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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

DÁIL ÉIREANN

Déardaoin, 11 Iúil 2013

Thursday, 11 July 2013

Chuaigh an Ceann Comhairle i gceannas ar 12.30 p.m.

Paidir.
Prayer.

Leaders' Questions

Deputy Micheál Martin: Last night's sitting of the House was shambolic and lamentable. It undermined respect for Parliament and how we conduct ourselves. The Government's approach was revealing in its absolute contempt for this institution. Initially we were to conclude at 10 p.m. but the debate was extended to midnight.

Deputy Derek Keating: We did not guillotine it.

Deputy Micheál Martin: Without warning, the Chief Whip texted the Opposition Whips at 9.57 p.m. to announce that we were to sit until 5 a.m. If he had properly organised the schedule for this Bill we could have been here at 9 a.m. and could have debated it until midnight. We could have done the sensible thing. It seems that the internal difficulties of the Fine Gael Party, in particular, were the ultimate determinant in how the House ordered its business and its votes.

Perhaps the mask slipped yesterday. The genesis might be found during yesterday's Order of Business, when the Taoiseach said he wanted to get rid of the Protection of Life During Pregnancy Bill last night, come what may. Despite all the commitments given in the programme for Government on Dáil reform, changing the way we do things in this House and having meaningful debates, can anyone on the Government side seriously suggest that going until 5 a.m. represents a sea change or a democratic revolution in how we do our business, as the Government proclaimed two and a half years ago? Throughout yesterday we witnessed intense pressure being exerted on certain Deputies. It was not pretty to see the pressure that Deputies Mulherin and O'Mahony came under. Ministers are entitled to intimidate and bully their own Members but they should not extend that instinct to the rest of the Parliament. They should show respect for this institution.

Deputy Willie O'Dea: Dictatorial.

Deputy Micheál Martin: It reveals an instinct and it warns the public about the approach the Government will take if the State is left with a unicameral system by the end of this year,

courtesy of our referendum.

Deputy Willie O'Dea: The jackboot.

An Ceann Comhairle: Deputy Martin does not need any assistance.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): The Deputy opposite has, like me, been in this House a long time. Late night sittings are nothing new. They are much less frequent now than during the earlier years of our membership of this House. We already had one late night sitting.

Deputy Willie O'Dea: It is not normal to sit until 5 a.m.

Deputy Brendan Howlin: I do not need the help of the columnist from the *Sunday Independent*. It is a normal part of Parliament. Other parliaments sit late to debate issues. The commitment of the Government on this important and sensitive legislation is to allow it the maximum time possible for debate. It has been unprecedented for two different sets of committee hearings to take place, to have an open ended debate on Committee Stage and for Report Stage to be given 13 hours thus far, with a further seven hours allocated today. Every Member with strong views on this matter, from various perspectives, can be heard and have their views recorded. The Deputy opposite would have something else to say if we foreshortened the debate.

Deputies: Hear, hear.

Deputy Brendan Howlin: In regard to his comments on internal difficulties and Whips, we operate a whip system. That is normally the basis of how the Deputy's party operates.

Deputy Paul Kehoe: Until now.

Deputy Brendan Howlin: We meet to reach consensus within our parties after robust debate and then we act as a unit. That is the norm. It is rare that a leader cannot bring his own troops with him and then makes a virtue of necessity by pretending that somehow it is virtuous to allow people to express whatever views they like on an issue of this importance. Normally a party takes a collective view on these matters.

I sat through much of last night's debate and I watched it on the monitor when I could not be in the Chamber. The debate was sincere and robust. It is true that it was repetitive at times but it allowed every Deputy the opportunity to express his or her views on this important issue.

Deputy Micheál Martin: It is not normal to sit until 5 a.m. on a Bill such as this.

Deputy Brendan Howlin: I did not say it was normal.

Deputy Micheál Martin: The Minister said it was normal. The public do not think it is normal. It reflects badly on the Parliament and what happened last night was lamentable and shambolic. The least the Government should do when it extends the time of sittings is consult the Ceann Comhairle. At least tell him and the Opposition Whips. A text sent at 9.57 p.m., just before the Chief Whip arrived into the Chamber, shows nothing but contempt for the Parliament.

Deputy Emmet Stagg: Is that not what happened on the night of the bank guarantee?

Deputy Micheál Martin: It shows no respect for the Parliament. The Minister should

accept it was wrong. There should be legitimate engagement with the Opposition in ordering business. How this was organised was shambolic from day one. Remember, until we raised the matter, the proposition yesterday was to guillotine it. The Taoiseach said he wanted to "get rid of it". I put it to the Minister that he should read the programme for Government and what it has to say about the promised democratic revolution - Dáil reform and so forth. Over 50% of all Bills have been rushed through the House without any serious debate and guillotined. The Government has been far more regressive in terms of parliamentary reform than any of its predecessors. I put it to the Minister that this bodes ill in terms of the future of this House if the Government gets its way and tries to force through a referendum to have a unicameral system in this country.

Deputy Brendan Howlin: Whether we move to a unicameral system is a matter for the people. We will put it to them and will hear and respect their view on the matter. With regard to last night's debate being characterised by Deputy Martin as shambolic, I reject that.

Deputies: Hear, hear.

Deputy Brendan Howlin: It was a proper debate in this House for those participating in it and it was passionate and real. What is shambolic is what occurred in the dying days of the Fianna Fáil Government, when it was left with just seven Ministers.

Deputy Micheál Martin: That is your only defence. Defend your own.

Deputy Brendan Howlin: That was barely constitutional. The Opposition can shout us down if it wants, but if it wants a yardstick for a shambolic exit, that was it.

Deputies: Hear, hear.

(Interruptions).

Deputy Brendan Howlin: If Fianna Fáil wants a yardstick for a shambolic end to a Government, it is when Ministers resign with such alacrity that Government is barely constitutional at the end.

Deputy Micheál Martin: The Minister should watch what is happening in his own party.

Deputy Brendan Howlin: At the time, the then Government was looking at the prospect of reappointing Ministers who had resigned. That is a shambles.

Deputy Willie O'Dea: What has this got to do with last night's debate?

Deputy Brendan Howlin: We are now dealing with a difficult, sensitive and important piece of legislation. I know Deputy O'Dea has more views on this than Boris Karloff had faces.

Deputy Willie O'Dea: The Minister should stick to the question he was asked.

An Ceann Comhairle: We are over time on this.

Deputy Brendan Howlin: This is an important issue for people and we are allowing the fullest possible debate. We are respecting the views of all and affording the opportunity for their views to be heard.

Deputy Willie O'Dea: The Government will not change anything.

Deputy Micheál Martin: The Minister said in advance there would be no change to anything and that no amendments would be accepted other than his own.

An Ceann Comhairle: Please settle down. There are a lot of tired bodies in this Chamber, including mine, and my tolerance level is decreasing by the second listening to you lot shouting and roaring across the Chamber. Please allow Deputy McDonald to contribute without interruption. She does not need help from anybody.

Deputy Bernard J. Durkan: I agree.

Deputy Mary Lou McDonald: Indeed I do not. I want to raise the issue of medical cards. In budget 2013, the Government signalled that a further €750 million would be cut from the health budget for the year. The Minister may recall that where precisely those cuts were to be made was about as clear as mud. We were informed that medical card entitlements would be targeted, but we were not given the specifics.

Like many other Deputies, my constituency office has since that time been inundated with people who bear the brunt of these cuts and by citizens who have had their medical card entitlements removed. In many cases, these are people from households suffering mortgage distress or people who have difficulty trying to make ends meet as a result of the extra taxes the Government has introduced. I find it particularly reprehensible that cancer patients are now to be denied medical cards. The Minister for Public Expenditure and Reform, Deputy Howlin, is the Minister responsible for cuts and austerity and he bears much of the responsibility for this decision, which prevents seriously ill people from getting the care and treatment they need. This is a shameful situation. Removing medical cards from cancer patients makes a mockery of any claim to be reforming the health care service or providing free primary care for all.

Does the Minister have any inkling of or interest in the impact this cut to medical cards for cancer patients will have? Will he intervene with the Minister for Health and will he say something to those people who are battling cancer and serious disease who now find the Government is to remove their entitlement to a medical card?

Deputy Brendan Howlin: As normal, the Deputy opposite never lets the truth of a situation get in the way of a line. Normally she is wrong. Let me give the facts. Some 43% of the population now have medical cards, the highest number ever.

Deputy Billy Kelleher: The Minister does not understand the issue.

An Ceann Comhairle: The Minister without interruption.

Deputy Brendan Howlin: Last year, 1.854 million people were covered by medical cards. This year it is planned to extend that to 1.9 million people. Therefore, the numbers covered by medical cards are increasing and the funding provided for them is increasing. There are decisions being made about medical cards - for example, with regard to automatic provision of medical cards in some categories - because discretionary medical cards are very important in allowing the HSE, under the Health Act, to make provision on a case-by-case basis for people who need them. Rather than allowing a category of people who may suffer from an illness but are not in difficulty with regard to paying to be automatically covered, we are providing the flexibility to deal with everybody on a case by case basis, so that those in greatest need can be guaranteed they will have the medical cover they require. That is a more sensible and rational way of dealing with the issue, rather than, as happened in the past, automatically granting medi-

cal cards to entire categories of people regardless of financial means, as happened in the case of people over the age of 70. In times of scarce resources, as now, it is important to make rational decisions. The decision is that anybody who would have undue hardship in providing medical cover, whatever his or her illness, will be entitled to a medical card. This will remain the case.

Deputy Mary Lou McDonald: I asked specifically about cancer patients. All of us are aware of the physical and mental trauma a cancer diagnosis brings to an individual and his or her family. Whatever the Minister may say about discretion or automatic provision, no rational or fair person would be of any other view but that a person suffering from cancer should be automatically entitled to medical card coverage. This should be automatic, such is the gravity of the illness and the position in which the person finds himself or herself.

An Ceann Comhairle: Has the Deputy a question for the Minister?

Deputy Mary Lou McDonald: The Minister trots out figures and gives the impression that the Government is one of largesse and generosity. He tells us repeatedly that it is a government that wants to provide full health care for all. Yet in this specific instance and in these specific cases, it demonstrates a mean-spiritedness with regard to people who are very ill. Anybody who suffers from cancer and is asked to bear the full cost of his or her treatment can tell us how very expensive it is. The cost is ruinous in many cases.

An Ceann Comhairle: Thank you, Deputy.

Deputy Mary Lou McDonald: This is happening against a backdrop of many people falling out of the private health care system, for reasons with which we are all too familiar. The Minister has not given me an answer in explanation for this mean-spirited and despicable decision because, really, he cannot. Is that not the truth?

An Ceann Comhairle: Thank you, Deputy.

Deputy Mary Lou McDonald: The Minister cannot stand over stripping medical card cover from cancer patients, or can he? Is the Government now-----

An Ceann Comhairle: Sorry, Deputy. You are way over time. Would you please listen to the Chair?

Deputy Mary Lou McDonald: -----so depraved and at such a level that it will even stand over that?

Deputy Brendan Howlin: There is no question but that we in this House understand the gravity for any individual or family touched by cancer. Most of us have friends or family members who have endured that. There are a variety of very serious illnesses that equally strike terror into people. The principles underscoring the provision of a medical card as set out in the Health Act 1970 are that we provide comprehensive free medical cover to anybody who cannot, without undue hardship, arrange for GP services and full health services for themselves. It is a rational, reasonable and sensible way of providing such cover that we would look at each individual case. In a time of absolute plenty, yes, everybody should be entitled to a medical card, but in times of scarcer resources, those who demonstrably are financially in a position to pay for their own medical care should be required to carry that burden.

Deputy Mary Lou McDonald: I did not ask about that.

Deputy Brendan Howlin: We make rational decisions on the basis of the determinant laid out in the law. If there is hardship involved in the provision of proper and robust medical cover, then a medical card should be provided, regardless of the illness.

Deputy Mattie McGrath: I begin by commending all Members of this House on voting to their own best judgment and for voting according to their conscience on the Protection of Life During Pregnancy Bill last night. These are difficult and, indeed, emotional times for many Members of this House, and we all struggle to find a way forward toward realising a deep and passionate commitment to protect the lives of both mother and child when a crisis in pregnancy occurs. I do not believe that, despite the very heated exchanges we have had in the House, anyone here wants to see a situation where threats to the life of the mother or child will increase in our country.

That being said, there are a few fundamental issues I feel obliged to return to today. I refer in particular to the constant assertion of the Taoiseach that this Bill, part of which was voted on last night, is fully in line with the Constitution. In fact, only last week the Taoiseach stated that the Government is not able to unpick the Supreme Court decision and, therefore, to attempt to do so would render the Bill unconstitutional. This week, however, one of the Supreme Court judges who decided the X case has said the judgment is moot and is not binding on Government. He also said that the X case itself was moot because the 14 year old girl at the centre of it miscarried and did not have an abortion. The case was, he said "peculiar to its own particular facts". Mr. Justice O'Flaherty could hardly have made the issue any clearer for us.

Deputy Brendan Howlin: This is a speech.

Deputy Mattie McGrath: It has also been brought to my attention that the Oireachtas has no right to vote on a Bill that contains provisions that have been put to the Irish people in a referendum and which they, in a sovereign exercise, rejected. The Protection of Life During Pregnancy Bill 2013 contains two provisions which were put to the Irish people in a referendum in 2002 and which they rejected. These provisions, which stand rejected by the Irish people in a referendum, cannot be included in the proposed legislation and voted on by the Oireachtas, I believe.

An Ceann Comhairle: Thank you.

Deputy Mattie McGrath: One moment, please.

An Ceann Comhairle: Will you put your question, please? Your time is up.

Deputy Anthony Lawlor: Let him just publish the speech.

Deputy Mattie McGrath: The Irish electorate voted "No" in the 2002 referendum to repeal sections 58 and 59 of the Offences Against the Person Act 1861. The proposal to delete sections 58 and 59 of the 1861 Act-----

An Ceann Comhairle: Sorry, Deputy. What is your question?

Deputy Mattie McGrath: I have a question.

An Ceann Comhairle: Please put it.

Deputy Mattie McGrath: Yes. The electorate voted "No" in 2002 to the referendum speci-

fying that life would only be protected from implantation, yet this Bill presumes now to legislate for protection starting at the stage of human life.

An Ceann Comhairle: Would you put your question, please?

Deputy Mattie McGrath: In light of these facts, will the Government commit to holding off on the vote on this Bill until it has time to examine these issues I have raised?

A Deputy: I have already asked that question, for God's sake.

An Ceann Comhairle: Will you please allow the Chair to do the job? I do not need your help at this stage. If I do, I will be the first to call on you.

Deputy Brendan Howlin: I thank Deputy Mattie McGrath. I originally heard the speech yesterday and he has repeated it today. It is a well-known construction of law that laws passed by the Oireachtas are presumed to be constitutional until the contrary is established - that is the presumption of constitutionality that is assigned to every piece of legislation that is enacted until it is deemed to be unconstitutional by the only valid authority, which is the Supreme Court of Ireland, and there is a separation of powers. Additionally, Bills which have not yet received the signature of the President also enjoy that presumption of constitutionality. That is the way it has always been in the operation of this House. It is only upon the adjudication pursuant to Article 26 - an Article 26 referral in the case of a Bill - that such a presumption can be rebutted, not by a Deputy standing up in the House. It is only the courts, including the Supreme Court, that, in deference to the doctrine of the separation of powers, have the jurisdiction, the capacity and the authority to decide on the validity of any law, including a Bill, and the courts must do so having regard to the Constitution.

In regard to the power to repeal legislation, that of course rests here with the Legislature. This Legislature is gathered on the authority of the people at the last election and we have the authority, if we deem it, to repeal other enactments, including sections of the 1861 Act that the Deputy argues we have not got.

Deputy Micheál Martin: The Minister, Deputy Varadkar, wants it referred to the Supreme Court.

Deputy Mattie McGrath: I wish to inform the Minister, as he mentioned the courts, that a court challenge is getting under way today. Indeed, a press conference will be held at 3 p.m. outside Leinster House to enlighten him further on that.

This was made explicitly clear in the Twenty-fifth Amendment of the Constitution, which provides for the operation of a mechanism whereby proposed changes to Article 40.3 of the Constitution, such as the text proposed for legislation on the Protection of Life in During Pregnancy Bill, will be put to the people in a referendum. What about all the promises in Lisbon that the people would be consulted? While that was not the Minister's Government, he was a supporter of it as well. Where did those promises go?

I want to put on the record of the House serious concerns about the heavy-handed way the whole debate has been carried out, especially last night, which was ridiculous. I know from talking to our Whip and the other Whips that they were not consulted in any way. I, as an employer, understand health and safety legislation.

An Ceann Comhairle: Would you put your question, please? This is Leaders' Questions,

not statements.

Deputy Mattie McGrath: Yes, I am saying-----

An Ceann Comhairle: What is your question?

Deputy Mattie McGrath: My question is this. He and the other Ministers here, Deputy Bruton in particular, have respect for health and safety laws and employment legislation, which apply to everybody here, both Members and staff.

Deputy Gerald Nash: What do you know about employment law?

Deputy Mattie McGrath: Excuse me. I am an employer. I would love to know how many you employ. You could not create a job if you were paid.

An Ceann Comhairle: Through the Chair, please.

Deputy Mattie McGrath: I am asking the Minister will he have respect for health and safety, the working time directive and everything else, and will he obey them in future?

Deputy Timmy Dooley: It is a small contractual matter-----

Deputy Emmet Stagg: He is one of your own, Timmy.

Deputy Timmy Dooley: You lost one of yours last night.

An Ceann Comhairle: Excuse me. The Deputy will get an answer from the Minister. The Dáil is in session, in case Members do not know.

Deputy Brendan Howlin: I said in reply to Deputy Martin earlier that I respect the authority and the right of the elected Members of this House to act as a Parliament.

Deputy Micheál Martin: No, he does not respect that.

An Ceann Comhairle: The Minister should proceed and ignore the side comments.

Deputy Brendan Howlin: It is abundantly clear. I know there are people of such arrogance that they believe that if one does not agree with them-----

Deputy Billy Kelleher: The Minister would know about that.

An Ceann Comhairle: Please. It is not even your question.

Deputy Michael P. Kitt: He punched above his weight on that one.

Deputy Brendan Howlin: -----one should be denied the right even to speak. Let me say this to Deputy Mattie McGrath. It is extraordinary that he would contemplate a court challenge when the deliberative process of the Oireachtas is still in mid-stream. That is extraordinary. I regard that as a contempt for the House. Everybody can-----

Deputy Mattie McGrath: It is the right decision.

Deputy Brendan Howlin: Everything we do is justiciable under the Constitution but the right to legislate is uniquely placed in the Oireachtas.

Deputy Richard Boyd Barrett: Then legislate for fatal foetal abnormalities.

Deputy Brendan Howlin: The will of the people determines who sits in the Oireachtas. Let us at least carry out our constitutional duty in an open, clear and democratic fashion.

1 o'clock

It is open to anybody, once that process is complete, to oversee, review or judicially challenge that decision. That is all well and good and in accordance with the Constitution. In the meantime, however, there must be respect for the authority and rights of the elected representatives of the people to do their job.

Order of Business

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): It is proposed to take No. 14, motion re a tribunal of inquiry into the fatal shootings of Chief Superintendent Harry Breen and Superintendent Robert Buchanan; No. 15, Revised Estimates for Public Services 2013 - Votes 1 to 10, inclusive, and Votes 20 to 40, inclusive, back from committee; No. 4, Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013 - Order for Second Stage and Second Stage; and No. 19, Protection of Life During Pregnancy Bill 2013 - Report Stage (resumed).

It is proposed, notwithstanding anything in Standing Orders, that: the Dáil shall sit later than 5.45 p.m. and adjourn at midnight, there shall be no Topical Issue debate or oral questions, and the sitting shall be suspended at the conclusion of No. 4 until 5 p.m.; No. 14 shall be decided without debate; the proceedings on No. 15 shall, if not previously concluded, be brought to a conclusion after 65 minutes and the following arrangements shall apply: Votes 1 to 10, inclusive, and Votes 20 to 40, inclusive, shall be moved together and decided by one question which shall be put from the Chair and any divisions demanded thereon shall be taken forthwith, the speech of a Minister or a Minister of State and the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group who shall be called upon in that order and who may share time shall not exceed 15 minutes in each case, and a Minister or a Minister of State shall be called upon to make a speech in reply which shall not exceed five minutes; No. 4 shall, if not previously concluded, be brought to a conclusion after two hours, the opening speeches of a Minister or a Minister of State and the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group who shall be called upon in that order and who may share time shall not exceed 20 minutes in each case, the speech of each other Member called upon shall not exceed ten minutes and such Members may share time, and a Minister or a Minister of State shall be called upon to make a speech in reply which shall not exceed ten minutes; the resumed Report Stage of No. 19 shall be taken at 5 p.m. and adjourn at midnight, if not previously concluded; and the Dáil shall sit tomorrow at 10.30 a.m. and adjourn not later than 5 p.m., any divisions demanded shall be taken immediately after the Order of Business on Tuesday, 16 July, there shall be no Order of Business within the meaning of Standing Order 26 and, accordingly, the business to be transacted shall be as follows: No. 1, Courts and Civil Law (Miscellaneous Provisions) Bill 2013 [*Seanad*] - Second Stage (resumed) which shall, if not previously concluded, be brought to a conclusion at 1.30 p.m.; and No. 5, Electoral, Local Government and Planning and Development Bill 2013 - Order for Second Stage and Second Stage, to adjourn at 5 p.m.,

if not previously concluded.

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. and adjourn at midnight, there will be no Topical Issue debate or oral questions, and the sitting shall be suspended at the conclusion of No. 4 until 5 p.m. agreed to?

Deputy Mary Lou McDonald: Will the Minister indicate whether it is now confirmed that the House will adjourn at midnight? There was an issue yesterday in respect of the staff of the Oireachtas. I do not see any provision for a proper break in the running of business to allow people to have a reasonable rest in the course of their working day. A sos for an hour after the conclusion of No. 4 would accommodate this. The Ceann Comhairle or the Minister might shed some light on the matter.

We have a full day's sitting with no oral questions and no Topical Issue debate. I acknowledge the necessity to deal with the Protection of Life During Pregnancy Bill and respect the need for everybody to have his or her say. However, the way in which that debate has been organised thus far is simply off the wall. I do not share the view of Deputy Micheál Martin who seems to have developed a healthy dose of amnesia in this regard. One might imagine, listening to him, that not one blessed word on this topic had ever been uttered over 21 years or in the past six months as we have debated rigorously and tirelessly every twist and turn of the legislation. As I said, I respect people's right to speak. I hope, however, that we will have some sense of order today, for ourselves, those of us who have children at home and the staff. We should operate in a reasonable way which also respects the rights of the latter.

Deputy Micheál Martin: My main objection concerns No. 4, but I speak now because the first proposal relates to the ordering of that debate. The business to be transacted today has been very poorly organised. I have already commented on the contempt shown by the Government for Parliament. The situation and needs of staff have been given no consideration and certainly were not considered last evening when the House sat right through to 5 a.m. Special efforts should be made to engage with staff representatives to ensure every possible provision can be made to make the day easier for them.

The critical point is that there is no need to take No. 4 today. Again, the obvious conclusion is that there must be a timeline for the referendum in question which the Government has not shared with us. The Taoiseach could not tell me on Tuesday when the referendum on the abolition of the Seanad would be held, and here again we see the path being cleared for another referendum without any consultation with the House. What I propose is that No. 4 not be taken today and that the two hours freed up be allocated for the debate on the Protection of Life During Pregnancy Bill. That would be a sensible approach.

Deputy Richard Boyd Barrett: It is a reasonable proposal.

Deputy Micheál Martin: Members might not realise that two schedules were distributed this morning, one indicating that the Protection of Life During Pregnancy Bill would be brought to a conclusion at midnight by a vote on one question. Fifteen minutes later we received a second schedule showing that the debate would merely be adjourned. Despite all of the Minister's protestations this morning about debate and so on, the reality is that it was the Government's initial intention to ram the legislation through by use of the guillotine. I welcome the change of heart, but there is no need to wait until 5 p.m. to resume that debate. It could be done much ear-

lier if the schedule was reorganised to take out the Thirty-third Amendment of the Constitution (Court of Appeal) Bill, the debate on Second Stage of which is essentially being guillotined. There is no need for its inclusion today unless, one assumes, it is the Government's intention to have the two referendums out of the way before the budget. That seems to be the agenda. Why is there an urgent need to get the Bill through in two hours today? Will the Government not give the two hours allocated for that purpose to the debate on the Protection of Life During Pregnancy Bill? That would make more sense and it might even mean we would get out before midnight.

Deputy Brendan Howlin: I will begin with Deputy Mary Lou McDonald's questions. It is intended that the Dáil shall adjourn at midnight; that is a fixed issue. In terms of a break in business, it is understood there will be a sos of 30 minutes, as there was yesterday, between 4.30 p.m. and 5 p.m. That is implicit in the first proposal on the Order of Business, that we will take a sos at the conclusion of No. 4 until 5 p.m.

Deputy Aengus Ó Snodaigh: What if the debate on that Bill is not concluded by 4.30 p.m.?

Deputy Brendan Howlin: The order of the House is for the debate on that Bill to conclude after two hours.

Deputy Aengus Ó Snodaigh: There could be a division.

Deputy Micheál Martin: There will be a division.

Deputy Brendan Howlin: I am not sure whether Deputy Micheál Martin is arguing for more time for the debate on the Thirty-third Amendment of the Constitution (Court of Appeal) Bill. We have decided to take that Bill today because it is an important measure which was sought by the Judiciary. I am confident that there is consensus in the House on the need for a new court of appeal and a constitutional amendment to facilitate its establishment. I do not expect it to be a matter of contention. If the Deputy is arguing for more time for the debate, let us hear it. He has not been clear on what he is calling for. The Bill is being taken today because we are coming to the end of the session. If we are going to have two referendums in the autumn, on this proposal and the proposal to abolish the Seanad, we must provide for this now by facilitating the establishment of the referendum commissions and so on. That is why the legislation is being taken today. I am, however, open to proposals that more time be allocated, if that is the Deputy's view.

(Interruptions).

An Ceann Comhairle: We are not having a debate on the issue now. I must put the question.

Deputy Micheál Martin: We must have a meaningful exchange on the ordering of the schedule. He knows-----

An Ceann Comhairle: That is a matter for the Whips, not for the Chamber.

Deputy Micheál Martin: We are entitled-----

An Ceann Comhairle: Deputy Martin should allow me to explain. I am obliged to put what is technically a motion without debate. I have allowed comments from the leaders of the parties and, after that, I am obliged to put the question. If Deputy Micheál Martin has sug-

gestions, I suggest he goes through his Whip. The Whips can come in later and rearrange the business.

Deputy Micheál Martin: Under Standing Orders, am I not entitled-----

An Ceann Comhairle: We are not having a debate on Standing Orders.

Deputy Micheál Martin: I am not asking for a debate-----

An Ceann Comhairle: Deputy Martin is talking about time but we are wasting time here.

Deputy Micheál Martin: Under Standing Orders, I am entitled to oppose an order and to explain why.

An Ceann Comhairle: I gave Deputy Martin the chance to explain.

Deputy Micheál Martin: The Minister for Public Expenditure and Reform, Deputy Howlin, deliberately misrepresented what I said.

An Ceann Comhairle: That is a matter for another day.

Deputy Micheál Martin: I said No. 4 should not be taken and more time should be given to No. 19-----

An Ceann Comhairle: I am asking for Deputy Martin's co-operation.

Question, "That the proposal that the Dáil shall sit later than 5.45 p.m. and shall adjourn at midnight; there shall be no Topical Issue debate or oral questions; and the sitting shall be suspended on the conclusion of No. 4 until 5 p.m. be agreed to", put and declared carried.

An Ceann Comhairle: We are all talking about time but we are wasting it. Is the proposal for dealing with No. 14, motion re tribunal of inquiry into the fatal shootings of Chief Superintendent Harry Breen and Superintendent Robert Buchanan, without debate, agreed to? Agreed.

Is the proposal for dealing with No. 15, Revised Estimates for public services 2013, Votes 1 to 10 and Votes 20 to 40 agreed to? Agreed.

Is the proposal for dealing with No. 4, Order for Second Stage and Second Stage for the Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013 agreed to?

Deputy Micheál Martin: It is not agreed. There is no need to take this today. I have no sense of any urgency about the necessity or imperative of having to take this today. We were up until 5 a.m. this morning dealing with No. 19 and we will now resume at 5 p.m. to deal with No. 19 and go through to midnight. It is no way to organise the House. There has been no meaningful consultation with the Whips, bar a meeting called for at 3.30 a.m. It is an incredible reflection on the Parliament and how the Government is organising the House.

I asked the Taoiseach on Tuesday for the timeline of the referendum and he replied that it was some time in the autumn and that he would tell me again later. That is the level of transparency with which the Government treats the Parliament and the public. If the Minister can tell me the date of the referendum, I might have some understanding as to why he wants to take the Bill today and conclude it after two hours.

Deputy Brendan Howlin: Sometimes-----

Deputy Micheál Martin: People are cynical about the Government's approach-----

An Ceann Comhairle: I think the Deputy has made his point.

Deputy Bernard J. Durkan: They were cynical about the previous Government.

Deputy Micheál Martin: People believe the reason it is being held today is that the Government wants a referendum before the budget.

Deputy Brendan Howlin: People are cynical about antics from the Opposition. One of the problems is that this side of the House genuinely tried to facilitate every Member to participate. If we had simply come in with guillotines and set timelines, we would have another argument. To seek to allow Members latitude of time on No. 19 has caused difficulty because we did not want to shut down debate. We want to allow everyone to participate.

With regard to No. 4, I have already indicated it is a referendum the Government wants to hold in the autumn. We need to have it enacted now in order to make preparations, establish a referendum commission and have the preparatory work in consultation. All of the advice after previous referenda is to allow sufficient time for important matters to be debated. That is why we need to do it now and we cannot postpone it until the autumn. How can we postpone it until the autumn? It is important that we do it.

Deputy Micheál Martin: The Minister only published the Bill on Monday and is rushing it again.

Question, "That the proposal for dealing with No. 4 be agreed to", put and declared carried.

An Ceann Comhairle: Is the proposal for the sitting and business of the Dáil tomorrow agreed to? Agreed.

I call Deputy Martin on the Order of Business and I ask for some order.

Deputy Micheál Martin: Given that we are in the last number of weeks of the session, can the Minister indicate to the Dáil when we can expect a raft of legislation in terms of the health information Bill and the universal health insurance legislation for the establishment of a universal health insurance fund as provided for in the programme for Government? Will the Minister indicate whether the Government is of a mind to provide substantial funds to the VHI to ensure it meets its regulatory requirements? Can the Minister indicate when legislation on universal health insurance commitments made in the programme for Government can be expected?

Deputy Brendan Howlin: A question about the health information Bill was asked yesterday and the Taoiseach indicated it would be published late this year. The insurance legislation is a very serious matter. A White Paper is awaited and legislation will be published subsequent to the publication of the White Paper. I will ask the Minister for Health to give the best indication on the timeline for the publication of the White Paper and the legislation to the Deputy.

Deputy Micheál Martin: What about the VHI?

Deputy Brendan Howlin: That is the same.

An Ceann Comhairle: I call Deputy Adams or, rather, Deputy McDonald.

Deputy Mary Lou McDonald: I was going to make a reference to a beard but I will not.

I want to raise two matters with the Minister, the first of which is the Bethany Home. Many Members are aware of what happened in Bethany Home, Rathgar, the suffering of women and children in the home and the existence of a mass grave in Mount Jerome Cemetery in Harold's Cross. The Taoiseach gave a commitment on 25 June that, within two weeks, the Government would make a statement and set out what was to be done to address the needs of the very small number of survivors from the mother and baby home. I have been raising this question consistently, as have others, and I feel I have been sent on a wild goose chase. When will we have a decision?

The second matter is the Construction Contracts Bill. We were due to deal with it today but it has been dropped off the schedule. It is a very long-awaited and important item of legislation. Will it be taken next week? When will it appear before us?

Deputy Brendan Howlin: The Bethany Home issue was raised by Deputy Adams yesterday with the Taoiseach. The Taoiseach undertook to talk to the Minister for Justice and Equality and revert to the House. A formal letter of response from the Taoiseach will be issued to Deputy Adams today and I will ensure a copy is sent to Deputy McDonald.

I am anxious that the Construction Contracts Bill is enacted. The Minister of State, Deputy Brian Hayes, has been involved in extensive consultation. It is an initiative of Senator Feargal Quinn, who gets the credit for it. It is expected that we will find time for it next week.

Deputy Mattie McGrath: With regard to the companies (miscellaneous provisions) Bill, it has come to the attention of the House that there are many anomalies in the Finance Bill.

An Ceann Comhairle: We will talk about that another time. Some 48 seconds remain.

Deputy Mattie McGrath: Mr. Tony Rochford is on hunger strike and the Taoiseach agreed to meet him a couple of days ago. Does the Minister know if the meeting took place and, if not, when it will? When is he due to meet him?

An Ceann Comhairle: When is the Bill? I am not dealing with meetings on the Order of Business.

Deputy Mattie McGrath: On the companies (miscellaneous provisions) Bill-----

Deputy Brendan Howlin: There is no date for that.

Deputy Mattie McGrath: Public expenditure and reform is the Minister's own area. I appeal to him-----

An Ceann Comhairle: Do not appeal. There are 15 seconds left and four Deputies want to get in.

Deputy Mattie McGrath: Where is the reform when we see the shambolic way the House has been treated over the past 24 hours? It is disgraceful.

An Ceann Comhairle: I do not know what that question is. There can be no reply to it.

Deputy Mattie McGrath: I want a reply. It was shambolic.

An Ceann Comhairle: This is the Order of Business. Please, read Standing Orders.

Deputy Brian Walsh: The Minister for Children and Youth Affairs published the Children First guidelines to give effect to the heads of a Bill over a year ago. I understand that she has engaged in a consultation process. When is it expected that the Bill will come before us?

Deputy Catherine Murphy: When is the legislation on the pyrite levy likely to be published and when will it go through the House? It is critical to commencing the remediation of homes. I understand the assisted decision-making (capacity) Bill was before the Cabinet this week. Will it come before the House and be concluded in the next session?

An Ceann Comhairle: Deputy Healy-Rae is next. No statements, please.

Deputy Michael Healy-Rae: The Water Services Bill, also known as the water torture Bill-----

An Ceann Comhairle: Please use the official Title.

Deputy Michael Healy-Rae: ----is the subject of Government proposals for amendments to torture people by turning down their water pressure if they are unable to pay.

An Ceann Comhairle: Sit down, for goodness sake. That is wasting the time of the House.

Deputy Michael Healy-Rae: It is a sensitive issue for people whose water pressure will be turned down.

An Ceann Comhairle: It has nothing to do with the Order of Business. Do not play act.

Deputy Michael Healy-Rae: It has. It is the Water Services Bill. There is legislation on it.

Deputy Patrick O'Donovan: A commitment was made in the budget to introduce legislation to deal with an anomaly in respect of the Leaders' allowance and its payment to Independent Deputies. When will that legislation be brought before the House?

Deputy Dessie Ellis: When will the Residential Tenancies (Amendment) (No. 2) Bill come before the House? It was due yesterday and today. I reiterate what Deputy Mattie McGrath said about a man who has been on hunger strike for 26 days, Mr. Tony Rochford.

An Ceann Comhairle: Please, do not. Resume you seat.

Deputy Dessie Ellis: The Taoiseach said he would meet with him. It is very important. The man is getting very weak. Perhaps we could convey that to the Taoiseach.

Deputy Stephen S. Donnelly: When is the President expected to sign into law, assuming it is passed by the Seanad, the Land and Conveyancing Law Reform Bill?

Deputy Brendan Howlin: It was hoped to have the Children First Bill during the current session. Extensive work has been undertaken by the Minister for Children and Youth Affairs and it will probably not be available in the next two weeks. It should be available very soon thereafter. Drafting of a pyrite Bill is concluding and it will be taken next session. The assisted decision-making (capacity) Bill has been approved by Government and will be taken during the next session. The Water Services Bill will be taken later this year. I am dealing with the issue of leaders' allowances myself. The legislation is being drafted and will be taken next session. We will try to find time for the Residential Tenancies (Amendment) (No. 2) Bill next week. I cannot give Deputy Donnelly an actual time when the President will sign the Land and Con-

veyancing Law Reform Bill but amendments from the Seanad should be taken here next week. The Oireachtas should have concluded it next week. It will then be sent to the President for his consideration.

Garda Síochána (Amendment) Bill 2013: First Stage

Deputy Mick Wallace: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Garda Síochána Act 2005 to strengthen the independence and functions of the Office of the Garda Síochána Ombudsman Commission and to provide for the establishment of a body to be known as the Garda Síochána Independent Board with monitoring, oversight and supervisory functions over an Garda Síochána.

An Ceann Comhairle: Is the Bill opposed?

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): No.

Question put and agreed to.

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

Deputy Mick Wallace: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Tribunal of Inquiry into the Fatal Shootings of Chief Superintendent Harry Breen and Superintendent Robert Buchanan: Motion

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I move:

That Dáil Éireann resolves that the terms of reference contained in the Resolution passed by Dáil Éireann on 23 March 2005 and by Seanad Éireann on 24 March 2005, as amended by the Resolutions passed by Dáil Éireann and Seanad Éireann on 1 June 2011, the Resolution passed by Dáil Éireann on 16 November 2011 and by Seanad Éireann on 17 November 2011, the Resolutions passed by Dáil Éireann and Seanad Éireann on 23 May 2012 and the Resolutions passed by Dáil Éireann and Seanad Éireann on 24 October 2012, pursuant to the Tribunals of Inquiry (Evidence) Acts 1921 to 2011, be further amended in paragraph (IV) by substituting 'not later than 30 November, 2013' for 'not later than 31 July, 2013'."

Question put and agreed to.

Estimates for Public Services 2013

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I move the following Revised Estimates:

Vote 1 — President's Establishment (Revised Estimate).

That a sum not exceeding €3,062,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Secretary to the President, for certain other expenses of the President's Establishment and for certain grants.

Vote 2 — Department of the Taoiseach (Revised Estimate).

That a sum not exceeding €22,148,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Department of the Taoiseach, including certain services administered by the Department and for payment of grants and grants-in-aid.

Vote 3 — Office of the Attorney General (Revised Estimate).

That a sum not exceeding €14,317,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Attorney General, including a grant-in-aid.

Vote 4 — Central Statistics Office (Revised Estimate).

That a sum not exceeding €39,758,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Central Statistics Office.

Vote 5 — Office of the Director of Public Prosecutions (Revised Estimate).

That a sum not exceeding €37,414,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Director of Public Prosecutions.

Vote 6 — Office of the Chief State Solicitor (Revised Estimate).

That a sum not exceeding €29,916,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Chief State Solicitor.

Vote 7 — Office of the Minister for Finance (Revised Estimate).

That a sum not exceeding €33,187,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Finance, including the Paymaster-General's Office, for certain services administered by the Office of the Minister and for payment of certain grants and grants-in-aid.

Vote 8 — Office of the Comptroller and Auditor General (Revised Estimate).

That a sum not exceeding €5,977,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Comptroller and Auditor General.

Vote 9 — Office of the Revenue Commissioners (Revised Estimate).

That a sum not exceeding €322,705,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Revenue Commissioners, including certain other services administered by that Office.

Vote 10 — Office of the Appeal Commissioners (Revised Estimate).

That a sum not exceeding €442,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Appeal Commissioners.

Vote 20 — Garda Síochána (Revised Estimate).

That a sum not exceeding €1,272,077,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Garda Síochána, including pensions, etc.; for the payment of certain witnesses' expenses, and for payment of a grant-in-aid.

Vote 21 — Prisons (Revised Estimate).

That a sum not exceeding €311,391,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Prison Service, and other expenses in connection with prisons, including places of detention; for probation services; and for payment of a grant-in-aid.

Vote 22 — Courts Service (Revised Estimate).

That a sum not exceeding €58,324,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for such of the salaries and expenses of the Courts Service and of the Supreme Court, the High Court, the Special Criminal Court, the Circuit Court and the District Court and of certain other minor services as are not charged to the Central Fund.

Vote 23 — Property Registration Authority (Revised Estimate).

That a sum not exceeding €31,232,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Property Registration Authority.

Vote 24 — Justice and Equality (Revised Estimate).

That a sum not exceeding €320,072,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Justice and Equality, Probation Service staff and of certain other services including payments under cash-limited schemes administered by that Office, and payment of certain grants and grants-in-aid, and that a sum not exceeding €287,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

Vote 25 — Environment, Community and Local Government (Revised Estimate).

That a sum not exceeding €1,130,116,000 be granted to defray the charge which will

come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for the Environment, Community and Local Government, including grants to Local Authorities, grants and other expenses in connection with housing, water services, miscellaneous schemes, subsidies and grants, and for the payment of certain grants under cash-limited schemes, and that a sum not exceeding €43,000,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

Vote 26 — Education and Skills (Revised Estimate).

That a sum not exceeding €7,926,906,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Education and Skills, for certain services administered by that Office, and for the payments of certain grants and grants-in-aid, and that a sum not exceeding €19,000,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

Vote 27 — International Co-operation (Revised Estimate).

That a sum not exceeding €495,929,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for certain Official Development Assistance, including certain grants-in-aid, and for contributions to certain International Organisations involved in Development Assistance and for salaries and expenses in connection therewith.

Vote 28 — Foreign Affairs and Trade (Revised Estimate).

That a sum not exceeding €173,843,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Foreign Affairs and Trade, and for certain services administered by that Office, including grants-in-aid and contributions to International Organisations, and that a sum not exceeding €400,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

Vote 29 — Communications, Energy and Natural Resources (Revised Estimate).

That a sum not exceeding €173,395,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Communications, Energy and Natural Resources, including certain services administered by that Office, and for payment of certain grants and sundry grants-in-aid, and for the payment of certain grants under cash-limited schemes, and that a sum not exceeding €10,400,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

Vote 30 — Agriculture, Food and the Marine (Revised Estimate).

That a sum not exceeding €995,068,000 be granted to defray the charge which will come

in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Agriculture, Food and the Marine, including certain services administered by that Office, and of the Irish Land Commission and for payment of certain grants, subsidies and sundry grants-in-aid and for the payment of certain grants under cash-limited schemes, and that a sum not exceeding €6,000,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

Vote 31 — Transport, Tourism and Sport (Revised Estimate).

That a sum not exceeding €1,220,582,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Transport, Tourism and Sport, including certain services administered by that Office, for payment of certain grants, grants-in-aid and certain other services.

Vote 32 — Jobs, Enterprise and Innovation (Revised Estimate).

That a sum not exceeding €760,589,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Jobs, Enterprise and Innovation, including certain services administered by that Office, for the payment of certain subsidies, grants and a grant-in-aid, and for the payment of certain grants under cash-limited schemes, and that a sum not exceeding €25,000,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

Vote 33 — Arts, Heritage and the Gaeltacht (Revised Estimate).

That a sum not exceeding €250,235,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Arts, Heritage and the Gaeltacht, including certain services administered by that Office, and for payment of certain subsidies, grants and grants-in-aid, and that a sum not exceeding €1,200,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

Vote 34 — National Gallery (Revised Estimate).

That a sum not exceeding €7,677,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the National Gallery, including grants-in-aid.

Vote 35 — Army Pensions (Revised Estimate).

That a sum not exceeding €208,812,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for retired pay, pensions, compensation, allowances and gratuities payable under sundry statutes to or in respect of members of the Defence Forces and certain other Military Organisations, etc., and for sundry contributions and expenses in connection therewith; for certain extra-statutory children's allowances and other payments and for sundry grants.

Vote 36 — Defence (Revised Estimate).

That a sum not exceeding €638,757,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Defence, including certain services administered by that Office; for the pay and expenses of the Defence Forces; and for payment of certain grants-in-aid, and that a sum not exceeding €900,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

Vote 37 — Social Protection (Revised Estimate).

That a sum not exceeding €13,085,236,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Social Protection, for certain services administered by that Office, for payments to the Social Insurance Fund and for certain grants, and that a sum not exceeding €1,050,000 be granted by way of the application for capital supply services of unspent appropriations, the surrender of which may be deferred under Section 91 of the Finance Act 2004.

Vote 38 — Health (Revised Estimate).

That a sum not exceeding €243,742,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Health and certain other services administered by that Office, including miscellaneous grants.

Vote 39 — Health Service Executive (Revised Estimate).

That a sum not exceeding €12,312,471,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Health Service Executive and certain other services administered by the Executive, including miscellaneous grants.

Vote 40 — Children and Youth Affairs (Revised Estimate).

That a sum not exceeding €434,072,000 be granted to defray the charge which will come in course of payment during the year ending on the 31st day of December, 2013, for the salaries and expenses of the Office of the Minister for Children and Youth Affairs, for certain services administered by that Office and for the payment of grants including certain grants under cash-limited schemes."

I am pleased to have this opportunity to appear before the House to reflect on the Revised Estimates for Public Services 2013, which have been considered by the relevant committees over the last number of weeks. The Revised Book of Estimates sets out gross voted expenditure of €54.6 billion for 2013. The document also sets out an unprecedented level of information about the performance of Departments and offices in their use of last year's funding and the impact that this year's funding will have.

To begin, it might be useful to outline the economic background the Government had to consider in order to formulate the Revised Estimates for Public Services 2013. Following three years of contraction, the Irish economy began to recover in 2011, with strong GDP growth

of 2.2% recorded. While growth slowed somewhat in 2012, it remained in positive territory. However, the fragility of the outlook is evident in the recent quarter 1, 2013 national accounts data, which show the economy contracting slightly due to weakness in external demand with domestic demand remaining subdued. More encouragingly, the Irish labour market appears to have stabilised and is now showing tentative signs of recovery. Employment has grown in annual terms for the second successive quarter. In June the unemployment rate was 13.6%, down from 15.1% at the beginning of 2012. It is still at an untenably high level and the Government is determined to continue its stance of helping those who are unemployed by putting job creation at the forefront of all policy measures.

The Government's primary aim in relation to the public finances remains the correction of the excessive general Government deficit by 2015. We have met all our interim deficit targets and this Government remains committed to bringing the deficit below 3% of GDP within the stated time horizon in 2015. The reducing deficit coupled with actions to aid our cash flow means we can look with growing confidence to exiting the EU-IMF programme and returning to a sustainable market-based funding. The actions taken include promissory note restructuring and the extension of maturities for European financial stability facility, or EFSF, and European Financial Stabilisation Mechanism, or EFSM, loans. Growing confidence is shared by investors. We have seen the return of Irish Life to the private sector, the recovery of €1 billion of the taxpayers' investment in Bank of Ireland and the yield on Government bonds returning to levels last seen before the economic crisis. Once the excessive deficit is corrected, fiscal policy in Ireland will be framed in line with the requirement to progress towards the medium term budgetary objective of a balanced budget in structural terms and to keep public debt on a downward path.

Since mid-2008, very difficult action has been taken to tackle the imbalances in the public finances. A series of across the board revenue-raising and expenditure-reducing measures have been introduced. These measures have been wide-ranging and have affected all members and sectors of society. Since July 2008, eight separate policy announcements outlining significant budgetary consolidation have been made and budgetary adjustments designed to yield approximately €28 billion, or close to 17% of 2012 GDP, have been implemented on both tax and expenditure. On the spending side, this has led to a slow-down in the growth of day-to-day public, or gross voted current, expenditure. Spending increased by 12.1% in 2007 but is estimated to contract by just under 2% this year. That gives one the measure of the adjustment we have made. This reduction has been achieved in the face of considerable pressures associated with elevated high numbers on the live register and the downturn in the economic cycle.

Continuing to borrow at present levels is not a long-term solution. An increasing debt burden leads to higher debt servicing costs, thereby adding to the burden on taxpayers. Continuing this would reduce our productive capacity, increase unemployment and reduce the scope for providing public services in the future. This underlines the importance of continuing to take the necessary action to restore stability to the public finances so that the State's resources are not absorbed in paying ever-increasing debt bills.

To this end, all components of the public finances must make an appropriate contribution to achieving this target, and I think it worthwhile in this context to highlight the contribution of the Haddington Road agreement and the related pay reduction measures provided for under the Financial Emergency Measures in the Public Interest Act 2013.

My colleagues and I are very much aware that public servants have already contributed

significantly through the pension levy imposed in 2009, the pay reduction imposed in 2010 and with other measures such as head count reduction, reduced salary rates for new entrants and reductions in pension payments to pensioners under the public service pension reduction. Public servants live in the same economy that all workers do, share the same costs, taxes, interest rates that all workers do, and undoubtedly share in the many difficulties that the current crises has caused for individuals and families in the wider economy. Those working in the public service deliver on a daily basis, at all hours of the day and night, vital public services that are of benefit to all of society in an efficient professional way without fear, favour or judgment. We need not look any further for an illustration of the capacity and ability to deliver by our public servants, even in terms of scarce resource reductions, than our recently completed Presidency of the European Union where an excellent Presidency was delivered. This has been widely recognised throughout the European Union.

Notwithstanding the contributions already made, and the excellent work and services provided by our fellow public servants, achieving the general government deficit target of below 3% of GDP by 2015 remains a challenging cornerstone of our economic policy. With pay and pensions accounting for 36% of voted current expenditure, as I have indicated repeatedly in this House, it is clear that a proportionate contribution of €1 billion in savings is needed from the public service pay and pensions bill by 2015.

Of this €1 billion in savings, the pay reduction to those earning over €65,000, which is 13% of the public service workforce, will deliver approximately €210 million. Other central measures, including pension reductions and increment pauses, will deliver some €130 million, bringing the total amount of savings from these central measures to over €340 million.

The agreement will also deliver an unprecedented increase in productivity across the public service, through the provision of almost 15 million additional working hours and a range of other efficiency and reform measures. These additional hours will reduce the requirement for paid overtime hours and agency costs by an estimated €130 million; will allow management to maintain services against the backdrop of decreasing staff numbers, facilitate reductions in staff numbers and the associated annual pay bill cost over the course of the agreement, with a target of savings of some €175 million; and will facilitate the reduction in the costs of supervision and substitution in schools, for the duration of the agreement, which will yield savings of some €125 million.

In addition to these core changes, there have been numerous specific measures agreed at the sectoral level. These measures will help to deliver the greatest return for each sector, both in terms of cost savings and efficiency gains and ensuring that each sector is making a fair contribution to the overall savings target. In total, these sector-specific measures will yield savings of over €230 million.

As a Government, and as a State, there was little choice other than to pursue and secure the proposals that form the Haddington Road agreement. In simple terms, it would not be tenable to shield the public service pay and pensions bill at the cost of necessitating further reductions in expenditure and services provided to meet the needs of the general population.

The Haddington Road agreement protects the core pay of lower and middle income workers in the public service who make up 87% of all public service workers. In this regard, the agreement's provisions reflect many of the concerns expressed by the staff representatives during the negotiations. It seeks to achieve a broad balance of equity across public servants and sectors,

notwithstanding the complexity and the diversity of the public service. The measures provide that those at the highest levels of pay contribute the most.

We would all like the agenda to have been otherwise but irrespective of the agenda, I strongly believe that there is an obligation on all employers to sit down openly and honestly with their staff to identify solutions that can address shared problems and generate a collective agreement on a collaborative basis which can enable both employer and employees share in a sustainable future. The Haddington Road agreement is supportive of the worker as a stakeholder in the enterprise that employs him or her in the public service. It provides a framework for the conclusion of fair and balanced collective agreements across all sectors of the public service so that the necessary savings from the pay and pensions bill can be secured on an agreed basis. I welcome the fact that the vast majority of unions and associations representing public servants have now registered collective agreements with the LRC accepting the terms of the Haddington Road agreement and that others are considering their approach in the context of their own internal procedures and processes. This development is a vital contribution to the final leg of our fiscal consolidation efforts and can ensure that our public services are delivered and availed of by all citizens in a climate of continued industrial peace.

The Government's policies are working. We continue to make progress stabilising the public finances and we are creating the necessary conditions to ensure strong and sustainable employment growth. This is borne out by the recently published unemployment rates, which, as I stated earlier, have been reduced to 13.6%. Through our labour market activation and training policies, we have supported employment creation and, encouragingly, the numbers in employment continues to increase.

This improvement to the public finances has required a wide range of difficult decisions to be made by the Government in order to cut spending and raise revenue. These are decisions which will benefit each and every citizen of this country in the longer term.

However, significant challenges remain for Ireland. The large gap that still exists between Government spending and revenue must be closed. Continuing to run large deficits and engaging in a high level of borrowing required to fund such deficits, is simply not viable. To do so would result in unsustainable debt - we will reach a debt level of 123% of GDP this year - and a long-term loss of sovereignty. As a Government, our objective is to recover the economy, regain the sovereignty and ensure that there is a sustainable future for the people.

Deputy Sean Fleming: We are here today to discuss all Government Estimates of expenditures for 2013, except those of Deputy Howlin's Department which were brought through earlier for the specific reasons discussed here at that time.

Interestingly, the Minister's contribution makes no mention of any specific expenditure item in any of the Estimates, Votes 1 to 10, inclusive, and 20 to 40, inclusive, being discussed. There is some discussion about some of his own Department, but his is the only Department not up for discussion here today.

Deputy Brendan Howlin: I thought Deputy Sean Fleming wanted the detail of the Haddington Road agreement.

Deputy Sean Fleming: I do. I got some of that, and I will come back to it. I jotted it down and I was adding up the Minister's balance sheet figures.

Deputy Brendan Howlin: I promised I would give the Deputy that as soon as we had it and that is what I wanted to do today.

Deputy Sean Fleming: The Minister has done that and we can discuss the details of that further. I accept that those are there.

There is €1 billion of savings to be made in 2015. How much of it - the Minister need not answer today - would he attribute to the Haddington Road agreement? A big element of it, as he mentioned, €170 million, is a backdrop of decreasing staff numbers. That is the targeted redundancy programme which is not part of the Haddington Road agreement. There is nothing in the agreement about targeted redundancy and in a way, that is a Government decision.

Deputy Brendan Howlin: The Haddington Road agreement facilitates the reduction in numbers.

Deputy Sean Fleming: Yes, but the reduction in numbers is not in the Haddington Road agreement.

Deputy Brendan Howlin: It is implied.

Deputy Sean Fleming: There is no mention of targeted redundancies whatsoever in the Haddington Road agreement, although I accept that the Minister will implement that policy. No trade union voted "Yes" to targeted redundancies. They were not asked to do that because it was not in the Haddington Road agreement. The Minister may say it is implied now that the agreement has got over the line safely.

We are in the second half of the year. The Minister knows well that most of the money in the group of 30 Estimates has already been spent; any amount not expended has already been committed. That is no way to do business. Thank God for Europe and for the changes for 2013. It has nothing to do with the establishment of the Minister's Department or a new way of doing politics; it is as a result of changes imposed from Europe. The Estimates for 2014 will be published on 15 October and hopefully voted through before the end of this year. That is the way to do business.

The essence of today's debate is to discuss the €2 billion of cuts which the Government has sanctioned for this year, 2013, and to which there is no reference in the Minister's opening contribution. These cuts are the equivalent of a reduction in 465 services, or a cash cuts of €1,218 for every household in the country. I refer to the Minister's budget speech on Wednesday, 5 December 2012:

> The expenditure adjustments I am announcing amount to just under €2 billion out of an overall adjustment of some €3.5 billion.

In my view this means that the expenditure cuts accounted for 58% of the adjustment and the taxation side accounted for 42%. Fianna Fáil maintains that there should be fairness and equity with regard to the balancing of expenditure cuts against tax increases, in the order of 50%. It is clear from the Minister's budget announcement that 58% of the adjustment has come by way of expenditure cuts of €2 billion. The Minister has attempted to spin it by saying that the €500 million was a capital expenditure reduction, but these are real cuts as well. Capital expenditure leads to employment and improvements in services and facilities. One cannot exclude capital expenditure cuts and pretend they did not happen in order to say a 50% cut in expenditure has

been achieved, as well as a 50% saving by way of taxation changes.

I refer to the reply I received to a parliamentary question. I asked the Minister to outline the number of major construction projects that have been tendered but that have not progressed to construction. His reply on 2 July states:

> The information sought by the Deputy in relation to public works contracts tendered is held by the individual contracting authorities concerned. They are not required to pass this information to the Department of Public Expenditure and Reform.

When the Minister approves his capital expenditure budget he does not have a mechanism to track whether the project actually happens. That is a shambolic way of doing business. There should be a requirement to inform the Department.

The Minister announced an extra €150 million as a jobs stimulus for expenditure on education, roads and insulation of social housing. There is still a reduction in the capital expenditure budget this year of €350 million. He had previously announced a reduction of €500 million. The budget and these current expenditure proposals are to be voted on. Under no circumstances will Fianna Fáil stand over the choices the Minister made to make those cuts of €2 billion. We will call a vote on this issue. These cuts were not poverty proofed, gender proofed, family proofed or equality proofed. The Minister broke his commitment in the programme for Government.

I wish to highlight a cut introduced this week. Last Thursday morning, the rules for the one-parent family payment were changed. I tabled a parliamentary question to the Minister for Social Protection. Her reply states:

> There are currently 83,210 people who receive the one-parent family payment (OFP). The cost of the OFP scheme was €1.06 billion in 2012 and is estimated to be €935 million in 2013. In 2013, on foot of the OFP reforms which came into effect on 4 July, it is expected that up to 9,300 recipients will leave the OFP scheme. Up to 8,000 of these will lose entitlement this month. These numbers reflect the maximum number of cases who may lose entitlement in 2013. This reform is expected to yield estimated savings of €3.94m in 2013.

The Minister's reply further stated: "It is expected that the majority of those who will lose their entitlement to the OFP payment will apply for the jobseeker's allowance (JA) scheme." The Department of Social Protection issued a press statement on this issue, which stated: "Lone parents who are in part-time employment and are affected by the recent one-family payment reforms who then move to jobseeker's allowance will experience loss of earnings". This is a result of the reduced jobseeker's allowance earnings disregard of €60 versus €110 for the one-parent family payment and the fact that the means-tested jobseeker's allowance is different. This is classic Joan Burton talk. She did not cut the rate of one-parent family payment nor the rate of jobseeker's allowance but she cut people's money by over €50 per week starting last Thursday morning. The Minister's note further stated that approximately one third of that 9,000 were in part-time employment but they will be unable to retain the same level of income now that Deputy Burton has switched them from the one-parent family payment to jobseeker's allowance. Lone parents are recognised as having the highest rate of consistent poverty in Ireland but the Minister for Social Protection has sought to impoverish them even further. This is overseen by the Minister for Public Expenditure and Reform and by the Government, and we are expected to vote for it today. There is no chance of that happening.

I refer to the changes in the budget for those relying on social welfare services. There is a cut of €325 in the respite care grant. Embedded in these figures are cuts to the mortgage interest supplement of 25%. The figure last year was €55 million in repayments and this has been reduced to €41 million. The Minister does not like that payment and she has made it more difficult for people to get it. The measure was to help people who were likely to go into mortgage arrears, but the Minister now wants people to have been in arrears for 12 months and to make an arrangement with the banks, which will have a veto, before they can receive the payment. That is the only financial contribution this Government is making to people in mortgage arrears this calendar year. There are plenty of guidelines, rules and regulations, but the Government has cut the mortgage interest supplement budget for this year by 25%.

I refer to the cuts in child benefit introduced this year. The rate was €140 for the first and second child and this has been cut by €10 to €130. The rate for the third child was €148 and it has been reduced by €18 to €130. For the fourth and subsequent child the rate was €160 and it is also reduced. A family with three children will see a reduction of €38 per month. A total of €436 is being taken from the mother's hand over a year. That is the cost of what the Minister is asking us to vote for - taking money from people's child benefit. For a family with four children the cut is €696 per year. Under no circumstances should this House vote for that cut. I cannot understand how the Labour Party would have no problem with conscience when its members vote on issues such as cuts to child benefit, the one-parent family payment, mortgage interest supplement and the carer's allowance. For good measure, the Government last week started to tax maternity benefit for the first time since the foundation of the State, adding insult to injury. I do not know what the Labour Party has against mothers with young children but it was single-handed in targeting them in last December's budget, and it is important to remind people of that.

In the Estimates before us, which were discussed in committee over the past couple of weeks, there is a cut to the back-to-education allowance, and it has effectively been abolished. That was €300 for students and the scheme has been abolished entirely. With regard to the cost of sending children back to school in September and the back-to-school clothing and footwear allowance, there is to be a 50% cut for each child. That again hits families with young children.

The Minister should have labelled the Estimates for 2013 as an attack on families with young children and especially mothers, as it is the essence of what we are discussing today. These are the Minister's choices, and he indicated on 5 December last year, "The expenditure adjustments I am announcing amount to just under €2 billion out of an overall adjustment of €3.5 billion." Fine Gael won the day and got its way while the Labour Party suffered, and the party is now making the people relying on State services take the brunt of cuts. There were also cuts to the household benefits package, which helps pay for the telephone, gas and electricity bills for elderly people. That took €61 million from the pensioners of Ireland and people with household benefits packages, including those on certain invalidity or disability payments.

There was a commitment given before the last election when the Minister for Education and Skills, Deputy Quinn, signed his name on a placard outside Trinity College. There was no reference to the following issues by the Minister today, but under the Estimates the student contribution to fees will rise by €250 in 2013 and an additional €250 in 2014 and 2015. We do not agree with it. I loved the Minister's line on student grants, which epitomises the doublethink of the Labour Party, and it is interesting that most of the cuts are being made by Labour Party Ministers. The leaflet issued by the Minister for Education and Skills, Deputy Quinn, on the day of the budget indicated that there would be no reduction in the payment rates for student grants in 2013, although the next sentence indicated that the income thresholds for eligibility

for student grants would be reduced by 3%. People will be cut from the scheme but the rate will not be changed, meaning money will be saved by imposing a 100% cut on people who will no longer be eligible. There were also changes to the income disregard for payments to people on the farm assist programme.

I have provided an example of what this Estimates debate is about. These are €2 billion in cuts that did not have to be made. They were the choices of the Government, as the troika did not seek the €2 billion in expenditure cuts. They are the result of discussions of the Minister, his party leader, the Minister for Finance, Deputy Noonan, and the Taoiseach. They informed other members of the Government of the decision to put 58% of the adjustment on the people by way of expenditure cuts, and those who could have paid more were not asked to do so. That is why we have all the alarming cuts before us today, many of which could have been avoided if there had been a fifty-fifty adjustment of expenditure cuts and taxation measures. As the Government chose not to follow that path, we will vote against this motion.

Deputy Mary Lou McDonald: In April this year the Minister published the Revised Estimates for the public service for 2013 and, as set out, they provide Members with a little more detail and information on each Department's budgetary allocation as noted in the expenditure report for 2013, published on budget day last December. It is worth remembering that Fine Gael and the Labour Party's programme for Government committed to opening the budget process to the full gaze of public scrutiny in a way that would restore confidence and stability. Nevertheless, the announcement of the 2013 budget last December was shrouded in secrecy. The Minister for Health's failure to set out even in the broadest brush strokes the detail of his package of cuts was scandalous and much commented on at the time. I can only hope that lessons have been learned from that episode.

The addition of what the Minister deems "key performance" information regarding programme outputs is of course helpful to Members in analysing Departments' spending and output targets; however, he consistently over-eggs the depth of information provided. We can take the Department of Social Protection as an example. The 2013 expenditure report provides a single page to set out €452 million in cuts, and the 2013 output targets data as set out in the Revised Estimates take up just a third of a page. That is hardly in-depth information. This additional detail is helpful but it is a cursory glance over departmental budgets and in many instances very broad policy commitments which fall short of specific targets, and not much more.

The new format assists Members and committees in holding Ministers to account, but it is an overstatement to claim these measures will significantly improve the management of public resources. There is much management-speak coming from the Department of Public Expenditure and Reform and we could be forgiven for thinking the Minister is drowning in data on public sector outputs, strategic management and fiscal frameworks.

The Ministers and Secretaries (Amendment) Bill due to conclude in the Seanad will now give legal standing to the existing multi-annual departmental ceilings. This legislation, we are told, will anchor other reforms to multi-annual budgeting and will allow for sensible structural planning and prioritisation within each area of public expenditure, encompassing full public input and parliamentary oversight and affording the Government the flexibility to ensure that the appropriate fiscal stance is taken. We have a new public spending code that sets out the rules and procedures underpinning value for money, ensuring current and capital expenditure are both subject to rigorous value for money appraisal. Committees are to be presented with these assessments at some point in the future to assist members in scrutinising public spending.

A new comprehensive expenditure review is promised for this year - although it has not yet started - to lay the foundations for the three-year multi-annual ceilings. Focused policy assessments have been introduced and the Irish Government economic and evaluation service and the public service evaluation network have been established, with statistics published online by Ireland Stat. To be frank, it is a wonder the Minister gets any work done while overseeing such a myriad of management mechanisms, and it seems clear he is getting lost in the labyrinth. Management is a tool for the Government and the public service to deliver on social and economic commitments that serve the public interest, but it is not an end in itself. The kind of management-speak that has come to mark the Department and the Minister's tenure there demonstrates that the Government has lost its way somewhat. We can consider how even the wealthiest profit-driven multinationals embrace corporate social responsibility as a concept and yet the newly formed Department of Public Expenditure and Reform rarely makes mention of the very citizens it was set up to serve.

Many of those people who voted for the Labour Party in 2011 did so because they wanted to soften the edges of a Fine Gael-led Government. Labour Ministers were to be the check and balance in a conservative Cabinet. Nevertheless, we find ourselves drowning in data, with little or no mention of the savage impact of five austerity budgets on families and women in particular across the State and across the social spectrum. A total of €452 million has been taken out of the Department of Social Protection, €1.1 billion from the Department of Health, €123 million from the Department of Education and Skills and €16 million from the Department of Children and Youth Affairs. There have been reductions in social welfare entitlements, back-to-school allowances and the respite care grant, which was mentioned already and debated mightily at budget time. Of the menu of cuts, it was the most mind-boggling.

2 o'clock

Then there are cuts to State pensions, primary health care provision and the list goes on and on, as the public is only too well aware. This is only one side of the balance sheet for families because we are not even dealing with the increases in taxes and charges during the years or the failure of Governments, past and present, to deal with the issue of mortgages in distress. Labour Party Ministers were to act as the checks and balances in a conservative Cabinet. The party's Members anticipated this and I suspect that is why last year's party conference called for the annual budget to be equality proofed by undertaking a distributional analysis of proposed budgetary measures of all income groups and for the evidence generated as part of the proofing process to be published as an integral part of the budgetary documentation. I have raised this commitment given by the Minister's party with him regularly because I cannot understand why he has not acted on that sensible and well thought out instruction.

The Minister's bottom line mentality is not delivering. It is clearly at odds with the aims of Labour Party policy or the posturing of the party. He can bamboozle the House with all the data his Department can muster, but it will not matter one whit if he has not delivered on his own policy agenda during the lifetime of the Government, a policy agenda that those who voted for the Labour Party assumed was driven by fairness, social equity and inclusion, even in times of strict budgetary constraint. That was the expectation, to which the party has failed comprehensively to live up. The programme for Government states its commitment to ensuring the rights of women and men to equality of treatment and participate fully in society are upheld. The measure of any reform agenda, including budgetary reform, will be the experience of citizens in seeking and accessing services. The Minister needs to hear this because he has a window to make a difference not only in people's lives but also to fundamentally change the

budgetary process in the public interest.

Measures that are implemented must be subjected to an equality audit quantifying the impact of cuts on all income groups and this information should inform budgetary decisions and should be published. It should be fully accessible by Oireachtas Members and the public. Sinn Féin recently introduced legislation that would place equality impact assessment schemes and consultation on a statutory compulsory basis for all Departments and public bodies when introducing new measures, be they policy or budgetary related. These measures would ensure the adverse impacts of the annual budget, for example, on specific groups in society were not only exposed but dealt with to remove the entrenched inequality in good times and in bad. It is worth acknowledging that there was inequality in the good times and that it has deepened and been exacerbated in these difficult and bad times.

The Minister cannot continue to set his face against equality budgeting. If he wants something to be reformed and radically different and which has a prospect of success to deliver for citizens with the fairness that was the mantra of his party on entering government, it would be a logical action for him to take. We oppose the Revised Estimates. We have opposed the Minister's austerity approach at every turn and will continue in that vein, not to be negative for the sake of it - something of which the Minister often accuses me - but because we witness at first hand the negative impact this agenda is having on people's lives and their security in society and on the economy. It is a deflationary, flawed and ill-conceived approach.

I refer to the detail provided of the Haddington Road agreement savings. I would like that information to be broken down further. I am sure the Minister's officials have access to it. His valiant defence of the agreement was that it would only hurt high earners, as it only affects those earning €65,000, but based on the limited information he has provided, 20% of the envisaged savings will come from the pay cut, while 80% fall across the board. He has made a virtue of the fact that he has protected the core pay of low paid workers, but he has taken his pound of flesh from them once again. The information he presented reflects this.

Deputy Richard Boyd Barrett: I wish to share time with Deputies Stephen S. Donnelly and Catherine Murphy.

Margaret Thatcher was often referred to as somebody who was not for turning, regardless of the impact of her disastrous experiments in neoliberal economics, which set the scene for much of the disaster that she caused, along with Ronald Reagan, which ultimately culminated in the madness that produced the global economic crash. It seems the Government parties have inherited that trait of being not for turning, even when it is increasingly clear that the approach they have adopted to deal with the economic crisis is not working. It is the Minister's job to talk it up and paint a rosy picture. It would be wonderful if one could be enthusiastic about the measures to which he points and say they are hopeful signs amidst the €28 billion worth of pain inflicted on the people since 2008, which he has acknowledged. Billions of euro in adjustments have been introduced by the Government since it came to power and billions of euro more are promised in forthcoming budgets. If there were hopeful signs, one could argue it had all been worthwhile, but the little glimmers to which the Minister has pointed are fast evaporating.

As others have said, we are aware of the human consequences of this year's budget cuts on top of those that preceded them. The victims have been many, including pensioners, lone parents, families through child benefit cuts and those who look after the disabled and the vulnerable. The rent cap has not been mentioned and the disaster that has resulted in my area,

with people being increasingly driven into homelessness week after week. By the way, if the Minister is looking for savings that would not cost anything, I have told him repeatedly that if we built some council houses and put into State coffers the rent revenues which currently go into the pockets of private landlords we could not only save money but would generate some employment and deal with the housing crisis. The Minister consistently ignores that plea.

Those are the human costs. At the macro level on which the Minister has concentrated I do not see how he can sustain his view that the plan is working and that he should not turn away from the path of austerity. He says the employment situation is stabilising; I put it to him that the tiny reduction in the level of unemployment can be explained for the most part by the very high levels of emigration

Deputy Brendan Howlin: There are increased numbers in employment.

Deputy Richard Boyd Barrett: I am talking about the unemployment figures. As the Minister knows, much of that work is part-time, replacing jobs that in many cases had been full-time ones. It includes people going on education and training programmes, which I welcome. Are there real jobs for the hundreds of thousands out there, jobs that will generate economic growth and so on?

At the beginning of this year there were the small signs of economic growth and recovery to which the Minister pointed but these have completely evaporated and we are back in recession territory. The European economy is in increasing trouble as austerity of the kind that was applied here is applied throughout the rest of Europe. It is not working.

In conclusion I point at the two big elephants in the room. The servicing of our debt is costing us €8 billion this year. The Minister says his primary goal is to deal with the deficit. Will he not acknowledge the big problem? At the end of this year, although we will have a primary budget surplus we will still have a huge deficit because of interest on debt which is largely not ours. Then there is the fiscal treaty. The Minister says we are towards the end of the austerity path. Why does he not admit that afterwards we must reduce the deficit further by subscribing to the terms of the fiscal treaty? That means years more of austerity.

Deputy Stephen S. Donnelly: Recently the Minister and I discussed the Croke Park agreement in the Chamber. At the time I said I supported the targeted reduction in public expenditure of €300 million. I would go further in that an end goal for me, as a societal rule, would be that there should be no difference between public and private sector remuneration, after adjusting for education, jobs and experience. However, I also said I did not believe it was reasonable at this time to further reduce public sector wages when there was so much non-wage inefficiency that could be tackled first. In his reply at the time, the Minister described this search for non-wage inefficiency as a "con job" and referred to the move to shared services as a "radical change".

The Minister is a highly experienced politician and public representative, who has spent 26 years in the Oireachtas. For me, coming in here new, both the Oireachtas and politics are teeming with waste - unvouched expenses and all sorts of things.

Deputy Brendan Howlin: No, no.

Deputy Stephen S. Donnelly: It may be that after so much time any of us would simply not be able to see the waste. This is not a personal jibe at the Minister. I hope that when he described the systematic identification of non-wage inefficiency as a con job that was a rhetorical

flourish. I doubt if he necessarily believes that.

I would like to take some minutes to explain the idea further because I really believe that if we could achieve this the very significant cuts in public expenditure which are required to balance the budget could be found in ways that do not reduce some of the services other Deputies have mentioned. The move to shared services is very welcome but it is not radical. It is something the private sector did 20 years ago. That is part of the problem. In Ireland, the public sector lags behind international good practice by some ten to 20 years in terms of efficient operations. If we can jump that and move the public sector in Ireland up to international good practice there are enormous opportunities for us to balance the budget without having to cut badly needed services.

I acknowledge some of the important changes made, for example, better and more publicly available financial information, the introduction of performance metrics and other measures. My suggestion is that if we can achieve a radical shift in culture, combined with some of the mechanical changes being made, a genuine step change in how money is spent by the public services in Ireland can be achieved. It is my experience that we must train workers to be able to systemically identify and target inefficiencies. Critically, they must be given sufficient authority and control of their own jobs and environments to be able to reduce or get rid of those inefficiencies. I have had the honour of working with public servants abroad on issues such as this. It may come as a surprise to some commentators that public servants are just as keen on reducing waste of public sector money as anybody else but they need training and authority to do this. I will give the Minister a quick example, if I may. I spoke about this on "The Frontline" programme last year and a gentleman in the audience came up to me afterwards and told me he was a council engineer who made an 80 km round trip to give physical cheques to his team every week. For years he had been telling the management there was no need to do this, that it could be done by electronic transfer which would save a lot of money. Then he told me nobody was really interested and he was not authorised to make the change. It is by finding those kinds of occurrences in schools, hospitals, county councils - and here within the Oireachtas - that this cultural shift can be achieved. There are other examples from my own work experience I can share with the Minister later, if he wishes.

What I propose is a radical change in culture. It involves giving public servants more control, trusting them more and holding them accountable. There is more but I will finish on this point as I do not want to take any more time. I offer this in good faith. There really is a great opportunity to create a step change in this regard.

Deputy Catherine Murphy: I regret there is so little time to deal with the issue. Anybody looking on would say that given the amount of time slotted for this, as compared that given to the Protection of Life during Pregnancy Bill, important as it is, we have skewed priorities in how time is ordered.

I refer in particular to Vote 25, how we spend our money and value for money. There are 100,000 individuals or families on housing waiting lists, for example. These lists will grow if we see repossessions this year arising from other legislation. The amount of money in that fund will reduce by €65 million this year yet we are leasing houses and paying money to private landlords. Some of this is reasonably good value but some needs questioning.

In the country 43% of those on waiting lists are in certain counties - Dublin city and county, Cork city and county and Kildare. The counties with the shortest waiting lists tend to be

Leitrim, Roscommon, Sligo, etc. There does not seem to be a targeted approach. The top six counties are those where rents are highest. There must be a more nuanced approach. A person told me his apartment is being rented on an RAS scheme for €150,000 over 15 years after which it will be handed back to him. One would not buy the place for that but that is what it is worth today. This needs to be examined because it does not make sense.

There is a cut of €35 million in grants for home adaptation. This is a bad move because it impacts on employment on the very level we need it. There is a reduction of €500,000 for homeless people who have nowhere to sleep, wash, cook or feel safe, who have no address when they are looking for a job. That is wrong.

In respect of the local government fund, the general purpose grant of €640 million is being increased by €3 million. That does not stack up when the Minister talks about the motor tax fund that is supposed to be ring-fenced for that purpose. There is supposed to be an increase of €70 million this year from the increases people are paying, yet €150 million is being taken from that fund to pay the national debt. At the same time the Government is asking people to pay property tax, from which they do not see an obvious return. We are told that the income of €136 million from the household charge was "a valuable pathfinder" to local property tax. I love the language used.

I repeat what Deputy Mary Lou McDonald said about the cumulative effect of many of these items on households and the absence of an equality budget and consideration of how much disposable income people will have. There will be water charges and the introduction of a sustainable funding model to support much needed investment. I know the investment is needed and that there needs to be sustainable funding, but people also have to have a sustainable sum of disposable income on which to live.

There is one small item which is a bugbear of mine and I will take the opportunity to raise it. There is income to be gained from the civil registration records. I have said this at the Select sub-Committee on Public Expenditure and Reform. We have not published them in digital format and I am not saying they should be free. We already pay for them and should invite others to pay for them, too. When the 1911 census returns were made available online, there were 4.5 million hits in the first 48 hours. If one goes to the records office today to see a record, one will pay €4. There is a lot of money to be gained from the small initiative of digitising the records, inviting people to download and pay for them with hard cash. I do not understand why that kind of measure is not a feature when we are considering cut-backs all the time and can identify items that could actually make money and perhaps bring people to the country, too.

Acting Chairman (Deputy Liam Twomey): The Minister has five minutes to reply.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): Alas, only five minutes. I will gallop through as many of the comments as I can. I thank everybody for his or her sincere comments.

Deputy Sean Fleming likes to disaggregate things as if one could make the staff reductions and the savings in staff reductions without the Haddington Road agreement. The whole idea behind the extra hours worked is that we can then provide the same service with fewer people. We cannot do this without the Haddington Road agreement. The staff reductions, including not only getting rid of numbers of whole-time workers but also agency workers and so on, require the Haddington Road agreement, which is why it is such an important tool.

The Deputy made much of the percentage reduction in our targets. Before the last election, our party wanted to see a reduction on the basis of a 50:50 balance for expenditure and taxation. Fine Gael had a different view; it had a 3:1 policy. On page 11 of the budgetary documentation for 2013 it is much closer to 50:50 than 3:1 or even 2:1. It is interesting to note that in the Fianna Fáil national recovery programme it was two thirds spending cuts to one third taxation. It also wanted a very significant additional cut in social welfare, the very items the Deputy listed. The cuts would have been much deeper had Fianna Fáil's policy been implemented, but that is the beauty of opposition. A very senior and significant member of the Deputy's party said it was not captured by the tyranny of consistency; therefore, it can have a policy that is appropriate to the day.

Deputy Mary Lou McDonald is just wrong about the budgetary process. The process, as Deputy Stephen S. Donnelly acknowledged, has been transformed, although it has not yet been fully embraced. The data are there to have a much more meaningful analysis of expenditure.

Deputy Catherine Murphy referred to the lack of time. All of these Estimates were referred to individual committees which Ministers attended them and they went through the Estimates line by line. It is much more useful and utilitarian if one wants to go through the social welfare or education budget to do so with the line Minister and the officials of that Department who are more seized of the individual component parts and subheads. That is why we have the committee system and it works in that way.

Deputy Mary Lou McDonald talks about management capacity. We do need management. I make no bones about having proper management oversight and transparency in the way the public service works because it was not a cohesive whole until my Department had a cohesive look at it because it was part of a Department of Finance that always had other priorities. The restructuring and reform of the public service are now a dedicated front and centre priority of a significant Department led by a Minister. That is important. I reject the notion that the social economy is not at the heart of what we are doing. I refer constantly to the citizen.

It is very hard to be right. Deputy Mary Lou MacDonald says she is drowning in data. Every time I attend a committee meeting Deputy Stephen S. Donnelly wants more data. All of these are important.

To respond to Deputy Richard Boyd Barrett, we are creating real jobs, an additional 2,000 real jobs a month. That is after losing 250,000 jobs in the three years before we came into office. That is important.

I am sceptical when Deputy Stephen S. Donnelly wants to reduce the pay bill but does not want to cut wages or numbers.

Deputy Stephen S. Donnelly: I still want to reduce expenditure.

Deputy Brendan Howlin: I know that, but it is very hard to do it through eliminating waste. One offends nobody by saying that and, of course, we want to drill down and eliminate waste. However, that is like saying I am going to go further than you, but I am not going to touch your wages and numbers. It is not achievable in the timeframe we have, but I welcome any suggestion the Deputy has to make and we will consider it carefully.

Deputy Catherine Murphy mentioned the pressure on families. We try to look at the cumulative impact of measures in order that we do not impact on families. That is how we approached

the Croke Park agreement because it would have an excessive impact on the complexity of the public service. I have taken careful note of what the Deputy said about housing. I have long discussions with the Minister of State at the Department of the Environment, Community and Local Government, Deputy Jan O'Sullivan, who shares the Deputy's views on that issue. I hope to see that sort of change migrating through in policy in the coming months and years.

Acting Chairman (Deputy Liam Twomey): I am required to put the following question in accordance with an order of the Dáil of this day: "That the Estimates for Public Services, Votes 1 to 10, inclusive, and Votes 20 to 40, inclusive, for the year ending 31 December 2013 be agreed to."

Question put:

The Dáil divided: Tá, 79; Níl, 43.	
Tá	***Níl***
Bannon, James.	***Boyd Barrett, Richard.***
Barry, Tom.	***Calleary, Dara.***
Breen, Pat.	***Collins, Joan.***
Bruton, Richard.	***Collins, Niall.***
Butler, Ray.	***Colreavy, Michael.***
Buttimer, Jerry.	***Cowen, Barry.***
Byrne, Catherine.	***Crowe, Seán.***
Byrne, Eric.	***Doherty, Pearse.***
Cannon, Ciarán.	***Donnelly, Stephen S.***
Carey, Joe.	***Dooley, Timmy.***
Conlan, Seán.	***Ellis, Dessie.***
Connaughton, Paul J.	***Ferris, Martin.***
Conway, Ciara.	***Flanagan, Luke 'Ming'.***
Corcoran Kennedy, Marcella.	***Fleming, Sean.***
Costello, Joe.	***Fleming, Tom.***
Creed, Michael.	***Halligan, John.***
Daly, Jim.	***Healy, Seamus.***
Deenihan, Jimmy.	***Healy-Rae, Michael.***
Deering, Pat.	***Higgins, Joe.***
Doherty, Regina.	***Keaveney, Colm.***
Donohoe, Paschal.	***Kelleher, Billy.***
Dowds, Robert.	***Kitt, Michael P.***
Doyle, Andrew.	***Mac Lochlainn, Pádraig.***
Durkan, Bernard J.	***McConalogue, Charlie.***
English, Damien.	***McDonald, Mary Lou.***
Feighan, Frank.	***McGrath, Finian.***
Ferris, Anne.	***McGrath, Mattie.***
Fitzgerald, Frances.	***McGrath, Michael.***
Fitzpatrick, Peter.	***McLellan, Sandra.***
Flanagan, Charles.	***Martin, Micheál.***

Griffin, Brendan.	***Moynihan, Michael.***
Hannigan, Dominic.	***Murphy, Catherine.***
Harrington, Noel.	***Naughten, Denis.***
Harris, Simon.	***Ó Caoláin, Caoimhghín.***
Hayes, Tom.	***Ó Cuív, Éamon.***
Heydon, Martin.	***Ó Fearghaíl, Seán.***
Hogan, Phil.	***Ó Snodaigh, Aengus.***
Howlin, Brendan.	***O'Brien, Jonathan.***
Humphreys, Kevin.	***Ross, Shane.***
Kehoe, Paul.	***Shortall, Róisín.***
Kelly, Alan.	***Smith, Brendan.***
Kenny, Seán.	***Tóibín, Peadar.***
Kyne, Seán.	***Troy, Robert.***
Lawlor, Anthony.	
Lynch, Ciarán.	
Lynch, Kathleen.	
Lyons, John.	
McCarthy, Michael.	
McGinley, Dinny.	
McHugh, Joe.	
McLoughlin, Tony.	
Maloney, Eamonn.	
Mathews, Peter.	
Mitchell, Olivia.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Neville, Dan.	
Nolan, Derek.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Dowd, Fergus.	
O'Sullivan, Jan.	
Penrose, Willie.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Quinn, Ruairí.	
Reilly, James.	
Ryan, Brendan.	
Shatter, Alan.	
Spring, Arthur.	
Stagg, Emmet.	

Stanton, David.	
Tuffy, Joanna.	
Twomey, Liam.	
Varadkar, Leo.	
Wall, Jack.	
Walsh, Brian.	

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

Question declared.

An Bille um an Tríú Leasú is Tríocha ar an mBunreacht (Cúirt Achomhairc) 2013: An Dara Céim

Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013: Second Stage

Minister for Justice and Equality (Deputy Alan Shatter): Tairgim: "Go léifear an Bille an Dara hUair anois."

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

I am pleased to present the Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013 to the House. This Bill brings us a further step along the road towards the establishment of a court of appeal which has long been called for and was explicitly provided for in the programme for Government.

The case for the establishment of a court of appeal has been well rehearsed. The previous Government established a working group on a court of appeal in 2006. The group, which published its report in August 2009, was chaired by the current Chief Justice and comprised members of the Judiciary, representatives of the Bar Council and the Law Society, and senior officials from the Attorney General's office, the Departments of the Taoiseach and Justice.

The report includes a comprehensive analysis of the then current situation in the Supreme Court, a review of the position in other common law countries. It sets out a path, including proposed constitutional change that has garnered the support of most parties interested in the reform of our courts system. When the report was written, the waiting time for cases was two and a half years. In the intervening years, that delay has lengthened to over four years meaning that someone lodging an appeal with the Supreme Court today could not expect to have their case decided before 2017. Delay is truly the enemy of justice or as the old maxim goes, justice delayed is justice denied. A former Chief Justice of the United States of America, William E. Burger, put it well when he spoke of inefficiency and delay draining "even a just judgment of its value".

Our citizens have a right, recognised in Article 6 of the European Convention on Human Rights, to a fair and speedy trial. Ireland has already had to pay compensation to individuals who have successfully taken cases to the European Court of Human Rights on delay. It is not just our reputation from the point of view of human rights and rule of law that is in the dock.

Today's international business world works best where the law is clear, where the Judiciary is independent and where those who find themselves either asserting their rights or defending their actions before the courts can expect to know the final outcome without undue delay. International investors, all things being equal, will favour a country with an efficient and effective legal system over one without such a system.

It is worth going back to see how Ireland has reached the current pass with delay in the Supreme Court. When the Courts (Supplemental Provisions) Act was passed in 1961, it provided for four ordinary members of the Supreme Court and five ordinary members of the High Court, a more or less equal allocation of resources. There are now 36 High Court judges, a six-fold increase, whereas the number of Supreme Court judges has only doubled from four to eight ordinary judges.

Over the years the volume of litigation has increased dramatically meaning that there are more cases to hear. However, as important to the growth in the backlog of cases, if not more important, is the fact that litigation has become infinitely more complex. In the commercial field, to take one example, the scope and complexity of transactions and the speed with which they can be effected could only have been imagined until recently.

A mile down river from the Four Courts is the International Financial Services Centre, IFSC, home now to banks and financial institutions from around the globe and to major international accountancy and legal firms whose clients include the world's largest corporations. The success of the IFSC, or the great work that IDA Ireland does in attracting foreign direct investment into Ireland, is done no favours by an overloaded courts system that is incapable of dealing with the administration of justice in a reasonable timescale.

However, structural reform, important though it is, is never the sole answer to problems such as the Supreme Court backlog. I am not so naive as to think that the creation of a court of appeal is, of itself, the answer. Changing structures, appointing new bodies, and so on, can create the illusion of progress and reform while leaving in place the practices and procedures that gave rise, at least in part, to the problems in the first place.

I want to place on the record my own and the Government's appreciation of the leadership provided by Chief Justice Denham and her management of the Supreme Court list. The creation of a new court provides an opportunity for the courts and the Courts Service to explore new ways of doing business, rather than replicate what already exists, to take a fresh look at how work is done and the scope for the deployment of new technologies.

The court of appeal could be an incubator of new approaches and could in time become the template for the operation of the other courts. There is an opportunity seldom afforded within an existing system to look around at other countries to see what can be done to ensure the new court develops its own distinct culture reflecting the importance of its work but also its approach to that work. My view is that such an approach should be one that is focused on efficiency and the use of all available technologies to deliver value for money and a better experience for users of the service. This is a once-in-a-lifetime opportunity not to be wasted. The court of appeal's judicial leadership will be entrusted with the pioneering task of establishing a new court. It will be in its hands to seize the opportunity that this presents and I assure it of every support in that task.

Usually Bills providing for an amendment to the Constitution are relatively straightforward.

They propose an amendment of an article and the people vote on it. If it is accepted, the article is changed and that is the end of the matter. This Bill, like the one providing for the abolition of the Seanad, is considerably more complex. That complexity arises mainly from the fact that if the people vote in favour of the establishment of the court of appeal, there will be no court of appeal in existence when the President signs this Bill. The reason for that is simple. The establishment of the court of appeal will require the enactment of an implementation Bill that will provide for the court, the appointment of judges, their remuneration, and a number of other issues. That Bill cannot be enacted unless the people approve the amendment and even then, it will take some time from the enactment of that Bill to physically establish the new court. I hope to be in a position to outline the key elements of the implementation Bill in advance of the holding of the referendum, so that there is the opportunity for people to see what it is intended to provide for in the legislation. That Bill will be enacted in the first half of 2014 and all going well, I expect that the new court will be established in the autumn of 2014.

There will undoubtedly be some interest in the number of judges to be appointed to the court of appeal. The Courts and Civil Law (Miscellaneous Provisions) Bill 2013, which is currently before the Oireachtas, provides for the appointment of two additional judges to the Supreme Court, bringing its complement, including the Chief Justice, to ten. This will allow the Supreme Court to sit in two divisions, which I expect will allow it to make progress on the backlog of cases waiting to be heard. By the time the legislation providing for the establishment of the court of appeal is being processed, we will be in a better position to decide on the appropriate number of judges to appoint to the court of appeal. It should be noted in this context that the court of appeal will be taking over the work of the Court of Criminal Appeal. That court, which currently sits on an *ad hoc* basis, with a combination of Supreme Court and High Court judges, also has a backlog of cases. My expectation is that the court of appeal will sit in divisions with a dedicated criminal division, at least in the initial stages. Overall, my preliminary assessment is that the new court will require ten judges, nine ordinary and a President, but the final decision on this can only be made when we have a clearer picture of the backlog which will then exist. However, there is no point in creating a court of appeal and then starving it of resources. If all this exercise results in is people waiting four years for their cases to be heard by the court of appeal rather than by the Supreme Court, it will have been an entirely nugatory exercise and a failure. Our objective must be that after the court of appeal is established, appeals from the High Court will be heard within a reasonable timeframe.

In the normal course, I would now proceed to go through the Bill section by section and explain each section. Given the way that the Bill is drafted, with most of the content in Schedules, this would be very confusing. Instead, I propose to deal with the different issues in the Bill as units and explain where they occur and what they mean. I hope that will make it easier to understand and for Deputies to engage with the Bill and frame any questions they wish to ask or issues they wish to raise.

Section 1 provides for the definitions used in the Bill. The "establishment day" is the day the court of appeal is established on foot of the enactment of "the relevant law", which is the implementation Bill referred to just now. Section 2 deals with the commencement provisions and I will deal with those as I go through the Bill. Section 3 will be commenced on enactment of the Bill. That means that on enactment, the Constitution will be amended to include the text in Schedules 1 and 2. Schedule 1 provides for the addition of the court of appeal to the list of courts contained in Article 34.2. Schedule 2 is a new Article 34A which will be inserted on enactment, but which will not appear in the text of the Constitution once the court of appeal has

been established. The new Article 34A provides for the enactment of a law, the implementation Bill to which I just referred, providing for the establishment of the court of appeal, as soon as practicable after the enactment of the Bill. That law will require the Government to appoint by order "the establishment day", which is the day the court of appeal is established.

Sections 4, 5 and 6 will commence on the day the court of appeal is established. Section 4 of the Bill refers to Schedule 3, which sets out a new section 4 to be inserted in Article 34 of the Constitution. A new section 4 provides that the court of appeal will have appellate jurisdiction from the High Court and such other courts as may be prescribed by law and the decisions of the court of appeal are to be final, except in the limited circumstances where an appeal may be allowed by the Supreme Court. The section further provides that no law may be enacted to exclude cases concerning the constitutionality of statutes from being heard by the court of appeal. Section 4 also provides for a renumbering of sections 4 and 5 of Article 34 to take account of the insertion of the new section 4.

Section 5 refers to Schedules 4 and 5 of the Bill. The amendment contained in Schedule 4 provides that the Supreme Court will hear an appeal from the court of appeal, provided that it is satisfied that it concerns a matter of general public importance or that it is necessary in the interests of justice that the Supreme Court hears the appeal. The amendment contained in Schedule 5 provides for the taking of appeals directly from the High Court to the Supreme Court in exceptional circumstances. This so-called "leapfrogging" provision is intended to allow the Supreme Court to hear cases which meet the criteria set out for appeals from the court of appeal to the Supreme Court, where there are exceptional circumstances that warrant it being heard by the Supreme Court. Exceptional circumstances could include cases where there is a particular urgency and where the Supreme Court is satisfied that the case would be accepted by it on appeal from the court of appeal in any event. Section 5 also provides for the renumbering of subsection 4° following the insertion of new subsection 4° in Article 34.4.

Subsections 2(*f*) and (*g*) of section 5 provide for the deletion of subsection 5 of Article 34.4. This subsection contains the so-called "one-judgment" rule. That rule provides that the Supreme Court may only issue one judgment when it hears challenges to the constitutionality of legislation. The application of the rule in these circumstances and in Article 26 referrals was considered in considerable detail by the Constitution review group, which recommended that the rule be deleted from Article 34 but retained in Article 26.

It is my strong view that justice is best served by giving the Judiciary the freedom, where they so desire, to give judgments, including minority judgments, on important matters concerning the constitutionality of our laws. For the time being, this reform, in line with the review group's recommendation, is limited to the Article 34. Therefore, if the referendum is carried, both the court of appeal and the Supreme Court will be able to issue multiple judgments in cases involving challenges to the constitutionality of laws, in the same way as in all other cases that come before them.

Section 6 deals with a number of other amendments to the Constitution consequential on the establishment of the court of appeal. These are listed in a table set out in Schedule 6.

Article 12.8 is to be amended to provide for the inclusion of the president of the court of appeal among the list of judges before whom the President of Ireland must make his declaration or oath. Article 14.2.2° is to be amended to provide for the replacement of the President of the High Court by the president of the court of appeal as the person who would substitute for the

Chief Justice on the Presidential Commission, if the position of Chief Justice were vacant, or if he or she were unable to act. Paragraph (i) of Article 31.2 is to be amended to provide that the president of the court of appeal shall be an *ex-officio* member of the Council of State. Article 34.3.2° is to be amended to include the court of appeal, with the High Court and Supreme Court, in the list of courts to which an appeal concerning the constitutionality of legislation may be heard. The amendment to Article 34.6.2° - currently Article 34.5.2° - provides for the swearing of the judicial declaration by judges of the court of appeal. Article 35.1 is amended to provide for the appointment of judges of the court of appeal by the President. Article 35.4.1° is amended to provide for the removal of judges of the court of appeal in accordance with the provisions of that section. I will return to this provision later when I deal with section 7 of the Bill. Paragraph (i) of Article 36 provides for the regulation by law of the number of judges, their remuneration, age of retirement and pensions. The amendment adds the court of appeal to the list of courts covered by the provision. Article 40.4.3° deals with *habeas corpus* cases and is being amended to provide that where the High Court is satisfied that the person is being detained in accordance with the law but that the law is unconstitutional, the High Court shall refer the question of the validity of the law to the court of appeal rather than to the Supreme Court as at present.

Section 6 also refers to Schedule 7, which deals with how the cases that are before the Supreme Court when the court of appeal is established are to be dealt with. Schedule 7 contains a new Article 64 that is to be inserted into the Constitution on the establishment day, but is not to appear in texts of the Constitution published one year after that date. It provides that cases that have been heard or part heard by the Supreme Court on establishment day will be determined by the Supreme Court. Where a case has not been heard, the Supreme Court may transfer the appeal to the court of appeal, or a party to the appeal may apply to have the case transferred.

3 o'clock

The Schedule clarifies that the reference to an appeal having been heard in full or in part does not include the hearing of an interlocutory application in relation to the appeal or, unless the appeal itself concerns a procedural matter, the hearing by the Supreme Court of any procedural or application or motion in the matter. Section 7 deals with the interface between this Bill and the Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill 2013. Both the Seanad abolition Bill and this Bill provide for the amendment of the same subsection 1° of Article 35.4. The provisions in section 7 and in Schedule 8 cover the sequencing of those amendments, should they both happen, to ensure that at all times after the establishment of the court of appeal, its judges are subject to the impeachment provisions in Article 35.4. After all that, Members will be glad to hear that the final section, section 8, deals with the citation of the Bill.

In conclusion, I do not believe that the *status quo* of ever-lengthening queues of cases lining up to be heard by the Supreme Court is tenable. Something has to be done. There will be arguments as to the best approach, but the Government has taken the view that the working group chaired by now Chief Justice Denham, which examined the issue for over two years and reported in 2009, provides the roadmap to the optimum solution. It is the approach favoured by those who engaged in the consultation process on the issue and is the only one that delivers a constitutionally based court of appeal. It is the solution that ensures that the Supreme Court will only hear cases that merit its attention and that there is a coherence to our courts' architecture which is not there at present. I am pleased to commend the Thirty-third Amendment of the Constitution (Court of Appeal) Bill 2013 to the House and I await with interest the contributions

of Members.

Deputy Niall Collins: Fianna Fáil supports this Bill. The creation of a new court of appeal will alleviate the workload of the Supreme Court, reduce its four-year backlog and ensure that citizens have swift and less costly access to the justice system. The creation of such a court was advocated in our 2011 general election manifesto, based on a report we commissioned while in Government. The removal of the one judgment rule allows for informed dissenting opinions and greater consistency in Supreme Court rulings across the spheres of law. However, it is important that the Government overcome the unseemly spats it has had with the Judiciary and engage in meaningful consultation in the development and implementation of this legislation and future reforms.

The creation of a new court of appeal will facilitate the significant increase in the number of cases going to the Supreme Court, thereby reducing the long delays appellants face in getting their cases heard and reducing the resultant costs. The 2009 working group report commissioned by Fianna Fáil in government advocated the creation of a new court to reflect the need to eliminate undue delay in processing appeals, create an appeals structure which would be cost-effective, enhance the administration of justice in the superior courts and increase certainty in the law through the prompt publication of reasoned decisions from the Supreme Court. Chief Justice Susan Denham has previously warned that the failure to address the problem of delays in Ireland's appeal court system could damage society and the economy. Serious delays of up to four and half years in hearing Supreme Court appeals have an impact on the economy and on Ireland's international reputation.

The original legal infrastructure of the State was established in the 1922 Constitution and replicated in the 1937 Constitution. The massive increases in litigation and population since then have generated significant changes in the High Court structure. The constitutional constraints placed on the Supreme Court led to its remaining stationary in the face of the pressing need to adapt to new demands. The removal of the one-judgment rule was advocated by the Constitutional Review Group in 1996 and is widely endorsed by the legal profession as a step towards enhancing informed legal opinion and debate in the country.

Fianna Fáil is concerned about the unseemly public disputes the Minister for Justice and Equality, Deputy Shatter, has entered into with the Judiciary and we fear they may undermine the real need for a substantive engagement with the Judiciary on matters of critical importance. Tinkering with the Constitution, the fundamental law of the land, must be carefully thought out and fully debated.

Significant shifts in the population of the country and its economic structure have challenged the legal architecture of the State to adapt to new circumstances and increased demands. A new court of appeal will help us tackle these problems. The number of High Court judges has increased from seven to 36, while the Supreme Court has only expanded from five to eight judges in the same period, thus creating a major gap in capacity. While progress had been made in the establishment of a commercial court to fast-track disputes, appeals from this court were still subject to the same delays as experienced by the Supreme Court. Unlike the Supreme Courts in the United States or the United Kingdom, which hear fewer than 100 cases per year, the Irish Supreme Court cannot filter out cases that are not of exceptional constitutional and public importance. This has resulted in a waiting list of up to four years. These onerous delays in Supreme Court judgments jeopardise Ireland's international obligations. Under the European Convention on Human Rights, member states are obliged to ensure that excessive delay

does not occur in domestic proceedings. Ireland is also a signatory to a Council of Europe protocol which states that everyone convicted of a criminal offence has the right to have his or her conviction or sentence reviewed. Ms Justice Denham has stated:

> The current situation in the Supreme Court ... is unsustainable, it is untenable, it cannot be defended. An appeal certified as ready yesterday is in danger of not getting a date for hearing until mid 2017.

Speedy resolution of disputes is important to a successful economy and the rule of law must apply if we are to ensure swift access to justice for all. The courts also perform an important task in supervising the activities of regulatory bodies and it is important that the supervisory jurisdiction of the courts be exercised promptly and efficiently. Delays in processing such legal challenges impede the efficient performance of regulatory bodies.

The removal of the one-judgment rule in Article 34.5 reflects the need for informed dissenting opinion in creating good laws and allowing appeals to future generations of jurists who will come to the law with fresh eyes. It also illustrates the need for consistency in the legal system, given that since 2003 judges have been able to declare laws incompatible with the European Court of Human Rights, ECHR. The no single judgment rule applies to the Supreme Court in respect of the ECHR. The single judgment rule does not apply to actions by the Government or State entities such as the Garda or the Prison Service.

It is essential that we avoid a breakdown in working relations between the Judiciary and the Government. Each has to respect the constitutional role of the other. We must not see a recurrence of the situation that arose last April whereby an apparent breakdown of that relationship resulted in the establishment of a new communications forum chaired by the Chief Justice. Any proposal by this or future Governments to introduce significant changes to the workings of our courts by way of constitutional amendment must be subject to full consultation with the Judiciary. This is why it is important that the Government and the Judiciary maintain a frank and positive working relationship. We are happy to support this Bill.

Deputy Pádraig Mac Lochlainn: This Bill provides for the establishment of a new court of appeal. A referendum is required to make the necessary constitutional provision for the establishment of such a court. If the referendum is passed, the new court of appeal will hear appeals from the High Court, and the Supreme Court will hear cases on appeal from the court of appeal and, in exceptional circumstances, from the High Court. This reform would, as we all know, bring about a major change in the courts system and ease the four-year backlog of cases at the Supreme Court, which would in future take only appeals on constitutional issues or cases of major importance. Sinn Féin supports this legislation and the proposition that the question be put to the people.

We are currently in a situation where some very important cases of a constitutional nature are waiting a number of years to be heard. I firmly believe this should not be the case. I welcome the idea behind the legislation before us which seeks to resolve this issue. Unfortunately, the Bill does not specify the number of judges who will sit on the new court and we are told that this and the age of retirement, pension conditions and remuneration will all be set out later in legislation.

I want to take the opportunity to speak briefly on the issue of judicial appointments. We have had opportunities to engage on this in the past, but I would like to add to what has been

said. As the Minister knows, I launched the Reform of Judicial Appointments Procedures Bill earlier this year. I did so in the hope that this would put an end to the system of political appointees being made judges. This should not rule out people who have been involved in politics. It is healthy for citizens to be involved in politics, but we would like more accountability in terms of the process. Our Bill would amend the way in which the Judicial Appointments Advisory Board operates in order to increase transparency and accountability in judicial appointments, a reform which is badly needed.

Confidence in the justice system is contingent on a Judiciary which is free from political control or political or other bias and it is essential that there is an independent and impartial Judiciary which is representative of the community it serves. I appreciate there have been excellent articles on the eight current judges who sit on the Supreme Court, including the Chief Justice, in the press recently. When we look at their respective CVs, we see they are people of eminent qualifications. However, sadly, when people are appointed politically, this leaves an impression we need to deal with. We cannot have a situation where there are questions regarding the appointment of people who love the law, are extremely talented and are committed to the service of the people because of the process of their appointment.

Future judicial appointments should be drawn from a wider pool of qualified candidates, which in turn would enhance confidence in the justice system. For too long, throughout the length and breadth of the State, we have all been aware of stories relating to how judges were appointed with a wink and nod after demonstrating their loyalty to either Fianna Fáil, Fine Gael, the Labour Party, the Progressive Democrats or whoever. The days of the old boys' club, which dominated the legal and political spheres in Ireland, must come to an end. They have failed our people. The practice of the Government appointing judges, senior judges in particular, must be ended if the public is to have any faith in a Judiciary free from political or any other bias. The sheer number of judges appointed politically adds to an already embedded and unfortunate public perception of the Judiciary. We in Sinn Féin call for the establishment of a fair and accountable appointment and removal process for the Judiciary that involves meaningful lay participation representative of the public interest. We believe that judicial independence is undermined by the current appointment process in the 26 counties.

The Judicial Appointments Advisory Board was established in the wake of the controversial appointment of Harry Whelehan as President of the High Court in 1994 and was meant to have removed sole discretion for judicial appointments from government. However, there is still political involvement in the appointment of the Judiciary as the Judicial Appointments Advisory Board merely provides a short list of seven qualified candidates to the Government, which then makes the appointments of judicial officeholders. The appointment procedures should be transparent in order to enhance public confidence in the process. The current Government promised to be a reforming government and to put an end to the "jobs for the boys" culture but, looking at its appointments so far, it is clear a number of them are of people associated with the Fine Gael and Labour Parties. This is unfortunate.

I also want to speak about the need for a judicial council and the capacity for people to raise their concerns. We need full accountability. The majority of people in the Judiciary who have served the State down through the years were people who were eminently qualified and who had every right to be where they were. They have given considerable service to the State, particularly those at the higher end. Consider, for example the eight current members of the Supreme Court. I have no doubt they are all eminently qualified and love the law and the work they do. However, we need to put an end to the current process of selection. Our Bill provides

for this. I know the Minister has concerns, but the Bill can be amended and tweaked. We need to get to a point where we have a small shortlist, preferably a list of three, from the Judicial Appointments Advisory Board. The list should outline the reasons for their selection and the Government could then outline the reason for an appointment. This process must be set out in a way that can be shaped, argued and debated. There must be no question mark over the appointment of a member of the Judiciary so that they remain and are bona fide genuinely independent.

Another issue is that the Supreme Court decides on matters of constitutional importance. Therefore, we need a balance in the Supreme Court of people from different perspectives. To understand the need for balance, all we need to do is to listen to the debate that took place in this House till 5 a.m. This House of 166 Deputies is representative of Irish society. Participants in the debate were people from the left and people from the right, people who are liberal and people who are conservative. We need the Supreme Court to be genuinely representative of all political perspectives in the State. That is why it is important that the appointments are independent and strike the right balance, particularly given the powers these judges have in terms of the Constitution and its interpretation and in terms of holding governments to account.

Access to the courts and to justice is a constitutional right, yet the expense of these can run into extremely high figures, thereby acting as a barrier to people seeking to exercise this right. We know that if cases move faster, the chances of reducing costs are better.

Another point I want to raise concerns the referendum. We have put dozens of referendums to the people of the State over the years, some with greater success than others. The Constitution belongs to the citizens of the State and they reserve the right to change it as they see fit. We owe it to the people to do this in an appropriate fashion. We need to ensure that when this eventually goes to the people, they understand exactly what they are being asked to vote on. We need to explain the question in as clear a way as possible and explain both sides of the argument in a clear, balanced and open fashion.

The plan envisages that the new court of appeal will deal with most cases that are currently dealt with by the Supreme Court, which would therefore reduce the higher court's workload and allow it to focus on the development of the law. There are to be two tests to decide what types of appeal the Supreme Court will hear: the first is public importance, and the second is where it is in the interests of justice that the appeal by heard by the highest court in the State. In exceptional circumstances, where these tests of public interest and the interests of justice are met, the Supreme Court will be able to hear appeals directly from the High Court.

The Supreme Court in Ireland, unlike equivalent institutions in other common law jurisdictions, is the court of final appeal, not only for constitutional matters but for all appeals from the lower courts. Figures published this week by the Courts Service show that the court received 605 appeals last year, a 21% increase on 2011. It gave judgments in 121 cases, compared to 64 in the United States Supreme Court and 85 in the Supreme Court in London.

It is important to welcome the creation of a new court, where proceedings take place within a reasonable time, as an inefficient court system is costly. Runaway legal costs must be tackled. I commend the reform efforts being made in the context of the debate on the Courts and Civil Law (Miscellaneous Provisions) Bill, the Second Stage debate of which will take place tomorrow. This Bill includes some very important and welcome reforms. This is good governance and we need more of the same. I also applaud the Minister on his concept of a separate family law system. Many exciting announcements have been made in the past few weeks. Credit

where credit is due. My job is to oppose and hold to account, but it is also to acknowledge when things are moving well. Let us have the backlog in the Attorney General's office addressed, if we can. Good legislation needs to move quickly. We need to get the Legal Services Regulation Bill moving in the autumn as the delays have been very frustrating. While we may not agree on all the changes the Minister seeks to bring forward, we will probably agree on more than we disagree on. There are many exciting developments on the way in the reform of the courts system and its efficiency. I hope we can have the judicial appointments issue addressed and I will work with the Minister in the next few years to develop that debate.

This measure is welcome and we will support it. While we need to talk about the wider reforms that need to happen in the Judiciary, there are many welcome developments. I offer my support to the Bill and ask the Minister to take on board some of the concerns I have highlighted.

Deputy Catherine Murphy: The establishment of a court of appeal to handle the bulk of cases emanating from the High Court is long overdue and welcome. Unfortunately, I cannot stand here and not criticise the manner in which the Bill is passing through Second Stage today, although the guillotine may not be required to be used. The Bill was published on Tuesday. We have a full slate of legislation and have had very long sittings this week to debate the Protection of Life During Pregnancy Bill, as well as committee meetings to deal with the Estimates. This is the kind of legislation of which we should have had sight earlier. It should not feel like it is a *fait accompli* and that there is no time to consider and table amendments that might be taken. This is especially so when it comes to constitutional amendments. I value the fact that we have a written Constitution. I would be afraid to say when I bought my first copy of the Constitution, but it is a while back and at the time one had to be 21 years of age to vote. I still have that copy in my office. We have to be very careful about what we include in it because every line and comma means something and it has to read in harmony. The courts system is part of this.

People must have confidence in the courts system. One reason they do not have confidence in it is there are long delays on issues that really should pass through the system much quicker. From that point of view, one would have to welcome the changes, both in regard to the civil courts and the proposed constitutional amendment.

To come back to the substance of the proposed amendment, the workload of the Supreme Court is unsustainable. None of us can ignore the comments of the Chief Justice, Mrs. Justice Susan Denham, in this regard. Not long ago she was very vocal, rightly so, in pointing out that it could take until 2017 at the earliest to deal with new non-priority cases and there were upwards of 70 cases on the priority list. Even in the Court of Criminal Appeal we are seeing waiting times of 15 months. The Chief Justice has moved to reduce delays, for example, by changing holiday times to help address this issue in some way, which was a positive gesture. She has rightly pointed out that it is important, both domestically and internationally, that the courts system function well and in a timely way. She has said the courts perform an important task in supervising the activities of regulatory bodies and that it is important the supervisory jurisdiction of the courts be exercised promptly and efficiently. I do not believe there is a citizen in the country who would not agree with her on that point.

To the Minister's credit, he has responded to the problems identified. The Courts and Civil Law (Miscellaneous Provisions) Bill provides for an increase in the number of Supreme Court judges to nine, which will allow for three judge panels to sit and, I hope, get through the backlog, although this obviously will take time. The move to establish an intermediate level court

of appeal to help address the bulk of the delays is, therefore, extremely welcome in that context and, of course, in the context of our international obligations under the European Charter of Fundamental Rights, which I have to keep on saying was probably the only reason I could talk myself into voting for the Lisbon treaty. The European Charter of Fundamental Rights is important to me and, obviously, there is a relationship between it and the courts.

For the public to have confidence in the courts system, it is often said justice must be done and be seen to be done in a timely manner, as memories can fade. Long delays threaten public confidence in the administration of justice. Unfortunately, I know this institution has lost a great deal of confidence. We have to make sure, therefore, that we do not diminish confidence in the courts system.

There is also the economic impact, to which the Minister referred when he stated:

> It is not just our reputation from the point of view of human rights and rule of law that is in the dock. Today's international business world works best where the law is clear [and] where the Judiciary is independent...

I completely agree. It should not take the Chief Justice to point this out for us to take it on board, although I am not suggesting she is the only one who did so. This is incredibly important.

Another point to bear in mind is that the quality of justice can diminish over time. As I said last week, people move on from organisations, including regulatory bodies. People's memories fade if they are asked to be witnesses. Witnesses often die, records can be lost and, given the large volume of records now available, people have to be asked to go back to remind themselves where records are located. This is very inefficient, if nothing else.

I welcome the provision that spells out which cases the Supreme Court will be able to take instead of their being taken by the new court of appeal, namely, cases of general public importance, similar to the US Supreme Court. It is critical to have swift decisions made in these cases. Does this mean that the vast bulk of the backlog of cases will merely be transferred to the new court and will that itself cause a backlog? How will this function?

Another point on which I seek clarification is whether the Court of Criminal Appeal will remain in operation. It has been intended since the mid-1990s to dissolve this court, but that could not happen because of its workload. What is the intention now? I do not believe we can look at such matters in isolation. The various levels of the courts system work in harmony.

The Minister has said that during the years the volume of litigation has increased dramatically, but the question is why this has happened. Are there measures that could reduce the workload of the courts? For example, in some areas mediation is a much more valuable tool and it may be that this service needs to be beefed up to make sure issues that could end up in the courts end in a more satisfactory arrangement for all involved.

Of course, the Government participates in a very large number of court cases. During my previous time in the Dáil, from 2005 to 2007, I recall raising the issue of a number of cases that were taken against the State by parents seeking appropriate education for their children. I asked on one occasion how much money the Government had spent in the three years preceding 2006 in fighting those cases. The answer I received - that the expenditure amounted to some €20 million - has remained indelibly marked in my mind. I did not understand how such

a situation could be tolerated, where the throughput of cases was such as to entail a level of expenditure which would have been far better allocated to the delivery of services. That figure of €20 million seemed to me to amount to an almost criminal expenditure. The parents in those cases merely wanted appropriate education for their children. The last thing they wanted was to end up in the courts and the ordeal of going through the judicial process put huge stress on their families. We must be very careful to avoid similar cases in the future. Where there is a particular class or category of claimants, such as the parents to whom I referred, the Government would do well to consider whether institutional or service provision changes might end up being less costly in the long run and providing a better outcome for all concerned.

I support the principle of the legislation, but I regret the manner in which it has been presented to us. As I recall the constitutional amendment to provide for an enhanced functionality for Oireachtas inquiries was also rushed and presented to us as a *fait accompli*. I pointed out at the at that the third paragraph of the text of that proposal would be problematic, which proved to be the case. The flawed process by which that legislation was brought forward meant that the outcome was inevitably compromised. The people rejected that referendum for more reasons than simply the problematic wording, but it was probably a factor in the defeat of the amendment. It is vital, in this instance, that we get the process right. In the case of any constitutional amendment, there must be an adequate lead-in process, early engagement and early publication of proposals. We must have the opportunity to table amendments which are sensible and warranted. We are all citizens of this country and it is our Constitution. We are in this House on a temporary basis, but we will continue to be citizens after we leave it. We deserve nothing less than the type of scrutiny that is afforded by the provision of sufficient time for debate and adequate forewarning of what is proposed.

Deputy Peter Fitzpatrick: I propose to share time with Deputy John Paul Phelan.

An Leas-Cheann Comhairle: That is agreed.

Deputy Peter Fitzpatrick: The Thirty-third Amendment of the Constitution (Court of Appeal) Bill provides for the establishment of a new court of appeal, for which a referendum is required. If the proposal is accepted by the people, the new court will hear appeals from the High Court, while the Supreme Court will hear cases, on appeal, from the court of appeal and, in exceptional circumstances from the High Court. The Bill does not specify the number of judges who will sit on the new court, their remuneration, age of retirement or pension provision. These matters will be set out in subsequent legislation.

The superior courts in this country currently comprise the High Court, the Court of Criminal Appeal and the Supreme Court. The High Court is the superior court of first instance and is invested, under the Constitution, with full original jurisdiction in and power to determine all matters and questions, whether of law or facts, civil or criminal. The original jurisdiction of a court is the right to hear a case for the first time. Appellate jurisdiction, on the other hand, refers to the right of a court to review the decisions of a lower-level court. The Court of Criminal Appeal is not mentioned in the Constitution and was instead established by way of statute. It is the only intermediate appellate court in the State. The Supreme Court is the court of final appeal. It operates mainly as an appellate court and its original jurisdiction in respect of cases not heard before another court is extremely limited.

Under the Constitution there are three fundamental organs of the State, namely, the Legislature, the Executive and the courts. The role of the latter is to administer justice. Factors affect-

ing the operation of the courts include population growth in the State and the nature of modern litigation, including an increase in the number and complexity of cases. Ireland is currently out of line with other common law countries in so far as all appeals from the High Court are heard by the Supreme Court. Other countries, including the United Kingdom, Australia, New Zealand and Canada, have a court of appeal which hears appeals from the equivalent of the High Court, with only the more important cases, including those relating to the development of law, being heard by the equivalent of the Supreme Court.

This means that in countries far larger than Ireland, such as the United Kingdom and the United States, the supreme courts deal with proportionately far fewer cases than does our Supreme Court. Over the past 40 years there has been a sixfold increase in the number of High Court judges, but the membership of the Supreme Court has merely doubled. As a result, a rising number of increasingly complex cases are being appealed into the bottleneck that the Supreme Court has become. There is now a four-year backlog of cases before the court. This prompted the Chief Justice to announce earlier this year that the court could not admit any new cases to its priority list.

On the day the court of appeal is established, the Supreme Court will retain within its jurisdiction all appeals lodged prior to that date. A new Article 64 is being inserted into the Constitution setting out how this caseload will be dealt with. This article will appear in texts of the Constitution published one year after the establishment of the new court. Cases that have been part heard or fully heard by the Supreme Court will be determined by that court. The Chief Justice may, with the agreement of her colleagues, transfer classes of cases to the court of appeal for hearing and determination by that court. In addition, parties to an appeal may apply to the Supreme Court to have their case transferred to the new court. Appeals from the Court of Criminal Appeal will be dealt with by the Supreme Court in accordance with the rules applying to such appeals before the court of appeals is established.

Deputy John Paul Phelan: I commend the Minister on bringing forward this Bill, which I very much support. A significant backlog has developed in the courts system in recent years, particularly in the case of appeals to the Supreme Court. The Minister referred to the maxim that justice delayed is justice denied. He also pointed to Article 6 of the European Convention on Human Rights, which lays out the responsibility of every signatory to ensure its citizens have access to a timely process of justice. That principle is the cornerstone of this legislation, which paves the way for a referendum later in the year on the establishment of a new court of appeal. We already have the Court of Criminal Appeal, which is not specifically referenced in the Constitution and was instead established by statute. It is appropriate that our constitutional provisions, primarily contained in Article 34, should reflect what has been a significant part of our legal system for several years. It will become a significant part of the legal system on the civil side in the context of a substantive court of appeal. It was a commitment given in advance of the general election and contained in the programme for Government and it is appropriate that the Government is acting on it.

I hate the term "stakeholders", but this is an example of how the stakeholders have been engaged by the Minister and his officials in the Department in coming to an agreement that the question be put to the in a referendum to establish a new court of appeal system. I add my support to it and commend the Minister for his diligence.

Speaking as a member of the Joint Committee on Justice, Defence and Equality, there is no doubt that most of the legislation going through the Oireachtas is from the Department of

Justice and Equality. The Minister is particularly diligent and while I do not always agree with him on everything, he is a man of exceptional ability. He takes a particular interest in making sure the courts will operate more efficiently into the future. I commend him for acting in this way and fully support the proposition which will I hope be put to the people before the end of the year.

Minister for Justice and Equality (Deputy Alan Shatter): I thank all Members who spoke on the Bill for their supportive comments. For many years it has been my view that we should have a court of appeal and that we need constitutional change. The work of the working group chaired by Chief Justice Denham substantially laid the foundations for the implementation of this change. It was a commitment in the programme for Government that we would hold a referendum. It is a referendum of crucial importance and part of the radical reforming agenda of the Government to provide the best possible justice system, modernise our structures to bring them fully into the 21st century in the interests of citizens and those engaged in business and commerce and ensure Ireland will remain an attractive destination for multinational companies wishing to locate here or those already located here which may wish to expand. There is an assurance that if legal difficulties arise which require an individual, a citizen, an individual business and a corporation or multinational company to resort to the courts, they will be assured justice will be administered within a reasonable time and that, if there is a need to go through an appellate system, the appellate system will operate within a reasonable timeframe. I thank Deputies Niall Collins and Pádraig Mac Lochlainn for the support their parties have given to the legislation and thank Deputy Catherine Murphy for her contribution.

This is an important issue and it is important that the referendum be successful. Deputy Catherine Murphy has made the point that the reason for bringing the legislation before the House this month and our objective of completing its passage during the course of this month is to ensure there will be a proper lead-in period to the holding of the referendum in order that those who will vote on the proposal will fully understand its nature, why it is of advantage to the State and every individual that we have a court of appeal and that it is worthy of an overwhelming "Yes" vote. We cannot establish the new court without the support of the citizens of the State by way of a majority voting in favour of the proposal. I hope there will be an overwhelming vote in favour of it. I do so as Minister for Justice and Equality and a lawyer for many years. It is a matter of fundamental rights that people can litigate in the courts in a manner that ensures justice is done within a reasonable time. A court of appeal will be an extra legal structure within the court architecture to ensure we fully meet our legal obligations under the European Convention on Human Rights and that court proceedings are heard and determined within a reasonable timeframe.

Deputy Niall Collins made reference to spats with the Judiciary. I can assure him that there is no spat of any description with members of the Judiciary. As Minister for Justice and Equality, I have an excellent and appropriate relationship with the Chief Justice and the presidents of the various courts. Through the Office of the Attorney General and, where appropriate, directly through the Department, we consult and engage with the Judiciary on matters of relevance to the courts and the Courts Service. There was extensive consultation with the Judiciary in the development of the Bill. There were issues to be addressed and teased out, particularly relating to the current backlog of cases awaiting a hearing in the Supreme Court and the appropriate mechanism to ensure that, within an independent court structure, arrangements would be made to address the issue in an appropriate way, should the referendum prove successful.

Deputy Catherine Murphy asked whether, when the court of appeal was established, all

cases before the Supreme Court would be transferred to the court of appeal and that what was a four year backlog in the Supreme Court would become a four year backlog in the court of appeal. That must not happen. It is a matter for the Supreme Court, by the application of an appropriate legal principle, to determine the cases it is appropriate to retain and the ones that should be transferred for hearing in the court of appeal. It is important there be mechanisms to address that issue, a matter to which further attention should be given in the preparation of the establishment Bill. It will be the subject of appropriate consultation with the Judiciary.

This is a very important proposal, not just for citizens of the State but also for the economy. It is important that this country be an attractive destination for business to locate here. One of the rule of law issues examined in this context is the independence and efficiency of court systems. In the most recent survey by a global forum Ireland was rated No. 4 in the world in the context of independence and efficiency. I want us to be rated No. 1 and the enactment of this provision and the establishment of the court of appeal can bring about that result. We need the support of the general public in that regard.

Deputy Pádraig Mac Lochlainn raised the issue of judicial appointments, on which he has published a Private Members' Bill. I have said the Department is conducting a review of the legislation applying to the Judicial Appointments Advisory Board. In 2014 I hope the review will be complete and any appropriate amendment to be made to legislation will be for consideration. The Deputy has said the engagement of individuals in politics, whether as solicitors or barristers, should not exclude them from appropriate appointments to the Judiciary. However, he then went on to criticise the fact that some of the appointments made by the Government had been of individuals identified with either the Fine Gael Party or the Labour Party. A survey was carried out and 70% of the appointments made during the lifetime of the Government were of individuals with no known association, not known to me certainly, with the Fine Gael Party or the Labour Party. Two thirds of the members appointed to the Judiciary had no such association; 30% had some association, but many of them were tangential and none of the associations had anything to do with the judicial appointments made. All of the judicial appointments which have been made by the Government of new individuals - that is, persons who were not sitting judges who were promoted - have been of individuals included in the recommended list for appointment of the Judicial Appointments Advisory Board. We have not gone outside that list of names. I emphasise that they have all been appointed on merit. It is often only when I open the paper on the morning after an appointment that I discover an appointee has a tangential relationship with someone in politics. I tend personally to be unaware of people's engagements, bar those of a very small number who I know in the legal world who engaged in politics. One cannot say, on the one hand, that we should encourage people to engage in politics and that such engagement should be no barrier to appointment to the Judiciary and, on the other, criticise the appointment of any person who has previously engaged in politics. The one thing that can be said about the Judiciary is that since the foundation of the State in 1922, it has acted independently and made decisions independent of politics. While there were concerns in this area prior to the establishment of the Judicial Appointments Advisory Board, it is very difficult to find any judgment delivered by a member of the Judiciary since 1922 which was influenced by a political allegiance. I say that as a lawyer, not as a politician. We may all disagree with the conclusions reached in some cases or the reasoning adopted. As an academic lawyer, I have written articles about judgments with which I agreed or sometimes disagreed. None of this disagreement or agreement has been about politics, any person's background in politics or any suggestion that a member of the Judiciary has made a decision based on political bias. While looking at how we can provide an even better appointments system than the one we have, we

should be careful not to raise public concern about the correct, independent, decision-making processes of members of the Judiciary.

A reform that was mentioned briefly is one I consider to be of great importance. It involves improving the transparency of the Supreme Court and applying the same principles to the new court of appeal where there is a constitutional challenge to existing legislation. The reform involves providing that all judges who sit to hear constitutional challenges to existing legislation may deliver, if they so wish, individual judgments. That would provide full transparency regarding the thinking and decision-making of the individual members of the court rather than there being a composite judgment which does not set out the views of individual judges on an issue of public importance. One of the great strengths of the Supreme Court of the United States of America has been the freedom of each judge to deliver in every case his or her own judgment. Dissenting judgments that might be delivered in one era may become the majority view in a different era in which there is greater insight and understanding of an issue. Thus, fundamental and important change may be effected. It is important to have that level of transparency and that members of the Supreme Court are not shackled in any way in their independent capacity to deliver judgments on issues of very substantial importance to the State. Whenever there is a constitutional challenge to legislation enacted by the Houses of the Oireachtas, it is important that there is full visibility of the decision-making processes, the reasoning applied and the manner in which the Judiciary responded to the arguments they heard from contesting parties on issues of public importance. This is a welcome reform. It provides greater visibility on important issues of constitutional and human rights. I hope it is widely welcomed.

I thank Deputy Catherine Murphy for raising certain other issues. She will know that I am an enthusiastic supporter of mediation. As someone who worked as a practising lawyer in the courts for many years, I am firmly of the view that far too many contested cases which are only settled outside the door of the court would more rapidly have been resolved if there had been an earlier intervention and parties agreed to resolve issues of conflict by way of mediation. There would have been a great deal less stress and substantial financial savings would have been made. We are addressing court architecture in this legislation. I published heads of a mediation Bill a few months ago, but it will not come to the House in final form until the end of the year or early next year. It is a Bill designed to encourage those who seek to head down the litigation route to engage in mediation before they go too far. We must do everything we can to encourage alternative dispute resolution mechanisms.

In particular, I thank Deputies Peter Fitzpatrick and John Paul Phelan for their contributions to the debate and supportive comments. While this appears to be a simple and worthwhile reform, it is important that Deputies engage with it and understand the benefits to the State, their constituents and every citizen of bringing about this change. It will be important for them to encourage a "Yes" vote and to ensure those voting understand the benefits of the proposal when a referendum is held on the issue. It will require an engagement by all Members within their constituencies. I hope the fact that the proposal is universally supported across the political divide will convince people that it is worth voting "Yes" to.

Deputy Catherine Murphy mentioned litigation in which the State is engaged and what can be done to resolve it earlier and at less expense. Of course, mechanisms are now put in place to encourage this. We have the State Claims Agency, for example. Where litigation to which the State is party can be resolved without full court hearings or where the State has been in error, such matters should be dealt with at the earliest opportunity and not left to be resolved outside the door of a court five minutes before a case is heard when all of the relevant costs have been

already incurred and taxpayers may have to carry the bill. Deputy Murphy also asked if the Court of Criminal Appeal would be abolished. The court performs a very important role. It is not a court that sits every day, but one which sits from time to time. Not only is there a backlog of cases awaiting hearing in the Supreme Court, there is a backlog of cases awaiting hearing in the Court of Criminal Appeal. The architecture being proposed in the Bill seeks to create an overall court of appeal which sits in two divisions as a court of criminal and, for want of a better description, civil appeal, respectively. It is not a question of simply abolishing the Court of Criminal Appeal, but rather one of creating a constitutional architecture and foundation for a permanent version of the court with permanent judges whose remit will be to hear appeals. This is a genuinely important reform. It is, I think I am correct to say, the first reform of our courts structure resulting in the creation of a new court since the Constitution was adopted by the people in the referendum of 1937. It is the first step along the road to structural court reform.

4 o'clock

Deputy Mac Lochlainn mentioned the Courts and Civil Law (Miscellaneous Provisions) Bill which is currently going through the Houses. That Bill seeks to modernise the jurisdictions of the courts to bring them up to speed after 22 years, and addresses a number of other issues which were referred to in the House already and which I will not revisit.

The next step along the route in this reforming agenda is that we will be addressing the issue of providing an independent integrated family court structure. This was the subject of an important seminar held on Saturday last. I look forward to further discussion on the creation of that court and the changes that will be needed to bring it into being, but we will come to that on another day.

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

An Leas-Cheann Comhairle: When is it proposed to take the Committee Stage?

Deputy Alan Shatter: Next week.

Céim an Choiste ordaithe don Mháirt, 16 Iúil 2013.

Committee Stage ordered for Tuesday, 16 July 2013.

Sitting suspended at 4 p.m. and resumed at 5 p.m.

5 o'clock

Ministerial Rota for Parliamentary Questions: Motion

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

That, notwithstanding anything in the Order of the Dáil of 9th March, 2011, setting out the rota in which Questions to members of the Government are to be asked, or in the Order of the Dáil of 9th July, 2013, Questions for oral answer, following those next set down to

the Minister for Communications, Energy and Natural Resources, shall be set down to Ministers in the following temporary sequence:

Minister for Defence

Minister for Arts, Heritage and the Gaeltacht

Minister for Justice and Equality

whereupon the sequence established by the Order of 9th March, 2011, shall continue with Questions to the Minister for Agriculture, Food and the Marine.

Question put and agreed to.

Protection of Life During Pregnancy Bill 2013: Report Stage (Resumed)

Debate resumed on amendment No. 12:

In page 6, between lines 4 and 5, to insert the following:

" "incest" means the crime of sexual relations taking place between a male and female who are so closely linked by blood or affinity that such activity is prohibited by law within the terms of the Punishment of Incest Act 1908 as amended by the Criminal Law (Incest Proceedings) Act 1995;".

- (Deputy Joe Higgins)

An Ceann Comhairle: I ask Deputies to cut out the sideshows. Deputy Higgins was in possession.

Deputy Joe Higgins: I have a view on how we should conduct ourselves here. We had a very long day yesterday. We finished at matins and now we recommence at vespers, so to speak. It was George Bernard Shaw who wrote a long letter to a friend and apologised for not having the time to write a short one. There is a lot of wisdom in that because if a lot of thought is put into something it enables expression to be sharp and concise. People have thought long and hard about these issues. Many of the key issues from our point of view were dealt with yesterday. Other Deputies dealt with their issues in great detail and that is absolutely correct. However, for my part I intend to be very short and concise with regard to these and the remaining amendments in my name.

An Ceann Comhairle: I remind the House that in addition to Deputy Higgins's amendment, No. 12, we are also debating amendments Nos. 16, 31 and 84, which are related.

Deputy Joe Higgins: Amendments Nos. 12 and 16 give legal definitions of the horrific reality of incest and of rape, which are both extremely serious violations of a human person and of a woman for the purposes of this legislation. Incest often arises in a family context, in great secrecy and causing great trauma to the victim or victims. Rape, as we know, is a heinous crime perpetrated against women in our society. The intent of amendments No. 31 and No. 84 is that where there is, unfortunately, a pregnancy as an outcome of these heinous crimes, this legislation should address that eventuality if the woman or a child wishes a termination of pregnancy. I think most compassionate people will agree that such a procedure should be available in the

State for victims of incest and rape, and that the current situation whereby those victims are obliged to leave the country in order to secure a termination is unsupportable, is barbaric and is indeed utter hypocrisy. The Minister will come back and quote Article 40.3.3° of the Constitution. These amendments are tabled as a marker that these are critical issues that should be dealt with. If they are not dealt with today or if this amendment is defeated, they should be dealt with quickly in the very near future. This inevitably brings us to the issue of a new national debate on the constitutional provisions, specifically Article 40.3.3°, and the need to repeal that article so that legislation can be put in place to provide for a compassionate resolution of crisis pregnancies arising from the horrific cases of rape and incest. In our society, a huge majority of our people is in favour of such an effort, and the legislation is way behind. The constitutional provision is way out of date compared to where our people have moved in the past 30 years or so, and it is not good enough for us to simply rely on the English solution to an Irish problem.

Along with the practitioner in question, a woman or child availing of a termination in this State, having found herself pregnant as a result of the horrific acts of incest or rape, would be open to prosecution and to a maximum of 14 years in jail. That is unacceptable and the reason we want to raise this matter in a very firm way with the Government today. We are marking an intention to press the issue hard in the next period of time if it is not accepted today.

An Ceann Comhairle: Deputies Collins and Daly have an amendment in this group; do they wish to speak on it?

Deputy Joan Collins: Yes, and it relates to the amendments of Deputies Higgins and Boyd Barrett dealing with categorisation of incest and rape of women, which are some of the most heinous crimes that can be committed against women or men in certain circumstances. A woman can become pregnant with an unwanted child as a result of such an act. Some of the Government representatives yesterday indicated again that this legislation does not go far enough and we want to put it on record that it certainly does not go far enough in this respect. If the Government is serious about tackling the issue of women having access to terminations of pregnancy or abortions in Ireland in cases of rape and incest, we should discuss seriously how to put a process in train. From such a discussion there should be consideration of how to repeal the Eighth Amendment to the Constitution to allow us have the debate and reflect what the majority of the country believes in that we should allow abortion or termination of pregnancy in Ireland when the pregnancy is an outcome of horrendous abuse of a woman's body through rape or incest.

We know the amendment will not be accepted but it is important to make the point in the Chamber that the population of Ireland has moved way beyond what we are debating. No amount of intimidation, threats, phony scientific arguments, biased opinion polls or anti-abortion lobbies can change what is happening in our society. I spoke to a woman this morning as I left the house at 11 a.m. after getting a couple of hours' sleep and she told me the debate in the Dáil is a sham because every family has experience of somebody having to travel to Britain for a termination of pregnancy or abortion. I ask the Minister to respond on whether he will start that debate. Will we begin to reflect what society is saying to us as public representatives?

In legislation a woman who has procured an abortion, along with anybody who helps that woman, could face up to 14 years in prison but a person who has raped a young woman would get a shorter sentence. In many cases judges offer financial compensation to women rather than putting these people in jail for their crime. This sends out a bad message to society, as women are being treated as second or third class citizens in such cases. We in the Dáil should not accept this.

Deputy Clare Daly: Yesterday evening there was an element of unreality about the discussion, with a number of Deputies painting a picture as if we were providing for the unleashing of an Irish abortion scenario that does not already exist. This amendment deals with issues of abortion where a woman has been impregnated as a result of rape or incest, or where she believes it is in her best interest to have an abortion. As a State and civilised society we should address the matter, as thousands of Irish women have abortions every year, although they do not have them in Ireland. There is a double hypocrisy as the State specifically provides and protects their right to have that abortion by allowing the right to information and to travel. There is an insult in saying that the procedure is allowed but not in this country; essentially, the woman must be driven from our shores in order to access it elsewhere.

We must address these issues as a modern society because Irish abortion exists for thousands of women and every family in the State in one way or another has been affected by this. This debate has gone on for months and at its end we will still have one of the most restrictive abortion regimes in Ireland, with 44 from 47 other countries still having greater access to abortion than this country. That does not mean the issue will go away for the women out there and we want to fly the flag in that regard. As a State we must acknowledge the position and move from what is a major symbolic step forward to putting some substance behind it and dealing with the repeal of the Eighth Amendment. That will allow us to address all the other issues. Given the Government's enthusiasm for constitutional referendums, there should be no problem to adding another to deal with these issues in the short term.

Deputy Richard Boyd Barrett: Over the past few days we have indicated that some of us believe the Bill will not even achieve its stated intention, which is to protect women whose lives are at risk because of a physical threat or the threat of suicide. In the latter case, suicidal women will not go near this process because it is so restrictive and intrusive in its interrogation of women in a vulnerable position. It fails to bring clarity to cases where women's lives are threatened and how doctors should intervene in such cases. It has failed on that account, as we have pointed out.

Even beyond that argument, in many ways the debate we have had does not focus on the biggest element of the abortion debate, which is the thousands of women who are not in extreme cases but who travel to Britain for abortions because they feel their health is at risk, they have been victims of rape or sexual abuse, or they become pregnant as a result of incest. Some feel their welfare and well-being is threatened by having to continue a pregnancy they do not want.

An Ceann Comhairle: I must intervene. We are not dealing with the right to travel or related issues. We are dealing with particular amendments proposed by you and others. We are on Report Stage and there are many other amendments. Could we stick to those rather than the general principle of the Bill or issues not contained in the legislation? I have to bring the Deputy back to the amendments.

Deputy Richard Boyd Barrett: I appreciate your need and everybody else's need to get this over as quickly as possible.

An Ceann Comhairle: It is not about getting this over but rather sticking to what is in the Bill and the amendments. That is what we are debating. Do not get me wrong.

Deputy Richard Boyd Barrett: On a point of order, if the Ceann Comhairle reads amendment No. 84, he will see it refers to sexual abuse, risk to health-----

An Ceann Comhairle: Yes, but we are not talking about travel and so on.

Deputy Richard Boyd Barrett: -----and risk to well-being, and that is a fairly extraordinary intervention.

An Ceann Comhairle: It is not extraordinary at all.

Deputy Richard Boyd Barrett: The amendment refers to a risk to a woman's health and well-being and pregnancy as a result of sexual abuse. We export that problem and that is deeply hypocritical. It is a reality for thousands of Irish women, and although we accept their right to travel abroad to seek terminations in those instances, we deny them the right to have them in this State. That is an hypocrisy which is unsustainable and needs to be addressed. The purpose of the amendments is to appeal to the Government to address an unsustainable scenario. That reality for women is not being addressed by the State because of its lack of political courage. There can be no other explanation for its refusal to address the untenable restrictions that exist in that regard.

I refer to the eloquent and pertinent statements of the Minister for Justice and Equality in this regard. He put it better than anybody has when he said it was unacceptable that while men can receive whatever treatment they need to protect their health and well-being, women are denied that right. There is a qualification on the right of women to secure the medical services they need to ensure the protection of their health and well-being. This fundamental discrimination exists against women and there has been no commitment by the Government to address it. We are asking the Minister to address it, but he will respond that this cannot be done within the current constitutional framework. While I accept that, the Minister for Transport, Tourism and Sport said on the radio earlier that the Bill should be referred to the Supreme Court, as it will be challenged anyway, which is a good point. The Minister for Public Expenditure and Reform said earlier that the Oireachtas passes laws and any law it passes should be assumed to be constitutional until it is struck down by the courts.

An Ceann Comhairle: I ask the Deputy to return to his amendment.

Deputy Richard Boyd Barrett: If one puts those two observations together and if the Government was serious about addressing the denial to women of their rights to protect their health and well-being, it could at least put this forward as something to be considered, and it if it were struck down, as it probably would be, it could then give a commitment that a referendum would be held to deal with the matter.

One of the unacceptable scenarios the amendment deals with in the context of women having the right to protect their health and well-being is that in which a woman is forced to go ahead with a pregnancy when the foetus is diagnosed with a fatal abnormality. How much more damaging to a woman's health and her sense of well-being could it be than to criminalise a woman who seeks to terminate a pregnancy in those appalling circumstances? This is another issue the Minister must address. The Government, despite consistent requests during the debate, has failed to give any assurance whatsoever that during its term it intends to address these issues. Even now at this stage, I appeal to the Minister to give us some commitment in that regard.

An Ceann Comhairle: I remind Members that this is Report Stage of a Bill. They have dealt with the general principles on Second Stage and Committee Stage. They are now reporting back to the House, and today we are discussing amendments arising from Committee Stage

and those alone. We do not stray into the general principle of the Bill, what should be in it or what is not in it. We are dealing with the Bill as presented and Members are proposing-----

Deputy Richard Boyd Barrett: Sorry - on a point of order-----

An Ceann Comhairle: Will the Deputy sit down for a minute? He has had his say. He is not dominating this debate solely. He is here like everybody else to adhere to the rules of the House and he will adhere to them.

Deputy Richard Boyd Barrett: I want to make a point of order.

An Ceann Comhairle: The Deputy will not make a point of order.

Deputy Richard Boyd Barrett: I am trying to make a point of order.

An Ceann Comhairle: I call Deputy Finian McGrath.

Deputy Richard Boyd Barrett: On a point of order, I do not know why the Ceann Comhairle is making that comment when I was speaking directly on this amendment.

An Ceann Comhairle: Will the Deputy sit down? That is not a point of order. I was reminding Members that we are on Report Stage and I was referring to all 166 of us.

Deputy Finian McGrath: I am grateful for the opportunity to contribute. I refer to amendments Nos. 12 and 84. I strongly support amendment No. 12 because it is sensible and compassionate and it adds substance to the legislation. The amendment deals with the issue of incest. It is important that we reflect on incest and what is going on in many chaotic and dysfunctional families in this State. Every now and then we hear an example of what is going on, and we all know of real-life cases. We need to examine other ways to intervene earlier in crisis cases before we reach what is proposed in this amendment. The health services, the HSE and social workers need to get in quickly to help children and teenagers who are at risk. We have witnessed in the past how the system reacted too slowly. I have concerns about this and it is important that it be addressed in the debate.

Amendment No. 84 deals with rape and sexual abuse. We cannot continue to allow the women who are traumatised and suffering to suffer even more. It is important that Members seriously consider the content of these amendments.

Minister for Health (Deputy James Reilly): These amendments deal with cases in which a pregnancy results from rape or incest and are an attempt to legislate for lawful termination of pregnancy in such cases. I cannot accept them. The main purpose of the Bill is to restate the general prohibition on abortion in Ireland while regulating access to lawful termination of pregnancy in accordance with the X case judgment and the judgment of the European Court of Human Rights in the A, B and C *v*. Ireland case. Its purpose is to confer procedural rights on a woman who believes she has a life-threatening condition in order that she can have certainty as to whether she requires this treatment. While the Bill does not permit the termination of a pregnancy on the grounds of rape or incest alone, it is permitted if there is also a risk to the life of a woman. The Bill provides for existing rights only - that is, within the constitutional provisions and the Supreme Court judgment in the X case. It does not confer new substantive rights to termination of pregnancy.

Deputy Caoimhghín Ó Caoláin: Sinn Féin supports the address of the issue of a woman's

right to secure the termination of a pregnancy in the context of rape or incest. It is our party policy. The heinous act of rape, with all the physical hurt and mental anguish that accompanies it, is confounded by the failure of our provisions to acknowledge this right to take a particular course of action where a woman is a victim in the circumstances so described. I understand fully that is not addressable in the context of the scope of this legislation. I note Deputy Higgins stated he was putting down a marker and am willing to accept that as the purpose and intent because I do not see how this legislation could accommodate what those amendments seek to address. That said, it is an issue we cannot ignore. We have a collective responsibility as the Oireachtas to respond compassionately in the interest of those women who will suffer in this way. I hope the Government will note the views of those who have spoken on this section.

Deputy Denis Naughten: I accept the point the Minister made in regard to the amendments before us. I refer to some earlier comments. On the issue of incest, will the Minister use his good office to close off the 18 year loophole that exists in respect of the law on incest, which dates from 1908? This means a mother may get a maximum sentence of only seven years. That needs to be increased, as for a man, potentially to a life sentence. I have a draft Bill on the Order Paper that could do this. I ask the Minister to speak directly to the Minister for Justice and Equality to move either that Bill or another amendment that would close off that loophole.

An Ceann Comhairle: Does Deputy Higgins wish to reply?

Deputy Joe Higgins: Yes, very briefly. It is extremely regrettable that in setting out what he wishes to do in this case the Minister has once again narrowed it to the bare minimum. Like the Taoiseach, he has repeated the mantra that this Bill grants no new rights. The Minister, the Taoiseach and the Government have been at pains to minimise the scope of this Bill thereby refusing to take into account what is a crying need in our society, namely, catering for these very difficult and tragic situations of women in crisis pregnancies, as in the case we are now discussing, arising from rape and incest. It is unfortunate that the Minister and the Government are at pains in the first place to satisfy the concerns of certain Fine Gael Deputies and a minority in society, rather than direct attention to alleviate a very real human need in this regard. The alleviation and addressing of this would, moreover, have the support of a big majority in society.

I will leave it at that. If the Minister insists on voting this down he can be assured it will be very much on the agenda in the coming period, along with the tragedy of fatal foetal abnormality and inevitable miscarriage, all critical issues that have to be addressed urgently. They cannot be left to hang for another 20 years as happened with the X case.

Amendment put and declared lost.

An Ceann Comhairle: Amendment No. 13 arises from committee proceedings.

Deputy Peadar Tóibín: I move amendment No. 13:

> In page 6, between lines 4 and 5, to insert the following:
>
> " "Medical Council rules or guidelines" means any rules or guidelines for the time being in force under section 11 or 12 of the Act of 2007;".

I will speak on amendments Nos. 13 and 19.

An Ceann Comhairle: We are not dealing with amendment No. 19, only with amendment No. 13.

Deputy Peadar Tóibín: Are they not grouped together?

An Ceann Comhairle: The Deputy is right. I apologise. There is a revised list which has not been circulated. I ask that it be circulated immediately.

Deputy Peadar Tóibín: I tabled these two amendments in an effort to be constructive with regard to this Bill and to improve the protective elements in it. I sincerely hope the Minister will see them in this light.

I am aware, as I suppose the Minister is, that the words in a Bill can be significantly different from the generally understood meaning of those same words. The definition of "reasonable opinion" in this Bill seems to me to be entirely subjective. I would be concerned that it would include the caveat of "good faith", which would broaden considerably what "reasonable opinion" might mean. My understanding of reasonable opinion is that it should be objectively reasonable and reasonably arrived at. In the medical sphere this would mean it would be grounded in best medical practice which, after all, is what everybody in this House is trying to achieve in this Bill. Would the Minister agree that the Medical Council guidelines offer objective and dynamic reference points to which reasonable opinion could be linked?

I refer to amendment No. 19. This simply seeks to orientate the language within the Bill to the language in the Constitution, and should give the effect of improving protections of the human right to life. The reduction in variance from the Constitution should help the Government in the long run.

Deputy Michael Healy-Rae: I would like my support for amendments Nos. 13 and 19 to be noted.

Deputy Mattie McGrath: I too support these amendments. Both the language we use and the efforts made by Deputy Tóibín to enhance and strengthen the protection for the unborn are vital. I hope the Minister will see his way to accepting these amendments.

Deputy James Reilly: These amendments have the effect of making it the responsibility of the Medical Council to decide on the legal circumstances in which a medical procedure to terminate a pregnancy may take place. This is not acceptable. It is the duty of the Government to decide on lawful procedures in these circumstances. Ireland is under a legal obligation to implement the judgment of the European Court of Human Rights in A, B, and C *v.* Ireland, and must put in place a legislative or regulatory regime to provide effective and accessible procedures whereby pregnant women can establish whether they are entitled to a lawful abortion, in accordance with Article 40.3.3° of the Constitution, as interpreted by the Supreme Court in the X case. I cannot, therefore, accept these amendments.

Deputy Peadar Tóibín: That is a pity. I believe the Minister is decoupling the Medical Council's understanding of medical procedures from the meaning in this Bill. I will not labour the issue. As it stands in the Bill, there is no foundation or grounding for "reasonable opinion" in existing medical practice.

Deputy Peter Mathews: I support Deputy Tóibín's two amendments on the basis that they provide an objective yardstick or benchmark. Medical guidelines in practice have served the country well. To decouple from that at this stage would probably be unwise.

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 14 and 15 are alternatives and may be discussed together.

Deputy Mattie McGrath: I move amendment No. 14:

In page 6, line 8, after "treatment" to insert the following:

", it excludes any procedure done with the intention of killing a human person, whether born or unborn".

There is a fundamental right to life in the Constitution and in our intentions we all claim to be pro-life. I said this morning during Leaders' Questions that we were all doing our best in this situation to try to deal with a very complex issue that had dragged on for a very long time. There are some fundamental rights. As there is no provision to protect the unborn, if we do not do it in this Bill, the unborn will be left helpless and hapless with nobody to represent them.

Deputy Denis Naughten: I wish to speak to my amendment No. 15. It deals with an issue that we discussed on Committee Stage, the genuine concerns raised by Members on all sides of the House about the possibility of late-term abortions. I tabled an amendment on this issue on Committee Stage and the Minister rightly said that we could not proceed with that amendment. I have put forward an alternative which would clarify the issue of medical treatment. As the Minister knows, under the definitions and everywhere else, the legislation is silent on this issue. We do not know whether there will be regulations specifically to deal with it. I believe this is unlikely because the Minister has said it will be up to the physician to make that determination. I am clarifying that definition to state the medical treatment employed should not impede all efforts to sustain the life of the unborn which potentially is viable outside the womb. The Minister articulated the point very well on Committee Stage when he said no one could attempt to destroy a potentially viable foetus *in utero* and that was provided for in the Constitution. I question this and believe the legislation is needed to clarify it. That is why I have tabled this amendment which would make sure no medical procedure employed could destroy a foetus *in utero* where there was the possibility of its being viable outside the womb as a baby. I hope the Minister can accept this amendment.

Deputy Michael Healy-Rae: I support amendments Nos. 14 and 15, but I will not go into any detail on them.

Deputy James Reilly: While I can appreciate the concern of the Deputies, the amendments are unnecessary. Section 22 of the Bill makes it clear that it is an offence to intentionally destroy unborn human life. As I said previously, the provisions made in the Bill intend to ensure that in circumstances where the unborn may potentially be viable outside the womb, doctors must make all efforts to sustain its life after delivery. Not to do so would mean that a medical practitioner would be in breach of the proposed legislation and subject to its penalties. I cannot, therefore, accept the amendments.

Deputy Denis Naughten: Will the Minister clarify one comment which he made before? I presume it is not intended to be misleading, but he has said the law provides that all efforts must be made to sustain life outside the womb. I accept that and the Constitution is crystal clear on this point, which no one disputes. The problem I have relates to a foetus that is potentially viable outside the womb and that could be destroyed prior to induction or birth. That is the issue. The Minister has said on several occasions - he has clarified the point - that after the birth every effort must be made. The Constitution is crystal clear on that point, but the issue I want

to have clarified is what is the status of the foetus prior to birth. The Minister said on Committee Stage that the doctor or physician could not employ any procedure that could damage the viability of that foetus outside the womb while it was in the womb. Will he clarify that is the case and point to exactly where that is provided for in the legislation? I do not see it, which is why I have tabled the amendment.

Deputy Mattie McGrath: I am disappointed by what the Minister said. It seems that no amendments except those tabled by the Government parties will be accepted. We are all here with goodwill trying to make the best that we can of the Bill. I, too, am concerned about how we sustain the life of the unborn child in the womb and ensure the foetus is not damaged by any procedure. We are not going to be in every labour ward or whatever kind of ward these services will be delivered in; neither will the Minister. That may sound crude, but I have only been in the wards where the joyful births of my own family have taken place, thank God, on eight occasions. It is a wonderful place to be, but this is a completely different situation. We do not know about it and want to have the strongest possible safeguards. That is why we have tabled these amendments and hope some of them will be accepted in good faith.

Deputy Peter Mathews: I am not sure I understand this issue properly. If in the situation envisaged in section 9 there has been a joint agreement or certification by a psychiatrist and an obstetrician that there will be a medical procedure to terminate the pregnancy to avoid the risk of suicide as a last resort and the gestation of the baby is 11 or 12 weeks at that stage, it certainly does not have any chance of survival, given what doctors have told me. Therefore, is there not a presumption of recklessness towards the survival of the baby at that stage in this procedure? As in the case of a road traffic accident, if one is driving so carelessly and recklessly that one kills somebody, it is tantamount to murder or manslaughter. Am I missing something here? Will the Minister clarify the matter for me?

Deputy James Reilly: I reiterate what I have said. The Bill is very clear. It is unlawful to intentionally destroy unborn human life, but it is not unlawful to terminate a pregnancy where this is the only course of action open to the clinicians to avert the real and substantial risk to the life, as opposed to the health, of the woman. That is what the Supreme Court judgment states and I have made it quite clear that is included in the Bill. To do otherwise would mean that a medical practitioner would be in breach of the proposed legislation and subject to its penalties.

Deputy Peter Mathews: I can understand now the repugnant dilemma about which the psychiatrists and obstetricians were talking.

Amendment put and declared lost.

Deputy Denis Naughten: I move amendment No 15:

In page 6, line 8, after "treatment" to insert the following:

"where the medical treatment employed shall not impede all efforts to sustain the life of the unborn which is potentially viable outside the womb".

Amendment put and declared lost.

Deputy James Reilly: I move amendment No 15*a*:

In page 6, line 27, to delete "the medical" and substitute "a medical".

This is a technical amendment.

Amendment agreed to.

Deputy Joe Higgins: I move amdendment No. 16:

In page 6, between lines 27 and 28, to insert the following:

" "rape" means sexual intercourse with a woman who does not consent and, at the time, the man either knows that she does not consent or is reckless as to whether or not she consents;".

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 17, 38, 39, 50 to 52, inclusive, 63, 66, 67, 107, 111 and 112 are related and may be discussed together. Amendment No. 52 is an alternate to amendment No. 51.

Deputy James Reilly: I move amendment No. 17:

In page 6, to delete lines 28 to 31.

Amendments Nos. 17, 38, 51, 66 and 111 amend texts on the definition of "the reasonable opinion" referred to in sections 7 to 9, inclusive, and 13. The definition is intended to place a duty on certifying medical practitioners to preserve the life of the unborn as far as is practicable in a situation where a medical practitioner or practitioners is or are making a decision about whether there is a real and substantial risk to the life of the woman. Given the requirements set out in Article 40.3.3°, medical practitioners must make reference to the life of the unborn in making such decisions. I am proposing these amendments for the purposes of clarity. Including the definition of "reasonable opinion" in each section concerned means that one does not have to refer back to the definitions section for a full understanding of what it means and the statutory intent. I commend the amendments to the House.

Deputy Richard Boyd Barrett: I have several amendments in this grouping. There are many qualifications in the Bill which essentially embed mistrust in the clinical judgment and good faith of doctors. These are an unnecessary misplaced concession to those who are opposed to abortion in any circumstance in what should be a trust in doctors. To use a term the Minister used frequently on Committee State, these changes are entirely superfluous and there is no need for them. They are simply a concession to certain people who want to hold back and frustrate the purpose of this legislation which is to allow for a pregnancy to be terminated where there is a threat to the life of the woman. The term "in good faith" implies that if a doctor acted in any other way, other than in good faith, he or she would be struck off. They have to act in good faith; that is their professional obligation. Why does it need to be included in the Bill? It is a form of organised distrust embedded in the Bill to assuage a certain side in this debate. That is why our amendments propose to delete this unnecessary term.

The Minister's amendments are significant and, clearly, are to deal with a political problem, not with the substantive issue the Bill is supposed to be dealing with, namely, to allow for terminations where women's lives are at risk. In the original draft of the Bill the definition of "reasonable opinion" made reference to that opinion having to have due regard to the need to preserve the unborn human life as far as practicable as required by the Constitution. The Minister has deleted that reference and included it in the key sections which deal with grant-

ing women the right that they should have, namely, to have pregnancies terminated when their lives are threatened. This is not needed and it is gratuitous to insert it there. Worse than this, it is likely to lead to greater hesitation on the part of doctors where, instead of simply making the judgment that a woman's life is at risk, they must look over their shoulder to qualify that assessment in case it infringes on the rights of the unborn human life when that right is already clearly established. That is dangerous for women and it is a political concession on the part of the Minister. If it is not, will he explain why he has put it in when it is already included in the earlier definitions and already established, constitutionally and legally? Why did it need to be taken out of the definitions section and inserted in the individual sections, if it was not a political concession which could have damaging consequences for protecting the lives of women?

Deputy Billy Kelleher: We have had discussions in the past about negligence on the part of medical professionals. We have had all-party agreement on the issue of symphysiotomy, for example. I support this legislation, but there is an obligation to ensure "in good faith" and "reasonable opinion" are defined to the extent that medical professionals whom we trust every day understand it. The Minister's amendments go in line with mine. To ensure the legislation is supportive of the principles outlined in Article 40.3.3° and interpreted in the X case, nothing more and nothing less, it must be clearly defined in legislation that there is an obligation to have a two patient strategy.

6 o'clock

I know some argue that the Minister's amendments have been brought forward for political purposes. We should try to rise above that and point out that this will place obligations on clinicians, but obligations we would expect clinicians to place on themselves, nothing more, nothing less.

Deputy Caoimhghín Ó Caoláin: I support the Minister's amendments. I have also supported amendments - one of which will be coming up for a vote immediately after this - which seek to provide greater clarity and give reassurance to an opposing view or outlook on the legislation. I do not think it is about satisfying anything political. It is about using the opportunities that may present in the course of the final address of the Bill to provide clarity and give reassurance across the board societally. The reaffirmations in respect of good faith and the commitment to preserve the unborn human life as far as practicable are important and do not in any way impact on the scope and intent of the Bill. For me, they are included, but I do not have any issue whatsoever with restating them, as is happening in this series of amendments from the Minister. For that reason, I will support them.

Deputy James Reilly: It is very clear. Do we define "reasonable opinion" in section 2 which deals with interpretations, or do we instead define it in each section? There is absolutely no issue with this, other than the fact that many people are inclined to read the Bill section by section without reference to what is included at the front of the Bill and without reference to other sections. That may seem strange to some legislators here, but it is certainly not an unusual phenomenon for others. It does not change the substance of the Bill, but it does emphasise the need to preserve unborn human life as far as is practicable because the Title of the Bill includes the words "protection of life in pregnancy". That includes the life of the woman and the life of the unborn.

Deputy Peter Mathews: I am not clear on what "as far as practicable" means in the various situations that could arise.

Deputy James Reilly: It is a well accepted legal term.

Deputy Peter Mathews: This is a situation involving a clinician, not a legal one.

Deputy James Reilly: It is a well accepted legal term and is well understood.

Deputy Peter Mathews: It is not clear to me.

Deputy James Reilly: That is fine. The Deputy is neither a lawyer nor a doctor.

Deputy Peter Mathews: That is true, but I am a citizen.

Amendment put and declared carried.

Amendments Nos. 18 and 19 not moved.

Deputy Peadar Tóibín: I move amendment No. 20:

In page 7, to delete line 8.

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

Amendment declared lost.

Deputy Joan Collins: I move amendment No. 21:

In page 7, to delete lines 10 to 12 and substitute the following:

" "unborn", means a foetus which has reached that stage of development at which, if born, it would be capable of life outside the womb;".

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

Amendment declared lost.

Deputy James Reilly: When the Ceann Comhairle was in the Chair, he was asking those who had proposed amendments to propose them and-----

An Leas-Cheann Comhairle: That is when they are pressing an amendment. I was just asking the question, "That the words proposed to be deleted stand." They are proposing that words be deleted, which is why the Government side is voting "Yes" and the Opposition is voting "No".

Deputy Seamus Kirk: There are various amendments on the revised list. I am not sure if it corresponds with the Chair's version. I take it that when they were dealt with previously, they were formally moved.

An Leas-Cheann Comhairle: That is correct. Amendments Nos. 22, 27, 32, 34, 35, 37, 40, 41, 47, 49, 53, 54, 59, 61, 64, 65, 68, 85, 108, 110, 113 and 129 are related and may be discussed together.

Minister of State at the Department of Foreign Affairs and Trade (Deputy Lucinda Creighton): I move amendment No. 22:

In page 7, between lines 12 and 13, to insert the following:

" "viable", in relation to a pregnancy, means a foetus or embryo that is, or would be expected to be, capable of surviving independently outside the womb by reason of its gestational age;".

I would like to speak to amendments No. 22 and 85. They would make it an offence for an abortion to be carried out under sections 7 to 9, inclusive, of the Bill in situations where the unborn child is viable and where it is possible for labour to be induced and the life of the unborn to be saved. This would simply reinforce and enshrine in the legislation what the Government has stated to be the constitutional position that once an unborn child reaches the point of viability, there is a legal onus on doctors to preserve the life of the unborn. This view that this should be enshrined in the legislation is substantiated by the most eminent constitutional lawyers in the State, Mr. Hogan and Mr. Whyte, in the fourth edition of *J. M. Kelly: The Irish Constitution*. They state the following:

Though none of the judges in the Supreme Court adverted to this point, it cannot be imagined that the ruling in X would permit abortion at any stage in pregnancy, no matter how late. Clearly if the foetus had developed to the point where it was or would soon be viable outside the womb, it would be possible to vindicate both the life of the mother and that of the foetus by inducing labour or performing a caesarean section, and it is disingenuous to suggest that X permits an abortion at that point.

If this is already stated Government policy and what the Government believes, and if leading constitutional academics agree, I am simply asking that we expressly state it in the legislation. The wording I have proposed is virtually identical to that presented to the Joint Committee on Health and Children by Dr. Simon Mills. On the whole, it is fair to say that Dr. Mills has proposed an abortion regime which would be considerably more liberal than that provided for in the Bill or, indeed, Article 40.3.3°. However, he felt that a clear and unambiguous term limit ought to be incorporated into the Bill. The amendment would compel the Minister for Health to seek medical advice on the gestational stage that can be considered to be the point of viability for all unborn human life. The amendment reflects the fact that the point of viability can change over time and has reduced steadily in recent decades due to advances in medical science. I hope that continues. I raised the issue informally with the Minister prior to Report Stage and I received a short response. The point argued by, presumably, the Attorney General is that the Government is reluctant to provide a specific referral pathway and prefers to leave it to doctors. There is a little too much of that in the legislation. I appreciate that doctors act in good faith but we should also give them guidance. Essentially, we should give legislative status to something that is already a constitutional reality. In a nutshell, at the point of viability the baby has to be saved. The amendment reflects the evolution of medical science.

Many of us have heard from concerned members of the public, including those who are in favour of a woman's choice when it comes to abortion, who are concerned about the idea that no limit is set out in the legislation. If we are providing a legislative framework, it is not good enough to legislate for certain aspects or interpretations of article 40.3.3° while ignoring others. This is what I am trying to achieve. I have acted in good faith. The amendment would allay the genuine concerns of many citizens. The vast majority of jurisdictions in which far more liberal abortion regimes are in place - the types of regimes I hope we never see in this country - nonetheless enforce gestational term limits for the carrying out of abortions. That is the minimum our citizens deserve and the minimum we should offer in terms of protection of the unborn.

Deputy Róisín Shortall: Amendment No. 27 proposes to amend section 4 in respect of

regulations. I have already expressed concern about the open ended nature of this provision for making regulations. It is unusual in legislation that the regulations proposed to be made are not specified in all instances. A number of speakers requested that the regulations be published in order to allow a full and thorough debate on the legislation. Unfortunately, that request was not acceded to.

Amendment No. 27 would insert a new paragraph (*c)* in section 4(1) to set gestational limits for the termination of pregnancy. Many people find it difficult to understand how the Government could propose a termination regime that does not set out gestational limits. There was limited public awareness of this issue until quite recently. The issue has to be addressed and, therefore, I propose that provision be made for the Minister to set term limits for termination. I am not being overly prescriptive because the thinking on this issue changes according to progress in medical science. In the UK, the limit was previously 28 weeks and has since been reduced to 24 weeks to reflect medical science.

This issue was raised at some length in the committee hearings by the Master of the Rotunda, Dr. Sam Coulter Smith. A number of speakers have quoted his comments. While his concerns were raised in a very clear and a stark way no serious attempt was made to address them. Dr. Coulter Smith suggested that premature delivery of a baby at 25 weeks gestation could lead to his or her death or result in significant developmental issues such as cerebral palsy. He pointed out that the outcome would be entirely iatrogenic, in other words, a result of the treatment provided. He raised the question of the responsibility of those clinicians who agreed to be involved in this process. What is the responsibility of clinicians who carry out a treatment that results in significant disability to the baby? This was a serious concern for Dr. Coulter Smith and his colleagues. The significant ethical dilemma and legal questions that have been raised by people working at the coalface have not been addressed satisfactorily by the Minister for Health. I call on him to set out the position on the ethical dilemmas that have been identified and the legal situation as regards clinicians who participate in a process having that outcome. People working in the field, and others, are entitled to a response.

When this issue was raised previously, reference was made to legal difficulties because the right to a termination in the case of a threat of suicide arises from a constitutional provision. That is one view or reading of the situation but Professor Gerry Whyte from the law school in Trinity College Dublin has outlined his very different understanding of the situation, which is worth rehearsing given Professor Whyte's experience in this area. He states:

> Recently the view has been expressed that it may not be constitutionally possible for the Oireachtas to prescribe time limits on the availability of abortions under the proposed Protection of Life during Pregnancy Bill 2013. In my opinion, this view is at least questionable. In enacting this legislation, the Oireachtas has to ensure that it complies with the terms of Article 40.3.3 as interpreted by the Supreme Court in the X case. In that case, the Supreme Court did not advert to the issue of any time limit on the availability of abortion necessary to avert a real and substantial risk to the life of the mother and this led some commentators to suggest that X was authority for the proposition that an abortion to save the life of the mother could be obtained at any point during the pregnancy. However in deciding the principle of law established by a court decision, one has to take account of the material facts of the particular case. In my opinion, one of the material facts of the X case was that, by the time the Supreme Court handed down its decision, Ms. X was, at most, only twelve or thirteen weeks pregnant and so it was clearly not possible to attempt to save the life of the foetus as well as the life of the mother. Consequently in my opinion, the decision in X

can have no application to cases in which the pregnancy is at such an advanced stage that it may be practicable to save both lives. To that extent, I would consider the right to an abortion established in the X case to be a time limited one that expires once it is practicable to save the lives of both the mother and the foetus. If I am correct in this, then it would seem entirely appropriate for the Oireachtas, if it saw fit, to legislate for time limits indicating at what point in a pregnancy it could be deemed practicable to save both lives.

I want the Minister to respond to those serious concerns that have been raised not just by Members but by two very eminent people in the medical and legal fields. Despite the fact that they were raised at the committee hearings and on Committee Stage, they have not been satisfactorily addressed.

Deputy Peadar Tóibín: While I am not saying that this legislation allows for abortion up to 39 weeks, it does allow for abortion up to the forced premature delivery of an unborn child. A child is alive and kicking in the womb at 21 weeks and would have legal protection in liberal abortion regimes, but it will not have legal protection in this regime. Whatever is said about the debate and whatever majority favours a particular view on this issue, when it comes to the issue of late-term abortions, a large section of society finds that issue extremely difficult. I have received a large number of e-mails from people who are pro-choice and who want legislation on the substantive issue of the X case, but who find it abhorrent that we would countenance legislating for the abortion of a foetus at 21 or 22 weeks. It is only the maximalist views that are calling for this. Most of Irish society does not call for it. It is important that when we discuss legislation, we discuss exactly what we are dealing with and whom it will affect. We are dealing with a 21-week-old baby who weighs 0.75 pounds, is ten and a half inches long and who is delivering kicks and nudges in the mother's womb. This child has hand and startle reflexes, footprints and fingerprints and a sleeping pattern that reflects the mother's activity, and can hear what is happening in the outside world. I am not saying this to create emotion, but it would be very wrong for us to legislate without talking about the exact details of what will happen and whom it will affect. There should be no taboo with regard to pointing out the effects of this legislation. All of us should be able to talk openly about its effects. We have been told that this is never really going to happen, but if we legislate, human behaviour will fill the space of that legislation. This has happened in other countries.

I am shocked by the appalling vista that this legislation opens up the possibility of disabling a pre-term child at the cusp of viability. I imagine this issue is very difficult for everybody. Longitudinal studies conducted on pre-term children have assessed the effects of their pre-term birth after two and a half years. The studies indicate that 50% of these children had no disabilities, 25% had some level of disability and 25% had a severe disability. The rates of disability of these children were assessed again at six and a half years. Twenty-two percent had a severe disability, such as inability to walk caused by cerebral palsy, very low cognitive ability, blindness or deafness. A further 24% were moderately disabled with cerebral palsy but were able to walk, had an IQ in the special needs range or had less severe problems with hearing and vision. Milder problems, such as the need for glasses or low cognitive scores, were also shown in 34% of children. It would be wrong for us to debate this issue and completely blank out that potential outcome of the legislation.

I am told this legislation will only allow this to happen in a situation in which the woman is going to commit suicide and therefore the child would be lost anyway. However, that is not what the legislation provides. It allows for a termination leading to disability on the basis of a psychiatric prediction with a 3% accuracy level. There is a clear and undisputed link with

regard to late-term abortions and damage to the mental health of the mother. We heard from Mrs. Justice Catherine McGuinness that the absence of time limits was due to the difficulty in qualifying constitutional rights. She said, however, that it was important to bear in mind that the X case had not involved an advanced pregnancy and, therefore, the question of term limits was not an issue decided by the court. Mrs. Justice McGuinness was of the view that it might be possible to build term limits into legislation and to see how the courts would deal with the matter.

Given the seriousness of this issue and given the broad swathe of support for at least attempting to establish limits, I ask the Minister to support amendment No. 129, which seeks to introduce a 12-week term limit.

Deputy Seamus Kirk: I support the sentiments of the previous speakers in regard to this issue. What we have in effect is a legislative juggernaut driving through this House. There appears to be a serious unwillingness on the part of the Minister to accept any reasonable amendments. There is no doubt that this is one area in which the Minister has the opportunity to accept reasonable amendments to the legislation. While this amendment will not deal with the misgivings and concerns of many in the House, its acceptance would nevertheless go some distance towards alleviating some of the concerns of the public.

The prospect of our providing for late-term abortions by writing them into primary legislation in the House is a hideous thought that bodes ill for the generations to come. I will not repeat the sentiments expressed by Deputy Tóibín and the Minister of State, Deputy Creighton, but I urge the Minister to give serious consideration to the possibility of meeting the request of the House to put a time limit on the termination regime envisaged under this legislation.

Deputy Peter Mathews: I would like to thank Deputies Shortall, Tóibín, Creighton and Kirk for putting forward these meaningful amendments and seconding them. We must make an effort to see the meaningfulness of what are otherwise just remote sentences, statistics or hypotheses, because this issue will affect real lives. As Deputy Kirk said, the vista of late-term abortion and the death, destruction or maiming of a foetus is appalling. It is equally repugnant, however, if such takes place in the early stages of pregnancy - at 12 weeks, for example, as in the X case. That is just as repugnant.

Deputy Shortall made an important point about revisiting the legal structure or architecture, as the Minister for Justice and Equality calls it. We do not want such an architecture if it is a repugnant architecture for a repugnant erosion of the values of life, the values of society and the values within families. We should remember that the child, whether it is at 12 weeks gestation or 20 weeks, is a child of a father and a mother, a potential brother or sister, a potential niece or nephew, and has a 51% chance of being a girl and, in due course, a woman, rather than a boy. We have to recognise the tangible connection of flesh and blood that we are dealing with here.

The issue Deputy Shortall is seeking to address is very important and these are extremely worthy amendments. The problem, however, is that they are part of the architecture of the overall hull of a ship which, as I have said, has a deep fault line. No matter how many lifeboats or life-jackets or light beacons we seek to apply, the hull of the ship remains cracked and flawed and always capable of falling asunder. We must be very careful of what we are about here. We might well be cement-setting across Irish society and all 166 of us in this Dáil will have our initials in that cement. If it is the wrong cement, our authorship will be there for a long time in the form of each individual's initials. I do not want mine there.

Deputy Denis Naughten: I support Deputy Róisín Shortall's comments regarding term limits. Provision in that regard is the very minimum that is required in terms of amending the legislation. I noted the Minister's response to my comments regarding late-term abortions. The difficulty, however, is that the legislation does provide for early inductions and early terminations based on induction. Deputy Peadar Tóibín outlined precisely the implications of this. They were also clearly articulated by Dr. Sam Coulter-Smith at the Oireachtas committee hearings and commented on by Mrs. Justice Catherine McGuinness. In fact, the latter advised that the Oireachtas should include term limits in the legislation. Deputy Shortall today pointed to a similar recommendation from another leading legal opinion in this country. I am confident in saying there is unanimity across the House on the issue of late-term abortions. Nobody wants to see early inductions happening which see babies born with profound disabilities, with all the huge implications that would carry.

I urge the Minister, at this 11th hour, to accede to the amendments put forward by Deputy Shortall. In her contribution, the Deputy referred to the issue of regulations. The Taoiseach promised last December - he was in the Chamber when I mentioned it last night - that the regulations would be published in tandem with the legislation. That has not happened. Instead the Minister has been given a blank cheque in regard to the regulations he can introduce on foot of the enactment of this legislation. A whole swathe of measures could potentially be introduced in this manner. I accept the Minister's word when he says he has no intention of bringing forward any significant regulations. The difficulty, however, is that he will not be Minister for the lifetime of the legislation. There will be others after him and he is providing those future Ministers with a blank cheque. We are going down a very dangerous avenue in this regard.

My amendment No. 32 arises from committee proceedings. I will not go into the detail of my Committee Stage amendment other than to say that I have heard a number of commentators and Oireachtas Members argue that in legislating for terminations of pregnancy we must include provision for suicide, in accordance with the X case judgment. The Government has taken a policy decision on this issue, as it is well within its rights to do. However, it is not right to say that we must legislate for suicide because we are legislating in this area. To demolish that particular argument, I have put forward amendment No. 32, which allows for regulations to be introduced specifically to deal with terminations in cases of medical emergency or where there is a medical threat to the life of the mother at any stage during her pregnancy. The provision includes the caveat that only regulations which are founded on current evidence-based medical treatments may be introduced, which means of course that suicide cannot be included. I do not want people leaving the House this evening and saying we had to legislate for suicide, that there was no choice. My amendment sets out a vehicle to provide the clarity that is required without having to deal with the suicide provision. As I said, the Government is within its rights to have taken a particular policy decision on the suicide issue, but it cannot be justified on the basis that to do so was unavoidable. It is not a valid argument, as my amendment shows.

I hope the Minister will, at the very least, accept the amendments put forward by Deputy Shortall.

Deputy Seamus Healy: This group of amendments includes Nos. 35, 37, 64, 108 and 110 in my name. The purpose of my proposals is to include in the legislation the full test in the X case judgment by adding the words "which may be neither immediate or inevitable" in the various sections. The objective here is to clarify for clinicians and for women the exact position as set out in the X case decision. I do not understand why the Minister has not included this particular qualification in the legislation. He has said time and again that the Bill is implement-

ing the judgment in the X case. What he has done, however, is include some but not all of the test set out in that case.

The report of the expert group on abortion, in section 6.2, Test to be Applied, states:

> The Supreme Court in the X case held that the correct test was that a termination of pregnancy was permissible if it was established as a matter of probability that:
>
> 1) there is a real and substantial risk to the life of the mother; and
>
> 2) this risk can only be averted by the termination of her pregnancy.

The section goes on to say: "It is not necessary for medical practitioners to be of the opinion that the risk to the woman's life is inevitable or immediate." That is the test set out in the X case, as supported by the expert group. The Minister tells us he is implementing the X case decision and the recommendations of the expert group, yet he has left out this very important part of the test.

It is absolutely necessary to have clarity for clinicians and women in this situation. It is essential that this group of amendments be accepted by the Minister. It is more important that they be accepted and included in the legislation because the Minister and the Government have refused to deal with the question of inevitable miscarriage. The amendments would clarify the position for clinicians and women. The current position which will obtain after the passage of the legislation is that a medical condition due to pregnancy which is not life-threatening such as inevitable miscarriage must be allowed to become life-threatening for the necessary termination of pregnancy to be legal. That will continue to be the case after the legislation is passed, if it is not amended. The amendments I have tabled in this group are not as adequate as a provision dealing with inevitable miscarriage would be, but they would go some way towards clarifying the position for physicians and women. I do not understand why the Minister is refusing to include the full X case test in the legislation. I can only assume it is a question of political pandering to Fine Gael backbenchers.

Deputy Bernard J. Durkan: There is no pandering here.

Deputy Peter Fitzpatrick: I have never endured so much mental anguish and torment as I have over this decision. The past six months have been very difficult as I debated the decision I must make. I was selected as a member of the Oireachtas Joint Committee on Health and Children. I am opposed to abortion. I met the Minister for Health, Deputy James Reilly, on several occasions and spent hours discussing my concerns with him. I am satisfied he is not introducing abortion on demand. He is putting in place safeguards to deal with the legal vacuum created by the Supreme Court's judgment 21 years ago. In the Dáil I have called for further safeguards to prevent the law from being abused. Specifically, I have called for the identity of medical professionals certifying that a termination of pregnancy is necessary to be recorded. I have also called for reports with detailed statistics for terminations to be laid before the Houses of the Oireachtas annually. I am reassured that the legislation was amended on Committee Stage to include both of these amendments. I was reassured when the Minister tabled amendments this week to provide further clarity for doctors in assessing a woman where the foetus is at, or close to, the point of viability in order that they will be mindful of their responsibilities to both patients, the mother and the baby.

As someone who is opposed to abortion, this has been a difficult personal journey. The

legislation strikes the right balance. It protects the life of the woman, while respecting the life of the unborn. It contains significant requirements for transparency and safeguards to prevent the law from being abused and leading to abortion on demand. For this reason, I will vote in favour of the Protection of Life During Pregnancy Bill in the Dáil.

Deputy Olivia Mitchell: I will speak to a number of the amendments in this grouping. Last night I mentioned a minor worry I had about the absence of the words "imminent nor inevitable" which were part of the original Supreme Court judgment. To me, this is the critical point of the legislation because it will have most application in practice. I am talking particularly about women with pre-existing medical conditions, or those who develop such medical conditions during pregnancy, such that the pregnancy poses a threat to the life of the mother. In the current situation many women, after consulting doctors, are given information that leads them to travel to England. Many of the women concerned are very sick and some are undergoing cancer treatment. My hope for the legislation is that the practice will stop because that is the intent of the legislation. The point of it is to give effect to the Supreme Court judgment in the X case. The Minister has said this is the intent of the legislation and clearly believes it is. If so, it should be included in it to provide clarity. Its whole purpose is to provide clarity. Why would we miss this opportunity?

During the hearings it was clear to me from a presentation made by representatives of the Irish College of General Practitioners that their opinion was that the legislation would apply only in emergencies. If there is a lack of clarity, the practice of women having to travel to England will continue or, worse, doctors will procrastinate until a threat becomes imminent and may be irreversible. We should grasp the opportunity presented by the legislation to include the words in the Supreme Court judgment that the threat to life does not have to be imminent or inevitable. If we do not include them, I ask the Minister to include them in guidelines because the legislation is of real importance to women in this situation. There will be very few cases of suicide and I hope also emergencies will be few in number. Including these words in the legislation might reduce the number of emergencies.

Deputy Richard Boyd Barrett: Do I have to move the amendment in my name?

An Leas-Cheann Comhairle: No; each amendment will be moved when we get to it.

Deputy Richard Boyd Barrett: One aspect of the case of Savita Halappanavar was doubt and hesitation about at what point there was a risk to life. If this legislation has a purpose, it is to clarify the position and remove the doubt or anything that contributes to hesitation on the part of doctors to intervene decisively to save a woman's life as soon as there is a real and substantial risk to her life. Part of the Supreme Court test which has been deliberately included to clarify the point in determining what is a real and substantial risk is that the risk has to be real and substantial; it does not have to be immediate or inevitable. That is a very important clarification which can give confidence to a doctor to intervene where he or she believes there is a risk.

When we put forward this amendment on Committee Stage, the Minister used the word "superfluous". I point out that his previous amendment inserts in each individual section what was included in the definitions section, namely, the need to balance the right to a lawful termination in a situation where there is a real and substantial risk with a reminder to the doctor. The Minister has said we need to include it in every section because the doctor may not read the definitions section. It is a reminder to say he or she must protect the right to life of the unborn before he or she makes that intervention to protect the life of the woman. That, it appears, is

not superfluous but our amendments are.

In considering how to vote on the Bill, as pro-choice Deputies, we want to see movement. We wanted to vote for the Bill but this is another example, if the amendments are not accepted, of how all of the concessions made during the course of the debate have been to one side, which wants to restrict as much as possible the intent of this Bill which is to protect the life of women. When we table amendments which seek to clarify for and give certainty to doctors on when and how they can intervene to the protect the life of a women, the Minister states they are superfluous. The Minister refuses to accept such amendments from us and shoots them down. That is an indication of a fudge which is problematic and can lead to the sort of hesitation which can be decisive in the case of women's lives when they are at risk. Maybe the Minister will prove me wrong and accept these amendments which are entirely reasonable and accord with the Supreme Court judgment.

Deputy Bernard J. Durkan: In response to the issue raised by Deputy Naughten on the definition of a term at which an intervention should or could take place, I am not entirely certain as to what is indicated here. It would appear that once a term is imposed, there is a time at which the life of the woman becomes the issue and that her life is deemed to be no longer a major issue. The Supreme Court had to deal with the situation whereby there was an equal right to life of both parties and when one introduces a situation where one party or the other gets a superior right to life, surely that is in breach of the constitutional amendment, Article 40.3.3°, wherein both the unborn and the mother have an equal right to life.

That is the nub of one of the matters that we have been discussing for quite some considerable time. We have heard references to the Supreme Court decision to the effect that it was wrong on the basis that it did not hear all of the evidence but the court decision had to be made on the basis of the evidence presented to it at the time. The problem then is this: if the presumption is that both the unborn and the mother have an equal right to life - that was decided by the people - then introducing anything else at that stage tilts the balance in favour of one or the other. The court decided how that would be. The court's decision is the final decision and it cannot be changed. It has been suggested by Members, whose views I fully respect on this subject, that we should hold another referendum and look at this matter again. The problem with this is that it has been looked at. The people looked at it as well and the people made a decision. The people made a decision on suicide as well and they made that decision, not once but twice. They made it twice - a clearcut decision, no doubt about it. I am neither a lawyer nor a medical professional, and I have no competence in the area at all, but it would appear, at least, to my mind, that once one intervenes and sets a date by which a termination can take place - or, in the reverse of that argument, cannot take place - then that shifts the balance in a way with which the Supreme Court did not agree, and we must accept that.

Whether we like it or not, the decision of the people is paramount. It was already decided in a referendum. Subsequently, the Supreme Court interpreted the decision of the people and made it quite clear. In the aftermath, we have seen numerous persons on all sides of the argument suggest what if, maybe in different circumstances, something had happened and, maybe, if other information had been made available. I do not accept that. Courts make decisions and the Supreme Court makes the supreme decision.

Deputy Liam Twomey: Terminations in every other jurisdiction for our patients are based on the 100% destruction of the foetus whereas in the limited cases that this legislation will apply there is a completely different ethos. That should be the basis of how we discuss this legis-

lation during the course of the night. This is the only contribution I will make on this.

The ethos of the Bill is about the early delivery of the baby from any point up to 22 to 23 weeks. It is not about the destruction at all. That means for all of the second half of the pregnancy there is the possibility that we can successfully deliver the baby and give him or her the full care that he or she requires, and that is where the pregnancy is viable.

In all other cases of very early pregnancy that are being talked about, some Members have mentioned here pregnancies of 12 weeks and under. Young girls are buying RU-486 on the Internet to terminate their pregnancies with no care from doctors. We are not involved, we do not know what is going on. We only see the complications.

When I was a medical student, one incident I always remember is that of the late Ms Ann Lovett, a young girl who delivered her baby in Granard, County Longford. She died and the baby died. It was her ignorance and it was the arrogance of others who decided that they were not going to be the guardians of her wound that contributed to what happened there.

Deputy Ruairí Quinn: Hear, hear.

Deputy Liam Twomey: Even though my ethos is pro-life, we need to focus ourselves a little more for the rest of the course of this debate on what we are doing. The Members are wandering all over the place in this debate. I was wondering if there were 120 general practitioners up in the Visitors Gallery, would they be able to work out what we are legislating for here tonight. We need to be far more clear on the way this debate is running.

It would be quite difficult to explain to a patient, unless one was deeply involved in this legislation, what this legislation means. In what the Minister is doing, first and foremost, the focus is to save the life of the baby and the mother, and it is all about the early delivery. It is a completely different ethos to some of the red herrings I have seen thrown into this debate. I hope we refocus for the rest of the night so that we can understand where this is coming from.

Deputy Mattie McGrath: I refer to amendments Nos. 22 and 27. The kernel of the issue is here. There are significant concerns about it. Amendment No. 22 seeks to insert:

> " "viable", in relation to a pregnancy, means a foetus or embryo that is, or would be expected to be, capable of surviving independently outside the womb by reason of its gestational age;".

On amendment No. 27, on termination, there is no time limit at all. That is a retrograde step.

As I stated previously, I want to point out to the Minister for Health that a notice by a Ms Jane Murphy has been served in the High Court on the Taoiseach and on the Minister, Deputy Reilly, as plaintiffs. While it was heard and was disallowed for the time being, the right to appeal was granted. The motion sought injunctions preventing the respondents usurping the will of the people. Members mentioned the referenda, how the people decided and what happened on those occasions. We believe that the people are sovereign in this area and they should have been consulted again, and a referendum should have been held.

The Ministers are acting here, as the Taoiseach and the Government are, in the knowledge that an action is being taken. Indeed, this morning the Minister, Deputy Varadkar, on national radio stated that the Bill should be sent to the Supreme Court. The Minister, Deputy Howlin, stated he was surprised with me and others in this action and his own colleague had stated ear-

lier that it should be referred by the President to the Supreme Court.

Deputy Dara Calleary: I refer to amendments Nos. 49 and 61. On Second Stage, I spoke of my concerns on section 9, while supporting section 8. Following my speech on Second Stage, I met the Taoiseach informally at a constituency function. He took the time genuinely to go through my concerns. In that regard, I appreciate and fully accept his bona fides, and those of the Minister, in terms of the tightness of this legislation. However, I expressed on Second Stage my concern about the looseness of some of the language and that those who do not share their bona fides may use this for purposes which the Minister may not intend.

7 o'clock

In my amendments, Nos. 49 and 61, where it is stated in sections 8(1) and 9(1) that an unborn life is ended, I propose a change from "is ended" to "may be ended", so that a termination does not become the default option by virtue of language and words used and therefore become the expressed default for treatment in the cases. This is a minor change and I ask the Minister to consider it. Deputy Naughten referred to the same point when he said the intentions of those in the Chamber tonight might be completely different from how the law will be interpreted in 15 or 20 years' time. We must ensure tonight and subsequently in the Seanad that we tighten the language so that the intentions of those who are proposing this Bill, and using those intentions to give assurances to those opposing sections of the Bill, will remain clear.

Deputy Catherine Murphy: The Bill deals with the equal right to life of the woman. I have set out my own position in that I do not think the Bill goes far enough, but we have to deal with the parameters in front of us. This Bill is supposed to provide legal clarity. The amendments tabled by myself and others proposing to include the words "neither immediate nor inevitable" give that clarity which should be implicit in the legislation and clear for all to see. Deputy Liam Twomey wondered whether, if the Visitors Gallery was full of doctors, would they understand what we are talking about. If the phrase "neither immediate nor inevitable" was included, I think it would give some very important clarity, particularly when problems that turn a risk to health into a risk to life can be of very sudden onset. This was illustrated very recently and very unfortunately. The quite punitive penalties of 14 years' imprisonment or an undetermined fine must be examined in the context of this terminology. I certainly do not want to see clinicians erring on the side of caution where there would be a risk to life in order to ensure that there is a certainty of avoiding prosecution. Our proposals would provide much more safety for the woman and it would give some certainty and clarity to clinicians. I urge the Minister to accept those amendments.

Deputy Terence Flanagan: There is genuine concern and unease among Members of this House and members of the public about the issue of late-term abortion or termination. There is concern that this could lead to death of the unborn or disability. The concern is that there is no term limit. I ask the Minister if the regulations have been received and when they will be published. Will they contain detail and content regarding late-term abortion and deal with the genuine concerns about this issue?

I support this group of amendments and, in particular, amendment No. 22, in the name of the Minister of State, Deputy Lucinda Creighton. This amendment proposes to strengthen the legislation by making it an offence for an abortion to be carried out under sections 7, 8 and 9 where the unborn child is viable. It reinforces the Government's intentions in this area so I do not see why there should be any difficulty or reluctance on the part of the Minister in accepting

this amendment.

Deputy Michael Creed: I will speak on amendments Nos. 22 and 27 and pursue a point raised by Deputy Calleary. There is much confusion among the public about gestational limits in the legislation. It is a very emotive issue. I ask the Minister to clarify the point. As I understand, the danger in providing for a gestational limit in the context of a woman whose life is threatened during pregnancy is that a situation is reached when the woman is informed she is past the point of rescue. I have listened to Deputy McGrath and Deputy Terence Flanagan. It is illogical to say that nothing will be done to save the woman's life. However, if the woman's life is sacrificed then so is the life of her unborn child. I ask the Minister to clarify that issue because this is about the treatment of women whose lives are in danger. If a gestational limit is introduced, be it ten weeks, 20 weeks or 30 weeks, a woman who is sick in her 11th week or 21st week or 31st week, in a manner that threatens her life, will be told she is past the point of rescue. That is a barbaric proposal to be included in legislation which deals with saving lives.

I also have some concerns about the definition of "viable" used in amendment No. 22. It refers to the capacity to survive independently outside the womb by reason of gestational age. If a woman is certified as entitled to a termination at 23 or 24 weeks, that child is viable but not independently viable outside the womb. We need to be careful about having an objective that is desirable but using a manner of expression that may result in our not achieving the objective. I want to tease out that point a little further.

I refer to sections 7, 8 and 9. In the context of amendment No. 49 and similar amendments, I ask both Ministers whether it is an inevitable consequence that an unborn child will die as a result of the certification. If it is not an inevitable consequence then surely these amendments make sense.

Deputy Brian Walsh: I will be brief to avoid repeating what I said on Second Stage. I wish to speak on my amendment, No. 59, which relates to gestational time limits. My amendment is in respect of a time limit under section 9, not where there is a medical emergency or a physical threat to the life of the mother but rather where a mother presents with suicidal ideation. The absence of gestational time limits raises the prospect of gravely troubling scenarios, with the possibility of devastating outcomes for both the mother and the child. One such scenario, which was raised by Deputy Peadar Tóibín on several occasions, is that of a termination of pregnancy - I emphasise that I am referring to terminations under section 9 only - at 24 or 25 weeks when the child is on the very cusp of viability. As Deputy Twomey correctly pointed out and as the Minister has said on several occasions, every pregnancy ends in a termination. In the vast majority of cases, that termination results in the birth of a healthy child. At 24 or 25 weeks the child may very well survive the termination, but if prematurely induced it is exposed to a variety of incurable conditions, possibly consigning it to a lifetime of disability and perhaps of living in an institution if the parents do not want the child.

Although many have argued against it, I welcome the fact that a gynaecologist will be on the three-member team that will decide whether to grant a termination under section 9. The presence of a gynaecologist may very well influence an extension of the pregnancy. However, the absence of a time limit is unacceptable in my view.

Deputy Billy Kelleher: I also tabled amendments Nos. 47 and 54 on Committee Stage and I also discussed amendment No. 80 previously. They are straightforward and say every effort must be made to save the life of a child where viable. It is a statement of the obvious but

it reaffirms the thrust of the legislation and Article 40.3.3°. However, I accept the Minister's comment that this is provided for under the legislation anyway and there is no need to make my amendments.

I am speaking in a personal capacity and not on behalf of my party. I find when we discuss amendments relating to viability and gestational terms and time limits that I would oppose the legislation if I thought for a moment that we had decided a baby at 34 weeks could be taken from the womb and destroyed. It is repugnant to me to even consider that but, more important, it is repugnant to the Constitution and the legislation before us. When we discuss this issue, as Deputy Twomey said, we should refer specifically to the legislation. If we talk about gestational limits, we are putting forward a situation where we are pitting the life of the woman against the life of the unborn. Clearly, that is what we will do because if we decide that a term limit of 20 or 22 weeks, the only time under the legislation or the Constitution that a termination can take place is in the event of there being a real and substantial risk to the life of the woman. That is the overriding issue at stake here and if we were not to intervene, the life of the woman would pass, as would the life of the unborn. If we move to debating whether the limit should be 18, 20, 22 or 24 weeks - let us get personal about this - what we are saying is if my wife is in an operating theatre and she is told they have to intervene to terminate the life of the child, they cannot intervene because she is gone beyond 24 weeks. That is what we would be providing for in the legislation. We would clearly be providing in the legislation that we cannot intervene to terminate the pregnancy because it would be in conflict with the legislation if we put in gestational periods. We need to be conscious of what we are trying to put forward in this legislation.

Outside the House, there are strong views on this but to raise issues that are not relevant to the Constitution and that are at variance with the Constitution and the X case judgment simply undermines what we are trying to do, which is to pass legislation that has one fundamental overriding principle: to save the life of the woman when there is a real and substantial risk and to make every effort to vindicate the life of the unborn. Once gestational periods are put in, one is pitting the life of the woman against the life of the child. That would be repugnant to me and to the Constitution. I make that point because many in my party have strong views on this issue but when one goes to the core of it, we are putting in legislation something that has been in place for the past 21 years but, more important, we are trying to save the life of the woman and, in doing so, we are making every effort to save the life of child. When we talk about viability and gestational terms limits, we are going down a dangerous road because we will force doctors to look a woman in the eye and say "We cannot intervene to save your life because the term limit under the legislation has been exceeded". I urge genuine caution in the discussion on this issue.

Deputy Bernard J. Durkan: Hear, hear.

Deputy Michael Healy-Rae: With regard to amendments Nos. 22 and 27, I would like to reiterate caution and trepidation regarding gestational time limits because of the pitfalls and trouble that could cause down the road. I would like to register my concern about that.

Minister of State at the Department of Health (Deputy Alex White): Deputy Kelleher put the point correctly. There is no answer to his point-----

Deputy Bernard J. Durkan: Exactly.

Deputy Alex White: -----because the plain meaning of a gestational limit must mean that

the test of a real and substantial risk goes out the window after it is reached. How could the Deputy be wrong on that? It is manifestly against the intention of the legislation to introduce such limits. They would undermine the legislation and change the meaning, giving a right with one hand and taking it back with the other. The right would be given up to a particular gestational limit and taken away after the limit is reached. That is not acceptable to the Government.

I refer to the immediate and inevitable issue raised by Deputy Boyd Barrett. The Attorney General in the X case said that the test should be that the risk had to be real, immediate and inevitable and he lost that case. The Supreme Court said "No" and said there has to be a real and substantial risk. The court disagreed with the Attorney General that the risk had to be immediate or inevitable. We discussed *obiter dictum* with the Minister of State, Deputy Creighton. There is no necessity to put something like that, which does not apply, into the body of the legislation. That is why the Minister correctly used the word "superfluous". It is not necessary because the risk does not have to be immediate and inevitable. Even if one does not accept that, one is then entering into a situation where if those words are inserted in the legislation, they would have to be defined. One could not just say "immediate and inevitable". They would have to be included in the definitions section and doctors in a clinical environment would have to be told what constitutes something inevitable and what constitutes something immediate. We do not know what would arise in a clinical environment as to how precise the definitions should be. One cannot prescribe to doctors and the clinical world what precisely is immediate or inevitable because human life and the clinical environment, in particular, especially in the situations we are dealing with under this legislation, are not certain and doctors have to have the ability to act within their professional judgment to determine the question of risk. Everything is raised in good faith and I acknowledge this has been raised in good faith by the Deputy. However, I appeal to him to recognise that it is not necessary and potentially harmful to the legislation.

Acting Chairman (Deputy Charlie McConalogue): I call Deputy Tuffy, who has not contributed previously.

Deputy Joanna Tuffy: I understand the concerns of Deputies who have raised this issue and I have thought about it but I have read information about what happens in other countries. It has been stated they have time limits. While the UK or the Netherlands, for example, have time limits, they have much more liberal regimes than what is proposed under this legislation. Their time limits apply to the more liberal reasons for abortion. My understanding is the limit in the UK is 24 weeks but there is no limit if there is a risk to the life of the mother.

Deputy Lucinda Creighton: There is a little confusion about this because essentially what we are trying to do is to insert in the legislation something the Minister has told us is constitutional. It is not a question of trying to do something that in any sense contravenes the Constitution or of doing something additional. We are simply saying we recognise it is constitutional and, therefore, we feel it is necessary to insert it in the legislation. It is not about putting a time limit on any medical intervention to save the life of a woman. There might be a misinterpretation of the intention or the clear reading of the amendments that have been tabled. Rather, it puts a time limit on the destruction of the life of the unborn and a clear obligation and onus on the medical professional who intervenes to save the life of the unborn. I have a document from the Minister's office that was sent to me yesterday. The second sentence reads "as currently drafted the Bill does prohibit the killing of a viable foetus and including a reference to viability is not necessary". The acceptance is there. The Bill does prohibit the killing of a viable foetus. What I have tried to do in my amendment is to define viability for the sake of clarity and enable the Minister to set it out in regulation, taking into account best medical practice and obliging the

Minister to take all available advice to set out what that viability actually means. That is all we are asking him to do. The amendment does not for one second restrict or prohibit the capacity of a medical professional to intervene to save the life of the woman. It simply says that after a certain period when viability is reached, there is a clear legislative, not just constitutional, onus on that medical practitioner or practitioners to save the life of the unborn. That is all. It is simple. It is black and white.

Deputy Peadar Tóibín: Deputies Creed and Kelleher said that if we put a time limit on this we are saying to women that they have reached the point of no return with regard to treatment. That would be true if one erased all the medical evidence we heard at the oral hearings of the Oireachtas Joint Committee on Health and Children, where witnesses said there is psychiatric treatment, based on medical fact, that would treat individuals in this situation, that the treatment covered in the legislation will do more harm than good and that the prediction accuracy is at 3%.

Deputy Róisín Shortall: I would like to clarify my position on my amendment No. 27. I absolutely welcome the provisions under sections 7 and 8 and, as far as I am concerned, there should be no question whatsoever of risking the life of the mother in the circumstances covered by sections 7 and 8.

The issue I have sought to address, which was raised at the committee hearings and on Committee Stage of the Bill and did not receive a satisfactory response, is that raised by the medical profession in respect of a woman who presents as being suicidal when the unborn is close to or just past the point of viability and where the doctor needs to make a call on the competing rights of the woman and the unborn. That poses a difficulty for the medical profession in a situation where there is no evidence to show that termination is a treatment for a person with suicidal ideation or intent and where there is a clear understanding on behalf of the doctor concerned that termination of a pregnancy in those circumstances, at that point of gestation, is highly likely to result in a significant disability for the child. I believe those legal and ethical issues which the medical profession raised have not been addressed. In those circumstances there are options for the doctor concerned to offer therapeutic treatment which has to be weighed up in terms of its ability to address the woman's suicidal ideation and which might also preserve the life of the unborn to a point when the risk of damage to that unborn child is minimised. That is the kind of very difficult legal and ethical call that doctors say is impossible for them to make without a gestational limit.

Deputy Richard Boyd Barrett: The Minister of State referred to Deputy Kelleher's intervention, in which he pointed out that one was giving a right and taking it away. He and the Minister of State are absolutely right about that. The Minister, however, is possibly guilty of doing the same thing himself in the way that he has framed this legislation. We have already made the point about the obstacles being put in the way of women's accessing abortion because of the onerous terms under which they can get it in cases of suicidal intent, requiring three doctors, three on a review panel and so on. That gives the right and takes it away. Nobody is going to avail of that. Nobody is going to go through that system, they are going to go to England.

This legislation could at least clarify the situation in cases such as the Savita case where clearly there was hesitation and uncertainty. That is the point of the Bill. We need to give that certainty. This Bill would achieve something if it achieved that. The Minister of State cites a difference of opinion in the Supreme Court in the discussion between the two judgments. I am not aware of the one to which he referred but he said it was a response to somebody else who

believed-----

I do not know why the Minister of State is shaking his head. I will just repeat the point, the test that was put down in the Supreme Court was that the real and substantial risk did not have to be immediate or inevitable. That was put in to clarify what a real and substantial risk is. That is why it was said. It was to clarify the risk. It was necessary to clarify it because it was unclear and that is the point. Words are slippery. The Minister of State knows that as a lawyer and we need clarification - it is not funny.

Deputy Brendan Howlin: The Deputy knows them.

Deputy Richard Boyd Barrett: As an English graduate I know words are slippery.

Deputy Pat Deering: An English graduate.

Deputy Richard Boyd Barrett: As a lawyer the Minister of State knows they are slippery. That is why the clarification is necessary. That is the point. If there was clarity we would not have needed the legislation in the first place. This provides that clarity and that is why that clarity was in the test.

Deputy Bernard J. Durkan: I strongly support the view of Deputies Creed and Kelleher and I disagree with the point of view currently being expressed. The Minister of State has already set it out quite clearly. This is a crucial part of what we are discussing at present. Let us pause for a moment and put ourselves in the position of a woman who is pregnant who has a crisis and whose life is in danger. If we follow the line of thought that has just been promulgated, and a time limit is introduced beyond which there can be no intervention to save her life, she will die. That is a fact.

Deputy Peadar Tóibín: Psychiatric therapy is available.

Deputy Lucinda Creighton: What about therapy?

Deputy Bernard J. Durkan: I feel as strongly about this subject as anybody else in this House, with no disrespect to anybody. I respect my colleague, Deputy Creighton's views but she is wrong in this instance. The points already raised by three other speakers should be borne in mind, particularly because if we introduce an amendment that sets a limit beyond which no intervention can take place to save the life of the woman because of the viability of the unborn child, the woman will die.

Deputy Peadar Tóibín: Nobody is saying that.

Deputy Bernard J. Durkan: The Supreme Court already made a decision on this. It came to the conclusion that on balance it had to make a decision and it made the decision given the evidence that was made available and what might be likely to happen in similar cases. That is always the case. The decision was right. I totally disagree with the people who have said again and again that the Supreme Court was wrong. Even some of the judges reviewed the situation in the aftermath. At the time the court made the decision on the basis of the evidence presented to it and had no option but to do that and it did the right thing. I appeal to the Members please to remember the consequences if we go wrong on this issue. A woman, who could be the mother of other children, might well be condemned to death because we saw fit to put in place a provision which could dictate circumstances in that regard.

Deputy Peter Mathews: I support amendments Nos. 22, 25 and 27, in particular. I remind the Minister about the repugnant dilemma which the psychiatrists and obstetricians stated will arise where they will be obliged to deal with a woman who, in the context of section 9, is suicidal and who has been pregnant for fewer than 12 weeks, more than 12 weeks or up to 20 weeks. If the woman has been pregnant for fewer than 12 weeks, the outcome will be certain death for the baby. If she has been pregnant for approximately 20 weeks, the outcome will be almost certain injury if not destruction. These aspects are repugnant to the ideals and objectives of the medical profession as it is practised.

Gestational time limits should of course be brought into the equation if there is to be any proper and just application of what is a very unsatisfactory Bill. I invite the Taoiseach, the Ministers present, the Cabinet in general and all others involved to consider what Deputy Shortall said about the alternative put forward by Professor Gerry Whyte, who is a constitutional lawyer. In the context of what Deputy Durkan said, in the X case the gestational maturity of the baby that was lost through miscarriage rather than by means of abortion was 12 weeks.

Deputy Bernard J. Durkan: That is irrelevant.

Deputy Frances Fitzgerald: What we are discussing here are circumstances where there is a real and substantial risk to the life of the mother and that regardless of the stage the pregnancy has reached, she has the right to have her life saved. That is the key point.

Deputy Alex White: That is it.

Deputy Frances Fitzgerald: We do not want to compromise in this regard but that is what the amendments seek to do. If accepted, they would lead to a compromise being made in the context of saving the life of the mother. It must be remembered that the obligation in both the legislation and the Constitution is to the effect that every effort must be made to save the life of the unborn as well. Unlike other countries, we have an article in our Constitution, namely, Article 40.3.3º, which dictates that the life of the unborn must be saved. If we begin to compromise, however, and state that any risk of death to the mother must be set aside at some point in the pregnancy, we would then, in effect, be compromising her right to life.

Deputy James Reilly: Correct.

Deputy Bernard J. Durkan: Hear, hear.

Deputy Peter Mathews: I was referring to section 9, not section 7.

(Interruptions).

Deputy Alex White: Exactly.

Deputy Brendan Howlin: That is the point.

Deputy James Reilly: I would like-----

Deputy Róisín Shortall: That is not the same, it is entirely different.

Deputy James Reilly: Do I have the floor?

Acting Chairman (Deputy Charlie McConalogue): Yes.

Deputy Brendan Howlin: It is the point.

Deputy James Reilly: I thank everyone who contributed to the debate on this matter and to the wider debate on the Bill. We are dealing with a large group of amendments and, for the purposes of addressing them in a more precise way, I propose to divide them into smaller groups. In that context, amendments Nos. 22, 27, 32, 41, 47, 49, 53, 54, 59, 61, 85 and 129 seek to strengthen the Bill's provisions in respect of the right to life of the unborn. I am aware that concerns have been raised around the need to insert a gestation limit in respect of carrying out the medical procedures covered by the Bill. In this regard, it is important to stress again that the proposed legislation only covers situations where there is a real and substantial risk to the life, as distinct from the health, of a pregnant woman which may only be averted by termination of pregnancy. To be clear, it will only allow a pregnancy to be terminated in circumstances where it is expected that the woman will otherwise die. It has been suggested that the legislation should include a clear provision to that effect and also an explicit reference to viability. I reassure all Deputies that, as currently drafted, the Bill prohibits the killing of a viable foetus.

As previously stated, the Bill makes reference to a medical practitioner's reasonable opinion. This places a statutory duty on each medical practitioner required to form such an opinion for the purpose of legislation to have regard to the need to preserve unborn human life as far as practicable. This imposes a clear duty on medical practitioners to make every effort to preserve the life of a foetus that may be viable. The amendments to sections 7 to 9, inclusive, and 13 would express this in the body of the Bill. Sections 7 to 9, inclusive, are structured in such a way as to provide for a balancing of the rights of the unborn and those of a pregnant woman. The purpose of the legislation is not to regulate procedures which do not constitute abortion or to dictate the practice of obstetrics. To that end, using the word "is" as opposed to "may" and the phrase "may be" as opposed to "is ended" would lead to the inclusion of other procedures - for example, amniocentesis - which are not intended to be included here. Due to the unpredictability and complexity of these rare medical cases, it was not desirable to provide legislation for a specific referral pathway. Rather, it is deemed that standard medical practice will provide an appropriate mechanism for the process through which an assessment will be accessed. Furthermore, since the delivery of a viable premature infant does not constitute abortion there is no need to include mention of such procedures in the Bill.

The definition of "unborn" contained in the Bill protects the foetus from implantation until birth, including a foetus in the course of being born. This thereby closes off a potential legal irregularity in legislation which was identified by the expert group in its report on the judgment in the A, B and C *v*. Ireland case. The protection of the unborn from implantation is influenced by the Supreme Court judgment in Roche *v*. Roche & others which deemed that embryos acquire legal protection under Article 40.3.3º of the Constitution only from the moment of implantation. For these reasons, I cannot accept the amendments to which I refer.

The other amendments in this group apply to sections throughout the Bill and aim to add some additional wording in respect of the nature of the risk to life in order to indicate that while this must be real and substantial, it does not need to be immediate or inevitable. As discussed on Committee Stage and as highlighted by the Minister of State, Deputy White, these amendments are unnecessary. Section 8 provides for circumstances where the risk to a pregnant woman's life is immediate and, therefore, by default the risk addressed by sections 7, 9 and 13 does not need to be of such a nature. In such circumstances, I cannot accept these amendments either. It is clear that we cannot set a limit on a right. Nor can we say to women that if they have been pregnant for fewer than 24 weeks we can save them but that we cannot do so if they

have been pregnant for more than 24 weeks. The position is the same in respect of a cut-off point of 20 weeks. Clearly, it would be neither constitutional nor proper to try to limit women's rights in this way.

Certain Deputies referred to the liability attaching to doctors involved in carrying out these procedures. Once a procedure is carried out in accordance with the law, there is no legal exposure. The only treatment to avert a real and substantial risk to life is repeatedly referred to throughout the Bill. It is obvious that all other treatment modalities must have at least been considered - and some tried - before the relevant professional could consider that he or she could certify in a case of termination, particularly in the context of a threat of suicide.

I again thank Deputies for their contributions. I am aware that people in this House have strong views on this matter and that they are all acting out of good conscience and strong beliefs. In that context, I believe that the Bill, as constituted, will clarify the position for women in this country who require access to the services in question and for the professionals who are obliged to deliver them. The amendments, as proposed, are unnecessary.

Deputy Lucinda Creighton: There is a degree of confusion with regard to what is proposed in these amendments.

My amendment and some of the others are very much consistent with the constitutional interpretation of Article 40.3.3°. That has already been made clear to the Oireachtas Joint Committee on Health and Children by Ms Catherine McGuinness. Deputy Róisín Shortall also mentioned the Master of the Rotunda Hospital in terms of the uncertainty that will prevail for medical practitioners without the insertion of some form of amendment. I am quite flexible if the Minister is willing to engage with us to try to find an appropriate wording that would satisfy and deal with the concerns expressed by Dr. Sam Coulter Smith and others.

I want to make the legal point again. It is clear from the interpretation of Mr. Justice Gerard Hogan and Professor Gerry Whyte, two of the foremost constitutional lawyers in the country. They stated:

> It cannot be imagined that the ruling in X would permit abortion at any stage in pregnancy no matter how late. Clearly if the foetus is developed to the point where it was or would soon be viable outside the womb, it would be possible to vindicate both the life of the mother and that of the foetus by inducing labour or performing a caesarean section and it is disingenuous to suggest that X permits an abortion at that point.

That is all we are trying to clarify in this legislation. It is not about suggesting one life is superior to the other. It is not about, as has been emotively suggested in the Chamber, somehow restricting the rights of women. Why would I wish to restrict the rights of women or the right to life of Irish women? I am a woman; I am an Irish woman - why would I want to do that? That is not the purpose of the amendment. Its purpose is to ensure we do not create something that will potentially grow out of all control in the future, that does not give clarity to the legal profession and does not make it clear that at a certain point - that point being viability - while one, of course, makes every effort to save the life of the woman, one must also ensure one does not destroy the baby. That is the point. I ask Deputies to try not to misinterpret what I have said and what is written here in black and white.

Acting Chairman (Deputy Charlie McConalogue): Is the Minister of State pressing her amendment?

Deputy Lucinda Creighton: I will not press it because it involves a definition.

Amendment, by leave, withdrawn.

Acting Chairman (Deputy Charlie McConalogue): Amendment No. 23 was discussed with amendment No. 8.

Deputy Michael Healy-Rae: It has to be moved.

Acting Chairman (Deputy Charlie McConalogue): It would have to be moved. It is in the names of Deputies Mattie McGrath and Éamon Ó Cuív. We can move on.

Deputy Michael Healy-Rae: We have been asked to move it on their behalf.

Deputy Dara Calleary: They are not here.

Acting Chairman (Deputy Charlie McConalogue): They are not and they have to be.

Deputy Seamus Kirk: When it was discussed with the others in the grouping, was it not formally moved at that stage?

Deputy Brendan Howlin: We proceed amendment by amendment.

Acting Chairman (Deputy Charlie McConalogue): It would have to be moved now.

Deputy Brendan Howlin: Each amendment.

Acting Chairman (Deputy Charlie McConalogue): We are moving on.

Deputy Denis Naughten: That is not the determination the Leas-Cheann Comhairle gave us earlier. The Leas-Cheann Comhairle gave a different interpretation. He said that when we spoke to the amendment, it was moved automatically.

Deputy Brendan Howlin: No.

Deputy Denis Naughten: That was the interpretation the Leas-Cheann Comhairle gave earlier.

Deputy Frances Fitzgerald: That is not the case.

Deputy Brendan Howlin: It was never the case.

Acting Chairman (Deputy Charlie McConalogue): That is not my understanding of the position.

Amendments Nos. 23 to 25, inclusive, not moved.

Acting Chairman (Deputy Charlie McConalogue): Amendments Nos. 26 and 29 are related and may be discussed together.

Deputy Caoimhghín Ó Caoláin: I move amendment No. 26:

> In page 8, line 2, after "Oireachtas" to insert ", and be notified to the Joint Committee on Health,".

Regarding any change to the appropriate institutions list made by the Minister, the Bill, as presented, requires that such orders be laid before each House of the Oireachtas. The amendment seeks to have notification also sent to the Oireachtas Joint Committee on Health and Children. It would not require any specific performance, other than notification to the pertinent Oireachtas committee, in this instance, the Oireachtas Joint Committee on Health and Children.

The related amendment No. 29 seeks to do exactly the same in the case of regulations. Section 4(1) states:

> (1) The Minister may by regulations provide--
>
> (*a*) for any matter referred to in this Act as prescribed, or
>
> (*b*) for any matter that appears to the Minister to be necessary or expedient for bringing this Act into operation.

Section 4(3) states: "Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas". We receive a listing of all matters laid before the Houses of the Oireachtas and I am willing to put up my hand and acknowledge that these can slip by our notice. It is important to ensure there is a further safeguard for those for whom it is a primary responsibility - the members of the appropriate Oireachtas committee. They should not only be laid before the Houses of the Oireachtas but notification should also be sent to the committee, which would be a second flagging of a specific order or regulation initiated by the Minister. It would not compel the members to take any particular course of action. We recognise that orders and regulations come into force following a period of 21 days after they have been laid before the Houses of the Oireachtas where there has not been a resolution presented seeking to annul such orders or regulations. It would not of itself compel any action on the part of members, but it would be a safety net regarding the giving of due notice that those members who are most concerned, those who are given the additional responsibility of informing themselves of matters pertaining to health and all health-related legislation, would at least have a further flagging of a particular order or regulation the Minister may introduce under the legislation. It is eminently sensible and would require nothing more than notifying the Oireachtas committee in each case. I ask the Minister to consider both amendments favourably.

Deputy James Reilly: I accept the bona fides of the Deputy, but I do not propose to accept the amendments, as I do not believe they are necessary. Orders or regulations made under the Bill will be laid before the Houses of the Oireachtas, which includes members of the Oireachtas Joint Committee on Health and Children.

Deputy Caoimhghín Ó Caoláin: The volume of matters laid before the Houses of the Oireachtas is significant. The work of members of the respective committees, in this instance, the Oireachtas Joint Committee on Health and Children, a committee with a dual-portfolio responsibility, is voluminous when it comes to the perusal of statutory instruments, all matters pertaining to European directives, etc. The volume of the material, as the Minister's party colleagues and the committee chairman, Deputy Buttimer, will confirm, is significant. It is not that there will be anything seismic with either orders or regulations on this. As best practice, it is a reasonable request that not only should it be laid before the Houses but notification should be forwarded to the health committee. It is another safety net for those Members interested in what specific changes the Minister may initiate at any given time with this important legislation.

I thought the Minister would have accepted this amendment because it does not impact on

the Bill's intent or outworking. It is a simple internal house-keeping procedure. I am mindful there is a need for a number of such changes in the House.

Deputy James Reilly: Given the level of interest in this House in this Bill to date, it is unlikely any Member will omit to check on this report when it comes out.

Amendment put and declared lost.

Deputy Róisín Shortall: I move amendment No. 27:

In page 8, between lines 10 and 11, to insert the following:

"(c) to set gestational limits for termination of pregnancy.".

Amendment put and declared lost.

Deputy Denis Naughten: I move amendment No. 28:

In page 8, to delete lines 14 to 19 and substitute the following:

"(3) The Minister shall make regulations to provide for the procedures to be employed where a pregnant woman is unable to give informed consent.

(4) The Minister shall not make regulations under this Act without it being laid before and approved by each House of the Oireachtas.".

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

Amendment declared lost.

Amendment No. 29 not moved.

8 o'clock

Deputy Catherine Murphy: I move amendment No. 30:

In page 8, between lines 27 and 28, to insert the following:

"CHAPTER 1

Medical treatment lawful under this Act

Inevitable miscarriage

7. It shall be lawful to carry out a medical procedure in respect of a pregnant woman in the course of which, or as a result of which, a pregnancy is ended, where—

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

(b) subject to *section 19*, a medical practitioner, having examined the pregnant woman, has certified that an inevitable miscarriage is taking place.".

Amendment put:

The Dáil divided: Tá, 14; Níl, 128.	
Tá	***Níl***
Boyd Barrett, Richard.	***Bannon, James.***
Broughan, Thomas P.	***Barry, Tom.***
Collins, Joan.	***Breen, Pat.***
Daly, Clare.	***Browne, John.***
Donnelly, Stephen S.	***Bruton, Richard.***
Halligan, John.	***Burton, Joan.***
Healy, Seamus.	***Butler, Ray.***
Higgins, Joe.	***Buttimer, Jerry.***
Keaveney, Colm.	***Byrne, Catherine.***
McGrath, Finian.	***Byrne, Eric.***
Murphy, Catherine.	***Calleary, Dara.***
Pringle, Thomas.	***Cannon, Ciarán.***
Shortall, Róisín.	***Carey, Joe.***
Wallace, Mick.	***Coffey, Paudie.***
	Collins, Áine.
	Collins, Niall.
	Conaghan, Michael.
	Conlan, Seán.
	Connaughton, Paul J.
	Conway, Ciara.
	Coonan, Noel.
	Corcoran Kennedy, Marcella.
	Costello, Joe.
	Coveney, Simon.
	Cowen, Barry.
	Creed, Michael.
	Creighton, Lucinda.
	Daly, Jim.
	Deasy, John.
	Deenihan, Jimmy.
	Deering, Pat.
	Doherty, Regina.
	Donohoe, Paschal.
	Dooley, Timmy.
	Dowds, Robert.
	Doyle, Andrew.
	Durkan, Bernard J.
	English, Damien.
	Farrell, Alan.
	Feighan, Frank.
	Ferris, Anne.

	Fitzgerald, Frances.
	Fitzpatrick, Peter.
	Flanagan, Charles.
	Flanagan, Terence.
	Griffin, Brendan.
	Hannigan, Dominic.
	Harrington, Noel.
	Harris, Simon.
	Hayes, Brian.
	Hayes, Tom.
	Healy-Rae, Michael.
	Heydon, Martin.
	Hogan, Phil.
	Howlin, Brendan.
	Humphreys, Heather.
	Humphreys, Kevin.
	Keating, Derek.
	Kehoe, Paul.
	Kelleher, Billy.
	Kelly, Alan.
	Kenny, Enda.
	Kenny, Seán.
	Kirk, Seamus.
	Kitt, Michael P.
	Kyne, Seán.
	Lawlor, Anthony.
	Lowry, Michael.
	Lynch, Ciarán.
	Lynch, Kathleen.
	Lyons, John.
	McCarthy, Michael.
	McConalogue, Charlie.
	McEntee, Helen.
	McGinley, Dinny.
	McGrath, Mattie.
	McGrath, Michael.
	McGuinness, John.
	McHugh, Joe.
	McLoughlin, Tony.
	McNamara, Michael.
	Maloney, Eamonn.
	Martin, Micheál.
	Mathews, Peter.

	Mitchell, Olivia.
	Mitchell O'Connor, Mary.
	Moynihan, Michael.
	Mulherin, Michelle.
	Murphy, Dara.
	Murphy, Eoghan.
	Nash, Gerald.
	Naughten, Denis.
	Neville, Dan.
	Nolan, Derek.
	Noonan, Michael.
	Ó Cuív, Éamon.
	Ó Fearghaíl, Seán.
	Ó Ríordáin, Aodhán.
	O'Dea, Willie.
	O'Donnell, Kieran.
	O'Donovan, Patrick.
	O'Dowd, Fergus.
	O'Mahony, John.
	O'Reilly, Joe.
	O'Sullivan, Jan.
	Penrose, Willie.
	Perry, John.
	Phelan, Ann.
	Phelan, John Paul.
	Quinn, Ruairí.
	Rabbitte, Pat.
	Reilly, James.
	Ring, Michael.
	Ryan, Brendan.
	Shatter, Alan.
	Sherlock, Sean.
	Smith, Brendan.
	Spring, Arthur.
	Stagg, Emmet.
	Stanton, David.
	Timmins, Billy.
	Troy, Robert.
	Tuffy, Joanna.
	Twomey, Liam.
	Varadkar, Leo.
	Wall, Jack.
	Walsh, Brian.

	White, Alex.

Tellers: Tá, Deputies Richard Boyd Barrett and Seamus Healy; Níl, Deputies Paul Kehoe and Emmet Stagg.

Amendment declared lost.

Deputy Joan Collins: I move amendment No. 31:

In page 8, between lines 27 and 28, to insert the following:

"CHAPTER 1

Medical treatment lawful under this Act

Rape and incest, risk to health and risk to well-being of the woman

7. (1) It shall be lawful for a woman, following consultation with her general practitioner, to obtain a termination of pregnancy if—

(*a*) she believes her health, physical or mental, may be at risk if she were to continue the pregnancy,

(*b*) the pregnancy is as a consequence of rape or incest, or

(*c*) she believes it is in her best interests to do so.

(2) A medical procedure under this section shall be carried out by an obstetrician at an appropriate institution subject to the consent of the woman.".

Amendment put and declared lost.

Deputy Denis Naughten: I move amendment No. 32:

In page 8, to delete lines 30 to 35, to delete page 9, and in page 10, to delete lines 1 to 39 and substitute the following:

"7. (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, an unborn human life is ended where—

(*a*) the medical procedure is carried out in accordance with regulations under this section,

(*b*) regulations under this section shall not contravene current evidence based medical treatments, and

(*c*) regulations made under this section shall not come into force without being laid before and approved by each House of the Oireachtas.

(2) The medical procedure employed shall not impede all efforts to sustain the life of the unborn, after the complete emergence of the human life from the body of the woman, where it is potentially viable outside the womb.".

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

Amendment declared lost.

Amendment Nos. 33 to 37, inclusive, not moved.

Deputy James Reilly: I move amendment No. 38:

In page 9, to delete lines 3 and 4 and substitute the following:

"(ii) in their reasonable opinion (being an opinion formed in good faith which has regard to the need to preserve unborn human life as far as practicable) that risk can only be averted by carrying out the medical procedure,".

Amendment agreed to.

Amendments Nos. 39 to 41, inclusive, not moved.

Deputy Catherine Murphy: I move amendment No. 42:

In page 9, line 13, after "shall," to insert "only".

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 43 to 46, inclusive, 76, 96, 103, 104, 116, 117 and 137 are related and may be discussed together.

Deputy Caoimhghín Ó Caoláin: I move amendment No. 43:

In page 9, line 13, after "consult" to insert "with appropriate urgency,".

Amendments Nos. 43 and 76 seek to achieve the same outcome. They want to instill a sense of urgency in terms of the medical practitioners seeking to engage with a woman's consent with her general practitioner. Any reading of the requirements on the medical practitioners in respect of a section 7 certification *vis-à-vis* the risk of loss of life from physical illness, or a section 9 certification in respect of the risk of loss of life from suicide, will show that in the situation where the medical practitioners are concerned about the risk of physical illness or the risk of loss of life from suicide, there is no requirement to act with what I would view as appropriate haste. By inserting the words "with appropriate urgency" after the word "consult", section 7(3) would then read:

If practicable, at least one of the medical practitioners referred to in *subsection (1)(a)* shall, with the pregnant woman's agreement, consult, with appropriate urgency, with the woman's general practitioner (if any) for the purposes of obtaining information..

The same formula applies to section 9(4). Where the risk of loss of life is from suicide, I believe there is a need to emphasise the importance of due haste and of acting without any undue delay, and at times acting in the interest of the woman's health that may be in real and substantial risk.

I hope that Members and the Minister recognise that the language used in the Bill in both of these sections does not of itself compel the medical practitioners to act with due haste. While we can reasonably assume that they would do so in all cases, I think it is a requirement of us to indicate not only to medical practitioners what is expected of them, but as the dual purpose is

to give clarity to medical practitioners and certainty to women in pregnancy, the insertion of the words "appropriate urgency" serves both purposes. It provides clarity to medical practitioners and certainty to the women who may find themselves in situations of risk that no time will be lost in proceeding to acquire all of the relevant information if that is her express wish in respect of consultation with her general practitioner.

In this grouping, amendments Nos. 104 and 107 appear in my name and I wish to speak briefly to each of those. In amendment No. 104, I seek to reduce the number of days where the review committee would carry out its assessment of the woman's case on appeal. There is currently a provision in the Bill for bringing together a review committee to assess any referred refusal of a section 7 or section 9 certification within three days. A further seven days are provided to carry out deliberations, decide on an informed opinion and give a decision. Seven days is a long time in the circumstances that could and, I believe, will present. Accordingly, such a period is unreasonable and a shorter period would be more appropriate. These are highly qualified medical professionals who will avail of the opportunity, following three days of being together, to immediately embark on a full assessment of the case, including a full examination of the woman and a review of the salient information in her case, her appeal and circumstances. Four days is adequate time for the work they will be required to undertake. Accordingly, I commend amendment No. 104 to the House.

Amendment No. 137 states: "In page 14, line 32, after "shall" to insert "immediately"." This amendment pertains to the issue of conscientious objection. We must recognise that the language employed in this section refers specifically to a medical practitioner who has a conscientious objection. Section 17(3) provides that such a person "shall make such arrangements for the transfer of care of the pregnant woman concerned as may be necessary to enable the woman to avail of the medical procedure concerned". The language does not demonstrate any compunction on the part of the medical practitioner to act with the urgency the situation might require. For the sake of medical practitioners and child bearing women - whether now or in the future - for whom this may be a matter of life of death, it is important to add the word "immediately" after "shall". The Bill is not aimed solely at providing the necessary clarity and certainty for medical practitioners. It also has responsibility for conveying certainty to women who may find themselves in these situations. There can be no toleration of delay. If a person has a conscientious objection, he or she should state it and deal with the matter immediately. Although it may be correct in practice, I hope in all cases, to assume that the response will be immediate, if there is the possibility of urgency not applying in every case, a strong argument can be made for clarifying what is required by inserting the word "immediately" as proposed. I appeal to the House to accept the validity of the case I have presented on amendments Nos. 43 and 76 to provide for appropriate urgency, amendment No. 104 in respect of the number of days the review committee will be given to deliberate on cases referred to it and amendment No. 137 in respect of the requirement for immediacy in referrals by medical practitioners with a conscientious objection.

Deputy Catherine Murphy: I will try to avoid duplicating the points made by other speakers because I agree with most of them. We are discussing an exceptional situation involving very small numbers, given the restrictive nature of the legislation. There are already onerous obligations in terms of putting together a panel, but the community of clinicians involved is small and will probably be self-selecting within regions. This will happen in the context of an emergency arising from medical problems or where a woman feels suicidal. We must visualise such an emergency if we are to consider how these provisions will operate in practice.

I have tabled a number of amendments jointly with Deputies Richard Boyd Barrett, Joe Higgins and Seamus Healy. Amendments Nos. 44 to 46, inclusive, propose to insert the word "forthwith". Amendment No. 96 would require the review panel to establish a committee of review and make the relevant decision in one day rather than three. It would also require the committee to complete the review within three days as opposed to seven. That is not unreasonable in an emergency. I would have thought it would automatically begin in certain situations. In the context of suicide, I envisage that any delay would be torturous for someone who finds herself in that situation. It could even compromise her life because of the length of time the matter was under discussion. I, therefore, urge the Minister to accept these changes.

Deputy Seamus Healy: Amendment No. 103 deals with the amount of time given to the review committee to carry out its deliberations and reach a decision. The Bill currently provides for a figure of seven days. When we add the three days provided for establishing the committee, the period comes to ten days. As Deputy Catherine Murphy pointed out, these provisions will apply in cases which require urgency in establishing a committee and reaching a decision. A more reasonable time period, particularly in making a decision, is three days. That would effectively reduce the overall period to six days. I hope the Minister can accept this reasonable proposition.

Deputy Alex White: Within this grouping, amendments aim to add urgency to the wording set out in the Bill, through the use of terms such as "forthwith" and "immediately". In addition, these amendments propose to reduce the timeframe specified in the Bill for the review process. As discussed on Committee Stage, legal advice has been received to the effect that the legal meaning of the term "forthwith" is "immediately". This qualification, as well as such proposed phrases as "with appropriate urgency" and "immediately", is unnecessary, as the Bill uses terms like "shall make arrangements" in this section which render such qualifications superfluous.

While I am conscious that the formal review process needs to happen in a speedy manner to safeguard the right to life of the pregnant woman concerned, it is important to understand that this process requires a number of steps which the HSE, as the convenor for this process, needs to take. The application for the review process needs to be assessed to ascertain the nature of the request, whether it concerns a section 7 or section 9 certification, the identification of the relevant medical practitioners, the making of logistical arrangements in regard to the convening of these medical practitioners, to their duty to examine the woman, and to her right to be heard or for someone on her behalf to address the review committee.

Therefore, reasonable timeframes are provided for in the Bill that strike a balance between the need to vindicate the pregnant woman's right to life and the logistical requirements of the process. During the drafting of this Bill, my officials consulted with the relevant professional bodies and I am satisfied that the timeframes provided are appropriate. In addition, it must be noted that these timeframes refer to an absolute upper limit and, depending on the clinical scenario at hand, the review process may take place much more speedily. Very often it will, as mentioned by Deputy Murphy.

Finally, were the pregnant woman's medical condition to deteriorate, provisions are made for her situation to be addressed through an emergency procedure under section 8. For those reasons, I do not propose to accept the amendments proposed.

As a general proposition, it is not really appropriate for us to operate on an assumption. I am not saying Deputy Ó Caoláin is doing this, but in general it is not good practice in legislation to

operate on an assumption that doctors would act other than in an expeditious manner. The assumption must be that they will act in a timely way. My understanding of medical professional practice is that time is of the essence. The principle inherent in best medical practice, which doctors are required to observe, is that they act in a timely way. While it may sound counter intuitive, to insert a requirement into statute that doctors should or must act "immediately" or "forthwith" would give rise to something which could take us into the opposite territory to that we want to achieve.

At the least, it would mean that we would have to put into statute a definition of what constitutes "immediate". We might think the English language is clear, but in the clinical environment, what is "immediate" may not be absolutely clear to us, even in terms of sending forward forms. Therefore, it may happen that we say something should be done "forthwith" or "immediately", but what if something else arises in that clinical environment? For example, a doctor might say to himself that he knows something is the first thing he should do, but now something unforeseen has arisen that should be done before the thing the statute requires him to do. That is not good territory for us to get into in the context of legislation. We should rely on doctors observing best practice and that they will operate with the appropriate urgency the Deputy proposes we require them to do statutorily. We should assume they will do that. In accordance with best medical practice and the guidelines of their profession, time is of the essence.

The other problem if we accept the amendment is that we would then end up having to define "appropriate haste". If we define "appropriate haste", we create a circular issue because we would then have to decide how to define "appropriate". We would have to ask the professions what was appropriate and this would bring us back to the proposition that the doctors are required to know what is appropriate, because it is inherent in medical and professional practice and standards.

Deputy Caoimhghín Ó Caoláin: I indicated in my contribution that I understood the assumption. I do not believe the concern must be grave in order to have us consider injecting the phrase with which I have tried to achieve better clarity. It is very important that we convey our expectations. The utilisation of "shall make" does not place a requirement on the medical practitioner to act even the same day. The Minister spoke about a situation where something else might arise, but something else might arise that is not relevant to the circumstances of the unfortunate woman in any given situation that may come under the remit of these medical practitioners. Something else might take them away to deal with something else, which is often the case. No doubt the Minister is familiar with the practice of particular acute hospital settings, where there is so much to be done and the general thrust of the day's workload is to move on.

We need to reflect strongly the requirement to act with appropriate urgency and immediacy in the situations I have described. That woman cannot wait for another circumstance to be attended to or addressed. It is the requirement of the system to provide adequate resourcing and staffing to ensure that where a situation such as this arises - where a woman's life is at risk, either due to physical illness or in the circumstances of section 9 certification in regard to the risk of loss of life due to suicide - these cases are priority cases that must be addressed and concluded before any other situation is undertaken.

We have experience and many examples of the situation in hospitals where people wait for assistance. Sadly, in today's acute hospital network, people can be waiting for days in inappropriate situations, sometimes for what we might regard as straightforward address and attention. In life-threatening and life-at-risk situations, we cannot tolerate that and this must be conveyed

in the wording of the legislation so as to make it abundantly clear to all concerned that there needs to be the urgency these amendments seek to reflect in the Bill.

In regard to the number of days, it may well be the case, and one would hope it would prove to be in time, that the seven days is the outside marker and that review committees would conclude and report their business within a much shorter timeframe. It is important this is the case and I hope practice will demonstrate it to be so. However, I am still not of a mind to accept that seven days is reasonable where we are talking about either two highly qualified medical practitioners in regard to a section 7 referral or three in regard to a section 9 referral. I do not accept that they could not conclude their assessment within a shorter timeframe. It is my view that between their being constituted as a review committee over three days and their concluding their assessments and deliberations and signing off on either granting the certification or affirming the first refusal, whichever scenario presents, this can all be done within a four day period. I would not suggest reducing the time allowed from seven days to four if I thought for one moment that it was unreasonable or could create unsound outcomes owing to unnecessary haste. I am convinced in putting forward this amendment - we have given careful thought to all our proposals - that four days is a reasonable timeframe. I again ask for the Minister's reconsideration of this amendment.

On the question of conscientious objection, there is and can be no toleration whatsoever of any undue delay in seeking to make arrangements for an alternative medical practitioner to fill that role. If a medical practitioner across any of the disciplines and specialties has a conscientious objection to dealing with a woman's situation, it is not in any way an inordinate demand that such arrangements be made immediately. Nothing else suffices.

Deputy Alex White: I listened carefully to what the Deputy said and respect where he is coming from on this issue. However, we do not propose to accept the amendment.

Amendment put and declared lost.

Amendments Nos. 44 to 50, inclusive, not moved.

Deputy James Reilly: I move amendment No. 51:

In page 9, to delete lines 33 and 34 and substitute the following:

"(*b*) the medical procedure is, in his or her reasonable opinion (being an opinion formed in good faith which has regard to the need to preserve unborn human life as far as practicable) immediately necessary in order to save the life of the woman, and".

Amendment agreed to.

An Ceann Comhairle: Amendment No. 52 cannot be moved because of the decision on amendment No. 51.

Amendments Nos. 52 to 55, inclusive, not moved.

Deputy Billy Timmins: I move amendment No. 56:

In page 10, to delete lines 6 to 39.

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

The Dáil divided: Tá, 130; Níl, 24.	
Tá	Níl
Adams, Gerry.	Browne, John.
Bannon, James.	Calleary, Dara.
Barry, Tom.	Creighton, Lucinda.
Boyd Barrett, Richard.	Flanagan, Terence.
Breen, Pat.	Healy-Rae, Michael.
Bruton, Richard.	Keaveney, Colm.
Burton, Joan.	Kirk, Seamus.
Butler, Ray.	Kitt, Michael P.
Buttimer, Jerry.	Lowry, Michael.
Byrne, Catherine.	McConalogue, Charlie.
Byrne, Eric.	McGrath, Mattie.
Cannon, Ciarán.	McGrath, Michael.
Carey, Joe.	McGuinness, John.
Coffey, Paudie.	Mathews, Peter.
Collins, Áine.	Moynihan, Michael.
Collins, Joan.	Naughten, Denis.
Collins, Niall.	Ó Cuív, Éamon.
Colreavy, Michael.	Ó Fearghaíl, Seán.
Conaghan, Michael.	O'Dea, Willie.
Conlan, Seán.	Smith, Brendan.
Connaughton, Paul J.	Timmins, Billy.
Conway, Ciara.	Tóibín, Peadar.
Coonan, Noel.	Troy, Robert.
Corcoran Kennedy, Marcella.	Walsh, Brian.
Costello, Joe.	
Coveney, Simon.	
Cowen, Barry.	
Creed, Michael.	
Crowe, Seán.	
Daly, Clare.	
Daly, Jim.	
Deasy, John.	
Deenihan, Jimmy.	
Deering, Pat.	
Doherty, Pearse.	
Doherty, Regina.	
Donnelly, Stephen S.	
Donohoe, Paschal.	
Dooley, Timmy.	
Dowds, Robert.	
Doyle, Andrew.	

Durkan, Bernard J.	
Ellis, Dessie.	
English, Damien.	
Farrell, Alan.	
Feighan, Frank.	
Ferris, Anne.	
Ferris, Martin.	
Fitzgerald, Frances.	
Fitzpatrick, Peter.	
Flanagan, Charles.	
Griffin, Brendan.	
Halligan, John.	
Hannigan, Dominic.	
Harrington, Noel.	
Harris, Simon.	
Hayes, Brian.	
Healy, Seamus.	
Heydon, Martin.	
Higgins, Joe.	
Hogan, Phil.	
Howlin, Brendan.	
Humphreys, Heather.	
Humphreys, Kevin.	
Keating, Derek.	
Kehoe, Paul.	
Kelleher, Billy.	
Kelly, Alan.	
Kenny, Enda.	
Kenny, Seán.	
Kyne, Seán.	
Lawlor, Anthony.	
Lynch, Ciarán.	
Lynch, Kathleen.	
Lyons, John.	
Mac Lochlainn, Pádraig.	
McCarthy, Michael.	
McDonald, Mary Lou.	
McEntee, Helen.	
McGinley, Dinny.	
McGrath, Finian.	
McHugh, Joe.	
McLellan, Sandra.	
McLoughlin, Tony.	

McNamara, Michael.	
Maloney, Eamonn.	
Martin, Micheál.	
Mitchell, Olivia.	
Mitchell O'Connor, Mary.	
Mulherin, Michelle.	
Murphy, Catherine.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Neville, Dan.	
Nolan, Derek.	
Noonan, Michael.	
Nulty, Patrick.	
Ó Caoláin, Caoimhghín.	
Ó Ríordáin, Aodhán.	
Ó Snodaigh, Aengus.	
O'Brien, Jonathan.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Dowd, Fergus.	
O'Mahony, John.	
O'Reilly, Joe.	
O'Sullivan, Jan.	
Penrose, Willie.	
Perry, John.	
Phelan, Ann.	
Pringle, Thomas.	
Quinn, Ruairí.	
Rabbitte, Pat.	
Reilly, James.	
Ring, Michael.	
Ross, Shane.	
Ryan, Brendan.	
Shatter, Alan.	
Sherlock, Sean.	
Spring, Arthur.	
Stagg, Emmet.	
Stanley, Brian.	
Stanton, David.	
Tuffy, Joanna.	
Twomey, Liam.	
Varadkar, Leo.	

Wall, Jack.	
Wallace, Mick.	
White, Alex.	

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

Question declared.

Amendment declared lost.

Amendments Nos. 57 to 65, inclusive, not moved.

Deputy James Reilly: I move amendment No. 66:

In page 10, to delete lines 13 and 14 and substitute the following:

"(ii) in their reasonable opinion (being an opinion formed in good faith which has regard to the need to preserve unborn human life as far as practicable) that risk can only be averted by carrying out the medical procedure,".

Amendment agreed to.

Amendments Nos. 67 to 70, inclusive, not moved.

9 o'clock

Deputy Catherine Murphy: I move amendment No. 71:

In page 10, line 18, to delete "3" and substitute "2".

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

Amendment declared lost.

Deputy Joan Collins: I move amendment No. 72:

In page 10, line 19, to delete "an obstetrician who practises as such at an appropriate institution" and substitute "a general practitioner or a medical practitioner of a relevant specialty".

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

Amendment declared lost.

Deputy Catherine Murphy: I move amendment No. 73:

In page 10, to delete line 20.

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

Amendment declared lost.

Deputy Catherine Murphy: I move amendment No. 74:

In page 10, line 25, to delete "Of the 2 psychiatrists" and substitute "If practicable, it is recommended that the psychiatrist".

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

Amendment declared lost.

Amendment No. 75 not moved.

Deputy Caoimhghín Ó Caoláin: I move amendment No. 76:

In page 10, line 29, after "consult" to insert "with appropriate urgency,".

Amendment put and declared lost.

Deputy Brian Walsh: I move amendment No. 77:

In page 10, between lines 33 and 34, to insert the following:

"(5) The medical practitioners referred to in *subsection 1(b)* shall, in making their decision as to whether or not to make a *section 9* certification in respect of the woman, have regard to contemporary medical evidence pertaining to the appropriateness of the medical procedure for the purpose of averting the risk of loss of the woman's life by way of suicide.".

Amendment put and declared lost.

Deputy Lucinda Creighton: I move amendment No. 78:

In page 10, between lines 33 and 34, to insert the following:

"(5) (a) Prior to making their decision as to whether or not to make a *section 9* certification, the three medical practitioners referred to in *subsection (1)(a)* shall jointly meet with the woman, a person acting on her behalf and an advocate for the preservation of the life of the unborn nominated by the Attorney General. The purpose of the meeting shall be to assist the medical practitioners in considering whether or not to make a section 9 certification by reference to the provisions of this Act.

(b) The three medical practitioners referred to in *subsection (1)(a)* shall make an application in the prescribed form and manner to the Attorney General requesting the Attorney General to nominate an advocate for the preservation of the life of the unborn.

(c) Where the pregnant woman has not nominated a person to act on her behalf, the three medical practitioners referred to in *subsection (1)(a)* shall make an application in the prescribed form and manner to the Attorney General requesting the Attorney General to nominate a person to act on behalf of the woman.

(d) The Attorney General shall nominate an advocate for the preservation of the life of the unborn and, if requested to do so under paragraph (c), a person to act on behalf of the woman without delay and no later than 48 hours from the receipt of a request under paragraph (b) and/or *paragraph (c)* as the case may be.

(e) The woman, the representative of the woman and the advocate for the preservation of the life of the unborn shall be entitled to review all documents and information

being considered by the three medical practitioners referred to in *subsection (1)(a)* and to participate fully in, and be heard at, the meeting held pursuant to *paragraph (a)* but subject to the restriction that the advocate for the preservation of the life of the unborn shall not be entitled to cross-examine the pregnant woman.".

Amendment put and declared lost.

Deputy Lucinda Creighton: I move amendment No. 79:

In page 10, to delete lines 34 to 39 and substitute the following:

"(5) Subject to section 19, the certifying obstetrician shall—

(a) forward, or cause to be forwarded, the *section 9* certification to an appropriate institution,

(b) forward, or cause to be forwarded, a copy of the *section 9* certification to the Attorney General, and

(c) make such arrangements as may be necessary for the carrying out of the medical procedure to which the section 9 certification relates at the appropriate institution, subject to the outcome of any review under *Chapter 2* of this Part.".

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

Amendment declared lost.

Amendment No. 80 not moved.

Deputy Richard Boyd Barrett: I move amendment No. 81:

In page 10, after line 39, to insert the following:

"**Fatal foetal abnormality**

10. (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, a pregnancy is ended, where—

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

(b) subject to *section 19*, two medical practitioners, having examined the pregnant woman, have jointly certified that the foetus in question has a fatal foetal abnormality.

(2) Of the 2 medical practitioners referred to in subsection *(1)(b)*—

(a) one shall be an obstetrician who practises as such at an appropriate institution, and

(b) the other shall be a perinatologist who practises as such at an appropriate institution.

(3) If practicable, at least one of the medical practitioners referred to in *subsection (1)(b)* shall, only with the pregnant woman's agreement, consult with the woman's general practitioner (if any) for the purposes of obtaining information in respect of the woman from that general practitioner that may assist the medical practitioners in their decision as to whether or not to make a section 10 certification in respect of the woman.

(4) Subject to *section 19*, the certifying obstetrician shall—

(a) forward, or cause to be forwarded, the *section 10* certification to an appropriate institution, and

(b) make such arrangements as may be necessary for the carrying out of the medical procedure to which the *section 10* certification relates at the appropriate institution.".

Amendment put:

The Dáil divided: Tá, 17; Níl, 127.	
Tá	***Níl***
Boyd Barrett, Richard.	***Bannon, James.***
Broughan, Thomas P.	***Barry, Tom.***
Collins, Joan.	***Breen, Pat.***
Daly, Clare.	***Browne, John.***
Donnelly, Stephen S.	***Bruton, Richard.***
Flanagan, Luke 'Ming'.	***Burton, Joan.***
Halligan, John.	***Butler, Ray.***
Healy, Seamus.	***Buttimer, Jerry.***
Higgins, Joe.	***Byrne, Catherine.***
Keaveney, Colm.	***Byrne, Eric.***
McGrath, Finian.	***Calleary, Dara.***
Murphy, Catherine.	***Cannon, Ciarán.***
Nulty, Patrick.	***Carey, Joe.***
Pringle, Thomas.	***Coffey, Paudie.***
Ross, Shane.	***Collins, Áine.***
Shortall, Róisín.	***Collins, Niall.***
Wallace, Mick.	***Conaghan, Michael.***
	Conlan, Seán.
	Connaughton, Paul J.
	Conway, Ciara.
	Coonan, Noel.
	Corcoran Kennedy, Marcella.
	Costello, Joe.
	Coveney, Simon.
	Cowen, Barry.
	Creed, Michael.
	Creighton, Lucinda.

	Daly, Jim.
	Deasy, John.
	Deenihan, Jimmy.
	Deering, Pat.
	Doherty, Regina.
	Donohoe, Paschal.
	Dooley, Timmy.
	Dowds, Robert.
	Doyle, Andrew.
	Durkan, Bernard J.
	English, Damien.
	Farrell, Alan.
	Feighan, Frank.
	Ferris, Anne.
	Fitzgerald, Frances.
	Fitzpatrick, Peter.
	Flanagan, Charles.
	Flanagan, Terence.
	Griffin, Brendan.
	Hannigan, Dominic.
	Harrington, Noel.
	Harris, Simon.
	Hayes, Brian.
	Hayes, Tom.
	Healy-Rae, Michael.
	Heydon, Martin.
	Hogan, Phil.
	Howlin, Brendan.
	Humphreys, Heather.
	Humphreys, Kevin.
	Keating, Derek.
	Kehoe, Paul.
	Kelleher, Billy.
	Kelly, Alan.
	Kenny, Enda.
	Kenny, Seán.
	Kirk, Seamus.
	Kitt, Michael P.
	Kyne, Seán.
	Lawlor, Anthony.
	Lynch, Ciarán.
	Lynch, Kathleen.
	Lyons, John.

	McCarthy, Michael.
	McConalogue, Charlie.
	McEntee, Helen.
	McGinley, Dinny.
	McGrath, Mattie.
	McGrath, Michael.
	McGuinness, John.
	McHugh, Joe.
	McLoughlin, Tony.
	McNamara, Michael.
	Maloney, Eamonn.
	Martin, Micheál.
	Mathews, Peter.
	Mitchell, Olivia.
	Mitchell O'Connor, Mary.
	Moynihan, Michael.
	Mulherin, Michelle.
	Murphy, Dara.
	Murphy, Eoghan.
	Nash, Gerald.
	Naughten, Denis.
	Neville, Dan.
	Nolan, Derek.
	Noonan, Michael.
	Ó Cuív, Éamon.
	Ó Fearghaíl, Seán.
	Ó Ríordáin, Aodhán.
	O'Dea, Willie.
	O'Donnell, Kieran.
	O'Donovan, Patrick.
	O'Dowd, Fergus.
	O'Mahony, John.
	O'Reilly, Joe.
	O'Sullivan, Jan.
	Penrose, Willie.
	Perry, John.
	Phelan, Ann.
	Phelan, John Paul.
	Quinn, Ruairí.
	Rabbitte, Pat.
	Reilly, James.
	Ring, Michael.
	Ryan, Brendan.

	Shatter, Alan.
	Sherlock, Sean.
	Smith, Brendan.
	Spring, Arthur.
	Stagg, Emmet.
	Stanton, David.
	Timmins, Billy.
	Troy, Robert.
	Tuffy, Joanna.
	Twomey, Liam.
	Varadkar, Leo.
	Wall, Jack.
	Walsh, Brian.
	White, Alex.

Tellers: Tá, Deputies Catherine Murphy and Joe Higgins; Níl, Deputies Paul Kehoe and Emmet Stagg.

Amendment declared lost.

An Ceann Comhairle: Amendments Nos. 82, 90, 101, 131, 132, 134 to 136, inclusive, and 138 are related and may be discussed together.

Deputy Catherine Murphy: I move amendment No. 82:

In page 10, after line 39, to insert the following:

"**Duty of care**

10. (1) A medical practitioner or medical institution, if contacted by a woman seeking treatment under the provisions of this Act, shall have a duty of care to that woman. Such duty of care shall include, but not be limited to—

(*a*) an obligation to inform the woman as to the pathways of care to which she is entitled,

(*b*) an obligation, if appropriate, to provide the woman with such treatment to which she is entitled,

(*c*) an obligation, if such medical practitioner or medical institution cannot provide the medical treatment, to refer the woman to an appropriate medical practitioner or medical institution,

(*d*) if referring to an appropriate medical practitioner or medical institution, to make such reasonable enquiries as necessary to confirm that the woman has been dealt with appropriately by the medical practitioner or medical institution to which she has been referred.

(2) For the avoidance of doubt, nothing in this section shall limit the right of the

medical practitioner to conscientious objection under *section 17* of this Act.".

Essentially, some of these deal with-----

An Ceann Comhairle: I am sorry, Deputy; I am afraid we cannot hear you.

Deputy Catherine Murphy: I will give it a minute.

An Ceann Comhairle: Sorry, Deputies, if you please. This is not a railway station. There is somebody trying to move an amendment. Would the Deputies mind getting out of the Chamber or else sit down?

Deputy Catherine Murphy: Amendment No. 82 establishes a duty of care on behalf of a practitioner or an institution. We all realise it takes considerable time to establish or change a culture in an organisation. If one has an explicit duty, that assists in defining the kind of culture there is. I mentioned it last night in relation to the Liverpool hospital that I visited and how Irish women felt judged in going to that institution, specifically in the context of fatal foetal abnormalities. It is really important that we change that culture for women who have an entitlement to care under this legislation and we must craft that and not assume that it will happen. That is why this amendment on duty of care is included.

Amendment No. 90 seeks to disqualify a practitioner from a review panel if he or she has had a conscientious objection in the past. That is reasonable. There must be fair procedures where a woman is in front of a review panel. Amendment No. 101 does largely the same. Amendment No. 134 lays down conditions on conscientious objections. Amendment No. 135 makes it a duty on an appropriate institution to have the required number of staff available for a termination. These amendments all explain themselves. I do not wish to press it in any further detail. I am sure others will add to what I have said.

An Ceann Comhairle: Does Deputy Boyd Barrett wish to contribute?

Deputy Richard Boyd Barrett: These are self-explanatory.

Deputy James Reilly: This group of amendments is concerned with conscientious objection. In accordance with the European Convention on Human Rights and the Medical Council's ethical guidelines, section 17 of the Bill clarifies that health professionals - medical and nursing personnel and pharmacists - with a conscientious objection will not be obliged to carry out or assist in carrying out lawful terminations of pregnancy, unless the risk to the life of the pregnant woman is immediate, that is, in an emergency situation.

However, an individual's right to conscientious objection is not absolute and must be balanced against the patient's competing rights, particularly the right to life in the case of a medical emergency. Both the medical guidelines and the Bill make it clear that conscientious objection cannot be invoked when the risk to a pregnant woman's life is immediate. In non-emergency cases, where a doctor or other health professional has a conscientious objection to undertaking a required medical procedure, he or she will have a duty to ensure that another colleague takes over the care of the patient as per current medical ethics. In addition, section 10 of the Bill provides a specific duty on a treating physician who refuses certification to inform the woman that she has a right to apply for a formal review of this decision.

As the Bill covers situations in which medical procedures may be carried out where there is real and substantial risk to the woman's life, the right to conscientiously object has been limited

to those directly involved in the provision of treatment. It would not be reasonable to include any other personnel as this might have the effect of blocking a woman's access to a lawfully-provided and medically-indicated treatment.

Finally, I wish to address amendments Nos. 90 and 101, which propose to disqualify a doctor from sitting on a review panel if he or she has a conscientious objection to the procedure in question. We covered this in the committee.

While a medical practitioner may have particular beliefs that dictate that he or she feels he or she cannot participate in a particular form of medical procedure, this should not disqualify him or her from participating in the review process set out in the Bill, which calls for his or her clinical judgment to be applied. In situations where they are being called upon to assess whether there is a real and substantial risk to a woman's life, I believe we can trust doctors to apply their professional skill and clinical judgment to the case to ensure that the woman receives the best possible care and treatment.

For these reasons, I do not propose to accept any of the amendments proposed in this grouping.

Deputy Denis Naughten: I noted the Minister's comments on the issue of conscientious objection, an issue we raised on Committee Stage. I questioned this issue on Committee Stage and the Minister gave the clarification that he has just given to the House. On foot of that, I contacted the INMO on this issue and, on foot of that, I tabled amendment No. 138.

The INMO has a different perspective on this. It has had discussions with the HSE on this issue and the right of any individual midwife, nurse or other staff member to indicate they have a conscientious objection to participate in a procedure. They have been told by HSE management that the current practice will continue to hold. The current practice is that in such a situation an individual will have an obligation to notify his or her line manager, that is, his or her department head, of his or her objection and the wish to be relieved from participating in that procedure, and there is no indication from the HSE that this standard practice will change. The standard practice at present is that the line manager would then have an obligation to facilitate the request and to find a replacement staff member to cover for that particular procedure.

The INMO further states that it would never be the situation in clinical practice that an individual staff member can find his or her replacement without recourse to his or her line manager or department head, and standard governance procedures would always insist that the department head or line manager ultimately roster staff and-or provide short-term cross-cover arrangements in any situation, but particularly in these very sensitive environments. The INMO further states that for its part, as a representative organisation representing staff, it will be insisting on the above process remaining in place subsequent to the enactment of this legislation. They state, finally, that they do not have any sense from the HSE that it intends to change the long-standing practice I outlined and they would have concerns if that long-standing practice was to change. In light of the information that I have received from the INMO which is on foot of discussions that it has had with the HSE in the context of this legislation, I ask the Minister to reconsider amendment No. 138 and make provision for it in line with current practice in the nursing profession and midwifery in the current hospital system.

Deputy Terence Flanagan: I refer to my amendment No. 131.

The Bill impacts mostly directly on the right to life which is the basic most fundamental

right of all, but another human right being threatened under the Bill is the right to freedom of conscience. The vindication of this right is the objective of the two amendments I tabled, amendments Nos. 131 and 136.

The right to freedom of conscience is acknowledged in all of the major international declarations and conventions on human rights. It is also guaranteed under the Constitution, under Article 44.2.1°. While the Constitution treats freedom of conscience along with freedom of religion, it is generally acknowledged that freedom of conscience is more expansive in its scope. Believers and non-believers are bound by conscience and suffer equally if their freedom to act in accordance with their conscience is infringed or denied.

In essence, the freedom of conscience means that one cannot be coerced or compelled to do something that one believes is wrong. While we all may fail to live up to the standards to which our own consciences might aspire, it is quite another matter if we are forced by a third party to do what we believe in our hearts to be wrong. By including section 17, which deals with conscientious objection, this acknowledges the problems already identified under section 9. There would indeed be no need for a section explicitly dealing with conscientious objection were it not for the fact that the Bill proposes actions to which many people might reasonably object. In so far as they provide a statutory basis for existing medical practice, I do not anticipate that sections 7 and 8 will prompt anyone to invoke the right to a conscientious objection. I am unaware of any doctor who would refuse to help to save the life of a pregnant woman in difficulty if she were threatened by a physical illness. I doubt that any such doctor exists in Ireland. However, under section 9, doctors and others are expected to perform or facilitate a procedure in the course of which or as a result of which an unborn human life is ended. They are expected to do this despite the absence of any medical indication that it will be of benefit to the mother. It is reasonable to expect that many of those who might be expected to participate in these abortions will likely object to doing so. Despite the concession that coercing someone to participate in an abortion would be a violation of the right of freedom of conscience, section 17 is none the less woefully inadequate, as it now stands, in vindicating that right. It restricts the right of freedom of conscience to certain specified categories of person. The deliberate destruction of innocent human life is a matter of such gravity that no one can say that some people have the right not to be forced to participate in it but others do not. It is not only medical practitioners, nurses and midwives who may be complicit in an abortion. The administrators who are expected to arrange for the abortion, the hospital porters who have to facilitate it, the cleaners who have to clean up after it and others may be asked to take their own part in abortions. They all have the right to refuse and the Bill must acknowledge and protect that right.

This amendment will not render the Bill acceptable, nor will it significantly reduce the likelihood that innocent unborn life will be needlessly and deliberately destroyed. It will, however, ensure that one evil is not compounded by another.

With regard to amendment No. 136, a major flaw in subsection 17(3) restricts the right of freedom of conscience to the extent that it becomes meaningless. The doctor can wash his hands of a case but only if he arranges for another doctor to carry out the abortion. No doctor should be compelled to be a hypocrite by refusing to do an abortion but arranging for someone else to do it instead. The right of freedom of conscience is curtailed by this subsection and it also curtails the right to professional integrity. A medical practitioner, a nurse or a midwife, who forms an opinion in good faith and based on best medical practice or the best scientific evidence available to him or her at the time that the risk to the woman's life will not be averted by carrying out the medical procedure in question, or that such risk can be averted by other means,

could be compelled to transfer the woman to the care of another who will perform the procedure regardless. It is at least arguable that such a medical practitioner would be engaging in professional misconduct, unethical behaviour, medical negligence or even reckless endangerment. We cannot enact a law that would force someone to do that, but this is what is proposed in subsection 17(3).

Deputy Mick Wallace: I wish to put on the record of the House a quote from the Irish Family Planning Association:

> In many countries where abortion is legal, the exercise of conscientious objection has frustrated and delayed women's access to lawful abortion, or women have been refused care. Because the issue in question is the refusal of care where there is a risk to a woman's life, the legislation must provide adequate safeguards against refusal of care.

Deputy James Reilly: I wish to correct a reference I made to pharmacists when I spoke about conscientious objection. This provision is for medical and nursing personnel only. The IMO has been mentioned, and I might have some old affiliations in that regard. The Irish Family Planning Association has been mentioned, and I may have trained there. However, we are legislators and our job is to legislate. The Medical Council guidelines are clear; they come with clean hands to this debate. I stand by what is contained in those guidelines and, therefore, I will not be accepting these amendments.

Amendment, by leave, withdrawn.

Amendments Nos. 83 to 90, inclusive, not moved.

An Ceann Comhairle: Amendments Nos. 91, 92, 94, 95, 105, 106 and 118 are related and may be discussed together.

Deputy Denis Naughten: I move amendment No. 91:

> In page 11, lines 21 and 22, to delete ", in addition to appointing medical practitioners duly identified by it for appointment to the review panel,".

Amendments Nos. 91 and 94 deal with issues discussed on Committee Stage. The legislation as currently drafted puts the cart before the horse. The Minister is requesting that the HSE make up a list of at least ten medical practitioners from which to choose three members of the review panel and take nominees from the various medical professional organisations and colleges. The HSE would choose from its initial list of ten and may or may not choose from the nominees provided by the various professional organisations. The Minister has quoted *ad nauseam* witness evidence from the various colleges and he has lent great credence to this evidence, yet he is not prepared to put the nominees on the panel and supplement it with additional staff or medical personnel he requires from the executive nominee process. I hope the Minister will give recognition to the nominees of the various training colleges, as per his comments.

My amendments Nos. 106 and 118 arise from debate on Committee Stage. These are very much in the interest of the unfortunate woman who has to go before a review panel to get her decision reviewed. It must be borne in mind that this is a woman who under this legislation faces a threat to her life. She feels that her life is in danger and some of the doctors, including her own GP, may also believe that, but she cannot get the certificate from both obstetricians or from the two psychiatrists and the obstetrician to proceed with the termination and she is now appeal-

ing to the review panel. It is important to remember that the woman has an illness, whether it be mental or physical. In those circumstances, she may have to travel to meet the three consultants on the review panel. All three consultants must examine the woman, but under the legislation the woman may have to travel to facilitate that examination. It makes more sense to insist that the consultants sit in their cars and travel to examine the woman as close to her home or to her preferred location as possible rather than at the consultants' preferred location.

The Minister will argue that this is the intention behind the legislation and I fully accept he expects that ethos to apply. However, currently, the State cannot get consultants to travel to do outpatient clinics within their own catchment areas, never mind to carry out a review along these lines. This is a basic amendment to ensure consultants will travel and attend to the women concerned rather than the other way around, and I hope the Minister can accept that.

I refer amendment No. 118. Deputy Durkan is probably the House expert on the social welfare appeals office. He attends oral hearings on a weekly basis to advocate on behalf of claimants who are seeking to vindicate their right to a social welfare entitlement. The reason the Deputy and other Members attend such hearings is to ensure the best case is made and to advocate along with the applicant in their favour. However, under this legislation, an ill woman who believes her life is in jeopardy will be asked to appear before three consultants with no right to bring an advocate with her. I am seeking the insertion of the phrase "and/or" in order that the woman can attend the review panel with an advocate, whether that is her GP, her spouse or whoever. The legislation does not provide for that. It will be at the discretion of the panel members whether they allow her to have an advocate with her. It makes sense to provide for this in the legislation, as it is similar to the provision under social welfare legislation under which clients have a legal right to bring an advocate with them to their oral hearing. Surely in regard to something as crucial and important as this legislation, which the Government says is intended to protect women's lives, the woman should have a legal right to have someone advocate on her behalf. I had hoped the Minster would table an amendment to facilitate that and I am disappointed he has not, but I hope he can accept this amendment. It is a simple amendment, which gives a basic right to a woman to have someone sit beside her to give her encouragement, even if it is only moral encouragement, when she faces three consultants on the review panel.

Deputy Peadar Tóibín: As we approach the end, am I correct in saying that the Minister has not accepted any amendment at all? I acknowledge some amendments sought significant change and I understand why the Minister was opposed to that, but many of them were intended to improve the protective ability of the legislation and should not have been controversial. Amendment No. 92 is a constructive amendment which seeks to help the situation. We have spoken at length today and on previous days about the necessity to trust in doctors. The power to choose the review panel is in the hands of the HSE under the legislation. The executive is responsible to the Department of Health, which, in turn, is responsible to the Minister, but this is a medical issue and it should be grounded in the Medical Council. It should be regulated by doctors rather than being the direct responsibility of the Minister. Alas, Deputy Reilly may not be Minister for Health forever and, therefore, it is important that there be separation between the Minister of the day and the process of nomination to these review panels. What better organisation to oversee the process than the Medical Council, which is representative of doctors?

The HSE is directly responsible to the Minister of the day and I am concerned that a Minister could exert control over, or apply indirect political pressure to, this sensitive and important area. The amendment would simply reduce the possibility of that pitfall in future and I hope the Minister will look on it in a constructive and positive light.

Deputy James Reilly: These amendments are concerned with the review process set out in sections 11 to 14, inclusive. As the convenor of the review panel, the HSE needs to ensure all the requirements for the participation of medical practitioners in the formal review process as set out in the Bill - for example, in regard to registration, qualifications and composition - can be complied with. In addition, colleges may not make any nominations to the panel, as they are independent organisations and do not have any accountability. The HSE, therefore, must be able to consider the nominations of the professional bodies and add to them, if required, to fulfil the legal requirements of the Bill. If we were to insist that they had an absolute right in this regard, they could frustrate the entire operation of the legislation by refusing to nominate anybody.

To fulfil the requirements for certification, the medical review process must mirror the specifications of the assessment under sections 7 and 9. This means that, since an examination is required under those sections, the review committee must also carry out this examination to be in compliance with the principles of the proposed legislation.

With regard to Deputy Naughten's amendment No. 118, I have received legal advice which confirms that from a legal standpoint the wording set out in the Bill allows a woman and/or the person attending on her behalf to be heard.

With regard to Deputy Walsh's proposed amendment, No. 95, it is unacceptable that the appointment of medical practitioners to the review panel would be subject to the approval of the Houses of the Oireachtas. The provisions the Bill makes regarding the convening of a review committee are aimed at providing clarity in situations in which a woman believes there is a real and substantial risk to her life which may only be averted by a termination of pregnancy. With this in mind, the Bill specifies that review committees be convened as soon as possible after an application has been received. The amendment would have the effect of slowing down the process to the point that women's lives could be put at unnecessary risk, particularly if an application is made at a time the Houses of the Oireachtas are in recess. I am not, therefore, in a position to accept these amendments.

Would it be too much to hope that when Deputy Naughten said I had been repeating something *ad nauseam* he meant *ad infinitum*? The reason he knows my views so well is that we thrashed all this out on Committee Stage. There is nothing in the legislation that says a woman cannot have someone with her. Indeed it would be common enough practice for somebody to bring someone with them when going to see the doctor or to see a group of doctors when they have serious concerns. I hope that the Deputy will accept that I cannot accept the amendments.

Deputy Denis Naughten: I am genuinely disappointed because my first two amendments do not change the thrust of the section. All I am saying is that the priority should be first on the colleges rather than the executive. We had this argument on Committee Stage and I am not going to repeat it. I am disappointed that the Minister has not accepted it.

The other two amendments highlight the farcical situation here. I am genuinely disappointed. I know we have had principled arguments on the issues but I am disappointed that a woman is not being given a legal right in this legislation to bring an advocate with her. It is really disappointing. The Minister is correct in his response. The woman will be heard or a person acting on her behalf but she does not have under this legislation the right to bring someone with her.

Deputy Kathleen Lynch: Who is saying she is not to?

Deputy Denis Naughten: The Minister of State should read the legislation. This is in sub-

section (1):

> The pregnant woman shall be entitled to be heard by the review committee and, where the woman or a person acting on her behalf informs the committee that she wishes to be heard, the committee shall make such arrangements as may be necessary in order to hear the woman or a person acting on her behalf.

The fact that it does not give her a legal right to bring someone with her is hugely disappointing. No one in this House could disagree with the fact of having it. I urge the Minister to accept this amendment at the 11th hour. It is a very small amendment but at least it ensures that the woman can legally have someone with her before the review panel.

Deputy Peadar Tóibín: There are significant pitfalls in linking the HSE with the nomination of members to the panel. The HSE could ensure that all regulations are complied with in regard to nominees to that panel and still leave the Medical Council to nominate the individuals.

Deputy James Reilly: As Deputy Naughten said we are not very far away from the 11th hour. With regard to his amendment No. 118 I have received legal advice which confirms that from a legal standpoint the wording set out in the Bill allows a woman "and-or the person attending on her behalf". "And-or": that is the legal interpretation of the Bill. The Deputy's amendment is utterly unnecessary.

Deputy Denis Naughten: I thank the Minister for re-wording his response. The Official Report will show that when he read it out first he did not say "and" he said "or". As he will note, line 18 of the Bill does not use the word "and". All I am looking for is that the word "and" be put in so that it is stated in the legislation that the woman has a right to bring an advocate with her. It is a very basic amendment. I do not want to have to divide the House on this. Everyone in the House agrees with the point. It makes good practice to ensure that the woman has a legal right under the legislation. I accept what the Minister is saying but all I am looking for is the letters a, n, d, and a backslash to be put in there, to state in the legislation what the Minister has told me is the interpretation of it. That is not what the legislation says. I will press the amendment.

Deputy Róisín Shortall: On a point of order, is there any possibility that in light of what has transpired the Minister would accept the amendment? There are 155 amendments.

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

Amendment declared lost.

An Leas-Cheann Comhairle: Amendment No. 92 cannot be moved. Amendment No. 93 was already discussed with amendment No. 8.

Amendment No. 92 not moved.

Deputy Peadar Tóibín: I move amendment No. 93:

> In page 11, to delete line 24.

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

Amendment declared lost.

An Leas-Cheann Comhairle: Amendment No. 94 was already discussed with amendment No. 91.

Deputy Denis Naughten: I move amendment No. 94:

In page 11, to delete lines 28 and 29.

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

Amendment declared lost.

Amendment No. 95 not moved.

An Leas-Cheann Comhairle: Amendment No. 96 was already discussed with amendment No. 43.

Deputy Catherine Murphy: I move amendment No. 96:

In page 11, line 31, to delete "3 days" and substitute "1 day".

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

Amendment declared lost.

An Leas-Cheann Comhairle: Amendment No. 97 was already discussed with amendment No. 7.

Deputy Joan Collins: I move amendment No. 97:

In page 12, to delete line 2 and substitute the following:

"(*a*) a general practitioner or a medical practitioner of a relevant speciality, and".

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

Amendment declared lost.

An Leas-Cheann Comhairle: Amendment No. 98 was already discussed with amendment No. 8. If the question on amendment No. 98 is agreed, amendments Nos. 99 and 100 cannot be moved.

Deputy Peadar Tóibín: I move amendment No. 98:

In page 12, to delete lines 4 to 14.

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

Amendment declared lost.

Amendments Nos. 99 and 100 not moved.

An Leas-Cheann Comhairle: Amendment No. 101 was already discussed with amendment No. 82.

Deputy Catherine Murphy: I move amendment No. 101:

In page 12, between lines 17 and 18, to insert the following:

"(6) A medical practitioner shall be disqualified from sitting on the review committee where he or she has previously refused to perform an abortion on ground of conscientious objection and or has previously expressed publicly an opinion in general opposition to abortion in all its forms and or abortion as a treatment option under the terms of this Act.".

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendment No. 102 was already discussed with amendment No. 8.

Deputy Peadar Tóibín: I move amendment No. 102:

In page 12, lines 21 and 22, to delete "or a section 9 certification (where the circumstances referred to in section 9(1) apply)".

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

Amendment declared lost.

An Leas-Cheann Comhairle: Amendment No. 103 was already discussed with amendment No. 43. If the question on amendment No. 103 is agreed, amendment No. 104 cannot be moved.

Deputy Catherine Murphy: I move amendment No. 103:

In page 12, line 25, to delete "7 days" and substitute "3 days".

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

Amendment declared lost.

Amendment No. 104 not moved.

An Leas-Cheann Comhairle: Amendment No. 105 was already discussed with amendment No. 91.

Deputy Catherine Murphy: I move amendment No. 105:

In page 12, line 27, to delete "The review committee shall," and substitute "Members of the review committee may, if necessary".

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

Amendment declared lost.

An Leas-Cheann Comhairle: Amendment No. 106 was already discussed with amendment No. 91.

Deputy Denis Naughten: I move amendment No. 106:

In page 12, line 28, after "decision" to insert "attend to and".

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendment No. 107 was already discussed with amendment with amendment No. 17.

Deputy Richard Boyd Barrett: I move amendment No. 107:

In page 12, line 30, to delete "in good faith".

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

Amendment declared lost.

An Leas-Cheann Comhairle: Amendment No. 108 was already discussed with amendment No. 22.

Deputy Catherine Murphy: I move amendment No. 108:

In page 12, line 31, after "risk" to insert ", which may be neither immediate nor inevitable,".

Amendment put and declared lost.

Amendment No. 109 not moved.

An Leas-Cheann Comhairle: Amendment No. 110 was already discussed with amendment No. 22.

10 o'clock

Deputy Catherine Murphy: I move amendment No. 110:

In page 12, line 32, after "be," to insert "which may be neither immediate nor inevitable,".

Amendment put and declared lost.

Deputy James Reilly: I move amendment No. 111:

In page 12, to delete lines 33 and 34 and substitute the following:

"(*b*) in its reasonable opinion (being an opinion formed in good faith which has regard to the need to preserve unborn human life as far as practicable) that risk can only be averted by carrying out a medical procedure referred to in *section 7(1)* or *9(1)*, as the case may be,".

Amendment put and declared carried.

Amendments Nos. 112 to 115, inclusive, not moved.

Deputy Catherine Murphy: I move amendment No. 116:

In page 13, line 2, after "shall" to insert "forthwith".

Amendment put and declared lost.

Deputy Richard Boyd Barrett: I move amendment No. 117:

In page 13, line 6, after "shall" to insert "forthwith".

Amendment put and declared lost.

Deputy Denis Naughten: I move amendment No. 118:

In page 13, line 18, after "woman" to insert "and/".

I hope the Government will not divide on this. Please.

Amendment put:

The Dáil divided: Tá, 56; Níl, 102.	
Tá	***Níl***
Adams, Gerry.	***Bannon, James.***
Boyd Barrett, Richard.	***Barry, Tom.***
Broughan, Thomas P.	***Breen, Pat.***
Browne, John.	***Bruton, Richard.***
Calleary, Dara.	***Burton, Joan.***
Collins, Joan.	***Butler, Ray.***
Collins, Niall.	***Buttimer, Jerry.***
Colreavy, Michael.	***Byrne, Catherine.***
Cowen, Barry.	***Byrne, Eric.***
Crowe, Seán.	***Cannon, Ciarán.***
Daly, Clare.	***Carey, Joe.***
Doherty, Pearse.	***Coffey, Paudie.***
Donnelly, Stephen S.	***Collins, Áine.***
Dooley, Timmy.	***Conaghan, Michael.***
Ellis, Dessie.	***Conlan, Seán.***
Ferris, Martin.	***Connaughton, Paul J.***
Flanagan, Luke 'Ming'.	***Conway, Ciara.***
Flanagan, Terence.	***Coonan, Noel.***
Halligan, John.	***Corcoran Kennedy, Marcella.***
Healy, Seamus.	***Costello, Joe.***
Healy-Rae, Michael.	***Coveney, Simon.***
Higgins, Joe.	***Creed, Michael.***
Keaveney, Colm.	***Creighton, Lucinda.***
Kelleher, Billy.	***Daly, Jim.***
Kirk, Seamus.	***Deasy, John.***
Kitt, Michael P.	***Deenihan, Jimmy.***
Lowry, Michael.	***Deering, Pat.***
Mac Lochlainn, Pádraig.	***Doherty, Regina.***
McConalogue, Charlie.	***Donohoe, Paschal.***

McDonald, Mary Lou.	*Dowds, Robert.*
McGrath, Mattie.	*Doyle, Andrew.*
McGrath, Michael.	*Durkan, Bernard J.*
McGuinness, John.	*English, Damien.*
McLellan, Sandra.	*Farrell, Alan.*
Martin, Micheál.	*Feighan, Frank.*
Mathews, Peter.	*Ferris, Anne.*
Moynihan, Michael.	*Fitzgerald, Frances.*
Murphy, Catherine.	*Fitzpatrick, Peter.*
Naughten, Denis.	*Flanagan, Charles.*
Nulty, Patrick.	*Hannigan, Dominic.*
Ó Caoláin, Caoimhghín.	*Harrington, Noel.*
Ó Cuív, Éamon.	*Harris, Simon.*
Ó Fearghaíl, Seán.	*Hayes, Brian.*
Ó Snodaigh, Aengus.	*Hayes, Tom.*
O'Brien, Jonathan.	*Heydon, Martin.*
O'Dea, Willie.	*Hogan, Phil.*
Pringle, Thomas.	*Howlin, Brendan.*
Ross, Shane.	*Humphreys, Heather.*
Shortall, Róisín.	*Humphreys, Kevin.*
Smith, Brendan.	*Keating, Derek.*
Stanley, Brian.	*Kehoe, Paul.*
Timmins, Billy.	*Kelly, Alan.*
Tóibín, Peadar.	*Kenny, Enda.*
Troy, Robert.	*Kenny, Seán.*
Wallace, Mick.	*Kyne, Seán.*
Walsh, Brian.	*Lawlor, Anthony.*
	Lynch, Ciarán.
	Lynch, Kathleen.
	Lyons, John.
	McCarthy, Michael.
	McEntee, Helen.
	McGinley, Dinny.
	McGrath, Finian.
	McHugh, Joe.
	McLoughlin, Tony.
	McNamara, Michael.
	Maloney, Eamonn.
	Mitchell, Olivia.
	Mitchell O'Connor, Mary.
	Mulherin, Michelle.
	Murphy, Dara.
	Murphy, Eoghan.

	Nash, Gerald.
	Neville, Dan.
	Nolan, Derek.
	Noonan, Michael.
	Ó Ríordáin, Aodhán.
	O'Donnell, Kieran.
	O'Donovan, Patrick.
	O'Dowd, Fergus.
	O'Mahony, John.
	O'Reilly, Joe.
	O'Sullivan, Jan.
	Penrose, Willie.
	Perry, John.
	Phelan, Ann.
	Phelan, John Paul.
	Quinn, Ruairí.
	Rabbitte, Pat.
	Reilly, James.
	Ring, Michael.
	Ryan, Brendan.
	Shatter, Alan.
	Sherlock, Sean.
	Spring, Arthur.
	Stagg, Emmet.
	Stanton, David.
	Tuffy, Joanna.
	Twomey, Liam.
	Varadkar, Leo.
	Wall, Jack.
	White, Alex.

Tellers: Tá, Deputies Denis Naughten and Róisín Shortall; Níl, Deputies Paul Kehoe and Emmet Stagg.

Amendment declared lost.

An Ceann Comhairle: Amendment No. 119 is out of order because it involves a potential charge on the Exchequer.

Amendment No. 119 not moved.

Deputy Lucinda Creighton: I move amendment No. 120:

In page 13, between lines 18 and 19, to insert the following:

"(2) An advocate for the preservation of the life of the unborn nominated by the Attorney General shall be entitled to be heard by the review committee.

(3) The review committee shall make an application in the prescribed form and manner to the Attorney General requesting the Attorney General to nominate an advocate for the preservation of the life of the unborn.

(4) Where the pregnant woman has not nominated a person to act on her behalf, the review committee shall make an application in the prescribed form and manner to the Attorney General requesting the Attorney General to nominate a person to act on behalf of the woman.

(5) The Attorney General shall nominate an advocate of for the preservation of the life of the unborn and, if requested to do so under *subsection (3)*, a person to act on behalf of the woman without delay and no later than 48 hours from the receipt of a request under *subsection (3)* and/or *subsection (4)* as the case may be.

(6) The woman, the representative of the woman and the advocate for the preservation of the life of the unborn shall be entitled to review all documents and information being considered by the review committee and to be heard by the review committee, but subject to the restriction that the advocate for the preservation of the life of the unborn shall not be entitled to cross-examine the woman.".

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 121 and 122 are out of order.

Amendments Nos. 121 and 122 not moved.

An Ceann Comhairle: Amendment No. 123 arises out of Committee proceedings. Amendments Nos. 123 to 127, inclusive, 139, 141 and 145 are related, No. 124 is an alternative to No. 123 and all may be discussed together.

Deputy Joe Higgins: I move amendment No. 123:

In page 14, to delete lines 2 to 19 and substitute the following:

"15. The Executive shall, for the purpose of monitoring and collecting data on the performance of medical clinical procedures, collect information on the functioning of Chapters 1 and 2 of this Act in accordance with standard Hospital In-Patient Enquiry procedures recognised by the World Health Organisation and in use by the HSE.".

Instead of the current wording in the Bill which we believe to be intrusive and objectionable from many points of view the amendment proposes the inclusion of more standard procedures that are already recognised and in existence.

Deputy Peadar Tóibín: It is clear that the Bill is locked down and that because it has taken us so long to reach this point, the Government has decided not to accept any amendments whatsoever. That is a pity, particularly as there have been many non-contentious, constructive and positive amendments which could have improved the legislation. Amendments Nos. 124 and 125 in my name relate to the amount of information the Minister can receive in the future. It creates transparency for the Minister to be able to measure and manage the process better. When a Minister is trying to review and ensure the system is running properly, fairly and honestly, the more information he or she has the better. The amendment seeks to establish the total number of certifications under sections 7, 8 and 9, respectively; the nature of each medical pro-

cedure certified under sections 7, 8 and 9, respectively; the period of gestation of the unborn in respect to whom each medical procedure was certified under sections 7, 8 and 9, respectively; and the outcome for the pregnant woman and her unborn in respect of each medical procedure certified and carried out under sections 7, 8 and 9, respectively.

I cannot envisage any circumstances in which a lack of transparency would be of benefit to the Minister, the Government and the State in analysing the outcomes of the legislation. I have tabled the amendments in an effort to be constructive. We are coming to the final element of the Bill and I ask the Minister to consider accepting the amendments.

Deputy Róisín Shortall: I echo Deputy Tóibín's comments on the complete absence of any kind of generosity or collegiality in the handling of this legislation. The Opposition tabled 155 amendments. Everybody in the House has put considerable work into this important legislation and yet not a single Opposition amendment has been allowed throughout the entire debate. It displays an extraordinary arrogance on the part of the Government as if it had some kind of monopoly on wisdom. It is not prepared to work with other Members of the House and take on board issues that are raised, even the most minor ones.

The display we had in the previous division says it all regarding the attitude that has been displayed. Most people probably do not know what that division was about. It was to allow a woman to bring someone with her when she goes before the panel.

Deputy Michael Creed: She can.

An Leas-Cheann Comhairle: I ask the Deputy to deal with the amendment before the House.

Deputy Róisín Shortall: The Minister thought that was provided for and it turned out he was wrong.

Deputy Kathleen Lynch: She can.

Deputy Róisín Shortall: He did not even allow that minor change to insert "and/" into the Bill. It indicates the kind of knife-edge on which the Bill was agreed between the two parties in Government. Clearly the political imperative was that there would be no changes irrespective of the arguments made because it had been hammered out somewhere else. That is really regrettable and like the shambles of last night, it brings the House into disrepute.

Deputy Brendan Howlin: What shambles?

Deputy Róisín Shortall: The shambles of the failure of the Government to order business yesterday-----

Deputy James Reilly: How is this related to the amendment before us?

An Leas-Cheann Comhairle: I have said that already.

Deputy Róisín Shortall: -----and people sitting until 5 a.m.

Deputy Brendan Howlin: A personal rant, as usual.

An Leas-Cheann Comhairle: Deputy Shortall without interruption. I ask her to speak to the amendments before the House.

Deputy Róisín Shortall: I think the comment by the Minister, Deputy Howlin, might suggest that being up to 5 a.m. did not suit him.

Deputy Brendan Howlin: It suited me just fine.

An Leas-Cheann Comhairle: Without interruption, please

Deputy Róisín Shortall: This amendment is about the reporting and notification mechanism in the legislation, which is really important for most people. As was discussed at the hearings and on Committee Stage, legislating in this area is a new departure in many ways. I have already said I do not believe it is the intention of the Minister or the Government to introduce any kind of liberal regime, but because of the nature of the legislation's provisions there is obviously a concern that it may lead to a significant increase in the rate of terminations, which most people do not want to see. It is impossible to say at this stage what the impact of the legislation will be. For that reason it is important to have a very clear notification system so that as legislators we know the impact of the legislation through periodic reports.

The legislation provides for a certain amount of reporting. In addition to those covered in sections 20(3)(*a*) to (*d*), inclusive, I am suggesting adding two other categories which would provide for an anonymised reporting arrangement outlining the stage of gestation at which terminations take place and the outcome for both the woman and unborn. It is reasonable for us to have access to that information, which would, of course, be entirely anonymised. On the basis of those notifications and the information that is gathered, the Minister should prepare an annual report on it. I believe that amendment strengthens the section and gives people a clearer picture of the impact of the legislation.

My understanding of the additional amendment tabled by the Minister is that it greatly weakens the reporting arrangements. I will talk about that when we deal with the Minister's amendment which will be taken next. I believe my amendment No. 145 strengthens the legislation and provides a clearer and more comprehensive picture of the impact of the legislation. I believe it is reasonable and I hope the Government might consider supporting it.

Deputy Billy Timmins: I support the broad thrust of these amendments. In concurrence with the previous speaker, I do not necessarily believe this legislation will open the floodgates. That was never the basis on which I opposed it. Experience elsewhere has shown that it has but I do not know if it will do it in this case. We have a wonderful mechanism for collecting statistics of every sort through the Central Statistics Office, including the import and export of foodstuffs, drink and alcohol. We have a statistic on virtually everything. It is really important to have these statistics so that we can see what is happening. I cannot think of any logical reason - perhaps the Minister of State will present one - as to why the thrust of these amendments are not to be accepted.

At the hearings when I put a question to the Chief Medical Officer and Secretary General of the Department about minors in the care of the HSE who had gone abroad under the X case grounds on the issue of suicide, I was alarmed to be told they did not have or did not keep such statistics. Through a series of parliamentary questions I eventually got the information. Does that not tell us something about what we think of children in care if we did not have an immediate statistic for such a matter when I can get a result on virtually any aspect of Irish society? This is not a prurient set of amendments, but ones which would enable people to understand the impact of the legislation so that it can be policed.

I again reiterate the bona fides of the two Ministers present. However, they might not necessarily always be there. I am always wary of ministerial assertions as Ministers come and go. I strongly support the amendments which have been tabled in good faith in a constructive and positive manner. I ask the Minister of State to go some way to meeting some of the concerns of those on the opposing side of the House.

Deputy Alex White: Section 20 of the Bill covers the area of notifications and sets out in some detail the records which are to be kept on procedures carried out under the legislation and the contents thereof. It is my belief that section 20 as it stands more than adequately covers the amendments proposed by the Deputies and therefore there is no need for the detail proposed. For this reason, I cannot accept these amendments.

Deputy Peadar Tóibín: The topics of notification in section 20 are fewer than the topics of notification in my amendment. This would be the first Minister for Health to refuse the full collection of information in this regard. One cannot manage if one cannot measure. These are important statistics which will identify how the process will be delivered.

I can only conclude that in seeking less information, the Minister does not want to see the information as to how the legislation is being implemented. I cannot understand why the Minister does not want to see the outcome for a pregnant woman and her unborn child in respect of every certified medical procedure carried under sections 7 to 9, inclusive. How will we be able to know if a termination resolved suicidal ideation or not? Maybe the outcome will reflect the international medical evidence that suicide ideation increased as a result of an abortion.

I can only conclude that by not wanting the information there is an effort to not want to get to the heart of how this legislation will operate.

Deputy Róisín Shortall: Apart from a blanket "No", will the Minister explain why he would be against making statistical information available relating to the stage of gestation at which terminations take place and the outcome for the woman and for the unborn? This is standard statistical information that should be made available to the health authorities, as well as the Houses of the Oireachtas. Given the Minister's refusal to engage in this and to provide any explanation as to why he will not provide that information, we have no option but to have concerns about the secrecy element that is surrounding the information. It is important information which will be of interest to many. I cannot imagine why he would refuse to make that information available.

Deputy Billy Timmins: I am disappointed by the Minister's response. If, as the Government purports, this legislation is progressive about saving women's lives, surely we should be able to see its outcomes.

Deputy Alex White: I have nothing further to add.

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

Amendment declared lost.

Amendments Nos. 124 to 127, inclusive, not moved.

An Leas-Cheann Comhairle: Amendment No. 128 is out of order as it involves a potential charge on the Exchequer.

Deputy Caoimhghín Ó Caoláin: Last evening the Minister indicated he would address the matter dealt with in this amendment. My understanding on Committee Stage was that he had indicated a willingness to present an accommodation for aftercare and optional therapeutic counselling services for women who have had terminations.

Several colleagues have objected to the fact that no amendment of any shape or form has been accepted by the Minister during this long process. On Committee Stage, there was only one positive indication from the Minister which concerned this matter.

Yesterday evening, he quoted from the "Blacks" of Committee Stage stating he had not committed to this amendment but would refer to it. I have yet to check the "Blacks" but I really believe this is all just semantics. At the end of the day, it demonstrates even further the total blinkered approach of the Government to very sane and sensible proposals put forward by Opposition Deputies.

An Leas-Cheann Comhairle: We cannot have a discussion on it. The amendment has been ruled out of order.

Amendment No. 128 not moved.

Deputy Peadar Tóibín: I move amendment No. 129:

In page 14, between lines 21 and 22, to insert the following:

"16. Nothing in this Act shall operate to make lawful the direct, intentional ending of unborn human life during the period of time commencing 12 weeks after implantation of that unborn life in the womb of a woman and ending on the complete emergence of that life from the body of the woman.".

Amendment put and declared lost.

Deputy Catherine Murphy: I move amendment No. 130:

In page 14, to delete lines 23 and 24 and substitute the following:

"16. (1) Nothing in this Act shall operate to affect any enactment or rule of law relating to consent to medical treatment or shall serve to invalidate any consent given prior to its enactment.

(2) The consent of the woman shall be required for treatment except where, in the opinion of the medical practitioner responsible for her care and treatment, the treatment is necessary to safeguard her life and she is incapable of or is obstructed in giving such consent.

(3) The consent of a minor who has attained the age of 16 years to medical treatment which, in the absence of consent, would constitute a trespass to her person, shall be as effective as it would be if she were of full age; and where a minor has by virtue of this subsection given an effective consent to medical treatment it shall not be necessary to obtain any consent for it from her parent or guardian.

(4) A medical practitioner, subject to the provisions of this Act and in accordance with the provisions of Article 42A.2.1° of the Constitution of Ireland, in an exceptional case concerning a minor who has not attained the age of 16 and whose parent or guard-

ian does not consent to the provision of medical treatment to her under this Act, may carry out medical treatment necessary to avert what is a real and substantial risk to the life of that minor.".

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

Amendment declared lost.

Deputy Terence Flanagan: I move amendment No. 131:

In page 14, line 27, to delete "medical practitioner, nurse or midwife" and substitute "person".

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

Amendment declared lost.

Amendment No. 132 not moved.

Deputy Peadar Tóibín: I move amendment No. 133:

In page 14, line 28, to delete "or *9(1)*".

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

Amendment declared lost.

Deputy Catherine Murphy: I move amendment No. 134:

In page 14, line 29, to delete "objection." and substitute the following:

"objection, provided that—

(a) his or her refusal to participate in the carrying out of such a medical procedure does not cause an immediate risk to the life of the woman, and

(b) in the case of a medical practitioner, he or she shall forthwith—

(i) provide all relevant information to the woman about her right to such medical treatment, and

(ii) refer or transfer the woman to the care of another medical practitioner where such a medical practitioner is competent and readily available to participate in the carrying out of such a medical procedure.".

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

Amendment declared lost.

Deputy Catherine Murphy: I move amendment No. 135:

In page 14, to delete lines 32 to 34 and substitute the following:

"(3) Notwithstanding the provisions of this section, it shall be the duty of every appropriate institution to ensure the necessary number and category of medical practitioners,

nurses and midwives are made available and are not obstructed in carrying out of such a medical procedure as are governed by this Act.

(4) No appropriate institution shall refuse to provide medical treatment to a woman under the terms of this section.".

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

Amendment declared lost.

Amendments Nos. 136 to 138, inclusive, not moved.

Deputy Catherine Murphy: I move amendment No. 139:

In page 15, to delete lines 16 to 37, and in page 16, to delete lines 1 to 32 and substitute the following:

"20. The Executive shall, for the purpose of monitoring and collecting data on the performance of medical clinical procedures, collect information on the functioning of *Chapters 1* and *2* of this Act in accordance with standard Hospital In-Patient Enquiry procedures recognised by the World Health Organisation and in use by the HSE.".

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

Amendment declared lost.

Amendments Nos. 140 to 145, inclusive, not moved.

Deputy Alex White: I move amendment No. 146:

In page 16, line 24, to delete "*subsection (1)*" and substitute "*subsection (4)*".

Deputy Róisín Shortall: This amendment considerably weakens the reporting arrangements. The Bill states the Minister shall arrange for a report to be laid before both Houses of the Oireachtas in accordance with section 20(1). This subsection is fairly detailed and would provide much important information. Unfortunately, for some unknown reason the Government proposes to amend this so that the reporting would be in accordance with section 20(4) which is much more restrictive and basic. This very much flies in the face of the claims made on Committee Stage about the reporting arrangements that they would be open. It is a strange amendment. It closes down information and makes the arrangement more secretive. I am interested to hear the Government's rationale behind this amendment.

Deputy Peter Mathews: I agree with Deputy Shortall. Section 20(1) gives the opportunity to have more, fuller and clearer information than section 20(4).

Deputy Alex White: This amendment is concerned with section 20(1) of the Bill, which amends section 9 of the Health Act 2007, to provide for situations in which there is a serious risk of a failure by an institution to comply with the provisions of the Protection of Life During Pregnancy Bill 2013-----

Deputy Róisín Shortall: What amendment are we dealing with?

Deputy Alex White: Amendment No. 147.

An Leas-Cheann Comhairle: It is amendment No. 146, in your own name.

Deputy Alex White: I am sorry. I was misdirecting myself. I did not have a note in front of me in respect of this amendment. When Deputy Shortall was making her submission, I was trying to listen to what she was saying, and I was also attempting to take some instructions. I read the wrong note, so I am a little bit thrown by this. I do not mean any disrespect to the Chair, to Deputy Shortall or to the House.

Section 20(5) states that the Minister "shall arrange for a report laid before both Houses of the Oireachtas in accordance with subsection (1) to be published in such form and manner as he or she thinks appropriate as soon as practicable after copies of the report are so laid". It is a purely technical amendment that corrects a mistake in the text of the Bill. This is a proposal simply to delete subsection (1) and replace it with a reference to subsection (4). This was always the intention of the Minister, but it was incorrectly drafted in the version that was actually circulated.

Deputy Róisín Shortall: It is not actually a technical amendment. We were given to believe that there would be a notification process that collected data under a number of different headings, and there would be a reporting mechanism on that data, which is really important data and many people would be interested in seeing it on an annual basis. It is pretty critical to this Bill. That was the understanding, but the Minister is now restricting that and it is to be reported under subsection (4), which is much narrower in its provision and does not set out any headings under which the Minister will report. The Minister will decide what information he is going to provide. That would again raise concerns about the secrecy surrounding the impact of this legislation. In the interests of openness and transparency, so that we are all clear about the impact of this Bill, I think that the Government amendment is not acceptable. It would be far preferable for everybody that we would have the information set out in subsection (1).

Deputy Alex White: If the Deputy were to look more closely at section 20(1) and section 20(4), she would see that it must never have been the intention to refer to subsection (1) and that it must always have been the intention to refer to subsection (4). Section 20(5) states that the Minister "shall arrange for a report laid before both Houses of the Oireachtas in accordance with subsection (1) to be published in such form and manner..", and we are saying that this should refer to subsection (4). If we look at subsection (4), it refers to a report to be laid before each House of the Oireachtas. There never was any reference in subsection (1) to a report being laid before the Oireachtas, so it manifestly is a typo. All we are doing is correcting it.

Deputy Róisín Shortall: In fairness, the issue is the scope of the report and not the report itself.

Amendment put and declared carried.

Deputy Joan Collins: I move amendment No. 147:

> In page 16, to delete lines 33 to 39, and in page 17, to delete lines 1 to 32.

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

Amendment declared lost.

Amendments Nos. 148 and 149 not moved.

An Leas-Cheann Comhairle: Amendments Nos. 150 to 155, inclusive, 157 and 158 are related and may be discussed together.

Deputy Joan Collins: I move amendment No. 150:

In page 17, to delete lines 33 to 39, and in page 18, to delete lines 1 and 2 and substitute the following:

"Offences

22. (1) It shall be an offence—

(a) to intentionally or recklessly end a pregnancy without the consent of the pregnant woman,

(b) for a person other than an appropriately qualified practitioner to perform a surgical medical procedure for the purposes of ending a pregnancy.

(2) Notwithstanding the provisions of *subsection (1)* of this section—

(a) no pregnant woman, or third party facilitating or assisting her, shall be held criminally liable for procuring or carrying out a medical procedure that leads to

the ending of a pregnancy, and

(b) no appropriately qualified practitioner shall be held criminally liable for carrying out a medical procedure that leads to the ending of a pregnancy.

(3) A person guilty of an offence under this section shall be liable under indictment to a fine or imprisonment for a term not exceeding 14 years, or both.

(4) A prosecution for an offence under this section may be brought only by or with the consent of the Director of Public Prosecutions.".

This is in respect of the 14 year jail sentence for a woman or someone who assists a woman in acquiring abortion in this country outside the structure of this Bill. This replaces the 1861 Act, which is one of the most draconian Acts left in Europe, and even outside of Europe because most of Britain's former countries are outside Europe. For example, India got rid of this Act in the 1960s, as did a raft other countries.

This is the section of the 1861 Act which provides the chilling factor that the European Court of Human Rights stated should be removed. It should not be in any right minded society. The Government has a great opportunity to remove the 1861 Act completely, but instead it is replacing it with a 14 year jail sentence. If a young woman took an abortion pill, found herself in difficulty after taking that pill, had to attend an accident and emergency department, was asked if she took an abortion pill and answered in the affirmative, could her case be brought before the Director of Public Prosecutions and an action taken against her? It is not a crime as the abortion pill can only be taken up to nine weeks.

We had the opportunity to get rid of that Act completely. There is a hypocrisy in this country where we threaten to jail women if they procure an abortion here, but we do not mind giving them information and they can travel to Britain and do the exact same thing. If it is a crime here, why are we giving information to women to travel to have an abortion in Britain? The

hypocrisy of it is amazing. People talk to me about the unborn and repugnancy. I find this one of the most repugnant aspects of this Bill.

Deputy Michael Creed: The people voted for it to be in the Constitution.

Deputy Joan Collins: I ask the Minister to take the opportunity to remove it or to give a commitment that he remove it in the near future.

Along with the number of medics diagnosing suicidal ideation, the lack of clarification of the definition of the unborn, and the lack of clarity for the medical profession in respect of the imminent threat to the life of a woman, this is another section which makes this the most unique law in Europe. It is the most repugnant part of the legislation and it should be removed. It is one of the reasons I cannot support the Bill as a pro-choice activist. I cannot see how any progressive person in the Labour Party can support it.

Deputy Clare Daly: As Deputy Joan Collins has noted, there is no requirement for the Government to criminalise women or doctors in the way proposed. I have no doubt that an attempt will be made to argue that the Government has dealt with sections 58 and 59 of the Offences against the Person Act 1861. That Act provides that where a woman attempts to procure a miscarriage herself or with the assistance of another through the administration of poison or other instruments, she shall be guilty of a felony and, on conviction, shall be liable to penal servitude for life. That provision has had a chilling effect and it is reprehensible. I welcome its removal from the Statute Book, but why is it being replaced with another criminal conviction? Instead of penal servitude for life the language is being modernised but, in effect, anybody deemed to have had what is described as an unlawful abortion or who assists another in such a procedure will be criminalised and sentenced to up to 14 years in prison.

An issue clearly arises with back-street abortions. While some Deputies propose to delete the entire section, Deputy Joan Collins and I have allowed for the criminalisation of those who perform back-street abortions. These are individuals who do not have the consent of the woman and lack the medical qualifications necessary to carry out a procedure. It is legitimate to argue that a criminal sanction would apply in such circumstances in any event but, in case the Government is worried that the removal of the aforementioned offensive sections of the 1961 Act will somehow facilitate back-street abortions, we have provided explicitly for them. Our amendment provides that the woman and any third party who, with her permission, tries to assist her or a qualified medical practitioner shall be exempt from criminal sanction. This is important. The question was raised as to whether somebody presenting to a hospital after taking abortion pills will be reported and potentially criminalised. I do not doubt the Minister will deny that such circumstances could arise but evidence already exists to suggest that women who present to hospitals with miscarriages after self-administering abortifacients are not being questioned because of fears of what the answer might be. This means women are exposed to a lack of protection in terms of aftercare and hospitals are hamstrung in asking questions about the cause of the problem. In this era of Internet medication, who knows what a person might take?

This provision does not protect women's lives and it will have a chilling effect. Doctors, psychiatrists and other medical practitioners will have to make a decision on protecting a woman's life while looking over their shoulders. I am sure we will be told they do not have to look over their shoulders, but if any of them listened to the debate on previous amendments, they will be looking over two shoulders. Certain Deputies proposed that information be gathered for the purpose of transparency, almost to the extent that the Houses of the Oireachtas would

close down business in order to examine medical procedures relating to all aspects of a pregnant woman's condition. I was beginning to wonder whether they would demand lists of how many varicose veins had been removed. Should we be examining all of these medical practices in our hospitals? No, we should not. These are medical procedures administered by medical practitioners. They are routine and private health matters. The idea that the Oireachtas would examine such procedures is ludicrous. Deputy Timmins let the cat out of the bag when he asked how else were we to police the legislation. That is a disgusting approach to legislation designed to protect women's lives.

The Bill retains the prospect of criminalising women and, potentially, doctors. That is not indicative of a modern society. It is indicative of hypocrisy, given that we allow people to travel and give them information. If this provision is justified on the basis of constitutional requirements, the onus is on us to change them. This issue was first put to the people 30 years ago and nobody who is now under the age of 48 was able to vote on it, while many of those who did vote are now dead. Can we please move on and reflect the society we now live in and the reality that thousands of women access abortions every year?

Deputy Colm Keaveney: I am speaking on amendments Nos. 153 and 157. I have previously pointed out that neither side of the debate is prepared to engage with the arguments of the other side, preferring instead to deal in caricatures. This is a dialogue that has emerged over the past several weeks, with very few people listening. Section 22 of the Bill is a case in point. It has been argued that the 14-year sentence was proposed as a sop to pro-life groups. This is ludicrous. When I speak to pro-life and pro-choice camps, both tell me they do not want the legislation to provide for a jail sentence of 14 years. The idea of such a sentence hanging over a woman in a distressed or vulnerable situation is appalling. It contradicts the imperative of compassion and understanding. I cannot see how any Deputy could support the threat of 14 years in prison against a woman in such distress.

I appreciate the constitutional difficulties that arise for the Minister in accepting amendments on these grounds but I appeal to him to address this issue in another way. The Bill goes some way to providing strict liability. I urge the Minister to introduce an amendment in the Seanad to further define intentionality within the relevant subsection to ensure any prospect of a lengthy sentence is unlikely to affect a woman. However, there is another option. The Minister could frame a section that explicitly provided that only medical professionals or other third parties would have liability in this respect. He could be silent on the matter as it concerns the woman.

This is the second occasion since I was elected that I have been involved in a debate that dragged on into the early morning. I woke up this morning to messages from people across the country who believed this House was akin to a gentleman's club in the way we arrive at legislation. It is no wonder, as we speak about the prospect of jailing women, that women do not get involved in politics. I appeal to the Minister to address the concerns I and many other have expressed about this section.

11 o'clock

I ask him to look at positive solutions over the course of the next few days. Many Deputies have spoken to him and in the House about guarantees and understandings they have received from him in hour-long chats, but these only hold good while he is in office. We have no idea what he said to them or what the future holds. The only guarantee we can give is that we can

compose legislation wherein we can ensure clarity. The legislation must have guarantees for women, but the Minister must ensure the prospect of a 14 year jail sentence-----

Deputy Kathleen Lynch: You voted against it.

Deputy Colm Keaveney: Pardon.

An Leas-Cheann Comhairle: Through the Chair, please.

Deputy Colm Keaveney: Ms X will be 35 years old this year. She was 14 years old when she found herself in this situation. The notion was expressed by other Deputies, in particular Deputy Áine Collins, that this proposal would be absolutely unacceptable. It is clear across the House that there is a need for compassion from the Government in looking at an amendment in this area. I ask the Minister to look at the spirit and intention of my amendment.

Deputy Mick Wallace: We have discussed different issues regarding the possible termination of pregnancies and the Minister has argued it is not possible to deal with them owing to constitutional difficulties. However, this was an area he could have addressed. With this new legislation, there was no reason he should have left this draconian law in place. Current criminal law does not deter women from resorting to the importation of medication which may be used incorrectly and without medical supervision or a prescription for antibiotics, as is the protocol when this medication is used in countries where it is lawful. The law does, however, deter some women in such circumstances from seeking medical advice where post-abortion complications arise. Delay in seeking medical advice may result in a risk to women's health or, in certain circumstances, her life.

In addition, criminalising abortion shifts the burden of realising the right to health away from the State and onto pregnant women. Those women who travel to the United Kingdom for terminations, for all reasons, report significant physical, financial and psychological hardship and a sense of shame, isolation and stigma when they seek health services abroad that are criminalised in Ireland. Criminalising abortion stigmatises and isolates women and denies them appropriate, accessible and affordable health services. It results in a lack of consistency and accountability in the delivery of health care services, a lack of training and skills development for doctors, a lack of continuity of care for women and significant constraints on the ability of doctors to act in their patient's best interests.

Criminalisation of abortion in Ireland imposes financial, psychological and physical hardship on women. It acts as a form of discrimination and intersects with other forms of discrimination to further disadvantage vulnerable and marginalised women. The women and girls who experience most difficulty are those who are already marginalised and disadvantaged such as those with little or no income; women with care responsibilities; women with disabilities; women with a mental illness; women experiencing violence; young women; migrant women; and women asylum seekers. In the Irish context, the criminalisation of abortion gives rise to particular concerns because abortion is only lawful to save a woman's life as distinct from her health. No other country in Europe makes the distinction made in Irish law, permitting abortion to save a woman's life but not to preserve her health. The distinction is clinically virtually impossible to make, but the Protection of Life During Pregnancy Bill requires doctors to make it. This, in effect, requires them to wait for a clinical case to deteriorate until the risk to health becomes life-threatening. In the process, a woman's life may well be endangered or lost.

In the context of a fear of criminal prosecution, therefore, medical service providers are

effectively prevented from exercising clinical discretion in their patient's best interests and applying best clinical practice and intervening when a serious health risk presents. The idea that we are fine with 4,000 women a year travelling to England to have an abortion but are not fine with their getting a pill in the post to deal with the same issue is strange. It appears to be okay for them to get on a boat and get the pill in England and take it before they get back on the boat or the Ryanair flight. Is that fair and practical? Is it rational? Will the Minister try to justify why the Government has not dealt with this draconian provision in this new Bill? I find it difficult to believe the Minister believes it is a good idea that a woman who takes an abortion pill she buys on the Internet could spend up to 14 years in jail for doing so. Will he explain to me how he thinks this could possibly be right?

Deputy Richard Boyd Barrett: There is no justification whatsoever for criminalising abortion. I do not know what exactly is the Fine Gael Party political position. There are probably mixed views within the ranks on the issue. However, I always understood the Labour Party was a pro-choice party and that it believed, whatever about the legal and constitutional limitations, abortion was a valid choice for women and that they had such a right. It seems incomprehensible to me that a party that describes itself a pro-choice and believes abortion is a valid option for women in a range of circumstances could, at the same time, support the criminalisation of abortion and women who procure abortions or doctors who provide them with such a service. That is incomprehensible and it beggars belief it could even suggest this.

An Ceann Comhairle: We are not discussing the politics of any party. I ask the Deputy to speak to the amendment.

Deputy Richard Boyd Barrett: This is about criminalisation.

An Ceann Comhairle: Yes, but we are not dealing with parties.

Deputy Alex White: He had to get that in.

Deputy Richard Boyd Barrett: Yes, because I genuinely find it hard to believe.

An Ceann Comhairle: That would be all right on Second Stage but not on Report Stage of a Bill such as this.

Deputy Richard Boyd Barrett: I am genuinely shocked. On Committee Stage the Government was asked on a number of occasions whose idea this was. Again, whose idea was it?

Deputy Alex White: The people of Ireland, unfortunately.

Deputy Richard Boyd Barrett: No, the people of Ireland did not at any point express a desire for a 14 year prison sentence for women who procured abortions or for those who provided such a service. The only possible justification there could be for the criminalisation of abortion is, as Deputy Clare Daly mentioned, the practice of back-street abortions. That is the only justification. However, that is not a justification because to perform an abortion on a woman without her consent would be a most serious criminal offence and a grievous assault, resulting in grievous bodily harm and God knows what else. It is already a crime. Similarly, it is a crime for somebody who is not a qualified medical practitioner to carry out an abortion. Therefore, there is no necessity to include this provision in the Bill.

The most obnoxious aspect of this provision is not even the chill factor which it will undoubtedly maintain for doctors in making decisions in the interests of women's health and lives.

It will undoubtedly weigh on their minds that if they act outside these very unclear guidelines as to when, how and where they can intervene to protect a woman's life, they could be guilty of a criminal offence and subject to a penalty of 14 years in prison. That certainly will have a chilling effect. Setting aside even that, however, the most obnoxious aspect of this provision is the issue of stigma. The Minister knows what I am saying. Anybody who claims to be pro-choice and respects the fact that abortion is a valid choice for women in some or all circumstances knows that the question of stigma is a very serious consideration.

This provision very clearly says something to the thousands of women who travel to Britain every year for abortions. They do so for all sorts of reasons - because they have been raped, because they have a pregnancy which involves a fatal foetal abnormality, because they are facing inevitable miscarriage, because their health is threatened or because they feel they are too poor, too old or too sick to have a baby. This provision says to these women that what they are engaging in is a form of criminal activity and that the people who are providing them with the service are criminals. The Government is maintaining that stigma which is so damaging to the psychological welfare of women. As the Minister knows, one of the major points made by the women involved in Terminations for Medical Reasons when they made their presentations to Members of this House was how horrible it was, faced as they were with a diagnosis of fatal foetal abnormality during the course of a wanted pregnancy and having to travel to Britain for an abortion, to know, in addition, that what they were doing was considered criminal in the State. This provision maintains that aura and stigma of criminality around what they and other women have done and will do in the future.

I know the Minister does not believe for one minute that what women in that situation have done is criminal. In fact, I hope he does not believe for one minute that the thousands of women who travel every year to Britain are engaging in something that is criminal, yet the Bill says that to undergo that procedure in the State is a criminal act. The women who travel to Britain do not live in a parallel universe where they will have the procedure performed there, where it is not criminal and then come home without a full awareness that what they have done is deemed a criminal offence in this jurisdiction for which they could face a prison sentence of 14 years.

An Ceann Comhairle: The Deputy has made his case. There is no point in engaging in repetition on Report Stage of a Bill. Instead of making a Second Stage speech, he should focus on the amendment.

Deputy Richard Boyd Barrett: Thank you, a Cheann Comhairle.

An Ceann Comhairle: I ask the Deputy to speak to his amendment.

Deputy Richard Boyd Barrett: The point I am making is about criminalisation. I do not see what could be clearer.

An Ceann Comhairle: The Deputy has made his point. The debate is due to end at midnight and many other Members wish to speak.

Deputy Richard Boyd Barrett: I was just about to finish. I am, however, perfectly in order and do not see why the Ceann Comhairle had to cut across me.

An Ceann Comhairle: The Deputy is not perfectly in order; moreover, he consistently engages in checking the Chair. When I tell him something, I am telling him what is in Standing Orders, not what Seán Barrett says.

Deputy Richard Boyd Barrett: What is in Standing Orders?

An Ceann Comhairle: No repetition is allowed on Report Stage.

Deputy Richard Boyd Barrett: Where have I engaged in repetition?

An Ceann Comhairle: The Deputy cannot go on and on.

(Interruptions).

Deputy Richard Boyd Barrett: I was making a point about stigma.

An Ceann Comhairle: This is Report Stage. It is a different issue.

Deputy Richard Boyd Barrett: I know the Government does not want to hear what I am saying.

(Interruptions).

Deputy James Reilly: The Deputy is making the same point *ad infinitum*.

An Ceann Comhairle: I ask Deputy Richard Boyd Barrett to complete his contribution.

Deputy Richard Boyd Barrett: The Government refuses to deal with this most important of issues. It is shameful that it would seek to maintain the criminalisation of women for doing something which is their right.

Deputy Alex White: We have heard the Deputy's point.

Deputy Joe Higgins: We are coming very near to the end of this mammoth legislative debate. I will try to be concise because I know other Members wish to speak.

It is utterly unacceptable that we would criminalise women in this day and age where they have undergone a termination in the State in circumstances that are not permitted under current legislation. I remind the Minister and Ministers of State that they are criminalising women faced with fatal foetal abnormalities, suffering inevitable miscarriage, who are victims of rape and incest who might avail of a service in the State, and who determine, after a difficult consideration, that it is in their best interests to have a termination. Should any of these categories of women opt to have a termination in the State, they could, under this provision, be put in jail for 14 years. It really is appalling. We must remember that the State facilitated a referendum to allow safe passage out of the State for women in this predicament to have a termination in another jurisdiction. Allowing that situation to continue amounts to major hypocrisy.

Some of the women who have made that journey gave their testimony to the Government and other Members of the Oireachtas. They spoke about how they had felt alienated and traumatised as they left the State to undergo a medical procedure, at great expense, in another country. The Government does, in fact, recognise the problematic nature of this provision by way of the inclusion in section 22(3) of the condition that a prosecution for an offence under the section may be brought only by or with the consent of the Director of Public Prosecutions. It is merely a safety net for the State, a way to save the Government's blushes in the event that a situation is stumbled upon where a woman would actually be prosecuted. If that were to happen, there would be outrage among ordinary, decent people in this society and great embarrassment to the Government, in the same way that the Government in 1992 was deeply embarrassed as a result

of what had happened to the unfortunate victim in the X case. The provision has been included to try to alleviate such an eventuality or prevent it from happening.

The reality, of course, is that if we did not have the safety valve of the availability of safe terminations in Britain and if, instead, back-street abortions were taking place here, with the inevitable tragedies that would result, abortion would have been decriminalised long ago because the people would demand it be done. I hope the Government will accept the amendment to remove this barbaric criminalisation which should have no place in the legislation.

Deputy Catherine Murphy: The penalty of 14 years in prison and an unlimited fine is an extraordinarily onerous sanction. It does, without question, carry forward the chilling effect deriving from the Offences Against the Persons Act 1861 into the new legislation. The European Court of Human Rights, in its deliberations in the case of A, B and C *v*. Ireland, paid significant attention to the threat of criminal prosecution under the 1861 Act, the severity of sentences likely to be imposed on conviction and the chilling effect this had on clinicians in terms of their willingness to make a determination and treat women in need of lawful termination services. That is a key issue. To impose a 14 year sentence opens up the prospect of a challenge that may be successful. The criminalisation of pregnant women under the provisions is likely to act as a significant deterrent to women seeking services under the Bill. Several Members have said women will continue to go to Britain even where there is an entitlement under the Constitution. It could open up the State to further prosecution under the European Convention on Human Rights. A remedy that is not accessible is not a remedy and so it is tantamount to no remedy in international law. Deputy Collins referred to people going to other jurisdictions so I will not labour that point. We are all getting tired and coming towards the end of the debate.

In setting out such a punitive regime pertaining to unlawful terminations, clinicians are likely to err on the side of refusing to certify women seeking terminations under the Bill in order to have certainty of avoiding prosecution. I did not think that was what we were trying to achieve. I have serious concerns about the sanctions. I do not understand why the standard sanctions that apply to clinical malpractice do not apply in this case. It is extraordinary and almost unique that this is treated in a separate way.

Criminal sanction is warranted for backstreet abortions or where people are unlicensed. It is intended only to address the likes of clandestine medical institutions with untrained and unlicensed people. It is reasonable that the kind of sanctions here will make the legislation a great threat rather than an enabling item of legislation for women to get something they are entitled to under the Constitution.

There could be unintended consequences. We may find unsafe practices, such as women taking large amounts of the contraceptive pill or a rolling back of the availability of contraceptives where people look for alternative solutions. The sanctions are out of keeping with an honest approach even in a highly restricted sense. I am concerned we are opening ourselves up to other challenges, some of which are likely to succeed.

Deputy Seamus Healy: Amendment No. 153 seeks to exclude the criminalisation of the pregnant woman. It seeks to differentiate the pregnant woman from any others involved in assisting her. The proposal to criminalise the pregnant woman and to make her subject to a 14-year prison sentence is inhumane, barbaric and anachronistic. It is indefensible and should be removed from the legislation. The 14-year sentence is, in itself, extraordinary. In recent years in the court system, prison sentences for the heinous crime of rape and manslaughter have been

significantly less than 14 years.

At the committee hearings and in the debate tonight, the Minister said he is obliged by Article 40.3.3° of the Constitution. The Irish people did not vote for or instruct any Government to criminalise pregnant women involved in these situations. They did not vote for or instruct to propose a 14-year sentence in such situations. The section criminalising the pregnant woman is inhumane, barbaric and anachronistic and should be deleted.

Deputy Caoimhghín Ó Caoláin: As on Committee Stage, I seek to include the wording "other than the pregnant woman" in section 22(2), in other words, a person other than the pregnant woman guilty of an offence under this section. The purpose and intent of the amendment reflects the overwhelming opinion of Irish people today. It is not unique to those who argue from a pro-choice point to view, in terms of care and compassion to a woman who faces a crisis situation in pregnancy and whatever steps she may take, nor is it unique to the huge swathes of middle ground opinion. It is also reflected among a considerable number, if it is not the majority view, among those who describe themselves as pro-life. I have met it, heard it and listened to it and accept it is a view that straddles the range of opinion that reflects on the issues at the heart of this legislation.

As with Murphy's Law, it is only a matter of time before a situation presents in our courts with the unwanted consequences of this provision unfolding before our eyes. On Committee Stage, I instanced a pregnant young girl accessing tablets on the Internet, taking them, finding herself unwell and presenting in hospital. Where does the legislative provision place medical practitioners in respect of a variety of situations, such as the attempt at an end of life situation on the establishment of the fact that she had taken abortifacient tablets? Many circumstances can present and it is the loneliness and the aloneness of that young girl that will challenge everyone here. It will underscore how inappropriate is this provision as it presents and provides for.

I accept fully that these provisions are necessary in terms of those who would carry out illegal abortions in this country in whatever setting, but there is no outright cry or demand for the criminalisation of women who seek or secure abortions. The contrary is the case. Irish people, as I have stated, from all opinion on this issue, are broadly of the same mind, that they do not want to see the woman or girl criminalised.

Members spoke of what happens in this State and of women having to travel to Britain. Accessing the tablets on the Internet and possessing them is not an offence. The offence would be if the young woman then took them, being pregnant, here in this jurisdiction. What are we saying to women here who take possession of these tablets for that purpose of ending the pregnancy, that they should go north of the Border for the glass of water? It is bizarre.

While I can anticipate the response that the sentence is up to 14 years, it is not prescriptive and it will not be 14 years, the other night I listened to an eminent pro-life voice on the television argue that this situation will never arise and the courts would never prescribe a sentence in the sets of circumstances that I and others here outlined this evening.

An Ceann Comhairle: May I remind the Deputy there are four other speakers plus the Minister?

Deputy Caoimhghín Ó Caoláin: There are. I am speaking in my first contribution on this important matter of criminalisation.

An Ceann Comhairle: I am merely saying there are 20 minutes left.

Deputy Caoimhghín Ó Caoláin: I want to finish my arguments on why this should not be in the Bill.

I reject the empty assurances of voices on the television screens who state this will never present, that the courts would never decide so. The prescription is in the legislation. I am afraid it could well happen and my fear is that it will. Just as assuredly as, in 1992, the X case presented, there will be situations that the Minister will not be able to anticipate, but he can be sure that, if it can happen, it will. We are leaving ourselves open to a very sorry vista indeed.

Women should not be criminalised in this situation. I commend, however imperfect, the formula I and others presented to arrive at a situation that there would not be such within this legislation. I commend it to the Minister, in the spirit of the appeals across the House. Let me point out again that those who have spoken in support of this position today already reflect right across the spectrum of opinion on this issue and on this Bill.

Deputy Billy Kelleher: I will ask some questions first to gain a little clarity in the context of the amendments, and I await the Minister's reply.

As we all will be aware, we are obliged inside here to uphold the Constitution. First and foremost, Article 40.3.3° is quite clear. We must vindicate the right of the unborn as well. I think we must bring it back and I want clarity from the Minister. Are there age limits on this? Is there an age limit as to when a woman decides to procure abortifacients on the Internet? What about, for example, a 14 year old girl who is pregnant? A cursory Google search on the Internet can secure abortifacient tablets. One hit describes how one takes them, it describes the side-effects, it describes the nausea feelings, it describes the bleeding, but then it goes further. I am asking a question as opposed to making a statement here. It then goes on to advise, if there are complications, if there is heavy bleeding and if it does not stop after three or four hours, that one should go to a doctor. I point this out for a reason. If, for example, there is a young pregnant girl in this country who for whatever reason cannot continue with the pregnancy and cannot tell her parents, who is alone, isolated and vulnerable, and she gets onto Women on Waves, the website I hit when I googled a while ago, and she procures the tablets and takes them, in the event that there are any complications arising and she presents to a doctor eventually, I have two questions: could she be prosecuted under section 22(1), which states "It shall be an offence to intentionally destroy unborn human life."; and is there an obligation on medical professionals to bring that particular issue to the attention of the authorities in terms of informing An Garda Síochána, which, I assume, would pass the matter on to the Director of Public Prosecutions? In this debate, I have never channelled myself as either pro-life or pro-choice, but I genuinely think this is an important question for a number of reasons.

The sanction of 14 years will not deter a 14 year old girl who is pregnant from securing tablets over the Internet. I accept there is an obligation to vindicate the right of the unborn, but this will not deter her. What it could deter her from is accessing medical care in the event of a serious complication because the website to which I referred - and many others as there are hundreds of them - also states that there could be haemorrhaging and bleeding and that could cause further complications and that one should seek medical help. For many reasons, I would appreciate clarity on that.

One should reflect on whether a 14 year old could possibly be prosecuted under the Bill and

sentenced to 14 years in prison because she was in absolute fear because she was pregnant with nobody to tell for whatever reasons. That is something on which we in this House should reflect as well, but I await the Minister's reply.

Deputy Patrick Nulty: I speak in support of amendment No. 150. I note the Ministers in the front row. I have respect for many of them and that makes it all the more shocking that the Government would agree to the imposition of this particular aspect of the Bill. The vast majority of citizens watching this debate outside this Chamber do not believe that a woman who procures a termination of pregnancy, other than in the narrow circumstances for which we are legislating tonight, is a criminal. Ultimately, if the Government does not support amendment No. 150, which clearly and in a detailed way sets out a progressive pathway, it is criminalising them.

Over the past couple of days, throughout the discussion in which we are gradually coming to a conclusion, there have been many comments about morality, ethics and moral philosophy, often from a myopic perspective. Surely there is nothing more problematic, from a moral and philosophical perspective, than to criminalise 50% of the population for, as they see it, procuring appropriate medical treatment, and that is ultimately what this legislation will do. If the argument is that no one will ever be prosecuted under the legislation, why place it on the Statute Book? It is a farcical approach to law to provide a law which it is not intended to enforce and which potentially leaves the Government open to all sorts of consequences and situations. If we are to legislate in a way that is balanced and reflects what I think are the views of the public and of society, then surely the Minister must accept the amendment and take a reasonable approach. No reasonable person, whether in this Chamber or looking on, believes that 50% of the population should be potentially criminalised in this way for procuring medical treatment. This is what is being suggested and what the legislation will mean in practice. Other Deputies have outlined all sorts of different possibilities that could lead to dreadful situations and circumstances for people. The Minister should accept the amendments. To those advocating a pro-choice position, mistakes were made last night in pressing buttons, this that and the other. I hope there will not be any mistakes when it comes to this issue.

Deputy Kathleen Lynch: The Deputy is the only one-----

An Ceann Comhairle: I have called Deputy Creed, please. I ask the Minister of State to please desist.

Deputy Michael Creed: I wish to make a few brief observations on this section and on the amendments. We have spent an extraordinary long period of time - six months or more - in considering all the views and trying to balance the rights of the mother and of the unborn child. These are fundamental rights to life. What I say is probably against the grain of all previous contributions. It is being unrealistic if we are to collectively endeavour to strike that correct balance and then seek to walk away from any chill factor - the term used in the European Court judgment and in reference to the 1861 Act - and hope in good faith that all of the construct in this legislation will be abided to by every party without any sanction for anyone who may breach the provisions of that Act. We need to retain a chill factor. As Deputy Kelleher said, nobody wants to see the vulnerable girl face a sanction of 14 years imprisonment. We pass laws in this House every day which provide a range of sanctions but this House is not the authority that decides to prosecute or that administers the penalty. We are discussing the case of a person who willingly decides to flout the provisions of the law. It would be extraordinary if there were to be no sanction in that case. Of course, nobody wants vulnerable people to be punished but

unscrupulous doctors may decide that they will flout the law and they may not acknowledge the equal rights which the Irish people provided in the Constitution. One party will lose out entirely, will have their life taken without any due regard to the equal right. It is ridiculous to argue that a chill factor of some degree should not be retained.

An Ceann Comhairle: There is interference, which is upsetting the recordings.

Deputy Lucinda Creighton: I apologise. It is my iPad. If we are to show genuine respect and give life and reality to the constitutional provision in Article 40.3.3°. then it would be bizarre that we would not consider to be an offence the intentional taking of human life. As Deputy Creed said it would essentially make void the entire piece of legislation but also the constitutional guarantees that have been secured in Article 40.3.3°. I disagree with the suggestion that the section be deleted. However, I agree that 14 years is an extremely harsh sentence for someone who would, we imagine, be in a very difficult and delicate situation. My amendment No. 152 proposes to reduce the sentence from a draconian 14 years. Offences of equal if not greater gravity often lead to much shorter sentences. My amendment proposes the sentence to five years. I am not prescriptive and if the Minister has a suggestion of his own, Members would be interested to hear it.

Deputy James Reilly: I thank all Members who contributed on this section of the Bill. I will speak first to my amendment No. 155 which proposes to delete subsection 22(4). While it was initially thought that this subsection was necessary for the avoidance of doubt, subsequent advice has proved that this is not the case and for this reason I propose to delete it.

I refer to amendments Nos. 150 to 154, inclusive, 157 and 158.

I will first address the amendments which aim to decriminalise a woman who unlawfully seeks or undergoes a termination of pregnancy. While I understand concerns in this regard, I wish to clarify that a woman can currently be prosecuted for an unlawful abortion under the Offences Against the Person Act 1861 and until this Bill is passed, that is the case. The Act states, "She shall be liable to be kept in penal servitude for life". Therefore, the provision proposed in the Bill does not create a new offence for pregnant women; it merely brings the penalty for this offence in line with current parameters, not exceeding 14 years instead of life imprisonment. The Director of Public Prosecutions will use his or her discretion and the wisdom of the office in deciding whether to refer a case. The courts will also have discretion. None of us would want to see a 14 year old in the situation described by Deputy Kelleher. I cannot imagine how it would happen but equally I cannot give a cast-iron guarantee that it will not happen. The sentence of 14 years is included on the advice of the Attorney General that there has to be some relativity to the current law which this Bill proposes to replace. As Deputy Creed and the Minister of State, Deputy Creighton have argued, Article 40.3.3°. states that the life of the unborn is to be protected because it has an equal right to life. Therefore, this has to be vindicated

While it is recognised that the potential criminalisation of a pregnant woman is a very difficult and sensitive matter, this provision reflects the State's constitutional obligation arising from Article 40.3.3°. It would also be inequitable to have, as a matter of course, a significant penalty for the person performing a medical procedure but none at all for the woman who is willingly undergoing such a procedure. This provision also relates to men. What would be done with a back street operator who was a recidivist carrying out dangerous procedures on vulnerable persons? It is a maximum, not a minimum, sentence and discretion is provided for.

The effect of amendments Nos. 151 and 158 would be to delete the provisions that cover the offence under the Bill of intentionally destroying unborn human life. These provisions replace and update sections 58 and 59 of the 1861 Act and, therefore, are essential to uphold the constitutional position on the issue. I will not accept the amendments.

Amendment No. 152 would require the penalty for the offence under section 22 to be reduced to a term not exceeding five years. I cannot accept this amendment. Based on a review of the main categories of criminal offences on the Statute Book, the term of 14 years was considered appropriate by my Department and the Department of Justice and Equality. The sentence to be applied in any case is a matter for the court involved. We debated this issue at considerable length on Committee Stage. I acknowledge it is sensitive and that it is not the intention of any Member, no matter how hard are his or her beliefs, that a 14 year old should be subject to a 14 year sentence. However, in response to the question raised by Deputy Billy Kelleher, the normal criminal law applies in sentencing and it has always been more lenient on minors than adults. That will be the case. The discretion of the courts and the Director of Public Prosecutions will apply.

Debate adjourned.

Business of Dáil: Motion

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

That, notwithstanding anything in Standing Orders or the order of the Dáil of 11 July 2013, the Dáil shall sit later than midnight and adjourn not later than 1 a.m.; the Dáil shall meet on Tuesday, 16 July 2013 at 1 p.m. and the business to be transacted between 1 p.m. and 1.45 p.m. shall be as follows: statements on the report, Promoting a Sustainable Future for the Post Office Network (resumed), on which the proceedings thereon shall, if not previously concluded, be brought to a conclusion after 45 minutes and the following arrangements shall apply: the opening statements of a Minister or a Minister of State and the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group who shall be called in that order and who may share time shall not exceed ten minutes in each case; a Minister or a Minister of State shall be called to make a statement in reply which shall not exceed five minutes; and the normal order of the day shall commence at 2 p.m. with oral questions.

Tomorrow's business will be as ordered earlier today.

Deputy Billy Kelleher: For the purposes of clarity, is the Minister of State saying the Bill will be completed this evening?

Deputy Paul Kehoe: I hope so. The debate will not be guillotined.

Question put and agreed to.

Protection of Life During Pregnancy Bill 2013: Report Stage (Resumed) and Final Stage

Debate resumed on amendment No. 150:

In page 17, to delete lines 33 to 39, and in page 18, to delete lines 1 and 2 and substitute

the following:

"Offences

22. (1) It shall be an offence—

(*a*) to intentionally or recklessly end a pregnancy without the consent of the pregnant woman,

(*b*) for a person other than an appropriately qualified practitioner to perform a surgical medical procedure for the purposes of ending a pregnancy.

(2) Notwithstanding the provisions of *subsection (1)* of this section—

(*a*) no pregnant woman, or third party facilitating or assisting her, shall be held criminally liable for procuring or carrying out a medical procedure that leads to the ending of a pregnancy, and

(*b*) no appropriately qualified practitioner shall be held criminally liable for carrying out a medical procedure that leads to the ending of a pregnancy.

(3) A person guilty of an offence under this section shall be liable under indictment to a fine or imprisonment for a term not exceeding 14 years, or both.

(4) A prosecution for an offence under this section may be brought only by or with the consent of the Director of Public Prosecutions.".

-(Deputy Joan Collins).

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

The Dáil divided: Tá, 110; Níl, 13.	
Tá	***Níl***
Bannon, James.	***Boyd Barrett, Richard.***
Barry, Tom.	***Collins, Joan.***
Breen, Pat.	***Daly, Clare.***
Broughan, Thomas P.	***Donnelly, Stephen S.***
Bruton, Richard.	***Flanagan, Luke 'Ming'.***
Burton, Joan.	***Halligan, John.***
Butler, Ray.	***Higgins, Joe.***
Buttimer, Jerry.	***McGrath, Finian.***
Byrne, Catherine.	***Murphy, Catherine.***
Byrne, Eric.	***Nulty, Patrick.***
Cannon, Ciarán.	***Pringle, Thomas.***
Carey, Joe.	***Ross, Shane.***
Coffey, Paudie.	***Wallace, Mick.***
Collins, Áine.	
Conaghan, Michael.	
Conlan, Seán.	

Connaughton, Paul J.	
Conway, Ciara.	
Coonan, Noel.	
Corcoran Kennedy, Marcella.	
Costello, Joe.	
Coveney, Simon.	
Creed, Michael.	
Creighton, Lucinda.	
Daly, Jim.	
Deasy, John.	
Deenihan, Jimmy.	
Deering, Pat.	
Doherty, Regina.	
Donohoe, Paschal.	
Dowds, Robert.	
Doyle, Andrew.	
Durkan, Bernard J.	
English, Damien.	
Farrell, Alan.	
Feighan, Frank.	
Ferris, Anne.	
Fitzgerald, Frances.	
Fitzpatrick, Peter.	
Flanagan, Charles.	
Griffin, Brendan.	
Hannigan, Dominic.	
Harrington, Noel.	
Harris, Simon.	
Hayes, Brian.	
Hayes, Tom.	
Healy-Rae, Michael.	
Heydon, Martin.	
Hogan, Phil.	
Howlin, Brendan.	
Humphreys, Heather.	
Humphreys, Kevin.	
Keating, Derek.	
Kehoe, Paul.	
Kelly, Alan.	
Kenny, Enda.	
Kenny, Seán.	
Kyne, Seán.	
Lawlor, Anthony.	

Lowry, Michael.	
Lynch, Ciarán.	
Lynch, Kathleen.	
Lyons, John.	
McCarthy, Michael.	
McEntee, Helen.	
McGinley, Dinny.	
McGrath, Mattie.	
McHugh, Joe.	
McLoughlin, Tony.	
McNamara, Michael.	
Maloney, Eamonn.	
Mathews, Peter.	
Mitchell, Olivia.	
Mitchell O'Connor, Mary.	
Mulherin, Michelle.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	
Naughten, Denis.	
Neville, Dan.	
Nolan, Derek.	
Noonan, Michael.	
Ó Ríordáin, Aodhán.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Dowd, Fergus.	
O'Mahony, John.	
O'Reilly, Joe.	
O'Sullivan, Jan.	
Penrose, Willie.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Quinn, Ruairí.	
Rabbitte, Pat.	
Reilly, James.	
Ring, Michael.	
Ryan, Brendan.	
Shatter, Alan.	
Sherlock, Sean.	
Spring, Arthur.	
Stagg, Emmet.	

Stanton, David.	
Timmins, Billy.	
Tuffy, Joanna.	
Twomey, Liam.	
Varadkar, Leo.	
Wall, Jack.	
Walsh, Brian.	
White, Alex.	

Tellers: Tá, Deputies Paul Kehoe and Emmet Stagg; Níl, Deputies Clare Daly and Joan Collins.

Question declared carried.

0 o'clock

Amendment declared lost.

An Ceann Comhairle: In view of the decision in respect of amendment No. 150, amendments Nos. 151 to 154, inclusive, cannot be moved.

Amendments Nos. 151 to 154, inclusive, not moved.

An Ceann Comhairle: Amendment No. 155 was already discussed with amendment No. 150.

Minister for Health (Deputy James Reilly): I move amendment No. 155:

In page 17, to delete line 39, and in page 18, to delete lines 1 and 2.

Amendment agreed to.

An Ceann Comhairle: Amendment No. 156 cannot be moved in view of the fact that amendment No. 155 has been agreed.

Amendment No. 156 not moved.

An Ceann Comhairle: Amendment No. 157 was already discussed with amendment No. 150.

Deputy Colm Keaveney: I move amendment No. 157:

In page 18, between lines 2 and 3, to insert the following:

"(5) For the avoidance of doubt, it is hereby declared that subsection (1) shall not apply in relation to a pregnant woman availing of any medical procedure in the course of which, or as a result of which, an unborn human life is ended.".

Amendment put and declared lost.

Deputy Joe Higgins: I move amendment No. 158:

In page 18, to delete lines 3 to 13.

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

Amendment declared lost.

Deputy Catherine Murphy: I move amendment No. 159:

In page 18, after line 13, to insert the following:

"Offences of threat, harassment, endangerment and false imprisonment

24. (1) In the case of a person who, without lawful excuse, makes to another a threat, by any means intending the other to believe it will be carried out, to kill or cause serious harm to—

(*a*) a woman as a result of her having sought to obtain or having obtained medical treatment under this Act,

(*b*) a medical practitioner as a result of his or her having provided or sought to provide medical treatment under this Act, or

(*c*) a third person involved in assisting or facilitating a person referred to in *paragraph (a)* or *(b)*,

if that person is found guilty of an offence under section 5 of the Act of 1997, the court shall take such conduct into account as an aggravating factor in determining any sentence to be imposed on him or her for the offence.

(2) In the case of a person who, with a view to compel another to abstain from doing which that other has a lawful right to do under this Act, wrongfully and without lawful authority—

(*a*) uses violence to or intimidates that other person or a member of the family of the other, or

(*b*) injures or damages the property of that other, or

(*c*) persistently follows that other about from place to place, or

(*d*) watches or besets the premises or other place where that other resides, works or carries on business, or happens to be, or the approach to such premises or place, or

(*e*) follows that other with one or more other persons in a disorderly manner in or through any public place,

if that person is found guilty of an offence under section 9 of the Act of 1997, the court shall take such conduct into account as an aggravating factor in determining any sentence to be imposed on him or her for the offence.

(3) In the case of a person who, without lawful authority or reasonable excuse, by any means including by use of the telephone, harasses by persistently following, watching, pestering, besetting or communicating with—

(*a*) a woman as a result of her having sought to obtain or having obtained

medical treatment under this Act,

(*b*) a medical practitioner as a result of his or her having provided or sought to provide medical treatment under this Act, or

(*c*) a third person involved in assisting or facilitating a person referred to in *paragraph (a)* or *(b)*,

if that person is found guilty of an offence under section 10 of the Act of 1997, the court shall take such conduct into account as an aggravating factor in determining any sentence to be imposed on him or her for the offence.

(4) In the case of a person who, intentionally or recklessly engages in conduct which creates a substantial risk of death or serious harm to—

(*a*) a woman as a result of her having sought to obtain or having obtained medical treatment under this Act,

(*b*) a medical practitioner as a result of his or her having provided or sought to provide medical treatment under this Act, or

(*c*) third person involved in assisting or facilitating a person referred to in *paragraph (a)* or *(b)*,

if that person is found guilty of an offence under section 13 of the Act of 1997, the court shall take such conduct into account as an aggravating factor in determining any sentence to be imposed on him or her for the offence.

(5) In the case of a person who intentionally or recklessly without that other's consent—

(*a*) takes or detains, or

(*b*) causes to be taken or detained, or

(*c*) otherwise restricts the personal liberty of—

(i) a woman seeking to obtain or having obtained medical treatment under this Act,

(ii) a medical practitioner seeking to provide or having provided medical treatment under this Act, or

(iii) a third person involved in assisting or facilitating a person referred to in *subparagraph (i)* or *(ii)*,

as a consequence of that medical treatment, if that person is found guilty of an offence under section 13 of the Act of 1997, the court shall take such conduct into account as an aggravating factor in determining any sentence to be imposed on him or her for the offence.".

Amendment put and declared lost.

Deputy Róisín Shortall: I move amendment No. 160:

In page 18, after line 13, to insert the following:

"Review of Legislation

24. The operation of this legislation shall be reviewed by the Oireachtas after a period of three years from its commencement.".

Amendment put and declared lost.

An Ceann Comhairle: Amendments Nos. 161 to 165, inclusive, are related and may be discussed together.

Deputy James Reilly: I move amendment No. 161:

In page 19, to delete line 8 and substitute "Cork University Hospital and Cork University Maternity Hospital".

Amendment agreed to.

Deputy James Reilly: I move amendment No. 162:

In page 19, to delete line 9 and substitute "Galway University Hospitals".

Amendment agreed to.

Deputy James Reilly: I move amendment No. 163:

In page 19, line 19, after "Hospital" to insert ", Drogheda".

Amendment agreed to.

Deputy James Reilly: I move amendment No. 164:

In page 19, line 22, to delete "Regional" and substitute "General".

Amendment agreed to.

Deputy James Reilly: I move amendment No. 165:

In page 19, to delete line 24 and substitute "St Luke's Hospital, Kilkenny".

Amendment agreed to.

Bill, as amended, received for final consideration.

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

The Dáil divided: Tá, 127; Níl, 31.	
Tá	***Níl***
Adams, Gerry.	***Boyd Barrett, Richard.***
Bannon, James.	***Browne, John.***
Barry, Tom.	***Calleary, Dara.***
Breen, Pat.	***Collins, Joan.***
Bruton, Richard.	***Creighton, Lucinda.***

Burton, Joan.	*Daly, Clare.*
Butler, Ray.	*Flanagan, Luke 'Ming'.*
Buttimer, Jerry.	*Flanagan, Terence.*
Byrne, Catherine.	*Fleming, Sean.*
Byrne, Eric.	*Healy-Rae, Michael.*
Cannon, Ciarán.	*Higgins, Joe.*
Carey, Joe.	*Keaveney, Colm.*
Coffey, Paudie.	*Kirk, Seamus.*
Collins, Áine.	*Kitt, Michael P.*
Collins, Niall.	*Lowry, Michael.*
Colreavy, Michael.	*McConalogue, Charlie.*
Conaghan, Michael.	*McGrath, Mattie.*
Conlan, Seán.	*McGrath, Michael.*
Connaughton, Paul J.	*McGuinness, John.*
Conway, Ciara.	*Mathews, Peter.*
Coonan, Noel.	*Moynihan, Michael.*
Corcoran Kennedy, Marcella.	*Naughten, Denis.*
Costello, Joe.	*Ó Cuív, Éamon.*
Coveney, Simon.	*Ó Fearghaíl, Seán.*
Cowen, Barry.	*O'Dea, Willie.*
Creed, Michael.	*Smith, Brendan.*
Crowe, Seán.	*Timmins, Billy.*
Daly, Jim.	*Tóibín, Peadar.*
Deasy, John.	*Troy, Robert.*
Deenihan, Jimmy.	*Wallace, Mick.*
Deering, Pat.	*Walsh, Brian.*
Doherty, Pearse.	
Doherty, Regina.	
Donnelly, Stephen S.	
Donohoe, Paschal.	
Dooley, Timmy.	
Dowds, Robert.	
Doyle, Andrew.	
Durkan, Bernard J.	
Ellis, Dessie.	
English, Damien.	
Farrell, Alan.	
Feighan, Frank.	
Ferris, Anne.	
Ferris, Martin.	
Fitzgerald, Frances.	
Fitzpatrick, Peter.	
Flanagan, Charles.	

Griffin, Brendan.	
Halligan, John.	
Hannigan, Dominic.	
Harrington, Noel.	
Harris, Simon.	
Hayes, Brian.	
Hayes, Tom.	
Healy, Seamus.	
Heydon, Martin.	
Hogan, Phil.	
Howlin, Brendan.	
Humphreys, Heather.	
Humphreys, Kevin.	
Keating, Derek.	
Kehoe, Paul.	
Kelleher, Billy.	
Kelly, Alan.	
Kenny, Enda.	
Kenny, Seán.	
Kyne, Seán.	
Lawlor, Anthony.	
Lynch, Ciarán.	
Lynch, Kathleen.	
Lyons, John.	
Mac Lochlainn, Pádraig.	
McCarthy, Michael.	
McDonald, Mary Lou.	
McEntee, Helen.	
McGinley, Dinny.	
McGrath, Finian.	
McHugh, Joe.	
McLellan, Sandra.	
McLoughlin, Tony.	
McNamara, Michael.	
Maloney, Eamonn.	
Martin, Micheál.	
Mitchell, Olivia.	
Mitchell O'Connor, Mary.	
Mulherin, Michelle.	
Murphy, Catherine.	
Murphy, Dara.	
Murphy, Eoghan.	
Nash, Gerald.	

Neville, Dan.	
Nolan, Derek.	
Noonan, Michael.	
Nulty, Patrick.	
Ó Caoláin, Caoimhghín.	
Ó Ríordáin, Aodhán.	
Ó Snodaigh, Aengus.	
O'Brien, Jonathan.	
O'Donnell, Kieran.	
O'Donovan, Patrick.	
O'Dowd, Fergus.	
O'Mahony, John.	
O'Reilly, Joe.	
O'Sullivan, Jan.	
Penrose, Willie.	
Perry, John.	
Phelan, Ann.	
Phelan, John Paul.	
Pringle, Thomas.	
Quinn, Ruairí.	
Rabbitte, Pat.	
Reilly, James.	
Ring, Michael.	
Ross, Shane.	
Ryan, Brendan.	
Shatter, Alan.	
Sherlock, Sean.	
Spring, Arthur.	
Stagg, Emmet.	
Stanley, Brian.	
Stanton, David.	
Tuffy, Joanna.	
Twomey, Liam.	
Varadkar, Leo.	
Wall, Jack.	
White, Alex.	

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

Question declared carried.

The Dáil adjourned at 12.25 a.m. until 10.30 a.m. on Friday, 12 July 2013.