, too, that there are many very good colleagues in the Fine Gael Party who have deep concerns about this legislation. I would certainly not like to see my party lose anyone from its ranks over legislation that I do not believe will substantially change what is

happening about abortion in Ireland. I do not believe this will open new floodgates or that huge numbers of terminations will occur on Irish soil that are not occurring already. I would really hate to lose colleagues on the basis of legislation that will be shown in two or three years time, when we face the next election, to have been safe and not to have been grounds to depart from a party which we all love. I appeal to people thinking of doing so to reflect on this and consider whether they really want to take a stand on legislation which will have been shown to be safe long before the next election takes place. We will know it is safe because for the first time we will have a reporting mechanism. We do not have this now. We know how many people have transmissible diseases, how many cases there are of certain infectious diseases because a doctor has to report them and fill in a form to do so. A good innovation and an advance the Minister has inserted in this legislation is a proper reporting procedure which I believe is very important as it will allow us to monitor where terminations are occurring and why. He has said he is willing to act should there be any unusual pattern or good reason to believe the legislation is being misused in any way. That is extremely important, too.

This is an emotive issue that is difficult for many people, but we need to reflect on it and be very careful not to repeat the mistakes made in the past, the biggest one being the 1983 amendment which was so flawed that it managed to offer a life to the unborn without defining “unborn” and to offer protections to pregnant women and the unborn but not to men or women who were not pregnant. In addition, it did not deal with the obvious conflict that was certain to arise when one gave an equal right to the unborn as to the pregnant woman because, as we all know, the unborn cannot survive without the mother.

Debate adjourned.

*3 o'clock*

### **Prison Development (Confirmation of Resolutions) Bill 2013: Second Stage**

**Minister of State at the Department of Justice and Equality (Deputy Kathleen Lynch):**  
I move: “That the Bill be now read a Second Time.”

On behalf of the Minister for Justice and Equality, who cannot be here today, I am pleased to present the Prison Development (Confirmation of Resolutions) Bill 2013 to this House. The existing prison in Cork, whose main cell block dates from the early nineteenth century, is no longer fit for purpose. The prison does not have in-cell sanitation and lacks the basic infrastructure required of a modern prison. The poor conditions have been strongly criticised by the Inspector of Prisons and Places of Detention and the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The Inspector of Prisons and Places of Detention is of the view that the maximum capacity of the prison should be 146 prisoners. However, the prison regularly accommodates more than 200 prisoners and has, at times, accommodated more than 270 prisoners.

The main purpose of the proposed new prison development in Cork is to replace the sub-standard prison accommodation in the existing prison and provide a modern prison facility designed on the principle of rehabilitation and resettlement. The new prison will be situated adjacent to the existing prison on Rathmore Road. The investment being made in the development of a modern prison facility in Cork is a significant commitment by the Government given the current economic pressures being experienced. The new prison, including cells with full

in-cell sanitation and showering facilities, will end the practice of slopping out and also provide a vastly better infrastructure necessary for the education and rehabilitation of prisoners, thus enhancing public safety.

Building on the site adjacent to the existing prison will also ensure value for money for the taxpayer. The new prison in Cork will have 170 cells which will house 275 prisoners and have a maximum capacity of 310 prisoners. All cells in the new facility will be approximately 12 sq. m. in size, have full in-cell sanitation with showering facilities and will be fully compliant with the standards for double occupancy set down by the Inspector of Prisons and Places of Detention. Of the 170 cells in the new development, it is intended that approximately 30 will be designated exclusively for single occupancy. The planned capacity of 275 prisoners will be adequate for the needs of the prison's catchment area. The Cork Prison development will radically improve conditions for prisoners in the State's most overcrowded prison where, on occasion, three prisoners have been required to share a cell which is 8 sq. m. in size, with two prisoners in bunk beds and one on a mattress on the floor.

Development consent for the proposed new prison development in Cork is being sought under Part 4 of the Prisons Act 2007. Part 4 sets out a special procedure that may be applied for the purpose of determining whether consent should be granted to larger prison developments. The purpose of the 2007 Act was to provide a more open and transparent mechanism for major prison developments under which an environmental impact assessment meeting European Union standards must be prepared and where the Houses of the Oireachtas make the decision whether to grant development consent. This is done in the form of a resolution approved by both Houses, which must be then confirmed by an Act.

In June 2012, the Minister for Justice and Equality issued a direction under section 18 of the Prisons Act 2007 that Part 4 of the Act is to apply to the proposed construction of a prison on a portion of the site used as Cork Prison. In November 2012, public notice was given of the proposed prison development and observations and submissions were invited. A rapporteur, Mr. James Farrelly, was appointed to prepare a report identifying the main issues raised and summarising the submissions and observations received. Twelve submissions, including a detailed submission from Cork City Council, and several petitions were received. There is no provision under the legislation for the rapporteur to comment on the validity or otherwise of submissions made nor is there any provision for him to make recommendations.

The documents required by the legislation have been laid before the Houses. These include the environmental impact assessment, visual representations of the exterior of the development and the rapporteur's report. In addition, a document was laid before the Houses setting out the observations of the Minister for Justice and Equality on the environmental impact assessment and the rapporteur's report.

The resolution approved by the Dáil and Seanad on Tuesday, 18 June is the consent required for the Cork Prison development to proceed. It is, in layperson's terms, the planning permission for the prison. It follows the format prescribed by section 26 of the Prisons Act 2007, listing the main measures taken to avoid, reduce or offset any possible significant adverse effects of the development on the environment. It also sets out the conditions to be complied with in the construction of the prison and details an alteration to the original proposals made in response to concerns expressed during the public consultation process.

A fundamental principle of the design and location of the prison has been to minimise and

mitigate the impact of the development on the environment and the local community. The public consultation process and the rapporteur's report identified specific concerns on the part of local residents. In so far as is practicable, further measures are being taken to address these concerns. Visually conditioned concrete with a light-coloured finish will be used on the sections of the perimeter wall most visible to the public. To address a specific concern about the impact on residential property adjacent to the site, the height of the wall around the horticultural area at the northern end of the site will be reduced to approximately 5.2 m.

The Irish Prison Service will draw up a good neighbour policy which will provide a framework under which the concerns of local residents during the construction phase can be fully dealt with. The Irish Prison Service project manager will act as liaison officer and will set up a local consultation group to address any issues that arise during the construction period. The Irish Prison Service and the principal contractor will liaise closely with An Garda Síochána, Cork City Council and other interested parties in preparing a traffic management plan to minimise the impact of construction traffic on local residents and businesses.

As regards security issues, the existing prison is the only closed prison in the State that does not have a prison standard perimeter security wall. As the new prison will have such a wall and an outer *cordon sanitaire* secured by a 2.5 m fence, security risks will be significantly reduced. The need to prevent drugs or contraband being thrown into the prison from outside has been carefully considered in the prison design.

As regards privacy issues, the closed-circuit television, CCTV, system will be restricted to prevent viewing into neighbouring residential property and obscured glazing will be used in all windows overlooking such property. To mitigate noise pollution and dust during the construction of the prison, the perimeter wall will be constructed before construction of the prison buildings begins.

This short Bill, to confirm the resolutions passed by the Dáil and Seanad on 18 June, is a requirement of section 26 of the Prisons Act 2007. Before the Cork Prison development can proceed, an Act of the Oireachtas confirming those resolutions is required. This Bill is the final stage in the development approval process. The Bill contains only two sections. Section 1 confirms the resolutions under section 26 of the Prisons Act 2007 that were passed by the Dáil and Seanad on 18 June while section 2 provides the Short Title.

I am aware of the concerns of the Irish Penal Reform Trust and the Jesuit Centre for Faith and Justice regarding the intention to provide for double occupancy of cells in the new prison. This issue was also raised by Deputies during the Dáil debate on the resolution. Given the current number of prisoners in custody, 4,250 on any given day, the Irish Prison Service is not in a position to provide single cell accommodation to all prisoners. Single-cell accommodation across the system would result in a bed capacity of approximately 3,000 and would not be possible to achieve without releasing sizeable numbers of prisoners considered to represent a threat to public safety or, alternatively, by constructing another 1,000 cells and all of the ancillary support infrastructure they would require. In the current economic environment, such an ambitious building programme is not a realistic option. In addition, it should be borne in mind that in some cases prisoners are housed together for reasons other than lack of capacity. Family members, friends and co-accused prisoners often request to be assigned a shared cell. Shared cell accommodation can be very beneficial from a management point of view, particularly for those who are vulnerable and at risk of self-harm. There will always be a need for certain prisoners to be accommodated together. As outlined in the Irish Prison Service three year strategic

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plan, it is intended to align the capacity of our prisons with the guidelines laid down by the inspector of prisons by 2014, in so far as this is compatible with public safety and the integrity of the criminal justice system. In 2012 and in the first quarter of this year, priority has been given to reducing the chronic overcrowding in Mountjoy, Cork and Limerick Prisons and the Dóchas Centre. I am aware that another important matter of concern to Deputies is the provision of family-friendly visitor facilities in the new Cork Prison. The Irish Prison Service recognises the importance for those in prison of maintaining and developing their relationships with their children and families.

The Irish Prison Service is committed to assisting in any way it can with the achievement of those objectives. Attempts to accomplish this raise a wide range of sensitivities and challenges, with an appropriate balance required between security provisions and conditions appropriate for family visits. The proposed new prison in Cork will have a modern visiting facility that is centred on the need to provide an environment for visits that is welcoming and comfortable in so far as that is possible in a prison setting. Following publication of the Irish Penal Reform Trust report entitled *Picking Up the Pieces: The Rights and Needs of Children and Families Affected by Imprisonment*, the director general of the Irish Prison Service established a working group to advise on how best to implement the recommendations, in so far as practicable, across the prison estate. The working group has completed a detailed survey of existing visiting facilities and supports. The Irish Prison Service working group has also embarked on a short and targeted consultation process with various stakeholders, including relevant community representatives. It is envisaged that this consultation process will inform the group's approach to the detailed recommendations contained in the IPRT report. In addition, a specialist architect has been engaged to undertake a review of the visiting facilities in the 12 closed prisons in the State with a view to bringing forward a set of proposals for improvement of the visiting facilities at each location.

Construction of the new Cork Prison is expected to commence in October 2013 and to be completed in early 2016. As action is urgently required to address the chronic overcrowding and inadequate conditions in Cork Prison, the Minister and I hope this Bill will be passed by both Houses before the summer recess in order that tendering for the construction of the new prison can proceed. On behalf of the Minister, I commend the Bill to the House.

**Deputy Niall Collins:** Fianna Fáil supports plans to build a new prison in Cork in order to address the current poor quality conditions there. It is vital that the State has the capacity to adequately rehabilitate prisoners in a safe environment and cater for the prison population. The current practice of slopping out, as well as the conditions of overcrowding and insufficient visitor access, are incompatible with that goal. The new prison is a step towards addressing these long-standing problems.

The Irish Penal Reform Trust has consistently identified chronic overcrowding and inhumane conditions in Cork Prison as among the most critical in the Irish prison system, with multiple occupancy of cells, in-cell sanitation available in only eight of its 144 cells and inadequate medical and visiting facilities. There were 217 prisoners in Cork Prison on 13 June 2013, with an operational bed capacity of 210. The inspector of prisons has previously stated that the current Cork Prison should accommodate no more than 146 prisoners. In recent years the prison has regularly held around 300 prisoners, underlining its completely inadequate capacity and gross overcrowding.

The Cork Prison visiting committee recently expressed concern in its annual report for

2012 about the completely outdated and poor conditions in some parts of Cork Prison and has welcomed the Government's commitment to a new prison in Cork. In its publication in February 2012 the Irish Penal Reform Trust welcomed the Irish Prison Service strategy document entitled "Unlocking Community Alternatives - A Cork Approach", which was published on 29 February 2012, as a practical response to the long-standing issues of intolerable conditions and chronic overcrowding in Cork Prison. The strategy document proposed the building of a new 150-cell prison with full in-cell sanitation on the site adjacent to Cork Prison. That vision forms the basis of the Bill to provide for the building of this prison; in effect, it will provide planning permission for the new prison. The new prison must have adequate space to accommodate prison population demands both currently and in the future, based on anticipated trends.

The construction of the new prison is obviously an issue of particular concern to local residents, whose needs must be of paramount importance in the development of the prison. The unique planning permission mechanism used to construct prisons makes this even more important. It is vital that sufficient measures are put in place to ensure that the concerns of residents are fully addressed. Fianna Fáil welcomes the measures announced recently, namely, the commitment by the Irish Prison Service to drawing up a good neighbourhood policy, which will provide a framework under which the concerns of local residents during the construction phase can be fully dealt with.

The Irish Prison Service project manager will act as a liaison officer and will set up a local consultation group to address any issues that arise during the construction period. A construction environmental management plan will be drawn up by the principal contractor and approved by the Irish Prison Service and it will be implemented in keeping with best practice. The implementation of a traffic management plan will form a key part of the construction environmental management plan. The contractor and the Irish Prison Service will liaise closely with An Garda Síochána, Cork City Council and other interested parties in preparing a traffic management plan that will minimise the impact of construction traffic on local residents and businesses. It is of paramount importance that all of these issues be managed in a professional and coherent manner in order to address the concerns of the residents who live adjacent to the prison or in the vicinity of it.

I reiterate that we support the Bill. It began its journey by way of a motion referred to a committee and it was debated at the Joint Committee on Justice, Defence and Equality. We also had a session during which we debated a resolution, which was adopted by Dáil Éireann. We are happy to support the Bill today.

**Deputy Pádraig Mac Lochlainn:** We had a chance to debate a motion on this issue last week and the issues with which we are dealing now are essentially the same as those on which we reflected last week. We in Sinn Féin will support the Bill, having supported the motion last week, because we know of the urgency of constructing a new prison in Cork. I had an opportunity, as a member of the Joint Committee on Justice, Defence and Equality, to visit the prison. While I commend the governor of the prison on his honesty and professionalism, as well as his team, they are all very open about the fact that conditions in the prison are unacceptable and are not in any way what they would desire. They also made a presentation to us that day on what was planned for the new Cork Prison. We had a chance to get a sense of the site and the challenges facing it. When one builds a new prison it is not always easy to find a location for it and I accept that there are challenges. At the initial presentation on this matter by the Minister at our committee and during the debate on the motion last week, I urged that the concerns of residents be listened to as much as possible in the construction phase. In the North of Ireland

there have been a number of opportunities for Ministers to try to ensure as much as possible that local employment is provided in the construction phases of major projects. I ask the Government to bring the benefits to the people of the city, where possible. I am sure the jobs will be much needed. That is not the most important issue, however. The most important issue is to have a modern prison that reflects the vision for penal reform. The all-party report of the Joint Committee on Justice, Defence and Equality submitted a five point plan on decarceration to reduce prison numbers by one third in the next ten years. We investigated community service and restorative justice as alternatives to prison. I understand the Government will be introducing a fines (amendment) Bill later this year. That will be crucial to ending the practice whereby people go to prison for non-payment of fines. There are ways of gathering fines and holding people to account which do not entail putting people into prison.

One of the issues that were brought to our attention is that managing prisons can be frustrating for governors. They must do their best to meet the challenge of rehabilitation and maintaining morale while also dealing with a steady flow of prisoners through the doors of their prisons. A governor cannot turn away an individual who is sentenced to prison. The result is overcrowding and the practice of slopping out, which belongs to the Victorian era. We should provide for single cell occupancy in order that people who are sent to prison are not treated as if they are less than human. They are already being punished by dint of imprisonment and they may also be meeting their responsibility to society by participating in rehabilitation, training and reorienting their lives while they are in prison.

The committee had an opportunity to travel to Helsinki for an intensive series of meetings with a range of experts from the justice committee of the Finnish Parliament, the parole board and leading lights of academia, as well as a visit to an open prison. When someone is sentenced to prison in Finland, an exit plan is developed for him or her. At present in Ireland, a prisoner can have 25% of his or her sentence remitted simply by keeping his or her head down. Remission is not linked to demonstrable rehabilitation. The committee's report argues that the period of remission should be increased to 33% as an incentive for prisoners to follow a clear path back into society. That is in the best interest of prisoners and, more important, of society. The issue of value for money also arises because it costs €65,000 per annum to keep a prisoner. That is a huge amount of money for taxpayers to spend.

International best practice indicates that certain prisoners should not be held in shared cells, particularly those who are under protection or serving life sentences and, arguably, those who are recovering from drug addiction. We need to give individual prisoners the space they require for various reasons. A practical reality must also be borne in mind, however. If prisoners are sharing a cell overnight, the practical reality is that they will have to use the toilet in front of each other. That is not what we should want for our prison system because it undermines the dignity of those affected. The Irish Penal Reform Trust and Fr. Peter McVerry have criticised the plans for Cork. The prison will have 275 cells but only 30 are intended as single occupancy. The fact that only 10% of the accommodation in a brand new prison will be single occupancy is a missed opportunity given what we now know. I appreciate that we cannot provide single occupancy in every cell but in a context where 59 prisoners are currently under protection in Cork Prison, 30 single occupancy cells appear to be inadequate. Where was the consultation with the Irish Penal Reform Trust, the joint committee or prisoner advocacy groups? Are these plans simply the result of a group of architects and the prison authorities doing the best they could with the site? This is a missed opportunity.

If in the future we implement a decarceration strategy to decrease prisoner numbers, many

of the cells that are currently intended to be shared could become single occupancy but that would be by accident rather than design. Even at this late stage I urge the Government to take on board the legitimate concerns of those it regards as respected partners and consider amending its plans. My party is not going to vote against this Bill and we did not vote against the motion introduced last week even though we have concerns about the proposal. However, I ask the Government to investigate whether it can increase the number of single occupancy cells. I do not believe any prisoners should sleep overnight in shared cells.

Nelson Mandela, who may leave this life very soon, famously said that to know how a country works, one should visit its prisons to see how those on the bottom rung are treated. Perhaps we should be inspired by his advice in getting the design of this prison right. How can we make it better than what is currently proposed? The refurbishment plans for Mountjoy Prison have had a big impact on single cell occupancy. The all-party recommendations of the Joint Committee on Justice, Defence and Equality are progressive and address the need for somebody who commits a crime to pay his or debt to society. The committee does not take a soft-touch approach to justice. Restorative justice requires offenders to take responsibility and meeting one's victim face-to-face is not an easy way out. Community service is a way of repaying a debt to society by working for the community. These approaches are not soft on crime but they offer a means of rehabilitating offenders while also saving money for the taxpayer.

The Government has our goodwill in respect of this project. I appreciate that it can pass the Bill without our co-operation and we support the Bill, albeit with serious reservations. I urge the Government to find a means of increasing the number of single occupancy cells in order to protect prisoners who are vulnerable or in need of rehabilitation. The prison authorities will know better than me the projected figures. The criticism of the Government's plans has been stinging. There is considerable disappointment with the design of the prison. I appreciate that time is of the essence. I know that things can be amended. It is not a huge task to look at various wings and restructure them. That is not a massive task in terms of what is coming down the line. We know the existing numbers in Cork. We hope fewer people will be sent to jail as a result of the changes being introduced in the fines (amendment) Bill. As the prison could be re-configured, it is closer to our vision of what we want. We need to send a message by designing a prison that reflects our values and our vision for rehabilitation in 2013. I think we all know that what is on the table now is not up to standard. We need to sort it out.

**Deputy Mick Wallace:** I would like to share time with Deputy Clare Daly.

**Acting Chairman (Deputy Seán Kenny):** Is that agreed? Agreed.

**Deputy Mick Wallace:** Although I have not been in the prison in Cork, I understand the new prison will be a huge improvement on what is there. It is hard to imagine that a good boy like me has been in four prisons in my time. The new prison in Cork should be designed to accommodate fewer prisoners and to provide for single-cell occupancy. I tabled an amendment proposing that "prisoners shall normally be accommodated during the night in individual cells", but it has been ruled out of order for one reason or another.

I find some of the statistics that have been issued by the Irish Penal Reform Trust a bit frightening. The trust has found that in the past 14 years, "the numbers in custody have increased by almost 100%." I do not believe that is a good idea. I do not think prison works. I do not think the system rehabilitates young people who are sent to prison. I do not think it offers any serious educational value. Most of the kids I know in Wexford who went to prison came out

of it a lot worse than they were when they went in. Something must be wrong. The trust also stated: "The prison population has increased by 400% since 1970." I do not think things have improved in that time. The trust has reported that "The majority of Irish prisoners have never sat a State exam and over half left school before the age of 15." This tells us that most of the prison population come from seriously deprived backgrounds. It costs a great deal of money to keep people in prison. If we used some joined-up thinking, we might consider why so many kids run into trouble at an early stage and why so many people from poorer backgrounds end up in prison. We have to fight the causes of their behaviour, rather than hitting them with a sledgehammer and throwing them behind bars. According to the trust, "the average cost of imprisonment per prisoner was €65,404 in 2012". That does not include the educational spend. It is amazing that such an incredible amount of money is being spent without having any remedial effect. The policy of spending so much money is not working. The trust has also reported that four in ten children under 16 years on custodial remand have a learning disability.

Mr. Liam Herrick of the Irish Penal Reform Trust has pointed out that the wasteful practice of imprisoning people for fine defaults costs the State over €2 million a year in court, Garda and prison service resources. The number of people being sent to jail for non-payment of fines has surged to more than 7,400. Is it a good idea to send people to jail for not paying fines? Is there a better way of doing this? Has the State considered alternatives? Have we exhausted the potential for making greater use of community service? Now that the Revenue has more powers than at any time in the history of the State - we recall the new laws that were introduced with regard to the household tax - one would imagine it has ways of addressing the problem of people not complying with the obligation to do community service. Most Deputies will agree that it makes more sense for young people and people of all ages to do community service rather than spending useless time in prison at a huge cost to the taxpayer. We need to put a bit more thought into how community service can work better. It is a no-brainer that community service makes more sense in these cases. It is better for individuals because it is more educational, it is a form of exercise and it leads to a certain sense of fulfilment. A feel-good factor is associated with it. God knows it would save the State a fortune.

According to the Irish Penal Reform Trust, "[t]here was an increase of 10% in committals for non-payment of court ordered fines in 2012." The figures are increasing. I keep thinking we will develop a more enlightened approach to these matters, but we are actually going backwards. The Irish Penal Reform Trust stated: "Over 70% of prisoners are unemployed on committal and a similar percentage self-report as not having any particular trade or occupation." This statistic bears out my contention that many of these people come from an unfair position in the first place. The world is not fair. It is not a level playing field. The manner in which we penalise such people for coming from a disadvantaged position does not stack up. The trust has also reported that "[t]here were 3,495 sentenced committals for road traffic offences in 2011". I presume judges and others from the higher echelons of our society were not involved in these cases. They probably got them terminated in advance.

**Deputy Kathleen Lynch:** Not everyone went to jail as a result of those cases.

**Deputy Mick Wallace:** I know that. The Minister of State is dead right in that respect. I would like to conclude by quoting Fr. Peter McVerry who knows more about prisons than I do. I imagine he knows more than most of us. If canonisation was still available-----

**Deputy Kathleen Lynch:** It is.

**Deputy Mick Wallace:** -----and meant anything, I would definitely recommend him for it. He has written:

Ultimately it is society's attitude to criminals such as "them" that prevents any serious attempt to reduce crime levels. Most people now know that 196 young people died in, or shortly after leaving, the care of the State in the decade 2000-2010. Most died from unnatural causes - drug overdose, suicide, violence. There was an investigation and a report, followed, quite rightly, by widespread outrage at the failure of the State to adequately care for them. The need to rectify the deficiencies in the system and provide the necessary resources to do so was agreed by all political parties. However, in the same decade, 135 people died while in prison or within one month of leaving prison. In other words, at the time of their death they were, or had recently been, in the care of the State. Most died from unnatural causes - drug overdose, suicide, violence. But there was no investigation, no report, no outrage, no comment from any politician and, of course, no commitment to dealing with the deficiencies in the system that may have led to some of these deaths.

We need to take on board Fr. Peter McVerry's very strong point that this issue is seen as a case of "them and us".

**Deputy Clare Daly:** I would like to make a couple of brief points. It is appropriate to step back and look at where prison policy is going, not just in the context of human rights issues and how one judges a civilised society but also against the backdrop of austerity, the minute analysis of where taxpayer's money is spent and the question of whether we get value for that money. Are prisons operating to make society a safer place? Do they act as a deterrent for people going into crime? Are they value for money? Is there a better way in which we could organise things? These are valid questions to be asked and I do not think we ask them enough.

The reality is that the majority of people in our prisons are there due to socioeconomic factors. They are the victims of poverty, of abuse and, in many instances, of the cycle of drugs and drug abuse in particular. We need to address those root causes. To invest resources in those areas would make society a far safer place and would offer greater value for money, to my mind, than spending an enormous amount of money on prisons *per se*. My belief is that prisons serve very little purpose whatsoever. I believe they are institutions for the people outside rather than for the people within, and they do not make things any better. In many ways, we have seen enough analysis to know they are a sort of holding operation, a temporary reprieve for many of the people who spend some time in prison before going back out for a brief spell, only to come back in again without any rehabilitation or without any repayment of their debt to society. In fact, their crime results in society paying a huge cost to keep them in prison yet they are back in again a couple of months later.

We need to take a step back and look at where we are going in this regard. I previously spent a month in Mountjoy Women's Prison, a prison which we laud as being more enlightened for its thinking and having had a more rehabilitative impact, initially at least. We would have to say it has rolled back considerably from its early years. In my experience of being in there, most of the women were victims of poverty, drug abuse or sexual abuse in their youth and they needed assistance and intervention. While the cost has come down a bit, at that stage it was costing approximately €80,000 per head to keep people there, whereas if they had received an intervention early on in life, it would have been far cheaper for everybody - the women themselves and those upon whom they committed the offences that led them there in the first place. We need to see the discussion in that context.

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Cork Prison was infamous for its appalling standards and for some of the conduct that went on there in terms of the treatment of people, which certainly did not lead to people coming out better citizens - if anything, I imagine it made them even worse, more tormented individuals. There was solitary confinement, stories about people being stripped to their boxer shorts and left in rooms for days on end and so on. It was a very reprehensible type of culture that no civilised person could stand over.

When we are looking to improve Cork Prison, which is a good thing in some ways, we have to look at it with a critical eye. It is not good enough that the Bill is being rushed through or that it is being guillotined on a Thursday evening. It is not good enough that the notice for motions was very limited and that the one motion which was put down as an amendment was struck out of order. It is not good enough to rush these things through. We are potentially talking about 310 people being incarcerated in this new prison. If we are putting in taxpayers' money, we should at least know that what we are doing is being done properly and that we are starting out on a proper footing. In that context, it is a missed opportunity.

It is also a missed opportunity not to include the amendment Deputy Mick Wallace put forward with regard to single cell occupancy. Double occupancy is against all best practice and goes against the Minister of State, Deputy Kathleen Lynch's previous statements that single occupancy was the way forward and should be the only way in which to deal with people. I am not sure why this is being rushed through in such a short space of time. Organisations for which I know the Minister of State would have respect, such as the Jesuits and others, have been in contact with our office and they are very concerned at the speed of this and concerned that their points have not been taken on board. I was going to give the Minister of State the benefit of the doubt and suggest the rush is on to clear a bit of space for a few of the Anglo criminals but, sadly, I do not think that will be the case and our prisons will continue to hold those from a lower socioeconomic background. However, we are not doing them or the taxpayer any favours by putting in inadequate systems from the beginning.

There is a serious problem about planning double cell occupancy from the very beginning. It is against all best practice and goes against the process that is under way in trying to improve the situation in Mountjoy Prison. Why would the Government do this in Mountjoy Prison, on the one hand, and then take a retrograde step in Cork? There is a clear contradiction. It is a clear breach of international best practice given the Minister said last week the prison would provide what he called "adequate" and "suitable" accommodation for all prisoners. Is that really true? Article 18.5 of the European prison rules states: "Prisoners shall normally be accommodated during the night in individual cells except where it is preferable for them to share sleeping accommodation." Fr. Peter McVerry, the expert on this area, said:

Cell sharing should not be the norm... In many cases, it results in increased intimidation and violence, and leads to non-drug users being introduced to drug use. ... [E]nforced sharing can represent a very cramped and oppressive living environment [given] that in Ireland out-of-cell time is, at best, only six or seven hours a day.

It is not just about people doubling up. It is about forcing people into a very small space to endure the company of somebody else for the overwhelming part of their day. This is a serious issue which must be addressed. We have obligations under the Council of Europe to ensure that prison conditions do not infringe on human dignity and provide proper occupational facilities. In that sense, the decision should be debated more and not rushed through in this way.

The very fact we are building a bigger prison is a problem for me. Again, best international practice shows we should be moving away from bigger prisons whereas the plan for this one is a population greater than what was there before, including planned doubling up from the beginning, which is not on. Other Deputies have referred to points-----

**Acting Chairman (Deputy Joanna Tuffy):** The Deputy's time is concluded.

**Deputy Clare Daly:** I have been warned. Other Deputies have made points with regard to in-cell sanitation, which is obviously welcome. However, unless this is a fully walled facility, it might as well not be there, and there is still an abuse of people's privacy.

I again appeal to the Government to push back from rushing this through and to look, even at this late hour, to provide for single-cell occupancy as being in accord with best international practice and as a measure in stepping back and looking at our overall prison policy. To me, that policy is a monumental waste of money and does not serve the taxpayer, the victims of crime or those carrying out unlawful activities any good whatsoever.

**Deputy Simon Harris:** I wish to share time with Deputy Peter Fitzpatrick.

**Acting Chairman (Deputy Joanna Tuffy):** Is that agreed? Agreed.

**Deputy Simon Harris:** I welcome the opportunity to speak on the Bill. I will always remember, a number of years ago when I was a teenager growing up in Greystones, attending a presentation by the then governor of Mountjoy Prison, Mr. John Lonergan. He said that if he was handed a map of Dublin city, he would be able to identify five small areas from which he was likely to see the bulk of the population of Mountjoy Prison in the following years. It is something that has stuck in my mind and should stick in all of our minds, particularly when we read that the prison population in Ireland has increased by 400% since 1970.

Deputy Clare Daly is right in regard to the socioeconomic linkage with our prison population. Another area which is very much worth exploring is that of special needs education, including the lack of detection of disabilities and behavioural conditions. I have talked to many people who have views and expertise in this area, and they will talk about, say, autism and ADHD being relatively new conditions in terms of recognition in this country. Many people went through life, through society and through school - or maybe did not go through school - with these conditions and they were viewed as perhaps odd, as bad people or as people who misbehaved. Thankfully, some went on to great things but many others ended up within our criminal justice system. This is something worth reflecting on and something the Government needs to keep a constant eye on, even within our current prison population, with regard to what can be done to support and meet the needs of people in our prisons who, if they were four, five or six years of age and starting primary school now, would be diagnosed with a condition and supported. It is a point I would like to put on the record of the House.

I very much welcome the fact the development of this new prison will end practices such as slopping out. We should take the opportunity to examine how to keep people out of prisons and break that cycle of crime. The Government has done much good work on this, particularly regarding young offenders. We have seen significant media attention and I heard the Minister, Deputy Kathleen Lynch, comment on this last weekend. Issues include ending the practice of putting 16 year olds into St. Patrick's Institution, extending the remit of the Ombudsman for Children to cover St. Patrick's Institution and casting a light on what up to now has been a very secretive and restrictive practice of dealing with children and teenagers who are caught in our

criminal justice system and who are often brought into contact with much more serious criminals. Those developments are welcome.

We need to examine community service. In my home town of Greystones we have an active community service programme. People who come before the courts system give something back to society when they get caught up in minor crimes rather than crowding prisons at a cost to the taxpayer. These people actively link in with initiatives such as Tidy Towns and make a positive contribution. They find worth and new direction in their lives.

We need to examine night courts. Many others have spoken about this and my party spoke on it in opposition. We need to examine speedy access to justice whereby people who commit crimes, particularly minor crimes, are brought before the courts if need be and dealt with in a speedy manner. Issues should not be allowed to fester. Justice delayed is justice denied.

We need to examine drug rehabilitation programmes in our communities. I recently visited a youth service in my constituency in Arklow and was surprised to hear the schools have been informed that it is no longer a good idea to teach children about the dangers of drugs in school and that it should be done outside school time. I found it very odd because I remember sitting in secondary school while the scariest looking garda they could find made one aware of the dangers of drugs. That fear of substance misuse is beginning to wane in society and that needs to be examined. There is a captive audience in schools. Our schools are a major resource in this regard and that must be examined.

I welcome the Bill. The Government has taken a progressive approach to these issues. The Minister for Justice and Equality, Deputy Alan Shatter, and the Minister of State, Deputy Kathleen Lynch, have been reforming in this area but we need to take seriously the view of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment when it says the building of additional accommodation is unlikely in and of itself to provide a lasting solution to overcrowding. We must examine how people get caught up in the cycle of crime.

It is timely that we discuss this now because it seems in this country we still have a situation whereby those who commit non-white-collar crime face much more speedy and efficient justice than those involved in white-collar crime, and this Government must grapple with this. When Matthew Elderfield came before the Committee of Public Accounts in recent weeks, he expressed serious concern about our laws on white-collar crime and banking offences. We must take those comments very seriously if we are to learn the lessons of the last few years and see exactly what Mr. Elderfield means. Maybe that could be his parting gift to this country. If there is a legislative gap and a resource issue that must be addressed. The people, this week more than most, are demanding this.

**Deputy Peter Fitzpatrick:** The resolution approving the development of a prison on a portion of the site used as Cork Prison was passed by the Dáil and the Seanad on 18 June 2013. This Bill seeks to confirm the resolutions. Cork Prison dates from 1849 and was originally built as a garrison prison for the adjoining army barracks, now Collins Barracks. The conditions in the prison have been described as particularly poor and problems include overcrowding, an absence of in-cell sanitation and deteriorating buildings and services. The report of the Thornton Hall project review group in 2011 recommended that the prison be closed and replaced by a new prison at Kilworth. The report also notes that overcrowding in the prison system will not be solved solely by building more prisons and that further steps are required to reduce the

prison population.

The prison population in Ireland has increased by 400% since 1970. The rate of imprisonment in Ireland is 96 per 100,000. Concern about the rate of increase has been expressed by the cross-party sub-committee on penal reform which in recent reports recommended the adoption of a decarceration strategy, a declared intention by the Government to reduce the prison population by one third over a ten year period. Consent for the proposed new development in Cork is being sought under Part 4 of the Prisons Act 2007, which sets out a special planning procedure for major developments that applies if the Minister for Justice and Equality and Defence so directs. The 2007 Act provides an open and transparent mechanism for major developments under which an environmental impact assessment meeting EU standards must be prepared where the Oireachtas makes the decision to grant development consent.

The purpose of the new prison development is to replace the substandard prison accommodation in Cork and provide modern prison facilities designed around the principles of rehabilitation and resettlement. The new prison will provide approximately 275 spaces for prisoners based on double cell occupancy. The prison will have a peak accommodation capacity of 310 prisoners but that will be reached only in emergency circumstances. All the cells will be of a size acceptable to the Inspector of Prisons and Places of Detention for double occupancy and will have integrated toilets and showers. It is expected that the construction of the new prison will commence in October 2013 and will be completed in early 2016.

**Deputy Jerry Buttimer:** I welcome the Minister of State and compliment her on her performance on the radio last Sunday. I saw a tweet this morning on the Twitter machine which I thought was very appropriate for today, as follows: “As I walked out the door toward the gate that would lead to my freedom, I knew if I didn’t leave my bitterness and hatred behind, I’d still be in prison.” That quote is from Nelson Mandela. It is very appropriate today, as he faces his own battle, that we remember those words. Prison is not just about being incarcerated; it is about bringing people from a past life to a future life. That is why we should use Nelson Mandela’s words today to remind ourselves that justice is not just about holding people to account and making them serve time but also about rehabilitation. That is why I very much welcome this Bill dealing with Cork Prison.

As the Minister and Deputy Dara Murphy know well, the prison is in a part of Cork that needs regeneration and modernisation. As somebody who taught in that part of the city for a number of years, I know the people are genuine, decent people. The staff of Cork Prison require a facility that is fit for purpose. We must put this in context. The staff should not have to work in a service that is inadequate, undermines their morale and does not portray a good image of the prison services. We must be respectful of the role of our prison services and those who work in them play.

I commend all of those within the prison service, who, by and large, do tremendous work, often in circumstances in which their own patience and sense of value is questioned unfairly. From talking to many prison officers and governors in Cork, I know these people are decent, genuine, caring people who want what is best for those with whom they have to work alongside their colleagues. They do not want those under their care to be further undermined and they want our prison population to be rehabilitated, by and large. Some prisoners will not be rehabilitated, and we must face that challenge.

I have made a journey in this regard because I was one of the old “flog them, lock them up

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and throw away the key” brigade, but in my life as a school teacher and politician who has met families, former prisoners, past pupils who have been in prison and pupils who are in prison, I recognise that life is not black and white. In our journey of life we undergo much evolution, and one realisation is that we all deserve to be treated with respect, no matter who we are. We must always be held to account and justice must always be seen to be served on those who deserve to be put in that situation.

*4 o'clock*

This is a very significant day. I congratulate the Irish Prison Service on the launch of its LGBT network, Inside Out. This is Gay Pride week and I welcome the decision of the staff and, in particular, the director general, and thank them for their support of LGBT staff. This is a very significant journey for the Irish Prison Service and its staff. In Gay Pride week it is important in this House to acknowledge that journey. Some members of staff may be afraid to come out and admit to their sexuality, but others not so. The network proclaims to the outside world that staff in the Irish Prison Service can help to shape future policy and influence the lives of so many. It is a fantastic day and I am very proud to support them. I congratulate all those involved in the Irish Prison Service.

Much has been made of the condition of Cork Prison and associated issues. This is a significant moment in the history of the prison. A modern building will cater for the needs of those who are incarcerated in it and the staff.

I wish to make a point about white collar crime. This week has seen the publication of the Anglo Irish Bank tapes, known as the Anglo tapes. It is a significant moment in the nation's history. I do not wish to make a controversial comment on the tapes, but I ask why they have been revealed now; who revealed them and whose interests are served by their being proclaimed to the outside world at this time. We are elected representatives and are all outraged at the carry-on among a coterie of the banking fraternity. A total of €64 billion of taxpayer's money has been given to prop up the banks. All of us inside and outside this House, from County Cork to County Donegal, want to see people held to account.

**Acting Chairman (Deputy Joanna Tuffy):** I ask the Deputy to confine his remarks to the contents of the Bill.

**Deputy Jerry Buttimer:** I will do so. Many of us would like to see those who did wrong brought to justice and, ultimately, put behind bars, but that is a matter for the courts and the inquiry, if one is to be held. I am incensed that the Government which has worked so diligently in the past two and a half years to restore our international reputation to allow the country to receive assistance from the troika suddenly has a light shone on it - for what benefit and for what purpose? I question why that has happened now. I do not take issue with the journalists involved because they are doing their job. All of us in public life want to see those who transgressed held to account. That is the very least we deserve and the very least the citizens of the country deserve, many of whom have had to emigrate or are now unemployed.

This is a very important day for Cork Prison, in which the landscape is being changed to create a prison which it is hoped will provide not just for incarceration but also rehabilitation. Education and training facilities and counselling are important in prison. More importantly, the services should include a mentoring system for young men and women to enable them to change their lives and become new citizens. The Bill provides for two groups of people, those

who work and live in the prisons and also the people who live in the neighbourhood of the prison. I commend Cork City Council and the residents who engaged in the consultation process and raised many issues of concern to them. I hope the Minister, Deputy Alan Shatter, and the Minister of State, Deputy Kathleen Lynch, will listen to these concerns.

I refer to the interview given by the Minister of State last Sunday about the psychiatric services and St. Patrick's Institution. I agree with her that we need to start treating people as citizens and changing the model, as it needs to be changed. I am very pleased that the Ombudsman for Children will come before the Oireachtas committee on 11 July to discuss the issue of the detention of children under 16 years. The Government has changed the *modus operandi* at Lusk, Oberstown and St. Patrick's Institution. That is why this is another significant milestone on the road that the Government is taking to bring about change. I hope we can move forward in unison. I welcome the comments of the Minister at the committee and in the House a number of weeks ago. I commend the staff who work in Cork Prison for their Trojan work.

**Acting Chairman (Deputy Joanna Tuffy):** Deputy Dara Murphy is sharing his time with Deputy David Stanton.

**Deputy Dara Murphy:** I also welcome the opportunity to speak on this important Bill which is significant for the Minister of State, Deputy Kathleen Lynch, and me as two Government Deputies from that part of the country. The two of us and many people in Cork have for a very long time been hearing stories about Cork Prison and its terrible facilities. For too long, politicians have neglected reports from human rights organisations and prison visiting committees. I compliment the Minister of State and the Minister for Justice and Equality, Deputy Alan Shatter, on giving priority to this facility in Cork. It is one of the main prisons in the country and its upgrading is long overdue.

I also compliment the residents on the constructive way in which they have engaged with Cork City Council and others involved in the process. They have concerns, many of which have been dealt with to date such as those to do with lighting, CCTV systems, privacy and the prior construction of the prison wall, which is very important. The privacy of local people has been a concern considering the use of CCTV cameras near back gardens. Concerns about traffic management were also raised. This is not a new facility and I do not believe that, apart from some difficulties associated with construction work, it will have long-term serious effects on local traffic management.

This is more positive news for the north side of the city, following the positive news on the opening of the urgent care facility. The Government can say to people on the north side of Cork city that even though we are in extremely difficult financial circumstances, where the need is greatest, moneys have been found for the provision of medical and prison facilities. Having helped in my own small way, I make this point on my own behalf and that of the Minister of State.

I visited Cork Prison on Christmas Eve in 2009. I suggest the vast majority of those who make statements that prison is too soft have never visited a prison, certainly not Cork Prison or Mountjoy Prison. In its current state, Cork Prison is a facility in which it would be extremely difficult to provide for the rehabilitation of prisoners. When I visited it on Christmas eve in 2009, I was struck most by the families and the children, in particular. The prison will have a significantly improved family visitor facility which will reduce the stress of a difficult experience for the innocent parties, the families and children of prisoners.

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Reference was made to the human rights record at Cork Prison where I have met many of the staff. Often, they live quite close to the prison. It is welcome that the development is within the city of Cork for the people who work there. To be fair, as the majority of visitors will come from the greater Cork city area, it is useful for everyone that access will remain as it is. The prison visiting committee has done excellent work, with management and staff. The prison is an extremely difficult environment in which to work, but I am satisfied that we are extremely well served by prison management, officers and the visiting committee. At all times, they have worked to rehabilitate prisoners and keep society safe.

There has been discussion about single cells. Listening to some Opposition parties, it appears that they move out of the real world and ignore our financial position when it suits them. If every prison were to move to single cell provision today, 1,250 prisoners would have to be immediately released. The protection of society is imperative and people who are required to be imprisoned must be in prison. Having said that, 30 single cells is a restrictive provision for Cork Prison. Some prisoners require for their own safety or the safety of those with whom they are housed to be accommodated singly. If possible, we should increase the number of single cells in Cork Prison to 60. I ask the Minister of State to include that issue to be addressed in the notes prepared for the Minister for Justice and Equality.

The Bill is very positive for Cork and I hope the residents' concerns can continue to be addressed. I look forward to the completion of the prison and the new jobs for those who will be involved in its construction.

**Deputy David Stanton:** As Chairman of the Joint Committee on Justice, Defence and Equality, I am pleased to speak on the legislation. The committee visited Cork Prison on 25 October 2012. In keeping with Deputy Dara Murphy's comments, I invite anyone who criticises prisons for not being tough enough to spend a few nights in Cork Prison to see how they get on. I pay tribute to the staff of the prison, given the conditions in which they work. The tension in the prison is palpable as one moves around. I felt threatened not because of anything anyone said, did or expressed through body language but because of the proximity of people in an overcrowded space.

I was delighted during our visit to be briefed on the decision the Minister had made on his first visit to the prison that things would not continue as they were. For many years there have been plans to build a prison in Munster. There was a plan to build a super prison on Spike Island, which I felt would not work and did not support. There was a plan to build a prison at Kilworth, which did not go ahead. Finally, we see tangible, concrete plans to build a prison in Cork city adjacent to the old one. While I acknowledge that residents have some concerns, I note that a great deal of work has been done to address them by the Minister, the Minister of State and departmental officials. That is welcome.

Mention has been made of single cells. I understand there will be quite a number shared cells in the new prison. The facilities which are put in place will represent a very significant improvement on what is there now. There will be no comparison. I understand that, as far as possible, cells will be occupied singly. Of course, there will be times when double occupancy is necessary.

The joint committee produced a report on penal reform which was referred to by Deputy Pádraig Mac Lochlainn. The report contains five strong recommendations. As part of our work, we visited Finland. We were told that it had one of the best penal systems in the world.

There are 27 prisons there, of which 15 are closed and 12 are open. The rate of recidivism is very low, at approximately 35%, whereas in Ireland it is quite high, at over 50%. In Finland prison is viewed as old-fashioned. Quite a large number of people spend time engaged in community service and out of prison. The committee has requested that the recommendations made in our report be debated in the autumn, which I would like to see happen. We have recommended reducing prison numbers by commuting prison sentences of less than six months and through the use of community service orders; increasing standard remission from one quarter to one third; introducing an incentivised remission scheme of up to one half; introducing legislation providing for structured release, temporary release, parole and community return; and addressing prison conditions, overcrowding and the increased use of open prisons. When these policies were adopted in Finland, crime rates fell. Some people think the only answer to crime is hang them, flog them, lock them up and throw away the key. In some areas in which that approach has been taken, crime has increased. In some US states that policy is now being reversed as it is extraordinarily expensive and does not work. We must examine best practice and the jurisdictions in which it has been successful. We were hugely impressed by what we saw in Finland. I call on the Chief Whip to organise a debate on the report of the joint committee when we return after the summer vacation. I would like to see the recommendations made implemented as soon as possible.

Incarceration must take place of people who are dangerous and where people need an opportunity to reflect on a crime which has hurt others and society, as in the case of white collar crime, with which we really need to get to grips. People who go to prison will not be there forever. We must work to ensure that whatever danger they posed to society before they entered prison has been removed and that they can be reintegrated into society. There are major challenges, but agencies such as IASIO, the Probation Service and parole boards do a huge amount of work to address them. I pay tribute to these organisations and those who work with them.

We must consider all prisons in the State. The joint committee has visited a number of them. We noted that at a prison in the midlands prisoners were involved with Samaritans. A number of prisoners had been trained to listen and it was quite impressive. One prisoner said a male prison was a macho environment, but while prisoners act tough in the yard, they often cry themselves to sleep at night. For many, mental health issues and being away from family, etc., have an impact. I reiterate that where offenders have done evil acts, there should be a certain degree of punishment involved; they should be removed from society for a while, and they should have a chance to reflect on what they have done, but the day in question was an eye-opener. When offenders leave prison, if the supports are not available on the outside, they will end up back in prison again before too long. We must look at why our recidivism rates are so high.

Recently, I undertook a study of community courts in New York, where I was highly impressed by the fact that they tried to prevent offenders from going to prison, if possible, and increasingly used community service orders. I note the Minister and the Department are encouraging the use of such orders, where possible. The Judiciary, of course, is totally independent and it is totally up to it to decide what sanctions should be imposed under the law. In many other jurisdictions community service has been shown to be highly effective, but it must be backed up with other supports and services. There is an organisation in Wexford, the Cornmarket Project, which does tremendous work in the area of anger management and in looking at the whole life experiences of a person to determine the issues that lead him or her to commit crime. It is quite impressive. I met those involved and they were here on a number of occasions to make presentations to the Joint Committee on Justice, Defence and Equality. They are highly professional,

effective and successful. That is the kind of project at which we should be looking.

There is a considerable amount of work going on in all of the committees in the Houses. Often, this work does not receive the publicity and airing that it needs and deserves. If we are talking about Oireachtas reform, we need to start looking at the work committees do, including that being done on the issue of penal reform by the Joint Committee on Justice, Defence and Equality. The Acting Chairman, Deputy Joanna Tuffy, was also a member of the committee for some of that period. I refer also to the report on the review of legislation on prostitution in Ireland that the committee launched this morning.

This is an important event and I am anxious to see construction work start as quickly as possible.

I will comment on the fact that the main Opposition party has again abandoned the House. When my party was in opposition, that rarely, if ever, happened. We always manned the benches. Why is the main Opposition spokesman on justice not present? He should be sitting here for the entire debate. It is disgraceful that Fianna Fáil abandons the House on such a regular basis.

**Deputy Mick Wallace:** The real Opposition is here.

**Minister of State at the Department of Justice and Equality (Deputy Kathleen Lynch):** I am tempted to say Deputy Wallace is only a Deputy, to repeat what Deputy Mathews said to me this morning. I do not mean that. This is a House of equals. I have always believed that. I do not think there is any one greater than another.

I start by thanking everyone. That is what the script states and what one is expected to say, but in this case, I genuinely mean it. It is quite a lonely place to be to defend or speak for the rights of prisoners. It has always been that way, and so it will continue. The one person - of course, I would say this, but at the time I was not in the same party as him - I always admired for his stance on prisoners' rights is the Minister of State at the Department of Foreign Affairs and Trade, Deputy Joe Costello, who had been doing this long before any of us had the courage to stand up and speak on these issues. He deserves enormous credit for that.

I also congratulate the Irish Prison Officers' Association on its launch recognising that it has members, employees within the force, who are LGBT. In what the chairperson of the Joint Committee on Justice, Defence and Equality, Deputy Stanton, concluded is a most macho of environments, it takes an enormous amount of courage to say one is gay, lesbian, transgender or bisexual. If one considers that it is estimated that between 10% and 12% of the population are gay, bisexual or lesbian, what makes us think that the prison population is any different? However, we do think that.

I cannot disagree with much of what has been said. I come from an area that is significantly disadvantaged and live within a five minute walk from Cork Prison, which I have been in. The circumstances in there are appalling. There is not room to swing a cat. I commend the staff who work in that prison because, as Deputy Stanton correctly states, if one confines offenders and deprives them of their liberty in circumstances where they are so closely confined, tensions are bound to be constantly raised and the circumstances in which staff must work are most difficult. A new prison will work, for both the prison population and those who must administer the system.

Of course, we would like to see a prison where there is only single-cell accommodation, but

we are doing the very best we can in the circumstances in which we find ourselves. It is incredible that we are able to find such capital sums to do this, but it is a priority issue because Cork has needed a new prison for much longer than two and a half years. I have visited it on many occasions. Trying to walk around in there is like being in a warren because they have built additional space inside the walls. It is incredibly confined.

I can only imagine, when one is talking about in the main young men, the hyped-up tension. They are deprived of their liberty. Sometimes their relationships on the outside break down and they hear this through the grapevine and that increases the tension as well. A prison service is a high-pressure area in which to work. I am firmly convinced that the fines (amendment) Bill will make a significant impact on the prison population, as will the availability of community service and other areas where we can ask offenders to serve out their punishment delivered by the court. Equally, I have always believed that one third of those in prison should not be in there at all, and I still believe so.

I agree that inputs at an earlier stage would have had a greater impact, but the circumstances in which we find ourselves are what we must deal with. We must ensure that those who are sentenced by the courts to imprisonment, whether one agrees with it or not, are safe and that their accommodation is reasonable. There is no disagreement on any of that.

I really appreciate the contributions made here today because it is not a subject with which everyone is comfortable. I make no apologies. I have always felt that the changes that need to be made in terms of who goes and does not go to prison are fundamental. The difficulty is that it is not only about the justice system. There are other issues as well.

I really believe there are offenders from whom society needs to be protected. Would any one of us who has looked at the gangland culture that has prevailed down through the years say that those offenders should be given community service? I would say not. In some circumstances, how we treat the prison population and prisoners in those circumstances is different.

**Acting Chairman (Deputy Joanna Tuffy):** The Minister of State's five minutes have passed.

**Deputy Kathleen Lynch:** One size does not fit all. In some cases, prison does work. Sometimes short, sharp sentences work. I do not think the long-term sentences without rehabilitation work. I take Deputy Mac Lochlainn's point. We have discharge plans for patients coming out of hospital. In the case of offenders spending considerable time in prison, surely the least we should expect is that there would be a transition plan for when they come out because sometimes their relationship is gone and, definitely, there is no work available. Once again, I commend the Bill to the House. I hope it will be passed quickly, because it is necessary to go to tender and ensure the work starts on time.

Question put.

**Deputies:** Vótáil.

**An Ceann Comhairle:** Will the Deputies claiming a division please rise?

*Deputies Richard Boyd Barrett, Thomas P. Broughan, Clare Daly, Maureen O'Sullivan, Shane Ross and Mick Wallace rose.*

**An Ceann Comhairle:** As fewer than ten Members have risen I declare the question car-

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ried. In accordance with Standing Order 70 the names of the Deputies dissenting will be recorded in the Journal of the Proceedings of the Dáil.

Question declared carried.

### **Prison Development (Confirmation of Resolutions) Bill 2013: Committee and Remaining Stages**

#### SECTION 1

**An Ceann Comhairle:** Amendment No. 1, in the name of Deputy Wallace, is out of order as it is outside the scope of the Bill.

Amendment No. 1 not moved.

Section 1 agreed to.

Section 2 agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

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

**Deputy Billy Kelleher:** I have spoken on this previously in respect of the motion of referral to the joint committee. I welcome the fact that the prison is being developed. The Minister is putting in place a liaison officer for the residents of Brandon Crescent and elsewhere. I hope monitoring will ensure the existence of an orderly construction site that will not affect the quality of life of residents in the area. The development should be built in the understanding that it will be beside a residential area. The relevant authorities should be very conscious of that. I highlighted this in my previous contributions. It is critical to liaise with the local communities.

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** I reassure the Deputy that not only will a liaison officer be put in place for the residents in respect of the construction but a plan will also be put in place in regard to it. Traffic, dust, noise, starting times and finishing times are important considerations when constructing a building so near to a residential area, and I assure the Deputy they will be considered.

Question put and agreed to.

### **Topical Issue Debate**

#### **Services for People with Disabilities**

**Deputy Éamon Ó Cuív:** I thank the Minister of State for coming to the House this evening to take this matter in person. I have no doubt she is aware of the circumstances in which we find ourselves once again. It is now the end of June but those who will be leaving school with significant disabilities do not yet know where they will get a service in the autumn. I raised

this issue with the Minister before and I have raised it in various forums over the years, both in and out of government. When the Minister for Finance announced the package of €4 million in the budget, I was hoping this issue would not arise again. I recognise that there are challenges in the system but contend that, notwithstanding any reasons given, it is totally unsatisfactory and unfair that the most vulnerable are once again left uncertain as to where and what services will be available next autumn. In her reply, I hope the Minister of State will confirm that the issue will be dealt with this year. I understand the reality is that the sum of €4 million is totally inadequate.

I was given some figures for HSE west that implied that the share of money in Galway will be €200,000, despite the fact that €800,000 is required. There are seven school leavers this year who need one-to-one or two-to-one services. It is important that we do not square the circle by taking services away or diminishing services for other service users by spreading the cake more thinly and giving little slices to everybody while not giving anybody a comprehensive service. This is a considerable issue. Can anybody imagine a parent at the end of June and, more important, the service user not knowing what will happen next September? Some of the people are able to advocate for themselves while others are not but the notion of them getting up without any service or support, with nowhere to go and no opportunity to develop and having to sit at home every day while their parents and other family members have no support is beyond comprehension. It is important that we discuss the provision of full services, which must include therapy, development and respite care.

This issue does not involve significant numbers. The problem is when the issue is addressed one year, a new group of school leavers come along the following year and have to campaign. That reduces the impact of how horrendous is the situation. It is important that we do not only resolve the issue now but that we also resolve to ensure people know early in the year what service is available to them and ensure transition plans are not put in place to help people and service users to adjust as they move from school to disability services over time. All of us need time in life to adjust but it is important to recognise that the people we are discussing have more need for time to adjust and acclimatise and that is also a major issue.

I hope the Minister of State has good news that the issue will be resolved over the next week. However, can she resolve to put this issue before a committee in the autumn in order that it can be thrashed out before Christmas? A sum of €55 million is being spent this year. Can we agree that, no matter how much money is available, the issue of disability services will be given priority?

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** I am pleased to take this opportunity to outline on behalf of the Minister for Health the position on the matter raised by the Deputy. I recognise the importance of life skills training and day services to people with disabilities who are leaving the education system and every effort is being made within available resources to provide services to all 2013 school leavers. Day services for adults with disabilities provide a network of support for more than 25,000 people who have a wide spectrum of need, ranging from those with severe and profound disabilities who may need long-term specialist service provision to people with lower support needs and greater potential for community participation and inclusion. The HSE, through its occupational guidance service, works with schools, service providers, service users and families to identify the needs of young people with disabilities who are due to complete their second level education. The aim is to address the needs of individuals in the following ways, through health funded rehabilitative or life skills training, health funded day services, FÁS funded vocational training or the exten-

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sion to education placement for a specified time, to which the Deputy referred in the context of transition.

The demand for services for young people with disabilities completing their education or life skills training continues to increase. The HSE is currently finalising their figures for 2013 but expects that more than 700 new places will be required. Service providers and the HSE are working closely together to identify how these needs can be met within available resources. This year, despite a 1.2% cut in the disability budget, an additional €4 million has been ring-fenced in the HSE's national service plan for new places. This funding is being allocated to each HSE region based on its percentage of population, which is important.

Even with the additional funding, the provision of the required level of new services will be challenging in the context of the overall budgetary position and the moratorium on staff recruitment, something to which we may be able to return. In addition, the physical capacity to provide further services may not be present in all agencies. While the HSE makes every effort to provide day services or training places to school leavers with special needs, this has always been dependent on the availability and location of appropriate places coupled with the needs of the individual school leaver. However, both the voluntary sector and the HSE are committed to the best use of available resources in a creative and flexible manner to be as responsive as possible to the needs of this cohort. I have asked to be kept informed of progress on an ongoing basis and I recently met representatives of the National Federation of Voluntary Bodies and the HSE on this issue. I have also asked the HSE to ensure a plan is put in place immediately to communicate with families and give them certainty about the placements or supports which will be available to their children in September. I agree with the Deputy regarding the communication piece.

**Deputy Éamon Ó Cuív:** On a personal level, the Minister of State is probably embarrassed reading that reply.

**Deputy Kathleen Lynch:** No.

**Deputy Éamon Ó Cuív:** I am disappointed because she is telling me on 27 June that the HSE hopes to solve his problem. She used the phrase "creative and flexible". What I am told is simple and stark. As she said, the money is given out proportionate to the population in each region. I am told by people within the system, not by voluntary organisations, that the amount being offered is a quarter of the money needed. At the end of the day, the creative solution will probably be to diminish services to existing users and spread the funding among the new people coming into the system.

The Minister of State did not give a firm commitment that in the next week they will either be offered a continuation of service where they are, if appropriate, or an alternative service. Will it be possible to inform the users and their families through me or directly what exactly will happen? Unfortunately, this reply does not outline what will happen. All families can read into it is that something might happen and a loaves and fishes trick might be performed to cut the funding for other people and redistribute it. There is no certainty that anything will happen and parents and service users will be unable to go to bed tonight knowing they will have a service in September. I beg the Minister of State to do something in the next few days to bring much more clarity to this issue.

**Deputy Kathleen Lynch:** I am in regular contact with both the service providers through

the Disability Federation of Ireland, which is a good organisation that represents its members well, and the HSE. The executive has been instructed to keep me informed on a weekly basis, which is happening. We do not have the completed plan yet. We need to be careful about what we say, as I have been both in opposition and in government, because families are wondering what will happen to their children in the future and I am conscious of that. Last year, we managed to deal with the issue. We secured €4 million in additional funding this year. It is not as if we have endless budgets but we are about to enter talks with the Department of Education and Skills, which spends €1.3 billion a year on special needs education.

*5 o'clock*

My Department allocates €1.4 billion per year to disability services, the area for which I have responsibility. Between us, we should be able to provide a service that does not induce the type of anxiety some people are currently experiencing, but both Departments need to work together to devise a realistic plan. The existing level of funding is sufficient to provide a service on which people can rely.

### **Garda Vetting Applications**

**Deputy Pat Deering:** I thank the Ceann Comhairle's office for affording me the opportunity to raise this matter and the Minister, Deputy Alan Shatter, for taking it. Delays in the processing of Garda vetting applications are causing great concern in my county of Carlow. It is, of course, very important that we have a thorough vetting process for all candidates seeking to work with children and vulnerable adults. However, the organisations being affected by the processing delays are care organisations which depend on Tús and community employment schemes to make up for the funding they received from the Health Service Executive in the past.

Several months ago, the Minister for Social Protection, Deputy Joan Burton, made the very welcome announcement that an additional 2,500 positions would be created on community employment schemes. The difficulty, however, is that these schemes are being hindered because staff have not yet been vetted by the Garda. As I said, such vetting is vital in situations in which staff are working with people who are very vulnerable. However, suitable and qualified candidates who have applied for the positions cannot take them up in the absence of Garda clearance. Vetting applications are supposed to take no longer than eight to 12 weeks to process but that does not seem to be happening in practice. I have spoken to an individual who, having submitted her application to the vetting unit on 11 March, has received no communication in regard to it. The person in question is hoping to take up a position in a disability centre in Carlow town, a centre which depends on community employment, FÁS and Tús schemes for its survival. Without that support, it will not be able to keep going.

It is vital that the vetting process is speeded up as much as possible. In response to a query I submitted in this regard earlier in the year, I received a letter from the Garda Commissioner's office on 8 March indicating that 25 staff were to be redeployed from the Department of Agriculture, Food and the Marine to the vetting unit in order to alleviate the backlog of applications. The letter further indicated that these staff would undergo training for three months before assuming their roles. Will the Minister indicate what progress has been made in that regard? Is it now standard practice for people to have to wait between 15 and 16 weeks to be vetted in order to take up positions they are offered? These lengthy delays are having a detrimental effect on organisations that look after vulnerable members of our society.

**Minister for Justice and Equality (Deputy Alan Shatter):** I thank my colleague for raising this important matter. The Garda Commissioner is responsible for the detailed allocation of resources, including personnel, throughout the organisation. The Garda central vetting unit, GCVU, provides employment vetting for approximately 20,000 organisations that are registered with the unit for this purpose and that employ personnel to work in a full-time, part-time, voluntary or student capacity with children or vulnerable adults. Garda vetting is conducted only on behalf of registered organisations and not for individual persons on a personal basis. Organisations registered with the unit are entitled to receive Garda vetting services in respect of their employees.

A Garda vetting disclosure is made in response to a written request and with the permission of the person who is the subject of that request. Disclosures are issued to specified organisations registered with the GCVU for that purpose in respect of a particular post or employment. The unit processed approximately 328,000 vetting applications on behalf of these organisations in 2012. New and forthcoming legislation will result in a significant increase in the workload of the GCVU.

The current average processing time for applications is approximately 12 to 14 weeks from the date of receipt. However, seasonal fluctuations and the necessity to seek additional information in respect of particular applications can result in this average being exceeded on occasion. All organisations registered for Garda vetting are aware of the processing timeframes for the receipt of disclosures and have been advised to factor this into their recruitment and selection process. In order to observe equity and fairness in respect of all applicants for Garda vetting, standard procedure is such that applications are processed in chronological order from date of receipt at the vetting unit. Each time a new vetting application is received, a full vetting check is conducted to ensure the most recent available data are taken into account. The non-transferability and contemporaneous nature of the certificate protects against the risk of fraud or forgery and is a guarantee of the integrity of the vetting service. It also affords the registered organisation the facility to assess suitability based on the most up-to-date information available on the applicant.

I remain in ongoing contact with the Garda Commissioner as to how best the service can continue to be delivered and improved upon while at all times protecting the integrity of the process. Clearly, the protection of children and vulnerable adults is the primary objective of the GCVU and this must remain the case. An e-vetting system is currently being developed and will be completed as quickly as possible.

The Commissioner has informed me that one superintendent, three sergeants and approximately 136 civilian personnel are assigned to the vetting unit at this time. The civilian complement includes 23 staff recently transferred from the Department of Agriculture, Food and the Marine. In addition, a further 31 have been assigned to the vetting service from various other locations in the public service. These staff members are currently undergoing training, with the first cohort due to complete that process by 15 July and the last by mid-September. I expect there will be a positive effect on vetting times once they have been fully trained. The employment of temporary staff in the vetting unit previously resulted in a reduction in the time taken to complete most vetting applications to between three and four weeks. It is my hope that we can return to that type of timeframe very soon. My Department is also examining the scope for redeployment of additional personnel from within the public service to the unit and is engaged in ongoing discussions with the Department of Public Expenditure and Reform in this regard. This is a very good example of the value of redeployment within the public service and the con-

tribution it can make to the more effective use of resources. I am further informed by the Garda Commissioner that sufficient accommodation and equipment have been provided to facilitate all of these additional personnel in carrying out their work when they complete their training.

**Deputy Pat Deering:** I thank the Minister for his detailed reply and acknowledge the positive developments he outlined. The e-vetting proposal is a particularly welcome and progressive initiative. The main difficulty with the vetting process, as I have outlined, is the impact the delays are having on organisations that look after very vulnerable people and are reliant on the support of Tús and community employment schemes. They are under severe manpower pressure as a consequence of the time it is taking to have candidates vetted. The redeployment of additional staff to the vetting service, as indicated by the Minister, is a very positive development, which I hope will help to speed up the process. I am raising this issue from the perspective of the situation in Carlow, but I know from speaking to colleagues that it is an issue throughout the country. I welcome the information the Minister has given and encourage him, in whatever communication he may have with the Commissioner, to make progress on the matter as quickly as possible.

**Deputy Alan Shatter:** I am conscious of the need to have as efficient a system as possible. I appreciate, moreover, that the vetting process may be seen by some as a hindrance. However, I cannot stress enough that our primary concern must at all times be the protection of children and vulnerable adults. That is the essential focus of what we are doing. I hope the additional personnel who are currently being trained, together with the further additional staff we intend to redeploy, will bring about a reduction in waiting times. We got those times down to between three and four weeks by employing temporary staff up to May 2012. Unfortunately, those staff could not be retained. I am optimistic that we can substantially reduce the waiting period via the provision of additional staff. In addition, the e-vetting system, when it comes on stream, will have a dramatic impact. It is anticipated that the main portion of the system will be in operation in approximately 12 months' time. Together with the additional personnel that will bring about a very important change and ensure that we have in place an updated modern system that guarantees the integrity of the process but which is fit to respond more quickly when vetting applications are received and fit to process them more quickly. This is an innovation that has been considered for some time and I am happy that we are now proceeding with it and I look forward to it getting up and running.

### **Magdalen Laundries Issues**

**Deputy Eamonn Maloney:** I welcome the announcement of the compensation scheme for the victims of the Magdalen laundries. I thank Mr. Justice Quirke and his staff for the very good work they did on this difficult issue. It has hounded this country for decades and particularly this institution which in the past did nothing about it. I thank the Minister and his colleague, the Minister of State, Deputy Kathleen Lynch, for keeping the promise he made before coming into this House and after all these years bringing the matter to final closure. He is to be congratulated on that. It is a harrowing episode of hidden Ireland that no one wanted to touch. Different governments ran away from the issue. The present Minister did not run from it. That should be recognised.

Having read the scheme prepared by Mr. Justice Quirke I note the sensitive way in which he dealt with it. While it may offend some people I cannot, having read the McAleese report,

which the Minister initiated, refer to these people as victims. They were slaves. I am even more of that opinion having read the report. They were slaves of the religious orders, having been imprisoned or semi-imprisoned in these laundries. The State has finally stepped up to the plate, not only by its apology but also with the scheme that has just been announced following the initiative of the Minister's Department.

There is, however, one gap in all of these reports. The slaves who were incarcerated in these laundries were in the care of the church, not of the State. The McAleese report argues that they did not make money. I refute this. They did make money and the proof of that is in the fact that they put other commercial operators out of business not only in Dublin but elsewhere. The church is remiss. It is not good enough to offer an apology to these people. There is the question of the church compensating these people. They deserve that. The State has addressed their welfare. It is my firm belief - I believe the taxpayers share it - that if it has any humanity the church owes compensation to these people. The church should move towards recognising that and the suffering that these people went through and make some contribution to their welfare at this late stage in their lives.

**Deputy Alan Shatter:** I thank the Deputy for raising this very important issue. The publication of the report of Mr. Justice Quirke and the Government's acceptance in full of all of the recommendations contained in it marks the culmination of a process I initiated, together with Minister of State Kathleen Lynch, in March 2011 following my taking office as Minister for Justice, Equality and Defence. It reflects my promise to the women who resided and worked in the Magdalen laundries to see justice done.

The process we initiated resulted in an unprecedented trawl of papers and records held by the State and State agencies to assist in establishing the facts about the Magdalen laundries and gave everyone a unique opportunity to detail what they knew. We owe a huge debt of gratitude to former Senator, Dr. Martin McAleese, for the work he has done. His report provided the platform for the apology made by the Taoiseach on 19 February 2013 in Dáil Éireann and for the Government's decision to ask Mr. Justice Quirke to devise an *ex gratia* scheme for the benefit of the women who were admitted to, and worked in, the Magdalen laundries.

The most immediately significant recommendation in Mr. Justice Quirke's report is that the women in question should all receive payments in the range €11,500, where there was a duration of stay of three months or less in one of the Magdalen institutions, to €100,000 where the duration of stay is of 10 years or more. If the payment due is above €50,000, Mr. Justice Quirke recommends that it should be paid in the form of a lump sum of €50,000 plus an annual amount related to the notional remaining lump sum to be paid weekly. The amount to be paid depends on the duration of stay of a resident in a Magdalen laundry or in St Mary's Training Centre, Stanhope Street, or in House of Mercy, Summerhill, Wexford. As regards income payments in particular Mr. Justice Quirke has stated:

The Commission is concerned to protect, for the benefit of those vulnerable women, the resources which they will acquire when they receive monetary payments arising out of the proposed Scheme.

It has been necessary for the Commission to seek to balance the needs and interests of those elderly vulnerable women with the needs and interests of the many other Magdalen women who are younger, healthier, more energetic and more independent. In order to achieve that balance the Commission has taken the view that the needs and interests of the

Magdalen women would be best addressed by making any *ex gratia* payments in excess of €50,000 payable to the women as tax free weekly income for the remainder of their lives.

The judge's other recommendations cover a range of issues including, each Magdalen woman should have access to the full range of services currently enjoyed by holders of the Health (Amendment) Act 1996 card, an enhanced medical card; each Magdalen woman of State pensionable age should receive a weekly amount from the State equivalent to the State contributory pension but taking into account any other State payments already being made; each Magdalen woman under State pensionable age should receive a minimum weekly amount of €100 per week from the State but taking into account any other State payments already being made; all monetary payments should be exempt from income and other taxes and should be exempt from any means testing.

Once again I thank Mr Justice Quirke for taking on this task. He and the people who assisted him did an excellent job in devising a scheme that meets the particular needs of the women who were former residents of the designated institutions and which the Government had no hesitation in approving.

I very much welcome the statement of Sally Mulready, Chairperson of the Irish Women Survivors Support Network following yesterday's announcement in which she says:

This Irish Government have honoured a commitment the coalition made on coming into office and they did so in just 27 months. Due to the inaction of successive governments, we lost many years and many of the women who were locked away in these Laundries, passed away and never experienced justice.

I was somewhat surprised yesterday to be made aware that, during our press conference, some negative comments had already been made by a small number of former Magdalen residents, at a time when those commenting could not have read, fully considered and reflected on the content of Mr. Justice Quirke's report. I urge people to take the time to do so.

I am informed that the first completed application form, together with relevant records has already been received in my Department, just one day after the announcement of the scheme. I pay tribute to my officials for the extraordinary work they did in this regard when on Tuesday evening they posted out in excess of 600 copies of the report with application forms and explanatory letters to ensure as best we could that most of the women would receive them by Wednesday. Those that are stuck in the post will certainly arrive by Thursday. They were posted out on Tuesday after the Cabinet decision.

Of vital assistance in processing applications received will be the co-operation of the religious congregations in providing a copy of records or documents to individual applicants. I thank the religious congregations for undertaking this work and doing it in an efficient way. I also thank them for the assistance they gave to the former Senator, Dr. Martin McAleese, in his work to produce a report.

Yesterday, I stated the estimated cost of the *ex gratia* payment scheme will be between €34.5 million up to €58 million. The approach taken by Mr. Justice Quirke, and endorsed by the Government, is one of restorative justice. I, as well as my Cabinet colleagues, Members of this House, the wider public and the women involved, expect the religious congregations will contribute to the funds required. I note Deputy Maloney's comments in this regard. It is my hope that they do so as part of the restorative justice and reconciliation process. I, along with

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the Minister of State, Deputy Kathleen Lynch, discussed this issue with the congregations on Tuesday of last week. I hope they are continuing to reflect on that discussion and, after a reasonable time, we will have a positive response.

**Deputy Eamonn Maloney:** On the basis of the contents of the McAleese report and the manner in which the people in the laundries were treated, there is an indisputable case for the Catholic Church not only to apologise to them but to make some contribution to the welfare of those still alive. I am not suggesting that those who represent the Catholic Church have not read the McAleese report but it would be difficult for any human being not to be touched by its contents.

There is a strong case for the church, now that it has made its apology, to address the question of the surviving women's welfare. As the laundries made money for the religious orders and the church is also probably the largest landlord in the country, it can well afford to compensate the small number of surviving people from the laundries.

Like other Members, I have been getting letters and e-mails about examining my conscience on the protection of life Bill. As we live in a democracy, we must take these points on board and listen to what others have to say. I am prepared to examine my conscience before voting on the protection of life Bill. Even at this late stage, will the church examine its conscience on the treatment of and lack of provision of welfare for the people in question in their laundries and provide some form of financial redress to them?

**Deputy Alan Shatter:** I thank Deputy Maloney for his careful and considered contribution. I want to be fair to the religious congregations. They did make all the records they had available to Dr. Martin McAleese for his excellent report. The depth of that report could not have been achieved without their co-operation and assistance. They also met with and discussed issues relating to the women in the laundries with Mr. Justice Quirke. I know he felt that meeting was of help. I am also conscious of the congregations providing care for in excess of 100 women who were in the laundries. It is fair we acknowledge that.

The scheme announced yesterday requires the congregations' assistance and co-operation in verifying records. I very much welcome their co-operation in that regard as well. However, I make no secret of the fact that when I, along with the Minister of State, Deputy Kathleen Lynch, met with the congregations last Tuesday week, we brought a message that we, along with the general public, expected the congregations to contribute to the fund that is necessary. We knew the women themselves saw that as an important element of the restorative justice process. We also made it clear that the Cabinet asked us about this issue when we brought the Quirke report before it.

I very much hope the congregations do see fit to make a contribution. PricewaterhouseCoopers voluntarily reviewed the books of five of the Magdalen laundries for the McAleese report and found there was no real financial profit made by them. There is no doubt that the women resident in laundries were impacted by their experience, many of them for the rest of their lives. The women do not see themselves as victims. Many of them have got on with their lives with great courage, commitment and have campaigned with great resolution for justice. I hope the majority of them feel we have shown respect for their concerns, that we have addressed them in a reasonable way and that the restorative justice schemes being put in place will be of help to them. I believe the Government is bringing closure to this matter as best it can. However, for the religious congregations to bring closure, it is important they are seen to contribute finan-

cially to the provisions being implemented.

### **Inter-Country Adoptions**

**Deputy Michael Creed:** I appreciate the fact the Minister for Children and Youth Affairs cannot attend the Chamber for this matter but I welcome the fact the Minister for Justice and Equality will take it.

I am not an expert on international adoption law and all it entails. However, I subscribe to the principle that it needs to be international standards based and child centred. Everyone engaged in the process would also subscribe to those principles.

I am hoping the Minister will be able to update us on the conclusion of a bilateral adoption agreement with Russia. I also want to raise the issue of the pre-Haguers, namely those who, before Ireland's ratification of the Hague Convention on inter-country adoptions, had approval to pursue an adoption but which expires on 31 October 2013. The process by which a couple are approved by the adoption authority, in conjunction with the Health Service Executive, is rigorous and can take up to several years with courses, studies, medical examinations and financial commitment. There is also a significant emotional commitment on the part of these couples. I have several constituents who would be termed pre-Haguers and have been in the adoption process for over 11 years. Can one imagine the roller coaster that this has been? Now, on the cusp of effecting an adoption in Russia, they face a trauma if they do not complete it by 31 October. The Minister will be aware that the adoption process involves registration with the country in which a couple is trying to effect an adoption, a referral process and engagement with that country's court system to secure a decree, which effectively gives a couple the right to subsequently approach the Irish Embassy to secure a passport for the child being adopted. All the pre-Hague Convention couples who have invested significantly - not least emotionally - in this process over a long period are now faced with an arbitrary cut-off date of 31 October.

My request to the Minister is twofold. I urge him to do everything possible, in conjunction with his Government colleagues and the Minister, Deputy Fitzgerald, to effect a bilateral adoption agreement with the Russian authorities as quickly as possible. More importantly, for those who are currently engaged in the process, there needs to be an in-process grace period for those who can prove, to an acceptable standard, that they are engaged in the process and have a referral and that a child has been identified for them for adoption, but who are now victims of the torturous administrative and court processes in these countries through which they must go to effect an adoption. These people need an in-process grace period to facilitate them in completing adoptions. My request is twofold: first, I ask for an update on the bilateral negotiations and, second, from a humanitarian perspective, I ask the Minister to put in place an interim arrangement for the pre-Hague Convention couples who are engaged in the process of adoption and who face, after several years and after enormous investment in that process, the rug being pulled from underneath their feet in trying to effect an adoption in these countries for which they have a referral.

**Deputy Alan Shatter:** I thank Deputy Creed for raising this very important issue, which I am taking on behalf of the Minister for Children and Youth Affairs, Deputy Fitzgerald.

The Adoption Act 2010 provides for inter-country adoption between countries that have ratified the Hague Convention or between countries with which Ireland has a bilateral agree-

ment. Section 63 of the Act, which allows applicants who held valid declarations prior to the commencement of the 2010 Act to proceed with adoption in a non-Hague Convention country, refers to “a state that, in the opinion of the [adoption] Authority, applied standards regarding the adoption concerned that accord with those in the Hague Convention”. This measure will have been in place for three years when it expires at the end of October. I am advised that the Minister, Deputy Fitzgerald, has no plans to extend the provisions any further than that.

Russia became a signatory to the Hague Convention on inter-country adoption on 1 September 2000 but, unfortunately, to date it has not ratified the convention. Therefore, for inter-country adoptions with Russia to continue after 31 October 2013, when the transitional arrangements for prospective adoptive parents holding declarations of eligibility and suitability to adopt issued prior to the commencement of the Adoption Act 2010 come to an end, it would be necessary to negotiate a bilateral agreement under Article 73 of the Adoption Act 2010.

In March of this year, the Minister, Deputy Fitzgerald, travelled to Moscow, accompanied by Dr. Geoffrey Shannon, chair of the Adoption Authority of Ireland, in order to discuss at a diplomatic level the potential for a bilateral agreement with Russia. During her visit she met her counterpart Dmitry Livanov, the Minister of Education and Science of the Russian Federation. This meeting was productive and allowed for an exchange of views on the possibility of Ireland’s entering into a bilateral agreement on inter-country adoption with Russia. The Russian authorities acknowledged the satisfactory outcomes for the 1,300 or more Russian children adopted in Ireland since 2002 and expressed a willingness to conclude an agreement which would be subject to the approval of the Russian Parliament. The Minister stated that many Irish families were hopeful of completing future adoptions of Russian children.

During these meetings the Minister, Deputy Fitzgerald, reiterated to the Russian authorities that the Irish Constitution protects the integrity of family life and that once adopted in Ireland the child is treated in the same way as all other Irish children. This means that the ability of the State to intervene in a family when a child’s welfare and protection is not compromised is limited. The Minister highlighted the implications of this constitutional imperative in instances in which families who have given commitments to the Russian authorities in regard to the provision of post-placement reports - that is, reports to the Russian authorities subsequent to the completion of an adoption - fail to adhere to those commitments. In these instances the State has no legislative power to enforce compliance with the commitments given by Irish families, legal or otherwise, to provide post-placement reports. In saying this, she emphasised the high standards of child protection that exist in Ireland for all children and the legislative basis under which these standards are enforced. The Minister also emphasised the commitment of the State to intervene in instances in which the safety or welfare of any child, adopted or otherwise, is in any way compromised and outlined the total commitment of the Irish Government to child protection and welfare.

The Department of Children and Youth Affairs has undertaken an examination of the draft bilateral agreement on inter-country adoption proposed by the Russian Federation. The Department has focused in particular on the issue of post-placement reporting for Russian children adopted in Ireland, which the Russian authorities have indicated will be a necessary component of any bilateral agreement. To this end, a draft wording of the sections of the draft bilateral agreement that relate to post-placement reporting is being developed. Departmental officials are in active discussions with officials in the Office of the Attorney General and the Department of Foreign Affairs and Trade on advancing a draft agreement for consideration by the Russian authorities. The Minister has invited the Russian authorities to visit Ireland in September with

a view to finalising consideration of this aspect of the draft bilateral agreement.

**Deputy Michael Creed:** I thank the Minister for his reply. I welcome the progress that is being made on the ongoing negotiations on the bilateral agreement and I hope the concerns of the Russian authorities about post-placement reports can be resolved in the context of the constitutional provisions on the family and so on. I believe that if there is a willingness on both sides, an agreement can be successfully concluded. However, I must place on record my deep dissatisfaction with the comment in the reply that the Minister, Deputy Fitzgerald, has no plans to extend the provision any further for those pre-Hague Convention couples who have up to 31 October to effect an adoption. Some couples have been engaged in this process for many years - in some cases, for more than a decade - and, leaving aside everything else, they have invested an enormous amount emotionally in this roller coaster. They have been tossed from Russia to China and back in circumstances in which where they were not always in control of events and they are now on the cusp of effecting legal adoptions, but the process may not be concluded by 31 October. In other words, a couple that have literally seen, held and bonded with a child may now find the child taken from their grasp. My request in respect of them is a simple proposal. Surely it is within the capacity of the Department to effect an in-process grace period for them if they can prove they have a referral and have registered in the courts for the necessary legal steps to be completed. Surely it is within the capacity of the Department to deal with those circumstances. There are a handful of these couples in the country. This would not be a dangerous legal precedent and it is the humanitarian thing to do.

**Deputy Alan Shatter:** I am very conscious of the emotional roller coaster experienced by couples who first go through the process of being assessed as suitable for adoption, along with all the details and timeframes, and then face uncertainty in the outcome, which causes a great deal of worry and concern. It is a cause for celebration when a couple gets a declaration of eligibility and suitability. I am also conscious that the changes effected not only in our adoption legislation but globally in this area by a number of states in terms of the nature of the compliance procedures that must be met, and the uncertainty in international relations that on occasion gives rise to delays in concluding bilateral agreements, add to the stress of the process.

I listened carefully to what my colleague, Deputy Michael Creed, had to say and will convey his views to the Minister for Children and Youth Affairs. I am conscious that if individuals have been through this process, are on the verge of adopting a child or have been introduced to a child, or even if they are not in that position but have a declaration of eligibility and suitability based on an assumption that they will adopt in a particular state and have spent some time learning all they need to know about the background matters of importance in effecting an adoption in that state, it is a cause of great disruption and emotional stress if it ultimately does not prove possible to effect an adoption. I will relay to the Minister what the Deputy had to say. I hope the conversations she plans to hold in September with the Russian delegation prove productive and that it will be possible to arrange a meeting and that there will be a satisfactory outcome. In the absence of Russia's implementation of the Hague Convention in its domestic legislation, as opposed to merely being a signatory to the convention, the only way to facilitate Irish couples or individual applicants in adopting in Russia is through a bilateral agreement. As I am familiar with the area, I am conscious that there are certain difficulties with regard to post-placement reports. I hope it will prove possible for the Minister to resolve these difficulties in a manner which the Russian Federation regards as suitable and appropriate, as well as in a manner that is compatible with our domestic law.

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## Message from Seanad

**Acting Chairman (Deputy Jack Wall):** Seanad Éireann has passed the Health Service Executive (Governance) Bill 2012, without amendment.

## Ceisteanna - Questions

### Priority Questions

**An Leas-Cheann Comhairle:** Questions Nos. 1 and 2 are to be taken together, but as Deputy Dessie Ellis is not yet in the Chamber, I propose that we begin with Question No. 4 to give him a chance to get here. Is that agreed? Agreed.

### Road Improvement Schemes

4. **Deputy Timmy Dooley** asked the Minister for Transport, Tourism and Sport the amount of money that has been collected through the community involvement scheme for works on local roads since its inception; the way in which local communities are asked to pay for the scheme; the average contribution asked for; the counties in which this scheme has been used to date; and if he will make a statement on the matter. [31050/13]

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** The improvement and maintenance of regional and local roads are the statutory responsibilities of each local authority, in accordance with the provisions of section 13 of the Roads Act 1993. Works on these roads are funded from local authorities' own resources and supplemented by State road grants. The initial selection and prioritisation of works to be funded are also matters for the local authority.

This year my Department launched a new pilot community involvement scheme. The scheme is based on contributions in a range from 20% to 50%, either through monetary contributions or the provision of materials, machinery or labour. Where the local community is making a contribution and not undertaking the work itself, the local contribution will be 20%. Where the majority of works are to be undertaken by the council, the local contribution will be 30%. Should the majority of works be undertaken by the local community, the local contribution will be 40% and where all works are to be undertaken by the local community, with the local authority contributing by way of materials or machinery, the local contribution will be 50%. In the latter case, no cash contribution would be required from the community.

Each local authority taking part in the scheme assessed applications and took into account the length, width and condition of the roads concerned, the number of dwellings along the roads and then estimated the overall cost of each scheme taking account of material, labour, machinery and traffic management costs. From this calculation, the local authority determined the local contribution, which is paid directly to the local authority.

The pilot scheme is only recently under way, but I can confirm that applications were re-

ceived from 25 county councils and one city council for 428 projects. A total of 377 projects were approved, at an estimated overall cost of €14.1 million, of which €10.5 million is to be provided by the Department and the balance of €3.6 million coming from local communities by way of cash contributions or the provision of materials, labour or machinery. Local authorities will be requested to report on the operation of the scheme towards the end of the year, at which point we will be able to consider whether we should repeat the scheme next year and, if so, what form it should take.

**Deputy Timmy Dooley:** I have been concerned about this scheme from the outset. I accept that community involvement is worthwhile in road projects where there is a misunderstanding about whether the council controls the roads concerned. Schemes were previously put in place for culs-de-sac and minor roads. The extension of schemes to a wider variety of roads changes the dynamic for those who live in isolated rural areas who are getting a second class service. They are paying road tax, the house tax and various other taxes and charges and are now expected to pay an additional charge for the benefit of travelling along the roads that lead to their homes. Local authorities do not appear to be taking a uniform approach. I recently had an opportunity to visit some of the areas affected in north County Meath. To say some of the roads in the area are in an appalling state is an understatement. It beggars belief that the responsible local authority has underfunded maintenance works on roads that serve tourism, industry, farming and general community life. While I accept that maintenance of these roads is the responsibility of local authorities, the Minister will have to take a more proactive approach in the absence of action on the part of local authorities instead of placing the burden on the shoulders of hard-pressed taxpayers who are already paying their fair share. It is regressive and inequitable to expect them to contribute through materials, machinery or hard cash. No one living in a city would be expected to pay for the street lamps or to repair a footpath.

**Deputy Leo Varadkar:** A separate local improvement scheme deals with laneways and roads not taken in charge. It is open to local authorities to use a portion of their discretionary grants on that scheme. The community involvement scheme is aimed at local and regional roads taken in charge by the local authority. The background to the scheme is that funding for road maintenance works has decreased, whether from my Department or local authorities' own resources, with the result that local authorities are prioritising roads that are heavily used. We were approached by individuals and business people who offered to contribute to the cost of repairing their local roads. It is difficult to refuse such offers. I acknowledge the issues the Deputy raised, but it is hard to refuse people who want to help.

In regard to the position in cities, people living in urban areas pay motor and property taxes, as well as management fees for the maintenance of roads and lighting in their developments. I imagine this also applies in Ennis. Many more people live in managed estates in urban areas than along rural roads that have not been taken in charge. I do not think it is right to characterise this as an urban versus rural issue. I am aware that roads in the northern half of County Meath are very bad. A considerable number of people applied for community involvement scheme grants in that area and more than €1 million has been provided under the scheme. I hope that investment will make a big difference. Approximately €2 million in additional funding has been provided for Meath County Council in the past few weeks. However, it will take more than that sum to address the long-standing neglect of roads in the northern part of the county.

In terms of the general approach adopted, I believe in local government. It is the responsi-

bility of the Government to deal with the national road and motorway network, but local and regional roads should be a matter for local authorities. Perhaps my Department can take a regulatory role in requiring local authorities to ensure roads meet a certain standard, as they do at present in the waste management area, for example.

**Deputy Timmy Dooley:** I take the Minister's point about whether this is an urban versus rural issue. I was not seeking to characterise it in that way. The point I make is that people in rural areas are responsible for their own laneways and for management and maintenance within the curtilage of their sites. That happens in housing estates as well. I am familiar with residents of developments in rural areas who have to make payments to cover the management and care of lighting and the upkeep of the estate. It seems they will now be expected to make an additional payment in order to be able to get to the main road, if it is the case that a stretch of the local road requires upgrading. Has the Minister considered the possibility that tax relief might be afforded on such contributions? Has he made a request to the Department of Finance in that regard? This further burden of taxation on householders, who are already making significant contributions at a difficult time, cannot be seen in isolation. I accept that the State does not have enough money to provide the services that are required. I am suggesting that tax relief should be offered to those who have to dig into their pockets to pay €3,000 or €4,000. If the Minister has not already sought a meeting with the Minister for Finance, or if there have been no discussions between the Departments of Transport, Tourism and Sport and Finance, I suggest that should be expedited in advance of next year's budget.

**Deputy Leo Varadkar:** Taxes are in the purview of the Minister for Finance, of course. I think there is some merit in the suggestion that people should be allowed to offset against tax any contribution they make to help to repair a public road. We are considering it as we prepare our annual submission setting out the things we would like to see included in the finance Bill. I have not yet done due diligence on it. I want to do that first. I think the idea is worthy of consideration.

**An Leas-Cheann Comhairle:** We will return to Questions Nos. 1 and 2.

### **National Roads Authority Expenditure**

1. **Deputy Timmy Dooley** asked the Minister for Transport, Tourism and Sport the way he intends to ensure the M50 is fit for purpose; the capital expenditure that is planned for the motorway; his plans to include bus rapid transit as part of a solution to ease the congestion on the M50; and if he will make a statement on the matter. [31175/13]

2. **Deputy Dessie Ellis** asked the Minister for Transport, Tourism and Sport his plans to ensure safety standards on the M50 while avoiding increases in tolls and forcing drivers into residential or built up areas. [31341/13]

**Deputy Leo Varadkar:** I propose to take Questions Nos. 1 and 2 together.

These questions are about the M50. As Minister for Transport, Tourism and Sport, I have responsibility for overall maintenance and funding in relation to the national roads programme. The planning, design and implementation of individual road projects is a matter for the National Roads Authority under the Roads Acts 1993 to 2007 in conjunction with the local authorities concerned. The M50 upgrade project, which was approved in 2005, resulted in the addition of

a third lane in both directions from the M1 to Sandyford and a fourth auxiliary lane in places, together with the development of freeflow junctions and the introduction of barrier-free tolling. This major investment has significantly enhanced the capacity of the motorway. There are no proposals at present for further investment in additional capacity. One of the conditions attached to An Bord Pleanála's approval of the upgrade was the publication of a scheme of demand management measures within three years of the completion of the work. The National Roads Authority, in conjunction with the relevant local authorities, has been working on such a scheme and a draft report was published recently.

I undertook a review of tolling policy when I took over as Minister for Transport, Tourism and Sport. Having reviewed the position, and in the context of budgetary measures that led to an increase in VAT and carbon tax, I decided in late 2011 that new tolls would not be introduced during my term as Minister. This position remains unchanged. The likely impact of multi-point tolling on the M50 would be to push vehicles onto other roads and through local communities. At present, congestion is not the problem it was when An Bord Pleanála granted permission for the M50 upgrade, but it will re-emerge as an issue if and when the economy recovers. At that point, we will need a joined-up solution to deal with congestion across the greater Dublin area, and not just on the M50. Apart from tolling, the draft report does include other measures specific to the effective operation of the M50 which merit consideration. Overall, I see the demand management report as part of a process to look at options for managing traffic in the greater Dublin area in the future. The potential role of bus rapid transport within the greater Dublin area is being considered in that context. However, I am unsure whether a bus rapid transport service on the M50 would be appropriate or useful given the difficulty people would have in getting to bus stops on a motorway

**Deputy Timmy Dooley:** I thank the Minister for confirming he intends to maintain the policy of retaining the tolls at their current levels, rather than increasing them in line with some of the recommendations of the demand management report. Although growth in activity on the M50 has moderated somewhat and will not reach the expected levels by 2015, it is a fact that within the next ten years the expectation is that the M50 will have reached peak capacity at certain times of the day. Obviously, that is a concern from a forward planning point of view as we try to encourage people to invest and develop businesses in this city. What strategy does the Minister intend to put in place to take on board the issues that have arisen in the demand management report? What methodology has been put in place in the Department to plan for the future? It is fine for all of us to agree that the demand is not there, because of where the economy is at, and to wait and see what happens in the future, but I think we need to do more than that. If the Department has not already started to develop a strategy to meet the future need that is expected, I hope it will do so quickly. It would be very helpful if the Minister outlined his thoughts in that regard.

**Deputy Leo Varadkar:** It may be projected that the M50 will be congested in ten years' time, but I am not sure it can be described as "a fact" given that it will depend on many things, not just the level of growth in the economy but also the modal split between vehicles and public transport. A number of the proposals that are made in the report, including the introduction of variable speed limits, the provision of increased information on the motorway, the establishment of a national traffic control centre and the development of some other smarter travel measures, could help to manage congestion. I expect that such technology will increasingly be used to manage our road network. It is a flawed approach to try to deal with the issue of

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congestion in Dublin as an M50 issue, because it is not that simple. This issue affects the roads adjoining the M50 and the greater Dublin area as a whole. Two things are being developed in that regard. The Department of Transport, Tourism and Sport is developing a new transport investment strategy in preparation for the next national development plan. The National Transport Authority is developing a six-year plan for traffic and investment in Dublin. I believe we should approach this issue in that holistic context across the greater Dublin area and not just down the M50 mainline.

**Deputy Dessie Ellis:** I thank the Minister. I am glad to hear he has no plans to put further tolls on the M50, which is undoubtedly the busiest road in the country. All the main carriage-ways from north, south, east and west converge on the M50. We were opposed to the tolling of the M50 from the outset. We saw what happened when the contract was drawn up with the company that was previously responsible for the tolling of the M50. A previous Government rectified the matter by taking on that responsibility. As a result, we now have the freeflow system, which is not perfect but is certainly a huge improvement. It seems that the M50 as a whole is managing pretty well, although problems have been identified during peak hours. Our plans need to be concentrated on what we can do in those peak hours. A price increase would definitely lead to rat-running in housing estates, residential areas and built-up areas, which would be a disaster. Does the Minister accept that more investment in public transport and integrated travel is needed? We have some integrated travel, involving the bus and rail networks, but what about the integration of bicycles etc.? In the long run, such measures will help to relieve congestion.

**Deputy Leo Varadkar:** I accept there needs to be a joined-up approach to the management of traffic in the greater Dublin area and in all our cities and towns. That approach needs to take account of things like bicycle and pedestrian access, investment in public transport and demand management. I am not part of the lobby in this country that thinks we should persecute the motorist. I do not think we can put further pressure on motorists until we have provided alternatives. I am conscious that fuel prices are much higher than in the past, that people are struggling to take out car loans to replace their cars as they get older and that the requirement to pass the NCT also places pressure on motorists. It is certainly not in my plan for the next couple of years to make life harder for people who use their cars to get to work and bring their kids to school etc.

*6 o'clock*

**Deputy Dessie Ellis:** If the M50 does become a problem, and the Minister has said it might, the old plan for an orbital route around the northern part of the M50 could be considered for the future, although finances will obviously have a bearing on that. We have the example of the port tunnel, which used very high prices to ensure very few private cars use it while taking the trucks and heavy traffic off the main roads in the city centre. The example is there that increasing the prices will deter private cars from using roads like the M50, which is the lesson we have to learn. There has to be consideration of other alternatives. One of the past suggestions was this orbital route, which might be a way to go forward.

**Deputy Timmy Dooley:** I take the Minister's point that the potential future growth in traffic on the M50 cannot be resolved in isolation, and it of course has to be part of a co-ordinated plan. However, I am not convinced the Minister or his Department are taking seriously the potential for the M50 to reach a threshold beyond which problems are created. From an historical point of view, we all look at the legacy of the past in regard to not getting rid of the barriers at a much earlier stage, yet growth came much quicker than we expected because of the boom in the econ-

omy. I get the sense around many of the Departments that there is almost an inertia in regard to the thought that we will ever see significant levels of growth again. When growth comes, it can come quickly and in an unpredicted way. When that happens, we will see a level of increase. I would like to think there is somebody in a positive frame of mind who is planning in the hope, expectation or belief that this will happen sometime into the future. For that reason, I hope the Minister will establish a steering group across all infrastructure in the State that looks to where the potential bottlenecks might be in the event or hope that we will see a sustainable level of normalised growth again, which is a regular feature of economies in the developed world.

**Deputy Leo Varadkar:** The work the Department is doing in regard to the integrated transport strategy is exactly that. Rather than just using a projected growth figure, given these are always wrong one way or the other, which is the nature of these things, we are looking at different scenarios, for example, a low growth scenario, a middle growth scenario and a high growth scenario, and examining what bottlenecks and issues may arise in those different scenarios.

With regard to the Leinster outer orbital route, the big idea in the past was to put a motorway through Leinster and allow people to bypass all of Dublin. That would be horrendously expensive - we are talking of billions of euro - so it is way down the priority list. There are so many other public transport and regional road projects, as well as the need to improve road access into the north west and the west, which I believe should take priority over a new motorway around Dublin.

### **Harbour Authorities Appointments**

3. **Deputy Richard Boyd Barrett** asked the Minister for Transport, Tourism and Sport when and the way the new chair of the Dún Laoghaire Harbour Company will be appointed; if he will address with the company outstanding industrial relations issues and the management plan for Dún Laoghaire Harbour Company between now and the transfer to Dún Laoghaire-Rathdown County Council as per the new national ports policy; and if he will make a statement on the matter. [31174/13]

**Deputy Leo Varadkar:** The question relates to the Dún Laoghaire Harbour Company. I expect to bring a memorandum to Government in the coming weeks in regard to the appointment of a chairperson for the harbour company. Following this, the individual will be required to appear before the Joint Committee on Transport and Communications prior to his or her appointment being confirmed. The occasion of his or her appearance and the questions that will be asked of the chairperson designate will be a matter for the committee itself.

Requiring all newly nominated chairpersons to appear before the relevant Oireachtas committees is in line with broader Government reform proposals in the area of State board appointments. These initiatives include a public invitation for expressions of interest in serving on State boards. Furthermore, on the appointment of board members to the individual port companies, I now issue them with a letter of mandate setting out the issues and priorities to which they should have regard in carrying out their functions, subject to their fiduciary duties under the Companies Act.

As the Deputy is aware, the new national ports policy, which I launched, provides a coherent framework for all State-owned ports to allow for their future development in a manner that suits their individual circumstances. Dún Laoghaire Harbour Company has been designated

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as a port of regional significance and will be transferred to Dún Laoghaire-Rathdown County Council in due course. In the interim, the port will continue to operate and carry on its day-to-day business as normal.

The successful completion of this transfer process will be the key priority for the incoming chairperson. My letter of mandate to the incoming chairperson will clearly set out this priority. In addition, the letter of mandate will request that the incoming chairperson will, first, appear before the relevant Oireachtas committee as requested, second, pay due regard to the totality of Government policy in the area of CEO remuneration in any board decisions on the matter, and third, with regard to consideration of the future development of the port company, ensure that it is carried out in a prudent fashion.

**Deputy Richard Boyd Barrett:** I thank the Minister for his reply. As he knows, I have previously raised the issue of what I believe are very serious problems and irregularities in Dún Laoghaire Harbour Company. There was the issue of one company director who wrongly claimed €40,000 in expenses and, while there was a commitment he would pay it back, as far as I know, it still has not been paid back. A CEO who already pays himself €136,000 got an extra €20,000 and claims this was bought back annual leave, which as I understand is not allowed and, in any event, would amount to 35 days annual leave, which does not exist in the public sector. We still have not got answers about this issue. Meanwhile, there are widespread allegations by the workforce of bullying and intimidation. A court case is currently being taken by one staff member on those issues and on the issue of the Harbours Act against the management of the company. The latest development is that all pensioners and existing staff have received a letter stating there will be a meeting about problems in the pension fund on 18 July. Pensioners and staff are panicked about this because, to give one example, one pensioner who worked there for 40 years receives only €11,000 a year, which is one tenth of what the CEO currently receives, and he is worried about what may happen to his pension.

While I welcome the move into Dún Laoghaire-Rathdown County Council, what will be the procedure through which we select a chairperson? Can we have a guarantee these issues will be examined and that we will get answers on them? Is it the intention of the Minister to abolish the existing board, as seems necessary, and that the board will not just be transferred into the council but will be abolished and the workforce employed directly by the council?

**Deputy Leo Varadkar:** The procedure is that the chairperson will be nominated by the Government. While there has been some delay in doing that and it has not been entirely under my control, I intend to nominate a new chair before the recess. The committee will then have an opportunity to question the chair, and I am sure Deputy Boyd Barrett will take an opportunity to do that with vigour.

The exact mechanism by which port companies will be transferred to local authorities is not yet decided. There are a number of different options and we have to pass primary legislation to enable us to do so. It probably will be next year before we are in a position to do that with new ports legislation. In addition, there are different models. In some cases, it may follow the harbours model whereby the companies just become part of the council. In other areas, it may follow a different model whereby the company becomes a corporate subsidiary of the council, in which case it would retain a board, a chairperson and a separate identity, and, essentially, the shareholder function would transfer from my Department to the council. However, that is not yet decided.

**Deputy Richard Boyd Barrett:** I strongly urge the first option, namely, that the board be abolished and be transferred directly under the control of the council. There is no need for this board, which is a waste of money and, frankly, has been a disaster for the harbour company. I am not exaggerating when I say there was a civil war going on in Dún Laoghaire Harbour Company between the management and the workforce and pensioners, and there are a lot of unanswered questions.

I ask the Minister to look into the following specific matter. A meeting has been called about problems with the pension fund. The Tánaiste, Deputy Eamon Gilmore, when he was Minister of State with responsibility for the marine in 1997, gave a letter to all staff stating that if there were any problems in the pension fund, the company would first have to look after the staff, but if the company was unable to look after them, the State would guarantee their pensions. I ask the Minister to look into that and to ensure that the State and the Government stand over that commitment to these pensioners.

**Deputy Leo Varadkar:** By and large, my preference is to retain the corporate identity of these companies and to have them as companies of the local authority. As I said, I will be guided by the views of the company, the local authority and the local representatives on that issue.

Dún Laoghaire Harbour Company is a State-owned enterprise. Like many State-owned enterprises, there are problems with some of the pension funds. It is the same in the Electricity Supply Board, ESB, Córas Iompair Éireann, CIE, and the Irish Aviation Superannuation Scheme, IASS, which is a scheme for Aer Lingus and the Dublin Airport Authority, DAA. Those issues must be resolved. The best way to do this is through co-operation between the staff and management with the assistance of the Labour Relations Commission, LRC and Labour Court if need be. A civil war will not protect anyone's pensions.

**Deputy Richard Boyd Barrett:** There is a civil war; that is the problem. They do not want a civil war.

## **Tourism Promotion**

5. **Deputy Tom Fleming** asked the Minister for Transport, Tourism and Sport the up-to-date international response regarding The Gathering; the number of visitors from January to June 2013 in comparison to January to June 2012; the number of The Gathering events that have been organised nationally; his plans to target the lucrative British and German markets; the marketing strategy and plans he has to address this major issue for Irish tourism for the remainder of 2013 and in future years; and if he will make a statement on the matter. [31340/13]

**Minister of State at the Department of Transport, Tourism and Sport (Deputy Michael Ring):** The reaction to The Gathering, both domestically and overseas, has been overwhelmingly positive. We are targeting at least 325,000 extra overseas visits to generate €170 million in revenue. The most recent figures from the Central Statistics Office, CSO, show a 4% increase in overseas trips to Ireland between February and April 2013 compared with 2012. Detailed CSO figures for the first quarter of 2013 are particularly encouraging as they show a 12% increase in spending by overseas visitors in Ireland compared with 2012.

More than 4,000 individual Gatherings are confirmed with approximately half to take place in the second half of 2013, such as clan gatherings, special sporting events and concerts. Along-

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side established events, we are supporting targeted events such as New Year's Eve in Dublin, the people's parade at the St. Patrick's festival, with almost 6,000 overseas participants, and the Riverdance Gathering in July. Along with my allocation of more than €37 million in 2013 for overseas tourism marketing to enable Tourism Ireland to roll out campaigns in all key markets, this will ensure we maintain our good performance to date this year.

Visits from Germany were up 4.5% to 92,300 in the three months from February to April 2013 compared with 2012, whereas visits from Britain fell by 2.2% to 638,600. I am encouraged by Germany's recent strong performance. The continuing economic difficulties in Britain show the need to take a medium-term approach to this market, as agreed by the stakeholders on the tourism recovery task force in its report, GB Path to Growth. The recommendations of this report are reflected in the 2013 plans of the tourism agencies. For the longer term, to ensure our policy framework continues to support the long-term competitiveness of the Irish tourism sector, I am commencing a tourism policy review this year.

**Deputy Tom Fleming:** I thank the Minister of State for his reply. It is heartening to hear The Gathering is gaining momentum and the projected number of visitors is being achieved. I hope we can build on this. It is giving a great uplift and reaching every corner of the country. It is invigorating rural areas that have been suffering decline in many ways over recent years and is giving great community spirit. I hope we can build on these foundations and repeat this Gathering in future years. It shows the major potential. It will benefit the country in many ways. People may come in and make various investments or encourage our diaspora to participate more in a continual way in this country.

There is a major void in the British tourists coming in. Figures have plummeted over the past three or four years. We have lost approximately 1 million in that period. Has the Minister of State plans to strive to recover the figures we were getting previously from the neighbouring island? It was very positive to hear the German statistics. We are still losing out in a large way on the German market. It is to be hoped there will be no repercussions due to the latest events over the past week. We are getting only 1% of the German market up to now, which is disappointing.

**Deputy Michael Ring:** Tourism Ireland is rolling out a new plan for 2013 development, in conjunction with industry partners, called GB Path to Growth. We hope we can return the GB market to growth by 2016. The positive news is that there are 92,300 extra German visitors to this country. Britain is down only 13,000. We need to grow the British market and we are looking at that and working on ways to promote it. The positive thing is that all the other markets are also up. That is important.

We have more than 4,098 gatherings up to 24 June. Deputy Tom Fleming is correct that this has been community led in every corner of the country. They have had their gatherings and every place where gatherings have taken place has been positive for business, hotels, bed and breakfasts, carry-outs, pubs and vintners. They are all supportive of it and saying they can see a gain from The Gathering this year. We are reaching our target and we need to start examining how to get a legacy to continue it for the next few years. I particularly thank and compliment the voluntary sector. Businesses will naturally work hard to ensure they get as many people into their premises as possible, but the voluntary community effort throughout this country last year involved 8,000 to 9,000 people coming out on bad winter nights, organising Gatherings and carrying them through, and they are now working very well. They must be complimented.

**Deputy Tom Fleming:** The Continent should be a growth area for us. I mentioned this to the Minister of State, Deputy Kelly, at the budget meeting of the Select Sub-Committee on Transport, Tourism and Sport on Tuesday. He emphasised very much the use of the Internet as a marketing tool to get out to people. That is where they are accessing information. From other people involved in the market I am hearing about the hands-on approach whereby in the past we went to holiday fairs throughout Britain and Europe in particular. We were getting through to people at first hand, speaking to them on personal terms, speaking to the tour operators and the public. We were getting good publicity and public relations from it. We need a mix of that in tandem with the Internet. The first thing we must do is get it into their mindset. There appear to be five main visitor countries in Europe and we are among them, but we must get ahead of the other four.

Last year, 30,000 people came into this country for an American football match and they dispersed from Dublin into the other areas. That was a wonderful achievement which we should strive to repeat. That 30,000 was the biggest movement of people to come out of the United States in one venture since the Second World War. We need to replicate that.

**Deputy Michael Ring:** We did a major campaign, Jump into Ireland, which ran on television channels, newspapers, at Tube stations and on the Internet. The Minister, Deputy Varadkar, and I have done fairs in Germany, France and Britain. We have gone there, shaken the hands, met the trade and talked to the people who are bringing people into this country. I am very confident we can deal with the British market. We must remember the British market, like ourselves, is in recession. Surveys have shown they are not going somewhere else and instead are not travelling because of their economic crisis. I am delighted to see all the other markets, including the German and French markets, increasing. Top countries all over the world are bringing their Gatherings into Ireland and we expect that from here onwards, July, August and September will be the major months for The Gathering. We already have a 4% increase so I am confident we can reach the target of 325,000 visitors. We have tried everything in the British market and we will continue to do so. We will also continue to look at the other markets, in particular, the markets where we are doing well, such as the German, French, and Italian markets. The British market is weak and we have to keep working at it.

## **Other Questions**

### **Roads Maintenance**

6. **Deputy Brendan Griffin** asked the Minister for Transport, Tourism and Sport the position regarding local and regional road maintenance efforts; and if he will make a statement on the matter. [31041/13]

27. **Deputy Regina Doherty** asked the Minister for Transport, Tourism and Sport the measures that have been taken to protect the regional and road network; and if he will make a statement on the matter. [30938/13]

46. **Deputy Jerry Buttimer** asked the Minister for Transport, Tourism and Sport the measures that he has undertaken to protect the regional and urban road networks and specifically

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the measures taken to protect, maintain and repair the road networks in County Cork; and if he will make a statement on the matter. [31026/13]

51. **Deputy Jim Daly** asked the Minister for Transport, Tourism and Sport the steps taken to date to increase the flexibility and funding allocated to the repair and maintenance of rural and regional roads; and if he will clarify the feedback if any that has been received from the local authorities to these measures. [31080/13]

55. **Deputy Martin Heydon** asked the Minister for Transport, Tourism and Sport the measures that have been taken to protect the regional and road network. [31039/13]

67. **Deputy Ray Butler** asked the Minister for Transport, Tourism and Sport the measures that he has taken to protect the regional and road network, with particular emphasis on the road network in County Meath; and if he will make a statement on the matter. [31083/13]

**Deputy Leo Varadkar:** I propose to answer Questions Nos. 6, 27, 46, 51, 55 and 67 together.

This question is about the maintenance of regional and local roads. The Deputy will appreciate that this is a statutory function of each road authority to be funded from its own resources which are supplemented by State road grants.

I announced the 2013 regional and local road grant allocations to local authorities last January, totalling €347 million. I also provided an additional €2.7 million for drainage works in March this year. More recently, on 12 June, I announced an additional €50 million bringing the overall amount available in 2013 to about €400 million.

My Department and local authorities are working closely to develop more efficient ways of delivering the best outputs possible with the funding available to them. In this regard, county councils were provided with additional flexibility this year enabling them to transfer funding from their restoration improvement grant to their discretionary grant. In order to focus resources at maintaining existing investment in our road network, from 2014 onward, funding for major improvement works on regional and local roads is being discontinued and with expenditure being directed to the maintenance and repair of roads.

It is also important to reiterate that the role of Exchequer grants for regional and local roads is to supplement local authorities in their spending in this area. Local authority own resources contributions have been reduced from a high of €405 million in 2008 to €151 million in 2013. In 2008, this represented 40% of all such roads expenditure. In 2013, the contribution of local authorities was 27%. It is therefore vital that local authorities prioritise funding from their own resources to put into works on regional and local roads.

**Deputy Brendan Griffin:** I thank the Minister for his response. I welcome the recent allocation of €1.9 million to Kerry County Council for additional improvements and repair works this year. It is one of our major concerns. We all understand the constraints on the overall budget. However, safety is a problem if roads are not maintained and repaired in a timely manner. Any efforts that can be made to allocate further moneys to the local authorities would be very welcome. I understand the Minister will be coming to Kerry very shortly on his bicycle and he will get to see some of the roads around the Ring of Kerry and some of the improvements car-

ried out as a result of funding from central government.

**Deputy Timmy Dooley:** That was from Jackie Healy-Rae's time and John O' Donoghue's time.

**Deputy Brendan Griffin:** They call it Griffin money these days.

**Deputy Timmy Dooley:** The Deputy will have no salary left. He will be coming up to the Dáil on his bike.

**Deputy Brendan Griffin:** That is where the other half goes.

One of the largest infrastructural projects in the country is being carried out in Kerry, the completion of the Tralee bypass, with more than €12 million being expended on the bypass this year which will be opened shortly. This funding is very much appreciated by the people of Kerry because it will make a significant difference to the county.

**Deputy Leo Varadkar:** I thank Deputy Griffin for his comments and I look forward to the Killarney cycle. Hopefully the weather will be good and I will be able to raise lots of money for Kerry Mountain Rescue which is the reason I am doing it.

**Deputy Dessie Ellis:** I hope the Minister does not go on those cycles too often.

**Deputy Leo Varadkar:** The issue of safety is very important. The vast majority of road collisions are caused by driver behaviour and only a small proportion - well less than 15% - are caused either by vehicle defects or road conditions. However, road conditions are, none the less, important. One of the factors worked into the additional money allocated to councils in recent weeks is if the local authorities implement safety schemes which they regard as particularly important and more essential than surface dressing or road restoration, the Department will look sympathetically at any such proposals to spend that money on safety works.

**Deputy Martin Heydon:** I thank the Minister for his response. I acknowledge his great efforts to secure funding for very important projects for regional and local roads at a time of difficult economic circumstances. I have a question about the pilot CIS scheme whereby counties receive money. I welcome the two projects in south Kildare which received a combined figure of approximately €40,000. I ask why there seems to be such a discrepancy between the allocations to different counties. For example, Kildare County Council received funding for two projects but some counties received around €1 million. How was the CIS scheme promoted to the local authorities by the Department? This is a pilot scheme and I would be disappointed if more applications were not received from the county.

**Deputy Leo Varadkar:** As Deputy Heydon said it is a pilot scheme and we need to see how it works out and what we will do next year. I do not have particular information about Kildare with regard to the discrepancies. However, discrepancies usually relate to the number of applications. Approximately 400 applications were received and some 300 were funded. By and large, all the valid applications were funded. Some counties submitted a lot of applications while other counties did not submit very many. Some counties put an advertisement in the local newspaper while others did not. However, they were all informed about the scheme in the same way. I will furnish the Deputy with the figures as to the number of applications by local authorities and whether particular issues arose in Kildare.

**Deputy Helen McEntee:** I reiterate the thanks to the Minister for the additional funding of

€2.1 million supplied to Meath County Council. The Minister is well aware of the situation in north Meath and the state of the roads. Meath County Council was underfunded for years and we are now playing catch-up so any additional funding is appreciated.

I ask for clarification with regard to the CIS scheme. Of the community contribution, 20% is monetary only whereas 30%, 40% or 50% can come in some other form of contribution. I ask the Minister to clarify if this could be changed from what was originally applied in the original application for Meath. The county received €2.1 million funding which is a substantial amount. I ask if it would be possible for these contributions to be changed.

**Deputy Anthony Lawlor:** Like Deputy Heydon I welcome the increased funding for Kildare County Council. I have a query about moneys from the pension fund which were put into a strategic infrastructure fund. Would the Minister be kindly disposed towards funding projects with a positive economic benefit for communities? I refer specifically to the Sallins bypass which will be linked into the Osberstown interchange which is associated with the Kerry Group facility which has moved into the Naas area.

**Deputy Leo Varadkar:** In reply to Deputy McEntee, the short answer is “Yes”, we are open to that. It is a pilot scheme and we want to see how it works. If Meath has specific proposals in that regard we would be well disposed to facilitating them. In reply to Deputy Lawlor, unfortunately the short answer is most likely “No”. The strategic investment fund is still a fund so the money has to be repaid. It will work very well where something is built that produces a cash return, for example, electricity pylons or electricity wires. People pay for electricity and some of the money then goes back to the pension fund or the strategic investment fund. That really only works in the case of roads built by public private partnerships and the cash return, the availability payments or the tolls and only for very big projects of over €100 million. Therefore, smaller projects of that scale cannot be done as PPPs or else the transaction costs of doing so are so large that it is uneconomic. When it comes to strategic investment fund money, it will have to be PPPs and projects over €100 million. Having said that, I am doing my best to make the case in the next budget for some boost in capital spending. I think the most effective way to reduce welfare spending and increase the tax take is to get more people back to work because those people back at work will be paying taxes and will not be drawing welfare. My Department has the ability to deliver jobs by increasing my budget if that can be done.

**Deputy Dessie Ellis:** The extra €50 million the Minister found was to go into the maintenance of local and regional roads. The Minister hinted that he might address potholes and ramps with that money. Is that part of what he is planning? I met recently with north Meath residents against potholes. They claim that the most potholes of any part of the country are in north Meath. The Minister said we will concentrate everything into the local and regional, but capital projects are on hold. The north west is crying out for a capital project and a joined-up approach to the road network. It is a significant worry. I worry that local authority funding is falling all the time. Originally, it was 40% but has now gone down to 27%. We cannot let it go down any further as disastrous maintenance issues will arise.

**Deputy Pat Deering:** I welcome the additional funding for County Carlow, which is very beneficial. Despite the fact of cutbacks in allocations, value for money is being obtained. The CIS pilot scheme has been very beneficial. Carlow was one of the first counties in which the scheme was launched. The Minister reinvented the LIS scheme which was done away under Deputy Dooley’s Government not that long ago. As there is no actual budget for the scheme, will the Minister consider implementing a pilot scheme? There are a number of rural areas in

which people who have built houses on certain laneways are seeking funding. If there was a pilot scheme, it could be very beneficial.

**Deputy Timmy Dooley:** I have raised the following with the Minister before but do not want to get into a row about it this evening. Question Time is being abused by the approach the Government parties are taking. The House would be better served if the Minister made statements on decisions he has taken. The way questions have been phrased - there appears to be a level of uniformity across the board - allows Deputies to come to the House to clap the Minister on the back on decisions he has already taken. My understanding of Question Time is that its purpose is to elicit information which is not already in the public domain. I ask the Minister to retain Question Time for new information as opposed to follow-up statements on policy decisions which have already been made. I am not seeking in any way to silence anybody. Of course, everybody must have the opportunity to intervene.

**Deputy Anthony Lawlor:** We want to find out information too.

**Deputy Timmy Dooley:** While it is appropriate that everyone has an opportunity to ask questions, it frustrates the process by which Members can hold the Government to account and raise issues. In fairness to the Minister, he is always truthful and does not evade questions, but I would like more time from an Opposition perspective.

**Deputy Brendan Griffin:** It never happened before. The Deputy was never allowed to ask a question.

**Deputy Timmy Dooley:** In a bygone era, the party of which I am a member was accused in government of a lot, but when it came to affording time to the Opposition to question Ministers, there was no filibustering. We held parliamentary party meetings to elicit information from Ministers and left Question Time, in the main, to the Opposition.

**Deputy Leo Varadkar:** I do not accept that view. Every Member is elected and has an equal mandate and right to ask questions. The questions which have been asked by Government Deputies have been valid ones. They have not merely been valedictions of my performance as Minister. The Opposition has Priority Questions and no one is allowed to take a second off it. Other questions are for all Deputies.

Deputy Deering asked about LIS, which is still in place. It is up to local authorities to decide if they wish to use it or not. They must take up to 7% of their discretionary grants to do so. I am open to increasing the 7% to a higher figure next year. I will not, however, provide a dedicated budget for LIS as some local authorities do not want to use it. They wish to prioritise public roads over laneways and private roads. It is up to local authorities to make the decision and not for me to impose uniformity across the State.

To reply to Deputy Ellis, the €50 million was not found. It comes from the proceeds of privatisation and the sale of State assets and licences. As the Deputy will be aware, one of the points in the five point plan proposed in the context of the last election was on the disposal of State assets to invest in infrastructure and jobs. That is exactly what is being done. The €50 million is earmarked for local and regional road maintenance and restoration. One or two local authorities have expressed an interest in putting some of the money into safety schemes and ramps instead. If they want to do that, we are happy to facilitate them.

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## Road Safety Strategy

7. **Deputy Clare Daly** asked the Minister for Transport, Tourism and Sport the meetings he has had with the Road Safety Authority in recent months to deal with its key concerns and the actions he proposes to take in relation to same. [30905/13]

**Deputy Leo Varadkar:** This question relates to meetings with the Road Safety Authority. In recent months, I have met with the board of the Road Safety Authority and, separately, with the chairman and chief executive at meetings and conferences, including today. Our discussions centred on road safety in general, the progress being made on measures that have been introduced and the initiatives required further to improve the country's road safety performance. At the end of March this year, I launched the road safety strategy for the period 2013 to 2020. The strategy, which was drafted by the RSA in consultation with all other relevant stakeholders, sets out the initiatives and actions required in the next seven years to place Ireland on a par with the best performing countries in the EU in terms of road safety. I will meet regularly with the stakeholders group to ensure implementation of the actions in the strategy.

Our road safety record in recent years has been very good. The number of road fatalities has decreased year on year over the past seven years. In 2012, we had the lowest number of fatalities, at 162, since records began. Many factors have contributed to this improvement in performance but the establishment of the RSA and the interaction it has conducted with other stakeholders has been key. My Department and I will continue to have regular contact with the RSA to keep up to date on developments in road safety.

**An Leas-Cheann Comhairle:** I call Deputy Wallace.

**Deputy Anthony Lawlor:** On a point of order, surely the person who put down the question should be here to address it as a matter of respect.

**Deputy Timmy Dooley:** That is not correct. Look at Standing Orders.

**An Leas-Cheann Comhairle:** No. I was informed by Deputy Wallace that he was taking the question for Deputy Daly.

**Deputy Mick Wallace:** The Minister will be aware that the Road Safety Authority expressed an interest in an independent public inquiry into the termination of fixed charge notices. He will also be aware of some of the points that were raised by Members on this side in reaction to the report. We pointed out the lack of natural justice. The report offends against the rule against bias because the Garda investigated itself. The principle of *audi alteram partem* was not adhered to as whistleblowers were not interviewed. The legality of the system is certainly in question and the opinion of an independent senior counsel is required. I am surprised the Minister for Justice and Equality did not seek one. The internal review was based on a manual audit only, which facilitated retro-fitting. Notwithstanding same, 40% of samples in the dossier turned out to be improper.

The findings have implications for the integrity, effectiveness and fairness of the entire penalty points system and the consistency and uniformity of the application of the rule of law in the State. It will be difficult to restore public confidence in the process without an independent public inquiry. Does the Minister agree that it will require such an inquiry to restore confidence in the system?

**Deputy Leo Varadkar:** The report on penalty points has been published. The RSA has expressed the view that it would like the Garda Síochána Ombudsman Commission to examine it. I have already given my views on that and do not wish to repeat them here today. The report is going to the Garda Inspectorate and the Joint Committee on Justice, Defence and Equality for its consideration. Those are the appropriate first steps. The Garda Inspectorate will look at the processes involved and make recommendations as to whether the new processes being proposed are adequate. The joint committee is also considering the preparation of its own report. It is up to the committee to decide if it wishes to hold hearings and pursue the matter further.

**Deputy Mick Wallace:** There is not much point in the Garda Síochána Ombudsman Commission looking at the report, although an investigation by it in the first place would definitely have been interesting. The Minister may remember that the commission was very critical of how the Kieran Boylan case was handled. Suppose it had been the other way around with the Garda investigating the Boylan case itself and the commission investigating the termination of fixed charge notices. Does the Minister imagine that we would have seen two different results?

**Deputy Patrick O'Donovan:** On the last occasion of ministerial questions on transport, I raised this issue. I also raised it at a meeting of the Joint Committee on Transport and Communications. I am sure Deputy Dooley would not accuse me of filibustering in the slightest.

**Deputy Timmy Dooley:** Never.

**Deputy Patrick O'Donovan:** I thank Deputy Dooley.

The Minister stated that last year and the previous year the number of road fatalities had fallen, but an issue that has come up on a number of occasions is the number of serious injuries. I asked previously if, in the Road Safety Authority's annual statistics, the authority could, in addition, examine the reporting of different categories of injury, because that would give a truer picture of what is happening with regard to road safety. If one talks to any consultant or anybody working with those who have sustained serious injuries following collisions or road traffic accidents, one might get a different picture from the one that covers only road fatalities. While 152 is still exceptionally high - too high - I expect that the figure for those with serious injuries and those who are left in a critical condition is probably much higher. It is important to get a truer picture of road safety by including the figures on serious injuries as well.

**Deputy Timmy Dooley:** In the Minister's contacts with the Road Safety Authority, has the authority at any time raised concerns about the level of or the potential for a drop in enforcement by the Garda due to the reduction in the number of gardaí because of Government decisions that have been taken?

**Deputy Leo Varadkar:** To update Deputy Wallace, the current state of play is that the Minister for Justice and Equality, Deputy Shatter, has asked the Road Safety Authority and my Department to write to him with our views on the report that has been published and also our suggestions as to how the penalty points system can be made more robust. That letter has since issued to the Minister, Deputy Shatter, and we are in the process of arranging a meeting involving him and his officials, me and my officials, and the RSA to make further progress on the matter.

On Deputy O'Donovan's question, the new strategy published a few weeks ago does not deal only with road deaths. It now, for the first time, deals with serious injuries as well and sets a specific target to reduce the number of serious injuries by 30% during the term of the strategy.

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There has been some disagreement over the definition of a serious life-changing injury, but that has now been agreed. Approximately 420 serious life-changing injuries occurred last year in addition to approximately 160 deaths. The number of people who experienced life-changing injuries is more than double the number who died on the roads. The new strategy takes that into account and aims to reduce that number as well. It is a major step forward in terms of how we deal with road safety.

The RSA is always concerned about enforcement. The authority has its own contacts with the Garda, separate from me. The Garda assures me that enforcement is at similar levels to what it was in the past. It is not only the Garda Traffic Corps that carries out road traffic enforcement. All gardaí can enforce the Road Traffic Acts. There is a public perception that enforcement has been reduced, and that in itself is a problem. That is why I have asked the Garda to step up the visibility of its checkpoints, and the RSA is running radio advertisements, which Members may have heard, letting motorists know exactly how many drivers have been stopped and breathalysed and had fixed-charge notices imposed on them on a weekly basis.

### **Tourism Promotion**

8. **Deputy Seán Crowe** asked the Minister for Transport, Tourism and Sport the amount allocated by his Department for the proposed roll-out of a major consumer marketing campaign to promote Ireland and The Gathering 2013 in key markets; and if he will make a statement on the matter. [30954/13]

16. **Deputy Joe Carey** asked the Minister for Transport, Tourism and Sport his views on tourism performance to date in 2013; his expectations for the remainder of 2013; and, in view of the success of The Gathering, his plans to extend this initiative into the future; and if he will make a statement on the matter. [30956/13]

29. **Deputy Joe McHugh** asked the Minister for Transport, Tourism and Sport his views on tourism performance to date in 2013; and if he will make a statement on the matter. [30957/13]

57. **Deputy Bernard J. Durkan** asked the Minister for Transport, Tourism and Sport the extent to which the tourism industry has grown so far in 2013; the expectations for the remainder of the year; the degree to which various sectors have benefited from The Gathering; the beneficial impact likely by the year's end; if there are any particular issues needing attention for the future development of tourism; and if he will make a statement on the matter. [31082/13]

**Deputy Michael Ring:** I propose to take Questions Nos. 8, 16, 29 and 57 together.

These questions relate to the performance of the tourism industry. Over €37 million has been allocated in 2013 for general overseas tourism marketing, which is enabling Tourism Ireland to roll out a major consumer marketing campaign to promote Ireland and The Gathering Ireland 2013 in all our key markets. This is supplemented by a special provision in the 2013 Estimates for Fáilte Ireland of €7 million for The Gathering, to be used exclusively to fund the promotion, development and legacy of the event, and it complements support for the initiative from the tourism agencies' mainstream activities and from national and local partners.

The general response to The Gathering at home and abroad has been overwhelmingly positive. There are now more than 4,000 individual gatherings confirmed on The Gathering web-

site, with new ones added daily. Gatherings are happening throughout the country and according to Fáilte Ireland, all tourism stakeholders, including accommodation providers, carriers, restaurants and attractions, are reporting positive results from the initiative.

In terms of visit numbers, early indications are that The Gathering is having a real benefit. The most recent published figures from the Central Statistics Office, CSO, show a 4% increase in overseas trips to Ireland between February and April 2013 compared to the same period in 2012. Furthermore, detailed CSO figures for the first quarter of 2013 are particularly encouraging as they show a 12% increase in spending by overseas visitors in Ireland compared to the corresponding period of 2012.

The overall target for the year of The Gathering was to increase the number of overseas visits by 325,000, and the data suggests we are well on target to achieve this. For the rest of 2013, overall sentiment for travel to Ireland is good, with particularly encouraging signs for visit numbers from mainland Europe and the USA, supported by significant growth in transatlantic air access for the peak summer period.

There are no plans to extend the initiative beyond 2013. However, I understand the tourism agencies and the Gathering team are working on how best to optimise its legacy, drawing on the experience to date.

**Deputy Sandra McLellan:** The most recent figures for overseas visitors to the Republic of Ireland show a 7% increase in the first four months of this year, and the total air-sea capacity for the peak summer season of 2013 is forecast to be at least 3% higher than for the same time last year. Recent figures from the CSO for the first three months of this year show a 17% increase in visitors from North America to Ireland - and, perhaps more importantly, that Ireland is ahead of many of its European competitors in the North American market. In light of this, should any further initiatives with regard to The Gathering focus on countries such as Canada, especially in light of the new services, which will be a round link between Dublin and Canada for the first year, and should greater emphasis be placed on New Zealand and Australia?

**Deputy Michael Ring:** In 2012, tourism was worth €3.68 billion to the economy and there were almost 1.5 million visitors to Ireland.

Deputy McLellan is quite correct. We need to start looking at every market where we can bring in business to Ireland. There is no doubt that Great Britain, France, Germany and Italy are the main markets. Those markets provide 75% of the visitors to this country. Of course, with all of the new flights coming in now, we need to start looking at other ways and means of targeting these countries. Every week Tourism Ireland is looking at ways and means to bring visitors into the country.

I suppose the good news is that the figures are up. It is looking good. The sector itself - particularly, as I stated in my earlier response, hoteliers, restaurants, bed and breakfasts and tourism providers - is happy this year. Sentiment is good. I hope this will continue until the end of the year and that this will be the best year for many years. The good news is that The Gathering has worked. I compliment everybody who took part in it.

Deputy McLellan asked a good question. We are already sitting down with Tourism Ireland, Fáilte Ireland, the Department and all the partners to discuss the legacy of The Gathering,

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not for next year or the year after but for the next number of years. The real ambassadors for Ireland in the next few years will be those who came to this country for gatherings. They will be looking to see what value for money they got. If they go away with a positive message, we will have done a good job this year. I hope the trade will continue to provide the value it has provided for the past number of years.

**Deputy Dessie Ellis:** First, I thank the Minister of State for the initiative of bringing in the 9% VAT rate. That reduction in VAT has contributed enormously to tourism. There was much opposition to it and many were sceptical, but it has worked well. There are other initiatives coming along, such as the commemoration of the Battle of Clontarf in 2014 and, of course, the commemoration in Dublin in 2016. Is the Government planning to keep this 9% rate? There have been reports that the Minister's Labour Party colleagues are requesting that this be increased to raise revenue in the next budget. It would be a disaster at this stage, in view of the figures the Minister has produced for the numbers of people visiting and availing of our restaurants and so forth. As costs in restaurants and other such facilities have gone down considerably, it has worked very well. I hope this proposal will be resisted because it would mean going backwards instead of forward.

**An Leas-Cheann Comhairle:** That is probably a separate question.

**Deputy Dessie Ellis:** It is very relevant to the market.

**Deputy Timmy Dooley:** Deputy Dessie Ellis is jumping the gun because Question No. 11 tabled by my colleague, Deputy Éamon Ó Cuív, is about that matter. However, I will be happy to hear the reply and agree with the Deputy's point.

We were talking primarily about The Gathering, marketing campaigns and so forth. The focus of The Gathering is a good one. While activity has been ongoing for some time, the real focus has been on events this year. However, it might take a year or two to achieve a greater level of benefits and flow from it. In that context, has any consideration been given to the retention of The Gathering office, albeit it is hard to maintain the campaign and activity at the same level because The Gathering is an individual project for this year? However, as there is marketing activity associated with it, are there proposals in the Department to retain The Gathering office?

**Deputy Michael Ring:** On the issue of the 9% VAT rate, we are very supportive of it. The Minister, Deputy Leo Varadkar, and I are pushing hard on it, but the decision will not be ours to make. It is a matter for the Department of Finance. We support the rate because it has worked.

On retaining The Gathering office, I am glad the Deputy asked that question. I take the opportunity to compliment Mr. Jim Miley and his team from Tourism Ireland and Fáilte Ireland. I pay tribute to the excellent job they have done. They grabbed this project by the scruff of the neck and ran with it. We can look at the Deputy's suggestion, but it is all about finances. The Gathering and their contract are for one year. However, we are already planning for next year and the following year and it is something we can consider.

## **Rail Network**

9. **Deputy Peadar Tóibín** asked the Minister for Transport, Tourism and Sport his plans to develop a rail service to Navan, County Meath, linking it with Dublin city. [31035/13]

**Deputy Leo Varadkar:** This question is about plans to develop a rail service to Navan. I will be officially opening the new Hansfield station tomorrow. This is the final element of the first phase of the extension of the rail line to Navan, from Clonsilla to the M3 Parkway.

The Government's policy on capital investment is set out in the document, "Infrastructure and Capital Investment 2012-16: Medium Term Exchequer Framework". Under the framework, the extension of phase 2 of the Navan line has been postponed for consideration in advance of the next capital programme. Overall, the level of Exchequer funding available for the development of transport infrastructure has been greatly reduced in recent years. As this reduced level of funding will not allow for significant investment in new public transport infrastructure, the Government's focus is on aiming to make better use of the existing system and resources. Funding has been prioritised to ensure the maintenance of the existing infrastructure and advance a small number of projects which can add value to the existing network.

Despite the reduced level of funding available, my Department has allocated over €135 million towards the rail network this year. The bulk of this funding will go towards renewals and maintenance under the railway safety programme and enhancement projects such as signalling, the provision of automated ticketing facilities and the removal of level crossings. For example, work will shortly commence on the removal of Reilly's level crossing on the Maynooth line which will be of benefit to passengers travelling on phase 1 of the rail line to Navan.

**Deputy Dessie Ellis:** Work on Reilly's bridge is starting next month and will be completed towards the end of 2014. That is a positive move. However, we will have to consider the bridge further up at Pelletstown, where there is a problem. There is another bottleneck there and the crossing is operated manually.

The rail link between Dunboyne and Dublin city centre is working well. It is a pity that line cannot be continued further to the commuter belt in the Navan area, taking in Dunshaughlin, Kilmessan, Navan and the northern edges of Navan. It has a massive population that constantly commutes to Dublin and other areas. It would be brilliant if we could consider it at some stage and also whether it would be possible to run a line from Navan to Drogheda. It might be an alternative. I do not know if it has ever been considered by the Department, but can the Minister say whether that would be a possibility? There are some old rail lines in the area.

**Deputy Leo Varadkar:** We are going to examine the possibility of extending the line from Pace to Navan in 2015 in the context of drawing up the national development plan for 2016 onwards. At present, it is just not affordable. Every rail line in the country, including the DART, requires a subvention and that subvention is very tight. Even if we were to find the capital required to build a new rail line, we could not afford to subvent it. In the context of shrinking budgets, I am struggling to keep the existing rail lines open. I am not in a position to support the building of new rail lines that would require an additional subvention that we do not have. The contrast with this is the Luas link-up in the city centre, which will not require an operating subsidy. When it is built, it will carry 10 million passengers and cover its own costs.

**Deputy Dessie Ellis:** I mentioned the line from Navan to Drogheda. Has it been considered? The Minister has said the Department is entering into more PPPs. Is there no possibility in the future of considering some of these vital lines with a view to using PPPs? I am sure the Minister has explored that option, but perhaps we might consider it further. As the economic climate changes, there might be more possibilities in that regard. Businesses might be given an opportunity to contribute, too. In the case of metro north, levies were collected from businesses

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along the line. I am not saying that is the way to proceed, but is there an innovative way of doing this by obtaining funding from some other source?

**Deputy Leo Varadkar:** One could impose a levy scheme on businesses and households along the way, but there would be big downsides to that also. It would have to be a very high levy to fund the project. Much as people in County Meath would like to have the rail line, I doubt that they would be willing to pay levies of that scale to build it.

In the case of PPPs, it must be the type of project that will produce not just an economic return in the general sense but also an actual cash return that can be used to pay back the banks, bondholders and pension funds on which we rely to finance PPPs. They expect to be paid back. They are not charities, as the Deputy is aware. It is very difficult with rail projects because they do not produce enough cash to pay back the investment. That is why they are usually funded by the Exchequer. It is particularly a problem in the case of tunnels. There have been PPPs around the world for rail tunnels, but they have gone spectacularly wrong. As the PPP companies have been left with huge bills as a result, PPPs for tunnels are just not happening anymore. It might be thinkable for a stand-alone project somewhere, but it would be a little tricky where it was connecting to an existing line.

*Written Answers follow Adjournment.*

The Dáil adjourned at 7 p.m. until 10.30 a.m. on Friday, 28 June 2013.