



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

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# DÁIL ÉIREANN

*Déardaoin, 4 Deireadh Fómhair 2018*

*Thursday, 4 October 2018*

Chuaigh an Leas-Cheann Comhairle i gceannas ar 10.30 a.m.

*Paidir.*

*Prayer.*

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## Ceisteanna - Questions

### Ceisteanna ar Sonraíodh Uain Dóibh - Priority Questions

**An Leas-Cheann Comhairle:** We will commence with questions to the Tánaiste and Minister for Foreign Affairs and Trade. I ask Members to observe time. The first question is in the name of Deputy Niall Collins who has 30 seconds to introduce his question.

#### Middle East Peace Process

1. **Deputy Niall Collins** asked the Tánaiste and Minister for Foreign Affairs and Trade the course of action the Government will take in the coming months if there is no progress in regard to the Middle East peace process; and if he will make a statement on the matter. [40419/18]

**Deputy Niall Collins:** What course of action does the Tánaiste and the Government intend to pursue over the coming months if there is no progress in regard to the Middle East peace process?

**Tánaiste and Minister for Foreign Affairs and Trade (Deputy Simon Coveney):** I thank the Deputy for his question. I know he has a personal interest in this issue, as do I. There are several parallel strands of activity in regard to the Middle East peace process which inform Government policy on the Middle East generally.

On the political front, over the past year the US Administration has been actively exploring the possibility of relaunching the process to reach a comprehensive peace agreement, which is welcome. I have met and spoken to the US team on a number of occasions, including in the United Nations last week, to encourage its work and to underline the key parameters for an

agreement which the European Union has long espoused.

I have been clear in my conversations with the United States that a peace plan can only work if it engages Palestinian support, as well as Israeli support. In this regard, I have also urged President Abbas to keep an open mind on the US plans, despite justifiable Palestinian frustration at cuts in US funding to the United Nations Relief and Works Agency, UNRWA, and other Palestinian programmes and at the US decision to recognise Jerusalem as Israel's capital. These are decisions that I have criticised on many occasions, including last week.

Ireland and the EU are also working on the ground to address the negative impacts of the occupation and to keep open the physical space necessary for a two-state solution, which I believe to be the only basis for a solution. The Government has committed in the programme for Government to recognising the state of Palestine as part of a lasting settlement to the conflict. I have made clear, including during the visit of President Abbas, that I have an open mind on this question. I am very mindful of the situation on the ground and I will be ready to look again at recognition if progress is not being made towards a comprehensive peace agreement.

It is important to sustain the hope of the Palestinian people in the face of their natural frustration with the lack of a political process to move things forward. To this end, I am also working with the Palestinian Authority to explore the idea of bringing a small number of European and Arab ministers to Dublin to consider next steps in terms of a political conversation. We are also keeping open the dialogue with the Israeli Government. I met the outgoing Israeli ambassador this week. We hope to develop the proposal on a meeting of European and Arab ministers in consultation with partners in the coming days.

**Deputy Niall Collins:** The Tánaiste will be aware that there has been no progress. It is fair to say that the situation in Gaza is deteriorating and that, as stated by the Tánaiste, it is untenable. I am sure he will agree that, with the ongoing expansion of the illegal settlements, the demolition of the Bedouin village of Khan al-Ahmar, the national state law enacted by the Knesset and the US Administration's decisions to cease funding, relocate its embassy to Jerusalem and close the PLO office in Washington, it is all going in the one direction. The Tánaiste mentioned that he met President Abbas during the week and conveyed to him his willingness to recognise the state of Palestine, which is welcome. This is the position of Fianna Fáil also. It is important to note that the Spanish foreign minister also raised the possibility of an initiative to get the EU to recognise the state of Palestine and to move forward the peace process.

On the Tánaiste's reference to plans to host a meeting in Ireland to restart the peace process, will he be a little more definitive on whether that is a concept without a timeline or an actual plan? Given the recent actions of the US Administration, which we all find objectionable and about which we have all voiced concerns, does the Tánaiste believe that it can be considered an honest broker in the peace talks? I am sure he is aware that the Palestinians have no faith in the US Administration.

**An Leas-Cheann Comhairle:** We must adhere to time limits.

**Deputy Niall Collins:** Should we not concentrate our efforts on an EU initiative rather than putting all our faith in the Americans in terms of delivery?

**Deputy Simon Coveney:** The Deputy has asked a number of questions to which I will try to give direct answers. As I said, many Members of this House are interested in this issue. I ask that they contact me with any thoughts and initiatives they may have in this area because

anything done in this area impacts on our ability to be in some way influential. I do not want to overstate how influential Ireland might be. We are a relatively small player but we speak to all of the key partners. We have a good relationship with the Palestinian leadership and, I think, a reasonably good relationship with the Israeli Government. I have made it my business to get to know some of the key decision-makers on the US side as well. We are trying to move matters in the right direction. My stated position in regard to the kind of outcome that I believe is necessary is pretty clear. I do not believe there will be a deal done on a peace process in the Middle East without the US being central to it but I believe that other countries need to be involved to reassure the Palestinians that they have friends around the table given the deterioration of the relationship between the Palestinian Authority and the US over the past 12 months in particular.

We have had detailed discussions with the Palestinian Authority and a number of EU and Arab countries in regard to the meeting that we are planning for Dublin, which we are hoping to hold in late November. We will need to pick a date that ensures maximum attendance.

**Deputy Niall Collins:** The Tánaiste has visited Palestine a number of times and he will be aware that I was there recently. During my engagement with non-governmental organisations and the Palestinians the word that came up constantly was “impunity”. They believe the Americans and the Israelis continue to act with impunity. We need to keep that to the forefront of our minds. They have no faith in any process which may be offered. The Minister is aware of that also. Does he have any timeframe in mind to formally recognise the state of Palestine? Are we going to have an initiative by him to do this formally? Can I tie him down in that regard?

On the Control of Economic Activity (Occupied Territories) Bill, is it still the position of the Minister that he is opposed to it? It is to be brought back to the Seanad in late November. The Minister knows my party’s position on it. It is something that made an impact when it was passed on Second Stage in the Seanad. Has the Minister reconsidered his approach to it?

**Deputy Simon Coveney:** In our consideration of the particular Bill we have since spoken to the European Commission which has confirmed my concerns, on which I hope Fianna Fáil will reflect. I do not believe any responsible party in the Dáil or the Seanad should supporting legislation that we know is not legally sound. I am as passionate as anyone in this House about the need to create pressure and a political environment that can help to encourage a peace process to develop. However, I am not in the business of supporting legislation that I know is unimplementable and not legally sound and will create a legal problem with the European Commission, as both the Deputy and I are aware.

**Deputy Niall Collins:** There are different legal opinions on it.

**Deputy Simon Coveney:** The official position of the European Commission is clear. One can find a lawyer somewhere who will give an alternative view. The Deputy is aware of what it is like to be in government. The official positions of the Attorney General and the European Commission are clear. We should not be advancing legislation, albeit for understandable political reasons, when we know that is not legally sound. There are other ways by which we can move the political debate forward, of which we are pursuing a number.

## **Human Rights**

2. **Deputy Seán Crowe** asked the Tánaiste and Minister for Foreign Affairs and Trade the progress made in implementing the national plan on business and human rights (details supplied); and his views on the fact that almost one year on from the launch no steps have been

taken to date to encourage and support awareness of effective human rights due diligence by State-owned or controlled companies, a key priority and promise of the plan. [40422/18]

**Deputy Seán Crowe:** I have tabled this question because I am deeply concerned that the Government is dragging its feet on the national plan on business and human rights, key elements of which remain unimplemented. Deadlines have already been missed.

**Deputy Simon Coveney:** The national plan on business and human rights which was launched by me last November sets out a number of key commitments to ensure policy coherence across government. The first is to commission a study to conduct a comprehensive baseline assessment of the legislative and regulatory framework pertaining to business and human rights as it currently applies in Ireland. Work on the study is under way and expected to be completed by the end of October. We have also been pressing ahead with plans to establish a business and human rights implementation group which will oversee delivery of the plan. I suspect the frustration of the Deputy centres on the group not yet being up and running, a frustration, to be honest, I share. I had a chairperson in mind for the particular job who I believed would be really good, but for a series of reasons, that person cannot now do it. We have had to look elsewhere for the appropriate team of people to be able to do this work properly and give the leadership needed to the implementation group. We are now making progress in that regard. Given its pivotal role, it is critical that the composition of the group have the appropriate mix of experience. Some unavoidable delays have been experienced in securing the availability of suitably qualified persons to serve on it. Nevertheless, I expect to be in a position to make an announcement in the near future.

It is intended that the completed baseline study will guide the work of the implementation group in delivering on the plan's other key commitments which range across the three pillars of the UN guiding principles: the State's duty to protect human rights; the corporate responsibility to respect human rights; and access to a remedy. The actions to be undertaken include building awareness among State-owned and other companies and NGOs of the need to exercise effective due diligence on human rights issues, particularly where there is a risk of adverse human rights impacts. Particular attention has been given to ensuring coherence with the second national plan on corporate social responsibility which is overseen by my colleague the Minister for Business, Enterprise and Innovation, Deputy Heather Humphreys. State-owned and controlled companies were included in the public consultation process leading up to the national plan which encouraged awareness of effective human rights due diligence.

*Additional information not given on the floor of the House*

Awareness and support are also encouraged through updates to the interdepartmental committee on human rights which is chaired by my colleague the Minister of State with responsibility for the diaspora and international development, Deputy Ciarán Cannon. All Departments with responsibility for State bodies are represented on the committee, the next meeting of which will take place later this month.

**Deputy Seán Crowe:** I understand the group was to be established in February and that then there was a delay. The Minister is now saying it will be established by the end of October now, which is not acceptable. It does not reflect well on the Government's commitment to its own national plan. It was rightly criticised for delays in creating the plan. There is serious concern about the lack of human rights due diligence by State-owned or controlled companies. I presume that is the reason for establishment of the group. Is the Minister aware that the ESB

is importing millions of tonnes of coal from Colombia, specifically from the infamous Cerrejón mine? Has he been made aware that the coal is coming from mines which are notorious for destroying the environment, displacing communities and attacking local community activists? The Government is the main shareholder in the ESB. Has the Minister's Department had discussions with the ESB on the human rights due diligence that should follow, detailing the notorious abuses in the Colombian mines from where it sources coal? That is just one example. I tried to table a Topical Issue on the matter, but the Minister was not available to discuss it. It is one of the issues that highlights the need for the implementation committee.

**Deputy Simon Coveney:** At the end of my initial answer I made the point that awareness and support were also encouraged through updates to the interdepartmental committee on human rights, which is chaired by my colleague the Minister of State with responsibility for the diaspora and international development, Deputy Ciarán Cannon. All Departments with responsibility for State bodies are represented on the committee, the next meeting of which will take place later this month.

In relation to the ESB, I was not aware of what the Deputy referred to. I have been to the Moneypoint power plant a number of times. Clearly, a lot of coal is imported. However, the Government has committed to ending the use of coal as a source of power generation by the mid-2020s. I am happy to say we will see a move away from a reliance on imported coal. However, it cannot happen overnight without a significant disruption to power supplies. It needs to be planned for and phased in over time. I am not familiar with the sourcing contracts and with whom they are with, as that is a matter for ESB senior management. I can, however, certainly raise the question.

**Deputy Seán Crowe:** The Minister could take a look at the mine on Google to get a sense of it. It is like something one would see on the moon. There are also the additional matters to be considered. They involve the indigenous people and how they have been forced off the land and the water sources that have been destroyed. It is a case of where we are saying one thing and not carrying it out. If the committee was established, it would inform the ESB's decisions. I am disappointed that the Minister is not aware of what I raised. I am still awaiting a response from the ESB on its awareness of it, as well as from the Department of the Communications, Climate Action and Environment. Clearly, Ireland is part of the problem through its importation of coal from the mine. It is not someone else's problem but ours. Will the Minister commit to raising the issue with the ESB?

**Deputy Simon Coveney:** I am very slow to cast aspersions on the ESB without having the full facts. I will not make a judgment based on looking up something on Google. The purpose in having an implementation group is to try to set guidelines and ensure they will be implemented and followed in order that companies, whether they are State or private, in their sourcing policies will be conscious of some of their broader corporate responsibilities in the sourcing lines they support. The Government is interested in moving away from a coal-based power generation system at Moneypoint. That is a strategic policy decision it has made, but its management and implementation are complicated. However, the ESB has the obligation to follow through on it. Regarding the detail of the issue raised by the Deputy, if he has written to the ESB about it, I expect that it will provide him with a detailed answer.

## **Brexit Negotiations**

3. **Deputy Niall Collins** asked the Tánaiste and Minister for Foreign Affairs and Trade the status of the Brexit negotiations and Ireland's domestic preparedness for all scenarios, including a no deal Brexit, and if he will make a statement on the matter. [40420/18]

**Deputy Niall Collins:** Will the Tánaiste provide us with an update on the status of the Brexit negotiations, particularly Ireland's domestic preparedness for all scenarios, including the dreaded no deal Brexit, which looks ominous?

**Deputy Simon Coveney:** To state the obvious, we are in a critical phase in the Article 50 negotiations which resumed on 16 August and have been continuous since. Following the informal European Council summit in Salzburg on 20 September, the President of the European Council, Mr. Donald Tusk, restated the European Union's position that there will be no withdrawal agreement without a solid, operational and legally binding Irish backstop. At the summit EU leaders reaffirmed their full support for Mr. Michel Barnier in his negotiations, including his efforts to "de-dramatise" the backstop which has become the most high profile issue that remains to be agreed as regards the withdrawal treaty.

Subsequently, on 21 September, the British Prime Minister, Mrs. Theresa May, stated the United Kingdom would bring forward its own proposals on the backstop. The Government welcomes this initiative and urges that it be done as a matter of urgency in order that the negotiating teams can engage constructively in finalising the legal text of the protocol on Ireland and Northern Ireland. However, the European Union has been clear that this outcome must be fully consistent with the agreement reached in the joint progress report of last December, the agreement committed to last March and the clear commitments and guarantees that came with it provided by the United Kingdom.

It is important that there be substantial engagement on this issue by the European Council at its meeting on 18 October. At that meeting Ireland and its EU partners will then decide if conditions are sufficient to call an extraordinary summit - probably in the second week of November - to finalise and formalise the deal. Real progress on the backstop will be an essential part of that decision.

Regarding our domestic preparedness, the Government's contingency planning for Brexit was initiated well in advance of the UK referendum in June 2016. Since my appointment as Minister for Foreign Affairs and Trade in June 2017, I have overseen a sustained intensification of these efforts. As part of them, the Government is organising the Getting Ireland Brexit Ready set of workshops around Ireland to inform and advise on Brexit preparedness. The Government has made a range of support measures and resources available to businesses. The first of the workshops will take place in Pairc Uí Chaoimh tomorrow.

### *Additional information not given on the floor of the House*

Preparation and planning are ongoing across government to address a range of Brexit scenarios, including a no deal scenario. Departments and agencies continue to develop and implement, as appropriate, Brexit preparedness and contingency planning in their areas of responsibility. On 18 July and 18 September, I presented detailed memorandums to the Government on Brexit preparedness and contingency planning. The memorandums included elements aimed at moving from planning to implementation in a number of key areas, in particular, preparing

ports and airports for Brexit. This is additional to the dedicated measures announced in budget 2018 aimed at supporting businesses to get Brexit ready.

**Deputy Niall Collins:** It is obvious to us all that the next couple of weeks are critical, but we know that the chasm between the European Union and the United Kingdom is quite big and that there is little consensus on the way forward. It was interesting to hear the British Prime Minister, Mrs. Theresa May, warn yesterday in her speech at the Conservative Party conference that while Great Britain wanted a deal, that did not mean a deal at any cost and that it was not afraid to leave with no deal on the table if it had to do so as the stakes were high and the time-frame was tight in negotiating the terms of the withdrawal agreement and, most importantly, the backstop.

In negotiating on Brexit it is essential that the Government safeguard the Good Friday Agreement. We all heard Ms Arlene Foster's comments earlier in the week. It is an international treaty which cannot be changed unilaterally, a point on which we are all agreed. It cannot be picked apart. A no deal Brexit would be in nobody's interests and would cause huge economic harm to the country. We have seen report after report outline the consequences. My party and I do not want to see it come to pass, but nevertheless, the Government has to be prudent and plan for it. Will the Tánaiste update me on the status of the negotiations and contingency planning in general, particularly for a no deal scenario? Deputy Lisa Chambers who is unable to be here recently asked a parliamentary question about the 450 customs officials being recruited by the Government who are to be trained and in place by 29 March 2019. Can we receive an update on that matter because she felt the answer was insufficient?

**Deputy Simon Coveney:** A lot of questions have been asked.

**An Leas-Cheann Comhairle:** The Tánaiste has one minute in which to answer them.

**Deputy Niall Collins:** He will be well able to do so.

**Deputy Simon Coveney:** The Government's focus for the next six weeks will be on trying to get a deal done. We are not going to focus on increasing the public commentary on contingency planning. All of that work is important and continuing. However, when one is focused on trying to get a deal done, one needs to start talking about solutions, rather than dealing with problems, while at the same time ensuring we are planning for all scenarios, as we are. While I understand Deputy Lisa Chambers's focus on contingency planning and while we will give her as much information as we can, between now and the middle of November I want the focus to be on getting a deal done. When people talk about a chasm between the UK and EU positions, I do not accept that. What we have is a withdrawal treaty that has been 90% written and agreed to. The last 10% is difficult to agree. Most of it relates to Ireland and the Irish backstop. However, the commitment from the UK Prime Minister is a backstop that will provide the guarantees necessary that there will be no physical border infrastructure on the island of Ireland in the future. To her credit, she has committed to this. What we now need is a legal text that deliver will it in the Irish protocol that will be part of the withdrawal treaty. This can be done in an intensification of the negotiations in the next two weeks.

**Deputy Niall Collins:** Is the Tánaiste in a position to tell us whether the European Union has received any new proposal from the UK Government for the backstop? While everybody is hoping agreement can be reached on the withdrawal agreement and the backstop, we are cognisant that one of the hurdles that must be overcome is the fact that the British Prime Minister,



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Mrs. Theresa May, must get it through Parliament. That is a big “if” and a big question. In the event that she fails to get it through Parliament, what do the Tánaiste and the Government foresee will happen? What will be the state of play in the negotiations if she fails to get a deal, if there is one, through Parliament?

**Deputy Simon Coveney:** From our perspective, the focus cannot be on political management at Westminster in the event that there is a deal between the UK Government and the Michel Barnier task force acting on behalf of the European Union. The first step is to get the deal done. What is likely to happen - starting, I suspect, from today - is that the negotiating teams will lock themselves into a very intense period of negotiation, focusing on the unresolved issues, one of which is the Irish backstop. That is what is needed. I hope we will have a recommendation for the October leaders' Council meeting resulting from that intensification of negotiations. I am not aware that the UK side has yet tabled any formal new proposal, but the UK Prime Minister has certainly committed to doing so. I hope that in the next week or so we will see that new proposal being brought forward because I am sure the EU task force will also have ideas and, of course, concerns about some of what may be proposed. Everybody understands a deal needs to be done in the next few weeks. With flexibility and good will on both sides, that deal can be done. Certainly on the EU side, Mr. Michel Barnier will work to protect EU interests and the integrity of the Single Market and the customs union, but he will sensibly also try to find a way forward by showing flexibility in appropriate areas.

*11 o'clock*

## **Brexit Issues**

4. **Deputy David Cullinane** asked the Tánaiste and Minister for Foreign Affairs and Trade the measures in place to secure the common travel area between Britain and Ireland post Brexit; the measures in place to protect pension payments to those in receipt of a British pension here and those in receipt of an Irish pension in Britain; and if he will make a statement on the matter. [40421/18]

**Deputy Seán Crowe:** Deputy Cullinane is out of the country. Will the Tánaiste outline the measures the Government is taking to ensure the rights and entitlements of citizens in Ireland are protected post Brexit? In an answer to an earlier question the Tánaiste said that the Government was planning for all scenarios. Perhaps he could outline some of those measures.

**Deputy Simon Coveney:** This question concerns the common travel area, CTA, which is a long-standing arrangement between Ireland and the UK. It means Irish citizens can move freely to live, work, and study in the UK on the same basis as UK citizens and *vice versa*. I, and I suspect many others in this House, have benefited from the provisions of the CTA. It is an arrangement that is valued by both islands and the continuation of this arrangement is a stated commitment of both the Irish and UK Governments. In the context of the UK's withdrawal from the EU, it is important that any arrangements necessary to maintain the CTA are made. The CTA provides for associated rights and entitlements which enable Irish and UK citizens to move freely between and reside in both jurisdictions. These rights and entitlements include access to employment, healthcare, education, and social benefits, as well as the right to vote in certain elections.

Article 2 of the draft protocol on Ireland and Northern Ireland, within the draft withdrawal agreement between the EU and the UK, is a translation into legal terms of the acknowledgment between the EU and UK negotiators made in their joint report of December 2017 that the UK and Ireland may “continue to make arrangements between themselves relating to the movement of persons between their territories”. This has been marked as green, indicating it has been agreed at negotiator level, and it is a welcome provision in seeking to maintain the CTA, insofar as it relates to the EU-UK negotiations.

The maintenance of the CTA is a bilateral matter. Work is ongoing in the UK and domestically to ensure that the necessary provisions are made in both jurisdictions so that the CTA continues to function effectively after the UK leaves the EU.

The objective of the Department of Employment Affairs and Social Protection is to ensure that the reciprocity of social welfare rights and entitlements, which currently exists for Irish and UK citizens moving within Ireland and between Ireland and Britain under the CTA, are safeguarded and maintained. There is broad agreement to preserve the *status quo* in that regard.

The Department of Finance and the Central Bank of Ireland are working with the regulated financial services providers to ensure that all necessary measures are taken to ensure that insurance and pension providers can continue to operate post Brexit.

**Deputy Seán Crowe:** Brexit will also impact on students, as the Tánaiste has said. There has been much talk about securing the Good Friday Agreement. It is rarely mentioned that the Good Friday Agreement is a rights-based document and, as such the rights enshrined in it must be protected. The recent comments by the DUP leader, Arlene Foster, and people within the Tory Party on the Good Friday Agreement are unacceptable and reveal a reckless disregard for the peace process, prosperity and progress. The Irish Government must make it clear that the Good Friday Agreement will be protected and will remain the basis for peace, stability and progress. It was endorsed by the majority of people in the North and the South. It is a people’s agreement, and is not a chip to be bargained with by the Tories or the DUP.

Much has been said about the effect Brexit will have on trade, but it must be remembered that it will impact on the Good Friday Agreement itself. Does the Tánaiste have any concerns about the impact it will have on the agreement, particularly given the recent statements made by Arlene Foster and Theresa May?

**Deputy Simon Coveney:** I made it clear during the week that, while I have respect for Arlene Foster, she is wrong on this issue. The Good Friday Agreement is not up for discussion or negotiation. It is a treaty which has been lodged with the UN. It was voted on by people across this island, North and South, and was endorsed with a very large majority in both jurisdictions. It has been the basis for peace for the past two decades. There have been updates to it, and agreements have been signed since it was agreed, but those agreements involved two Governments and negotiations between political parties. We have a clear commitment from the British Prime Minister that every facet of the Good Friday Agreement will be protected through the Brexit process, and we intend to ensure that commitment is followed through on. To the credit of the Prime Minister, she has repeated that commitment on more than one occasion.

The Good Friday Agreement, as a basis and a foundation for Irish relationships North and South, and relationships east and west, is something that we will insist on defending and protecting through the Brexit debates, as we have done to date.

**Deputy Seán Crowe:** The EU and the Government must remain true to their word and ensure that without the agreed, legally enforceable backstop, there will be no withdrawal agreement. As such, the Good Friday Agreement must be protected in all its parts. We need to maintain the free movement of people on the island of Ireland between Britain and Ireland. There must be a complete absence of a land border on the island of Ireland, and the rights of EU and non-EU nationals must be protected, in line with EU rules and regulations. There must be continued access to EU funds and payments for the North of Ireland and greater autonomy for the devolved assembly in these policy areas, which are not excluded matters and are within the competence. These things must be protected via the backstop agreement, and I ask the Tánaiste to reiterate that that is the direction the Government is taking during these talks.

**Deputy Simon Coveney:** I do not believe that I or the Taoiseach could be clearer on this matter. We cannot and will not sign up to any withdrawal treaty that does not involve a backstop that follows through on the commitments that have been made to Ireland. I have repeatedly said that the British Prime Minister, to her credit, understands the fragility and complexity of relationships on the island of Ireland and wants to protect those through Brexit. I believe that all parties in Northern Ireland, including the DUP, recognise that too. We are trying to ensure that a legal text emerges here in a way that reassures nationalists and unionists in Northern Ireland and on the island of Ireland that we can provide the guarantees necessary to reassure people that no physical border infrastructure is going to re-emerge on the island of Ireland and that we are not going to create new barriers to trade between Northern Ireland and the rest of the United Kingdom either, recognising the sovereign integrity of the United Kingdom as a whole. We need maturity and flexibility to ensure that, through an intensification of negotiation, we can get that job done. I believe it is possible to do it. The alternatives to doing so remind people of the consequences of failure, which in my view are unlikely to materialise.

## **Brexit Negotiations**

5. **Deputy Brendan Howlin** asked the Tánaiste and Minister for Foreign Affairs and Trade if he will report on the discussion he has had with his counterparts in the British Government regarding the backstop and the indicated timeframe for the UK Government to outline its counterproposals and publication of legal language in advance of the October 2018 EU summit; and if he will make a statement on the matter. [40524/18]

**Deputy Joan Burton:** Will the Tánaiste report to the Dáil on the discussions he has had with his counterparts in the British Government on the matter of the backstop, and the timeframe within which the UK Government will outline and set out its counterproposals and the publication of legal language in advance of the summit at the end of October?

**Deputy Simon Coveney:** It is important to note that the negotiations on the EU-UK withdrawal agreement, including the draft protocol on Ireland and Northern Ireland, are between the UK and the European Commission task force acting on behalf of the other 27 EU member states. I and my officials are, of course, in very regular contact with Michel Barnier and his team. I also have regular meetings and conversations with British Ministers which offer the opportunity to discuss the negotiations. I have taken every opportunity to impress upon UK counterparts the importance of the backstop. In my recent meetings or conversations with Dominic Raab, Jeremy Hunt, David Lidington and Karen Bradley I emphasised that it was the responsibility of the UK to put forward viable and workable proposals for the backstop, and I

encouraged the UK to engage constructively on the issue, including on Michel Barnier's efforts to de-dramatise the backstop, which I believe were very sincere and have made the problem much more manageable. This was also the Taoiseach's message in his meeting with Prime Minister May in Salzburg on 20 September.

Last month, Prime Minister May announced that the UK would bring forward its own proposals for a backstop arrangement. The Government welcomed this announcement. We had been calling for a long time for the UK to engage fully with this issue. However, time is short. It is important for these proposals to be shared soon to allow the negotiations to make progress before the October meeting of the European Council. Our preference is for an overall EU-UK relationship which would resolve all issues. However, it remains essential for a legally operable backstop, which provides certainty that a hard border will be avoided in any circumstances, to be agreed. Therefore, it cannot be temporary. It must be in place unless and until another solution is found. This position is supported and shared by our fellow EU member states. When I was in Poland yesterday, I received strong solidarity again, as has been the case in every EU state to which I have travelled.

**Deputy Joan Burton:** I asked the Tánaiste to outline his understanding of the nature of the counter-proposals from the UK at this point. What does he expect them to be? It is important for people on the island of Ireland to begin to understand the proposals that are likely to emanate from the UK Government.

The second issue I raise has already been mentioned by the Tánaiste this morning. Following the recent comments made by Ms Foster on behalf of the DUP, does the Tánaiste, as our foreign Minister, have a sense of how he proposes to reach out to the unionist community in the context of these complex discussions? In his role as Minister for Foreign Affairs and Trade, has he been having discussions with people from the unionist community?

**Deputy Simon Coveney:** The Deputy has asked two very fair questions. I am not in a position to outline the position in respect of the British paper as it has not been published. It would be wrong to do so. It is the job of the British side to make a proposal. I hope it will not publish any proposal before it has been brought to the negotiating room in Brussels. The British and EU sides need to work together in that room to find a position that both of them can support. We are at the business end of these negotiations now. In my view, the negotiations need to make progress in the next two weeks - we are talking about next week or next weekend - before the General Affairs Council meeting, which I will attend, and the leaders' summit, which will be attended by the Taoiseach. Time is short. The focus now has to be on trying to close gaps between the two negotiating teams. If a British paper is part of that effort, it will be welcome. The most important thing is for the detail of that to be worked through by the negotiating teams, as opposed to it being published and essentially assessed by the wider community. We have to get down to the detail of an agreed position at this stage.

The Deputy also asked about my contacts with the unionist community. I was in a Presbyterian church in Belfast on Sunday to recognise Victoria Cross recipients from the First World War. I sat next to Jeffrey Donaldson, who made me feel very welcome. We had an opportunity to have brief discussions on some of the pressures and strains that clearly exist at present. They are linked to Brexit and to the lack of an Executive in Northern Ireland.

**An Leas-Cheann Comhairle:** I call Deputy Burton to ask her final question. We have gone a minute over time.

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**Deputy Simon Coveney:** I will continue to reach out to and engage with members of the unionist community.

**An Leas-Cheann Comhairle:** I have called Deputy Burton. Other Deputies are waiting.

**Deputy Simon Coveney:** I assure them they have nothing to fear from me or from this Government.

**An Leas-Cheann Comhairle:** I am only implementing the rules.

**Deputy Joan Burton:** The Tánaiste has said that the negotiating team in Brussels will be the first and primary recipients of the UK proposals and that the Irish Government will not receive them at the same time. I think we should be advised on that because it is a bit unfortunate.

**Deputy Simon Coveney:** No, that is not what I said.

**An Leas-Cheann Comhairle:** The Tánaiste will have a further minute for clarification.

**Deputy Joan Burton:** Are there Irish people working with Mr. Barnier, who has done a very good job? What Irish people, with knowledge of the subtleties of the relationships on these islands, are on the negotiating team? The Tánaiste said that the negotiating team will be the recipient of the UK proposals. He also said that he does not want them to be published. Can he advise us further in that regard? In the circumstances he has outlined, when will he get these proposals?

**Deputy Simon Coveney:** Let us not try to twist language here. These issues are important. I said that my preference is for any new tabling of proposals to happen between the negotiating teams that are trying to find a way forward and to compromise. We speak to the Barnier task force every single day.

**Deputy Joan Burton:** I know that.

**Deputy Simon Coveney:** Any proposals received by the Barnier task force that relate to Ireland are shared with Ireland immediately and will continue to be shared with Ireland immediately.

**Deputy Joan Burton:** What Irish people are on the team?

**An Leas-Cheann Comhairle:** The Tánaiste, without interruption.

**Deputy Simon Coveney:** I will explain the way the Barnier task force works. He has a group of very experienced technical negotiators. They interact with our ambassador in Brussels and our team there on a daily basis. I would say that our team there is almost interwoven with the task force on the Irish issues. They will continue to interact on the complex issues that need to be worked through next week and probably the following week. There is no question of hiding anything from Ireland. We are very much part of these discussions. As anyone who has been involved in negotiations will understand, it is when the most sensitive and difficult issues are reached that the negotiating teams need to interact with each other, as opposed to publishing papers and making political statements outside the room. The negotiation rooms in Brussels are the place to get this done now.

**Ceisteanna Eile - Other Questions**

**Passport Applications Data**

6. **Deputy Bernard J. Durkan** asked the Tánaiste and Minister for Foreign Affairs and Trade the turnaround times for passport express renewals, first-time applications and online renewal applications, respectively; and if he will make a statement on the matter. [40308/18]

**Deputy Bernard J. Durkan:** I am seeking to ascertain the turnaround times for passport express renewals, first-time applications and online renewal applications, respectively.

**Deputy Simon Coveney:** I thank Deputy Durkan for this question. The turnaround time-frame for a passport application will depend in the first instance on the channel through which the application was submitted. The passport service provides a range of channels to Irish citizens who wish to apply for passports, including the online passport application service, the passport express system through the post office and the in-person counter application facilities in Dublin and Cork.

The cheapest and easiest way for an adult to renew a passport is to apply using the online passport application service. More than 50% of applications submitted through this service are being processed in fewer than four working days, with the remainder being processed in an average of seven working days. The online passport application service is a fast, secure and convenient way for citizens to renew their passports. It can be availed of 24 hours a day, seven days a week from anywhere in the world. At present, the online passport application service accommodates adult passport renewal applications and passport card applications. The passport service is in the process of rolling out a similar service for the renewal of children's passports by the end of the year.

The average turnaround time for passport applications submitted through passport express is currently ahead of target. Renewal applications are being processed in an average of ten working days. First-time applications are being processed in an average of 15 working days. This compares with the target turnaround times of 15 working days and 20 working days, respectively. We should not get lulled into a false sense of security on passports. This is not the time of year when the greatest pressure comes on the system due to increased numbers of applications. That tends to happen in the first and second quarters of the year. We need to make sure we have systems in place to avoid some of the delays and frustrations we experienced in the earlier part of the year.

**Deputy Bernard J. Durkan:** I thank the Tánaiste for his reply. To what extent have passport cards become popular and useful for travellers? Do such cards achieve the same purpose as conventional passports? Have they been recognised internationally to the same extent?

**Deputy Simon Coveney:** They are becoming increasingly popular as people learn about them. It is more convenient for many people who travel frequently to carry passport cards, which are like credit cards, in their wallets. They are recognised across the EU. I do not have an exact figure for how many applications for passport cards have been received. The passport card is essentially an additional document to the passport itself. A person who gets a passport card should still get a passport. One can use the passport card as a travel document for some international travel as an alternative to the physical passport, which is obviously bigger. The

card is a welcome addition which a lot of people use, particularly those who travel a lot.

**Deputy Bernard J. Durkan:** Does the Tánaiste have data on the extent to which the number of passport applications has increased, decreased or levelled off over the last 12 months, bearing in mind that applications always increase in the summer period? Are sufficient resources available to the Passport Office? I accept that there has been a considerable improvement in the turnaround times. Is it possible to ensure that this continues and that adequate resources remain available?

**An Leas-Cheann Comhairle:** With Deputy Durkan's approval, I will allow Deputy Collins to ask a supplementary question.

**Deputy Bernard J. Durkan:** That is fine.

**Deputy Niall Collins:** I want to make a quick comment. It is important to give credit where credit is due. In this instance, it is proper to put on the record of the House the fact that the Passport Office has modernised significantly and has really stepped up to the plate in terms of being available through online platforms in particular. I thank the people in the Passport Office with whom I have had dealings. All Deputies were inundated with requests from people who were under pressure for passports but the staff in the office delivered. Often the applicants were at fault, having left it too late to apply but the Passport Office stepped up to the plate and that needs to be acknowledged.

**Deputy Simon Coveney:** I thank the Deputy for that. The Passport Office was put under huge pressure this year. My political office became a passport office for a large part of the year, with staff trying to get emergency passports through quickly. The system had to deal with that, which was not easy. Many other Deputies have also been pushing hard to get individual cases across the line and the Passport Office staff have shown remarkable patience and professionalism. We need to make sure that the system is not under that kind of pressure next year and that we take on a sufficient number of temporary clerical officers. We took on 216 this year for the peak season which is between February and August. Once we get the online system working for children, the process will be a lot faster. An awful lot of family passport applications got caught up in the manual system because it is not yet possible to apply for an updated child's passport online.

The other point to make is that the name of the passport postal service, Passport Express, suggests to many that it is the fastest way to get a new passport but that is not the case. The fastest way to get a passport is through the online application process. People should be applying online to avail of the really quick turnaround time. Our job will be an awful lot easier if we continue to see an increase in the number of online applications. It is a much slicker system with much faster delivery. The more people that apply online, the better.

## **Brexit Issues**

7. **Deputy Niamh Smyth** asked the Tánaiste and Minister for Foreign Affairs and Trade the status of Brexit negotiations, particularly in the context of the Border region, including counties Cavan and Monaghan, and the possible reintroduction of a hard border. [40116/18]

21. **Deputy Niamh Smyth** asked the Tánaiste and Minister for Foreign Affairs and Trade

if a travel plan has been commenced in order to be prepared for the possible reintroduction of a hard border due to Brexit. [40117/18]

**Deputy Niamh Smyth:** I ask the Tánaiste to outline the status of the Brexit negotiations with a particular focus on the Border counties of Cavan and Monaghan in view of the possible reintroduction of a hard border.

**Deputy Simon Coveney:** I propose to take Questions Nos. 7 and 21 together. As Deputy Smyth knows, the Government is absolutely committed to protecting Border communities through Brexit. Tomorrow Páirc Uí Chaoimh in Cork will see the start of a very significant Brexit roadshow involving all of the relevant State agencies. Stakeholders, including small businesses and business networks, have been invited to engage with State agencies and with me to get a better understanding of where the negotiations are at, where they are likely to go and what support, guidance and advice is available to them. We will be moving from Cork to Galway next week and from there to Monaghan, followed by Dublin. We may go to other cities including Limerick and Waterford at a later date. There will be a significant ratcheting up of communication and support linked to that communication for businesses in the coming weeks. There will also be a significant intensification of the negotiations to try to get a withdrawal treaty agreed and settled which will give us a two year transition period. That will give time and space to people and will provide certainty around citizen rights, the financial settlement issues and, of course, the Irish issues including protecting the Good Friday Agreement and ensuring that no border infrastructure re-emerges. The latter would have a very significant impact on many of Deputy Smyth's constituents. As I have said over and over again, the Taoiseach and I will never sign up to a withdrawal treaty that does not deal comprehensively with the Irish Border issue.

**Deputy Niamh Smyth:** I welcome the fact the Tánaiste and various Government agencies will be coming to County Monaghan and the Border region. I hope that business people take the opportunity to engage with the roadshow, particularly as there has been a very low take up of the small grant that is available to businesses for Brexit proofing. That is something that we need to promote further.

The Conservative Party conference this week saw the British Prime Minister double down on her Chequers proposals. The Taoiseach is meeting the European Commission today in Brussels to discuss the Brexit talks. As the Tánaiste knows, a hard Brexit would have a profoundly negative effect on the Border region, including counties Cavan and Monaghan. Indeed, we have seen the disastrous impact of the Brexit vote on business and industry in the region already. The mushroom industry has been blown out of the water and many agrifood businesses are dealing with huge uncertainty. We are seeing a huge loss of confidence in a region that has a high number of indigenous businesses. I ask that the Government engages in positive discrimination and focuses on the Border counties that are at the coal face.

**Deputy Simon Coveney:** Deputy Smyth will not be surprised to hear that the pre-registration figures for the so-called Brexplo events indicate that Monaghan is already ahead of Cork, Galway and Dublin. The event in Cork takes place tomorrow and huge numbers of people will be attending. I have been to the Border region on numerous occasions, trying to provide as much clarity as I can on where the negotiations are going and how we are going to protect Border communities and businesses. That work will continue.

What Ireland needs to do over the coming weeks is hold its nerve and trust in the negotia-



tion process. Further, we must trust that the commitments that have been made to Ireland by the British Government can be followed through on in the context of an agreed and settled legal text in the withdrawal treaty that will protect the Good Friday Agreement and ensure that there is an insurance mechanism in place so that we will never have border infrastructure on our island again. We do not want to have to use that insurance mechanism and want the future relationship discussions to solve that problem comprehensively. However, people want that backstop in place to provide the reassurance that is needed. Hopefully we will be able to finalise that in the next few weeks.

**Deputy Niamh Smyth:** On the basis of his talks with the British, when does the Tánaiste expect a more detailed set of proposals? What is his assessment of the viability of the backstop agreement going into these talks? As I have said, potentially Cavan and Monaghan will be hit hardest should there be a hard Brexit. At the risk of repeating myself, we have already seen the negative repercussions of Brexit in the area.

In the context of the roadshows to be held in Cork, Galway, Monaghan and Dublin, I point out that business people, by virtue of being self-employed, are extremely busy. There are never enough hours in the day for them. They do not work from nine to five but are on call 24 hours a day. I am delighted to hear that the pre-registration figures for Monaghan are the highest and suggest that there may be a need for more than one event there. It is important to engage with the business community and to make the relevant information readily accessible to people. I reiterate the point that the Border counties need positive discrimination in the context of Brexit.

**Deputy Simon Coveney:** Lest there be any confusion, these big, high-profile roadshows are not the full extent of what is happening in terms of Brexit preparations. Enterprise Ireland, the Department of Agriculture, Food and the Marine, Bord Bia and local enterprise offices, LEOs, have been having advisory meetings on Brexit for months. Dozens of such meetings have happened across the country, including in the Border region. In August and September alone there were approximately 38 different meetings in various parts of the country, linked to Brexit advisory services and support. Much of this work is taking place on the ground as we speak. Many chambers of commerce are also very engaged in this process, as are business associations in terms of their membership. We are raising the profile of these engagements to make sure SMEs that have not yet engaged are sparked into coming along. There is significant support available for companies. What we do not yet have is complete clarity on what the future looks like. This is why contingency planning is necessary while the negotiations continue. We will give as much information and support as we can, and this will continue in the coming weeks.

### **British-Irish Intergovernmental Conference**

8. **Deputy Brendan Howlin** asked the Tánaiste and Minister for Foreign Affairs and Trade the role his Department will play in preparations for a British-Irish Intergovernmental Conference. [30646/18]

**Deputy Joan Burton:** What role will the Department of Foreign Affairs and Trade play in preparing for a British-Irish Intergovernmental Conference? Will the Tánaiste indicate the likely items on the agenda for such a conference?

**Deputy Simon Coveney:** Meetings of the British-Irish Intergovernmental Conference, BIIGC, are prepared through the joint British-Irish Intergovernmental Secretariat in Belfast,

which is staffed by officials from my Department and the Department of Justice and Equality and their counterparts in the Northern Ireland Office. The role of Irish and British Government officials, including those working in the secretariat, to support the meetings of the BIIGC is underpinned in Article 8, strand three of the Good Friday Agreement. The most recent meeting of the BIIGC took place in London on 25 July. The Government was represented by the Minister for Justice and Equality, Deputy Charles Flanagan, and myself acting as co-chair. The UK Government was represented by the Chancellor of the Duchy of Lancaster, David Lidington MP, and the Secretary of State for Northern Ireland, Karen Bradley MP.

As established under strand three of the Good Friday Agreement, the conference brings both Governments together to promote bilateral co-operation on matters of mutual interest within their competence. At the July meeting of the conference, we discussed legacy issues, security co-operation, east-west matters, political stability and future meetings of the BIIGC. During this meeting, the Irish and British Governments agreed to hold the next meeting of the conference this autumn. Officials from across government, in co-ordination with my officials in the Irish secretariat in Belfast, continue to follow up on the outcomes of the conference. A date for the next meeting is being considered.

I will meet some of my counterparts in the British Government next week and I hope we will be able to move towards agreeing the date for the next BIIGC, which, in my view, is very important in the absence of a functioning devolved Government in Northern Ireland. We are very conscious of the areas in which the Irish Government does and does not have an input or is part of the conversation. Certainly in terms of east-west interests and relationships the BIIGC structure is very important right now.

**Deputy Joan Burton:** In terms of the east-west relationship, does the Tánaiste envisage that issues regarding how the common travel area will continue to be manifested post a potential British framework for withdrawal from the European Union will be on the agenda of the Intergovernmental Conference, an issue to which he referred in response to previous questions? The Tánaiste has just been discussing with Deputy Niamh Smyth some of the practicalities regarding areas that are close to or on the Border, such as Cavan and Monaghan. As I am sure he is aware, there is serious concern as to what the manifestations will be. Most people believe the most significant borders and crossing points between various countries are ports and airports. Does the Tánaiste envisage these issues becoming a matter for discussion among the parties?

**Deputy Simon Coveney:** Conversations on maintaining and protecting the common travel area arrangements are taking place in any case. We have a team of officials specifically working on this with their counterparts in the UK. I suspect I will have to bring recommendations in this area to the Government if new legislation or statutory instruments are needed in this regard. The same goes for the UK. We have a clear understanding and agreement that both Governments can and will work together on a bilateral basis to ensure the common travel area survives Brexit. It was in place long before either country joined the European Union and it will be in place after Britain leaves.

At our last meeting, we discussed joint security concerns and issues and the need for co-operation. Ironically, it was just after or just before the appointment of the new Garda Commissioner, which was a very positive development in this regard. There will continue to be a need for discussion on the lack of functioning structures linked to the Good Friday Agreement. Both Governments are co-guarantors of the agreement and, clearly, many of its elements cannot function and are not functioning right now because of the inability to get an Executive up and

running.

**Deputy Joan Burton:** Does the Tánaiste envisage a joint appeal being made by the co-chairs of the Intergovernmental Conference to the parties in Northern Ireland, particularly to the DUP and Sinn Féin, to begin again the process of having an Executive and a functioning administration under the devolved arrangements? Does the Tánaiste believe legislation will be required here, in the United Kingdom and in the North, once an Executive has been reinstated, setting out the position on the common travel area post Brexit or in whatever transitional arrangements that apply?

**Deputy Simon Coveney:** The common travel area applies to Ireland and Northern Ireland and also applies east-west. Various Departments have to deal with the complexity of this with regard to social protection and other issues. The common travel area is not just about free movement. It is about Irish students who study in the UK having their tuition fees paid by the British taxpayer, just as British citizens who come here to study have their fees paid by the Irish taxpayer. It is about access to social welfare, healthcare and even voting in certain elections. It goes way beyond the ability to travel. Some of this was a very easy ask when we all shared the same Single Market and customs union, where there was free movement of goods, services, people and capital. In the absence of Britain being part of a shared European Union Single Market and customs union, if the common travel area needs to be underpinned by new legislation or statutory instruments in certain areas to function, we will have to provide that. Both sides have agreed we will work through these issues and if new legislation is necessary, so be it.

## Human Rights

9. **Deputy Maureen O’Sullivan** asked the Tánaiste and Minister for Foreign Affairs and Trade his views on the issue of the human rights of ethnic groups in Myanmar, such as the Rohingya, Kachin and Shan peoples, with regard to the referral of matters to the International Criminal Court; his views on the need for an audit of the peace fund; and his views on the need for the north of Myanmar to be included in the fact-finding mission. [40118/18]

**Deputy Maureen O’Sullivan:** My question relates to the issues of the human rights of ethnic groups in Myanmar such as the Rohingya, Kachin and Shan peoples, the referral of these matters to the International Criminal Court, the need for an audit of the peace process and the need for the north of Myanmar to be included in the fact-finding mission.

**Deputy Simon Coveney:** Ireland is not currently a member of the UN Security Council and is, therefore, not in a position to formally offer support on the question of referring Myanmar to the International Criminal Court. I met the chief prosecutor of the International Criminal Court last week and the case of the Rohingya is being assessed with regard to the potential for a prosecution. However, the findings of the independent international fact-finding mission on Myanmar provide credible evidence that human rights violations amounting to crimes against humanity and war crimes have been committed by members of the Burmese military and other security forces in Rakhine, Kachin and Shan states. The mission’s report also finds that there is sufficient evidence of the crimes committed in Rakhin state being so grave that they warrant a competent court to determine the liability for the crime of genocide of those in the military chain of command.

Having considered this evidence, Ireland would support the referral of the situation in

Myanmar by the Security Council to the ICC. The Security Council is the only competent body that can take this step. However, given the political and legal difficulties that surround such a referral, our focus in ensuring accountability and investigation of the allegations is necessarily elsewhere.

We are working closely with international partners in other fora, including the UN Human Rights Council and the EU, to ensure measures are put in place to allow the investigation of human rights violations and that those who have perpetrated these crimes are held to account. Ultimately, longstanding drivers of tensions between the Buddhist majority and ethnic minority communities in Myanmar must be resolved in order to build a lasting peace. The work done by the Peace Fund in peace-building activities, including reconciliation and research, is to be commended. In particular, its work in capacity-building and supporting participation from under-represented groups is important in building a sustainable and lasting peace in Myanmar. I would, however, defer to the fund's primary donors on financial issues, including on the question of an audit.

*Additional information not given on the floor of the House*

It is important that any peace process in Myanmar extend to the entire country, as many regions have been affected by ethnic conflict. In that regard, I note that the report of the IIFFM as presented in advance of the recent 39th session of the Human Rights Council already included an examination of the situation in the northern part of Myanmar, in particular the states of Kachin and Shan. In addition, the resolution adopted at that session on Myanmar encompasses the entire country.

**Deputy Maureen O'Sullivan:** I raised the issue of the Rohingya for the first time in 2013. We should think about what might and could have been avoided since then. We know this is a question of political and social inequality and that the peace process, which is funded by the European Union, is not working. What has happened is that there has been an escalation in violence and military attacks on the various groups - the Rohingya, Kachin and Shan - because of their ethnic identity. There have been airstrikes and displacement, and IDP camps have been surrounded by land mines. There is torture, rape and arbitrary detention. Requests for safe passage have been denied. Humanitarian assistance is not getting through. Over 200 Christian churches have been destroyed recently. There are many examples of hate speech. It is all coming from a systematic, organised, ultranationalist government that is supported by some 29 political parties. Even when there was a fragile peace process involving the Kachin people, the agreement was violated repeatedly. It is time to acknowledge that the peace process is not working and that the funding could be better used. I ask that Ireland support the calls to acknowledge that the peace process is not working and the need for transparent, genuine dialogue and a process involving the people, including civil society.

**Deputy Simon Coveney:** I share the Deputy's frustration but it is a question of what to do about it. We are trying to use all the tools at our disposal, including UN bodies or the UN Human Rights Council, to exert an influence. I made it very clear that we would support a referral to the International Criminal Court. I made a direct comment on the issue to the chief prosecutor of the ICC in New York last week.

I share the Deputy's frustration. The events in question should not happen. They should be predicted. Myanmar has been a divided country in terms of ethnic minorities, some of whom I visited in Kachin state when I was a Member of the European Parliament, long before I was a

Minister. Even then, the brutality of the military towards indigenous minorities was a significant issue. We will continue to pursue the kind of agenda the Deputy is outlining today, and we will continue to look for fora through which to do that effectively.

**Deputy Maureen O’Sullivan:** The findings of the fact-finding mission, amounting to 440 pages, are extremely damning. Reference is made to “the most serious human rights violation” and “crimes of the highest order under international law”. The Chairman said it was hard to fathom the level of brutality. This is about the credibility of both the European Union and United Nations. The Minister will be at the next meeting of Foreign Affairs Ministers so the question of the peace process not working could be raised at it.

Also arising is the issue of Bangladesh and the repatriation of the Rohingya. A recent memorandum of understanding that was signed between Myanmar, Bangladesh and UN agencies involved no consultation with the Rohingya people. There was not even a mention of the word. There was nothing about restoration of citizenship for the Rohingya. The same UN agencies had previously been involved in repatriation in the 1970s and 1990s. This was not done correctly, which has led to the Rohingya being stateless today.

Our voice is respected, as the Minister knows. Ireland should be a voice of both the European Union and United Nations to stand up for the rights of these minority peoples because what is happening is ethnic cleansing. In 1948, when independence was coming, the authorities promised ethnic equality but it did not happen.

**An Leas-Cheann Comhairle:** The Deputy’s colleague, Deputy Wallace, has requested that he be allowed ask a short supplementary question, with the approval of the Minister. This is customary. There are a few who know that. The Deputy has 30 seconds, and 30 seconds only.

**Deputy Mick Wallace:** On the issue of human rights, the Minister is probably aware that the United Nations Human Rights Council mandated an examination of the human rights situation in Yemen. It is very damning. It said that more non-military than military targets have been struck in Yemen. Those responsible are targeting food production, agriculture and animals. The latest tactic of the coalition of Saudi Arabia and the United Arab Emirates, backed by the United States and the United Kingdom, is to starve the people of Yemen out of it. This is genocide. Are there any efforts being made in Europe to address the issue in Yemen, or is there any interest in Europe therein?

**Deputy Simon Coveney:** I was not expecting Yemen to enter the conversation. A straight answer to the Deputy’s question is “Yes”. There have been numerous debates at the Foreign Affairs Council on Yemen, and I have spoken at some. It is a bit like the international community asking itself how it allowed the conflict in Syria to happen and develop in the way it did over the past four years. We are now trying to determine ways in which to reduce and end conflict in Yemen but making that happen is not easy. That is the reality.

With regard to the IIFFM, it did present its report in advance of the 39th session of the UN Human Rights Council, including an examination of the situation in the northern part of Myanmar, particularly the states of Kachin and Shan. In addition, the resolution on the adopted session encompassed a resolution on Myanmar as an entire country. Therefore, there are many countries, including Ireland, that want to see justice for the Rohingya people, who have literally been driven out of their own state. The demand is clear for repatriation, in addition to protection and accountability for crimes that have taken place.

*Dáil Éireann*  
**Northern Ireland**

**An Leas-Cheann Comhairle:** I understand that three questions, in the names of Deputies Burton, Brendan Smith and Crowe, are to be taken with Question No. 10, in the name of Deputy Ruth Coppinger. It is a matter for the first Member on the list who is present to pose the question so I call Deputy Brendan Smith.

10. **Deputy Ruth Coppinger** asked the Tánaiste and Minister for Foreign Affairs and Trade if he will report on his meetings with Northern Ireland political leaders. [28834/18]

27. **Deputy Joan Burton** asked the Tánaiste and Minister for Foreign Affairs and Trade if he will report on his most recent meeting with the Secretary of State for Northern Ireland, Ms Karen Bradley. [38648/18]

28. **Deputy Brendan Smith** asked the Tánaiste and Minister for Foreign Affairs and Trade the outcome of the most recent discussions he has had with the Secretary of State for Northern Ireland, the British Foreign Secretary and the political parties in Northern Ireland in relation to the urgent need to have the Assembly and Executive restored; and if he will make a statement on the matter. [40305/18]

32. **Deputy Seán Crowe** asked the Tánaiste and Minister for Foreign Affairs and Trade if he will report on his meeting with the British Secretary of State for Northern Ireland, Ms Karen Bradley, in Dublin on 18 September 2018; and the specific measures he is taking to ensure the British Government fully implements the Good Friday Agreement and subsequent agreements. [40109/18]

**Deputy Brendan Smith:** It is most disappointing and scandalous that the Stormont Assembly and Executive remain in lock-down at a critical time in this country's history and at a critical time in determining the future of our neighbouring island. Has the Minister had any indication in his discussions with the British Secretary of State and political parties in Northern Ireland that they are trying with urgency to resume the talks, bring them to a successful conclusion and have the assembly and Executive restored to do a job they were elected to do by the people in the assembly election?

**Deputy Simon Coveney:** I propose to answer Questions Nos. 10, 27, 28 and 32 together.

Since the assembly elections of March 2017, the Irish and British Governments, as co-guarantors of the Agreement, have worked tirelessly to support and facilitate the parties in their efforts to form a new power-sharing Executive. Unfortunately, to date it has not proved possible to reach an agreement on the formation of an Executive, despite intensive engagement. The absence of the Executive means that the North-South Ministerial Council cannot meet.

I am currently engaging with Secretary of State Bradley on how both Governments can most effectively secure the effective operation of all of the institutions of the Good Friday Agreement. I met the Secretary of State in Dublin on 17 September and we will meet again in Belfast on Monday next, 8 October. We have been in contact with all of the political parties to hear their views on how the two Governments can best support a way forward to get the institutions up and running again. All parties have reaffirmed their commitment to operating the devolved institutions and have provided views on their key concerns and issues.

In the period ahead, a new political process is required to get beyond the current impasse

and secure the necessary agreement between the parties on operating the devolved institutions again. I do not underestimate the way to go in achieving that, but I firmly believe that a resolution is possible and that the calls from across all sections of the community in Northern Ireland for the devolved institutions to operate will be heeded.

The Government will continue to do everything in its power, in accordance with its responsibilities as a co-guarantor of the Good Friday Agreement, to secure the effective operation of all of the institutions of the agreement.

**Deputy Brendan Smith:** I welcome the fact that the Minister will meet the Secretary of State next Monday on this very important issue. He said he would be in touch with the political parties. Can I assume there are no arrangements, at this stage, for the Minister and the British Secretary of State to have a formal engagement with the political parties represented in Stormont? It is important to send a clear message to all the people on this island and in Britain that we will not tolerate any abandonment or unpicking of any element of the Good Friday Agreement, as has been suggested by a political leader in recent days. The international agreement came about as a result of an agreement between two sovereign governments. It had multiparty support and was lodged with the United Nations. We need the implementation of all aspects of the Good Friday Agreement. Does the Minister believe urgency is being accorded to the issue of these talks by either the political parties in Northern Ireland or the British Government?

**Deputy Seán Crowe:** Both Governments are co-guarantors of the Good Friday Agreement and all citizens expect equality of treatment. Part of the difficulty, however, is that the British Government is in default on account of its one-sided relationship with the DUP, which is propping it up. Theresa May's Administration has consistently refused to deal with issues such as rights and equality, which prevent a return to power sharing because that would require her to confront the anti-equality agenda of the people who are keeping her in Government. The Government will face a similar difficulty if there is an agreement on Brexit. There was an agreement with the DUP but, for whatever reasons, it did not go ahead and something similar could happen in the case of the Brexit negotiations. The negotiators may agree but they might not get it past the party.

**Deputy Simon Coveney:** The relationship between the DUP and the British Government is a matter for both parties. There is a confidence and supply arrangement and we have nothing to do with it. Nevertheless, issues relating to Brexit, all the issues in the Good Friday Agreement and any issues relating to the absence of devolved government in Northern Ireland at the moment are a matter for all the political parties there. We engage with all parties, on Brexit and on trying to find a way forward, and we have done so throughout this process. I accept that there has been growing frustration with the political inertia in Northern Ireland. We have to be honest with ourselves and admit that the cloud that is Brexit hangs over all our relationships at the moment and has made it more difficult to get a focus on the re-establishment of devolved institutions in recent months. Ironically, the opposite should be the case because Northern Ireland needs a unified voice from an all-party Executive right now in the context of Brexit. It would be beneficial for Northern Ireland and for all involved if that were the case because the views, the concerns and the fears, some of them legitimate, of one party alone cannot determine an approach to finding credible and acceptable compromises and solutions on the Brexit questions.

I gave the House a detailed explanation of what happened last February when we almost had an agreement on the basis of setting up the Executive again before it unravelled. It is the job of the two Governments, Irish and British, to put in place structures and a context that will

allow the parties to work again in an atmosphere of trust, resulting in the Executive being re-established. We share the sense of urgency felt by others in this House about the need to do this.

### **Israeli Settlements**

11. **Deputy Niall Collins** asked the Tánaiste and Minister for Foreign Affairs and Trade the steps taken by the Government since it first demanded compensation from Israel for the destruction of EU-funded structures; and if he will make a statement on the matter. [40301/18]

**Deputy Simon Coveney:** The demolition by Israel of structures belonging to inhabitants of occupied territory, including both Palestinian territory and the Golan, is in almost all cases illegal under international law, in our view. This includes structures provided by the EU or its member states as humanitarian relief in the form of emergency shelters for people or animals, schools, and structures for water and power supply, such as water tanks and solar panels.

Ireland is a member of the West Bank Protection Consortium, comprising nine EU members plus the ECHO Directorate General of the European Commission, which deals with humanitarian relief. Since late 2017, consortium donors have sought compensation or restitution for structures funded by the consortium or its members which have been demolished or confiscated. To date, there have been three such requests for compensation. Israeli authorities have replied that these structures had no planning permission. This ignores the fact that the Israeli authorities systematically refuse to grant such permission to local communities. The purpose of this action is to highlight the unacceptability of these practices, and to seek restitution for the loss to European taxpayers. The principle, rather than the money, was the main focus of the action.

I believe that it is right that the EU and its member states should consistently seek compensation from Israel for the demolition or confiscation of such structures. My officials have also pressed for this to happen at EU level. However, there is not yet agreement among EU members to do so.

**Deputy Niall Collins:** In October 2011, Ireland and eight other EU member states, as part of what is known as the West Bank Protection Consortium, protested against the demolition or confiscation of structures on the West Bank which provided humanitarian relief from the EU and other members and formally demanded compensation from the Israeli authorities. We welcome that initiative and I would appreciate if the Minister would redouble our efforts in this area.

The Minister referenced planning permission and it is a reality that Israel rarely, if ever, grants planning permission to anyone within Palestine. Since the demand for compensation was made, almost a year ago, has there been any real progress? Will the Minister update the House on his engagement with EU member states on the issue?

In the course of the announcement by the Trump Administration to recognise Jerusalem as Israel's capital, President Trump said, "This is nothing more, or less, than the recognition of reality." That has been widely interpreted, along with many other aspects of his speech, as meaning that his Administration's position on the conflict will determine the clear realities created by Israel, including the settlements. The settlements are proceeding, and with them the fragmentation of the West Bank and Palestine. Is there going to be an impetus from the EU in respect of these matters and the destruction of EU-funded structures? There seems to have been



an absence of any such impetus so far.

*12 o'clock*

**Deputy Simon Coveney:** I think the Deputy and I agree on most things relating to this issue. In our view the expansion of settlements in the West Bank continues to undermine the viability of a two-state solution. The issues around Khan al-Ahmar, a relatively small Bedouin community, are very significant because of its strategic location. The international community will judge interested parties on whether they are serious about negotiating a two-state solution by what happens in that case. The international community will watch closely to see what happens there, and it continues to appeal to Israel not to demolish that village. We need to work with all parties here to find a peace solution that everyone can sign up to. Despite the setbacks of the past 12 months, and there have been significant setbacks, particularly from the Palestinian perspective we remain open to talking to all sides to encourage progress.

*Written Answers are published on the Oireachtas website.*

### **Ceisteanna ó Cheannairí - Leaders' Questions**

**Deputy Dara Calleary:** There are many commitments in the programme for Government to enhancing and implementing greater access to primary care services. At the centre of any primary care system is having enough general practitioners, GPs, in urban and rural areas. We all agree that the life of GPs is not an easy one. They spend long hours in surgery and in communities listening to, meeting and treating people of all ages at all times of the week. The Health Service Executive, HSE, planning office estimates that since the introduction of the GP visit card for children younger than six years, demand for GP consultations in this population will have increased by 65% in 2017 and by a further 42% by 2022.

This is also having an impact on patients' access to GPs. In some urban areas there are two to three-day waiting lists to see a GP, but the irony is that in many rural areas it is becoming more and more difficult to fill vacancies where a GP retires or moves to another location. The life of rural GPs has extra challenges because they are on call 24-7, living in the communities they serve.

The financial emergency measures in the public interest, FEMPI, cuts had a considerable impact on general practice and general practitioners. Allowances were cut by up to 38%. It is having a significant continuing impact on GP morale and on retaining people to work in general practice, which is resulting in GP shortages. According to the Irish College of General Practitioners, ICGP, there will be shortages in the order of 1,000 GPs in the next ten years and 36% of our current cohort of general practitioners are over the age of 55. The Irish Medical Organisation, IMO, which we met here last week, says there are 666 GPs over the age of 60 who will be retiring over the next five to seven years, of which 244 will retire over the next two years.

Those statistics are real people, real lives, and people making choices about their own lives. They also represent a very vital community service that may be withdrawn or restricted. The Minister for Health and the Government are meeting this impending crisis in primary care with their heads stuck in the sand. Where are we at and why is the Government continuing to delay discussions on FEMPI reversal for GPs when there has been progress across all other cohorts?

Why is the Government not responding to the crisis of GP morale and recruitment? Will the Tánaiste confirm that the concerns of the GPs about the FEMPI cuts will be addressed and that there is a pathway for them to see a future, not just for themselves but for serving their communities?

**The Tánaiste:** I accept that there is a need for a continuing dialogue and a discussion between the Minister for Health and GPs. The Government's focus is on shifting the emphasis towards primary care. That is why we are spending very significant capital resources on building new primary care facilities and improving facilities for GPs. That has happened in towns around the country and in the cities as well. In respect of the added pressures on GPs, our focus has been primarily on trying to deliver better patient outcomes so that parents can afford to bring their children to the GP at an early stage of sickness to avoid more complex and more expensive medical treatment being required. We continue to be committed to that policy. Affordable primary health care provision through a GP-led service is a major pillar of healthcare policy for this Government. I believe most people in this House support that. The financial arrangements to unwind the impact of FEMPI on GPs is a matter for negotiation between GP representatives, the Minister for Health and the Minister for Finance. I am not going to make clear commitment while that negotiation continues.

**Deputy Dara Calleary:** The Tánaiste speaks about dialogue but there is no dialogue. The discussions around FEMPI have been long-fingered. The National Association of General Practitioners, NAGP, which represents many GPs, is not even involved in them. Research and surveys are available to show that maybe 70% of GPs are no longer in a position to take new patients because of the pressure on their practice, yet the Tánaiste speaks about wanting affordable GP access. It is not possible to have affordable GP access when there are not enough GPs or when GPs are saying they do not have the resources to take on any more patients. We spend only 3.5% of our health budget on general practice in contrast with over 8% spent by the National Health Service, NHS. In Australia, which is actively recruiting GPs from this country because of their training and skills, that figure is even higher. The Tánaiste speaks about dialogue and says it is a matter for the Ministers for Finance and for Health, but the Minister for Health is asleep on watch on this one. Seven out of ten GPs say they can take no more patients, and along with the figures for impending retirements, people walking away from the service, and incredibly committed health professionals saying they have had enough, communities are being left without a service. The Tánaiste should stop talking about discussions and start discussing and wake up to the reality of this crisis.

**The Tánaiste:** That discussion is under way. The Government is committed to engaging with the representatives of general practitioners on the development of a package of measures and reforms to modernise the 1999 General Medical Services, GMS, contract. Our goal is to develop a contractual framework that has a population health focus, providing in particular for health promotion, disease prevention and for the structured care of chronic conditions. This will enable general practitioners to better meet the needs of patients and will also promote general practice as a viable and rewarding career for existing doctors and future graduates.

Agreement on the delivery of the service improvements and contractual reform has the potential to facilitate a substantial increase in the resourcing of general practice on a multi-annual basis. The Department and the HSE met the IMO GP committee in early May, with the State's side setting out the mandate agreed by the Government under the consultations conducted and the package of measures to be agreed. The conversation the Deputy talks about is under way.

**Deputy Stephen S. Donnelly:** It is not. It has not met since May.

**Deputy Dara Calleary:** It is not getting anywhere. There are people leaving in droves.

**The Tánaiste:** These negotiations are never easy or straightforward. They will need to conclude to ensure that we have sufficient numbers of people coming into general practice in the years ahead to fulfil the policy we are pursuing. That is what the Minister for Health is focused on.

**Deputy Pearse Doherty:** Yesterday, thousands of people gathered outside the gates here to stand against the homelessness and housing crisis. There were people from all different walks of life and sectors of society, including students, parents, teachers, nurses, pensioners, workers and the unemployed. Their message to the Government, if it was not heard, was loud and clear. It was a message to the Government that its housing policies are failing and that they want real, meaningful solutions. They represented, outside the gates of Leinster House, hundreds of thousands of people who are affected by the housing emergency, people who are affected day in, day out. They represented the 10,000 people in emergency accommodation, including the 4,000 children. They represented those who are struggling with unaffordable rents which are spiralling out of control. They represented those who cannot afford to buy their own homes and are languishing on council waiting lists. The Tánaiste must now surely accept the reality that no matter how many times he or members of his Government say it, their housing policies are simply not working. It is time to say enough is enough.

A recent Economic and Social Research Institute, ESRI, study shows that a third of households are paying more than 30% of their income on rent. That is the level that is deemed unaffordable. It gets worse because a shocking 70% of modest income households are spending more than 30%. That is a scandal. Next week's budget offers an opportunity to give renters a break. That is why we in Sinn Féin have proposed the introduction of a temporary tax relief for renters and a three year emergency rent freeze. That is a proposal befitting the scale and measure of the crisis that we face in this State. Alongside that, the Tánaiste knows that we need to see a dramatic increase in the delivery of social and affordable homes which need to be constructed in 2019. Budget 2019 can mark a step change in that regard. That means doubling the level of capital investment in housing. That is what Sinn Féin, what last night's cross-party motion and what the thousands of people outside the gates who chanted loudly are calling for the Government to do.

The Taoiseach and Ministers keep saying that money is not an issue and that they will fund any measure to tackle the crisis. As the saying goes, the Tánaiste needs to put his money where his mouth is. There are three large-scale council developments ready to go. One is in Shanganagh in Dún Laoghaire and would deliver 500 social, affordable rental and affordable purchase homes. One in Damastown in west Dublin would deliver 1,000 homes. One in Kilcarbery in south Dublin would deliver another 1,000 homes. These are council-led proposals with cross-party support for mixed income and mixed tenure estates. They would provide 2,500 needed homes which would have a significant impact on the housing crisis right now. Will the Government directly fund these three council-led projects? Will it increase capital investment in housing by the €1 billion that is required? Will it introduce, as a tax relief for renters, an emergency tax freeze in next Tuesday's budget?

**The Tánaiste:** The Government understands the frustration of many people who marched yesterday to make a point on housing. We are in the midst of a very pressurised situation for

many families who are renting, cannot afford to purchase their own home or are waiting for social housing. The biggest priority in Government with regard to the domestic political agenda is and has been housing for quite some time. Over the past two years, we have delivered 15,000 new social houses. This year, we will deliver approximately 8,000 extra. Next year, it will be close to 10,000 and in the years after that, it will be close to 12,000, year on year, every year. We committed a huge capital package many months ago to delivering on that. The impression that some people would like to give, that this Government has some kind of ideological objection to putting public money into building social housing for people who cannot afford to buy their own homes, is absolutely untrue and not borne out by the facts. We are committed to a dramatic increase in the provision of publicly funded social housing, with 100,000 in the next ten years. We will follow through on that. That will be seen clearly in next week's budget and also in capital commitment. The projects which are chosen are those which have been assessed by the Department of Housing, Planning and Local Government, working with local authorities throughout the country to make sure that we deliver as many affordable and social houses as we can in the shortest timeframe that we can do it.

In my experience as Minister for Housing, Planning, Community and Local Government, then and now, money is not the main obstacle to delivering the volume of houses that we need in the short to medium term. Processes and decision-making have delayed the pace of delivery of social housing, which is increasing by the month. Looking at virtually any metric relating to supply, whether it is the number of first-time buyers purchasing homes or affordable houses that they are accessing or social houses being delivered or planning permission applications being submitted and granted, or at the money the Government continues to spend on homeless services as well as housing, all of those are moving in the right direction, but I know it cannot happen quickly enough for many people. The housing plan that I was involved in, this Government has endorsed and the Minister, Deputy Eoghan Murphy, is building on, was always a five-year plan to correct and essentially reshape a housing market from the perspective of rentals, social housing and private purchases. That takes time to fix.

**Deputy Pearse Doherty:** There the Tánaiste goes again, saying our housing policy is working. If he says it over and over again, maybe he will even start to believe it himself. It is simply not working. Thousands of people came to the streets of Dublin yesterday to make it clear to the Government that it is not working. The Government is failing people, including students, those in emergency accommodation and the 80,000 more people who are now living with their parents than there were last year. The Government is failing people who want to get on to the property market because that is the outworking of the Government's policies. Rents are out of control, at nearly 40% above peak prices. Houses are out of the reach of ordinary young couples. There is a crisis of unprecedented proportions, with 10,000 people in emergency accommodation. They do not want the Tánaiste's understanding. They want action, with an increased level of capital investment.

The Government needs to double the amount of money being put into social and affordable housing. The Government will not deliver 8,000 social houses in 2018. It will be 5,500 social houses, and that is nowhere near what is needed to deal with the crisis. If the Tánaiste says money is not a problem, then he should put his money where his mouth is. There are three proposals for cost rental projects which can deliver 2,500 social and affordable homes in three different sites in Dublin. The Department and the Government have not given sanction to it. The Government can take to its feet and start to turn the tide by saying that it will directly fund those projects and begin to deliver large-scale social housing, which is needed to deal with the

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crisis that the Government has brought about as a result of its underfunding and its policies that have failed those in the rental and housing sector.

**The Tánaiste:** We will deal with the delivery of an extra 8,000 social houses this year. We delivered-----

**Deputy Eoin Ó Broin:** It is 5,500.

**The Tánaiste:** There is a difference between the numbers which the Deputy likes to quote-----

**Deputy Eoin Ó Broin:** I am quoting the Department's numbers.

**The Tánaiste:** -----which are selective quotes to try to exaggerate for effect-----

**Deputy Eoin Ó Broin:** Some 5,500 real social housing units in a year. The Tánaiste should read the Department's documents.

**The Tánaiste:** -----as he does all the time. New social housing is not just about new builds. It is also about bringing other properties and acquisitions-----

**Deputy Eoin Ó Broin:** I agree. Some 5,500.

**The Tánaiste:** -----back into new social housing stock. We will, and have in the past two years, dramatically increased the amount of social housing stock that is in use, but we need to do much more. We are talking about adding another 100,000 social houses to the housing stock over time, which is a hugely ambitious social housing plan which we will deliver on. I would contend that the delay in social housing delivery right now is not about the availability of capital. It is about process and capacity within local authorities to deliver at the pace at which we are asking them to deliver.

**Deputy Pearse Doherty:** The Minister has projects on his desk. The Tánaiste knows that.

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

**The Tánaiste:** Deputy Doherty knows that better than most but it does not suit his political narrative to accept it.

**Deputy Pearse Doherty:** The Tánaiste knows that projects-----

**An Ceann Comhairle:** The Tánaiste should be allowed to respond.

**The Tánaiste:** That is the reality.

**Deputy Eoin Ó Broin:** The Tánaiste should not blame councils.

**Deputy Pearse Doherty:** He is shifting the blame.

**An Ceann Comhairle:** The time is up. I call Deputy Brendan Howlin.

**Deputy Pearse Doherty:** It is an abdication of responsibility. The Government has not heard the last of the thousands who marched on this House yesterday.

**An Ceann Comhairle:** Deputy Doherty should stop interrupting.

**Deputy Josepha Madigan:** Could we please stop the shouting in the Chamber?

**An Ceann Comhairle:** Yes, I will.

**Deputy Josepha Madigan:** There is no need to shout. If one's words are strong enough, one does not need to shout. Nobody needs to shout.

**Deputy Dessie Ellis:** The situation is serious.

**Deputy Josepha Madigan:** Members can make their arguments but they should not shout. It denigrates the Chamber.

**An Ceann Comhairle:** I thank the Minister.

**Deputy Dessie Ellis:** The Government is worried about people screaming when we have such a serious situation.

**Deputy Josepha Madigan:** We do not need to shout.

**An Ceann Comhairle:** My apologies to Deputy Howlin.

**The Tánaiste:** We are well aware of the seriousness of the situation. The Deputy does not need to remind us.

**Deputy Aengus Ó Snodaigh:** The Government needs to listen.

**An Ceann Comhairle:** I ask the Tánaiste not to respond.

**Deputy Pearse Doherty:** Will the Tánaiste name one project that councils would not support? That claim is nonsense.

**An Ceann Comhairle:** Excuse me, Deputy Doherty. It is becoming a habit of some Deputies on the Sinn Féin benches to barrack Ministers when they are responding. Members of the public are at home watching proceedings.

**Deputy Aengus Ó Snodaigh:** We cannot allow the Tánaiste to mislead the Dáil.

**An Ceann Comhairle:** I ask Deputies to behave.

**Deputy Brendan Howlin:** Next week's budget will test the Government in a way that previous budgets have not tested it. It is the first budget in more than ten years where it is fair to say there is genuine scope for significant investment in public services. As the Tánaiste knows, public spending here, at 26% of GDP, is low compared with many of our European counterparts. Even if we use GNI\* as the criterion, it is 38%, which is well below the European average of 46% of GDP and far below the best performers, the countries we try to emulate in terms of public services, namely, Finland, Denmark or Sweden. There is plenty of scope in the budget to increase the role of the State in meeting people's needs.

Fine Gael and Fianna Fáil have flown a series of kites about tax in recent days. The choice in Tuesday's budget is simple; the Government can either cut taxes or reduce poverty. The Government in particular has been disingenuous in this House. The Taoiseach described the threshold for higher income tax in a way that is not correct. He has been at pains to say that ordinary workers are paying the higher rate of income tax when that is not true. Statistics from the Revenue Commissioners show that a little under one in five - 19% - of those who pay in-

come tax pay any tax at the higher rate. That is an undeniable fact based on Revenue figures.

It is true that single people begin to pay the 40% rate on part of their income above €34,550, but the threshold for married couples is much higher, at up to €69,100. That is why many people on higher salaries do not pay the 40% tax rate. For this reason, it is misleading to suggest that ordinary workers are typically paying the 40% tax rate when we know from Revenue that only 19% of workers are paying at the top rate. The top one fifth cannot be the squeezed middle. Ireland's labour market remains divided between high wage earners and low wage earners. The divide is quite shocking when we look at international statistics. Far too many people are on low pay and insufficient hours. Shockingly, up to one quarter of workers are earning less than what has been defined as the living wage of €11.90 an hour, and none of them can benefit from a cut to the higher rate of tax. I do not expect the Tánaiste to go into the details of the budget but will he confirm that it is still the Government's intention to cut taxes for the top fifth of wage earners rather than reduce the burden on all taxpayers by providing money for services that every citizen enjoys?

**The Tánaiste:** I am not going to give a budget speech today for obvious reasons, as Deputy Howlin will understand. As a result of the sacrifices made by so many people and businesses in the past decade, Ireland is in a position to spend nearly €7.5 billion on capital next year. That is an increase of 25% in expenditure on schools, hospitals, roads, social infrastructure and housing, among other things. As a country, we have worked hard to create that possibility and to ensure we can spend more to look after the population in the way that a modern economy should do in terms of societal support.

The choices we make next week will be on the basis of trying to spend in appropriate ways without overspending or overborrowing and in order that we do not start all over again the cycle that we have repeatedly had of moving from boom to bust as Governments overspend when they cannot afford to do so. The Minister for Finance, Deputy Donohoe, will not allow that to happen. What we are doing is maintaining, protecting and preserving a sustainable growth story in the economy that will continue to allow us to put very large sums into projects that are needed throughout the country. We will be able to do that for the first time in many years with appropriate levels of capital spending next year. I hope Deputy Howlin is not suggesting that we should start spending money that we do not have.

In addition, we will have to raise some money to be able to fulfil the demands and pressures that exist. We want to give some relief to middle income earners, the squeezed middle who pay for everything. We are very unusual in the context of the European Union and the OECD that we ask earners to pay at the higher rate of tax when they are earning less than €35,000. That is not normal.

**Deputy Brendan Howlin:** That is not true either.

**The Tánaiste:** We managed to give some modest relief to people last year and we hope to do so again this year by moving thresholds in a direction that is slightly closer to international norms.

All of the independent international assessments of the Irish tax system have shown that it is one of the most progressive tax systems in the world. To be fair to Deputy Howlin, he had a part in creating that. We will continue to be progressive, but we must also recognise that many hard-working families on middle incomes are under financial pressure and they also need to be

given some level of a break in the budgetary decisions we make.

**Deputy Brendan Howlin:** The Tánaiste is correct that we have a very progressive taxation system and the Labour Party was instrumental in ensuring that it remained progressive in the downtime. However, the base income divide between the rich and poor is manifestly much broader in this country than it is in any of our comparator countries. It is rebalanced somewhat by social transfers through taxation and social welfare. It is shocking, however, that one quarter of workers are earning less than the acceptable living wage of €11.90 an hour. They are the people who will not benefit from any reduction in the higher rate of taxation, which the Tánaiste characterised as applying to the squeezed middle. As I spelled out in detail, that is not the case. In addition, they will not benefit from the services that could be provided if the Government invested adequately in childcare or in increasing supports for people on modest incomes. We will spell out all of that in detail this afternoon. I am not asking the Government to spend money it does not have. On the contrary, I am asking it not to repeat the mistakes of the past by shrinking the tax base. We must maintain the breadth of the tax base so we can have decent social provision in the future. If we have risks such as corporation tax, let us ensure that our tax base is broad enough to endure.

**The Tánaiste:** We look forward to seeing Deputy Howlin's proposals. I am sure they will be assessed before final decisions are made from a Government perspective. The Deputy seems to be making accusations that we are not focusing enough on expenditure in areas such as childcare. He should look at the increase in spending on childcare we committed last year and wait and see what will be announced next week. We are talking about spending €3.5 billion more next year than we will spend this year.

**Deputy Brendan Howlin:** Most of that spending is due to demographics.

**The Tánaiste:** Deputy Howlin is calling for more expenditure. We are advocating for a modest package for middle income earners-----

**Deputy Brendan Howlin:** One third of workers will not be affected.

**The Tánaiste:** -----who are moving into the higher tax bracket at very modest incomes, in a way that is consistent with the measures implemented last year. That is what is called balance. We cannot continue to ask the same people to foot the tax bill for the increased spend we hope to deliver. We need a balanced budget which recognises the pressures middle income earners are under and the responsibilities on the Government in delivering an increased spend to alleviate poverty and provide the social supports we must provide. We got the balance right in the last budget and will endeavour to do the same next week.

**Deputy Clare Daly:** The Naval Service is in meltdown. For the first time in the history of the State, it is unable to fulfil its core function of sea fisheries protection. The unprecedented situation where it was not able to put ships to sea occurred not only last week but also over the summer. The issues are now in the public domain because the men and women of the Defence Forces simply will not put up with it any longer. Rather than an attempt being made to deal honestly with chronic understaffing, exhausted and overworked crews are being bullied into going to sea in unsafe conditions in order to give the illusion that we have a functioning navy. Ships which routinely were crewed by 44 personnel are putting to sea with a crew of 34.

Yesterday there was the spectacle of threatening emails being sent directing crews that notice for short-term relief no longer applied and that they had to be ready to put to sea whenever



necessary. That email was issued and then rescinded. To add insult to injury, the Chief of Staff then stated there was no crisis and that the weekly haemorrhaging of expensive, experienced trained staff was all about pay. Pay has something to do with it, as does the chronic mismanagement of the Defence Forces in recent years and the move towards vanity prestige projects in an effort to cosy up to the EU military elite. A fully trained and resourced crew is taking part in Operation Sophia which is a military exercise, not a search and rescue mission.

A costly ninth vessel is being delivered, but we do not have sufficient numbers to crew the eight ships that we have. The families of Defence Forces members are living on the breadline. To cover for the shortage of crew members, on a weekly basis personnel are being bullied into finding a way around the minimum crew number of 37 and press-ganged into returning to sea on another ship after a four-week tour of duty. The Government talks about the Defence Forces being family friendly. How, in God's name, could any woman or man put up with these conditions? Even when a ship has a crew of 37, often, many of them are unskilled staff, meaning that there are not enough communications operators to maintain watch in the radio cabin and not enough engine room monitors, which means that the ship just sits there to give the pretence we have a navy. It is an absolute disgrace.

In the light of the response of the hierarchy of the Defence Forces to the crisis, can the Tánaiste express confidence in the Chief of Staff? Is it now time to suspend our involvement in Operation Sophia and bring home our crews and allow them to do the job the Naval Service was set up to do, namely, to protect our sea fisheries and coastal waters?

**The Tánaiste:** If I were a member of the Naval Service, I would be surprised to hear a Member of this House calling for Naval Service personnel to be brought home from the Mediterranean to focus on their main role and what they were trained for, which, according to the Deputy, is fisheries protection. Fisheries protection is not the limit of what we ask Naval Service personnel to do. The Deputy may not be proud of the Government's decision to send ships to the Mediterranean, but I am. I am even more proud of how Defence Forces personnel have responded to the challenges faced there. They have taken over 17,000 people from the water, many of them children who would not be alive today were it not for the professionalism and intervention of the Naval Service. Out of pragmatism, we have shifted from a bilateral relationship with the Italian coastguard in the Mediterranean to a collective EU effort as part of Operation Sophia. Ireland has made it clear that our role in the operation is to participate in a humanitarian search and rescue mission, rather than in an offensive or war-going capacity. We have been asked to continue to assist because of our expertise in search and rescue missions. To make a point about pay, the Deputy has tried to twist the truth about the role of Defence Forces personnel - proud men and women - who are saving lives on a weekly basis in the Mediterranean. However, I do not believe many in the Defence Forces and, in particular, the Naval Service will appreciate the way in which she is making a case for them. Of course, there are challenges in recruitment and retention in the Defence Forces, including the Naval Service, which is why the Government asked the Public Service Pay Commission to examine these issues. The current strength of the Naval Service is slightly more than 1,000 personnel or approximately 92% of its establishment of 1,094. The personnel level of the Naval Service has not changed in recent years. Many Naval Service personnel are targeted by the private sector because they are talented and motivated; therefore, recruitment and retention are ongoing issues. However, I assure the House that safety is not compromised by decisions made at an operational level by the flag officer or the Chief of Staff and that no ship will go to sea if there are safety issues for the crew.

**Deputy Clare Daly:** The proud men and women of the Naval Service will be far more surprised to hear the nonsense the Tánaiste has just come out with than the points I raised in my opening statement. I specifically stated I was not addressing the issue of pay and that the root of the crisis in the Defence Forces was mismanagement at the top level, including at the level of the Chief of Staff, on which I asked the Tánaiste to comment. The crisis was admitted to me by personnel in freedom of information requests over the summer. The Tánaiste went off on a tangent in speaking about Operation Pontus when I specifically asked about Operation Sophia which, interestingly enough, resulted in the rescue of less than half the number rescued in 82 days that the *LE Samuel Beckett* rescued in 12. It is not a search and rescue operation. The Tánaiste should read the letter written by Médecins sans Frontières which was published in some newspapers today. Defence Forces personnel are sick of being patronised. People with families are being browbeaten to return to duty immediately after returning from a tour of duty. Is the Tánaiste aware of this? Does he think it is worthy of comment? Is he honestly stating pay is the only reason personnel are leaving the Defence Forces and that these issues are not a factor? If he believes that, we are in bigger trouble than I thought.

**An Ceann Comhairle:** Before I call the Tánaiste to respond, I would be profoundly uncomfortable if Deputy Clare Daly stated the Chief of Staff was guilty of mismanagement, which is what I think I heard her say.

**Deputy Clare Daly:** I firmly believe the Defence Forces are being mismanaged at top level. I asked the Tánaiste whether he had confidence in the Chief of Staff.

**An Ceann Comhairle:** That is fine. Making a general accusation is one thing but an accusation targeted at an identifiable person outside the House who cannot defend himself or herself is not in order.

**The Tánaiste:** It is not the first time the Deputy has targeted individuals who do not have an opportunity to defend themselves in the House. I have absolute confidence in the Chief of Staff of the Defence Forces whom I know well and with whom I worked while I was Minister for Defence. On many occasions I visited the headquarters of the Naval Service in Haulbowline with him and other members of his management team and staff.

I have made the point that there are recruitment and retention issues, some of which are linked with pay and an economy which can now offer alternatives to members of the Defence Forces. It is clear that personnel are being targeted because of their skill set. The Government is responding by examining the issue in detail. The recommendations made in that regard will be considered by the Government. However, I cannot allow in this House the kind of accusations Deputy Daly is making against an individual who is doing an exceptional job under difficult circumstances for the Defence Forces as Chief of Staff. It is regrettable that she has chosen to target an individual in that way.

### **Ceisteanna ar Reachtaíocht a Gealladh - Questions on Promised Legislation**

**An Ceann Comhairle:** In addition to the six leaders, ten Deputies are offering. As we have only 15 minutes for questions on promised legislation, our success will depend on how expeditiously the matters are dealt with.

**Deputy Dara Calleary:** Two weeks ago, I raised with the Tánaiste the issue of Spinraza, a life-changing drug on which 25 families are waiting for a response. He committed to get back to me but has not done so. More important, the 25 families still have no information as to when a decision will be taken. Even though proposals were submitted to the Health Service Executive, HSE, in July, with a much lower price being quoted, there is still no information available for these families and their children. Will the Tánaiste give an indication of when they can expect information?

**The Tánaiste:** As the Deputy knows, a process and an evaluation must conclude before a decision can be finalised on that. I will ask the Minister for Health to come back to him on timescales.

**Deputy Pearse Doherty:** We hear in media reports today that a special savings scheme for housing is under consideration by the Government. Not surprisingly, this is the brainchild of Fianna Fáil. At a committee meeting last week, the Minister for Finance, Deputy Donohoe, completely ruled out the idea of such a scheme. He bluntly answered “No” when asked by Deputy Broughan whether one was under consideration. We know these schemes increase the value of homes and undermine the Central Bank rules. The winners in these schemes are developers and the banks, while the losers are families and working people who are trying to get on to the property ladder. Britain intends to abolish its scheme because it created a direct transfer to the most wealthy and fuelled property prices. Will the Tánaiste be as clear as the Minister for Finance was in the committee last week when he said such a scheme was not under consideration? If it is under consideration, will he explain the reason there has been such a U-turn in recent days?

**The Tánaiste:** This is a matter for the Minister for Finance. The Deputy will get his answer next week.

**Deputy Brendan Howlin:** I ask the Tánaiste about the Harassment, Harmful Communications and Related Offences Bill 2017, with which he may be familiar. This is a Labour Party Bill dealing with the important issues of cyberbullying and online harassment and the real damage being done online, particularly to younger people. There was strong support for it across the House, including from the Government benches, when I introduced it and the Bill was passed in the Dáil last June. I spoke to the Minister subsequently and a promise was made to give the Bill a fair wind. When is it likely that we will see progress on this very important measure?

**The Tánaiste:** I understand there is some work ongoing on a memorandum of understanding on how we bring forward and progress Private Members’ Bills because many such Bills have been passed. It is also my understanding that the Minister for Justice and Equality, Deputy Flanagan, is, in principle, supportive of what Deputy Howlin is trying to do in his Bill.

**Deputy Brendan Howlin:** So he told me, yes.

**The Tánaiste:** I will revert to the Deputy with a timescale from the Minister.

**Deputy Gino Kenny:** I raise the issue of medical cannabis, which I have raised more times than any other issue in the two and a half years since my election. I just received a telephone call from a parent who is utterly confused about the position on medical cannabis. Three options are available, namely, to go through the licensing system for medical cannabis, to go abroad to obtain medical cannabis, or to obtain it illegally, as most people are doing. In January 2017, the Health Products Regulatory Authority, HPRA, made a recommendation on establish-

ing a medical cannabis access programme. That was 19 months ago, and nothing has been done. Will the Tánaiste give a timeframe for having the access programme up and running? I ask him not to give another stock answer because I get the same old answers all the time.

**The Tánaiste:** I know the Deputy has done a good deal of work in this area. The last time I answered a question from him on this issue it received a negative reaction, which I had not intended to provoke. What we are trying to do is have a streamlined licensing system that can allow families to access appropriate drugs under the supervision and support of a consultant doctor. It will mean those decisions being made quickly in a streamlined way to ensure appropriate medicines can be accessed and licensed to be brought into Ireland for patients. That is my understanding of what the Minister for Health, Deputy Harris, is committed to. As far as I know, he has not refused any licence that has been requested and has the support of a consultant doctor in terms of the management of the case for the patient concerned. There is a commitment to try to streamline that process to ensure decisions can be made more quickly for the families concerned.

**Deputy Mattie McGrath:** The Tánaiste spoke glowingly about our Naval Service and Army personnel, on which I totally agree with him. I have been in touch with him about the scandalous situation where up to 60 Army personnel who have been on peacekeeping duties for the past six months in Syria and elsewhere are trapped because of some bungling in the Department. I will not name the Chief of Staff but I want to know who in the Army bungled the travel arrangements to get those people home. They are stuck in airports and we believe they will not return for two weeks. This is due to inertia or bad management by a senior person in the Army. Will that individual be held accountable? Some of these people had booked holidays. They have been on duty for six months and missed a good summer here with their families. There is some talk of a sop of €1,000 compensation being thrown to them. They want to be home with their families. They are waiting to come home, while others wait to go out to Syria. It is utter confusion. The Tánaiste has a duty, as Minister for Foreign Affairs and Trade, to sort this out. He should name and shame the individual who bungled this matter in such a way.

**The Tánaiste:** It is not that straightforward. Military flights require specific diplomatic clearance from all countries through whose airspace they fly. These clearances require due notification, are time limited and must all be in place and aligned to allow a flight to proceed. In the case of the United Nations Disengagement Observer Force, UNDOF, additional clearances for the transit of military forces through Lebanon and Syria, and across the Syrian border, are also required. We are talking about Irish peacekeepers in Syria, one of the most complex environments on the planet in terms of a conflict zone.

**Deputy Mattie McGrath:** Absolutely.

**The Tánaiste:** This is not the same as flying home from Los Angeles or somewhere.

**Deputy Mattie McGrath:** I never suggested it was.

**The Tánaiste:** I caution people to show some understanding that the complexities of travel arrangements for military personnel-----

**Deputy Mattie McGrath:** Does the Tánaiste not think the whole thing is a mess?

**The Tánaiste:** -----in such a complex environment can sometimes be difficult. In this case, that is what has happened. We are fixing the issue and the personnel will be home, albeit two

weeks after they were supposed to be home. I do not believe that individual personnel are at fault. The complexity of the environment in which we are operating-----

**Deputy Mattie McGrath:** It is a well-travelled course.

**The Tánaiste:** -----is the reason for the delay.

**Deputy Eamon Ryan:** We heard the Minister for Communications, Climate Action and Environment, Deputy Denis Naughten, say this morning that the Government had given the go-ahead, effectively, for the North-South interconnector, which I welcome. This is vital infrastructure for the all-Ireland energy market. I understand there is a difficulty on the Northern side of the Border, and I hope the Tánaiste is well placed to answer this question. Under a recent court decision in the North on a separate government issue, proceedings were put on hold because of the absence of the Assembly, Ministers and the administrative system. This means it is legally uncertain whether the project will proceed. I understand this may apply to the Northern part of the interconnector, which cannot now proceed at the same time, North and South. Can the Tánaiste confirm if that is the case? What is the Government doing to try to have the project start in these difficult circumstances without the Assembly?

**The Tánaiste:** A report was done on this issue and that report has now come back. The Minister simply stated the facts and reality that neither he nor the Government has a function in this issue. There is a permit being sought and planning permission has been granted. EirGrid is now trying to manage the way in which it will build a North-South interconnector, which is a very important piece of grid infrastructure for the all-Ireland energy market. Issues in Northern Ireland are a bit more complicated because we do not have devolved Government there. It is difficult, therefore, to understand the political management of this project North of the Border. However, if it would be helpful, I will have a note done on the issue, which I can send to the Deputy.

**Deputy Niamh Smyth:** In the programme for Government there is a commitment to sustainable employment in rural parts. Sinkholes have emerged along with significant land subsidence in Magheraclone on the GAA grounds. We learned this morning that they could be waiting five years before they can move back in. It has caused significant disruption to the local community and particularly to local employers. It has to be said that Monaghan County Council and the Garda have dealt with this very effectively. Has the Minister for Business, Enterprise and Innovation engaged with the likes of Doran Motors, Treacys Hotel and Gyproc, the company most affected, to ensure there are no job losses as a result of all of this?

**Minister of State at the Department of Communications, Climate Action and Environment (Deputy Seán Kyne):** As Minister of State with responsibility for natural resources, I visited the site on 25 September following the mine collapse. Gyproc is a very important employer in the locality and I know there is inconvenience with regard to roads being closed. This is a health and safety matter. My Department's mining division and Geological Survey Ireland have visited on a number of occasions and have advised Monaghan County Council on the best approach. This is a health and safety matter. We are very conscious of the disruption to locals and the need to ensure that the best advice is taken. An independent tactical survey is taking place in respect of the causes of the collapse and what lessons can be learned.

**Deputy Brian Stanley:** There is a commitment on broadband on page 46 of the programme for Government. The process is in disarray currently. Of the three bidders, ESB-Vodafone and

Eir have pulled out. There is only one bidder left and that consortium is basically in pieces because Enet, John Laing and SSE have pulled out of it in recent weeks. There is now only one investor left in it.

Was the Cabinet aware that the Minister for Communications, Climate Action and Environment was meeting that one investor in New York recently at a private dinner hosted by the investor? What was the purpose and outcome of that meeting? It seems the Government is squeezed between two venture capitalists, the French investor that owns Eir and this investor from the United States. Will the Tánaiste forward the minutes of that meeting to me? When will the 542,000 homes and businesses in rural Ireland have the broadband that was promised to them by 2020?

**The Tánaiste:** As the Deputy should know, there is a tendering process under way in which the Minister has no hand, act or part.

**Deputy Brian Stanley:** There is one bidder. The Minister is after meeting that one investor.

**The Tánaiste:** There is an evaluation process that involves an independent assessment team, independent of the Minister's office. When that investment team reports, the Government will be able to make decisions.

**Deputy Bernard J. Durkan:** The Central Bank (Amendment) Bill is promised legislation which will in some way regulate the various issues of enforcement and accountability, which are a moot point at the current time. When is it likely to be before the House?

**The Tánaiste:** I am afraid not this session and we do not have a date at the moment. I am sure the Deputy raising it in the Dáil will mean it will come onto the radar.

**Deputy Bernard J. Durkan:** It might lend it some impetus.

**Deputy John Brassil:** In the programme for Government, a very specific commitment is given to improve women's health and well-being. Given this country's very poor record in dealing with such matters historically, I wish to bring the Tánaiste's attention to an issue in respect of the drug Cariban. It is available for hyperemesis during pregnancy. It is very effective but unfortunately it is unavailable on any scheme - general medical services, GMS, the drugs payment scheme, DPS, or the long-term illness scheme, LTI. The HSE has published clinical practice guidelines for hyperemesis which state that if there are no improvements following a selection of treatments recommended, then Cariban should be given, one in the morning, one in the afternoon and two at bed time. It is actually recommended by the HSE's own guidelines yet is unavailable to women suffering from this very serious condition. The cost, depending on the dose, is between approximately €1,500 and €3,000 during the course of a pregnancy. The matter needs to be looked at immediately. If it is recommended by the HSE, it should be covered under the payment scheme.

**The Tánaiste:** I will have to ask the Minister for Health to come back to the Deputy on that. He has outlined the case very clearly.

**Deputy Peter Fitzpatrick:** There are serious concerns in my home town of Dundalk that Authentic Food Company Dundalk, formerly known as the Heinz factory, is in trouble. The company has stated that the environment is challenging. As the situation stands, there is no production planned past 26 October. The parent company in Manchester refuses to confirm

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closure. There is no communication whatsoever with the employees. There are over 180 employees there and those families are panicking at the moment.

Is there any chance the Tánaiste can get the Minister for Business, Enterprise and Innovation to come to Dundalk? Today is 4 October and the families are afraid of their lives that the factory is going to close at the end of the month. It is great coming out and announcing jobs. Dundalk has had plenty of jobs in the last years. However, it is even better to save jobs. I am not asking the Government to throw a load of money at it. I am asking it to come down and see can it help keep the factory open and keep 180 families at work. I urge the Tánaiste to help us please.

**The Tánaiste:** I thank the Deputy for raising this issue. It is clearly an important one for Dundalk. I am sure the Government and State agencies will do everything they possibly can to work with the company. If there are difficulties that we can help with, I am sure we will be very proactive on that. I assure the Deputy that I will raise the issue personally with the Minister, Deputy Humphreys, for him and will come back to him.

**An Ceann Comhairle:** That concludes Questions on Promised Legislation. Seven Deputies have not been reached.

### **Business of Dáil: Motion**

**Minister of State at the Department of Finance (Deputy Michael D’Arcy):** I move:

“That the decision on item No. 23 on the Order Paper be deferred.”

A Cheann Comhairle, by leave of the House, I wish to defer the decision on item No. 23 until Thursday, 18 October 2018 for the following reason: the order for the multilateral convention, which was originally laid in the Oireachtas Library on 13 September, has been re-laid in the Library today. The order was re-laid because a template cover page on page 51 of the order required drafting changes. Those drafting changes do not affect the order itself, or the text of schedules to it, but they have now been included in the re-laid document. To avoid confusion on the matter, I move that the decision on item No. 23 be deferred.

Question put and agreed to.

*1 o'clock*

### **Competition Act 2002 (Section 27) Order 2018: Referral to Joint Committee**

**Minister of State at the Department of Communications, Climate Action and Environment (Deputy Seán Kyne):** I move:

That the proposal that Dáil Éireann approves the following Order:

Competition Act 2002 (Section 27) Order 2018,

copies of which were laid before Dáil Éireann on 3rd October, 2018, be referred to the Joint Committee on Business, Enterprise and Innovation, in accordance with Standing Or-

der 84A(4)(k), which, not later than 18th October, 2018, shall send a message to the Dáil in the manner prescribed in Standing Order 90, and Standing Order 89(2) shall accordingly apply”

Question put and agreed to.

### **Report of the Joint Committee on Justice and Equality: Motion**

**Deputy Caoimhghín Ó Caoláin:** I move:

That Dáil Éireann:

(1) notes the agreed Report of the Joint Committee on Justice and Equality under Standing Order 114 on the Amended Proposal for a Regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399, Regulation (EU) 2017/2226, Regulation (EU) 2018/XX [the ETIAS Regulation], Regulation (EU) 2018/XX [the Regulation on SIS in the field of border checks] and Regulation (EU) 2018/XX [the eu-LISA Regulation] – COM(2018)478 and the Amended Proposal for a Regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration) and amending [Regulation (EU) 2018/XX [the Eurodac Regulation],] Regulation (EU) 2018/XX [the Regulation on SIS in the field of law enforcement], Regulation (EU) 2018/XX [the ECRIS-TCN Regulation] and Regulation (EU) 2018/XX [the eu-LISA Regulation] – COM(2018)480, which was laid before Dáil Éireann on 3 October 2018 in accordance with Standing Order 114(3)(b);

(2) having regard to the aforementioned Report, and in exercise of its functions under section 7(3) of the European Union Act 2009, is of the opinion that the Amended Proposal for a Regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399, Regulation (EU) 2017/2226, Regulation (EU) 2018/XX [the ETIAS Regulation], Regulation (EU) 2018/XX [the Regulation on SIS in the field of border checks] and Regulation (EU) 2018/XX [the eu-LISA Regulation] – COM(2018)478 and the Amended Proposal for a Regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration) and amending [Regulation (EU) 2018/XX [the Eurodac Regulation],] Regulation (EU) 2018/XX [the Regulation on SIS in the field of law enforcement], Regulation (EU) 2018/XX [the ECRIS-TCN Regulation] and Regulation (EU) 2018/XX [the eu-LISA Regulation] – COM(2018)480 do not comply with the principle of proportionality for the reasons set out in paragraph 3 of the Report; and

(3) notes that, pursuant to Standing Order 114(4), a copy of this Resolution together with the reasoned opinion and the aforementioned Report shall be sent to the Presidents of the European Parliament, the Council and the Commission.”



Question put and agreed to.

**Engagement with Investment Funds: Motion (Resumed) [Private Members]**

The following motion was moved by Deputy John McGuinness on Thursday, 27 September 2018:

That Dáil Éireann:

— shall consider the Report of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach entitled, Engagement with Investment Funds, copies of which were laid before Dáil Éireann on 15th March 2018;

— notes the continuing, unsuccessful efforts of the Joint Committee to engage with unregulated private investment funds and regulated credit service firms and regrets the position of these entities in declining invitations from the Joint Committee to attend hearings of the Joint Committee and to be accountable to Parliament;

— acknowledges the support of the Governor of the Central Bank of Ireland in calling for the unregulated private investment funds and regulated credit service firms to attend at Joint Committee on the basis that “firms with a serious role in the Irish economy have a social responsibility to account for themselves before the Committee”;

— notes the information provided by the Department of Finance detailing the level of engagement with the funds industry from 2013 to 2016 detailing approximately 125 relevant meetings held, thus demonstrating the level of interaction between the funds industry and the Department over those years; and

— calls on the Government to implement the recommendations contained in paragraphs 17 and 18 of the Report, namely:

— to cease all engagement with unregulated private investment funds and regulated credit service firms until these entities are accountable to Parliament; and

— to introduce legislation for the regulation of all unregulated entities operating in the Irish mortgage market in order to protect Irish consumers.

Debate resumed on amendment No. 1:

To delete all words after “and the Department over those years; and” and substitute the following:

“— calls on the Government to implement the recommendation contained in paragraph 18 of the Report to introduce legislation for the regulation of all unregulated entities operating in the Irish mortgage market in order to protect Irish consumers; and

— calls on investment funds to engage with the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach as a matter of urgency and to attend the Joint Committee when invited.”

- Minister of State at the Department of Finance (Deputy Michael D'Arcy)

**An Ceann Comhairle:** I must now deal with a postponed division relating to the motion regarding committee report entitled 'Engagement with Investment Funds'. On Thursday, 27 September 2018, on the question that the amendment to the motion be agreed to, a division was claimed and in accordance with Standing Order 70(2), that division must be taken now.

Amendment put:

<i>The Dáil divided: Tá, 43; Níl, 82.</i>	
<i>Tá</i>	<i>Níl</i>
<i>Bailey, Maria.</i>	<i>Adams, Gerry.</i>
<i>Barrett, Seán.</i>	<i>Aylward, Bobby.</i>
<i>Breen, Pat.</i>	<i>Barry, Mick.</i>
<i>Brophy, Colm.</i>	<i>Boyd Barrett, Richard.</i>
<i>Bruton, Richard.</i>	<i>Brady, John.</i>
<i>Burke, Peter.</i>	<i>Brassil, John.</i>
<i>Byrne, Catherine.</i>	<i>Breathnach, Declan.</i>
<i>Canney, Seán.</i>	<i>Broughan, Thomas P.</i>
<i>Carey, Joe.</i>	<i>Browne, James.</i>
<i>Corcoran Kennedy, Marcella.</i>	<i>Buckley, Pat.</i>
<i>Coveney, Simon.</i>	<i>Burton, Joan.</i>
<i>Creed, Michael.</i>	<i>Butler, Mary.</i>
<i>D'Arcy, Michael.</i>	<i>Byrne, Thomas.</i>
<i>Deasy, John.</i>	<i>Cahill, Jackie.</i>
<i>Deering, Pat.</i>	<i>Calleary, Dara.</i>
<i>Doherty, Regina.</i>	<i>Casey, Pat.</i>
<i>Doyle, Andrew.</i>	<i>Cassells, Shane.</i>
<i>Durkan, Bernard J.</i>	<i>Chambers, Jack.</i>
<i>English, Damien.</i>	<i>Collins, Joan.</i>
<i>Fitzgerald, Frances.</i>	<i>Collins, Michael.</i>
<i>Fitzpatrick, Peter.</i>	<i>Collins, Niall.</i>
<i>Griffin, Brendan.</i>	<i>Connolly, Catherine.</i>
<i>Kehoe, Paul.</i>	<i>Coppinger, Ruth.</i>
<i>Kyne, Seán.</i>	<i>Cowen, Barry.</i>
<i>Lowry, Michael.</i>	<i>Crowe, Seán.</i>
<i>Madigan, Josepha.</i>	<i>Curran, John.</i>
<i>McHugh, Joe.</i>	<i>Daly, Clare.</i>
<i>McLoughlin, Tony.</i>	<i>Doherty, Pearse.</i>
<i>Mitchell O'Connor, Mary.</i>	<i>Donnelly, Stephen S.</i>
<i>Moran, Kevin Boxer.</i>	<i>Dooley, Timmy.</i>
<i>Murphy, Eoghan.</i>	<i>Ellis, Dessie.</i>
<i>Naughton, Hildegarde.</i>	<i>Ferris, Martin.</i>
<i>Neville, Tom.</i>	<i>Funchion, Kathleen.</i>
<i>Noonan, Michael.</i>	<i>Gallagher, Pat The Cope.</i>

<i>O'Connell, Kate.</i>	<i>Harty, Michael.</i>
<i>O'Donovan, Patrick.</i>	<i>Haughey, Seán.</i>
<i>O'Dowd, Fergus.</i>	<i>Healy, Seamus.</i>
<i>Phelan, John Paul.</i>	<i>Howlin, Brendan.</i>
<i>Ring, Michael.</i>	<i>Kelleher, Billy.</i>
<i>Rock, Noel.</i>	<i>Kelly, Alan.</i>
<i>Ross, Shane.</i>	<i>Kenny, Gino.</i>
<i>Stanton, David.</i>	<i>Kenny, Martin.</i>
<i>Zappone, Katherine.</i>	<i>Lahart, John.</i>
	<i>Martin, Catherine.</i>
	<i>McConalogue, Charlie.</i>
	<i>McGrath, Mattie.</i>
	<i>McGrath, Michael.</i>
	<i>McGuinness, John.</i>
	<i>Mitchell, Denise.</i>
	<i>Moynihan, Aindrias.</i>
	<i>Munster, Imelda.</i>
	<i>Murphy O'Mahony, Margaret.</i>
	<i>Murphy, Catherine.</i>
	<i>Murphy, Paul.</i>
	<i>Nolan, Carol.</i>
	<i>O'Brien, Darragh.</i>
	<i>O'Brien, Jonathan.</i>
	<i>O'Callaghan, Jim.</i>
	<i>O'Dea, Willie.</i>
	<i>O'Loughlin, Fiona.</i>
	<i>O'Reilly, Louise.</i>
	<i>O'Rourke, Frank.</i>
	<i>O'Sullivan, Jan.</i>
	<i>O'Sullivan, Maureen.</i>
	<i>Ó Broin, Eoin.</i>
	<i>Ó Caoláin, Caoimhghín.</i>
	<i>Ó Cuív, Éamon.</i>
	<i>Ó Laoghaire, Donnchadh.</i>
	<i>Ó Snodaigh, Aengus.</i>
	<i>Pringle, Thomas.</i>
	<i>Quinlivan, Maurice.</i>
	<i>Rabbitte, Anne.</i>
	<i>Ryan, Brendan.</i>
	<i>Scanlon, Eamon.</i>
	<i>Sherlock, Sean.</i>
	<i>Smith, Brendan.</i>
	<i>Smith, Bríd.</i>

	<i>Smyth, Niamh.</i>
	<i>Stanley, Brian.</i>
	<i>Tóibín, Peadar.</i>
	<i>Troy, Robert.</i>
	<i>Wallace, Mick.</i>

Tellers: Tá, Deputies Joe McHugh and Tony McLoughlin; Níl, Deputies Thomas P. Broughan and John Lahart.

Amendment declared lost.

Motion agreed to.

### **Housing: Motion (Resumed) [Private Members]**

The following motion was moved by Deputy Richard Boyd Barrett on Wednesday, 3 October 2018:

That Dáil Éireann:

notes that:

— access to secure and genuinely affordable housing is increasingly out of reach for many people;

— from the locked-out generation of students and young workers or unemployed people, to older workers facing into retirement, high-cost insecure accommodation is a reality for too many people;

— the failure of the Government to provide an adequate supply of good quality public housing in sustainable communities lies at the heart of the housing crisis;

— the most graphic symptom of this crisis is the growing number of children living in emergency accommodation;

— a new approach to housing is required to meet the housing needs of all those locked out of the private market including young people, those on modest incomes, those on low pensions, those on council waiting lists, Travellers, people with disabilities, older people and students; and

— important proposals to address the housing crisis have been put forward by a wide variety of groups including the National Homeless and Housing Coalition and the Irish Congress of Trade Unions; and

calls on the Government to:

— declare the housing and homeless crisis an emergency;

— dramatically increase the supply of social and affordable (including cost rental) housing by increasing capital spending on housing to €2.3 billion in Budget 2019, in-

crease Part V requirements to 20 per cent in standard developments and 30 per cent in strategic development zones, prioritise the delivery of public housing on public land, and aggressively target the return of vacant houses to active use;

— reduce the flow of adults and children into homelessness with emergency legislation to make it illegal for landlords, banks and investment funds to evict tenants and homeowners in mortgage distress into homelessness, provide real security of tenure and real rent certainty by linking rent reviews to an index such as the Consumer Price Index and introducing measures to reduce the cost of rent, and introduce a target for ending long-term homelessness and the need to sleep rough; and

— hold a referendum to enshrine the right to housing in the Constitution.

**An Ceann Comhairle:** On Wednesday, 3 October, on the question, “That the motion be agreed to”, a division was claimed. In accordance with Standing Order 70(2), that division must be taken now.

Question put:

<i>The Dáil divided: Tá, 83; Níl, 43; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Stاون</i>
<i>Adams, Gerry.</i>	<i>Bailey, Maria.</i>	
<i>Aylward, Bobby.</i>	<i>Barrett, Seán.</i>	
<i>Barry, Mick.</i>	<i>Breen, Pat.</i>	
<i>Boyd Barrett, Richard.</i>	<i>Brophy, Colm.</i>	
<i>Brady, John.</i>	<i>Bruton, Richard.</i>	
<i>Brassil, John.</i>	<i>Burke, Peter.</i>	
<i>Breathnach, Declan.</i>	<i>Byrne, Catherine.</i>	
<i>Broughan, Thomas P.</i>	<i>Canney, Seán.</i>	
<i>Browne, James.</i>	<i>Carey, Joe.</i>	
<i>Buckley, Pat.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Burton, Joan.</i>	<i>Coveney, Simon.</i>	
<i>Butler, Mary.</i>	<i>Creed, Michael.</i>	
<i>Byrne, Thomas.</i>	<i>D’Arcy, Michael.</i>	
<i>Cahill, Jackie.</i>	<i>Daly, Jim.</i>	
<i>Calleary, Dara.</i>	<i>Deasy, John.</i>	
<i>Casey, Pat.</i>	<i>Deering, Pat.</i>	
<i>Cassells, Shane.</i>	<i>Doherty, Regina.</i>	
<i>Chambers, Jack.</i>	<i>Doyle, Andrew.</i>	
<i>Collins, Joan.</i>	<i>Durkan, Bernard J.</i>	
<i>Collins, Michael.</i>	<i>English, Damien.</i>	
<i>Collins, Niall.</i>	<i>Fitzgerald, Frances.</i>	
<i>Connolly, Catherine.</i>	<i>Griffin, Brendan.</i>	
<i>Coppinger, Ruth.</i>	<i>Kehoe, Paul.</i>	
<i>Cowen, Barry.</i>	<i>Kyne, Seán.</i>	

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<i>Crowe, Seán.</i>	<i>Lowry, Michael.</i>	
<i>Curran, John.</i>	<i>Madigan, Josepha.</i>	
<i>Daly, Clare.</i>	<i>McHugh, Joe.</i>	
<i>Doherty, Pearse.</i>	<i>McLoughlin, Tony.</i>	
<i>Donnelly, Stephen S.</i>	<i>Mitchell O'Connor, Mary.</i>	
<i>Dooley, Timmy.</i>	<i>Moran, Kevin Boxer.</i>	
<i>Ellis, Dessie.</i>	<i>Murphy, Eoghan.</i>	
<i>Ferris, Martin.</i>	<i>Naughton, Hildegarde.</i>	
<i>Fitzpatrick, Peter.</i>	<i>Neville, Tom.</i>	
<i>Funchion, Kathleen.</i>	<i>Noonan, Michael.</i>	
<i>Gallagher, Pat The Cope.</i>	<i>O'Connell, Kate.</i>	
<i>Harty, Michael.</i>	<i>O'Donovan, Patrick.</i>	
<i>Haughey, Seán.</i>	<i>O'Dowd, Fergus.</i>	
<i>Healy, Seamus.</i>	<i>Phelan, John Paul.</i>	
<i>Howlin, Brendan.</i>	<i>Ring, Michael.</i>	
<i>Kelleher, Billy.</i>	<i>Rock, Noel.</i>	
<i>Kelly, Alan.</i>	<i>Ross, Shane.</i>	
<i>Kenny, Gino.</i>	<i>Stanton, David.</i>	
<i>Kenny, Martin.</i>	<i>Zappone, Katherine.</i>	
<i>Lahart, John.</i>		
<i>Martin, Catherine.</i>		
<i>McConalogue, Charlie.</i>		
<i>McGrath, Mattie.</i>		
<i>McGrath, Michael.</i>		
<i>McGuinness, John.</i>		
<i>Mitchell, Denise.</i>		
<i>Moynihan, Aindrias.</i>		
<i>Munster, Imelda.</i>		
<i>Murphy O'Mahony, Margaret.</i>		
<i>Murphy, Catherine.</i>		
<i>Murphy, Paul.</i>		
<i>Nolan, Carol.</i>		
<i>O'Brien, Darragh.</i>		
<i>O'Brien, Jonathan.</i>		
<i>O'Callaghan, Jim.</i>		
<i>O'Dea, Willie.</i>		
<i>O'Loughlin, Fiona.</i>		
<i>O'Reilly, Louise.</i>		
<i>O'Rourke, Frank.</i>		
<i>O'Sullivan, Jan.</i>		
<i>O'Sullivan, Maureen.</i>		
<i>Ó Broin, Eoin.</i>		

<i>Ó Caoláin, Caoimhghín.</i>		
<i>Ó Cuív, Éamon.</i>		
<i>Ó Laoghaire, Donnchadh.</i>		
<i>Ó Snodaigh, Aengus.</i>		
<i>Pringle, Thomas.</i>		
<i>Quinlivan, Maurice.</i>		
<i>Rabbitte, Anne.</i>		
<i>Ryan, Brendan.</i>		
<i>Scanlon, Eamon.</i>		
<i>Sherlock, Sean.</i>		
<i>Smith, Brendan.</i>		
<i>Smith, Bríd.</i>		
<i>Smyth, Niamh.</i>		
<i>Stanley, Brian.</i>		
<i>Tóibín, Peadar.</i>		
<i>Troy, Robert.</i>		
<i>Wallace, Mick.</i>		

Tellers: Tá, Deputies Richard Boyd Barrett and Bríd Smith; Níl, Deputies Joe McHugh and Tony McLoughlin.

Question declared carried.

### **Taxation Orders 2018: Motion (Resumed)**

The following motion was moved by the Minister of State at the Department of Finance, Deputy Michael D'Arcy, on Wednesday, 3 October 2018:

That Dáil Éireann approves the following Order in draft:

Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Ghana) Order 2018,

a copy of which was laid before Dáil Éireann on 14th September, 2018.”

Debate resumed on amendment No. 1:

To insert the following after “14th September, 2018”:

“that the Department of Finance shall report back to Dáil Éireann within three months on responses received from the government of Ghana to its offer to insert as a protocol to the Convention between Ireland and the Republic of Ghana for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains the ‘minimum standard’ anti-treaty-shopping provisions defined in Action 6 of the Organisation for Economic Co-operation and Development’s base erosion and profit shifting process; and

further calls on the Government in accordance with its commitments to the principle of policy coherence for development in Article 208 of the Treaty on the Functioning of the European Union, its commitments under the Addis Tax Initiative, and the provisions of European Parliament resolution 2015/20158(INI) on negotiating double tax agreements with developing countries, to write to the government of Ghana proposing that this additional protocol may also include additional measures to safeguard source taxing rights, including;

— that furnishing services may constitute a taxable permanent establishment in accordance with Article 5(3) of the United Nations Model Taxation Convention between Developed and Developing Countries;

— that withholding taxes on royalties may approach the rates currently established in Ghanaian and Irish law; and

— that the source country may tax capital gains in accordance with Article 13(5) of the United Nations Model Taxation Convention.”

- (Deputy Eamon Ryan)

**An Ceann Comhairle:** I must now deal with a postponed division relating to, No. 23, the motion regarding the Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Ghana) Order 2018. On Wednesday, 17 January 2017, on the question that the amendment to the motion be agreed to, a division was claimed and in accordance with Standing Order 70(2), that division must be taken now.

Amendment put:

<i>The Dáil divided: Tá, 45; Níl, 79; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Adams, Gerry.</i>	<i>Aylward, Bobby.</i>	
<i>Barry, Mick.</i>	<i>Bailey, Maria.</i>	
<i>Boyd Barrett, Richard.</i>	<i>Barrett, Seán.</i>	
<i>Brady, John.</i>	<i>Breathnach, Declan.</i>	
<i>Broughan, Thomas P.</i>	<i>Breen, Pat.</i>	
<i>Buckley, Pat.</i>	<i>Brophy, Colm.</i>	
<i>Burton, Joan.</i>	<i>Browne, James.</i>	
<i>Collins, Michael.</i>	<i>Bruton, Richard.</i>	
<i>Connolly, Catherine.</i>	<i>Burke, Peter.</i>	
<i>Coppinger, Ruth.</i>	<i>Butler, Mary.</i>	
<i>Crowe, Seán.</i>	<i>Byrne, Catherine.</i>	
<i>Daly, Clare.</i>	<i>Byrne, Thomas.</i>	
<i>Doherty, Pearse.</i>	<i>Cahill, Jackie.</i>	
<i>Ellis, Dessie.</i>	<i>Calleary, Dara.</i>	
<i>Ferris, Martin.</i>	<i>Canney, Seán.</i>	
<i>Funchion, Kathleen.</i>	<i>Carey, Joe.</i>	
<i>Harty, Michael.</i>	<i>Casey, Pat.</i>	
<i>Healy, Seamus.</i>	<i>Cassells, Shane.</i>	



<i>Howlin, Brendan.</i>	<i>Chambers, Jack.</i>	
<i>Kelly, Alan.</i>	<i>Collins, Niall.</i>	
<i>Kenny, Gino.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Kenny, Martin.</i>	<i>Coveney, Simon.</i>	
<i>Martin, Catherine.</i>	<i>Cowen, Barry.</i>	
<i>McGrath, Mattie.</i>	<i>Creed, Michael.</i>	
<i>Mitchell, Denise.</i>	<i>Curran, John.</i>	
<i>Munster, Imelda.</i>	<i>D'Arcy, Michael.</i>	
<i>Murphy, Catherine.</i>	<i>Daly, Jim.</i>	
<i>Murphy, Paul.</i>	<i>Deasy, John.</i>	
<i>O'Brien, Jonathan.</i>	<i>Deering, Pat.</i>	
<i>O'Reilly, Louise.</i>	<i>Doherty, Regina.</i>	
<i>O'Sullivan, Jan.</i>	<i>Donnelly, Stephen S.</i>	
<i>O'Sullivan, Maureen.</i>	<i>Dooley, Timmy.</i>	
<i>Ó Broin, Eoin.</i>	<i>Doyle, Andrew.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Durkan, Bernard J.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>English, Damien.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Fitzgerald, Frances.</i>	
<i>Pringle, Thomas.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Quinlivan, Maurice.</i>	<i>Gallagher, Pat The Cope.</i>	
<i>Ryan, Brendan.</i>	<i>Griffin, Brendan.</i>	
<i>Ryan, Eamon.</i>	<i>Haughey, Seán.</i>	
<i>Sherlock, Sean.</i>	<i>Kehoe, Paul.</i>	
<i>Smith, Bríd.</i>	<i>Kelleher, Billy.</i>	
<i>Stanley, Brian.</i>	<i>Kyne, Seán.</i>	
<i>Tóibín, Peadar.</i>	<i>Lahart, John.</i>	
<i>Wallace, Mick.</i>	<i>Lowry, Michael.</i>	
	<i>Madigan, Josepha.</i>	
	<i>McConalogue, Charlie.</i>	
	<i>McGrath, Michael.</i>	
	<i>McGuinness, John.</i>	
	<i>McHugh, Joe.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Moran, Kevin Boxer.</i>	
	<i>Moynihan, Aindrias.</i>	
	<i>Murphy O'Mahony, Margaret.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>Noonan, Michael.</i>	

	<b><i>O'Brien, Darragh.</i></b>	
	<b><i>O'Callaghan, Jim.</i></b>	
	<b><i>O'Connell, Kate.</i></b>	
	<b><i>O'Dea, Willie.</i></b>	
	<b><i>O'Donovan, Patrick.</i></b>	
	<b><i>O'Dowd, Fergus.</i></b>	
	<b><i>O'Loughlin, Fiona.</i></b>	
	<b><i>O'Rourke, Frank.</i></b>	
	<b><i>Ó Cuív, Éamon.</i></b>	
	<b><i>Phelan, John Paul.</i></b>	
	<b><i>Rabbitte, Anne.</i></b>	
	<b><i>Ring, Michael.</i></b>	
	<b><i>Rock, Noel.</i></b>	
	<b><i>Ross, Shane.</i></b>	
	<b><i>Scanlon, Eamon.</i></b>	
	<b><i>Smith, Brendan.</i></b>	
	<b><i>Smyth, Niamh.</i></b>	
	<b><i>Stanton, David.</i></b>	
	<b><i>Troy, Robert.</i></b>	
	<b><i>Zappone, Katherine.</i></b>	

Tellers: Tá, Deputies Eamon Ryan and Catherine Martin; Níl, Deputies Joe McHugh and Tony McLoughlin.

Amendment declared lost.

Motion agreed to.

*Sitting suspended at 1.25 p.m. and resumed at 2.05 p.m.*

### **Ábhair Shaincheisteanna Tráthúla - Topical Issue Matters**

**An Leas-Cheann Comhairle:** I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 29A and the name of the Member in each case: (1) Deputy Alan Kelly - to discuss serious crime figures data provided by An Garda Síochána for the Central Statistics Office; (2) Deputy Seán Crowe - to discuss capacity and cross-infection risks in the haemodialysis unit at Tallaght Hospital; (3) Deputy Brian Stanley - to discuss the funding of a new building for Kolbe special school, Portlaoise, County Laois; (4) Deputy Mattie McGrath - to discuss the appointment of a general practitioner at Ballymacarbry Health Centre, Fourmilewater, near Clonmel; (5) Deputies Louise O'Reilly and Clare Daly - the need to discuss current conditions in St. Molaga's school, Balbriggan; (6) Deputy James Lawless - to discuss overcrowding on commuter train services from Kildare; (7) Deputy Éamon Ó Cuív - to discuss the need for bilingual health warnings on alcohol products sold in the State; (8) Deputy Joan Collins - to discuss additional HSE funding to alleviate waiting times for the Dublin south-west school-age team; (9) Deputy Peadar Tóibín - to discuss the crisis in

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the GP system; (10) Deputy Mick Wallace - to discuss the humanitarian crisis in Yemen; and (11) Deputy Richard Boyd Barrett - to discuss the transfer of Dún Laoghaire Harbour to Dún Laoghaire-Rathdown County Council.

The matters raised by Deputies Alan Kelly, Seán Crowe, Mattie McGrath and Éamon Ó Cuív have been selected for discussion.

### **Health (Regulation of Termination of Pregnancy) Bill 2018: Order for Second Stage**

Bill entitled an Act to provide for and regulate termination of pregnancy; to make provision for reviews at the instigation of a pregnant woman, or a person on her behalf, of certain medical opinions given in respect of pregnancy; to make available without charge certain services to women for the purpose of termination of pregnancy in accordance with this Act and, for that purpose, to amend the Health Act 1970 and certain other enactments; to provide for offences in respect of the intentional ending of the life of a foetus otherwise than in accordance with this Act; to amend the Bail Act 1997; to repeal the Regulation of Information (Services outside the State for Termination of Pregnancies) Act 1995, the Protection of Life During Pregnancy Act 2013 and provisions of certain other enactments; and to provide for matters connected therewith.

**Minister for Health (Deputy Simon Harris):** I move: “That Second Stage be taken now.”

Question put and agreed to.

### **Health (Regulation of Termination of Pregnancy) Bill 2018: Second Stage**

**Minister for Health (Deputy Simon Harris):** I move: “That the Bill be now read a Second Time.”

As legislators in the national parliament, we hold a very privileged position, never more so than when we act on the instruction of the people in a referendum. On 25 May the people gave us a very clear message: to legislate for the introduction of abortion services in this country. Today we begin the job they have given us of making the law that follows the repeal of the eighth amendment. After 35 years of having the amendment in the Constitution, in so doing we are also making history, but, of course, history is not made only in this House. This history was made on the streets, in houses and ballot boxes across the country. It was made by people, including colleagues here, who had campaigned steadfastly for many years. It was made by young people who had never had a say on an issue about which they cared deeply, who were galvanised by a movement of equality and everybody who had thought deeply and felt strongly on this subject, in their different ways, and who came out on 25 May to make their decision known in the ballot box, resulting in an emphatic majority to repeal the oppressive, repressive eighth amendment and for us to get on with our jobs and legislate. It was a resounding affirmation of respect and support for women and their right to make choices about their own lives. It was a reaffirmation of the primacy of equality in our modern democracy and a call on us all to do more on women’s health and women’s equality and in continuing to shape an inclusive and

equal society.

As Minister for Health, after all we heard during the campaign, after all I have learned since I took this role and after everything we know about the dark past, I am determined that we will now begin a new chapter on women's health; a chapter in which women are valued, their decisions are respected and they are cared for without judgment. That will be a priority for me in the time ahead.

I turn to the legislation before us. The main purpose of the Health (Regulation of Termination of Pregnancy) Bill is to set out the law governing access to termination of pregnancy in this country. The legislation permits a termination to be carried out in cases where there is a risk to the life or serious harm to the health of the pregnant woman; where there is a condition present which is likely to lead to the death of the foetus, either before or within 28 days of birth and up to 12 weeks of pregnancy, as set out in section 13 of the legislation.

I will take the House through the Bill to clarify its provisions. I want to note from the outset that, while the Bill is now arranged slightly differently, its key provisions are the same as those in the draft general scheme approved by the Government which I published in March ahead of the referendum and those in the updated scheme approved by the Government and made public in July. That is important because these schemes provided the people of Ireland with an opportunity to make an informed decision knowing what our intentions would be in terms of the law if the referendum was passed.

The Bill is divided into three Parts. The first Part of the Bill includes sections on definitions, regulations, offences under the Bill, repeals and transitional provisions. Section 1 makes standard provisions setting out the Short Title of the Bill and arrangements for its commencement.

Section 2 deals with definitions. It defines the meanings of some of the terms used for the purposes of the Bill, including "foetus", "medical practitioner", "medical procedure" and "termination of pregnancy".

Section 3 deals with regulations and allows me, as Minister, to make regulations to bring the legislation into operation and for other such procedural matters. Such regulations will, of course, have to be laid before the Houses of the Oireachtas for approval.

Section 4 allows approved expenses associated with the administration of the Bill to be paid for from public funds.

Section 5 sets out the substantive offences under the Bill. It provides that it shall be an offence for a person, by any means whatsoever, to intentionally end the life of a foetus, otherwise than in accordance with the provisions of the Bill. These provisions will not apply to a pregnant woman who has ended or attempted to end her own pregnancy. We never criminalise the woman. Further it is an offence for a person to aid, abet, counsel, or procure a pregnant woman to intentionally end or attempt to end the life of that pregnant woman's foetus, otherwise than in accordance with the provisions of the Bill. The penalty in the Bill for intentionally ending the life of a foetus, otherwise than in accordance with the provisions of the legislation, is, on conviction, a fine or imprisonment for up to 14 years, or both. It should be noted that nothing in the Bill will prevent or restrict access to services lawfully carried out outside the State. This means, for example, that a doctor referring a patient to a service abroad or a person paying for flights or accompanying a woman to another jurisdiction to access the procedure will not be committing an offence under the legislation.

Section 6 provides for the offence by a body corporate.

Section 7 repeals certain laws which are in contravention of the principle of the Bill. In particular, it repeals the Information Act. I make it clear that I hope to be in a position to commence this Part of the legislation as soon as the law is enacted in order that women who have to travel while we are waiting to introduce the new services in January can at least have the opportunity for their doctors to share information with doctors abroad. From talking to women and women's groups, I know that this will be of vital assistance in the interim.

Section 8 puts arrangements in place to cover situations where a review committee has been convened under the Act of 2013 and is ongoing at the time the Bill comes into effect. It also obliges the HSE to prepare and submit a final report on reviews to me, as Minister, not later than six months after the commencement date of the legislation.

Part 2 of the Bill covers the grounds on which terminations of pregnancy may be lawfully provided under the legislation, arrangements for conducting reviews and provisions on certification and notification of procedures under the legislation. Section 9 offers definitions of "health", "appropriate medical practitioner", "medical specialty", "relevant specialty", "obstetrician", "review committee" and "viability".

Sections 10 to 12, inclusive, set out the grounds on which a termination of pregnancy may lawfully be provided, including where there is a risk to life or serious harm to the health of the pregnant woman; where there is a risk to life or health in an emergency; and where there is a condition likely to lead to the death of the foetus.

Section 13 provides that a termination of pregnancy may be carried out by a medical practitioner who, having examined the pregnant woman, is of the reasonable opinion, formed in good faith, that the pregnancy concerned has not exceeded 12 weeks. A three-day period must elapse between certification and the procedure being carried out. This requirement is not unusual. Several countries in Europe, including Belgium, Germany, the Netherlands, Italy and Luxembourg, have similar provisions. The certifying doctor must then make arrangements for the procedure to be carried out as soon as possible once that period has elapsed.

Sections 14 to 19, inclusive, set out the arrangements for reviews of medical opinions where this is sought by a pregnant woman or person acting on her behalf. The purpose of the review process is to provide a formal mechanism whereby the woman can access a review of the clinical assessment made by the original doctor or doctors. I should make it clear that the formal review pathway is in addition to, not in substitution for, the option of a woman seeking a second opinion as in normal medical practice. Section 14 states that where a medical practitioner has not given an opinion or an opinion which would certify a procedure being carried out under section 10 or 12, he or she must inform the pregnant woman in writing that she or a person acting on her behalf may apply for a review of this decision.

Section 15 provides for the establishment of a review panel by the HSE, which may be drawn on to form a review committee.

Section 16 deals with the establishment of the review committee. As soon as possible but not later than three days after receiving a written request from a pregnant woman, the HSE will convene a committee drawn from the review panel to consider the decision in question.

Section 17 specifies that the committee shall complete its review as soon as possible and no

later than seven days after it is established.

Section 18 sets out the procedures of the review committee. It aims to empower the review committee to obtain whatever clinical evidence it requires to reach a decision and to call any relevant medical practitioners to give evidence.

Section 19 provides that the HSE must submit a report to me, as Minister for Health, not later than 30 June each year on the operation of review committees. Information that will have to be provided in the report includes the total number of applications received; the number of reviews carried out; in the case of reviews carried out, the reason the review was sought; and the outcome of the review. Any information that might identify a woman who has made an application for a review, a person applying on her behalf, or a medical practitioner involved shall be excluded from the report by the HSE. This information is required to monitor implementation of the legislation to ensure the principles and requirements of the system which this House will, I hope, vote to put in place are being upheld.

Sections 20 and 21 set out requirements under the legislation for certification and notification of procedures carried out under the Bill. Section 21 also contains a requirement for me, as Minister, to prepare and publish an annual report on the notifications received. This will be done without disclosing the names of the women or the medical practitioners involved.

The third and final Part of the Bill includes provisions covering consent and conscientious objection, as well as provisions for providing universal access to services for persons ordinarily resident in the State. Section 22 deals with consent and states nothing in the Bill will affect the law on consent to medical treatment. The intention is that the provisions of the Bill will operate within the existing legal provisions on consent for medical procedures.

Section 23 covers conscientious objection. It states that, where he or she has a conscientious objection, a medical practitioner, nurse or midwife will not be obliged to carry out, or to participate in carrying out, a termination of pregnancy. This is not new because it is in line with section 49 of the 2016 Medical Council's guide to professional conduct and ethics for registered medical practitioners which obliges doctors to enable patients to transfer to another doctor for treatment in cases of conscientious objection.

Section 24 prohibits receiving financial or other benefits-in-kind in cases where referrals are made to services providing terminations of pregnancy. It states a person will not receive or agree to receive any special benefit or advantage in consideration of a termination of pregnancy within or outside the State, or for making arrangements for a termination of pregnancy within or outside the State. A person contravening this section will be guilty of an offence and liable on summary conviction to a class A fine. The aim of section 24 is to protect a woman's interests and ensure she will receive objective advice and information, uncoloured by financial or other considerations. It will ensure the person or body cannot derive any benefit from recommending that a termination be procured, with benefits to include financial incentives, as well as any other advantage or benefit in kind.

Sections 25 to 27, inclusive, provide the legislative basis for providing universal access to termination of pregnancy services for persons ordinarily resident in the State. This is important because we cannot have a situation where a woman cannot access the service owing to cost. We want to provide it as an integrated part of the health service.

Section 28 amends the Schedule to the Bail Act 1997 to include an offence under the Bill.

The Bill allows the service to be provided in the primary care setting. It is my intention that termination of pregnancy services should be provided as part of the continuum of women's health services. This will mean that in the future women will be able to choose to receive this service from their GP, a person with whom they are comfortable and familiar. The international evidence and advice I have received shows that most women can have care provided safely and effectively in the community setting. This is particularly the case where the service is carried out in early pregnancy. The evidence shows that the earlier in a pregnancy a woman seeks the service, the safer it is to provide it without recourse to hospital treatment and with minimal complications or other risks to her health. Officials in my Department and the HSE are at an advanced stage in drafting contract proposals to allow for as many members of the general practitioner community as possible to participate in providing the service. I look forward to a high rate of participation among general practitioners in order that women's access to the service at this stage in pregnancy when it is safest can be facilitated. Up to nine weeks gestation it is envisaged that most terminations will take place in the community setting and without recourse to referral to hospital or for ultrasound scans. I understand not every woman will present early in pregnancy and during the first nine weeks. In situations where women present between nine and 12 weeks of pregnancy, the international evidence and advice I have received indicates that GPs should refer women to the care of a consultant obstetrician in a hospital environment.

Terminations after 12 weeks of pregnancy will only take place on the grounds of a risk to the life or health of the pregnant woman, a risk to the life or health of the pregnant woman in an emergency or where there is a condition that is likely to lead to the death of the foetus before birth or shortly thereafter. These terminations will occur in the hospital setting.

Detailed work is ongoing under the auspices of the relevant medical colleges to develop more detailed clinical guidance to assist practitioners in the clinical decision-making involved in dealing with the women concerned. My Department has provided financial assistance for the colleges to enable them to complete this work as a key component of the delivery of an integrated service. Yesterday I was pleased to welcome the appointment of Dr. Peter Boylan to assist in the HSEs preparations for the implementation of arrangements for termination of pregnancy and related services. Dr. Boylan is a leading figure in obstetrics and gynaecology and we are pleased to have him assist in this work. He has a long track record as a women's health advocate and expert clinician. I thank him for agreeing to undertake this work.

Following similar models in other countries, I have directed the HSE to make arrangements to put in place a medically staffed national telephone helpline to be available on a 24/7 basis once the expanded termination of pregnancy services are in place. My Department and the HSE are collaborating in developing a comprehensive plan for communicating with the general public and stakeholder groups for use in introducing expanded and new services. Messages to the general public will highlight the pathways to accessing services, sources of crisis pregnancy counselling and information where the woman may wish to access them, as well as medical information on the procedure at different stages of gestation. The importance of attending services early will be one of the key messages of the communications plan.

The Government is also committed to working to reduce the number of crisis pregnancies by improving sex education and ensuring cost is not a barrier in accessing contraception. These important ancillary recommendations of the all-party committee need to be acted on by all Members. We need to help to reduce the number of women who find themselves in a crisis pregnancy, as well as expanding termination services.

It has been a long road to get this to juncture. I think today of the many people who have fought this battle in the past 35 years. I think of the women who shared their private, most intimate experiences with the public in order to seek change. I think of the women and their families who have endured hardship and pain as a result of the eighth amendment but who felt unable to share their stories. I hope the work we begin today and the referendum result send to them a message of solidarity and support that they were long without. I ask that we continue to be constructive, not obstructive, and ensure we are respectful of each other and the views of the people, the people who voted and made their decision, as we start the debate on the Health (Regulation of Termination of Pregnancy) Bill. I hope we can work together constructively on the legislation to ensure we do not rerun the referendum campaign. That argument has been dealt with and the votes cast. Instead, I hope we can work together to put services in place for women who need them as soon as possible. The voices of women who spoke up so movingly during the referendum campaign earlier this year cannot be unheard. Their stories can never be untold. If, as I believe to be the case, the people decided they could no longer countenance women being denied care in their own country, we have to make that change. It is time to end the lonely journeys. It is time to finish lifting the shame and stigma which have cast shadows on so many lives. It is long past time to stop punishing tragedy. I look forward to an Ireland where any woman facing a crisis pregnancy can be assured that she will be treated with compassion and able to access all of the care she and her family need in this her country, supported by those who love and care for them. That is the objective of the Bill which I commend to the House.

**Deputy Stephen S. Donnelly:** On Friday, 25 May, the people were asked if they wanted to remove the eighth amendment from the Constitution. There were deeply and genuinely held views on both sides of that question. The debate in people's homes, on the doorsteps and the airways and in Parliament was passionate and, in the main, respectful. We should reflect on this and be proud of it. Around the world, public and political discourse is becoming more extreme, divisive, aggressive and hateful. Bucking that trend in Ireland, a largely respectful debate was held on this most sensitive of issues. Ultimately, the people voted by a large margin to take the eighth amendment out of Constitution. They did so for many reasons. Some believed women should have unfettered access to abortion services. Others believed termination should be available in cases of rape, incest and fatal foetal abnormality. Others believed that, if termination services were available abroad, we must provide them here in order that Irish women would not have to travel. The eighth amendment is gone and it is up to us to legislate. The question now is what form that legislation should take.

Two months before the referendum the heads of a Bill were published, providing much of the detail of what the legislation would look like if the eighth amendment was repealed. It was largely, although not fully, in line with the recommendations of the Oireachtas all-party committee. It stated, for example, that there would be no restrictions on terminations up to 12 weeks. It stated that after 12 weeks terminations would be allowed in specific circumstances, including where there was a risk to the life or serious harm to the health of the pregnant woman. It stated doctors would be able to conscientiously object and much more. The details of the heads of the Bill formed part of the national debate on radio, television and the doorsteps. It is my view that when the people voted to repeal the eighth amendment, they did so with a clear understanding that the legislation that would follow would reflect the heads of the Bill published in March. Having examined the Bill before us, I believe it reflects the heads of the Bill and, as such, it reflects the will of the people and should be supported by the people's Parliament. I am sure there will be plenty of time on Committee Stage to tease out the details to make sure the legislation is robust, clear and workable.



Given the conversations I have been having in recent days, and which I sure many Members have been having, it is clear that across the spectrum of views on abortion, from those who are pro-life to pro-choice and everything in between, people have many issues with this Bill. I am sure people are approaching every Member of this House about many amendments, changes and tweaks. Some people believe it should be more liberal, some believe it should be more restrictive and some believe it is about right, but that there are technical issues that need to be teased out in the legislation.

There are aspects of this Bill with which I do not agree. For example, I do not agree with the three-day waiting period. It did not form any part of the committee report. It was not included on the basis of international evidence. My understanding is that it was political and that it was included at a time when a certain member of Cabinet was expressing concerns about supporting repeal of the eight amendment.

**Deputy Ruth Coppinger:** Yes.

**Deputy Stephen S. Donnelly:** Regardless of why it was included, it was included and, to my mind, it clearly formed part of what the people voted for and, for that reason, even though I do not agree with it, I will be supporting its inclusion and the inclusion of everything that lines up with the heads of the Bill.

The same approach should be taken with all proposals to amend this Bill. The question we must ask of every proposed amendment is whether it falls within the parameters of the heads of the Bill and, if it does, it is incumbent upon us to reflect upon the merits of the proposed amendment to see if it should be included.

As someone who campaigned for the repeal of the eight amendment, removing the eight amendment was an historic and important day for Ireland and particularly for the women of Ireland, but let us not stop with this important move. Many other areas need attention. We need many more supports in place for women with crisis pregnancies. If we do this and we get it right, we can reduce the number of crisis pregnancies and the number of terminations. That has been achieved in other countries and there is no reason we cannot do it here. We need to see investment in education. We need free contraception. We need free childcare in third level institutions. We need the removal of poverty traps for women who are working and have children. If we do all those things, which we must, we can begin to make great inroads into reducing the number of crisis pregnancies and supporting women, as they must be supported.

If we are going to provide services for the termination of pregnancy free of charge, which I fully support, then we must also provide healthcare services attached to pregnancy free of charge. It would be perverse to make healthcare services related to the termination of pregnancy free while charging for healthcare relating to continuation of pregnancy. Let us make it all free. Let us take this matter very seriously. I spoke to my colleague, Deputy Brassil, this morning and he gave me an example in this context. There is a drug called Cariban which is to help pregnant women who are suffering from extreme vomiting. Between the drug and the potential admission to hospital for intravenous, IV fluids, it can cost somewhere between €1,500 and €3,000 during a pregnancy, and that is not covered by the medical card. Let us remove the costs of pregnancy in their totality. Let us make sure the needed resources are provided more broadly for women's health. We have had CervicalCheck, symphysiotomy, Portiuncula Hospital, the Tuam mother and baby home and the Magdalen laundries. Scandal after scandal in healthcare in this country has related to women's health and, in the main, to women's reproduc-

tive health. It must stop.

Let us also look beyond healthcare. We need a comprehensive approach to tackling violence against women, including the issue of consent. We need gender proofing of budgets and of major Government policies.

Repealing the eight amendment was important. Let us make sure that momentum continues as we work to make Ireland a truly equal Republic.

**An Leas-Cheann Comhairle:** The next speaker is Deputy Kelleher. Is he sharing his time?

**Deputy Billy Kelleher:** Yes. I am sharing the time remaining in this slot with Deputy Thomas Byrne.

I welcome the opportunity again to speak on this topic. I have been speaking on it from this bench for a number of years. It is quite amazing that after the outcome of the referendum we are now here talking about the legislation to enact the will of the people. Reference was made to the fact that the heads of the Bill were published in advance of the referendum. It is an important point to make because we do not want to rerun the referendum.

It is important that the legislation that flows from the heads of the Bill, which we are debating, is in sync with what was published in advance of the referendum. There should not be much deviation from that beyond perhaps technical and administrative reasons, but the principles that were put to the people should remain intact in the context of the legislation. Once we start to move from where we were, we will open up the whole debate again and it could become divisive again. As referenced by Deputy Donnelly, I suggest that in terms of the heads of the Bill, we keep it as it was. I sat on the committee. It was an experience one would draw from in the context of the debate we had during the referendum. It must be acknowledged that, by and large, from my perspective, it was a respectful debate in terms of others who had a very different view, both on the doors, in the streets, in the studios and in this Chamber. I hope it remains that way because we are talking about healthcare for women. That is the principle of the issue. It is about ensuring women have access to healthcare in this State.

Reference was made frequently to people going on a journey, so to speak, in terms of their transition to having different views on the issue of the repeal of the eighth amendment and what should replace it in terms of a constitutional referendum, the wording and now the legislation that is flowing from that. The fundamental issue from my perspective is that we, as a State, should be obliged to provide healthcare for women in this State. In my mind, it was a simple debate, and I believe the people, in adjudicating on the issue in terms of the referendum, distilled it down to that fact. Were we going to continue to export our problems, tragedies, difficulties and our shame to other states or would we be mature enough, as a nation, to deal with them here? The results of the referendum were emphatic in that the people said that we must deal with our problems and challenges in this country and give women the healthcare they need and deserve. In my view, it was a straightforward debate in that context.

With regard to the legislation, as my colleague, Deputy Donnelly, stated, if we are to be honest with ourselves in terms of providing healthcare around the issue of terminations up to 12 weeks for the reasons outlined by the committee and now endorsed in this legislation, and I hope it will be endorsed by this Parliament when the debate is concluded, equally, healthcare should be free for women who do not seek a termination. That is an issue that must be examined very quickly in the context of this debate because from 1 January, the Minister will be pro-

viding for abortion services in this country. For the first time, abortion services will be provided in this country free of charge. Equally, all other services for pregnant women should move to be free of charge as well. That makes obvious sense from that perspective.

The other issue raised in the report, which was not debated in great detail during the referendum because what we were talking about was quite specific, was ancillary services. We have a good deal of work to do in the context of sex education and supports for women in crisis pregnancies. That is an area on which we fall down from time to time. We fell down because we knew these issues were being dealt with elsewhere. We kept our head in the sand. There is an obligation on us to ensure that women in a crisis pregnancy have all the supports available to them for them to make up their minds as to how they go forward and the decisions they reach. Until recently, we did not do that very well. We depended on organisations that should not be involved in that. The State itself should be involved in this through its role of providing healthcare for women. I urge the Minister to look at that issue, and that we would not become dependent on organisations with varying views on this issue that come at it from different perspectives. The State must step up to the plate. We need to start ensuring that we have proper facilities in place with regard to bricks but also supports for women when they are pregnant.

There were a number of reasons we arrived at the 12 weeks but the reasons became very obvious when we listened to the medical evidence. A medical termination could take place up to around 12 weeks, and I accept that it may not always be possible to carry out a medical termination in the community setting up to 12 weeks. The fact that the Minister is talking about medical termination being available from nine to 12 weeks in an obstetric setting is clearly because of medical advice. I also accept this. If, however, we are to provide terminations under an obstetric setting from nine to 12 weeks, I do not want to see a situation where we have difficulties. We need to have enough obstetricians to provide that care and to make sure it is accessible.

On the matter of conscientious objections, I respect everyone's entitlement to object on conscientious grounds, but equally no woman should be put at risk because of conscientious objections.

**Deputy Thomas Byrne:** Many difficult questions were posed in the referendum. There were questions that I, and I suspect many other people, found difficult. One of the easiest questions that I was asked in various media interviews was whether I would accept the will of the people if this referendum was passed. That was the easiest question. Of course we would do that. That is our absolute obligation in this Dáil. This should not even be an issue. It is surprising to me that it was an issue with some people during the campaign, and apparently it is still an issue with some people today. The truth is, and all the evidence shows, that people have different views on abortion and people recognise that others may have different views on abortion. This is clear. The vast majority of people accept that there are alternative positions in this regard. In a democratic society there is only one way to reconcile those views, which is to have a referendum where the country can decide after the people have listened to numerous debates with every side's point of view put forward. I believe that everyone's view was put across fairly in the broadcast and print media, and then the country made its decision. It is now our role in Dáil Éireann, as my colleague Deputy Donnelly has said, to implement exactly the will of the people as expressed in the referendum.

It should be noted that the turnout went from around 50% in previous polls to two thirds of the public turning out, which shows that a large section of the population had thought long and hard about the issue. They may have had contrary views before this referendum and changed

those views. Changing a view is one of the hardest things for a politician to do because he or she may be accused of making a U-turn. This, however, is what many Irish voters did and they voted with difficulty. Voters on the No and the Yes sides voted with difficulty.

It was very clear, however, what the outcome of the referendum would mean, that the heads of the Bill, as put forward by the Government at the time would be enacted. My colleague, Deputy Donnelly, who has studied the Bill in depth, and all of us who have read it accept that what is being put forward in the Dáil today is what was put before the people, and it is what the people voted on. We have an obligation to do that with minimum amendment. At this point we are getting so much unfair pressure from both sides of the debate to change things. This is because of the difficulty of the issue, because of the huge national debate the referendum caused, and because of the information that was put out to people regarding what was contained in the heads of the Bill. The debates were listed and the information was listed, so everyone knew what this was about. No one can say that they did not know what they were voting on.

We need to pass this legislation, implement the will of the people and let that happen. We need to concentrate on other important issues also, so let us just do this. We have no other option.

While I support conscientious objection, I understand that the provisions in the Bill for conscientious objection are almost identical to the provisions in the Protection of Life in Pregnancy Act 2013. I had not heard of this being an issue then. In fact, certain amendments that were tabled by certain Senators - I was in the Seanad at the time - would be criticised today because they are not in accordance with today's argument. I do accept that there are people who have serious objections, but the idea that a clinician would stay silent when a person raises the issue is simply not credible. The doctor has the absolute right not to facilitate this, but I do not believe he or she has the right to close the door on a woman thereafter.

There has been a debate in the Dáil on the ancillary recommendations and on sex education, but that was a very short Private Members' motion. There has been extensive debate around sex education provision in schools at the Oireachtas Joint Committee on Education and Skills. Having looked at the evidence as it has been put before us, I have no doubt that there is a major problem in the provision of sex education and who might provide it. The Department of Education and Skills does not regulate anyone who comes into schools in that regard, be it for sex education or sports clubs and so on. The Department plays no role in setting out who can come into our schools to teach children on a range of issues, not just for sex education. That has to change but it cannot be done simply as an attack on the ethos of the school. It can be combined to ensure that children are taught in a non-ethos way about fact-based sex education. That has to happen. This needs resources primarily. One of the problems we have with education currently is the constant pressure that schools and teachers can do that. The responsibility for this type of education is not just on schools. Our entire society, and especially families, has a responsibility to inform young people. If we ask schools to do it then they need to be resourced. It is not enough that we make laws and motions in Dáil Éireann and put the burden onto schools. That cannot be done and they need to be resourced properly.

This legislation has to pass. The people are sovereign in this State. The Dáil is not sovereign. This Dáil is not like the House of Commons. It is a very different system. People who are pressurising us at the moment about changing the Bill need to recognise that the people are sovereign.

**Deputy Louise O'Reilly:** It is with great pride that I speak on behalf of Sinn Féin on this historic legislation. I intend to raise points in the spirit of co-operation and I wish to be as constructive as possible regarding the legislation because it is incredibly important that we get this right. The reason it is so important is that right across the world we have seen that, once abortion laws are passed, it is sometimes very difficult to revisit them. We need to pass this legislation quickly but we must also make sure it works and delivers for women. The legislation in front of Members today will go down in the history of the State as some of the most important legislation that we will ever pass. That cannot distract us from our duty to get it right for those who will need to avail of abortion services as well as for clinicians who will provide these services. We are here with a mandate from the people, which was cemented with 1,429,981 votes. Today those people are willing us to do our job, to work constructively, and to get this right.

The public discourse during the referendum campaign reflected people's understanding of abortion as a healthcare issue that should be addressed through progressive patient-centred legislation, not criminal sanctions. The general scheme of the Bill had offences and criminal sanctions at section 19 at the end of the Bill. When the Bill was published, I was shocked and surprised to see offences and criminal sanctions moved to section 5 at the very front of the Bill, which was right in the front window. I told the Minister that I did not believe this was the appropriate place. In legislation to regulate for the provision of abortion we are confronted with the crimes for carrying out an abortion outside of the scope of the Bill before we ever see mention of the provision of abortion. I find that shocking and I would like to know and understand the motivation of the drafters in doing that. This has perpetuated the chilling effect felt by clinicians and the continuation of the stigmatisation of abortion. Throughout the hearings we had at the Oireachtas Joint Committee on the Eighth Amendment almost every single clinician who gave evidence spoke about the chilling effect of the amendment on their ability to provide healthcare for women, yet here we are with a Bill to legislate for abortion and we see the rewriting of the eighth amendment into legislation. Professor Fergal Malone and Dr. Rhona Mahony were very clear on this issue at the committee. They said doctors could not even pick up the telephone and make a referral. If we cement this chilling effect into the legislation by telling doctors that they are specifically not allowed to do this before we even tell them what they are allowed to do, we will do just that. I ask the Minister to move the offences and criminal sanctions section to the end of the Bill.

It would be remiss of me not to say that, while I use the word "abortion" and the Bill is to legislate for abortion and access to it, there is not a single mention of the word in the Bill. Furthermore, there is just one reference to access and that is in the offences section. Therefore, in legislation to provide for access to abortion there is only one mention of access and no mention of abortion. "Abortion" is not a dirty word. It was not a dirty word in 1983 when the eighth amendment entered the Constitution and it is not a dirty word in 2018. Over three years ago *Her.ie* published a fantastic article entitled, *We Need To Stop Treating Abortion As A Dirty Word*. The opening paragraphs stated: "it's rare that the word abortion is said in anything other than an apologetic, hushed tone" in this state. It went on to state abortion had been "treated by the majority of women in this country as a dirty word, heavy with stigma and representative of an act that must be covered up and denied at all costs". While the referendum campaign changed that fact and now abortion is not viewed by so many in those terms, there is the residual effect of that stigma, which is evidenced in the drafting of the Bill. Will the Minister consider ensuring a reference to abortion and access to it is contained in the legislation because if we do not try to challenge the residual effects of the eighth amendment in legislation, there is the possibility that they can live on and grow in our society?

When we met previously to discuss this legislation, I said I had been asked by many stakeholders; lesbian, gay, bisexual, transgender and intersex, LGBTI, groups and by Repeal campaigners to ensure reference would be made in the legislation to “pregnant persons” to cover people who could get pregnant but did not identify as, or were not, women. It was apparent that the LGBTI and trans communities had played a huge part in the referendum campaign. They did so in Fingal Together for Yes and across the State. Trans people, particularly trans women, are an inextricable part of the feminist community and it would be remiss of us if the legislation providing for the provision of services was to leave them out. We have to refer in it to people and persons who can become pregnant. I have spoken to the Minister about this and hope we can sort it out by way of an amendment.

On the three-day waiting period, we must listen to the medical experts. That is one thing the referendum taught us, that on issues such as this, we must listen to women and medical professionals. Many medical professionals have expressed concern that such a measure will restrict access to abortion services. It is a little paternalistic to claim that if a person attends a general practitioner to avail of an abortion she has not thought it through, that she has not given it full consideration and that she is unsure about what she wishes to do. The Minister knows as well as I do that no woman takes a decision such as this lightly and this measure will restrict access in general, but it will also restrict access for marginalised groups, women in abusive relationships, those with a disability and those in direct provision accommodation, among others. It will also affect women in regional, less populated areas, where they may not want to attend their local GP, who will have to travel to Dublin, Cork or another large town or city. This will place additional burdens on them, in time, travel and other costs.

My colleague Megan Fearon, MLA, who is leading our campaign in the North on this issue is watching this debate. For women in the North who may need to access abortion services, the waiting period will act as a significant deterrent. I extend my best wishes to my Northern comrades who are still fighting for access to abortion service; I assure them of my help and support, as well as that of Sinn Féin, in this fight.

It seems that the 72-hour provision was a political decision because it was not part of the committee’s report, as stated recently at a committee meeting by one of the members, which seemed odd to me. It was not part of our deliberations and not part of our report. Reference has been made to how it may have got into the legislation. That is fine; it is a matter for the Minister, but it was not done so on the advice of clinicians, many of whom have spoken out against it. We, in Sinn Féin, will be guided by doctors and other medical professionals on the matter. I have completed several stakeholder meetings and will have many more on the legislation.

The conscience clause in section 23(3) of the Bill is appropriate and will protect those who, for whatever reason, do not want to provide this service, but, first and foremost, it will protect women. For the avoidance of doubt, we do not agree that medical professionals who invoke the conscience clause should be exempt from referring a patient for the necessary medical treatment they seek. Women who need medical treatment must be protected and at the centre of this provision. I am glad of the Minister’s commitment that the services will be provided free of charge. It is important that there be no barriers to access in that regard. We need to be sure services can go live in January 2019. To do this, medical and healthcare professionals must be engaged with intensively. It is they who will deliver the services and it is important that they be involved and that their input be reflected in the services to be provided.

I welcome the announcement that Dr. Peter Boylan will assist in the implementation and

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preparation of abortion services. I congratulate him on his appointment. He is an eminent and accomplished clinician who has been at the forefront of women's healthcare in the State for many years. As a consultant obstetrician, a former chairman of the Institute of Obstetricians and Gynaecologists and a former master of the National Maternity Hospital, he is exceptionally well qualified for the role. He played a prominent role in the campaign to remove the eighth amendment from the Constitution and provided excellent evidence and information for the Oireachtas Joint Committee on the Eighth Amendment prior to the referendum. I look forward to working with him to ensure the health service will provide world class abortion care and that the ancillary recommendations made in the report of the committee are implemented in full. It is only by implementing them, with the other recommendations made, that we will do justice to women who are seeking services. Once we have passed the legislation and implemented what I hope will be world class abortion services, it is important that our focus turn to implementing the ancillary recommendations made which include up-to-date, objective sex education and free contraception. I do not think I was the only one on the committee who was surprised by the sex education our kids received in school. It was an eye-opener, but not in a good way. That it is not regulated is very worrying because we are storing up more problems. We have to be able to provide kids with objective information, just information, not judgment or moralising. That came out very strongly during our hearings. If we are to do this justice, we need to do all of it.

We will also need to see improvements in maternity care for those who wish to have a child. This means the full roll-out of the national maternity strategy, with funding, not just announcements and paper, including investment in midwives and increasing their numbers. We need to invest in increasing the number of obstetricians and gynaecologists. We also need to ensure we have affordable childcare and mandatory paid maternity leave. That is, however, a debate for another day and we will have it at some point. We will be submitting amendments to the Bill in order to ensure it is in line with the recommendations of the Oireachtas Joint Committee on the Eighth Amendment and the Citizens' Assembly. We must ensure the legislation respects the result of the referendum and that it will deliver for those who will need access to abortion services. I know that the Minister is committed to doing this, as are we, in Sinn Féin. We will work with him efficiently and constructively to make it a reality.

I thank my comrades and friends in Sinn Féin because they debated, listened, voted and participated fully in an open and democratic way at our Ard Fheiseanna. It was not easy for them. It was an extremely emotive and difficult topic for many to wrestle with, but they took some guidance, listened to evidence and came to a decision. We will back that decision of our members at every opportunity to vote.

*3 o'clock*

I thank those who worked hard to repeal the eighth amendment, including people like Ailbhe Smyth who gave their whole lives to it and the men and women in Fingal Together for Yes. We did a lot of campaigning together. We wore out many shoes. The Minister came to one of our events. We tired out our voices but we got there in the end and achieved over 77% which is really a tribute to those who gave their hearts and souls to it.

I know I have often mentioned my parents but they had extremely good foresight on this issue with regard to how they viewed what would happen in 1983. They campaigned against the insertion of the eighth amendment and brought their two daughters up to believe that one should never ever apologise for standing up for women's rights. I know my mam is watching this and I say to her that we are nearly there. I got very emotional coming in here, which is not

like me but this is very important. Sinn Féin will work with the Government. We will not pull against it. We are in opposition. We know that but we want to get this done. We want those services ready for 1 January 2019.

**Deputy Alan Kelly:** It is a very historic day for this House. I am delighted to be here on behalf of the Labour Party to welcome and support this legislation. All of us who were involved in the referendum know that this is legislation which we have to get right. We will work collectively with the Minister to ensure we get it right because we have to get it right. It is a hugely historic occasion for my party, which as a political entity has a long track record on this issue, dating back to 1983, of fighting against this amendment, with the current Uachtarán na hÉireann Michael D. Higgins, leading the campaign, supported by the previous President of Ireland, Mary Robinson, the lady who has just walked into this room, Deputy Joan Burton, Eamon Gilmore, Senator Ivana Bacik, Deputy Jan O'Sullivan and many more. Today is very important for my party, dating back to 1983. I want to remember all of those who have gone before us who fought against this in 1983 on behalf of the Labour Party and may not be around to see this day. I want to remember them.

Over 50% of the population of this country are female. They are entitled to make the right choices about their healthcare in whatever circumstances they find themselves. The Labour Party has always supported them and will continue to do so today in this legislation to remove the barbaric circumstances that were put into the Constitution in 1983, forcing tens of thousands of women to leave these shores and, in recent times, forcing many women to take abortion pills without supervision. The referendum on 25 May will forever live in the history of Ireland, being passed in such large numbers. It is very important today that we remember those who fought so hard. The civic coming together of people on that day represented an outpouring of relief and compassion. People like to say there was celebration but it was certainly an outpouring of emotion. The Minister played a large role in it and I want to thank and congratulate him on that, along with many other people across politics. I look around this room and see people who have been in opposition for many years, people who were previously in government and, dare I say, people who changed their minds. Many across different parties changed their minds. It is often said that the people are sovereign, and they are, but people are entitled to change their minds and should be congratulated on that. I admire those who have come forward and done so.

We have to acknowledge the Together for Yes campaign across the country, a civic movement incorporating people from all politics and none, people who campaigned with me who I have never seen campaigning before and people who will campaign again in the future. I made many new friends. I am thinking in particular of Anita Byrne and Emma Burns in Tipperary. They are two fantastic women who drove on our campaign in Tipperary to deliver a fantastic result for our county. There was a sense that the people of Ireland were ahead of us on this issue. That is what I got from the off. Maybe there is something to be learned inside these walls, when the people can be so far ahead of a certain number of politicians regarding such a sensitive issue as this.

The people knew what they were voting for. There was a critical decision to publish the heads of this Bill, which I will come back to. Nobody in this House can, with any degree of honesty, accept or put forward the argument that people did not know what they were voting on. They clearly knew what they were voting on and made a definitive decision. The Constitution was never the place to make provisions for such a complex issue. It negated the rights of women to make decisions about their own health under the dark forces of 1983 which still have reverberations around this country in some quarters. There have been some stories in recent



times but thankfully they are gone. With the provision of the heads of this Bill, it is critically important, now that we are debating the published Bill, that we do so within the structures of what was decided by the publication of the Bill and the decision of the people. There is no earthly way that we should open up this discussion or debate, or allow it to be opened, because some may like it to be opened up again. Let us work within the parameters agreed by the committee, put forward by the Government and voted on by the public.

I have some commentary on the Bill itself. I read the documentation put forward by various organisations about this Bill, some of which I agree with and some of which I do not. This Bill has to be read in great detail. Every single comma is significant and has to be perfect. The National Youth Council of Ireland, NYCI, asked for a Preamble to be given to the Bill to contextualise the Bill, where it has come from, what went before it, what it is changing, the Bill that came before it a couple of years ago about the previous amendment, and so on. I think that is a good idea and ask the Minister to take it on board. When I read it, it hit something that I was looking for. A Preamble would explain the history of this and maybe contextualise the way in which the Bill sits with other legislation. That would be quite useful. The legislation needs to be clear and unambiguous. It needs to give equal assurance to women and to healthcare providers that we will provide accessible services of the highest quality. We need to ensure that healthcare professionals and workers will have no questions about how to interpret this. We need to leave the floor of this House with that being as perfect as can be. We need absolute clarity.

I know people in this House will put forward amendments. That is everyone's right. We will consider them ourselves. We need to be very careful about the manner in which amendments come forward which possibly would have knock-on effects in the Bill. Terminology and consistency of approach are vital. The Minister has a lead role in bringing forward legislation but in this, his guidance to the House with regard to what he is being advised by the Attorney General is at a different level of seriousness. We do not want to have unintended consequences for people who are doing something for the right reasons, if the Minister can follow my logic.

I believe the Bill honours the commitments given to provide for universal access and free services for the women of Ireland, but a few issues arise with the drafting of the Bill. I agree with what was said in that regard by a previous speaker. In fairness to the Minister, he acknowledged this when we met him yesterday. It is unfortunate that the offences are upfront. I know that it is unintended, but that is the first thing one comes across in reading the Bill.

Section 19 concerning offences seems to be unusually wide in its scope. The Minister might come back to us on it. Healthcare professionals might be concerned in cases where decisions are required to be made in very narrow circumstances. I refer to the 12 week timeframe. They might be worried about litigation. I urge the Minister to examine the wording. I say this to be constructive. Everything I say is to be taken in that vein.

I understand the need to provide for the offence of aiding, abetting or forcing someone to have an abortion against her will, as well as for the references to abusive partners, pop-up clinics and rogue doctors, among other issues, and the reason the measures have been framed in the way they are. However, I am concerned specifically about the wording "procure a pregnant woman". Is there a better way to word it? Let us call a spade a spade. I know that it deals with coercion and merely pose the question.

Data provision is vital. We need to know when women are having terminations, where

geographically, gestation periods and other matters. The records of clinicians who carry out terminations must be tightly managed. The protection of clinicians is also important. Medical data collection is very important in that regard.

Section 24 concerns preventing medical professionals from making a profit or commission from referring women to abortion services. I understand this also, but, again, I wonder if the wording could be tightened a little.

Reference was made to the three-day period following the signing off on the request by a certifying doctor. The issue arose in the course of the committee's discussions. Many of us have different views, but we are where we are and I understand why we have to go about it in this way. However, we must ensure the legislation is clear and that no conflict will arise with the three-day period in the context of the 12 week barrier. From discussions with the Minister yesterday, I understand the three-day period includes the day on which a woman is certified or meets a practitioner.

The term "medical practitioner" is used throughout the Bill and there is only one exemption. Do we need to include a provision to give the Minister for Health or a future Minister the ability to change it without having to amend the legislation in order to include other healthcare providers such as nurses, obstetricians or other practitioners? We now have multi-disciplinary teams I think it is necessary to do so and merely ask the Minister to examine the issue.

I previously raised with the Minister the need to provide for safety zones around hospitals and primary care centres to protect women and practitioners.

In the time remaining to me I wish to deal with the issues of conscientious objection and meeting the timeline for the provision of services. Conscientious objection is not new, but it is very specific in this case. It is incredibly important that while we have processes in place in which to do this, no medical practitioner can cite a conscientious objection which could have a detrimental impact on a woman's health. The issue is that serious. This is very important. Institutions cannot have a conscientious objection. I have a concern about institutions using subtle methods to try to get their clinicians to act in a certain way. We must have strong procedures in place to ensure that cannot happen. We must also ensure such institutions could not try to force women to take the private healthcare route, given the fact that the service is to be universally available publicly. We must consider how and where we manage the lists of those who provide services and those who do not.

Following meetings of the health committee, I have a concern about meeting the 1 January deadline. I have raised the issue with the Minister previously. There must be a 24-hour helpline, a referral system, geographical coverage across the country and within an acceptable timescale in order that women will not have to wait for longer periods than is necessary just because they are based in one part of rural Ireland as opposed to another.

We must consider what will happen to a doctor who refuses to refer and where there are consequences for the health of a woman as a result. I do not just mean from the point of view of the Medical Council. The intention is that the 24-hour service is to provide for referrals, but it must also provide all other supports such as counselling. Midwives and nurses should potentially provide the 24-hour service, but they require training and 1 January is fast approaching. The protocols on referrals must be agreed to, as well as on how the work is to be done. How will that happen? A 24-hour number is to be provided, but how will we ensure the people who

take an alternative view do not spend the day blocking the number while women who are in distress cannot access it?

We must protect healthcare providers when it comes to those who conscientiously wish to provide services. There has been a lot of discussion about conscientious objection to providing services. but what about protecting those who conscientiously want to provide them? Respect for self-determination at work works both ways. Respect for the professional integrity and decisions of those who wish to provide services is also paramount. We must ensure there will be processes in place to protect them.

We all know that the GP contract is coming up for renewal. I welcome the update provided by the Minister on the issue at the health committee yesterday. GPs are not set up to provide the services. What extra resources will be provided to ensure they will be adequately resourced?

I have a concern about the phrase “as soon as may be” in section 23(3). The reference is to “shall, as soon as may be, 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 termination of pregnancy concerned”. To one GP that could mean one thing, but it could mean something else to another.

We must include a reference to contraception in the context of GPs and medical practitioners dealing with pregnancies and terminations. I urge the Minister to deal with that issue.

I am also concerned about the provision of resources in the context of the lack of trained ultrasonographers, obstetricians, in particular those dealing with issues between nine and 12 weeks, midwives and other health professionals.

I congratulate the Minister on appointing Dr. Peter Boylan. He is the right person to liaise with the HSE and the medical colleges on the implementation of this

programme. We must ensure not alone that the guidelines for these services are put in place through him working with the Minister, but that there is also a plan to ensure that in the coming years we have free services such that pregnant women can rely on the public health system. As I stated, contraception is being dealt with. We need more crisis service provision. We know that many women accessed abortion services abroad. It would not be right to kick that can down the road. We must implement the maternity plan and strategy of which I am very supportive, as the Minister is aware. It is one of the best healthcare provision strategies ever written in Ireland and we must ensure it is implemented.

I wish to conclude by acknowledging on this historic day that in November 2016, having received a letter signed by Deputy Billy Kelleher and me, the Minister met me and Amanda Mellet. On a day such as today it would be remiss of me not to mention Amanda and the women who came after her, such as Siobhán Whelan, who led the fight and ensured that this issue was brought to international attention. I thank her and Siobhán-----

**Deputy Simon Harris:** Hear, hear.

**Deputy Alan Kelly:** -----and Amanda’s husband, James, for their actions in ensuring that international attention was brought to this issue and which has resulted in the changes being brought forward today.

**Deputy Ruth Coppinger:** I am sharing time with Deputy Bríd Smith.

This legislation is historic. I refer to the millions of women who live in countries where abortion is illegal and unsafe. Obviously, it is still illegal in Ireland. One in eight deaths of pregnant women worldwide are related to unsafe abortion. Banning abortion never stops it. I particularly send my solidarity to our siblings in Argentina, whose Senate, unfortunately, did not have the guts to do what was needed to legalise abortion there. The struggle for abortion rights there is only starting and those seeking it have lit a flame for all of Latin America.

I wish to characterise the nature of the legislation and comment on some of the points made regarding whether it can be changed. It has been a huge achievement to win legislation that is on a par with international norms. Until a year ago, the legislation being discussed in this country was of a very restrictive nature and related to providing abortion where life was at risk, there was a fatal foetal abnormality or in cases of rape. No other grounds were countenanced. However, the reality of the situation involving people travelling for abortions or taking abortion pills was brought home to the Joint Oireachtas Committee on the Eighth Amendment of the Constitution. The reframing of attitudes was also due to the persistence of a young radical movement which led this campaign, particularly in the past five years, and refused to accept an Irish solution to an Irish problem. The marches in which many people participated in the past seven years in particular, the civil disobedience which was required, the compelling research presented and so on were all critical to winning the referendum and getting to this legislation.

Some Deputies stated that a debate took place on the referendum and the Bill cannot be changed in any way. I do not agree. The scale of the result and turnout show that, if anything, we should be going in a more liberal direction than does the legislation. We got a 2:1 majority which was never anticipated by most of those who have so far contributed to the debate and a massive turnout. The general message was to trust women to make this choice for themselves. In exit polls, choice was the key reason given for voting “Yes”. Imagine the discussion we would be having today if the result was a 50.5% majority for “Yes”. Deputies would be claiming that people misunderstood the referendum and that we should not have legislation such as that before us.

It is not true that we must remain within the parameters agreed by the Joint Oireachtas Committee on the Eighth Amendment of the Constitution, as stated by one Deputy. Many matters addressed in the legislation were not agreed by the committee. We have now established that the 72-hour waiting period was not agreed by the committee and was not in the report. Several Fine Gael members tried to claim that it was. When it was debated at the committee, it was pushed back by experts. It is important to bring that out. The case regarding decriminalisation is similar. We are here to legislate and it will probably be many years before we get a chance to change the legislation once it is enacted, so we must do it right and speak about what we believe is right.

The 72-hour waiting period is unnecessary, patronising and patriarchal. Research from countries where it has been implemented shows it acts as a barrier to poor or vulnerable women accessing abortion. It will mean that a working person seeking an abortion will have to take a second day off work in order to make a second trip to the doctor. It could prevent people approaching the end of the permitted 12-week period from accessing abortion. In France, there was a seven-day reflection period but that law has been dropped and midwives are now permitted to perform abortions. The waiting period must be debated. Some may argue that it formed part of people’s thinking when casting their votes. I do not know many people who voted one way or another because women were to be made to wait for three days. Rather, people voted based on issues such as the 12 week period for abortion and other key points in the legislation.

I ask the Minister to comment on the change from what was agreed by the Committee on the Eighth Amendment regarding the circumstances in which abortion is permitted. The committee proposed that abortion would be allowable where there is a risk to life or health. The legislation provides for abortion where there is a risk to life or serious harm to health, which raises the threshold. The terminology is very different. That is very important because the case of Savita Halappanavar, in particular, was one of the reasons why people went out and voted in droves. They can relate to how subjective such changes in terminology can be.

Another concern with the legislation relates to who decides to grant an abortion. The legislation provides that the decision is made by two doctors, one of whom must be an obstetrician. It makes no reference to the pregnant woman having any say in the granting of the abortion or the decision being made in consultation with her. That is a betrayal of what people voted for in the referendum because the position put forward by most people campaigning for a “Yes” vote was that the pregnant woman would make the choice for herself in consultation with her doctors, not that her doctors would decide, which is what the legislation provides. The criminalisation of illegal abortions may have a chilling effect on doctors, who may be afraid to make a decision based on a risk to the woman’s health for that reason. Two years ago, a teenager was sectioned by a psychiatrist because she was suicidal and wanted an abortion. To put the power to grant an abortion into the hands of doctors and take it away from the person affected is wrong.

On criminalisation, the legislation will maintain a 14-year jail sentence for anyone other than the pregnant person convicted of carrying out an abortion outside the scope of the law. It will be maintained as an offence for doctors, but anybody who aids, abets, counsels or procures an intentional abortion or attempted abortion for a pregnant woman is also liable to conviction. The mother or friend of a pregnant woman who helps her to get an abortion pill at 13 weeks - it is perfectly safe to take an abortion pill up to 14 weeks with supervision - could be arrested. Somebody who is refused within the law, the mother or a friend of a woman refused a legal abortion who tries to help her to access an abortion pill online, could face sanction. Obviously, the judgment of a doctor relating to the risk to a woman’s health may also be called into question under that provision. Abortion should not be a criminal offence. In all countries, people are moving to decriminalise abortion.

Conscientious objection is a difficult issue because nobody wants to take on the idea that we must force somebody to take part in a procedure. However, I am shocked by the emphasis being placed on doctors having a conscientious objection. The woman affected is almost taking second place in the discussion. Conscientious objection is used as a mechanism in other countries to act as a barrier to abortion. In parts of Italy pregnant women cannot access abortion because doctors refuse it. I agree with the point that the wording seems to be extremely loose in that it provides that doctors must refer onwards when they have a chance. The emphasis is on the medic.

I cannot understand the transgender exclusive nature of the legislation because the issue was raised by many people before the Minister had the law written. Transgender, LGBT and non-binary people fought very hard in this referendum and in many ways played a leading role in it. The Minister is reviewing the Gender Recognition Act 2015. Transgender people genuinely fear they could be refused an abortion under the legal definition provided here, which makes clear the person must be a woman. This could be changed very simply by replacing the word “woman” with either the word “person” or the words “pregnant person” or inserting the words “and pregnant person” in the legislation.

I will also mention those who are omitted from the legislation. Clearly, many people will still have to travel, specifically those who have been given a diagnosis of severe, but not fatal, foetal abnormalities. Such cases are very difficult and the Citizens' Assembly recommended that they be catered for. Unfortunately, the politicians on the committee did not do so and people did not get to have a say on the matter. That is very unfortunate.

**Deputy Bríd Smith:** I apologise in advance if my voice sounds a little "gappy". I have a chest infection. We should celebrate today because it is historic. It is amazing to be here and to be involved in helping to shape this legislation. I saw both the Minister, Deputy Harris, and Deputy O'Connell, at the March for Choice last Saturday. It was a celebratory event and even months later, winning the referendum felt really good. Tens of thousands of young people attended the march. We should recognise their role in this and celebrate that we have achieved a huge amount.

This time last year, we were sitting on the Oireachtas joint committee hearing the evidence and going through the detail. We had the referendum at the end of the May, and the outcome was decisive. It was not close, with 52% for and 48% against, but decisive. There is no argument about that. However, the process has been held up because there are organisations and individuals who will never stop contesting a woman's right to choose to control her own body. It is important that this legislation does not leave any hostage to fortune in terms of those who might use their wealth and even risk losing their homes by remortgaging them to continue to take High Court and Supreme Court cases, as they did during the summer months, to try to obstruct the outcome of the will of the people.

The tone and language adopted from start to finish in this legislation are important. We have to put women and the choices they make in their lives at the heart of it. I very much agree with Deputy Louise O'Reilly's point that upfront and loaded in the Bill is the question of criminalisation. The Bill states: "It shall be an offence to intentionally end the life of a foetus ...". The use of the words "... to intentionally end the life of a foetus" rather than the word "abortion" smacks of the eighth amendment all over again and the life of a foetus versus the life of the woman, etc. The language used is very important as we will otherwise leave the door open to legal challenge. There is nothing in the legislation providing that it will be a crime to intentionally obstruct a woman seeking to have an abortion. I will return to this issue when I discuss the conscientious objection clause.

This time last year, we were examining the nuts and bolts of the issue and now, a year later, we are legislation for abortion. That is fantastic, but we need to watch out for banana skins. The chill factor that hangs over the medical profession because of the upfront loading of the offences in the Bill has to be dealt with. I know we will have many more chances to do that in the coming weeks.

We need to be careful about including in the Bill provisions that were not part of either the Citizens' Assembly or the deliberations of the Oireachtas joint committee. Whatever about leaving out proposals made by the Citizens' Assembly, we should not insert provisions that did not form part of the deliberations. I refer, for example, to the three-day waiting period when women are to go back and think about their decision. It is important that we do not do that. I believe that was a political decision - the Minister will nod his head - to insert this provision in the Bill because it does not comply with best international practice. While such periods are provided for in some countries, as the Minister told us yesterday, in the Netherlands, where a three-day waiting period applies, the clock starts ticking from the time the pregnant person

picks up the phone to her doctor to ask for an appointment on the termination of a pregnancy. If that were to apply here, it would be grand because it will take at least three days to get a general practitioner, GP, appointment in any case. As I have said previously, I wait a week to see my GP, even if I have a chest infection. While GPs do their best to facilitate people, clinics in Ballyfermot and other large urban areas are very busy. We have a ratio of general practitioners to citizens that is far below the European average. We also have many problems in general practice and I am sure Deputy Harty, as a doctor, can speak about the way GPs are paid. Fewer doctors are staying in the profession and many are leaving the country as soon as they qualify.

I am delighted the Minister has appointed Dr. Peter Boylan to oversee this. When it comes to accessing abortion services, particularly medical abortion, we have a major problem with our health service. At the heart of this issue is women's health and our health service is creaking at the edges. Given the problem with the delivery of ordinary GP services, such as prescribing an antibiotic for a chest infection and being able to see people quickly, delivering a proper choice for women will be a real problem. We have to look at that issue very carefully. I am sure many amendments will be tabled on the three-day waiting period, which I believe was inserted for political purposes.

The definitions in the Bill are important, particularly, as Deputy Coppinger stated, the definition of the pregnant person. A pregnant person may not be a woman but could be somebody who is transgender. We need a sentence referring to that somewhere in the Bill to ensure that when we refer to "woman", we refer also to transgender and do not exclude anybody.

The definition of health should be inserted in the Bill also. The World Health Organization recommends that the definition of health include not only physical and mental health but also social health. In this country, that is extremely important because there is a serious social exclusion, specifically in respect of young girls, women in direct provision and women Travellers. That definition should be included.

A medical practitioner is defined as somebody listed on the register. It would help if we changed that because it would assist in dealing with the access question. There are midwives and nurses who have more experience than most doctors in dealing with pregnant people. They should be included in the definition of medical practitioner, particularly for medical abortion. What would be the big deal about seeing a nurse or midwife in the Ballyfermot clinic to procure and take the abortion pill under his or her supervision, instead of having to see one of the doctors?

Last week, a friend of mine had to have the abortion pill. I helped her procure it, but I did not help her through it. She helped herself through it. She told me afterwards that the only reason she was able to get through the experience without serious distress was that she has two children. She understood what was happening to her body and that she was beginning to go into a sort of soft labour, with early contractions, and she expected heavy haemorrhaging. She said she could not imagine what it would be like for a young woman on her own going through that. It is timely, therefore, that we have this legislation before the House. We need to extend the idea of who is and is not a medical practitioner when it comes to giving people access to medical abortions.

On conscientious objection, I have friends who are doctors and they tell me that the Medical Council provides that there is conscientious objection for all sorts of reasons. I have often wrongly attributed a belief to the Mormons - I believe it is another church but I have forgotten

its name - by which they often refuse to do blood transfusions. Deputy O'Connell tells me it is the Jehovah's Witnesses. The conscientious objection clause exists but we need a much stronger impetus whereby objecting doctors must refer on. That referral must be immediate and must never be denied. There has to be a criminal sanction for refusing to do so. If we are going to sanction practitioners criminally for helping women to make the choice, we must criminally sanction those who refuse to help them make that choice. I would like to see a body that polices that operation so that if I live in Glenties in Donegal, for example - I have no particular reason for picking it only that I like it - and there is one doctor in the village who conscientiously objects and will not tell me where to go, meaning it will be very difficult for me to get access elsewhere, I would like to think I have a place to go to say I was treated terribly by that doctor. There should be a body that would deal with my complaint immediately, not the Medical Council because that is for doctors but an independent body that has the health and concerns of women at its centre, almost like a feminist body, that would say we are not having that and that would carry out some kind of policing of the way it is done.

There is another thing that is not in the Bill, although I hope there is no need for it because it is widely accepted in this country, as the referendum showed, that we trust women and want them to have a choice. That said, if we had people standing outside hospitals during the referendum with 30 ft high banners that were frightening, humiliating and disgusting, then we may need to have safety zones for women and practitioners. We may need to have a look at that.

**Deputy Joan Collins:** I am sharing time with Deputy Clare Daly. When more than 1.4 million people voted to repeal the eighth amendment in May of this year, they did so after years of thinking about, reflecting on and discussing people's personal stories of abortion. These were stories of relatives, colleagues and friends who had to travel abroad for basic healthcare. The people voted in the context of a campaign that did not hesitate to demand free, safe and legal access to abortion services and an end to the stigma of seeking such services. It was a campaign that demanded that women and any person who can get pregnant can be trusted to make the best choices for themselves in consultation with their doctor. The 1.4 million people accepted that life has grey areas and that dogmatic religious teachings have no place in dictating to anyone what should be a private healthcare decision.

While I broadly welcome this historic legislation as a step towards enacting the result of the referendum, I am a bit concerned that some of the themes in the Bill show that thinking dominated by Catholic social teaching is still contained within some parts of the legislation. There is a theme running through the legislation of refusing to trust those who need the services. There are issues around the use of language and potentially overly own-risk clauses within the Bill presented to us. It is around the question of the three days. If the three days were counted from the point at which the person makes the phone call to the surgery, that would possibly be accepted. Some women are very clear they want to have a termination and should be given the medical abortion immediately, if necessary. Some women may be unsure about what to do and may want a bit of advice. A GP could certainly advise a woman or person where to go to get that advice impartially. That has to be looked at. I am seriously concerned about it.

On the question of language, I would like to flag the use of the definition of "woman." I recognise that "woman" as defined will capture the vast majority of people needing access to abortion services, but clearly there are people - intersex, transgender and other gender identities - who are able to become pregnant and who are very upset and concerned. There is serious concern that they will be excluded from the legislation. It has been recommended by Amnesty that, instead of the current definition of "woman", the term be amended to "a pregnant person



of age”. I know the Minister said yesterday that “woman” covers everything but I think there should be some reference to it in the legislation or the amending parts of it. Given that we have some of the better legislation in the world in this area, such as the Gender Recognition Act 2015, I do not think there will be much opposition to the proposal when we get to the stage of teasing it out.

A couple of other issues around language and definitions stand out. The use of the phrase “life of the foetus” throughout the Bill raises an issue for me. We risk recreating a right to life of the foetus. I do not need to remind anyone what the referendum in May was about and what the people decided. It certainly was not to create a right to life of the foetus again in legislation to the detriment of people’s healthcare access. I propose that instead of “to intentionally end or attempt to end the life of the foetus” or words to that effect, a more suitable wording might be “intentionally ending a pregnancy”. I am sure we can tease that out on Committee Stage. We do not want to be in a situation where these definitions are being challenged in the courts by those who do not accept the will of the vast majority of voters in the referendum. The point was made succinctly earlier on as well. In any cases, the focus of the Bill on offences instead of a positive right for pregnant people to seek abortion services in a timely and easily accessible manner is a remnant of that way of thinking from before the referendum. The people have spoken overwhelmingly. They do not want their sisters, aunts, mothers, daughters, or friends to be treated as suspect or criminal or to be unduly burdened for seeking out a health service.

I do not know why the Bill maintains the system that was in place to notify the Minister for Health of every abortion case in the State. The system was taken directly from the 2013 legislation that catered for 20 to 30 abortions per year. Under the present Bill, the 12 women currently travelling each day will be getting care here. That will be thousands a year, plus those who procure the abortion pill and others who would not have been able to access those services abroad or on the Internet but will be seeking their healthcare here. Why should they be treated differently from any other patient in the State? This is a stigmatising measure and I thought we had moved beyond that point. Of course there should be reporting and collection of statistics but it should be carried out in a normal manner, the same as any other health service.

A review clause should be put into the legislation meaning that we regularly assess whether it is meeting goals that those who require abortion services are able to access them safely without barriers or delays. This would also allow us to review it in line with evolving best medical practice and human rights law. Amnesty particularly made the point about the review clause:

In line with recent legislation, including the Gender Recognition Act 2015 (section 7), the legislation should include a provision requiring a periodic review of the substance and operation of the Act. The Act should be periodically reviewed to ensure that women and girls are able to access safe, quality healthcare without barriers or delays; and to address in policy/guidelines any gaps, and new and emerging issues. The Act’s substance must also be reviewed, to ensure that it evolves in light of developing international medical practice and human rights law (noting that what is proposed in the general scheme currently falls short of what international human rights law requires).

I further worry that some of the language in the Bill could cause issues for medical practitioners, especially the phrase “serious harm to health”. This is a high bar for harm and also somewhat unknowable for a medical practitioner. A person’s right to health is not qualified in international human rights. It is also impossible to know in advance how much harm is going to be done to someone’s health. The World Health Organization, in its Safe abortion: technical

and policy guidelines of health systems, from 2012, had the following to say on best practice around risk to health as regards abortion care:

The fulfilment of human rights requires that women can access safe abortion when it is indicated to protect their health. Physical health is widely understood to include conditions that aggravate pregnancy and those aggravated by pregnancy. The scope of mental health includes psychological distress or mental suffering caused by, for example, coerced or forced sexual acts and diagnosis of severe fetal impairment. A woman's social circumstances are also taken into account to assess health risk.

We should consider taking that on board in the legislation.

It would be better to remove "serious" and just refer to a risk to health in the Bill. To try to quantify the risk to a person's health takes away a person's ability to accept what level of risk they are willing to take. It goes against international best practice and the advice given to the Oireachtas joint committee on legislating on health grounds. We could be going back to a situation where doctors could be waiting for a risk to become substantial and serious before intervening.

We need to tease out on Committee Stage the very important issue of conscientious objection. I accept that people have the right to conscientious objection. As has been said, in countries such as Italy it has been used very frequently, meaning that some women have to travel long distances to find access to healthcare. The submission from the Abortion Rights Campaign stated:

The result of this practice is that, although abortion in Italy is technically legal, it can be practically impossible to access, with more than 70% of providers (rising to 90% in southern parts of the country) refusing to provide abortion care. Indeed, one woman had to visit 23 hospitals in order to obtain an abortion.

We also need to be very careful in this country. In some practices where there is a main GP, the other GPs in that practice could feel the pressure from that particular GP. It would be a shame if we were not to provide that. The submission from the Abortion Rights Campaign also stated:

The Health Bill is no different: it states that a medical practitioner invoking conscientious objection "shall, as soon as may be," arrange for the patient's care to be transferred to another practitioner, but does not define "as soon as may be".

We need to look at that area.

**Deputy Clare Daly:** I will be brief because while today is an incredibly important day, in some ways it is a sort of abstract day. It is an important stage in the process in delivering access to abortion to women. People have crusaded for this important day over decades since the insertion of the eighth amendment in the Constitution in the first place. At times I am sure many people thought we would never get here. Now that we are here, we need to leave much of the input to the experts.

What is happening today? Today sees the introduction of the Second Stage legislation in the post-repeal the eighth amendment era. It is incredible that we are still able to say that now and it has not really kicked in. We are in a post-eighth amendment scenario where everything is

different, but yet, as it stands, everything has remained the same. As legislators, we have been charged with putting together the best and most comprehensive legislation that gives a voice to our citizens who have engaged in this debate over not just the past year but years in many instances. That is all we have been asked to do.

Last week I attended a press conference by the Abortion Rights Campaign, advertising last Saturday's march. It was attended by the excellent Dr. Mary Favier, a GP who, along with her colleagues, will be at the forefront of service delivery. She made the point that the law is one thing, but implementation is an entirely different matter. Some jurisdictions have perfect law on paper, but in reality women find it difficult to access services. In other instances it is the reverse. The important job is to ensure that Irish women in whatever circumstance have access to abortions where they need them. The people have spoken clearly. What was put before them was access to abortion up to 12 weeks' gestation without any restriction or justification as to reason. Our job is to introduce legislation that facilitates that.

Other Deputies have highlighted some of the shortcomings in the legislation before us today. I do not see any merit in me repeating those points. For some time organisations, such as the Irish Family Planning Association, IFPA, have soldiered on dealing with women's reproductive health issues. They not only provided the services but also had to crusade for legislative change. We now expect those organisations to be at the forefront of service delivery in a post-eighth amendment scenario. If we are expecting that, as we are, we need to listen to what they have to say. They have articulated it and other Deputies have referenced their submissions. It is our job to do that and the Bill as it is tabled does not do that. It is great that is there, but it needs to be changed and improved.

The IFPA made the point that the people spoke clearly about providing access to abortion, but the legislation does not mention the word "abortion" anywhere. I see nothing wrong with including "access to abortion" in the Title. In the previous Dáil Deputy Wallace tabled the first initiatives relating to broadening access to abortion in Ireland. At that time, Alison Spillane worked in Deputy Wallace's office and she has now gone to the IFPA. That organisation has been to the fore and its views have to be taken on board.

The biggest weakness, which needs to be addressed more than anything, is the issue of continued criminality. As the Minister knows, we all sat through the hearings of the Oireachtas joint committee, the Citizens' Assembly and so on. It was very clear that restrictive abortion legislation does not prevent abortion. It just means they happen later or are more unsafe. It is very clear that criminalisation causes stigma and causes harm, and people want to move away from that.

As other Deputies have said section 5(1) continues to make broad provision for criminalising the activity. It is very unusual when compared with other healthcare legislation, which is much more specific in terms of what constitutes an offence. This creates a grey area for doctors. We cannot divorce this from the fact that the HSE has not been women-friendly in terms of providing proper reproductive care for women in the State. Without full decriminalisation, we are getting into problems here. The chilling effect continues. The signal to doctors is that this legislation is just the same as the Protection of Life During Pregnancy Act with slightly broader parameters. If we do not address the issue there, we will have very serious problems. It is not really human rights compliant unless we move to total decriminalisation.

Other Deputies have spoken about the waiting period. The World Health Organization has

stated that such a waiting period is a barrier to accessing safe abortion. We heard from the best, including legislators in the Netherlands and so on who were very clear. Deciding to have an abortion, like deciding to have a child, is a very serious decision. No woman makes that decision lightly. I have no problem with time being provided for people to make that decision, but I do not need to tell people that. People already allow themselves as much time as they need to make that decision.

Unfortunately, sometimes people do not have that freedom. They may be in a job with an employer who might make it difficult for them to get time off. They may need to access the abortion pill over the weekend and so on. The time period for thinking about it must be, as in the Netherlands, from the first phone call. I do not think anyone would have a problem like that. When moving into periods of later gestational limits, however, and a doctor then operating on the basis that he or she might be criminalised later on, it is too dangerous unless we tackle that issue. Therefore the section on the waiting period needs to be firmed up.

I refer to what constitutes a pregnant person and a medical practitioner. Other countries, such as the UK, are moving away from a system dependent on nurses and midwives, and the facility is widely available in the early stages in primary healthcare and so on. We cannot restrict and outlaw those providers from being able to provide the facility later on.

I will not repeat points made by others. I see no point in that. The issues have been well flagged by people at the coalface. This is only a symbolic day because the real body of work will be done in committee. There is an acceptance on this side of the House that the Bill needs to be amended. We are very glad it is there. We are very clear about what the people have spoken on. At the moment it needs to be improved in line with the wishes of the people. That is what we will be doing on Committee and Report Stages.

We welcome this strategic landmark. That is what it is and we should be glad to recognise it. It is a long time coming in a country that has not treated women appropriately in terms of childbirth and so on. I welcome that the Minister has brought it to the floor of the House and I look forward to working constructively to make it better and fit for purpose when it emerges from Committee and Report Stages.

*4 o'clock*

**Deputy Mattie McGrath:** I welcome the opportunity to speak on this issue. The Bill we are due to “debate”, and I use the term very loosely, represents a moral, political and humanitarian catastrophe. It is now absolutely clear we have decided to anchor our understanding of human dignity in a culture of vicious political supremacy of the strong over the weak. We have done so fully aware that wherever legislation such as this is introduced, it soon generates a momentum that makes further liberalisation almost impossible to resist.

We have seen that process begin already. Yesterday morning the abortion lobbying and taxpayer funded National Women’s Council of Ireland sent all Members of the Oireachtas an email urging them to submit amendments deleting sections 5 and 6 from the Bill before us. These are the sections that deal with offences either by individuals or by corporate bodies or institutions. Let us be clear about what the National Women’s Council of Ireland finds so offensive. The very first line of section 5 states: “It shall be an offence for a person, by any means whatsoever, to intentionally end the life of a foetus”. According to this logic, it is a sign of intolerable restriction to have the Bill make any provision whatsoever for offences to be committed. The

National Women's Council of Ireland and its supporters clearly want the practice of abortion to be removed entirely from the scope of legal penalties. This is a scandal. It is also a clear sign that the provisions of this Bill will be absolutely resisted by abortion rights extremists.

I am sorry the Minister has left the Chamber. In his usual doublespeak, he pleaded with us, the Members of this House, to make life as easy as possible for him, and not to resist the Bill or seek to amend it. Despite this, he could not wait to hear my contribution, which tells us how tolerant he is. He sent a rather embarrassed Chief Whip to the Business Committee last week with a demand that we waive pre-legislative scrutiny on this Bill. I was shocked and I resisted that to the best of my ability as a member of the Business Committee on behalf of the Rural Independent Group. Yet, that very same morning, he was reported in the *Irish Examiner* as saying there is a duty on all of us who are honoured enough to sit in the Dáil and Seanad to scrutinise and ask questions on the legislation. I would have thought that was a prerequisite for any legislation. We have had a pre-legislative scrutiny process for some time and it has proved very successful. On that issue, we absolutely agree we have to scrutinise and examine legislation, ask questions and put forward amendments, which is our duty. However, unlike the Minister, I believe that Bills of the nature and gravity of the one being proposed must be rigorously subjected to the parliamentary process of pre-legislative scrutiny. That is what the process is for and it ensures we avoid the pitfalls. His fear and his unwillingness to submit the abortion Bill to in-depth scrutiny speaks to an implicit acceptance that the Bill is fundamentally flawed on several levels. As I said, the people have spoken and he has a job of work to do, but why would he try to rush that, despite the fact some Members wanted to sit late tonight and tomorrow to rush it through? We must make haste slowly. It is very serious legislation. I cannot fathom why the Minister was afraid to submit this legislation to pre-legislative scrutiny. All summer was spent drafting it and building on the heads of the Bill, which were put before the people. Why would he not want to have in-depth scrutiny of this Bill, like many other pieces of legislation? We have had enough bad legislation and legislation with loopholes that is then brought before the courts and challenged constitutionally, as well as the other negative impacts of legislation which did not have proper impact analysis. I believe pre-legislative scrutiny is necessary.

This makes a mockery of authentic conscientious protection rights and it tramples over the many professional concerns that exist around the absence of ultrasound technology to determine gestational age. It makes a mockery of it, as GPs up and down the country know. They know how limited they are and how much pressure they are under, with the FEMPI cuts and the whole issue of GPs leaving the country. I will return to these issues shortly.

An exhaustive analysis performed by the Oireachtas Library and Research Service last year clearly showed that pre-legislative scrutiny has a "proven record of influencing a Bill's content before it is entrenched, and providing a locus of guidance for parliamentarians, demonstrating its value as a significant contributor towards the development of better legislation." Goodness knows, there are enough faults in the HSE and enough clamour and serious scandals of huge proportions, including the latest one concerning cervical cancer. Surely, for this sensitive legislation around healthcare for women, young and old, though mainly young, we would have pre-legislative scrutiny and ensure that every parliamentarian had a chance, so we would enact robust legislation that was not flippant. I cannot understand the Minister's doublespeak when he is reported in the *Irish Examiner* as saying he wants full and protracted scrutiny and, then, he sends the Chief Whip into the Business Committee to ask us to bypass or do away with pre-legislative scrutiny on this very important legislation. In light of that statement, it is impossible to tell why the Minister and the Government sought the waiver on pre-legislative scrutiny. The

explanation might be that he wants his legislative trophy more than he wants good law. That question has to be put to him as that must be the true situation. We have had enough bad law for many years across our economy. Given we now have a system to scrutinise law, we should use it and not try to bypass it.

I want to be absolutely clear. To my mind, this is a Bill that ignores fundamental freedoms, annihilates the first principles of medicine and levies upon the conscience and purse of a nation unjust taxes to support it. We are all worn out at this stage from pre-budget lobbying and meetings, and we see how difficult it is and how scarce resources are in healthcare and across all walks of life, yet there is no problem with finance for this. People out there know all about it. There are people with cataracts waiting four and five years for treatment while they are going blind. People are waiting for hip operations and for orthodontic treatment for their children, there are adolescents who cannot get into CAMHS, despite the level of mental health pressures that exist, not to mention the trolley crisis. Those people know the real situation. However, to question this Bill, to seek to amend it or to seek parliamentary scrutiny of its provisions is to mark oneself out as an enemy of progress. I want to state I am no enemy of progress. We must listen to the people who have voted. However, if accepting the erosion of fundamental rights is “progress”, then I want no part of it. There is no doubt this Bill will live long in the memory as the chief political legacy of a Minister for Health and a Government that gleefully offered up the protection of the smallest and most vulnerable in return for their entry to a dehumanising and debasing ideological cartel.

There are widespread problems with the Bill. There is the terrifying definition of the unborn child as “an embryo or a foetus during the period of time commencing after implantation in the uterus of a woman and ending on the complete emergence of the foetus from the body of the woman”. Where does this definition or this understanding exist in the real world? Does anyone here seriously believe that this is not setting the legislative groundwork for late-term abortions? It could not be clearer to me. Of course it is. From the briefing the Minister gave yesterday, which I was unable to attend although my parliamentary assistant attended, I understand there is absolutely zero possibility of real and meaningful conscientious protection, either for medical personnel or for medical institutions, coming into force. This is guaranteed to create a major conflict within the GP and hospitals system.

I worked very hard during the talks on the programme for Government, assisted by my staff and, indeed, my own daughter. I hoped to have a perinatal hospice service introduced. I hope there is as much zeal to support women who face a crisis. I want all supports necessary to help them keep their babies and to carry on with their pregnancies. Supports such as perinatal hospice care nationally were promised in the programme for Government but we have seen very little introduced in the two and a half years since the Government was formed. Also promised were housing supports for lone parents, supports for families with children with disabilities and improved maternity services, which are badly needed.

I salute the staff of the paediatrics ward in Tipperary who are receiving an award tomorrow night, as are maternity services staff. They are under huge pressure and they are very short-staffed. Nurses are leaving the service which cannot attract new recruits and that is having a hugely negative impact on what the hospitals do every day, notwithstanding their excellent track record.

Just last week, we heard about the huge extra costs faced by families of children with life-limiting conditions. Children with autism and many other health issues have little or no sup-

port. As a pro-life Deputy, I will continue to fight for these supports and hope the Minister and the Government will be open to supporting fully all women who need extra help to get through whatever crises they face.

From the briefing the Minister gave yesterday, however, the possibility of meaningful change looks like zero, which is guaranteed to create a major conflict with GPs and our hospital system. Regardless of the weasel-worded definition used in the Bill, the legislation will trample over the sincerely held belief of doctors who do not want to play any hand, act or part in the destruction of innocent life. Yesterday, we all received an email from Doctors for Conscience. It contained a copy of the letter sent to Mr. Fintan Foy, CEO of the Irish College Of General Practitioners, and was signed by 203 Irish medical doctors. It was not two, 12 or 50 but 203. Many more were afraid to sign because their contracts are up for renegotiation with the implicit threats that go with that. The email included the following:

We are writing to express our profound concern that the ICGP has not made the issue of freedom of conscience a central part of its consultation with GPs regarding the Government's proposed new legislation on abortion. There is no question but that this is the stand-out issue for GPs and the ICGP board knows this to be the case.

I discussed this with the IMO last week during a pre-budget meeting. However, the IMO does not want to talk about it and wishes simply to take whatever diktat comes from the Minister and run with it. That is no solace to the hundreds of GPs who are fiercely conflicted about what is being foisted on them. The email continues:

The Minister for Health is tasking GPs with the provision of an abortion service without first asking GPs on the ground if they think their surgeries are an appropriate setting. Neither was the question asked in the recent ICGP online survey.

What are we afraid of? Why do we not deal with the real issues? We have issue after issue being foisted on GP practices. such as health care for the under sixes and under 12s, which already have queues out the door because hospital emergency departments are so full. New patients cannot be taken on by most GPs and people have to wait a week to eight days for an appointment. I salute GPs who are working under awful pressure. One of them is sitting behind me, namely, Deputy Michael Harty, who knows the pressures more than anyone. The pressure is greater on rural GPs whom we are trying to keep. I thank the Ceann Comhairle for selecting my Topical Issue matter later on a rural practice in County Waterford in my own parish.

This question was not asked in the ICGP's recent online survey. Why did it not ask? Is it afraid of getting the wrong answer? The Minister and Minister of State are no doubt fully apprised of recent online surveys, including the one on *GPBuddy.ie* where 75% of the 936 registered GPs who took part were opposed to a GP-led abortion service. It was not 10%, 15% or 25%. It was 75% of the 936. Is that not a message? Nevertheless, the Government continues to bulldoze this along without any consultation or meaningful interaction with GPs.

Does this letter from more than 200 doctors not give the Minister cause for concern or pause for thought? Does it not suggest the need for pre-legislative scrutiny and a need to make haste slowly with this serious legislation? Does it not provide the Minister with a moment's hesitation about the nature of what he proposes to force upon dedicated men and women who have given their professional lives to the Irish people and the Irish healthcare system? We see that 24-7 in rural GP practices where doctors live in the community and are part of it. Indeed,

Deputy Harty was elected on the slogan “No doctor, no village”. That is very true. If the Minister cared to go out from the leafy suburbs to the country, he would see what goes on. It is wrong to treat professionals like GPs like this and to foist issues on them, of which this is the third or fourth in recent times, when they are suffering from financial emergency measures in the public interest, FEMPI, cuts of almost 40%. They have been decimated. Clearly, it has not given the Minister any pause. I beg the Minister and Minister of State, Deputy Byrne, to pause for reflection and to treat GPs, practice nurses and all other healthcare providers who have a conscientious objection with the respect and dignity they deserve having qualified, followed their vocations and provided decades of service.

It is horrifying that the Minister is even contemplating removing parental consent before a child obtains an abortion. I remember that we tried to bring up the age limit for children in the context of cyberbullying and everything else. This flies in the face of all that. As I understand it, the Minister did not rule this option out at the briefing yesterday. I ask if he will rule it out today, although he is not in the House to answer right now.

I could stand here and try to persuade the Minister that the very humanity of the unborn child should be reason enough to cry halt to this truly barbaric legislation. However, it is clear that such an approach would be utterly pointless. The Minister and his supporters have been totally captured by a vicious logic which pays no heed to the most vulnerable in our society, namely, the unborn child. If such heed had been paid, this legislation would not be as desperate as it is. The Minister has closed his ears and eyes to the reality of the unborn child as a member of the human family, fully deserving of our protection and our care. I will propose various amendments to this Bill, just like many other Deputies who indicated that point to the Minister at the briefing yesterday. I hope we will have time in the House to deal with those, notwithstanding the eagerness to rush this through and to bypass pre-legislative scrutiny. I hope we will have a proper discussion and that the amendments will be considered and not scoffed at as coming from backward people.

I will continue to try to sanitise the brutal tool that we have before us and to give some help to the many doctors and the hundreds of thousands of people who voted no in the referendum. We cannot just forget about them because one side won. While it is clear that side won, a sizeable proportion of our population are very concerned. Many of those who voted yes did so with huge reluctance. I have been contacted by quite a number recently, as have we all. They did not expect this to be as serious or for the package to be as it is. Many of them will be horrified when they see what the Minister and Government have done with the mandate provided. It will be a salutary lesson in respect of future referenda, legislation and elections. People voted in good faith, as they always do when they go into the polling booth. We must have respect, however, not only for the people who elected us, but also the people who elected other people and the people who voted for other situations. I look forward to debating this under the stewardship of Deputy Harty in the Committee on Health and back here on the floor of the Dáil. I hope we will have a meaningful and respectful debate and that we will be able to pass some amendments.

**An Ceann Comhairle:** We now move to Deputy Catherine Murphy, who is sharing time with Deputy Catherine Martin.

**Deputy Catherine Murphy:** Let me first say how glad I am that we are finally at this stage and that we are commencing the legislative process on this issue. It is a testament to the dedication of campaigners, some of whom have been fighting this fight for decades, that we are finally on the cusp of delivering comprehensive maternal and abortion healthcare in Ireland.



The strength of the mandate given on 27 May leaves no doubt in our minds as legislators as to the will of the people. It was a two thirds majority, with just one constituency not voting in favour of the amendment. The process leading up to the vote was very robust, from the Citizens' Assembly to the all-party Oireachtas committee, of which I was a member. The very fact that a very comprehensive report was delivered and that the public had full sight of it in advance of the referendum was incredibly mature and incredibly important. It was very much a product of new politics that the make-up of that cross-party committee could be so broad in coming to a consensus.

I have been involved in committee work on pre-legislative scrutiny in respect of other issues. It is not the case that pre-legislative scrutiny goes to the detail of writing the legislation. It writes the broad script. This is precisely what the all-party committee did. It did the work of what would normally be seen as pre-legislative scrutiny. I therefore believe there is no deficiency in the legislative process in respect of this legislation. If anything, it was more robust than what one would usually see, and the work of the committee was very public in that it had a very wide audience.

While today is an achievement of massive proportions, it would be remiss not to mention some shortcomings in the Bill. We welcome the fact that the Minister has allowed the amendments to be tabled. It is important that this was possible. I understand that the Attorney General's office is responsible for the drafting arrangements of the Bill. I must, however, echo the sentiments of those who expressed concern about the framing of the Bill. Following a mandate which overwhelmingly sought to remove the stigma and criminalisation of women in this country, it is a shame that the entire first half of the Bill is preoccupied with a listing of offences and penalties which may be faced. Experience and research both show us that perpetuating a fear of criminalisation of the medical profession results in a chilling effect and makes medical practitioners fearful of their actions. This is not the environment in which we want our medical practitioners to operate. I am very glad to hear that Dr. Boylan will take the clinical lead on the implementation strategy, and I hope this will address some of these concerns, but I certainly favour reframing the Bill so it does not lead off with the offences.

The basis of the Bill must be access for women who need abortions. Many interest groups have spoken about the ambiguity caused by the reference to serious health risks or serious harm. This potentially leaves definitions open to the subjective opinion of individual practitioners and therefore makes things still somewhat uncertain for women. Similarly, we need absolute clarity as to how the three-day waiting period will operate. I understand from briefings with the Minister that the clock will start ticking when the doctor certifies the pregnancy, but we must factor in the potential difficulties this may cause. I remember asking questions of the witnesses from Holland as to when a pregnancy is counted from. We were all trying to figure out how this would work for people travelling to Holland from this jurisdiction, for example. The witnesses said a pregnancy is counted from first contact. There is much humanity in the thinking surrounding this when one considers someone who may present with, say, a fatal foetal abnormality. What they wanted to do was give people time, for them not to feel they were under duress or pressure. If this is to be included, then it must be included in a way that reflects the experience.

The Bill allows for conscientious objection. It must be taken into account that women, particularly those in rural or isolated communities, for example, may have difficulty sourcing a doctor who will certify a pregnancy. Given that we are trying to ensure that abortion is not only rare but also performed as early as possible in the pregnancy, it is important to manage

this aspect of the legislation properly. It is imperative that the legislation takes account of the particular difficulties that may be faced by those in non-city or non-urban locations, those with disabilities and those who are in other ways already marginalised in society. I have a particular memory of Professor Veronica O’Keane talking about someone who had bipolar disorder coming into her office. This person was very stressed and Professor O’Keane wondered how she would make her way home, never mind make the arrangements to go to another jurisdiction. We must keep in mind, therefore, that there can be a broad range of people in different crisis scenarios and that there may not be only one crisis but multiple crises.

Regarding the proposal for conscientious objection, my office has also raised concerns about the possibility of certain medical institutions opting out. While the Minister has assured me that there can be no conscientious objection on the part of institutions, it would be remiss of us to ignore the fact that certain boards of management potentially could instruct staff to adhere to internal regulations. We must ensure the legislation covers such eventualities. Other jurisdictions have also encountered the problem of doctors in public hospitals refusing to carry out a procedure where it will be free to the patient yet offering the same procedure in private practice for which the patient would have to pay. The legislation must be robust enough to ensure this scenario cannot develop.

While I know it has been raised *ad nauseam*, I must add the Social Democrats’ voice to the calls for the definition of “woman” within the Bill to be clarified so as to be fully inclusive of all who identify as female or who have a uterus. This must also take account of adolescent women and girls, and the Minister must examine the potential conflict between the age of medical consent and the age of sexual consent. The World Health Organization is clear about the need for children’s voices to be heard in the medical process where their bodies are subject to any abortion procedure. I believe this area needs more thought and clarity in the final legislation and I have no doubt that this issue will be raised on Committee and other Stages. We in the Social Democrats look forward to working with all groups and parties throughout this legislative process to ensure that the final Bill, when passed, provides a best practice example of abortion healthcare in a modern, progressive society.

**Deputy Catherine Martin:** Is lá cinniúnach é seo do mhná na hÉireann, dóibh siúd atá torrach nó a bheidh amach anseo, agus do na daoine agus na grúpaí ó cheann ceann na tíre a bhain éacht amach i mí na Bealtaine seo caite. Today is an historic day. Today, for the first time since 1983, we commence the process to legislate without constitutional constraint to bring compassionate healthcare to pregnant people in Ireland. We owe this day to the people who campaigned tirelessly over the past 35 years and to all those who shared their very personal and traumatic experiences. As we have much work yet to do on this proposed legislation, I will be brief in outlining some concerns the Green Party has about it.

First, I am concerned about the language used in the section concerning offences and, as other Deputies have mentioned, the location of this section within the Bill, but I will bring those concerns to Committee Stage. The Bill also outlines that three days must elapse from the certification of the person seeking termination by a medical doctor before a termination is carried out. The Minister has pledged that people from Northern Ireland will have access to abortion services here. I and my Green Party colleague and Member of the Legislative Assembly in Northern Ireland, Clare Bailey, have brought our concerns about this specific issue to the Minister’s attention. How would that access to abortion services be feasible if two appointments with a doctor may be required? For some travelling across the Border this would mean a three-hour round trip. That is just to get across the Border. It could be longer depending on where

the nearest medical practitioner who will assist them is located. That is two three-hour round trips and two days off within a week. This does not represent a feasible option for many given the time required and the expense of travel. How is this compatible with the pledge made to those in Northern Ireland?

There are also concerns for people in rural Ireland who may have to travel significant distances to find a medical practitioner who is willing to help. It is also a concern for people who lack the financial resources or ability to travel or to take time off work. We must put ourselves in the shoes of those who find it difficult to take the time to visit a doctor and we must ensure the legislation does not put more barriers in front of them. There have been suggestions of changing this provision to allow the three-day waiting period to commence from the time of booking the appointment. We must again tease out how this would work in practice. How would we ensure the confidentiality of the patient? To ask for an appointment three days out may allow the person taking the call to infer the purpose of the visit. How is a doctor to know when the appointment was made without first asking those at the front desk? I ask the Minister to provide clarification on these concerns and to ensure that, if a three-day waiting period is included, it supports decision-making without creating arbitrary barriers.

The Bill constantly refers to the “pregnant woman”. I have spoken to the Minister on this matter before and he has been receptive to changing the phrase to “pregnant person” to be inclusive of trans and non-binary people. While I appreciate that legalistically speaking the phrase “pregnant woman” can be interpreted to mean someone of another gender and does not represent a barrier to accessing services, a simple change of language is symbolically important. It would be an important gesture of recognition and inclusivity. There is much work to be done on this legislation over the next few months but I remain hopeful that we in this House can approach that work in a considered and thorough manner.

**Deputy Kate O’Connell:** Do I have until the end of debate, until 5 p.m.?

**An Ceann Comhairle:** The Deputy has 20 minutes.

**Deputy Kate O’Connell:** Every time a speaker has contributed here today he or she has said, as has been said many times, that this is an historic day. I could not help but grin every time because it meant so much each time it was said. It is a long road that has no turning. There are many people in here who never thought we would get here. We are on the cusp of legislating for free, safe and legal bodily autonomy and healthcare that puts women at its centre, not at the margins like a forgotten and irrelevant host. Along the journey to today there have been moments that shook this nation and that sent waves of emotion across the country. The bitterness and misogyny that led to the eighth amendment being enshrined in our Constitution may be a distant memory for some, yet there are so many echoes of it every day in our policies, in our hospitals and in our legislation. We must be careful not to repeat these mistakes and, where possible, to try always to remember what we are trying to achieve in here. I fundamentally believe that we are trying to make people’s lives better. I believe we will make people’s lives better today.

No doubt many of us have had our inboxes flooded with emails in recent weeks. I know mine has been. I have been told what people voted for and what people wanted to vote for when they voted yes. Fair play to those people contacting me because, if they can look inside their hearts and know what the people are thinking, they may have more in common with our forebears than we know. We should not presume to know why people voted yes in such enormous

numbers. We can only assume that, like the Together for Yes slogan, their private decision in the privacy of the ballot box needed public support. They certainly received that. I thank those who voted yes. We now have to deliver the best legislation possible to honour that resounding yes vote.

We have to let the clinical experts, the doctors and the women involved have the latitude and independence to act in the way they see fit. The chill over medics must be lifted. The isolation, fear, and power over women must also be lifted. What comfort can someone take from placing barriers in the way of doctors or their patients? What sort of individual would take a twisted sense of achievement from the fact that a woman might - just might - be able to make a choice for herself only once sufficient hoops had been jumped through, certain hurdles cleared and certain criteria adhered to? If the idea is that barriers might give people comfort, then we should think about which people we are trying to comfort. Who is most deserving of comfort: a mass of people that we speculate exist or actual physical, visible and credible women, girls or children in need of comfort standing in front of a doctor whether in Tralee, Tullamore or Terenure? In Kerry, over 58% voted yes, in Offaly, over 58% voted yes, and in my constituency of Dublin Bay South, over 78% of people voted yes. Why and how they did that is their own business, but we would do a great disservice to them if we delayed and departed from that which was pledged.

There is a great insight in “Hamlet” when the titular character says that the actions that should be carried out swiftly get delayed so much that they stop being actions at all. We could probably benefit from listening to it a few times in here every day.

Thus conscience does make cowards of us all;  
And thus the native hue of resolution  
Is sicklied o’er with the pale cast of thought,  
And enterprises of great pith and moment  
With this regard their currents turn awry,  
And lose the name of action.

That is the thing about conscience. We are all supposed to have one, but some people deem theirs much more valuable than others. I have been dealing with this issue for almost nine years. When I, based on my own personal experience, started discussing it within my own party and in wider society, there was an attitude that we had been there before, that no one wanted this, and that the public had no appetite for it. When we started discussing it in here, I listened to many conversations suggesting it was a Dublin issue and that it was not relevant outside Dublin. We then saw the map of Ireland showing all of the women who leave every county in Ireland every year and it was in front of us that it was not just a Dublin issue. We had representatives who made assumptions based on the voices in their own echo chamber and their own people telling them what way people were thinking. Deputy Thomas Byrne referred to the gap between in here and out there and to the fact that we needed to employ or engage a Citizens’ Assembly to bridge that gap.

The electorate needs to be conscious of the fact that in here does not necessarily represent what is out there. One of the most significant engagements I had was in Donegal when Dr. Pe-

ter Boylan and I went there to launch the Together for Yes campaign. When I looked down the room where we were doing the launch, I saw between 400 and 500 people but only one politician - he was not from my party either - showing leadership. Deputy Thomas Pringle led the charge in Donegal for the Together for Yes campaign when it was not popular to do so. It was difficult for politicians in Donegal because of the way the vote fell in the end. It is interesting how polls seem to have changed people's views more than perhaps evidence.

In Tipperary over a year ago, I assumed when older men approached me about the eighth amendment that I was about to get an earful. Instead, they told me how they had not thought about the women who went missing when they were young men. They just blocked it out. They never considered the girl in their class who did not turn up one week and disappeared. They never considered why a sister went away to England for six months. They accepted it as truth as they grew up and never considered it was a woman in difficulty and Ireland dealt with it in Ireland's way then.

This is now and it is a fair departure from 2013. Largely due to the political make-up in the House, those of us dedicated to righting the wrong and removing the eighth amendment were able to work together on a cross-party committee and come up with such a comprehensive report. That report did not just land out of the sky. It came from hours of work and dedication from many members of all parties and none. We worked together and trusted each other to have the same purpose at the end. We worked together to get to the end.

We are now in a position where we want to roll out these services. The Minister referred to the number of women who have had to travel from this country to access termination services since the electorate resoundingly voted "Yes". It is our duty as legislators to enact the will of the people and to stop what we were doing before, namely, torturing women and treating them in a cruel, inhumane and degrading manner in their hour of need. We still have one woman a week who receives a diagnosis of a fatal foetal abnormality having to travel in the most difficult of circumstances. I welcome the Minister's comments earlier about the provision of medical records to hospitals abroad in the interim. I remember the lady to which Deputy Catherine Murphy referred earlier. Some of the evidence we heard at the committee was deeply disturbing. A psychiatrist referring a patient abroad for treatment without her medical records was cruel. The professor who gave evidence to the committee said she would lie awake at night worrying about the welfare of those patients.

Hopefully, come the new year, we will start the process of dealing with women's health in a mature and rational fashion in this country. I agree with many of the speakers that there are issues with the Bill. Some of the language used is not ideal. I completely agree with changing the terminology from "pregnant woman" to "pregnant person", inclusivity and also the front-loading of the criminality which brings a negative connotation. There could be a change of ordering in the latter case.

We also must ensure everyone is catered for. We do not want a situation where women in the most isolated parts of our country are not able to get timely comprehensive healthcare. There has to be a proper standard throughout. Deputy Bríd Smith spoke earlier about other health practitioners being involved in this. It is my considered opinion that this has to be led by general practitioners and doctors. It was the will of the committee and the expert evidence suggested that should be the case. In time, there might be an opening for that. However, now I would disagree that midwives and pharmacists should be involved in the prescribing and administration of what are called abortion pills.

We have to ensure sonography services are widely available, not just in Dublin but outside the capital. If a person gets a bad diagnosis in a 20-week scan, this would make sure there is no ambiguity and the person would not have to be moved to another centre to repeat the trauma of a bad diagnosis. Bizarre as it seems, if we just have that principle that women should be at the centre of this, and nobody else, then we are probably on a good path.

While we have managed to repeal the eighth amendment and we are in a new dawn, the negative effects the eighth amendment has had on our society and on families are coming down the tracks. Many of us engaged in this have heard many stories about a missing sister, a long-lost nephew, hidden people and the shame in families. My mother, who is 70 years of age, spoke to me about the crime it was to have a child outside of marriage. An unmarried woman having a baby was seen as the worst thing that could happen to someone, particularly when one considers that for most of us it is the happiest time of our lives. We have to think of the knock-on psychological effects on that whole generation who were fed a diet of hellfire and damnation while being preached to about their personal lives from the altar. It will take a couple of generations to wash the stains of all of this out of our history.

There are several people who deserve our thanks. Ailbhe Smyth fought for this for most of her life. The Together for Yes campaign, somehow, got people from all sides of the political divide to canvass together. I doubt in my lifetime I will ever again have somebody from People Before Profit shout at me about which road I should canvass. It was a once-off but it was worth it. We must pay thanks to the medical experts, many of whom gave their time voluntarily, who attended both Fine Gael and Together for Yes public meetings. They were able to get into their car, travel and take questions in Louth, Meath, Tipperary or whatever part of the country we were in. The medical profession and the activists are the people who have driven this. I refer to those women who told their stories to many people within my party, the women and men who had a diagnosis of a fatal foetal abnormality. That is what changed it for many people within my party. I refer to the barbaric nature of the manner in which we were treating people.

If one were to tell a person in a medical crisis that they had to book a flight or get on a boat, go to a foreign city, deal with a health system with which they were not familiar and bring the ashes of their much-wanted child home, possibly in the boot of their car, it would seem like a made-up story. I am sure that, in time, future generations will wonder what we were at and how we allowed this to happen in our country.

I welcome the fact that this is to be a universal provision. We heard a great deal of evidence regarding barriers to access. Despite a person's means on paper, they may not have the means to have a termination of pregnancy when they want it.

Tribute must be paid to the Minister, Deputy Harris. He has listened and learned and been compassionate and understanding. He listened to the experts and helped us to get to where we are today. I also pay tribute to the members of the Fianna Fáil Party. While Deputy Donnelly is now the party's spokesperson on health, Deputy Kelleher was the party's main man on the committee, and I also pay tribute to Deputy Lisa Chambers. I thank them for sticking with us. I also thank the Sinn Féin members who sat down with me as we worked through the wordings and teased out how we could get to the end with the outcome that we wanted.

I am anxious for this to start in January. It is very important this is done right, that we do not have any errors, that we do not leave anyone out in the cold and that the system we put in place is fit for purpose. I am not going to fall out with the Minister over a week or two, or a month

or two, but it is important this is done right. It is important people can have confidence in our health system that they will get the proper care and that they will not be treated as a trial run, because the woman and her family at the centre expect the very best.

Regarding the amendments, I firmly believe that what which we put to the people is that which we should be passing in this House. Deputy Donnelly put it very well in terms of the heads of the Bill. We must be very careful about any discrepancy between what we said we would do and what we are doing. We have to make sure it is as aligned as possible because the people want to be able to trust their politicians.

On this historic day, after 20 minutes of contributing, I thank all my colleagues, particularly my colleagues in Fine Gael, and the people of Ireland for doing what I thought they would do all along.

**Acting Chairman (Deputy Bernard J. Durkan):** I call Deputy Tóibín. Is the Deputy sharing his time?

**Deputy Denise Mitchell:** I will start off. I did not initially intend to speak on this very important Bill, but as an opportunity has arisen to do so, I will take it.

May was a very emotional time for the women of Ireland, for women from older generations to younger generations, as we saw a new generation of women out marching, canvassing and voting for this important Bill. I am a little emotional thinking that we are finally getting to this stage. We must acknowledge the women who for years had campaigned, put themselves upfront and centre and who took a great deal of stick from the establishment and from others. It is important we commend those women. It is also important we commend the women who marched having campaigned for 30 years to see this day.

I would like to express special thanks to the members of the committee. They worked tirelessly and sometimes under uncomfortable pressure. As the previous speaker said, everyone came together. The members of the committee listened to the evidence presented to them, they stood front and centre and sometimes they took a great deal of stick, but they did that and got through with it. We need to commend and to thank them again, especially the chair of the committee, Senator Noone, who did so well. We must also commend the Citizens' Assembly because, without those people, we would not be debating this Bill today.

Regarding the legislation published by the Department of Health and the Minister, reference was made to the point that the general scheme of the Bill was published before the referendum. We have some observations about the Bill in terms of the way it has been changed from the general scheme of the Bill. The provision dealing with offences has been moved from section 9 to section 5. That places offences very largely at the front of the Bill. That does not generally happen with any other legislation. That is chilling. We should hold up this part of the Bill as being vitally important. For so many women, having an abortion was an offence for which they faced a penalty. Therefore, that is an important point.

On section 10, which deals with the risk to life, there is no mention of the opinion of the pregnant person in this section and how that would feed into the situation. That section dealing with the risk to life still includes the words "serious harm to ... health". The Committee on the Eighth Amendment of the Constitution was very strong that we cannot grade risk. At our party's Ard-Fheis, our position on that was passed in terms of harm as a risk factor in itself, but not serious harm. We need to examine that with a view to teasing out these parts of the Bill.

Section 12, which deals with conditions likely to lead to the death of the foetus, states that the obstetrician who certifies a risk to life or harm to health must carry out the abortion. For practical reasons of rostering and other reasons, that could not work.

Section 13, which deals with early pregnancy, has the three-day, 72 hours provision. We are meeting stakeholders on that and some medical professionals say it would risk access and can cause problems for those people.

The Oireachtas joint committee had five-hour meetings on the legislation some weeks ago. Many medical experts contributed, including Dr. Peter Boylan and representatives of the Medical Council. Representatives of the Irish College of General Practitioners attended also. On the issue of the 72 hours waiting period, we must listen to the medical experts. That is the one thing the referendum has taught us. We must listen to people on these issues, such as the women and the professionals. We in Sinn Féin will be guided by doctors and medical professionals on this matter. It seems that the 72 hour provision was a political decision because it was not part of the Oireachtas eighth amendment committee report.

We are also worried about the timeframe. We need to see more action from the Minister and the Department of Health in engaging with health professionals to ensure the start date of 1 January can be realised. That is very important.

Debate adjourned.

*5 o'clock*

## **Saincheisteanna Tráthúla - Topical Issue Debate**

### **Crime Data**

**Deputy Alan Kelly:** I thank the Minister for Justice and Equality, Deputy Flanagan, for coming to the House to address this issue. In January 2018, I asked the Minister to investigate the situation relating to homicide figures. The Minister is aware that at the time the Policing Authority had serious issues with the statistics that had been provided to it. There were internal tensions between the deputy head of An Garda Síochána analysis service and senior members of An Garda Síochána management regarding the categorisation of these crimes. In March, two very brave women, Ms Lois West and Ms Laura Galligan, came before the Joint Committee on Justice and Equality, where they outlined their issues. Their testimony was the best I have ever heard in these Houses. They knew their information, their data, their work and the professional standards that are required better than anyone I have ever seen. Ms West and Ms Galligan conducted an investigation into statistics from 2013 to 2017, and they also went back to 2003 as a result of that investigation. Under considerable pressure, they refused to sign off on statistical reports they could not stand over. They also told the justice committee that they felt belittled and undermined and that their professional standards had been ignored. As a result, a review has been conducted in respect of homicide figures and other statistics that had been provided to the Central Statistics Office, the CSO. I am of the view that, at the time, Garda management did not want this information coming out because it was damaging to the force's reputation.

On foot of the work of the two Garda crime analysts, has an analysis of PULSE been car-



ried out? Is the system fit for purpose and capable of maintaining statistics? Have gardaí being trained as a result of the revelations made by those two brave women? Were investigative procedures put in place to ensure that statistics are being correctly brought together? Has the administration of PULSE to provide the statistics and other systems in the background changed since January of last year?

Last week, there was a further report from the CSO which contained crime statistics that are very worrying in the context of the increase in serious crime. The CSO has said that these statistics were provided in a new category termed “under reservation”. Is this going to change, and when will it change? Will the Minister indicate if there has been any investigation into the treatment of the two women to whom I refer?

I want to know specifically if gardaí handle personal crime data on citizens of the State in the correct manner. Have gardaí ever passed on to the CSO not just crime statistics but also the names and details of the perpetrators of serious crime? Have gardaí ever passed on names or details of those who are suspected of committing serious crimes? Have they passed on the names or details of the victims of such serious crimes? Has this ever happened or is it happening currently? Has the position in this regard changed in the recent past? Have gardaí been giving personal information on victims, perpetrators or suspects to the CSO as part of the transfer of data? If that is the case, is the Minister absolutely confident to confirm that neither the Statistics Act 1993 nor the Data Protection Act 2018 have in any way been breached?

Will the Minister indicate if the acting Garda Commissioner has invoked section 41 of the Garda Síochána Act to inform the Minister of anything relating to the matter to which I refer? Has the Policing Authority been informed of any concerns in this regard? Will the Minister admit that if there were any breaches of this nature, it would be a very serious matter?

**Minister for Justice and Equality (Deputy Charles Flanagan):** Earlier this week, the CSO published its second quarterly crime statistics release of 2018 “under reservation”. As the Deputy will be aware, the CSO formally recommenced the publication of the statistics on 28 March by issuing the full-year figures for 2017. This is a vitally important development for a number of reasons but particularly for the management of criminal justice policy and Garda operations so we have regular publication of CSO crime statistics to allow for a targeted response to crime. There is a well-documented body of work ongoing in this area to ensure that the CSO can stand over the figures it releases as a true and accurate reflection of the level of criminality in our society.

We must bear in mind that issues with the consistent recording of crime data are not unique to this jurisdiction. This notwithstanding, I remain determined that a strong focus remains on the need for improvements in this area. I am satisfied that the work of An Garda Síochána, in conjunction with the CSO and the Policing Authority, will soon return the crime statistics to the higher standard expected by our national statistics agency.

The Deputy will recall that on 27 July 2017, I published the report of the CSO-Ied expert group on crime statistics. The expert group was established to specifically address six recommendations arising from the Garda Inspectorate’s report on crime investigation for 2014 which directly related to the compilation of crime statistics. During the course of the group’s meetings, a number of new measures were implemented on the Garda PULSE database with the objective of improving data quality and these were outlined to the group by An Garda Síochána. Furthermore, since the establishment of the expert group, a liaison group was set up between the CSO

and An Garda Síochána as a formal, high-level mechanism for consultation and communication between both organisations that will facilitate co-operation and ensure that both organisations can fulfil their respective statutory obligations for the production of crime statistics as set out in the Garda Síochána Act 2005, and in accordance with the procedures and requirements of the Statistics Act 1993. The group, *inter alia*, also oversees the implementation of the recommendations of the expert group. In addition, a revised memorandum of understanding between the CSO and An Garda Síochána was signed in 2017. The CSO has already carried out two detailed reviews of crime data quality in 2015 and 2016 and I understand that further general reviews of crime data quality are planned. The CSO's work provides an important measure of reassurance to support ongoing work to enhance the quality of the official crime statistics.

**Deputy Alan Kelly:** I thank the Minister for his response. I am aware of much, if not all, of the information in the reply. To be honest, I am not trying to catch the Minister out. That is being genuine. I know the Minister is shaking his head-----

**Deputy Charles Flanagan:** I am not.

**Deputy Alan Kelly:** I will take the Minister at his word. I just want to know some information. If the Minister does not have the information that is fine and he can let it be known in the next 24 hours. I want to be absolutely certain that when An Garda Síochána gives information to the CSO, in the past and currently, it does not give personal details of victims of crime, include very serious crimes such as murder and rape. I also want to be certain that they have not given the details to the CSO of the perpetrators of said crimes or the details of potential suspects in those crimes. If it is so, that is fine. If not, then why has the Minister not been told about it? Is the Department aware of this? Was the previous Garda Commissioner aware of it? What has An Garda Síochána done about it? Has it changed in the recent past or has the practice - if it was being followed - been stopped? Have the Statistics Act 1993 or the Data Protection Act 2018 been breached? Are there other serious legal issues as a consequence, apart from privacy and data protection? Was the Policing Authority informed? I want to know whether, since January of this year - a clean-up was supposed to happen and the Minister outlined some actions - practices like this happened and if they did, whether they have finished. I also want to know that the information of citizens of this State, whether they were perpetrators or victims of crime or suspects - I am particularly concerned about victims - was sacrosanct and protected at all times.

**Deputy Charles Flanagan:** I assure Deputy Kelly and the House that I am determined to ensure that a strong focus remains on the need for improvements in this area. I welcome ongoing collaboration between the CSO and the Garda Síochána and, having regard to the important oversight role of the Policing Authority, I am sure that Deputy Kelly will agree it is entirely appropriate that this matter be the subject of careful examination and enquiry by the Policing Authority. If Deputy Kelly has any evidence of wrongdoing or breach of law, I ask him to put that in writing to me, and if there are any irregularities of the type that have been implied yet again by Deputy Kelly, I would be happy to ensure that an appropriate investigation takes place.

The CSO has indicated that improvements to Garda data quality have been achieved in recent times. Important information technology, IT, upgrades are being made which, together with the enhanced supervision and review processes, will facilitate greater accuracy and consistency in crime data. All this must be within the law. However it will take some time for the full effects of the Garda upgrades to be reflected in the official crime statistics. I and my Government colleagues remain committed to ensuring that An Garda Síochána has all the resources

required to carry out its vital functions, including improving data quality. This will be reflected next week in the Garda budget. I am determined to ensure that improvements in this area are appropriate and are carried out and in this regard, I will continue to engage directly with Commissioner Drew Harris in achieving this goal.

### **General Practitioner Contracts**

**Deputy Mattie McGrath:** I am to share time with Deputy Butler. Fourmilewater Health Centre, which is located just across the border from me in County Waterford, serves the parishes of Ballymacarbry, my own parish of Newcastle in County Tipperary, The Nire and Ballinamult, Tooraneena and even further afield. It is a wonderful rural general practitioner, GP, service with 1,700 patients, 1,050 of which are private patients so this is a very viable service. Since the resignation of the former GP linked to the service, Dr. Janes, who resigned in April of this year, the service has been operating with a locum GP service and there has been significant concern about the future of the health centre. I thank Dr. Janes and his staff and the previous doctor, Bill Donovan, his good wife and his receptionist who worked there for years. They gave decades of service. In June the post of a full-time GP for Fourmilewater Health Centre was advertised with a successful applicant being offered a position in July. It is my understanding that the successful applicant accepted the position in August. However, to date contracts have not yet been signed. There is a concern that the successful applicant wants to reduce this service to a part-time service operating a morning-only service thereby bringing his patients to his current practice in Clonmel, which would be a problem for the many patients who would have to travel significant distances to Clonmel, some of whom do not have cars and could not get taxis. It is my understanding that there were four applicants for the position. What is the delay in having the contracts signed and getting the new GP in place? If the successful applicant is no longer interested in providing a full-time service at Fourmilewater Health Centre why has the Health Service Executive, HSE, not moved on to offer the position to the next in line on the panel?

Fourmilewater Health Centre is in a very fortunate position whereby it is deemed to be viable and received significant interest from GPs, which is rare in the current circumstances. If the doctor selected is no longer interested in providing a full-time service, which the HSE informs me it is committed to providing, why is there a delay in moving forward by selecting a new candidate? As there is no GP service in Clonmel or Dungarvan that will have the capacity to take on 1,700 patients, a full-time service in Fourmilewater is vital.

**Deputy Mary Butler:** I thank Deputy Mattie McGrath for the time to speak on this issue. The Fourmilewater Health Centre is located near Ballymacarbry, County Waterford, close to Clonmel. It is a rural practice which provides essential medical care to the local community in Waterford and south Tipperary, and has over 1,700 patients. The previous GP at Ballymacarbry Fourmilewater Health Centre was on sick leave in October 2017 and subsequently resigned his list. The vacancy for the GP position was advertised in June of this year. The staff at the practice have consistently worked with HSE officials to source a locum until a permanent replacement was identified. This has been done on a piecemeal basis for the past 12 months in order to give the patients continuity for this vital service. It is an extremely rural area. This was and continues to be an additional workload for all the staff located at the centre.

Bearing in mind that the practice has been without the appointment of a full-time GP since October 2017 and even though the position of a full-time GP was advertised in June, the prac-

tice is still waiting for that appointment to be made. I understand there were several applicants to the position and a panel has been created. Interviews were held in July and we still await confirmation of the appointment today. It is causing huge uncertainty and distress to many patients and to staff members, who have worked tirelessly to keep the health centre open and operating until a replacement can be identified.

**Minister of State at the Department of Health (Deputy Catherine Byrne):** I am taking this matter on behalf of the Minister for Health, Deputy Harris, who unfortunately cannot be here. The Government is committed to enhancing primary care services in Ireland and to engaging with GP representatives on necessary service improvements and contractual reforms that will enable GPs to better meet the needs of their patients, while promoting general practice as a viable and rewarding career for both existing doctors and future medical graduates.

Agreement on the delivery of these much-needed measures and reforms has the potential to facilitate a substantial increase in the resourcing of general practice on a multi-annual basis. The goal is to develop a contractual framework that has a population health focus, providing in particular for health promotion, disease prevention and for the structured care of chronic conditions, while ensuring patients throughout the country continue to have access to GP services. The Government is aware of workforce issues facing general practice, including the influence of demographic factors and in recent years has implemented a number of measures to improve recruitment and retention in general practice.

GP training places have been increased from 120 in 2009 to 193 places in 2018, an increase of around 60% over this nine-year period. As stated in the programme for Government, the intention is to continue to achieve annual increases in the number of training places available. The number of GPs on the specialist register continues to increase, and has risen from 2,270 in 2010 to 3,700 as of September 2018. The number of GPs holding General Medical Services, GMS, contracts has also risen from 2,098 in 2008 to 2,508 as of October 2018. Entry provisions to the GMS scheme have been changed to accommodate more flexible GMS contracts and the retirement age for GPs has been extended to 72. An enhanced support package for rural practices has been introduced with improved qualifying criteria and an increased financial allowance of €20,000 per annum.

The HSE is fully committed to continuing to provide full GP services from the Ballymacbry Health Centre. Following the retirement of the previous GP in Fourmilewater in July, the HSE made arrangements for a locum full-time GP to be put in place. GP services in this practice continue to be maintained and the existing practice staff members have remained in their respective roles. The HSE has advised that a recruitment campaign has been run to fill the current general practitioner, GP, vacancy. That process is now in its final stages and the HSE is seeking to agree a start date for the replacement GP.

I reiterate the Government's commitment to ensure that patients throughout the country will continue to have access to GP services and to reaching an agreement with GP representatives on necessary service improvements and contractual reforms. I will come back on some of the questions raised by both Deputies.

**Deputy Mattie McGrath:** With no disrespect to the Minister of State, it is typical for her to come in and read out a reply on behalf of the Minister which is useless, toothless and fruitless. We are worried. Some 1,700 patients and their families are very worried. I pay tribute to the staff and the nurses who have kept the centre going, including the person who comes in to my

own parish on a locum basis, Ann-Maria Byrne. The people concerned do not want this kind of report on statistics about GPs and such. They want a service. Four GPs applied for it. If this doctor wants to subsume the practice into Clonmel, it should not be allowed. It is 12 miles away, there are no taxis and many people do not have cars. The HSE must move on. He is having meetings and negotiations with the HSE. The date for signing a contract has been passed a few times and they missed it. We want clarity and certainty, and we want the patients of Ballymacarbry, Newcastle, Tooraneena, Ballinamult and beyond to have the service they are entitled to. We want the staff to have some future. It is an excellent, top-class facility with a top-class service. All we want is a GP appointment that will not diminish the service and subsume it into a bigger practice in Clonmel. Most GPs in Clonmel cannot take one patient, never mind 1,700. We need clarity, honesty and the people to be reassured that they will have a GP service.

**Deputy Mary Butler:** It was evident months ago that the practice was losing its full-time GP. The patients and I are asking why the recruitment process is taking so long. Full-time services were always provided in the Fourmilewater Health Centre. They must continue to be provided for in this rural area. I cannot stress enough how rural the area is. The Minister of State can understand, with 1,700 patients coming here every day of the week, that they are very concerned. They are genuine concerns. There is a genuine fear that this service will be downgraded to a two or three day service. The Minister of State mentioned general practice. We all know that rural general practice is in decline and in crisis. We cannot allow this practice to be lost. We will have to fight tooth and nail for it.

**Acting Chairman (Deputy Bernard J. Durkan):** I thank the Deputy.

**Deputy Mary Butler:** We would like the answer.

**Deputy Catherine Byrne:** I just have a short answer, if that is okay.

**Acting Chairman (Deputy Bernard J. Durkan):** Sorry about that.

**Deputy Mattie McGrath:** A direct answer will do for us.

**Deputy Catherine Byrne:** I can only reply with the answer I gave the Deputies. I have taken notes. I do not know whether I made a mistake or not, since according to this there is a full time practice but I may have heard that it has been reduced to a half-time practice. Did I hear that right?

**Deputy Mary Butler:** It is a full-time practice but the concern is that it might be reduced to a part-time practice.

**Deputy Mattie McGrath:** It has 1,700 patients.

**Deputy Catherine Byrne:** I have taken notes and listened to the concerns of both Deputies. I will go back to the Minister, Deputy Harris. Unfortunately, he has had to go to something else. I will raise the serious concerns that both Deputies have if this service is moved out and goes to another area. Many people will have to be facilitated in even just trying to get to a place from where they are. I am not familiar with the site in question but I am familiar with Clonmel.

**Deputy Mattie McGrath:** The Minister of State is welcome to come and see it.

**Deputy Catherine Byrne:** I will ask the Minister to reply to both Deputies, if that is okay.

**Deputy Mary Butler:** I thank the Minister of State.

### **Legislative Measures**

**Deputy Éamon Ó Cuív:** It is totally unfair that the Minister is not here and that he sent the Minister of State to answer on something he said to me in the Dáil last week for which there was no basis. I have sympathy for Deputy Byrne in her predicament as a Minister of State. I am shocked that the Minister did not, as was arranged by the reform committee at the beginning of this Dáil, come in here and put the Dáil before whatever other commitment he has this evening.

I raised the issue, as did my colleague, Deputy Stephen Donnelly, of bilingual signage or labels on alcohol products. There was a proposed amendment to achieve this. In reply, the Minister said:

Nonetheless, in addition to the practical concern I am conscious that we must in a public health Bill ensure that information on the label is clear and effective. It must be the paramount objective. A study was commissioned from Amárach Research in August 2015 to provide recommendations on how to best communicate critical information through labelling on the risk relating to alcohol consumption. There must be an evidence base to this and we must ensure this is an effective way of communicating. The research indicates that the inclusion of the information in another language on labels served to confuse the message being relayed.

In reply to a further point he made, he went on to say “it would still be less effective. I am in the business of evidence-based policies and evidence-based politics.” It might surprise some people to know that my primary degree was in physics, chemistry and mathematics, fairly rigorous disciplines, and evidence is evidence. It is not hearsay and not throwaway remarks. I have the Amárach research, all 206 pages of it. I do not know whether the Minister read it. There are three references to focus groups on attitudes of individuals towards Irish labelling on tobacco. There are only three throwaway remarks. That is not evidence but people’s view of a thing. There were people many centuries ago who believed the Earth was flat, and if one had a focus group at that time, one might have found that 80% believed the Earth was flat. The evidence that has come forward since is that they were wrong and their view was incorrect and that the Earth is more round than flat. A few people in a focus group expressing a throwaway remark is not evidence.

When one goes through this 206 page report, one will find that they never tried a bilingual label in the research they did. They never said to look at one then the other and got the reactions. At no stage did they actually analyse this question. When one looks at all the chapters and details, this issue was not one on which they did evidence-based research. Their conclusions are largely to the contrary. They cite the Canadian example as being one of best practice. As the Minister of State knows, everything federal in Canada has to be bilingual. The report tells us that bilingual is best and I am shocked that the Minister did not come in here to say sorry and that he made a flippant remark. What he said was serious. He was putting through a Bill and trying to persuade this side of the House that it would be dangerous to public health to have bilingual labels. He claimed to have evidence of this. It is clear now that he did not.

**Deputy Catherine Byrne:** I apologise for the Minister not being able to attend. I understand the frustration of Deputies that we do not have the Minister here to answer some of these

questions. I will read the remarks that have been given to me and maybe come back on one or two of the issues that Deputy Ó Cuív has raised. In his remarks to the Dáil last week, the Minister for Health stated that the Public Health (Alcohol) Bill will ensure that the information on the label is clear and effective. It must be a paramount objective. He made it clear that he could not accept the amendment on including the Irish language on labels for “practical reasons arising from the EU’s standstill period”. The advice from the Department of Health is that a requirement to have the Irish language on labels would have to be notified at EU level and it would have delayed the Bill. The Minister acknowledged the importance of the Irish language in his remarks to the Dáil and agreed to include the warnings in the Irish language on notices in licensed premises and on websites that sell alcohol. The same space restrictions that apply to labels on alcohol products do not apply to notices or websites. Providing for the Irish language on notices in licensed premises and on websites that sell alcohol will ensure that consumers are provided with the relevant health information in Irish at the place of purchase. Both the Minister and I recognise the importance of our native language and, therefore, want to ensure that it is given due recognition within the public health alcohol framework. On that basis, the Department has already been in contact with the HSE and it has confirmed that the website referred to on labels, namely, *www.askaboutalcohol.ie*, will include all the relevant health information in the Irish language.

In 2015, the Department of Health commissioned Amárach Research to do primary research to further inform health labelling of alcohol products to ensure the clarity and efficacy of message. The purpose of the research was to identify people’s perceptions as to the most effective information to be included on the labels so as to ensure that the Department would be provided with the most reliable data and that the most suitable health warnings would be chosen. The findings of the research were, and will be, taken into account to ensure the most effective messaging. The research examined existing labelling systems on products including food, medicine, tobacco and alcohol employing a mixed mode approach which included focus groups and a nationally representative face-to-face group. Deputy Ó Cuív said only three people were involved.

**Deputy Éamon Ó Cuív:** No, I did not say that.

**Deputy Catherine Byrne:** I thought he said there were three focus groups.

**Deputy Éamon Ó Cuív:** No, three references.

**Deputy Catherine Byrne:** I am sorry. The research states: “As a further note of caution, the inclusion of messaging in the Irish language served to confuse the message.” With this legislation, we are moving from a situation where there is currently no health information required on the product to requiring six pieces of information to be included on the label. This is a new approach that will bring with it administrative burdens and costs on business. If the additional requirement is added that the information must be in two languages, that would require a larger area of the label to be used. I will respond to the Deputy’s other points in due course.

**Deputy Éamon Ó Cuív:** As I said, there are three references, one was that the information on the back of cigarette packages was hampered in such a small space due to the length of the sentence in the bilingual approach. That was a view expressed. It is not scientific analysis of the effect because bilingual labels were never tried. Others viewed the inclusion of the messages in the Irish language as irrelevant. That is their opinion, not evidence. Some respondents suggested jovially that the information on cigarette packages was only really useful as an edu-

cation tool promoting the Irish language. A person referred to as “May, Limerick” said: “I just look at them and think, oh, that is how you might say that in Irish...” That is a quote from the report.

The third one relates to tobacco being a very different product from alcohol. Although no scientific study was carried out, or there was no evidence-based study, as the Minister said, it was said as a further notion of caution the inclusion of messages in the Irish language served to confuse the message. That was the opinion, not evidence, of whoever wrote the report. The Minister never asked for the company to examine the issue of effectiveness. It is not in the report and no scientific analysis of it has been done. It is a clear case of a claim being made, which happens frequently in the House, but where there is no basis to it.

One would think in a bilingual State that people would have rights to services in the two languages. Another point is that on a previous occasion, the Minister accused me of being condescending. I stand over what I said, which is that it is hard for those who do not speak the Irish language on a daily basis, people who have not raised their children with Irish as the home language, and those who do not have grandchildren who have Irish as a home language to understand the influence of the visibility of the language in terms of encouraging people to use it. One sentence in the report is key. It states that Canada is best in the class, and Canada is bilingual, so the report undermines the Minister’s argument totally and fully supports my argument. That is evidence if one wants evidence.

**Deputy Catherine Byrne:** I understand Deputy Ó Cuív’s passion for the Irish language. He is an Irish speaker but, unfortunately, I am not. I understand from the Minister, Deputy Harris, that he did not accept the amendment on including the Irish language on the label for practical reasons arising from the EU standards.

**Deputy Éamon Ó Cuív:** That is disputed.

**Deputy Catherine Byrne:** Anybody who spoke in the Chamber during the course of the debate on the Bill, and on Committee Stage, made it very clear that we need the Bill to be passed in order to deal with the problems we have with alcohol in this country. To continue delaying the Bill would be regrettable for most people who, unfortunately, find themselves addicted to alcohol and those who die from it on a daily basis.

It has already taken more than 1,000 days for the Bill to get to where it is now. The groundbreaking legislation which we will see involves health warning and information before the purchase of alcohol in shops and at other points of sale such as airports.

I am taken aback by what Deputy Ó Cuív said about three references made in the Amárach report. I will raise them with the Minister. I have made a note of the points the Deputy made.

**Deputy Éamon Ó Cuív:** I will provide the Minister of State with a copy of the details.

**Deputy Catherine Byrne:** I will ask the Minister to speak directly to the Deputy because I have not read the report and I cannot comment on it.

**Deputy Éamon Ó Cuív:** Obviously, the Minister did not read it either.

**Deputy Catherine Byrne:** I do not know whether that is the case. I will ask the Minister to respond to the Deputy.



**Deputy Éamon Ó Cuív:** It was either that or he told a big porky.

**Acting Chairman (Deputy Bernard J. Durkan):** There are no porkies here, nor any allegations.

### **Civil Liability (Amendment) (Prevention of Benefits from Homicide) Bill 2017: Second Stage [Private Members]**

**Deputy Jim O’Callaghan:** I move: “That the Bill be now read a Second Time.”

The Bill we are debating on Second Stage this evening seeks to amend the Civil Liability Act 1961 by putting a new Part into that Act. The new Part would set out a statutory mechanism that would have the effect of prohibiting people from inheriting assets from the estate of persons whom they have killed. In the law at present there is a partial remedy for that problem contained within section 120 of the Succession Act. However, other issues, in particular how they relate to joint tenancies held by individuals, are not covered at present in statute.

Before dealing with the substance of the Bill I wish to state at the outset that the Civil Liability Act that was enacted by the Houses of the Oireachtas in 1961 was remarkable legislation. It is very sophisticated legislation that was designed to deal with the issues of civil liability, concurrent wrongdoers, survivorship of actions by people who have died and it also deals with actions that can be taken by dependants of persons who have died. It was remarkable legislation, which has been commented on throughout the legal world as being legislation of great sophistication. When it was introduced in 1960 by the Minister of State at the time, Mr. Haughey, it received widespread approval from Opposition leaders such as Mr. Costello and Mr. Tom O’Higgins was also a Member of Dáil Éireann at the time.

Part of the reason it is legislation of such sophistication is that it was drafted by one of the most pre-eminent legal academics of the 20th century, Dr. Glanville Williams. I am slightly hesitant about introducing legislation that is going to amend that remarkable legislation but the House and individuals can rest assured that the only way in which the Civil Liability Act will be amended is through the insertion of this proposed section to specifically deal with the issue of individuals seeking to inherit from the estates of persons whom they have killed. It is important to note that the legislation has its origins in a tragic event in December 2008 involving the brutal killing of a woman by her husband. In February 2010, the man was convicted of her manslaughter. Like many married couples in Ireland, they owned their family home as joint tenants. It is important for the purpose of this debate to be aware of the meaning of a joint tenancy as it applies to property owners. If two, three, four or more people own property as joint tenants, the most distinctive feature of that ownership is the rule of survivorship, under which the share of an owner who dies vests in the remaining owners, which continues until only one owner remains. Its effect in the context of those tragic events in 2008 was that after the woman died, her interest in the joint tenancy automatically vested in her husband who had been convicted of her manslaughter. All Members will agree that that is wrong under the principle that one ought not be able to profit or benefit from a wrongful act. In that instance, the man was able to do so. Thereafter, the family of the unfortunate deceased woman brought proceedings to the High Court seeking to disqualify the husband from gaining full ownership of the family home. The case was heard by Ms Justice Laffoy, one of the finest judges we have had in this country, who recognised that his entitlement to inherit the joint tenancy under the rule of survivorship could

not be eroded because there was no statutory provision which would allow that. However, she came up with an ingenious method to circumvent the entitlement, whereby she stated that the interest of the wife in the family home would be held in trust by the man for the benefit of the wife's family. Importantly, she also commented that the issue should be addressed in legislation and that the Oireachtas needed to act.

The Law Reform Commission produced an excellent report on the issue in 2015. A significant amount of research on the issue was carried out and the practices in other jurisdictions were considered. The commission put forward several recommendations and proposed statutory provisions which form the basis of the Bill.

The Bill seeks to give effect to the legal principle that one should not be able to benefit from one's wrongful act. If enacted, it would ensure that a person responsible for the murder, manslaughter or attempted murder of a joint tenant would have that joint tenancy severed such that the rule of survivorship would no longer operate. If an application was brought by an interested party, a court would be entitled to sever the joint tenancy and determine the amount and value of the offender's interest in the property. The court could decide the offender had no interest in the property, was entitled to the 50% interest he or she held under the joint tenancy or should be granted a level beyond that. In so deciding, the court must take several factors into account, such as whether the victim had children, the financial obligations and responsibilities of the offender, the nature and gravity of the offence and the extent to which the offender displayed a lack of concern for the victim. It would be entitled to consider all relevant factors in determining what was just and equitable for the purpose of calculating the value and amount of the offender's interest in the estate.

Section 120(1) of the Succession Act 1965 provides a statutory prohibition on individuals inheriting from the estate or assets of persons for whose murder or manslaughter they are responsible. The Bill proposes the insertion of section 46B into the Civil Liability Act 1965, which would reformulate and broaden the statutory prohibition in section 120 of the Succession Act. The current section does not cover insurance policies or certain other assets which do not come within the narrow definition currently provided. Under the Bill, a person convicted of murder, attempted murder or manslaughter would be precluded from taking any share of the property or estate of their victim. There is no concern in that regard as it simply reformulates and broadens section 120.

The Minister of State, Deputy Andrew Doyle, who is present, will state that the Government is concerned by section 46B(3), which provides that the rule "shall not apply to any person who aids, abets, counsels or procures the commission of an offence". I am prepared to listen to such concerns. We will not fall out over it. The priority should be to enact the substantive part of the legislation. We will discuss the details of the Bill on Committee Stage. However, we must recognise that the Law Reform Commission believed it inappropriate to include aiding and abetting as an offence which would invoke the operation of this proposed legislative scheme. It is also important to note that section 7 of the Criminal Law Act 1997 provides that "Any person who aids, abets, counsels or procures the commission of an indictable offence shall be liable to be indicted, tried and punished as a principal offender." A person involved in aiding or abetting a murder is liable to be prosecuted for such crime as a principal offender. That is the only contentious part of section 46B.

Section 46C implements the recommendations of chapter 2 of the Law Reform Commission report. It provides an express statutory prohibition on an offender obtaining the benefit of the

right of survivorship and that the joint tenancy between an offender and victim shall be severed from the date on which the offence was committed. That is the central part of the legislation. It is imperative that the joint tenancy is severed and that the rule of survivorship does not operate because the offender would otherwise be able to inherit the estate of his or her victim.

Section 46C(2) provides that where proceedings are brought under this part of the Act it shall be the responsibility of the court to make an order that is just and equitable. As I stated, the court is required to make an order determining the amount and value of the offender's interest in the property, which may be more or less than or equal to half of the interest in the property. A feature of joint tenancy is that the property is owned equally. If two people are joint tenants, they generally each have the right to 50% of the property. The court would determine whether an offender had an entitlement to any share of the estate. As I stated, several factors may be taken into account by the court in that determination, such as the direct or indirect contributions of the offender or victim to the jointly-held property. Such offenders and victims are often married or may have children together and in such instances that would be taken into account.

The age and financial needs of any dependant or any children of the victim will also be taken into account. That will have to be an important factor for any court considering the matter. The court should also take into account the age, financial needs and obligations of the offender. The court should take a series of factors into account when this application is brought.

I may not have mentioned it but the people who can bring this application are referred to in the legislation as interested persons. They are the personal representatives or executors of the estate of the deceased and are entitled to succeed under the estate of the deceased his or her dependants or close family members.

The other part of the legislation that is interesting and novel is section 46E, which deals with the civil nature of proceedings under this Part. This legislation primarily deals with events that are, on one level, criminal offences; people who kill other people commit criminal offences. It is not always the case, however, that individuals who kill other people are held to account before our criminal courts. Sometimes individuals are prosecuted and acquitted, notwithstanding the fact that they may be guilty. On other occasions, there simply is not enough evidence to prosecute a person for a serious criminal offence such as murder or manslaughter. That happens in this jurisdiction, and it happens in every jurisdiction throughout the world.

We need to recall, however, that this legislation comes under the Civil Liability Act. It provides a civil remedy to people who believe the offender should not benefit from the intentional killing performed by that offender on the victim. Consequently, since it is a civil remedy, the civil standard of proof should apply. The civil standard of proof is that something has to be proved on the balance of probabilities. That is different from the criminal standard of proof, which is that it has to be proven beyond all reasonable doubt. There may be occasions when individuals who have killed somebody have not been convicted or have not been prosecuted for a crime. However, that should not stop interested persons from bringing applications under this Act to prevent the person they regard as the offender inheriting under the rules of joint tenancy or the rules under the will. It will mean that if the court is satisfied the individual bringing the application will have put evidence before it establishing, on the balance of probabilities, the person was killed through the intentional act of the other person, that does not make them a criminal but it does hold them civilly liable.

I thank the Acting Chairman for the time and I hope to get the support of the House in re-

spect of this legislation.

**Minister of State at the Department of Agriculture, Food and the Marine (Deputy Andrew Doyle):** I would like to convey the apologies of my colleague, the Minister for Justice and Equality, Deputy Charlie Flanagan, who regrets he cannot be here for this debate due to another commitment.

On behalf of the Minister and the Government, I thank Deputy O’Callaghan for tabling his Private Members’ Bill and for providing us with the opportunity to discuss the important and complex issue that arise, particularly in the context of succession law and property law, where a person is convicted of the unlawful killing of a person from whose estate or property that person might otherwise have expected to benefit.

Regrettably, we are all too well aware of such cases, which, invariably and understandably, generate public interest and extensive media coverage. The difficulties that can arise have been highlighted in a number of high-profile cases that have come before the courts in recent years.

The Government fully understands and appreciates the Deputy’s reasons for bringing forward this Bill and is supportive of the important public policy objectives that underpin it. The Government has decided not to oppose Second Stage for that reason, . However, in the Minister’s view and in the view of the Attorney General, with whom he has consulted in the matter, a number of legal and jurisdictional issues arise, which will require some further detailed examination. The Government has agreed, therefore, with the Minister’s proposal to table a number of amendments to the Bill on Committee Stage.

Before proceeding any further, I would like to convey my sympathy, and that of the Minister and the Government, to the victims of the horrendous crimes that give rise to the need for this legislation. The burdens for families in these cases are all the greater because the perpetrators have usually been part of the victim’s own intimate family or private circle.

It is a well-established legal principle, underpinned in both common law and in statute, that no person should be permitted to benefit from his or her unlawful conduct. This means that any person found guilty of the unlawful killing of another person is prevented by force of law from benefitting from his or her property or estate. The perpetrator will not be allowed to inherit what he or she would otherwise have received on the victim’s death or under the victim’s will, or on intestacy if the deceased had not made a will. This principle finds statutory expression in our succession law in section 120 of the Succession Act 1965, which provides that a person who has been guilty of the murder, attempted murder or manslaughter of another shall be precluded from taking any share in the estate of that other person.

As has been mentioned, a particular problem arises where the perpetrator and victim have been joint tenants of property, such as a family home. Joint tenancy is a form of property ownership that is common among spouses, and its distinguishing feature is the so-called right of survivorship. This means that when a spouse who is a joint tenant of the family home dies, his or her interest in the property passes to the surviving spouse and it does not form part of the estate of the deceased spouse.

In its 2011 ruling in the *Cawley v. Lillis* case, the High Court ruled that the surviving spouse did succeed to the interest of the deceased joint tenant in the property, notwithstanding that he had been convicted of her manslaughter, but the court went on to find that the perpetrator was prevented from using these assets for his own benefit. Instead, it ruled that the surviving joint

tenant held them in trust for the beneficiary of the deceased's estate. However, in her judgment, Ms Justice Laffoy suggested that the case demonstrated the need for legislation to deal with the issues arising in respect of co-owned property in the event of the unlawful killing of one of the co-owners by another co-owner.

Arising from this case, the Department of Justice and Equality suggested to the LRC that this area of succession law needed to be reviewed and updated, and it asked the commission to consider undertaking such a review in the context of its next programme of law reform. The commission agreed to do so, and it published an issues paper in 2014 in which it invited submissions on a number of succession-related matters. The outcome of this consultation process formed the basis for the commission's subsequent 2015 report, *Prevention of Benefit from Homicide*. A draft Bill along the lines of that tabled by the Deputy was annexed to this report.

In the meantime, the Department of Justice and Equality took action on foot of the commission's report by preparing a set of draft provisions that take account both of its recommendations and later input received from the Office of the Attorney General. These draft heads of Bill were included in the draft civil law (miscellaneous provisions) Bill that was approved by Government in July 2017. Unfortunately, due to the pressure of other legislative priorities in the Office of the Parliamentary Counsel, work drafting that Bill has been delayed. The Minister's intention is that the work that has been done in his Department and in the Attorney General's office will provide a good basis for the Committee Stage amendments to the Bill he intends to table in due course.

As regards the content of this Bill, the Government can support much of it and, therefore, I do not propose to dwell on those provisions with which the Government agrees but rather to focus on areas of outstanding concern. First, the Minister has concerns in respect of the section 46B(3), which provides that the prohibition on a person who is convicted of the murder, attempted murder or manslaughter of another person from taking any share in the property or estate of the victim shall not apply to a person who aids, abets, counsels or procures the commission of such an offence. As the LRC's report acknowledges, most of those responding to its issues paper considered that the prohibition rule should also apply to those who aid, abet, counsel or procure the unlawful killing of another. The commission did not accept this view. This decision contrasts with the point of view set out in the issues paper, which stated: "Arguably, a person who aids abets, counsels or procures the killing of another is morally as culpable as the killer."

*6 o'clock*

Deputies may be aware that section 7(1) of the Criminal Law Act 1997 clearly states, "any person who aids, abets, counsels or procures the commission of an indictable offence shall be liable to be indicted, tried and punished as a principal offender."

The Government's view is that the commission's proposal concerning those who aid, abet, counsel or procure the unlawful killing of another person thus requires further examination and consideration. One possible way forward would be to apply the prohibition rule in principle to those who aid, abet, counsel or procure the unlawful killing of another, but to give the court a broad margin of discretion to relax its strict application of the rule where the level of complicity or culpability is unclear or cannot be ascertained. It is worth noting here that conspiring or soliciting to commit murder remains an offence under our law. In the high-profile *DPP v. Nevin* case, for example, the accused was found guilty not only of the murder of her husband, Thomas

Nevin, but also of soliciting individuals to murder him. In the DPP v. Collins case, the accused was found guilty of conspiracy to murder.

As regards the proposed section 46E, the proposal here is to permit proceedings to be brought against persons who have not been subject to a criminal prosecution in the State, including in cases where the unlawful killing took place outside the State, and in cases in which there has been a prosecution but the accused has been found not guilty. This provision raises a number of issues, not the least of which is whether such a proposal could be held to be punitive in its effect. It also means that an Irish court might be called upon to decide whether an act carried out in another jurisdiction did indeed cause the unlawful death of the victim. The Minister, Deputy Flanagan, is concerned that this section raises a number of legal and complex jurisdictional issues that require further detailed examination.

The proposed section 46F provides that all costs should be borne by the offender, except in clearly exceptional circumstances. Depending on the circumstances of the case and the level of costs arising from the proceedings, there may be a risk of unfairness and, possibly, a perception of further punishment. Here also, it might be preferable to give the courts a broad margin of discretion as regards the costs. Finally, while the Bill proposes that proceedings are intended to be civil proceedings, it refers throughout to an “offender”, even where there has been no prosecution or conviction of the person concerned. This will also necessitate some re-drafting.

In conclusion, I want again to thank Deputy O’Callaghan for bring forward his Private Members’ Bill and for facilitating a discussion on the Law Reform Commission’s proposals for reform in this important area.

**Deputy Denise Mitchell:** I welcome the Bill that is before the House today. This is a Bill that in many ways has been a long time coming, given the high-profile case from which many of the flaws and gaps in this area of legislation arise. Sinn Féin will be supporting the Bill through the various Stages and we hope to see its swift passage through the Houses. I understand this Bill comes on the back of the 2015 Law Reform Commission report on a case which saw an individual jailed for the killing of his wife. Under the right of survivorship, this person was entitled to 100% of their shared property. It is a bizarre loophole which sees an offender benefit financially from his or her crime. Under the Succession Act 1965, a person may not inherit any part of the estate of a person whom he or she has murdered, attempted to murder or killed in circumstances amounting to manslaughter. However, because property held in a joint tenancy does not form part of the estate of a deceased person, the rule in the Succession Act 1965 does not apply. This Bill seeks to close this loophole and help prevent a repeat of such instances in the future.

The Law Reform Commission report recommended that major reform of legislation is required to ensure no person benefits from his or her own wrongdoing, especially in cases of homicide. I think that almost everybody will agree that this reform is common sense and I am glad Deputy O’Callaghan has brought this legislation forward. The Law Reform Commission report also recommends that in any court proceedings the court will, other than in exceptional circumstances, order that the costs of the proceedings are to be paid by the offender. This is because such court cases only arise because of a wrongful act of the offender. This recommendation is included in the Bill and is welcome.

I had many questions to ask Deputy O’Callaghan about section 46E but the Deputy has already clarified that this evening. To conclude, I again welcome the Bill, support it, and hope

it passes without delay.

**Deputy Mary Butler:** I commend my colleague, Deputy O’Callaghan, on bringing forward this Bill to address a loophole in current legislation and to ensure that no perpetrator of murder or manslaughter can financially benefit from his or her victim’s death. Despite the passage of more than three years since recommendations were made by the Law Reform Commission calling for legislative reform of the nature envisaged by the Bill, unfortunately we have not seen action to date. This Bill was introduced some 19 months ago and I believe it is high time for us to be discussing it.

The issue initially came to the fore back in 2008 following the manslaughter of a woman by her husband in Howth, County Dublin. Despite being found guilty of this serious crime, the perpetrator stood to inherit substantial amounts from his wife’s estate. This resulted in legitimate public outrage when it became apparent that under our law, the killer of a spouse could legally inherit the deceased’s assets. Many spouses co-own property by way of a joint tenancy. The law at present means that when one spouse dies, even if his or her death is as a result of being killed by the other, ownership of the property automatically transfers to the surviving co-owner. Following litigation arising from this unlawful killing, the High Court recommended that the law in this area should be reviewed. The Law Reform Commission subsequently published its recommendations and proposed legislation in 2015.

Legislative reform is needed to ensure that the principles that a person should be prevented from benefitting from his or her wrongdoing, and that no cause of action should arise from one’s own wrongful act are applied, not only under succession law but also to prevent an offender benefitting in another context. This Bill seeks to achieve that aim. I welcome the fact that the Government will not oppose the Bill on Second Stage and welcome the support from Sinn Féin. Anybody who steps back and looks at this will realise there is an anomaly here that needs to be corrected.

**Minister of State at the Department of Agriculture, Food and the Marine (Deputy Andrew Doyle):** I acknowledge the contributions from all Members present. Perhaps in another time slot, this would have generated more discourse. It certainly deserves to be seriously considered. Deputy Butler mentioned the public outrage and the impact this has had on society. We also must acknowledge the courage of the families of the deceased and the victims who will see this as testament to their suffering and to the manner in which they have pursued and persisted. In fairness, there was no deliberate attempt on any side or on the part of the drafting people to delay this but it is timely.

That said, we must be mindful. As Deputy O’Callaghan said, the original Act is very fine legislation that was introduced 57 years ago. We are tweaking it and the Deputy himself acknowledged that he was cautious about doing so. If we are going to be cautious, we should make sure that we get it right. I think we will get agreement and would be very surprised if we meet any opposition if we can make sure on Committee Stage to iron out and clarify some of those finer points that need to be examined further.

**Deputy Jim O’Callaghan:** I thank the Minister of State and Deputies Mitchell and Butler for their contributions. Listening to Deputies Mitchell and Butler reminded me that, to a large extent, the main victims of the types of issues we are discussing are women. Unfortunately, in the vast majority of cases of death caused by spousal violence, it is men who end up killing women. If the family of a woman find themselves in the situation where their loved one has

been killed and then they see afterwards that the individual responsible for killing her will in some way benefit financially, that must be a terrible issue for them to have to deal with.

I know it is not always the case that it is men who are responsible for these murders. On foot of the case in his constituency to which he referred, the Minister of State will be aware that in exceptional circumstances it can be the other way around. It is worth acknowledging that these horrendous crimes predominantly involve husbands killing wives or male partners killing female partners.

The Minister of State is correct in stating that this is a complex issue. While it is complex, what we are trying to achieve is not. Everyone in the House agrees and recognises that the current position is untenable. It is inappropriate for the law to continue as it is at present whereby someone who has committed and even been convicted of the serious offence of murder or manslaughter, can benefit financially from that act. Everyone in the House agrees that has to change.

At the outset, I commented that the Civil Liability Act is fine legislation. While it is, the good thing about what I am proposing here is that we will not change in any substantive way the Civil Liability Act. We will simply insert a new part dealing with the situations we have discussed here.

The Minister of State raised three issues. The first is the Government's concern that it may not be permitted to specify in the legislation people who aid and abet criminal offences such as manslaughter and murder. The logic behind the Law Reform Commission's specifically excluding aiding and abetting was that it believed in the context of an application before the civil courts that aiding and abetting are quite vague in their definition and can be indeterminate in their meaning. I have no difficulty working with the Select Committee on Justice and Equality and the Government in respect of this matter. If at the end of our deliberations we believe it is appropriate to remove the section I inserted, I am happy to remove it. However, it is important to emphasise, as I did in my earlier contribution, that in Ireland aiders and abettors are prosecuted as principals.

The second concern the Minister of State raised relates to section 46(e), which deals with holding a person who has not been convicted of such criminal offence liable for the wrongful killing of another individual. That already happens in our law. There is nothing to stop individuals from taking cases against persons for assault or indeed for family members of a deceased to take a case against another person for his or her liability for the death of that family member. It can be done at present in the civil courts.

Obviously, it can be contentious. It can mean that the public at large might believe the person is criminally liable for the terrible crime. However, that is not what the court finding actually means. A court finding is that on the balance of probabilities a person has been found liable for the intentional killing of a person. Although people may find this strange, it does not mean that the person has been convicted of a criminal offence but it means that they are liable before the civil courts and can be held liable in damages for it. I do not believe there is anything desperately unusual about this. It can happen in Irish law at present. It is unusual to see it codified in a statute to say that the civil courts can reach findings that, in effect and in meaning for the rest of the public, will mean that the person against whom the decision is made is held to be liable for the wrongful killing of another person.



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The Minister of State's third point relates to costs. Costs can be a deterrent to the family of a victim taking a case before the court. It is important for the legislation to set out that the strong likelihood is that the family will not be held liable for their costs even if they do not succeed in the case. If we do not stipulate anything in respect of costs, people will be nervous about taking such a case because if it does not succeed for them, the rule should be that costs follow the event. It would be terrible if a family brought an application legitimately under this legislation, did not succeed for some technical reason and then find themselves afterwards penalised with an order for costs. There is a purpose and logic to including the cost provision in the legislation. The Minister of State will note that the statute as drafted gives discretion to the court. The court may depart from that rule if it believes it is appropriate.

The Minister of State indicated that the Government believes it may be inappropriate in civil proceedings to have an individual categorised as an offender. That is a minor issue and we will be able to deal with it. We could just refer to that person as the respondent or the defendant as in the case in much other legislation.

I thank all the Members for their contributions. I acknowledge the support on all sides. I think it is good legislation and we should try to expedite it. Part of the reason for such interest in this is that people think it is bizarre that somebody can kill another person and then benefit financially.

Question put and agreed to.

#### **Civil Liability (Amendment) (Prevention of Benefits from Homicide) Bill 2017: Referral to Select Committee [Private Members]**

**Acting Chairman (Deputy Bernard J. Durkan):** As this is a Private Members' Bill, it must, under Standing Orders, be referred to select committee.

**Deputy Jim O'Callaghan:** I move:

That the Bill be referred to the Select Committee on Justice and Equality pursuant to Standing Orders 84A(3)(a) and 141 relative to Public Business.

Question put and agreed to.

The Dáil adjourned at 6.15 p.m. until 1 p.m. on Tuesday, 9 October 2018.