



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Máirt, 27 Samhain 2012

Tuesday, 27 November 2012

Chuaigh an Cathaoirleach i gceannas ar 14.30 p.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

An Cathaoirleach: I have received notice from Senator Denis O'Donovan that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

The need for the Minister for Finance to provide an update on the flood relief programme for Bandon town in view of the fact that the contractor has left the site and work has stopped, an update on the progress of the flood relief programme for Skibbereen town and the surrounding area and also an update on the flood relief programme for Clonakilty town.

I have also received notice from Senator Thomas Byrne of the following matter:

The need for the Minister for Justice and Equality to outline the current and future position of Kells District Court.

I have also received notice from Senator John Whelan of the following matter:

The need for the Minister for Justice and Equality to outline the size and age of the Garda patrol car fleet; the plans, if any, to improve and upgrade the fleet, with particular reference to the status of the fleet in the Laois-Offaly division.

I regard the matters raised by the Senators Denis O'Donovan and Thomas Byrne as suitable for discussion on the Adjournment and they will be taken at the conclusion of business. I regret that I have had to rule out of order the matter raised by Senator John Whelan, as it would entail a repeat of the reply to a similar matter on the Adjournment on 13 November.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, motion regarding the revision of Standing Orders (Private Business), to be taken without debate at the conclusion of the Order of Business; No. 2, motion regarding EU decision on the European Refugee Fund, the European Return Fund and the European Fund for Integration, to be referred to Joint Committee on Justice, Defence and Equality, to be taken without debate at the conclusion of No. 1; No. 3, motion condemning the use of sexual violence in conflict, to be taken at the conclusion of

No. 2 and conclude not later than 4.45 p.m., with the contribution of the proposer not to exceed eight minutes, the contributions of all other Senators not to exceed five minutes, the proposer to be given three minutes to reply and the Minister being able to speak at any time; and No. 4, National Vetting Bureau (Children and Vulnerable Persons) Bill 2012 - Second Stage, to be taken at 5 p.m. and conclude not later than 7 p.m., with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes and the Minister to be called on to reply not later than 6.50 p.m.

Senator Darragh O'Brien: I ask the Leader to convey to the Government our deep dissatisfaction at the selective leaking of the report by the expert group on how the State is to proceed on the abortion issue. The Cabinet is considering the issue today, and rightly so. I am calling for a reasoned, respectful debate on the issue which I am certain we will have in the House, but I am gravely concerned and annoyed at the fact that the report has been played out in the media in the past four or five days in every newspaper and on every radio and television station before Members of the Oireachtas have had an opportunity to look at it. That is outrageous and disgraceful. Through the Leader's good office I call on the Department of Health to carry out an investigation into how many individuals had the report and who leaked it. This was a closely guarded report, rightly so. It is probably the single most serious social issue that the Houses of the Oireachtas will deal with, yet the print media and broadcasters have discussed the report before any of us has even had an opportunity to read it. The individual or individuals who leaked it should pay with the loss of his, her or their jobs. This undermines the democratic process, the reason that the Oireachtas deals with such matters. I am certain that we will deal with this matter in a way that respects other people's positions and views. We will debate it in a proper and reasoned way. However, that the report is being discussed by commentators across the country before it has been examined by Deputies, Senators or even the Cabinet - it will do so today - is disgraceful. Will the Leader pass on my party's grave concerns in this regard and ask the Government at the highest level to instigate quickly an independent investigation into who is responsible? I thank the Cathaoirleach for indulging me, as it was important to point out this undermining of the democratic process.

I wish to ask the Leader about the Greek deal. I welcome the fact that Greece has received an extension in the terms of its debt repayment. In fact, it is a further write-down in Greece's debt and, if I may use the word, a "zeroisation" of the interest rate, something that I have been calling for our banks to do in respect of mortgage holders. The comments by the Minister, Deputy Noonan, are interesting. He stated, "This is a special and particular case. There isn't a crossover into Ireland's affairs." From listening to every senior Minister and the Taoiseach, I had the clear understanding that we were special. Clearly we are not as special as Greece. I cannot understand it. I have questioned the Minister and the Minister of State, Deputy Brian Hayes, in the Seanad about Ireland's negotiating position. I even asked for a broad outline. Let us trust the people and the Seanad with some degree of intelligence and tell them what the Government is seeking. Is it the case that, as the Taoiseach stated in July, we will repay all of our debts and are not seeking a write-down? Why is Greece a "special and particular" case according to the Minister? Are we no longer special to Frau Merkel?

I welcome the Greek deal. It is important and realistic, although it will result in hardships for the Greek people. That said, where is Ireland in the discussion? I ask that, following the budget, we hold a specific debate to try to elicit real answers from the Minister for Finance.

Senator Ivana Bacik: I welcome the fact that the expert group's report will be published this afternoon. I am glad that both Houses will have an opportunity to debate it. It is essential

that a swift decision be made by the Government on the action to be taken on foot of the report. It would be surprising if the report recommended anything other than legislation, given the fact that, in the X case in the Supreme Court 20 years ago, Mr. Justice Niall McCarthy set out the need for legislation to clarify for doctors and women the circumstances in which life-saving terminations of pregnancies or abortions could be carried out. It is essential that we seek action swiftly on legislation to ensure that there are no further deaths of women in circumstances like those of Savita Halappanavar.

There has been an unsavoury debate on the question of suicide risk. It has been rather demeaning and dismissive of women to suggest-----

Senator Darragh O'Brien: We are not having the debate now.

Senator Ivana Bacik: -----that they might somehow fake a suicide risk to obtain an abortion. I am sure that we will have-----

(Interruptions).

Senator Darragh O'Brien: We have not seen the report.

Senator Ivana Bacik: There has been a debate in the public arena.

Senator Darragh O'Brien: Yes. That is the problem.

An Cathaoirleach: Does Senator Bacik have a question for the Leader?

Senator Ivana Bacik: We need to ensure that when this House debates the expert group's report in the coming weeks, our debate is conducted in a way that is respectful of women and everyone, whatever their views on abortion. Clearly, the report will simply address the need to implement the A, B and C judgment. These were its terms of reference.

At some stage in the new year, will the Leader arrange for a debate on the Middle East? There has been a great deal of discussion about Gaza on the Order of Business. We were all concerned to see the terrible civilian casualties in Gaza in recent weeks, particularly the horrific killing of nine members of one family, including a number of children. For a long time, many of us have raised the appalling humanitarian conditions endured by the citizens of Gaza, who are under constant threat to their livelihoods and health. We would like to see a long-term resolution. Although all of us welcome the ceasefire brokered last week through Egypt, a long-term resolution based on two states is clearly required. Once elections in Israel are over in January next year, we might invite the Minister for Foreign Affairs and Trade or a Minister of State before the House to discuss the prospects of a more long-term resolution. Many Members on both sides of the House would be interested in such a debate.

Senator Rónán Mullen: I agree with Senator Darragh O'Brien's comments about the unfortunate way in which the expert group report was leaked. I ask the Leader for an early debate in the Seanad on the content of the expert group report. It is very unsatisfactory that this has been leaked and we have not had an opportunity to comment on its strengths, flaws or what has been included or excluded. I share the calls for a reasoned and respectful debate but there are important issues at stake.

One of the tragedies of this issue is that the Seanad debate could end up as a sham if the Government rushes into a decision and seeks to engage in the pretence of consultation with

each House while allowing itself to be manipulated on the back of a Galway tragedy that is extreme into legislating for abortion in potentially very wide circumstances. I am specifically referring to the medically unverifiable suicide grounds. I disagree with Senator Bacik that the Government should make a swift decision. Everybody agrees that women deserve, need and are entitled to all necessary life-saving treatment but when it comes to a threat of suicide, it is not that people do not seek to act in good faith-----

An Cathaoirleach: Is there a question for the Leader?

Senator Rónán Mullen: I am asking a question on the basis. With regard to the threat of suicide, a psychiatrist has a difficulty in identifying whether a person is suicidal. There is another hurdle if it is to be deemed that a woman is suicidal because a woman is pregnant, and in an opinion of whether an abortion would make the case better or worse. This is not good medicine but rather signing away the life of an innocent person on the basis of an opinion.

An Cathaoirleach: Is there a question for the Leader?

Senator David Norris: I may not agree with the Senator but he should not be interrupted. I ask for direction from the Chair. On a point of order, is the Order of Business confined to questions to the Leader, as the Cathaoirleach has repeatedly implied? I do not recall that precedent being established.

An Cathaoirleach: It is to decide on the Order of Business for the day. We are not to discuss the topic raised by Senators.

Senator David Norris: I greatly appreciate that clarification.

An Cathaoirleach: I am asking if the Senator has a question for the Leader.

Senator David Norris: It is not just confined to questions but will take in the business of the day.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Rónán Mullen: I thank Senator Norris for raising the issue. I note the Cathaoirleach did not interrupt Senator Bacik when she made the points she was entitled to make.

Senator David Norris: Yes.

Senator Rónán Mullen: I was doing no more than responding to those comments, expressing my deep concern that the Government would be allowed, on the back of a very tragic case, to be manipulated into a swift decision that has nothing to do with good medicine and could open the door to abortion on demand.

Senator Ivana Bacik: It would hardly be swift after 20 years.

Senator Rónán Mullen: In fact, it will.

An Cathaoirleach: Is the Senator seeking a debate on the issue?

Senator Rónán Mullen: Yes. In considering what the expert group had to say, it does not seem to have made any reference to the possibility of consulting the people. On a matter this grave, it would seem that is a very significant omission. That must also be discussed.

Senator Michael Mullins: I join Senator Darragh O'Brien in saying that the leaking of a significant report like this is certainly not in the public interest. It shows grave disrespect to the Members of the Oireachtas that a significant report like this which I hope will be debated in a calm and reasoned manner in this House would be leaked. Whoever is responsible for leaking the report should be made to pay and held accountable. It is incumbent on the Government to investigate the source of the leak. The first discussion of the report should have been in the Houses of the Oireachtas after the Cabinet had seen it and approved its publication.

All Members may recently have received a significant amount of correspondence on the link between water fluoridation and cancer incidence in Ireland, with a much lower rate of cancer in Northern Ireland which does not have water fluoridation compared to the Republic of Ireland. It drew a comparison between a much lower rate of cancer in Northern Ireland where there is no water fluoridation and the Republic, and the figures are alarming. Reputedly, the Republic has a 14% higher incidence of bladder cancer, a 23% higher incidence of pancreatic cancer and a 29% higher incidence of prostate cancer. It is important that we would get clarification on whether that information is accurate. I ask the Leader to arrange for the Minister for Health to come to the House in the coming weeks for a debate on this critical health issue, with possibly an expert present who would give us some steer on whether this information is accurate, because if that is the case this country has a serious health problem here which, if the information we are being supplied with is correct, is being caused by the fluoridation of water.

Senator Marc MacSharry: I ask the Leader for a debate on Cabinet accountability to Parliament. For some time those of us in this House have understood the contempt with which the Seanad and its contribution are held by the Government but I raise the orchestrated leaking of this expert report, effectively by the Cabinet because it was provided by the experts to the Cabinet. I do not know what it contains. I have not seen it yet, but as early as last Wednesday, participating in "The Late Debate" on RTE, a journalist was able to say, "Well I'm fully briefed on it". Clearly, somebody briefed people on this issue and that shows the Cabinet's arrogance and disdain in its abuse of Parliament as a mere tool to carry out its wishes. One wonders when the Taoiseach, Deputy Kenny, intends to move the enabling Act as Hitler did in 1933 such is the contempt in which these Houses are held in the context of considering legislation and proposals that are supposed to be put to people.

On another issue, I call for an urgent debate on the banking deal in the context of what the Irish people must sustain in terms of payback. Clearly, Chancellor Angela Merkel, and perhaps the Taoiseach, had George Orwell in mind when she described us as a special case. As our leader on this side of the House rightly said and as George Orwell said in *Nineteen Eighty-Four* or *Animal Farm*, all members are special but some are more special than others.

Senator Maurice Cummins: It was *Nineteen Eighty-Four*.

Senator Marc MacSharry: That is not acceptable.

Senator Maurice Cummins: "Equal" was the word used.

Senator Marc MacSharry: As I said to the Leader several weeks ago when this "special" comment was first made, special does not pay the mortgage for those in arrears. Special does not change the colostomy bag for the person whose home help hours have been cut.

An Cathaoirleach: Is the Senator asking for a debate today?

Senator Marc MacSharry: When will the dictatorship which the Government has become take steps to put the people first rather than tell them we are special and using the media to do its dirty work and leak whatever reports it finds too difficult to discuss in public?

A Senator: We are cleaning up your mess.

Senator John Gilroy: There is a serious lack of irony on the other side of the House.

Senator Aideen Hayden: It is important to recognise that the Greek deal, irrespective of what we may believe - our situation is evolving - will help to stabilise the European situation and as such will be of benefit to this country.

I remind Senator Mullen that irrespective of the sad events surrounding Savita Halappanavar, the fact remains that the expert group on the A, B and C case was going to report in any event and we, as a country, were going to have to face up to the consequences of that expert group's findings.

Senator Darragh O'Brien: Report to us instead of the media.

Senator Aideen Hayden: We can rehearse the debate now or wait, as Senator Darragh O'Brien said, and have a reasoned, reasonable debate when we will all have the opportunity of reading not what *The Sunday Business Post* tells us is in the report but the actual report.

Senator Darragh O'Brien: We should have it now.

Senator Aideen Hayden: I welcome a recent report by Indecon Consultants in which it has evaluated the prospects for a deposit protection scheme. I remind Members that one in five people in this country, 20%, live in rented accommodation and one of the biggest issues they face is the loss of deposits. The average deposit today is €800, four times the social welfare payment. It is a significant matter and one of the principal causes of homelessness in this country is the loss of tenancy deposits. The Indecon report recommends to Government that a deposit protection scheme, where deposits are held by separate body, would be a useful possible development. In the context of the Residential Tenancies (Amendment) (No. 2) Bill, which is on Second Stage in the Dáil, I ask the Minister of State with responsibility for housing to ensure provisions for a deposit protection scheme at the earliest possible opportunity.

Senator David Norris: As I have spoken repeatedly in this House on the economy and the abortion laws in this country, I intend to direct my mind to slightly less global issues. I am deeply concerned about the position of universities, in particular the university of which I have experience, because of the existence of the heads of a Bill entitled the universities (amendment) Bill. Does the Leader have information on the state of the Bill, when it will be finished and when the full Bill will be presented to the House? I am concerned because, under the Bill, the Minister purports to give himself powers to direct universities and, effectively, to change staff numbers and remuneration of staff. He can extinguish subjects entirely and can appoint an investigator, which is a somewhat sinister title, and the investigator will have such sweeping powers as were resoundingly rejected by the people in the referendum on investigations. The powers will enable investigators to enter college rooms and the private apartments of people resident in universities. I find it astonishing and ill-considered. It is the kind of thing that got Mr. Mursi into trouble in Egypt.

My second topic has an economic aspect and is a by-product of the difficulties in which

we find ourselves. I previously raised the issue of the schools on Inis Meáin, where a second teacher was removed. This is very problematic for an island community. Now, the subsidy is being removed from a small aircraft that services the island. One of the principal industries is the knitting industry with connections in Florence. High fashion is produced and 16 people are employed.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator David Norris: Can we have the concern of this House, which is not concentrated in one party, expressed? I have an indication that people from all parties, including the Labour Party, Fine Gael, Fianna Fáil and Sinn Féin, attended a briefing and spoke to the Minister about it. The Leader can transmit the great concern of this House about the situation in Inis Meáin. We are winding down the school and now killing off the industry. How hypocritical can we get as we approach 2016, when we will celebrate the language? The islands are a special tradition, a special cultural area and a special demographic. They need what my colleague objected to, special treatment.

Senator Martin Conway: I agree with Senator Darragh O'Brien regarding the leaking of this important report, for which we waited a long time. I appeared on local radio this morning with a colleague of Senator Darragh O'Brien and I was in full agreement with him on the appalling nature of the leaking of the report. I described it as treason to do that to our democracy. The most appropriate place to have debates on these types of reports, which are paid for by the taxpayer, is the Houses of the Oireachtas. I fully agree with the sentiments of Senator Darragh O'Brien. The person who leaked it should be sacked and jailed.

I commend the EU Foreign Ministers for agreeing an arrangement for Greece. The Greek situation will help us and gifts will come indirectly from Greece. We will benefit and I know the Minister for Finance has a well thought out, focused strategy to ensure the crippling bank debt of this country will be dealt with effectively.

3 o'clock

I have complete confidence in his ability to do that. He is charting the most difficult waters we have ever had to endure and he is doing a remarkable job. International confidence in the country is impressive. The export industry is flourishing and doing extremely well and the positive signs for the future are impressive. We see movement in the aviation industry in Shannon, with the removal of the authority of the Dublin Airport Authority over Shannon and the prospect of combining Shannon Development and Shannon Airport, with an aviation brief.

There are many positive signs and we need to start talking up the country a little more.

Senator David Cullinane: The people are fair minded. They have given the Government a fair wind and given all the Ministers a fair chance. However, my patience and that of many people in the Oireachtas and among the public has been tested by the Minister for Health and by his mishandling of his portfolio. He has become a liability for the Government and for the people. It is not just that the people of Navan, Roscommon, Thurles and Waterford have had, or may have, damage done to their hospitals. The Minister has been caught out in the act of stroke politics. Not only has he been caught out. He was brazen enough to say that if he had the opportunity he would do the same again. That is unacceptable

Both Fianna Fáil and Sinn Féin have called on the Minister to resign. If a Minister does not

resign, however, but brazen it out, as this Minister seems to be doing, there is a responsibility on the leader of the country, the Taoiseach, to act. The Government promised an end to stroke politics, better politics and something different from what we got before. If we are to have something different from what we got before it is very clear that the Minister must go. It is the responsibility of the Taoiseach to ensure that he goes and is replaced by a Minister who will do the job properly and fairly. That is what the people of this State deserve.

Senator Jimmy Harte: I ask the Leader to invite the Minister for Health to the House to explain the situation regarding medical card reviews in the north west. I have been contacted by people in my constituency in this regard. One was the friend of a 91 year old cancer patient who received a letter and medical card review form and, as a result, had not slept for three or four nights. This seems to be a particular problem in the north west. People are being asked to complete and return these review forms. Some of these people have gone to live in nursing homes and do not have the capacity to access the information required or to supply it. Many of them do not even receive the letter or are not aware of it. Many of them have had a medical card for ten years and have never been reviewed. I ask the Minister to allay the fears of the people concerned. I have had several calls to my office from people in this category. Their families cannot find the information they are being asked for because the person concerned is incapacitated. This is causing considerable concern in the north west. I ask that the Minister come to the House and explain this matter and give us some clarity on it.

Senator Paschal Mooney: Last week my colleague, Senator Feargal Quinn, spoke about the number of, allegedly, Irish manufactured products on our supermarket shelves and advised that we be more careful if we wish to support Irish goods. In that context, I raise the issue of a product which I understood was manufactured in Clara in County Offaly. I now refrain from even mentioning the product because I had a communication from the managing director of the company concerned to say the particular toothpaste is no longer manufactured in Ireland. Production has been relocated, for reasons best know to the people who own the company. Although the toothpaste is available in Ireland it is not manufactured in this country. The good news is that the company in Clara is marketing and promoting an Irish made toothpaste. It is the only one on the Irish market and is called Péarla. It is available in Aldi. I make no apologies for saying this. The House and the Government would agree that, coming up to Christmas, we must actively support any product in stores that is good value and made in Ireland to ensure that we not only maintain jobs but create jobs if there is an increase in sales. There are 50 people employed in the Clara facility. They are relying exclusively on the goodwill and good taste of the Irish people. The toothpaste is priced at a very competitive €2 and there is no reason that anybody should buy a foreign made toothpaste when there is an Irish made one available. In that context, will there be an opportunity to hear what the Government's policy is on this aspect of job creation? There might be an opportunity before Christmas during one of the debates with the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton.

Senator Jim D'Arcy: I am a little disappointed with Senator MacSharry's comments. With regard to dictatorships, there was only one Taoiseach in recent years whose democratic credentials were questioned and that was by his own sidekick who referred to him as *uno duce, una voce*.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Jim D'Arcy: It is very sad that a young girl, a first year student in Maynooth post-primary school, died as a result of suicide this weekend. On 14 November we discussed

a Private Members' motion on cyberbullying. At that time the House acknowledged the establishment of a working group which is to produce a report and an action plan on bullying by Christmas. It is very important that we receive that report as soon as possible so the Minister for Education and Skills can convene whatever relevant groups, organisations and Departments are necessary to devise a comprehensive plan to deal with this. We cannot continue to lose children in this way.

Senator Sean D. Barrett: No. 1 on the Order Paper relates to the changing of the majority required for Private Bills to be passed by the Oireachtas to 50% instead of the previous 75%. I have written to the members of the committee, whom I hold in the highest respect, on this matter. It is important that people's property rights are not infringed and that there should be full discussion. There is literature on qualified majority voting but the report does not refer to it. I understand there are no cases pending which this would affect but it is important that we examine all the literature, both in academe and elsewhere. There are plenty of bodies which require 75% or two third majorities. It is there to protect existing institutions. The case made in the report for walking away from the 75% is a UK judgment of 1910 and a subsequent more recent case here. However, the authority to make that decision rests with the Oireachtas, not lawyers. I ask the committee to look at the things I mentioned in the letter and at the literature before putting this forward. It is an important power of the Oireachtas which should not be dispensed with on legal advice which I consider to be one-sided and which does not look into why so many bodies have qualified majority built into their voting systems.

Senator Susan O'Keeffe: I agree with Members who said that the leaking of the expert group report was unfortunate. However, Fianna Fáil members are probably not the best people to call for people to resign, on the grounds that they probably wrote the book on how not to resign.

Senator Darragh O'Brien: What is the Senator talking about? She is propping up a health Minister who should have been gone months ago. Is she joking? The Minister of State resigned as a result. The party sacrificed Deputy Róisín Shortall. She had no patience either. Is the Senator kidding me, for God's sake?

Senator Susan O'Keeffe: That is precisely the point I am making.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Susan O'Keeffe: Yes. I ask the Leader to urge the Minister for Health to consider an independent inquiry into the death of Savita Halappanavar under the Commissions of Investigation Act 2004. People have said that any inquiry would be long, costly and complicated. However, this event is not comparable to others that have been subject to inquiry. Her death took place in a matter of days and we know the people concerned. It is not an inquiry that would go on. The Commissions of Investigation Act 2004 would allow the Minister to set up such an inquiry. With the approval of the Minister for Finance, the Houses of the Oireachtas can approve that draft and such a commission would be entitled to compel witnesses to give evidence. The evidence would be given in private but the report would have to be made public. I would trust this would allow Praveen Halappanavar to have the independence he so urgently requests and, in fairness, needs after his experience, not just with the death of his wife but in the way he has been treated subsequently and in the unfortunate events surrounding - it would appear - the lack of information regarding the files he has been given. As a matter of urgency I ask the Leader to request the Minister for Health to set up such an independent inquiry.

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Senator Mark Daly: I also ask the Leader to investigate why this report was leaked. Obviously it came from members of the Cabinet or from the Minister for Health's Department. He has many grounds on which he could resign - now he just has to pick one from the list.

Senator Michael Mullins: That is an outrageous comment. There is absolutely no evidence-----

An Cathaoirleach: Senator Daly to continue, without interruption.

Senator John Gilroy: That is an abuse of-----

Senator Mark Daly: Given that the Minister for Health has said that he would stand over a decision-----

Senator John Gilroy: On a point of order-----

An Cathaoirleach: I call Senator Gilroy on a point of order.

Senator Mark Daly: I would say that you will find out this is not a point of order, a Chathaoirligh.

An Cathaoirleach: I will decide that.

Senator John Gilroy: I believe it is a point of order. I believe Senator Daly is abusing the privilege of this House by impugning the reputation of the Minister in this regard, without the slightest bit of evidence.

An Cathaoirleach: That is not a point of order. It is a political charge.

Senator Mark Daly: Was I right, a Chathaoirligh?

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Susan O'Keeffe: How can the Senator accuse the Minister without knowing?

A Senator: Was Deputy Shortall wrong?

An Cathaoirleach: Does Senator Daly have a question for the Leader?

Senator Mark Daly: I ask the Leader to inquire as to why this report was leaked. Who leaked the report? Perhaps he might come back to the House tomorrow and inform us whether the Government will make any attempt to find out how this report ended up in the media. As Senator MacSharry has pointed out, members of the media appeared on national television saying that they had been briefed on the report before any Members of the House. Senators opposite might be getting upset over us trying to find out what happened and why this report was leaked.

Senator Jim D'Arcy: Keep going.

Senator Mark Daly: They seem to be more concerned with defending the Minister and defending the fact that this was leaked-----

Senator Susan O'Keeffe: That is an outrageous lie. That is not what we said.

Senator Mark Daly: ----- rather than bothering to call for an inquiry to find the source of the leak.

Senator Susan O’Keeffe: That is not what anybody on this side said.

An Cathaoirleach: Senator Daly to continue, without interruption.

Senator John Gilroy: Senator Daly to continue, without any foundation.

An Cathaoirleach: The record of the House will speak for itself. Does Senator Daly have a question for the Leader?

Senator Mark Daly: With all due respect to the Senator opposite, who suggested it is without foundation, it is in the public arena because it was leaked, as he is well aware.

Senator Susan O’Keeffe: It is hardly the point.

An Cathaoirleach: Senator Daly is inviting trouble. Does he have a question for the Leader on today’s Order of Business?

Senator Mark Daly: Regarding the deal Greece secured, I ask the Leader to organise a debate on why Ireland is not seeking such a deal. The Minister of State with responsibility for European affairs came to this House and said Ireland has no position when it comes to seeking a deal.

An Cathaoirleach: The Senator is way over time.

Senator Mark Daly: With due respect to the Members opposite, if I had not been interrupted-----

An Cathaoirleach: The Senator is way over time.

Senator Susan O’Keeffe: If he had spoken fairly, we would not have interrupted.

An Cathaoirleach: As Senator Daly is over time and has moved on to a second item, I call the next speaker.

Senator Mark Daly: I ask the Leader to organise a debate on Ireland seeking a deal on the debt write down because the Government seems to have no position on it.

An Cathaoirleach: The Senator is way over time.

Senator Cáit Keane: I will stick strictly to the Order of Business because this seems to be a disorderly Order of Business.

Senator Brian Ó Domhnaill: The Senator is adding to it.

Senator Cáit Keane: It was an issue I raised after my first month in the Seanad and it is not getting any better. That is what I will say about the Order of Business.

Senator Darragh O’Brien: One will never take the múinteoir out of the Senator.

An Cathaoirleach: Does Senator Keane have a question for the Leader?

Senator Cáit Keane: I do. I support Senator Michael Mullins’s call for a debate on the

fluoridation of water and the surveys published on the matter. As Fine Gael spokesperson on the environment, I raised this issue with the Joint Committee on Environment, Culture and the Gaeltacht because many in local government have done so, not only this year but over the years. It is an important subject. That committee forwarded the matter to the Joint Committee on Health and Children. Senator Mullins asked the Leader to have a debate with the Minister in this House. Will the Leader ask the Chairman of the Joint Committee on Health and Children what the committee has done with that report since it was forward to it from the Joint Committee on Environment, Culture and the Gaeltacht?

Senator Darragh O'Brien: Filed under "M" for miscellaneous.

Senator Labhrás Ó Murchú: It is evident today from the comments from both sides of the House that the leaking of the report of the expert group is a grave matter. Will the Leader ensure the matter is investigated? The reason I say that has nothing to do whatever with partisan politics. The person who leaked that report held a privileged position in the State. The State invested confidence and a particular status in that person and in the confidentiality to deliver a report after due process to the Cabinet, but the person who leaked it made a deliberate decision to usurp the Cabinet and to usurp the powers of the Oireachtas. The Members of the Oireachtas have a mandate from the people to act on their behalf on all matters, but this is a particularly important social matter. In fact, the person who leaked that report committed, to my thinking, a subversive act against the State and against the people of the State. The bottom line is this: that report was leaked to contribute to a particular agenda, which was to ensure Members of the Oireachtas could not have an orderly debate on and consideration of this report. The intention obviously was to stampede the Members of the Oireachtas into making a knee-jerk reaction on one of the most important issues facing us in the history of the State. Both sides here have asked for a calm debate. Both sides in this House have asked that we keep to the subject matter, but it is definite that whoever leaked the report did not intend doing that. Whatever the outcome of the report, the debate has been contaminated. At this stage, the outcome is also contaminated, and that is how serious this issue is.

Senator Paul Coghlan: With respect to my great friends and colleagues on the Opposition benches, much of the talk in this Chamber about the leaking of this report is a great deal of balderdash.

Senator Darragh O'Brien: Why?

Senator Paul Coghlan: None of us knows for certain. These are alleged matters. Of course, they may be accurate.

Senator Darragh O'Brien: Is the Senator joking?

An Cathaoirleach: Is Senator Paul Coghlan seeking a debate?

Senator Paul Coghlan: The report has been published today and we will all soon know with certainty. I am fed up with all the talk that we have had about abortion.

Senator Darragh O'Brien: That is it. We must be quiet so.

Senator Paul Coghlan: As has been stated by Members opposite - I am looking at the distinguished Senator opposite, Senator Norris - we all are pro-life here. We all are interested in protecting lives-----

Senator David Norris: Hear, hear.

Senator Paul Coghlan: -----protecting the lives of mothers and the unborn.

Senator Darragh O'Brien: The Senator is missing the point completely.

Senator Paul Coghlan: We need to continue to protect these lives. We need to strengthen the Medical Council guidelines. As somebody has said, let us be calm. Let the debate proceed when we have the report today.

Senator Darragh O'Brien: Is it okay for a report to be leaked?

An Cathaoirleach: Is Senator Paul Coghlan looking for a debate?

Senator Paul Coghlan: Let the debate proceed. It is more important that we get it right than we rush it. Whatever is going to happen is going to happen in its own good time and, please God, we will get it right.

Senator Brian Ó Domhnaill: Much has been said today about leaked documents and about trying to influence the outcome of a certain report in terms of the media but there is another report to which I want to refer. It is a report related to the highest office, the Office of Uachtaráin na hÉireann, the President of Ireland. I am sure everyone here would agree that the Office of the President is above repute. However, I am not so sure that RTE and the Ministers, Deputies Gilmore and Rabbitte, would agree. I was flabbergasted to read coverage of this in the *Sunday Independent* over the weekend and, on listening back to a "Newstalk Breakfast" programme last week, to hear David Nally, the editor of RTE news and current affairs, say on that programme that he accepted that the "Frontline" programme changed the outcome of the presidential election, and that this is what was printed.

A distinguished gentleman who has been a Member of this House for many years was a candidate in that election and there were also other candidates in it. The Minister, Deputy Rabbitte, and the RTE Authority tried to sabotage the outcome of that election and undermine the Office of Uachtaráin na hÉireann. They have done a disservice to the people and to the Office of the President. The Attorney General needs to be brought into this equation to provide us with her advice on the role of RTE-----

Senator David Norris: Not just RTE.

Senator Brian Ó Domhnaill: -----the role of the Department of Communications, Energy and Natural Resources and the damage-----

Senator David Norris: There are other sections of the media that should be looked at.

Senator Brian Ó Domhnaill: Absolutely, but it is RTE in this case. It is a very serious issue particularly when it is the State broadcaster.

I am glad that Newstalk radio and other members of the media highlighted the shortcomings at the weekend. Fair play to them. We need to have a debate on it in this House because democracy is being challenged. Democracy was altered.

Senator John Gilroy: The Deputy has a new found interest in democracy.

Senator Brian Ó Domhnaill: The people were told to vote based on misinformation pro-

vided on one of the largest television shows prior to that election. It was a disgrace and that disgrace is going unchallenged by the Government and by the Minister for Communications, Energy and Natural Resources. That is an affront to democracy.

An Cathaoirleach: The Senator is over his time.

Senator Brian Ó Domhnaill: I ask the Leader, if he is interested, to arrange for an emergency debate in this House to discuss the findings of the Broadcasting Authority of Ireland report, its comments after the RTE report, the shortcomings of the RTE report and the reason the Minister let those shortcomings go unchallenged. We need to have that debate. We also need the advice of the Attorney General.

An Cathaoirleach: The Senator is way over his time.

Senator Brian Ó Domhnaill: This House deserves to have that advice within the next number of weeks because a disservice has been done to the people and every other candidate in that election.

(Interruptions).

An Cathaoirleach: Senator Ó Domhnaill is way over his time.

Senator Brian Ó Domhnaill: I will take no lectures from Sinn Féin having regard to its role in the sabotaging as well.

An Cathaoirleach: The Senator must respect the Chair. I call Senator O'Sullivan.

(Interruptions).

Senator Ned O'Sullivan: I strongly support my colleague, Senator Ó Domhnaill, in his remarks about "The Frontline" programme and the report on RTE. Any reasonable person would have to agree that programme and the warped way in which it was conducted changed the entire course of the presidential election and, more than likely, the outcome as well.

Senator David Cullinane: Good.

Senator Ned O'Sullivan: In fairness to the incumbent, President Higgins, more luck to him and he is above reproach. However, there is a man who it appeared likely was going to be President who probably will feel very sore every time he reads these reports.

An Cathaoirleach: We are not discussing the presidential election.

Senator Ned O'Sullivan: Clearly RTE has serious questions to answer at the very top.

Senator David Norris: Not just RTE.

Senator Ned O'Sullivan: Not just RTE but I am mindful of the way in which a BBC inquiry has taken place and the level at which heads are rolling over there. We need to see a few more heads rolling in RTE and that needs to happen pretty swiftly.

There has been reference to fascism around the House. Hitler was mentioned and Mussolini was more or less mentioned.

Senator Jim D'Arcy: Charlie Haughey, you mean.

A Senator: The term was coined by Mussolini.

Senator Ned O'Sullivan: That was his term.

An Cathaoirleach: Does the Deputy have a question for the Leader?

Senator Ned O'Sullivan: Did the Leader notice what happened last weekend when a very strong and well conducted protest by the Dublin trade unions was interfered with and heckled by a small group of people?

An Cathaoirleach: Is the Senator seeking a debate?

Senator Ned O'Sullivan: I want to make this point. Extreme left-wing groups have taken to the streets over the years. They love the street theatre; we give them all the time in the world and they can have their say. Having got that leeway, if other organisations such as the trade unions, who are a responsible group of people, want to have a street protest, they do not want them to have a say and they heckle them. That, to me, is fascism. I think Mr. Jack O'Connor, the president of ICTU, is quite right when he condemns that type of fascist activity. The trade unions have done the State great service. In recent years they have been pulling their weight in bringing about the economic recovery. They are entitled to go on the streets and have their protest, the same as anybody else.

Senator John Crown: Will the Leader bring to the attention of the Minister for Health that, with respect to the calls for a public inquiry into the sad and tragic loss of Savita Halappanavar, there is a mechanism in place for a public inquiry. It will happen. It is an inquest and it is statutory, sworn and has the power to compel witnesses. That inquest should take place as quickly as possible, before any other decisions are made about any other type of inquiry, to give us the urgent airing of the sworn under oath testimony of all the participants who were involved in this sad case. Of the three types of inquiry which have been mooted by the HSE and HIQA, the inquest is the only one which will be under oath, has statutory powers and can compel witnesses. Such inquests are routinely held in any of the sad, thankfully rare, cases of maternal death which occur in this country. It is essential that the one in this case should take place quickly. It may well pre-empt some of the necessities. I am not guaranteeing that it will. It may well be that at the conclusion of the inquest the facts which emerge, or do not emerge, may mandate some type of further judicial or other sworn inquiry. In the first instance, however, it should be on the record that we have a mechanism for a proper inquiry, which is the inquest under the Coroners Act.

Senator Maurice Cummins: Senator Darragh O'Brien and several other Members of the House referred to the leaking of the report of the Expert Group on the Judgment in A, B and C v. Ireland. Likewise, I would condemn any leaking of such a document before Members of the Oireachtas have had an opportunity to discuss it. It is reprehensible. However, it is preposterous for Members in this House to blame the Minister for Health for leaking the document. It is not for Members of this House to make such allegations and put them in the public arena for political purposes. This matter will be dealt with. We will have a debate in this House, probably next week, or as soon as I can possibly arrange a debate on the expert group's report. It is with the Cabinet today and I will do my utmost to arrange a debate on it next week.

We have extremes of view on that issue, from one side to the other. When we are having a debate on it, however, I hope we will have a calm and reflective discussion on the expert group's report. While there may be extremes on both sides, a lot of people have middle-ground views

on it. I would like to hear those people as well during the debate next week.

Senator Darragh O'Brien also raised the question of the Greek deal. The crucial benefit for Ireland in this agreement is that it will restore confidence in the eurozone, which is a very positive factor for us given our levels of trade within the eurozone. Ireland will not have to contribute to Greece as long as we are in receipt of financial assistance ourselves. As has been acknowledged, Ireland is a special case. We are actively discussing measures to enhance the Irish debt sustainability programme in the Eurogroup. These discussions will complement our ongoing discussions with the troika on the existing programme. We are also pursuing issues related to the banking debt through additional channels and the Eurogroup is also examining this issue. Discussions on the restructuring of the promissory notes are ongoing with the troika and the ECB. Those are the advantages Ireland can secure from the Greek deal now that there is more confidence in the eurozone as a result of last night's decision.

People say we should be the same as Greece but we are not the same.

Senator Darragh O'Brien: That is not what we said.

Senator Maurice Cummins: We are very different and, thankfully, we are not in the same position. The very difficult circumstances for ordinary people in Greece illustrate why the Government did not follow the Greek approach. The tax free threshold for income tax has been lowered from €12,000 to €4,000 in Greece; a married couple with one earner in Ireland only enter the income tax net at €24,750. The number of public sector jobs cut in Greece will reach 150,000 by 2015, while public service job losses in Ireland to date have been voluntary under the Croke Park agreement. Monthly public sector pensions above €1,000 in Greece will be cut by 20%, while the average cut in Irish public sector pensions is 4%. We are completely different in many areas, thankfully, as a result of the Government's approach to this issue. I am entirely confident that the Taoiseach and the Minister for Finance, with their negotiating skills, will eventually get a good deal for Ireland.

Senator Bacik raised the issue of Gaza. We had a debate on Gaza and will monitor the situation and debate it as part of an overall debate on the Middle East early in the new year.

Senators Mullins and Keane asked about the possible health risks of fluoridation. Senator Norris will be tabling a Private Members' motion on this topic early in the new year. As regards referring the matter to the Oireachtas Joint Committee on Health and Children, I will inquire to find out what the situation is and how it has proceeded.

Senator Hayden asked about the Residential Tenancies (Amendment) Bill. I can inform the Senator that a debate on the private rented sector with the Minister of State, Deputy Jan O'Sullivan, has been arranged for January before the Residential Tenancies (Amendment) Bill is debated in the House. There will be an opportunity for the Senator to raise the matter with the Minister of State before the Bill is brought to the Seanad.

Senator Norris asked about the university (amendment) Bill. I have no information about that Bill; it is not imminent on the Government list but I will ask for more information for the Senator. I also note the Senator's comments on the Aran Islands.

Senator Cullinane called for the resignation of the Minister for Health. This is another cynical exercise by Fianna Fáil and Sinn Féin, calling for the Minister to resign.

Senator Darragh O'Brien: Why is that?

Senator Maurice Cummins: I outlined in detail to the House the full criteria used in making the decision.

Senator Darragh O'Brien: Logarithmic, algorithmic, logistic or were they just changed an hour before?

Senator Maurice Cummins: I read them all out to the House and asked Members to pay attention to them, but obviously they were not paying attention.

Senator Darragh O'Brien: The Leader should read them again.

Senator Maurice Cummins: I will certainly read them again if that is what the Senator wants. In early 2012, the HSE embarked on a prioritisation exercise for primary care centres. In some locations it had advanced discussions with developers and GPs on leasing premises for primary care services. This was deemed most appropriate.

Obviously Members do not want to listen to what I am saying. They have their own opinions but they are not prepared to listen to anyone else.

Senator Darragh O'Brien: The Leader is standing over stroke politics.

Senator Maurice Cummins: This is par for the course for some Senators on the other side. A number of other high priority locations were selected for direct investment by the Health Service Executive using Exchequer funds from the HSE capital allocation. The remaining locations were then considered for development by way of public private partnerships as a result of the Government's stimulus package. The criteria used for the primary care centres under the public private partnership model were as follows: the deprivation index for the catchment population of the centre; the service priority identified by each integrated service area local health office; an accommodation assessment which reviewed the accommodation available-----

(Interruptions).

Senator Maurice Cummins: I am trying to provide the information Senators seek. It speaks volumes that they are still not prepared to listen.

Senator Darragh O'Brien: The information does not make any more sense the second time around.

An Cathaoirleach: Please allow the Leader to continue, without interruption.

Senator Maurice Cummins: The Senator asked what the criteria were and I am providing them. He is not prepared to listen.

Senator Darragh O'Brien: We listened to them the first time. They do not sound any better the second time around.

Senator Maurice Cummins: The Senator has an opinion and does not want to listen to anybody else.

Senator Darragh O'Brien: Does the Leader believe that? He should tell us what really happened.

An Cathaoirleach: Order, please. Allow the Leader to continue, without interruption.

Senator Maurice Cummins: The HSE carried out an accommodation assessment which reviewed the accommodation available to the primary care teams in the catchment areas.

Senator Paschal Mooney: Will the Leader explain the timing? Did it take place at noon or 11 p.m. the previous night? Perhaps it was at 10 a.m.

Senator Maurice Cummins: This examined the quality of the accommodation and whether it was spread over more than one building. Additional criteria applied by the Minister for Health, Deputy Reilly, were as follows: competition; general practitioner co-operation; general practitioner to population ratio and cost-effective GP buy-in; existing health facilities; pressures on services, particularly acute services; funding options, including Exchequer funded HSE build or lease; and implementability of the public private partnership. Those are some of the criteria but I can spell out many more.

Senator Darragh O'Brien: On a point of order, will the Leader read the criteria applied by the former Minister of State at the Department of Health, Deputy Róisín Shortall?

An Cathaoirleach: That is not a point of order. The Senator should resume his seat and allow the Leader to continue, without interruption.

Senator Maurice Cummins: If the Senator had been listening on the previous occasion this issue was raised, he would have heard me read all the criteria.

I will speak about the toothpaste now.

Senator Paschal Mooney: In that case, I will keep quiet.

Senator Maurice Cummins: It behoves us all to support Irish produce and manufacturers this Christmas.

Senator Jim D'Arcy referred to an important report on the action plan on bullying. The House may have a further debate on the issue once the report has been published.

On the issue to which Senator Barrett referred, it was the unanimous decision of the joint committee, on which both Houses are represented, to accept the motion. While I appreciate the Senator's position, the matter was deferred until this week. The decision by Members of both Houses was unanimous and I will put the motion to the House immediately after the Order of Business.

Senator Susan O'Keeffe called for a public inquiry into the death of Savita Halappanavar, while Senator Crown called for the inquest into Ms Halappanavar's death to proceed as soon as possible. Two investigations into her death are ongoing and it is everyone's wish that the inquest take place as soon as possible. As Senator Crown stated, it may pre-empt some of the current investigations.

Senator Ó Domhnaill referred to the report of the Broadcasting Authority of Ireland on the role of RTE and the media in the presidential campaign. I will try to arrange to have the Minister for Communications, Energy and Natural Resources, Deputy Pat Rabbitte, come to the House to discuss the matter early in the new year.

Order of Business agreed to.

Report of Joint Committee on Standing Orders (Private Business): Motion

An Cathaoirleach: I move:

That, in respect of the Report of the Joint Committee on Standing Orders (Private Business) on the Revision of Standing Orders (Private Business) 1939, dated 7 November 2012, and with immediate effect, the amendments to Standing Orders relative to Private Business 1939 in Appendix 2 to the Report be adopted.

Question put:

The Seanad divided: Tá, 38; Níl, 9.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Crown, John.
Burke, Colm.	Cullinane, David.
Byrne, Thomas.	Mac Conghail, Fiach.
Clune, Deirdre.	Norris, David.
Coghlan, Eamonn.	Ó Clochartaigh, Trevor.
Coghlan, Paul.	Quinn, Feargal.
Comiskey, Michael.	Reilly, Kathryn.
Conway, Martin.	van Turnhout, Jillian.
Cummins, Maurice.	
D'Arcy, Jim.	
D'Arcy, Michael.	
Daly, Mark.	
Gilroy, John.	
Harte, Jimmy.	
Hayden, Aideen.	
Heffernan, James.	
Henry, Imelda.	
Keane, Cáit.	
Leyden, Terry.	
MacSharry, Marc.	
Moloney, Marie.	
Mooney, Paschal.	
Mulcahy, Tony.	
Mullins, Michael.	
Ó Domhnaill, Brian.	
Ó Murchú, Labhrás.	
O'Brien, Darragh.	
O'Donovan, Denis.	
O'Keeffe, Susan.	
O'Neill, Pat.	

O'Sullivan, Ned.	
Power, Averil.	
Sheahan, Tom.	
Walsh, Jim.	
Whelan, John.	
White, Mary M.	
Wilson, Diarmuid.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Sean D. Barrett and John Crown..

Question declared carried.

European Funds: Referral to Joint Committee

Senator Maurice Cummins: I move:

That the proposal that Seanad Éireann approves the exercise by the State of the option or discretion under Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, to take part in the adoption and application of the following proposed measure:

a proposal for a Decision of the European Parliament and of the Council amending Decision No. 573/2007/EC, Decision No. 575/2007/EC and Council Decision 2007/435/EC with a view to increasing the co-financing rate of the European Refugee Fund, the European Return Fund and the European Fund for the Integration of third-country nationals as regards certain provisions relating to financial management for certain Member States experiencing or threatened with serious difficulties with respect to their financial stability,

a copy of which was laid before Seanad Éireann on 16th October 2012, be referred to the Joint Committee on Justice, Defence and Equality, in accordance with Standing Order 70A(3), which, not later than 20th December 2012, shall send a message to the Seanad in the manner prescribed in Standing Order 73, and Standing Order 75(2) shall accordingly apply.

Question put and agreed to.

Sexual Violence in Conflict: Motion

Acting Chairman (Senator Terry Leyden): I welcome the Minister of State, Deputy Joe Costello, to the House.

Senator David Norris: I move:

That this House condemns sexual violence in conflict; and calls on the Government to:

(a) affirm Ireland's commitment to implement United Nations Security Council Resolutions on Women, Peace and Security;

(b) play a leadership role in international efforts to end sexual violence and bring about accountability and support survivors of sexual violence in conflict through Irish diplomacy and development assistance; and

(c) support the efforts of organizations to draw attention to, and denounce, sexual violence.

I am pleased to welcome the Minister of State.

This is an issue in which he has had an interest, over many years, as a decent humanitarian. I thank the Leader of the House, Senator Maurice Cummins, for accommodating me and the other parties. It is significant that this is a unanimous motion supported by every Member of the House. It is reasonably unusual that we have this degree of unanimity and I am glad Members are unanimous on the issue, which is highly important and which has been drawn to our attention by a series of groups throughout the world. It will reinforce the work of groups such as Médecins sans Frontières, Amnesty, Human Rights Watch and strengthen the involvement of the International Criminal Court.

Sexual intimacy constitutes a radiant element in the marvellous vocabulary of the language of love. To misuse this wonderful capacity by using it as an instrument of coercion, violence and abuse is one of the greatest and most gross perversions of which humanity is capable. The object is not pleasure but domination. It is now widely used in a military sense, tragically, particularly in the continent of Africa. In that continent, it is probably used in that manner partly because it is extremely cheap. Weapons are relatively scarce as the continent has not been quite so militarised as the rest of the world. Sexual violence provides a convenient and cheap method of terrorising, humiliating and subjugating people. It is a substantial change since the classical period, when rape was one of the spoils of war. Now it is an instrument of war and one of the most horrible in its prevalence and consequences for the victim. It is not peculiar to Africa. One can look at the situation in Europe after the convulsion of the Second World War and the work of Alexander Solzhenitsyn, who was with the troops who entered Berlin. Many of us read the remarkable documentation of that period by Antony Beevor and in the Berlin diary and the account of mass rape by the Soviet troops. Alexander Solzhenitsyn has left us a remarkable testimony and witness to what happened:

22 Horingstrasse. It's not been burned, just looted, rifled. A moaning by the walls, half-muffled. The mother's wounded, half alive.

The little daughter's on the mattress,

Dead. How many have been on it

A platoon, a company perhaps?

A girl's been turned into a woman,

A woman turned into a corpse.

The mother begs “Soldiers, kill me.”

What struck me is how extraordinarily close it is to prose accounts of, principally, women who have been subjected to rape. I say “principally women” because it is by no means only women. In Africa, a number of reports document men and boys also being subject to this. For this reason, I carefully framed the motion in order that it should not, in its entirety, be gender specific, although the majority of attacks are upon women. It is also deeply humiliating, scarring and disempowering for men in traditional cultures to be subjected to this kind of abuse.

We hear little about the Congo. That is where I am concentrating, not only because it is my place of origin but also because, tragically, it has been appropriately described as the rape capital of the world, a title no area of the world wishes to have. The hopeful aspect of this tragic matter is the appointment of Ms Fatou Bensouda as a prosecutor of rape, specifically, at the International Criminal Court. My interest was first sparked as a supporter of Front Line Defenders.

4 o'clock

At this point, I pay tribute to the work of Front Line Defenders. In 2007, I attended, as did the Minister of State, the presentation of an award to a woman from the Democratic Republic of Congo, Gégé Katana, who had worked, despite considerable harassment, in that area recording instances of violence, sexual violence and rape. She created a network of women that stretched across the entire region of the Congo and started an organisation called Solidarité des Femmes Activistes pour la Defense des Droits Humains, SOFAD. This was not particularly popular and she was attacked, her house overwhelmed by soldiers and all her property taken away. As she said herself, “I was pushed into peace”, because there were no women’s structures to combat the multiple violations of human rights during armed conflict.

It is important to look at particular resources. My attention and that of other Members of the Oireachtas was drawn to the situation by Mr. Peadar King, a film maker and presenter, who made a contribution to the Joint Committee on Foreign Affairs and drew the attention of those present to a remarkable document produced by Harvard University. This was a report by the Harvard Humanitarian Initiative with support from Oxfam America. The report looks at the entire world situation and puts it into perspective. It mentions not only Berlin, but also what happened at the rape of Nanking when 20,000 women were raped in the first month of the Japanese occupation. This was what, ultimately, led to the Fourth Geneva Convention which included an international prohibition on wartime rape and enforced prostitution. This prohibition has been amplified with judicial findings since, including the Rome Statute of the International Criminal Court which establishes rape and sexual enslavement as crimes against humanity. The countries principally involved are Sierra Leone, Rwanda, Liberia, the Balkan countries, Uganda, Sudan and the Democratic Republic of Congo. This is, again tragically, suggestive that so many of them are in the African region although Europe is not entirely immune from this situation.

It is important to look at the Democratic Republic of Congo because it presents a microcosm of the entire situation. In South Kivu women are subjected to sexual violence regardless of age. The army uses rape as a weapon. Women are raped in front of their children and there is genital mutilation. There is forced sexual activity between members of families whose homes are invaded. The overwhelming majority of these attacks are conducted with a military objec-

tive.

Acting Chairman (Senator Terry Leyden): I am afraid the Senator's time is up.

Senator David Norris: Thank you. I understand I will have an opportunity to come back when I will list 14 points emerging from this report.

Senator Jillian van Turnhout: I welcome the Minister of State to the House. It is my pleasure to second the motion. I commend Senator Norris for initiating this motion which has received support across the House.

It is fitting that the debate takes place on the nearest working day to the International Day for the Elimination of Violence against Women, although, as Senator Norris said, sexual violence in conflict is not limited to women. It is important and timely that we, as a Parliament, have this debate, particularly with Ireland's upcoming Presidency of the European Union and our recently won membership of the United Nations Human Rights Council. Senator Norris spoke with great passion and authority about the heinous use of sexual violence, rape and other forms of sexual abuse as a tactic or weapon of war. The gravity of rape as a tactic of war is such that it is explicitly covered under the Rome Statute of the International Criminal Court 1998, which entered into force in 2002. It has jurisdiction over the most serious crimes of international concern. More recently, UN Resolution 1820 was passed in June 2008. It notes that women and girls are particularly targeted by the use of sexual violence, including as a tactic of war, to humiliate, dominate, instil fear in, disperse and-or forcibly relocate civilian members of a community or ethnic group.

As Senator Norris said, the situation in the Democratic Republic of Congo is of extreme concern. It was also brought to light by Mr. Peadar King who has produced a thought provoking documentary which is essential viewing for all parliamentarians. When we viewed it in the AV room, it was the first time I saw nobody being able to say anything at the end of a viewing. We were all shocked to the core that this is happening today in another part of the world. No conflict appears to be immune from these despicable acts. In Burma, the military has been accused of carrying out rapes and gang rapes of women and girls as young as eight years old with impunity. Rape and sexual violence continue to be perpetrated with unspeakable frequency in Sudan's Darfur region, with women and girls running the gauntlet of being raped every time they leave the safety of their villages to collect water and fire wood.

The level of sexual violence in the Democratic Republic of Congo is almost beyond description. It goes far beyond the rape of babies, elderly women, men and boys. It includes gang rapes conducted by the militia in front of family and community members and, in some cases, male relatives are forced at gunpoint to rape their own daughters, mothers or sisters. There are reports of rapes being carried out with bayonets and guns shot into the victims' genitals. Unfortunately, it would be possible for me to continue at length with further examples illustrating the pandemic proportions of the devastating impact and urgency of this situation. However, what we need is action and I will use this time to focus on where action must take place.

There must be action at international level to bring about an immediate and complete cessation by all parties to armed conflict of all acts of sexual violence against civilians, in accordance with UN Resolution 1820. With regard to Ireland's contribution, obviously we are committed under the Convention on the Elimination of All Forms of Discrimination against Women. We are also committed to international obligations under UN Security Council Resolutions 1325,

1820, 1888 and 1889. These obligations are collectively addressed under Ireland's National Action Plan for Implementation of UNSCR 1325, 2011-2014. I am pleased to learn that progress has been made with the recent establishment and first meeting of this action plan's monitoring group, which is being led by the Department of Foreign Affairs and Trade and chaired by Ms Liz McManus, to ensure the meaningful implementation of UNSCR 1325.

I commend the efforts of the Irish Joint Consortium on Gender Based Violence, which is made up of human rights, humanitarian and development agencies, the Irish Defence Forces, Irish Aid and Government agencies. It is innovative that the membership is both governmental and non-governmental. I hope it will provide an example for other countries. It is an excellent and meaningful initiative which strives to address gender based violence and promote the adoption of a coherent and co-ordinated response within the policies, procedures and programmes of all its member agencies. I also note Ireland's support for and contribution to the achievement of a system wide cohesion process for the establishment of the United Nations new entity for gender equality and the empowerment of women, UN Women. I commend this. Ireland will be a board member of this body next year and I urge the Minister of State to ensure that gender based violence, sexual violence, sexual abuse and rape as a weapon of war are promoted as atrocities of urgent concern. Equally, I urge the Minister to bring it to the agenda of the EU. I cannot understand why the EU is not taking more concerted and coherent action. For me, one of the reasons for membership of the EU is that through the strength of the combined numbers we can provide a role model on the global stage of what is acceptable and unacceptable.

Acting Chairman (Senator Terry Leyden): The Senator's time is up.

Senator Jillian van Turnhout: I will conclude in ten seconds. As Ireland is a member of the United Nations Human Rights Council, we need to intensify our diplomatic efforts to secure action with the Africa group and the African Union. I call on the Government to have a thematic resolution on sexual violence in conflict at the next session of the United Nations Human Rights Council as an outcome of this debate.

Senator Michael Mullins: I welcome the Minister of State to the House to debate a matter which he is deeply committed to improving. I strongly support the motion before the House and it is very appropriate that the motion would have unanimous support because sexual violence in conflict situations has reached epidemic proportions. In many conflict and post-conflict situations, women submit to sexual violence to obtain food and other basic necessities. Rape is used to brutalise and humiliate civilians as a weapon of war and political power, and as a tactic of ethnic cleansing. Violence against women by a partner or even a husband in refugee camps is reportedly quite common. Thankfully in recent years to some extent sexual violence in conflict zones has received much more media attention and the mass rapes in the wars in the former Yugoslavia and during the Rwandan genocide received widespread coverage.

International organisations, such as the UN, the courts and the NGOs, have tried to hold the perpetrators accountable and support the victims of wartime sexual violence. However, many major atrocities take place about which very few people have heard. As Senator Norris said, the Democratic Republic of Congo is a case in point. According to a US-based agency, International Rescue Committee, some 5.4 million people died in the Congo between August 1998 and April 2007 from violence and war-related hunger and illness. One of the defining features of the conflict is the widespread use of rape as a weapon of war. The number of women and girls raped in the eastern part of the Democratic Republic of Congo is unknown, but experts say the scale is enormous. As has been mentioned, the former United Nations special representative

on sexual violence in conflict, Margot Wallström, has called the Democratic Republic of Congo “the rape capital of the world”.

The situation in the Democratic Republic of Congo has been described as unimaginably brutal with armed groups attacking local communities, looting, raping and kidnapping women and children and forcing them to work as sexual slaves. Militia groups and soldiers attack all ages, including babies and elderly women. Men and boys have also been raped by soldiers and rebels. Although the majority of rapes carried out in the Democratic Republic of Congo are by armed men, an increasing number are carried out by civilians, with a survey showing a sevenfold increase between 2004 and 2008. The conflict has also been marked by the use of child soldiers, some as young as 12, who are kidnapped and fed a cocktail of drink and drugs. They then carry out the most vile crimes, often against their own communities.

In recent times the former first lady of the Ivory Coast has been accused of committing crimes against humanity during the country’s post-election conflict last year. It is alleged she was criminally responsible for murder, rape and other forms of sexual violence, as well as other inhumane acts and persecution. Her husband is awaiting trial on similar charges in The Hague. His refusal to accept defeat in the election triggered the brief war where more than 3,000 people died after violent street protests developed into all-out conflict between soldiers and militia loyal to the former President and fighters supporting the current President, President Ouattara, who were backed by the United Nations and French troops. Human Rights Watch welcomed the international community’s efforts to indict the former first lady, but said it must be followed up with action against the opposition supporters also. Matt Wells of Human Rights Watch said: “The continued one-sided justice system domestically and at the ICC ignores many of the conflict’s victims and threatens to further divide the country.”

The responsibility for addressing the issue of sexual violence in conflict rests with the international community as a whole, but it has been rather ineffective in demanding accountability for war crimes and crimes against humanity that are routinely committed in places such as the Democratic Republic of Congo. The United Nations Security Council and Secretary General have been slow to tackle the responsibility of occupying powers for the atrocities taking place in areas under their control. Rwanda, like Uganda, has escaped significant sanctions for its role to date in the Democratic Republic of Congo. The recent statement by the EU Foreign Ministers is very much to be welcome and will hopefully bring a renewed focus to the problems in the DRC and other regions throughout the world.

Ireland has two significant opportunities to make a difference in the area of sexual violence in conflict, and these were referred to. First, we have been elected to the United Nations Human Rights Council where we will have a platform for raising these urgent matters. Second, as we assume the Presidency of the EU in January, we will have an opportunity to influence the foreign affairs agenda of Europe and, hopefully, bring this most important issue to the top of the political agenda, both in Europe and throughout the world.

I strongly support the motion. It is an issue, as has been referred to, that has got little of the type of coverage in the media that it should. It is incumbent on us as politicians to continue to highlight this issue until such time as we see a resolution of such violence.

Senator Jim Walsh: I welcome the Minister of State, Deputy Costello, to the House. I commend Senator Norris for tabling this motion which, like every other Member of the House, I am glad to support. Undoubtedly, it raises an area of the greatest concern for anybody who

is even remotely interested in human rights. United Nations Security Council Resolution 1325 has been mentioned. Senator van Turnhout mentioned United Nations Security Council Resolutions 1820, 1888 and 1889 and United Nations Security Council Resolution 1960, which was passed in 2012, could be added to that as well. Despite those resolutions, as often happens with the United Nations, it does not bring a halt to some of the heinous atrocities that we see committed across the world. We should also remember the important role that women have played in the prevention and resolution of conflicts in various areas across the world, and the United Nations resolution does so. Senators have given examples of this happening. It dates back to the barbaric times of the Middle Ages and pre-Middle Ages to see such atrocities committed against other human beings. In those days, rape was also a weapon of war, as it is now. Senator Norris mentioned that the Japanese soldiers in the Second World War used it extensively in the East but we have seen it subsequently used. The Balkans were mentioned. There it was a weapon not only of war but of ethnic cleansing. It had devastating effects on the communities, particularly on the Muslim community, during the course of the Balkans war. It occurred more recently in the Iraq war. As Senator van Turnhout mentioned, fathers were forced to rape their daughters. One can just imagine, in a family context and in a religious context, the absolute devastation that such violence wreaks on the individuals and on the families involved. It raises serious questions for us as to how do we deal with man's inhumanity to man.

Undoubtedly, the International Criminal Court has done a great deal of good work in bringing perpetrators of genocide in particular to account, and there are current examples of that now in the court in The Hague. We need to focus on this as one of the most serious crimes of war that can be committed and recognise it for what it is. The DRC is a prime example in today's world. To some extent, while it has moved towards democracy, it is quite dysfunctional. In the eastern part of the DRC there is the continuation of violence which dates back over many decades. The five-year conflict, from 1998 to 2003, claimed almost 3 million lives. The conflicts were characterised by an appalling degree of brutality, large-scale attacks on the civilian population and widespread sexual violence.

A large number of armed groups had based themselves in the eastern part of the Democratic Republic of Congo since the genocide in Rwanda of which mention has been made. I was in Rwanda some years ago. We visited a camp adjacent to the border with the Congo and the purpose of that camp, which had been established by President Kagame's government, was to encourage Hutus who had gone and lived in the forests after the genocide in a state of war for maybe two decades to come back in. We meet 300 of those in one of these camps in a very big shed and some of them gave personal testimony to us. They also had the legacy of the Rwandan conflict and the crimes they had committed there. It was all preparatory before they were reintegrated back into civil society.

Women and civil society generally remain gravely exposed in conflict areas. We should express our concern about that and address it through our role in the United Nations to ensure that women who suffer most in conflicts are protected from the devastation of war and particularly the perpetration of sexual violence. Those who perpetrate it should be subject to the most penal sanctions we can impose on them in order that it is an example to others not to pursue the kind of activity in which they have involved themselves.

Senator James Heffernan: I would like to share my time with Senator O'Keeffe who would like to contribute to the motion.

Acting Chairman (Senator Terry Leyden): Is that agreed? Agreed.

Senator James Heffernan: Like other speakers, I again welcome the Minister of State. It is good to see him looking so hail and hearty. I am aware, as other speakers have said, that he is very committed to this area of human rights that comes under his brief.

I welcome the motion proposed by Senator Norris and congratulate him on securing cross-party for it. Anyone viewing the proceedings of the Order of Business this morning would realise how difficult it is to achieve that. I commend the Senator for bringing forward the motion and also many of the contributions to it from Members on all sides of the House.

When we think of victims of warfare the body bag tally is often the figure most widely reported. However, a more grim tally that is less well reported is the number of women and girls, and men and boys as mentioned earlier, who are subjected to rape, abuse and other forms of sexual violence. That was a topic of debate in an English lesson when I was in first year in secondary school in 1992. I examined some of the figures we spoke about and the way things have progressed since then and it makes for grim reading.

I will not delay the House but in the war in Bosnia up to 50,000 women were subjected to sexual violence. Over 14 years 40% of Liberia's population suffered similar abuse. Under half of those interviewed in a study in Sierra Leone in 2000 had been raped and more than a quarter had been gang raped. The effect of that sexual violence can lead to severe physical damage. There have been many calls to stop the use of landmines in these conflict zones because they maim and kill, but the sexual violence that was used as a tool of war in has a far more damaging psychological effect on people. We know it fairly well in Ireland and I am sure these stories are replicated around the country. Going back to the War of Independence, one often hears stories of Black and Tans who came in. These stories are very hush-hush; they are kept quiet and are not spoken about because there is still a stigma attached to them. I remember one man in particular and his story touched me. After a few drinks, the story would come out. He often lamented his grandmother who was assaulted by the Black and Tans in a farmyard.

The figures we see throughout the world are quite stark. I commend the motion which has the full support of this side of the House. I congratulate those who tabled it.

Senator Susan O'Keefe: We all fully support the motion and it is one of those matters which we will continue to discuss. In 2008, the UN Security Council demanded that all sides in armed conflicts should stop using violence against women as a tactic in war. We find ourselves saying it again today. The challenge for the Minister of State is what this country can actually do beyond speaking about this matter and saying that we care about it.

The Norwegians have taken it upon themselves to invest money in this area. They have looked at particular strategies, including a national strategy to combat sexualised violence. In this respect, they are obviously referring to the Congo where, as we know, there is a desperate and urgent need.

In addition, the Norwegians are financing a hospital in Goma which is due to open soon. It is being located there in order to offer some sustenance and assistance to women - as well as children and men - who find themselves in this state. They have also opened a new training centre for women to encourage them to talk and to educate them. In that way, women can begin to take some control over what has happened to them. They have opened mobile courts to give survivors appropriate access to the justice system. Some 89 judges have been trained and while it is not very much it is a start. It is better than us just talking. While the international commu-

nity needs to know that we care, and we do, we also need to find ways to do something about it.

Norway has participated in the international working group on the illegal exploitation of natural resources in the Great Lakes region, which is a collaborative matter. I know that our finances are tight and we are trying to find best value, but Ireland must find a way. That might be done by working in collaboration with other countries which have already set up systems, rather than trying to establish our own. We could therefore show by our actions, as we have done many times in the past, that we are willing and able to come to the assistance of the thousands of people - mainly women and children - who are raped and otherwise sexually abused in conflict zones across the world, but particularly in Africa.

Minister of State at the Department of Foreign Affairs and Trade (Deputy Joe Costello): I compliment Senator Norris on the motion he has proposed concerning sexual violence in conflict, including Ireland's national action plan and the United Nations Security Council Resolution 1327. I also commend the Senator for having achieved unanimity for the motion. That unanimity was evident from all the excellent contributions that have been made here today. As was mentioned earlier, it is an extremely appropriate time to table this motion because 25 November marked the International Day for the Elimination of Violence against Women. The 10 December, meanwhile, will mark International Human Rights Day. The period between both dates is extremely important. It is also important to highlight all these issues concerning gross interference and abuse of human rights.

Senator O'Keeffe asked what we could do. It is not sufficient to talk about it, we must deal with it. We are at the cutting edge in Ireland on the drawing up of the national action plan and its implementation and monitoring.

A quotation from the United Nations Secretary General, Mr. Ban Ki-moon, in 2007, illustrates the situation starkly: "In no other area is our collective failure to ensure effective protection for civilians more apparent than the masses of women and girls, but also boys and men, whose lives are destroyed each year by sexual violence perpetrated in conflict". The estimate is that up to 500,000 women and girls were raped during the 1994 genocide in Rwanda, up to 50,000 women and girls were raped during the war in Bosnia-Herzegovina in the early 1990s, an average of 50 women and girls were raped every day in the south Kivu area in the Democratic Republic of Congo, while in Sierra Leone and Liberia in a conflict that only finished ten years ago, up to 50,000 thousand girls and women were raped. I met many of the young women and saw the trauma that had occurred as a result.

United Nations Resolution 1325, which is part and parcel of this, and UN Resolutions 1820, 1888 and 1889, demand that we take certain action. There should be full participation by women in decision making related to peace and security, the protection of woman and girls from gender based violence and the incorporation of gender perspectives in all peacekeeping, peace-making and peace-building strategies undertaken by the United Nations and its member states.

In response, Ireland has produced a national action plan, which was developed in co-operation with a range of stakeholders, including the Departments, civil society organisations and women living in Ireland from conflict affected countries. An innovative cross-learning process between women in Northern Ireland, Liberia and Timor Leste also informed the process and development of the action plan.

Ireland's national action plan on UN Security Council Resolution 1325 on women, peace

and security was officially launched by the Tánaiste and the former President, Mary Robinson, at the annual meeting of the Irish Consortium on Gender-Based Violence in November 2011. It sets out how Ireland would promote and implement the objectives of the United Nations resolutions. The plan aims to strengthen women's leadership and implement accountability mechanisms and to build capacity through comprehensive training of staff deployed overseas, including the Defence Forces, on responding to and protecting people from sexual violence. There are also support programmes to support women's participation in peace-building and post-conflict transitional and related activities.

The plan also commits Ireland to playing a leadership role in global and regional fora and to champion the implementation of Resolution 1325 and we are living up to this commitment. In our capacity as chair of the Organisation for Security and Cooperation in Europe in 2012, we are acting as *chef de file* on all the issues related to Resolution 132 and we have encouraged all 56 OSCE states to do likewise.

We have been consistent supporters of UN Women since its establishment in 2010 to address the needs of women where there are threats to peace and security. This is a core priority for UN Women and when Ireland assumes its seat on the executive board next year, we will work to ensure this priority is maintained. We have increased our international support to this organisation to €1.5 million in 2012. Also, the national plan includes commitments to its implementation across Departments, including the Department of Foreign Affairs and Trade, the Department of Justice and Equality, and the Defence Forces. My Department is fully committed to playing an effective coordination and leadership role in the implementation of the plan. I affirm that implementing the national action plan will continue to be a key priority for the Government's overseas aid programme, Irish Aid. Likewise, civil society organisations are extremely important partners with which we work in the Democratic Republic of Congo, Kenya, Ethiopia, Syria, Liberia and Sierra Leone. We also work with the International Rescue Committee to enhance protection and support for the empowerment of women and girls in the Dadaab refugee camp in Kenya. We are working with the Governments of Sierra Leone and Liberia to strengthen national and local structures to prevent and respond to gender based violence.

As I noted, earlier this year I met many of those involved in the programmes we have in place to provide education, training and entrepreneurship and other skills for women who have been physically and sexually abused during the civil war ten years ago. We are also providing gender-based violence response services and prevention activities for Somali women at the Dolo Ado refugee camp in Ethiopia.

The rapid response register managed by Irish Aid is a register of highly skilled individuals from the public and private sectors, including the Defence Forces, who can be deployed at short notice to assist in emergency relief scenarios. The register is building up expertise and capacity for addressing gender-based violence in emergencies to ensure the relevant skills on gender equality and gender-based violence and protection are available at short notice.

Irish Aid is also an active member of the Irish joint consortium on gender-based violence, comprised of development, humanitarian and human rights non-governmental organisations. The consortium, alongside Irish Aid and the Defence Forces, has played an important role in supporting the development of the national action plan. As several speakers noted, Ms Liz McManus, a former Minister of State with responsibility for housing and urban renewal, has been appointed as the independent chair of the group following consultation with civil society. Many people may not be aware that in 2002 the then Deputy McManus became the first Member of

the Oireachtas to introduce a Bill to abolish female genital mutilation. She set the ball rolling and Senator Ivana Bacik subsequently introduced similar legislation which is now on the Statute Book, with the ministerial instrument having been introduced in September 2012.

The Government is committed to the implementation of the national action plan and is very much at its cutting edge. According to the Nobel Peace Prize winner and President of Liberia, Ellen Johnson Sirleaf, "Wartime sexual violence has been one of history's greatest silences." The Liberian President will speak at a major international conference to be held in April 2013 as part of the Irish Presidency. The event will be organised jointly with the Mary Robinson Foundation, World Food Programme, International Agriculture Committee and Irish Aid. The Government is placing the issue of gender-based violence very much to the forefront of the Irish Presidency in terms of the review of the millennium development goals. It will be a challenge and privilege to prepare the ground for the European Union for the new negotiations that will begin in September 2013. We must seek to achieve an agreement across the 27 EU member states for a new set of proposals for the goals and we are anxious to ensure gender based violence will be a core element of the new goals.

Gender-based violence is also a core part of our review of the 2006 White Paper on Irish Aid which will be launched shortly. Senators called on the Government to use Ireland's new position as a member of the United Nations Human Rights Council to table a resolution on this matter. I will consider this suggestion carefully to determine whether we can put it on the agenda at the earliest possible stage in order that, from the very beginning, we will be seen as viewing gender-based violence as one of the key areas we will address during our membership of that particular body.

I thank Senators, including those who have not yet contributed, for their contributions. I am delighted to have had the opportunity to respond to this debate.

Acting Chairman (Senator Pat O'Neill): We have five minutes to conclude the debate. As I must call Senator Norris at 4.42 p.m., Senators Reilly and Keane will have one and a half minutes and 30 seconds, respectively.

Senator Kathryn Reilly: I thank the Minister of State for his attendance. He addressed some of my questions on the millennium development goals, the UN Human Rights Council and the review of the White Paper on Irish Aid.

Everyone is not on the same page in terms of recognising sexual violence as one of the most horrific crimes that can be committed in conflict. The sheer scale of the brutality and the lack of accountability are nothing short of sickening. Recently, I read articles about the survivors of sexual violence. We often hear the stories of women in this regard, but we also hear stories about men who have been brutally raped and what happened to them afterwards, for example, the social stigma, their wives leaving them, their families abandoning them and the ensuing health issues. This matter is not often to the fore and there is little documentation of the existence or impact of sexual violence on men and boys. We must highlight the matter much more. The evidence points to a serious but under-reported problem. In the Democratic Republic of Congo, DRC, it is estimated that men and boys comprise at least 4% to 10% of survivors of sexual violence. This issue is close to my heart and I have read heart-rending personal accounts.

Senator Cáit Keane: I am disappointed I only have 30 seconds because I raised this important issue on the only occasion the Taoiseach attended the Seanad. I have discussed it in the

House and it remains on my agenda. I am disappointed I will not be able to read from the six or seven pages I have.

I am a member of committee D of the British-Irish Parliamentary Assembly, BIPA. That committee is drafting a report on trafficking and sexual violence. Will the Minister of State consider establishing a North-South civic forum to examine these issues? In terms of women's experience of conflict, no one has mentioned the North, the Good Friday Agreement and so on.

I have much to say, but I have only been given 30 seconds.

Acting Chairman (Senator Pat O'Neill): The Senator's time has expired.

Senator Cáit Keane: That is a pity, as we sometimes waste so much time firing balls over and back on the Order of Business. We should be discussing important issues such as this one.

Senator David Norris: I thank all of my colleagues and welcome the Minister of State's reference to using our positions in the EU Presidency and the UN Human Rights Council. The mandate for peacekeeping missions needs to be expanded to include this issue specifically. I hope the Minister of State will make that a target.

I referred to 14 points that emerged from a report, entitled "Now, the world is without me". The title comes from the moving and tragic story of a victim of rape. The first point relates to attacks on people in their own houses. We were aware of opportunistic attacks, but individual houses are now being attacked. Gang rape has been mentioned, but we did not get into the sexual slavery element. Sometimes, people are ransomed back after being turned into sexual slaves.

Rape in the presence of family and friends is another issue. This is intended to demean and to remove people's power and status. The next issue is forced rape between victims. In this appalling crime, family members are made to interfere with one another sexually. The next issue is the rape of pregnant women, which almost invariably leads to miscarriages or spontaneous abortions. The next issue is the rape of people who, terrified of being attacked, have gone into hiding.

It is appalling that there has been a shocking mutation, particularly as recorded in a report by Dr. Denis Mukwege. He was threatened but, luckily, he escaped with his life. The statistics indicate that the incidence of military rape has decreased but it has migrated into the civilian area and there has been a seventeenfold increase in such activity leading to loss of virginity, pregnancy from rape and loss of family members. Some 1% of spouses accompanied wives to hospital. There is also fear of sexual infection and despair following rape.

I indicated that I would record some of the testimony. It states:

My husband and I were at home when the attackers broke down the door and entered the house. They tied up my husband and demanded money from him. As he did not have any money they put a knife to his face and turned it several times in his cheek. Then they stabbed him in the chest at the level of the heart and he died. They cut off my husband's sex and put it in his mouth, even though he was already dead. They also cut my children. All of them died and I was left alone. Then the three assailants took turns raping me. I came to Panzi hospital to receive care.

I will end on a note of hope, despite all this awfulness and testimony to the capacity of

the human animal for wickedness and cruelty. On 21 February last year, for the first time the authorities in Congo indicated they were taking this issue seriously because of the kind of pressure that the Minister of State and his colleagues may be able to bring to bear through the international community. A high-ranking commander and some of his men were convicted and given heavy sentences for rape in Congo. We must encourage such legal victories and celebrate them. Ms Margot Wallström argues that these sentences sent a strong signal to all perpetrators in the Democratic Republic of Congo that conflict-related sexual violence is not acceptable and will not be tolerated. It also indicates that accountability for sexual violence is possible and we must make people accountable.

I thank Senator van Turnhout and everybody else who spoke, particularly in maintaining a lack of gender specifics. It is just as appalling for men and boys to be raped as for women.

Question put and agreed to.

Siting suspended at 4.50 p.m. and resumed at 5 p.m.

National Vetting Bureau (Children and Vulnerable Persons) Bill 2012: Second Stage

Question proposed: “That the Bill be now read a Second Time.”

Minister of State at the Department of Justice and Equality (Deputy Kathleen Lynch): I am pleased to be here on behalf of the Minister for Justice and Equality, Deputy Alan Shatter, to present the National Vetting Bureau (Children and Vulnerable Persons) Bill 2012.

I will now highlight the purpose of the Bill. In September 2008, the Oireachtas Joint Committee on the Constitutional Amendment on Children published an interim report which recommended that legislation be introduced to regulate and control the manner in which records of criminal convictions and information, including “soft information”, can be stored and disclosed by the Garda Síochána and other agencies for the purpose of child protection. The Bill will provide the necessary legislation.

The Bill will provide a statutory basis for the existing procedures whereby the Garda criminal records database is used to vet persons applying for employment working with children or vulnerable adults. These vetting procedures already operate under the Children First national guidelines. The requirement to conduct vetting for the positions covered by the Bill is therefore not new. It will, however, put the procedures that have been developed to vet these applications into law. More importantly, the Bill also makes it mandatory for persons working with children or vulnerable adults to be vetted, whereas at present this is done on the basis of a voluntary code. It will also create offences and penalties for persons who fail to comply with its provisions.

As I have mentioned, provision is made for the disclosure of “soft information” which in the Bill is referred to as “specified information”. “Specified information” is information other than a record of a criminal conviction or pending criminal prosecution. For example, it includes conclusions from investigations of child abuse or neglect that have been conducted by the HSE, where such investigations have concluded that a person poses a threat to children or vulnerable adults. “Specified information” also includes similar conclusions arising from fitness to practise inquiries by statutory bodies such as those conducted by the Medical Council, the Nursing

Council or the Teaching Council. “Specified information” also includes information arising from Garda investigations of criminal offences where a prosecution has not been taken but where there is a bona fide concern that a person poses a threat to children or vulnerable adults.

The Bill sets out procedures to allow for the disclosure of “specified information” for vetting purposes. It is important to note that before such information can be disclosed, the person who is the subject of the information must be given a copy of that information and must be given the opportunity to challenge the proposed disclosure. The Bill also provides that a disclosure of such information will only occur where there is a bona fide concern that the person poses a threat to children or vulnerable persons, the information has been assessed for its reliability and relevance, and the disclosure is in accordance with the principles of natural justice.

The Bill provides for the appointment of an independent appeals officer who will be responsible for assessing and deciding appeals against the proposed disclosure of specified information. By confining the information that can be disclosed to information arising from criminal investigations or statutory inquiries, and by ensuring that individuals who are the subject of such information have the right to challenge such disclosures, the Bill seeks to ensure that information such as vague rumours, innuendo or false allegations cannot form any part of the vetting process. The Bill also seeks to ensure that the constitutional right of all citizens to protect their good name, as provided in Article 40.3.20 of the Constitution is protected.

Schedule 1 to the Bill lists in detail the types of work or activities that require vetting. These include work in: child care services; schools; hospitals and health services; residential services or accommodation for children or vulnerable persons; treatment, therapy or counselling services for children or vulnerable persons; provision of leisure, sporting or physical activities to children or vulnerable persons; and the promotion of religious beliefs.

The Bill provides exemptions from vetting for certain arrangements. Private babysitting arrangements, private tuition and other private arrangements are exempt from the vetting requirements under the Bill. It is the Government’s view that it is not appropriate or feasible for the State to require vetting in regard to a person’s private family arrangements. There is also exemption in the Bill from vetting for persons assisting at sports or community events on an occasional basis. This exemption is necessary in order to focus the vetting requirement on persons working with children or vulnerable adults on an ongoing basis. It should be borne in mind that where persons help out on an occasional or annual community or sports event, they typically do so in full public view. It is neither feasible nor desirable to vet every parent assisting at every school, sports or community activity in the country. Instead, we must be practical and the Bill therefore focuses on requiring vetting for persons such as sports coaches, trainers, youth workers, teachers or any other person, paid or unpaid, working with children or vulnerable persons on an ongoing basis. For practical reasons, to which I will refer later, the Bill also does not require the vetting of teachers who are superintending annual State examinations and are already registered with the Teaching Council.

The scheme of the Bill was considered in detail by the Oireachtas Joint Committee on Justice, Defence and Equality. The joint committee obtained submissions from relevant organisations and published its recommendations in November 2011. Members of the Oireachtas have been very supportive of this Bill when contributing to the consideration of the draft scheme of the Bill at the hearings by the joint committee. The Bill has been drafted to include provisions to take account of the issues raised by the joint committee. The committee recommended the legislation should provide for vetting to be “portable” between different employer organisations

in order to cut down on multiple applications for vetting of the same individual. This, however, may not be feasible, for example, in a case where a person who was vetted for a position with one employer last year, might have had no convictions at the time of applying for that position, but might have subsequent convictions in the current year or information relating to that person which gives rise to concern may have come to light.

The joint committee also raised concerns about the lack of information from other states about the criminal records of citizens of these states who are seeking work here. In that regard the Minister is bringing forward separate legislation, the criminal records information system Bill, which will provide for enhanced co-operation in exchanging criminal records information with other states. That Bill is expected to be published in 2013. It will implement an EU instrument providing for the exchange of criminal records data between EU member states. It will also provide for the exchange of criminal records information with states outside of the European Union. In the meantime, the National Vetting Bureau (Children and Vulnerable Persons) Bill provides in the definition of “criminal offence” for the vetting disclosure to include offences committed outside the State provided that the same act or omission would be an offence if committed in this State. I believe the Members of the House are very supportive of this legislation.

We are all now very conscious of the abuse of children and vulnerable adults which has taken place in a variety of institutional and other settings. It is obviously very important that we have clear mandatory standards for the vetting of persons working with children and vulnerable adults. The Bill is essential to ensure employers can make informed decisions in instances where persons are seeking employment which involves access to children or vulnerable persons. I should point out to the House that the Bill will have no impact on Garda clearance procedures conducted under other legislation, which includes the Irish Nationality and Citizenship Act, section 15 of which requires the Minister to be satisfied that an applicant for citizenship is of good character; the Public Service Management (Recruitment and Appointments) Act 2004; the Taxi Regulation Act; the Road Transport Acts and the Private Security Services Act 2004. These Acts already require Garda clearance of persons based on a search of the Garda criminal records.

I would now like to outline for the House the key provisions contained in the Bill. The existing unit of the Garda Síochána known as the Garda central vetting unit will, under the Bill, be known as the national vetting bureau. Section 3 provides clarification with regard to activities exempt from the provisions of the Bill, which I have already outlined. Section 6 makes provision for the database which is to be established and maintained by the chief bureau officer. The database will be made up of a register of relevant organisations, a register of specified information and a register of vetted persons as provided in sections 8, 10 and 11 respectively.

Section 7 sets out the functions of the bureau in the maintenance of the database and also provides that the bureau is responsible for vetting services in respect of relevant work or activities relating to children or vulnerable persons. Section 8 requires the chief bureau officer to maintain a register of relevant organisations which can avail of vetting services. This section also includes a provision that organisations already registered with the bureau before commencement of the Bill will be deemed to be registered following the commencement of the Bill. In addition, a relevant organisation shall not be required to comply with the requirement to register where another relevant organisation, which is registered with the bureau, submits on behalf of the first organisation applications for vetting disclosures. This provision is included to enable organisations such as schools or crèches to submit applications through a representative body without requiring each and every school or crèche to register individually. There is also

a provision that an organisation which fails to comply with the requirement to register under subsection (2) is guilty of an offence.

Section 9 provides for the registration of liaison persons. These are the persons in each organisation responsible for applying for and receiving vetting disclosures from the bureau.

Sections 10 and 11 provide for the establishment of the register of specified information and the register of vetted persons. Section 12 prohibits the engagement of persons to do relevant work or activities relating to children or other vulnerable persons unless that person has been subject to the vetting procedures under the Bill. It includes provision for a defence if a person can show that he or she did not know, nor could be reasonably expected to know, that the work for which a person was engaged constituted relevant work or activity.

As previously mentioned, teachers registered with the Teaching Council performing the temporary function of superintending the annual State examinations are exempt from vetting. The State Examinations Commission directly employs approximately 8,000 persons on a short-term basis for the purpose of supervising these examinations. Some are employed with as little as a few hours notice on the day of examinations to cover local contingencies. Most of those employed directly by the commission are teachers already employed in schools and registered with the Teaching Council. It is imperative that there should be no unnecessary disruption to the operation of the State examinations. Persons working as teachers and registered with the Teaching Council should not require vetting for the purpose of short term, temporary employment supervising exams.

Section 13 sets out the procedures to be followed in making applications for vetting disclosures. It confirms that an application from a relevant organisation for a vetting disclosure may be made on its own behalf or on behalf of another relevant organisation that it represents for the purpose of the vetting procedures under the Bill. This section also specifies the information relating to the vetting subject which must be included in the application.

Section 14 sets out the procedures to be followed by the bureau in considering an application for a vetting disclosure. There is provision that following the receipt of an application for a vetting disclosure the bureau will undertake an examination of its own database and the Garda Síochána criminal records for the purpose of establishing whether there are criminal records or specified information which relates to the applicant. The section also provides that specified information relating to the applicant will be referred to the chief bureau officer for assessment as to whether the information should be disclosed.

Section 15 sets out the procedures to be followed by the chief bureau officer in assessing specified information for the purpose of its inclusion in a vetting disclosure. This includes a provision that the vetting subject must be provided with a summary of the information and must be informed of his or her right to make a written submission on the information. A subsequent decision to disclose the specified information requires the chief bureau officer to believe the information in question is of such a nature as to give rise to a bona fide concern that the vetting subject may harm, attempt to harm or put at risk of harm a child or vulnerable person. The chief bureau officer must also be satisfied that the disclosure is necessary, proportionate and reasonable in the circumstances, and relevant to the particular position for which the person is applying.

Section 16 provides that where a vetting disclosure contains details of criminal records or

specified information, the relevant organisation must provide a copy of the disclosure to the vetting applicant. The section also provides that the organisation may consider and take into account the information disclosed in assessing the suitability of the person for the position for which they have applied.

Section 18 sets out the manner of an appeal against a disclosure of specified information, which shall be in writing, accompanied by grounds for appeal and indicate whether an oral hearing is sought. Having considered the appeal, an appeals officer, appointed under section 17, may affirm in whole or in part the decision of the chief bureau officer or may set aside that decision, in whole or in part. An appeal to the High Court on a point of law is also provided for and this determination is final and conclusive.

Section 19 concerns the notification of information to the bureau from those organisations listed in Schedule 2. These are regulated organisations which conduct certain inquiries or which have certain responsibilities under the law relating to either fitness to practice or the protection of children. For example, if, as a result of a statutory inquiry by the HSE, or a fitness to practice process by a statutory body, the organisation has a bona fide concern that the vetting subject may harm, attempt to harm or put at risk of harm a child or vulnerable person, that organisation is required to inform the bureau of the information giving rise to that concern. This information will then be entered into the register of specified information maintained by the bureau. The organisation is also required to notify the person in respect of whom there is such a concern that it is notifying the bureau of this concern. The section also contains a provision that the obligation to report under it is in addition to any other obligation to disclose this information to the Garda Síochána or to any other person. This is important to ensure the reporting requirement under the Bill is distinct from and in addition to the obligation to report concerns to the HSE under the children first Bill being prepared by my colleague, the Minister for Children and Youth Affairs, Deputy Frances Fitzgerald.

Section 20 provides for the periodic re-vetting of persons previously vetted for their current position. Section 21 provides for the retrospective vetting of persons currently in positions which would be subject to vetting under the Bill but who have not previously been vetted because they took up the position prior to the availability of vetting in the State. Approximately 100,000 persons in the health and education sectors were recruited before the current vetting procedures were introduced and therefore have not been vetted. It is important this should be remedied.

Sections 22 to 32, inclusive, contain miscellaneous provisions including a requirement on the chief bureau officer in section 23 to present, through the Garda Commissioner, an annual report to the Minister. The Minister will be required to place copies of this report before both Houses of the Oireachtas. This will ensure that we have an annual view as to how the bureau is working, whether it is adequately staffed and resourced, whether delays are arising and, in the context of the bureau and the chief bureau officer in charge, whether there is some legal anomaly or difficulty identified that needs to be addressed in terms of legislation.

Section 24 provides that the chief bureau officer may assign one or more members of staff as compliance officers for the purposes of the Bill. The purpose of the compliance officers is to investigate any complaint that a registered organisation is failing to operate adequate or proper vetting procedures.

Section 26 makes it an offence to falsify a vetting disclosure, or to make a false statement

for the purpose of obtaining or enabling another person to obtain a vetting disclosure, or to allow a vetting disclosure be falsely used by another person.

Section 32 permits the introduction of fees for the purpose of the provision of vetting services. This is simply an enabling provision to allow fees to be charged for certain categories of vetting application, if appropriate.

Schedule 1 to the Bill sets out the relevant work or activities relating to children or vulnerable adults which will be subject to the vetting requirements of the Bill and Schedule 2 sets out the organisations which will be required to disclose specified information to the bureau in accordance with section 19.

Before putting the Bill to the House, there is one issue which I would like to briefly address, namely, the concerns about the relationship between this Bill and the Criminal Justice (Spent Convictions) Act 2012. That Act provides that where persons applying for positions which give them access to children or vulnerable persons are asked if they have any previous convictions, they must disclose all convictions, including any convictions that could otherwise be deemed spent under that Act. The same applies under the National Vetting Bureau (Children and Vulnerable Persons) Bill, and is supported by the provisions in the Bill. Because of the overriding need to protect children and vulnerable persons, a policy decision has been taken that the spent convictions provisions should not apply where persons are applying for these positions. This is because relatively minor convictions which may ordinarily be deemed spent would still have a particular relevance in regard to persons working with children or vulnerable persons. For example, when the spent convictions Act is in force, a conviction for theft or fraud may become a spent conviction if the penalty imposed is less than 12 months imprisonment and the other criteria are satisfied. However, that information may be relevant to a position of trust working with a vulnerable person. Similarly, many road traffic convictions may become spent convictions, but again these may be relevant to a position working as a driver of a school bus or a public service vehicle for persons with disabilities. For these reasons, it has been decided that in regard to the positions covered by the National Vetting Bureau (Children and Vulnerable Persons) Bill, all criminal records will be disclosed.

I wish also to make particular reference to the work of the Garda central vetting unit. The unit is expected to process some 350,000 vetting applications in 2012 on behalf of approximately 20,000 organisations which are registered with it. The processing time for vetting applications fluctuates during the year due to seasonal demands when the volume of applications received from certain sectors can increase. At present it takes on average eight weeks to process applications. There will always be a reasonably significant time period required to process a vetting application. All organisations registered for Garda vetting are aware of the processing timeframes for the receipt of Garda vetting and have been advised to factor this into their recruitment and selection process. The Minister is very conscious of the need to keep this processing time to a minimum. The Garda central vetting unit, which will become the national vetting bureau under the provisions of this Bill, will have a substantially expanded role under the new legislation and the Minister is engaged in discussions with the Department of Public Expenditure and Reform to ensure adequate staffing to meet these new demands.

On behalf of the Minister, I thank the Members of this House who have already provided support for the Bill when contributing to the hearings by the Joint Oireachtas Committee on Justice, Defence and Equality. I am sure that the debate on the Bill in this House will be very informed and constructive and I know that the Minister will be kept informed of those discus-

sions. I commend the Bill to the House.

Senator Averil Power: I welcome the Minister of State to the House and welcome the Bill. Fianna Fáil broadly supports the measures outlined in the legislation to clarify and consolidate the vetting process. We have, however, two concerns about the inclusion of childminders who are working on a commercial basis and the provision of sufficient resources to back up the measures outlined in the Bill.

The Bill places the current Garda vetting system on a statutory basis, which is important, and it builds on a lot of work that was done on Committee Stage in the Dáil. I welcome the way the Bill was drafted, that the heads were published and groups were invited before the joint committee to make presentations on it. I appreciate the work that has gone into it.

The Bill makes vetting mandatory for employees and volunteers working with children or vulnerable adults in the organisations covered in the legislation, although other organisations are not mentioned. We also welcome the fact the Bill includes provision for the use of soft information. This is a complicated area and the Human Rights Commission has expressed concerns about the use of soft information. It is important we are able to use it because while there should be safeguards in place, we are not protecting children if we only bring forward concerns about those with actual convictions. If an individual has not been convicted but there are sufficiently strong concerns about that person working with children, such as his or her having been questioned by gardaí several times on related matters, it is important that is captured. We must ensure the right protections are there to reconcile the use of soft information with people's constitutional right to a good name. It is important for those safeguards to be put in place.

We are concerned about the non-inclusion of childminders. As many as 75,000 children in the country are being minded by childminders. Leaving that sector totally outside the Bill leaves a lot of children without protection. We would argue that more work should be done to bring the childminding sector within the remit of the legislation, particularly those working on a commercial basis. No one is suggesting a grandmother would need to be vetted before she could mind her grandchildren but there are people working as nannies and *au pairs* in the home setting and such people should be regulated and vetted. They are in an unsupervised setting with children in the home and more work must be done on this.

We also want to ensure sufficient funding is put in place to back up the aspirations in the Bill. The Bill extends the sort of information that will be captured but unless sufficient funding is provided, that will lead to more delays in having people vetted. As the Minister is aware, there are already significant delays, an issue that has been brought to my attention by local groups, and these are causing real difficulties for voluntary organisations in particular. It is vital the resources are provided to ensure the vetting bureau can do its job.

The release of resources within the Teaching Council to enable existing teachers to be vetted is also a matter of concern. The last Government introduced vetting of new teachers and it was always intended that would be rolled out to existing teachers in order that all teachers would be vetted. The Minister for Education and Skills, however, has admitted on many occasions that there are 40,000 teachers who have not been vetted. That is a matter of huge concern. The Minister confirmed at the Oireachtas Joint Committee on Education and Social Protection when I raised it that the problem was not that the Teaching Council did not have the resources, it was not allowed to use them because although it was a self-financing organisation funded through fees from teachers, it was subject to the recruitment embargo; therefore, it could not hire the

necessary personnel to do it. This must be sorted out immediately and all existing teachers must be vetted as soon as possible. I also highlight the need to ensure adequate training within the sector. If child care protection really is to be improved, one must ensure the provision of adequate child protection training for those working within the sector, as well as adequate access to training procedures for staff to again ensure the reality on the ground reflects improved services and protection.

I also wish to mention two other issues, the first of which is there appears to be some confusion about the use of PPS numbers in identifying individuals involved in the vetting process. While the Minister had indicated previously the vetting process could not use PPS numbers, presumably because they are not issued for that purpose, the Bill appears to indicate that such numbers will be used. Consequently, I seek clarity as to the position in this regard because so doing appears to make sense, in that as the PPS number is the best individual identifier available in respect of public administration, it should be used.

The Minister of State referred to the issue of re-vetting and how it is covered by the Bill, which provides there can be periodic re-vetting and retrospective vetting. However, there had been indications from the Government previously that at most, this is a long-term commitment. Fianna Fáil seeks to have this provision speeded up because it considers that even within the context of the limited resources within which everyone is working, priority should be given to child protection and the party certainly would support resources being made available for that purpose. This is important on foot of the referendum that just has been passed on children's rights, which was important in respect of constitutional protection and in setting out the legal aspiration people have to ensure that children are protected. However, that will only make a real difference on the ground if the resources are actually provided. This is the reason that while Fianna Fáil supports this Bill, it considers that it could go further. I would welcome the Minister of State's comments on the issue of commercial childminders and on how they might be involved in the process and on how the requisite resources might be provided for the vetting bureau and for the system as a whole to ensure there are real improvements in child protection on foot of this legislation.

Senator Paul Bradford: I welcome the Minister of State at the Department of Arts, Heritage and the Gaeltacht, Deputy McGinley, to the House and welcome this Second Stage debate on the National Vetting Bureau (Children and Vulnerable Persons) Bill 2012. When debating the Personal Insolvency Bill last week, Members spoke of the positive impact of the manner in which the Oireachtas Joint Committee on Justice, Defence and Equality is now being used to have prior debate on legislation and of how effective is the liaison into which its members enter with interest groups. Once again, the Minister, Deputy Shatter, used the aforementioned joint committee highly effectively, first to outline some of his initial views on this proposal and then to take on board the concerns of all sides of the political spectrum, as well as outside groupings and organisations. The Bill has benefited from that work. It is a lesson to all Ministers and Departments as to how to most effectively use the various Oireachtas committees. As this Bill has already passed through the other House, in a sense the Seanad is acting as the second House and may be little more than a rubber stamp on this occasion because the Committee Stage debate has taken place elsewhere. Nevertheless, it is still important that Members record their welcome for the proposal.

In the course of a balanced contribution, Senator Power expressed her concern regarding the commercial childminding sector to which the Minister of State might make reference in his response. While I may be reading it incorrectly, section 3 indicates the "Act shall not apply to

any of the following [activities] namely ... any relevant work or activities undertaken ... for no commercial consideration". I imagine the provision in section 3(1)(b) specifying "for no commercial consideration" means commercial childminding therefore could not be exempt but I am sure the Minister and his officials will clarify this matter because the Senator has raised a valid point that must be brought to certainty.

Most Members will consider the Bill from the perspective of children and the need to further safeguard them. Members welcome the passing of the children's referendum, which will have a positive impact, as well as the introduction in the near future of the Children First legislation. All such legislation has the strong possibility of ensuring that children of future generations will have the protection and safety that sadly, children of past generations did not always fully enjoy. While this must be welcomed by all, Members must also dwell at length on the broader question of vulnerable persons. I refer in particular to vulnerable elderly persons, whether those who are elderly and incapacitated or those who are elderly and suffering from some degree of mental deficiency. These sectors are often forgotten when one considers vulnerable people who are being abused. That said, I acknowledge in sadness that quite a number of television programmes have been broadcast in recent years on the mistreatment of elderly people in some care institutions. It is important to send a strong message that the legislation under discussion also will provide protection for these persons and will ensure the people working with them and for them on a commercial basis must be vetted and that there will be certainty about the propriety of such persons.

While the children's referendum and the Children First legislation are positive measures, I have often made the point in the House that at the other end of the age spectrum, further strengthening legislation on the rights of the elderly must be introduced. My preference would be that some day in the not-too-distant future, there may be a constitutional amendment to also protect, preserve and vindicate the rights of the elderly. This is a matter for future consideration. The Criminal Justice (Spent Convictions) Bill 2012, which has been debated in detail in this House, is mentioned in the legislation because of the various opt-out clauses. It is correct that the Minister is ensuring that the vetting bureau and the legislation underpinning it are not prisoners of the Criminal Justice (Spent Convictions) Bill because there are cases in which the aforementioned Bill is highly appropriate for broader society but might not be entirely appropriate where people are working with children and vulnerable people. Consequently, the Minister has achieved the correct balance in this regard.

I wish to refer briefly to the question of resources and Senator Power of course is correct. It is central to the debate because all the legislation passed reads well and stacks up well on the library shelves of the Oireachtas but for legislation to actually work, it certainly requires resources. Already, in the past few months, Members have been made aware of difficulties with regard to the processing of work in the Garda office responsible for general vetting policy, which I understand to be based in Thurles. If there is a blockage there and if there is a staffing problem, notwithstanding the Government's recruitment issues in respect of the public service, it must try to bring about a solution to ensure that staff are in place and that vetting is carried out within a reasonable timeframe. Members have stated in this Chamber previously that in respect of all legislation passed by this House, apart from the pertinent aspects of the legislation itself, they should ask themselves what will be its impact on employment, on employers and on encouraging people to create employment. If a person has a job or two on offer and if the persons who will fill those jobs must be vetted and will require the appropriate certification, to have a balanced application procedure and to allow everyone to apply and to be considered

for the job, Members must try to ensure that vetting is carried out as quickly as possible. This vetting legislation should not act as a bar on someone's employment prospects and I ask the Minister of State to convey to the Minister Members' concern in this regard and their request that the maximum resources and the maximum flexibility within the limited resources available will apply to ensure that sufficient staffing will be in place.

Overall, I have little original to say. As I mentioned, members of the Oireachtas Joint Committee on Justice, Defence and Equality have had a lengthy discourse on this matter and it received a strong ventilation in the Dáil. It is not merely an aspirational item of legislation and is not simply a matter of Members highlighting how concerned they are in respect of children or vulnerable persons. It is real legislation which can, and indeed must, work. It is an improvement on the previous, relatively lax regulations that were in place. On Committee Stage, where Members will have a little more time, I intend to speak of some of the cases that have been brought to my attention in which there were problems in the past. Specifically, I will refer to a case at County Cork Vocational Education Committee. In a sad reflection on how not to conduct ourselves, a person who was unsuitable to work with children became the school bus driver. We must ensure that such incidents do not recur. The legislation will be helpful in that regard.

I welcome the Bill from both ends of the spectrum. The concentration may be more on the children's end of the regulations, but we must send an equally strong message that elderly and vulnerable people will have additional protection. We need to consider the resources issue, as the system must work quickly. I hope the Minister of State will be able to resolve the points on which Senator Power sought clarification in order that the Bill can be fully accepted by all parties in the House.

Senator Jillian van Turnhout: I welcome the Minister of State. I also welcome the Bill in general. It is good to see it before the House and that the Minister for Justice and Equality, Deputy Shatter, used the committee process to formulate the heads of the Bill. I encourage more Ministers to use this process.

It is important that we do not view the Bill in isolation. It is part of a suite of legislation that includes the Children First Bill, the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012, the Criminal Justice (Spent Convictions) Bill 2012 and the recently passed children's rights referendum.

I wholeheartedly support the Bill, but I will raise some concerns. One concern is the length of time taken to process vetting applications. From the documentation provided by the Library and Research Service I see that the process has improved considerably and been reduced to a matter of weeks. However, the employing organisations in question work with particularly vulnerable children. Having taken a straw poll during the weekend and today, voluntary youth work and sports organisations are waiting months. The average for vetting volunteers is three months, but could be as much as six months. We need to keep this point in mind. The Bill is not concerned with resourcing but it puts the same onus on organisations regardless of whether the persons in question are employees or volunteers. There is a slight get-out clause for large voluntary organisations. It is a considerable burden.

As Senators know, I am involved in the Irish Girl Guides. Someone who volunteers to be a leader wants to be active. I have no difficulty with that person not having unsupervised access to a group. However, one must wait for up to six months for vetting to come through. We can

have all of the procedures and legislation in the world but organisations can commit a criminal offence under this Bill if they are not careful about the onus. There is a difference between an employee and a volunteer who helps out on a weekly basis. It is important that the Bill refers to occasional versus regular. However, there is a difficulty, in that they sometimes converge.

The Irish Girl Guides would never allow a non-vetted person to stay with a group overnight. Regardless of whether that person was supervised, he or she would not be allowed in the building. In the run-up to an event, though, a parent may offer to help for the weekend when a leader becomes ill and is unable to attend. We have found other solutions, for example, a leader must come from another area, but I am trying to apply to the Bill the reality of how the system will work in practice.

The Department of Justice and Equality has employed 20 civilians on a temporary basis and includes a number of personnel under the JobBridge scheme to work on the backlog. When the Bill comes into effect, the demand on the vetting bureau will increase significantly. Will this exacerbate the situation? Everyone involved in this debate wants to protect children. Sometimes, I run code of ethics training courses. Child protection in Ireland is a pendulum. For all too long it was stuck at one point and we did not want to consider that children were being abused in any manner or form. If we saw no evil, no evil was taking place. In a way, the pendulum has now swung to the other side. We have become overprotective and are placing burdens on organisations. It is important that we find the right balance in the centre. We should keep an eye on child protection without assuming that everyone is evil or that it is always a question of stranger danger. Some 92% of people who abuse children are family members or are known to the families. This is not stranger danger.

I welcome the provisions on the exchange of soft information. In light of a number of cases in recent years, our efforts would be toothless without that exchange. Under Part 3, subsection 12(3), an organisation can have the defence of “neither knew nor could reasonably be expected to know”. This covers volunteers partially, but I am concerned that there is an equivalence.

My second point relates to portability. Senator Power raised the issue of PPS numbers. I am confused about whether they can be used. Many of the people I know volunteer and a volunteer is likely to volunteer in more than one organisation. It is the person’s nature, yet he or she must go through the same vetting process repeatedly even if he or she is volunteering within the space of months or a year. I understand that the Minister will not provide for portability because an offence might have been committed during the two volunteering or employment opportunities, yet we are told that re-vetting is not practical. If one has been in an organisation for five plus years, one should be re-vetted. The Minister can consider this issue under the Bill, but no guidelines have been included. I am concerned that we are not sending a clear message to organisations. Is it the case that, once one is in, one is safe and not a harm to children? I have a difficulty with the distinction between employees and volunteers. A volunteer with the Irish Girl Guides will work for two hours per week. Someone might volunteer for years without anyone ever knowing what occurs during the other hours of his or her weekly life.

I am also concerned about the status of being offered a job subject to vetting. I am conscious of the High Court case that is currently before Ms Justice Mary Laffoy about someone who failed to get a job with Kilkenny County Council because of five non-convictions relating to alleged criminal damage, road traffic matters and theft, all cases of which were struck out without evidence being heard. If an organisation has offered someone a job subject to vetting, what is its legal status in a lawsuit after the information comes through?

I support Senator Power's point on childminding. If there is one issue on which I will table an amendment, this is it. We have excluded far too large a group. A grandmother or other family relative might mind a child, but some people engaging in childminding are gaining monetarily and should be covered by the legislation. If someone makes any financial gain, he or she should be covered. This vetting legislation will cover volunteers, but it will not cover people who make financial gains from minding young children. I have an issue with this and I will table amendments. Having read the Dáil debate, I have a number of concerns. In light of the time constraints, I will revert on the issue.

The Spent Convictions Bill is also before the House and I will table amendments to it. I am experiencing a dilemma regarding spent convictions.

6 o'clock

A shoplifter may have the spent conviction wiped but it will be on the record for life. Therefore, if a person with such a conviction applies for any social care work, he or she will not be eligible for those courses.

We know from statistics that if a person has not reoffended in a certain time, he or she is as likely as me or anybody else to commit an offence. I have a difficulty with something being carried for life if there is a possibility of a person working with any group. I can understand such a stipulation if a person is to work with vulnerable children and adults, but I am concerned about its operation in mainstream organisations.

Senator Ivana Bacik: I welcome the Minister of State, Deputy McGinley, to the House in introducing this important Bill, which has cross-party support. I welcome the very comprehensive view given by the Minister of State, Deputy Lynch, in an earlier speech. It is very necessary and will put in statutory format practices that are already ongoing in vetting procedures required under the Children First national guidelines. As the Minister of State indicated, approximately 350,000 vetting applications will be processed this year by the Garda vetting unit in accordance with those guidelines. The purpose of the Bill is to ensure we have a statutory framework for what is an ongoing practice.

Senator Bradford referred to the justice committee hearings which took place to discuss the heads of this Bill in September 2011. I echo his comment that this is a useful process, where the Members of Dáil and Seanad have an opportunity to examine in depth the heads of a Bill before it is drafted with the assistance of stakeholders. We heard in September last year from 12 organisations, including sports groups like Swim Ireland and the GAA, children's groups like the Irish Society for Prevention of Cruelty to Children and Barnardo's, and other groups like the Teaching Council and the Irish Universities Association, the INTO, the Society of St. Vincent de Paul and the Rape Crisis network. These are a variety of groups with front-line experience, and we were very impressed with the vetting procedures already followed by them in the course of their work. That applies both to groups which started as voluntary organisations and those who carried out different statutory functions.

We were impressed by the vetting procedures already in place and we heard some useful points from the groups that came to us. We heard about potential problems with the draft of the Bill and I am glad the Minister of State has indicated that the report of the committee was taken into account in formulating this Bill. It seems much of the wording of the Bill has changed compared to the heads that we had.

There are a number of recommendations on which I would like to focus that were made by the committee and addressed by the Minister of State. Senators van Turnhout and Power referred to the issue of portability, which the justice committee raised in last November's report. The committee argued that the legislation should provide "for portability of vetting whereby a vetting outcome for a person who is vetted could be shared within data protection requirements with another organisation to cut down on multiple applications for vetting of the same person and reduce the burden on the Garda vetting unit". We are all aware of that burden. The Minister of State provided a very appropriate response in indicating that this may not be feasible, as a person vetted for a position with an employer may gain subsequent convictions prior to applying to a second employer. I agree that in considering the protection of safety of children is paramount, and that should overcome any practical issues in trying to cut down multiple applications. That is a fair response to the point.

The Oireachtas Joint Committee on Justice, Defence and Equality also raised concerns, as the Minister of State indicated, about information from other jurisdictions, which was identified by organisations as an important issue. We heard there was good co-operation between Ireland, Northern Ireland and the UK in sharing information on the vetting process but this was not always the case with other countries. I am glad the Minister of State has given a very clear response in that respect and that separate legislation will be brought forward, the criminal records (information systems) Bill, to provide for enhanced co-operation in exchanging criminal record information with other states. That is important because many organisations were concerned about it.

Another issue that exercised the committee membership was exemption from the working of the Bill. I am glad to see the use of the phrase *ad hoc* has now been removed. Many groups had difficulty with its use regarding exemptions, with persons being exempt where there was occasional or *ad hoc* voluntary or assistance work with organisations dealing with children or vulnerable adults. Many people argued that this was too vague and arbitrary, and a tightened set of exemptions in section 3 is a great improvement.

I was interested in Senator Power's comments about childminding not being covered. Senator Bradford indicated that section 3 appears to cover it but section 2 seems to exclude the activity, as the definition of a relevant organisation does not include an individual who employs a person to work with children in the course of a private arrangement. That is the difficulty identified. The definition covers the provision of relevant worker activities for the benefit of the individual or a child or vulnerable person who is a member of the individual's family. It seems that a childminder hired in a commercial sense in one's own home may not be covered. It may be useful to get clarity from the Minister of State in that respect.

It is an interesting point as the issue arose in the justice committee when we considered head No. 5 of the Bill, which was a specific statement that the "provisions of this Act shall also apply to persons providing accommodation in their private home for children or vulnerable adults other than family relatives". I know Barnardos supported the inclusion of people running small-scale crèches for a small number of children, which is perfectly legal and facilitated under other laws. Apparently, the practice may not be covered, although the legislation may have tightened this up somewhat. The only exemption appears to be in respect of a person employing somebody for the benefit of their own child and it is somewhat unclear. Play dates are excluded, which I am glad to see, and there are some cases where we must be sensible.

The Minister of State has also indicated that babysitting and private tuition are excluded. As

with childminding, there can be a range of activities; childminding can involve a grandmother caring in her or a child's home for a child which should not be covered, but private tuition can extend to a long period with a person who may be involved with a number of tuition arrangements. We must consider what should be covered and there must be greater clarity in that regard.

There were other issues raised at the committee but they have been dealt with by the strengthened version of the legislation we have before us. Senator van Turnhout raised the issue of due process and concerns about previous convictions, which forms another element of the justice committee's report. We questioned whether it would go too far to have very minor traffic convictions disclosed. I accept, in the interests of child protection, the view that it is better to be overly inclusive in that respect, and the spent conviction legislation would go some way to addressing those concerns. Spent convictions would be covered under the soft information process.

The re-vetting issue is crucial and I hope we will revisit it on Committee Stage. Section 20 is strong but it still leaves discretion to the Minister with regard to time limits. The organisations expressed concerns about that and they wished to see the process tightened. We heard that the Garda vetting bureau backlog was ten weeks but the Minister of State has indicated it is now eight weeks. Extra resources will be required.

To reiterate the thoughts of the committee, we were very pleased to note in our hearings that many of the organisations which took part in the process had, in advance of the legislation, introduced procedures that in many cases go further than required by the Bill. Vetting procedures are already in place and it is important and welcome that they are being put on a statutory footing at last.

Senator David Norris: In general I welcome the Bill. It is a question of balance and everybody has accepted that notion. There is no question or doubt but that all of us want to protect children and people of my age realise how devastatingly innocent we were after seeing the recent disclosures. None of us understood the pervasiveness, extent or degree of abuse of children by swimming coaches or television stars. I was shattered to see reports that Uncle Mac, whom I remember from the 1950s as the genial voice of BBC radio's "Children's Hour", is now under grave suspicion. All our illusions in that regard should be gone.

The Bill puts the entire vetting procedure and the use of Garda criminal records on a statutory footing. The question of soft information in the Minister of State's contribution concerns me. What exactly is soft information? Some of our journalistic colleagues seem to be a little confused in that regard. I refer to a Mr. Paul Cullen who stated in an article in *The Irish Times* that four years ago an Oireachtas committee recommended that vetting procedures be placed on a statutory basis and that legislation be introduced to regulate the way criminal convictions and other soft information is used for child protection purposes. I would have thought that criminal convictions were hard information and to use the word "other" suggested soft information is the same. It is described in the Bill as special information. I would be concerned if the existence merely of gossip, for example, and this is placed under the legislation on permanent record to be held somewhere and therefore it is a permanent black mark at least to the degree of suspicion against somebody, was placed on a par with actual criminal conviction.

One has to take into account again the question of balance because we live in a common law jurisdiction where one is assumed to be innocent until proven guilty. That is a very impor-

tant human rights safeguard and it is significant that Dr. Maurice Manning, the recently retired chairman of the Human Rights Commission and former leader of Fine Gael in this House, expressed concern on this when he stated:

Once a criminal conviction is imposed, it follows the individual for life and can inhibit their access to education or employment, their ability to obtain licences, insurance and housing and can place restrictions on their travel. For a person who is convicted of a minor offence or fined, to have to reveal that conviction for three to seven years seems entirely disproportionate.

It was interesting that several of my colleagues, many of whom have a clear commitment and long track record in this area, expressed some degree of concern.

With regard to the question of traffic offences, for example, I suppose a minor traffic conviction or even a medium traffic conviction is appropriate if one is driving a bus but it is not important just for children; it is important for everybody else. If one has a track record of drunk driving, breaking red lights, driving without insurance and tax or whatever and one has an accumulation of offences, one is a danger to everybody. On the question of one's age or other status such as disability, it might make it more tragic if an accident occurs but any civilian will be killed if somebody drives inappropriately because they have not been properly vetted in this way. I do not see the point of that, particularly for minor traffic convictions.

I share the concerns expressed by some of my colleagues about the vetting procedure and the resourcing of it. I would like to know about the quality of the vetting. How good is it? Is it a cosmetic exercise? I do not know how long it takes but we are told there are 350,000 to be done per annum and there is a backlog of 100,000. I am not good at mathematics unless they are round figures but even if they take, say, half an hour to vet one person that is 150,000 hours. If we take it that people work a five hour day, that is 30,000 days before we get the extra 100,000 in two sectors. I am not sure it is being done adequately and that we have the resources or the person power, to be politically correct, to do this work appropriately.

There is also the question of private tuition. I would think private tutors could be fairly beastly and capable of inappropriate behaviour towards children. Why are they exempt?

There was an interesting article in a newspaper last week in which a woman was quoted as saying that she stands on the side of a hockey pitch once or twice a year and as a nominated parent she has to be vetted, whereas the woman up the road who looks after three under-age children on a regular basis does not have to be vetted. That is the kind of anomaly that could be teased out in the Seanad, but it is a rather worrying one.

I am pleased that the idea of balance to which I referred appears to be addressed by the Minister in the sections of the Bill which give the person who is the subject of the information the opportunity to have a copy of the information and to challenge the proposed disclosure. That is important and it goes some way towards meeting my concerns because that is democratic. If somebody accused of something, unlike in other areas of the law which survive where somebody can be accused and then denied access to the information, which I always thought was crazy, has the opportunity to correct that, then that is a good development.

Following on from what I said, the Minister of State stated in her contribution that it was the Government's view that it was not appropriate or feasible for the State to require vetting in regard to a person's private family arrangements. I reiterate that a great deal of abuse takes

place within the family, of which, therefore, we must be aware.

I am interested in the cost of the vetting procedure because that will affect it. We hear of cut-backs every day and my concern is that if we are to have vetting, it should be fair, proportionate and balanced and should include people who are most likely to offend or to be a threat or a risk to children. It should not bother with people who are not, and it should be effective, efficient and properly resourced. I am not convinced that the Government, in the current economic climate, will resource it properly. Many worthy measures have been passed by this House and the other House including, for example, the guardian *ad litem* which, tragically, has not been properly resourced or maintained. That would be a worry.

I welcome the Bill. I am sure it is not perfect because very little in this life is perfect but we must monitor it. Perhaps there should be a clause in the Bill to review its operation because it is a new procedure and it contains this slightly worrying idea of soft information which I hope will not just be gossip. What we all want to do is protect children and I very much hope this Bill will do that and that the correct balance between the rights of the individual and the obvious and appropriate desire to protect children will be found and maintained by the Government.

Senator Colm Burke: I welcome the Bill and the Minister of State to the House. I thank the Minister of State, Deputy Lynch, for the comprehensive overview of the Bill which is welcome. I agree with Senator Norris that the records in regard to abuse indicate that much of it occurred within the family. It is important that this legislation deals with the areas that went unchecked for many years.

I recall a case not long ago where a family made a complaint about their nine or ten year old child who had an intellectual disability to four organisations: the bus company, the people who had subcontracted to the bus company, the school the child attended and the Garda, but no action was taken for ten days. That person contacted a public representative, who subsequently contacted me. It was only when we threatened to arrange for the child to be transferred to the Rotunda Hospital, Dublin, to have the child examined that action was taken by any of the four organisations. That incident did not occur very long ago. In a subsequent investigation, a person pleaded guilty and served four and a half years. It shows the detail of how far we have come in taking complaints seriously and putting in place proper procedures. Much work has been done on a voluntary basis in recent years, making sure the proper practices are in place and that people assisting and in charge of children had gone through the proper checks. The legislation is welcome as it puts what is required on a statutory footing. It puts an obligation on the organisations to comply with regulations essential to the care of children when they are with people other than their parents.

It is important that the legislation, particularly section 15, ensures a balance in order that when specified information becomes available the person who it relates to has the opportunity to deal with it and has the right of reply. If the person is unhappy with a decision under the Bill, he or she has a right of appeal. It is important proper procedures are followed and the legislation clearly sets it out, particularly in section 15. The Minister of State covered this point in her address.

We must constantly monitor this legislation. That the Bill has been passed does not mean we have crossed all the t's and dotted the i's. There may be a need for review. Our responsibilities do not end when legislation is in place. It is an ongoing process and one we need to keep under review. We have made much progress in the area in the past ten or 15 years. It is important to

make sure proper procedures are followed by various organisations looking for information. I remember advising organisations in which people felt they had followed the proper procedures. I insisted they go back to the start because they did not follow all procedures and did not give a proper hearing to the person whose background they were looking into. I advised a number of organisations to start again from scratch.

The legislation sets out clear guidelines on how vetting is to proceed. The Garda Commissioner will appoint the head of the bureau and there will be a certain independence. Legislation is required to ensure that what was done on a voluntary basis is put on a statutory footing. This is welcome and it is important that back-up support is provided. The issue of the backlog was raised and it is important to address it at an early stage. The last thing any organisation needs is for the work of the many people in the voluntary sector to be held up because they do not have the answers it requires in a short period of time.

Senator Paschal Mooney: I welcome the Minister of State to the House. I will declare an interest, I currently hold the position of chairman of the Leitrim County Childcare Committee. Over the years, I have been made aware of the vetting difficulties in employing people who work with children. I was surprised the Minister of State referred to the Bill making a practice mandatory, “whereas at present this is done on the basis of a voluntary code”. That may be technically or legally correct but in my experience dealing with child care organisations and those involved in them, anyone employed in any capacity where children are involved is not employed without Garda clearance. That has been the practice but the Bill reinforces it. It is not the case that the Bill will create a new environment, in case that impression is created. On the ground, vetting procedures are taking place.

I discussed this matter with the Minister for Justice and Equality, Deputy Shatter, last year. He had taken a personal interest in the vetting process and had, admirably, improved the speed of response. By the spring of this year, the vetting process had been reduced from the original timescale of three months to six weeks. However, I am sad to report to the House that the best efforts of the Minister have been thwarted, whether by bureaucracy or an overwhelming number of applicants. The vetting procedure and the timeline for processing applications through the Garda Síochána has increased. There are longer delays. The Minister’s advisers are present and I ask that they investigate why the good work under way last year seems to have slowed. Is it a question of resources or an the increase in the number of applications? On the ground, it is causing difficulty for those who want to have the vetting process up and running and out of the way. Members on all sides made reference to resources and perhaps that is what it is. Is the Minister of State responding to this debate?

An Cathaoirleach: The Minister of State will be called to respond at 6.50 p.m.

Senator Paschal Mooney: I hope she will be alerted to the questions I am asking about the vetting procedures in order to give an indication of the reasons behind the delay.

Does the Bill provide for the use of PPS numbers? I cannot find any reference to it in the Bill. There seems to be an absence of clarity, to use the phrase we have grown used to in the past few weeks. The practical effect and the impact of using PPS numbers is seen if someone goes on a training course. The person cannot go on the training course without Garda vetting. If the person is involved in dealing with children, the person must be vetted even though a voluntary code applies.

An Cathaoirleach: Senator Mooney has one minute left.

Senator Paschal Mooney: It is amazing how time flies when one is enjoying oneself. The person could leave the environment within two or three weeks of being employed and must go through the vetting process again. It represents a disruption to the employer and the putative employee. It is important that the use of PPS numbers is provided for in the Bill. It would clean up the system as the next employer could check vetting using the PPS number. People would not have to go through a new application for Garda clearance.

My final point concerns childminders, who are not mentioned in the Bill. I plead for an acknowledgement that someone in the childminding area needs to be responsible. I suggest the emergency officer who could be the spouse of the childminder or someone who was in the house and would be left in charge if the childminder had to leave the house would have to be vetted and that anyone in the house over 18 years of age would also have to be vetted because they would be dealing with children who were not of the house but were being taken care of by the childminder who was *in loco parentis*.

These are the points I have raised and I would be grateful if the Minister of State would address them.

Senator Aideen Hayden: I welcome the Minister of State to the House. I also welcome the Bill. It is an important step forward. All the contributions to the debate have recognised that.

I am struck by the coincidence of concerns on every side of the House, particularly relating to the issue of childminding. Like other speakers, I would appreciate the Minister of State taking these concerns into consideration.

One of the recommendations of the Joint Committee on Justice, Defence and Equality related to the idea of an individual vetting certificate that could be transferred from one employment to another. That was an excellent suggestion. Like Senator van Turnhout, my experience of working in the voluntary sector is that people move within the sector from one employment to another and tend to remain within the same sector. The idea of a single certificate makes sense. In dealing with the thorny issue of child care, and private child care is not covered by the legislation, the idea of an individual being able to apply for an individual and personal vetting certificate would be a way to progress this debate. The Bill only allows for an approved organisation to make an application for a vetting disclosure. Anyone working individually in a child care scenario or with children in any capacity, including, for example, the giving of grinds, cannot make a personal application for a vetting certificate. Enabling an individual to make an application would be an interim step along the way, where those persons who are engaged in child care could make an individual application for a vetting certificate.

An estimated 28,000 childminders are operating within the child care system. The Bill will carry a two-tier child care system down the track. On the one hand, we have a regulated child care system where a parent has the security of knowing that everyone in that system has been vetted. On the other hand, there is the black economy where many children are being very appropriately cared for in appropriate circumstances. Other Ministers have expressed the view that it would be an extreme step to require vetting of all child care professionals, given the extent of the child care system which is, effectively, in the black economy.

I ask the Minister of State to consider changing the legislation to enable an individual to make an application for a vetting certificate. In that way we could move in a stepped manner

towards a system where, when a parent interviews someone for a child care position they can, at least, make a choice between someone who has been vetted and someone who has not. I put this forward as a way of dealing with the situation as it stands. I accept that we cannot just move child care out of the black economy in one fell swoop.

I share other Senators' concerns about delays. Again, my voluntary sector experience shows me that delays in the vetting process far exceed eight weeks. Delay is definitely a difficulty in the voluntary sector.

I am concerned about resourcing issues. I welcome the Minister of State's comment on sections 22 to 32 that the legislation will be reviewed annually to ensure that it is working adequately and that the bureau is adequately staffed and resourced. My concern is that the bureau as currently constituted is not adequately staffed and resourced and by extending its remit we are ensuring that it will be even less adequately staffed and resourced. If we are serious about this legislation a commitment must be made to provide more staffing and resourcing.

I am concerned about the Criminal Justice (Spent Convictions) Act. I voiced my concerns in the course of the debate on the Bill. It is neither fair nor just to deny someone an opportunity to mend their hand at any point in their life. It is particularly invidious to allow someone to have a spent conviction while requiring them to disclose it when seeking certain types of employment. Having to disclose a conviction does not mean one is prohibited from employment. In reality, however, we all know that by forcing disclosure of a conviction, perhaps in someone's very young years, that person is, in fact, disbarred from certain employments. Many vulnerable children live in impoverished communities where their role models will have convictions. We must look again at the spent convictions provision.

Senator Trevor Ó Clochartaigh: Tá céad fáilte roimh an Aire Stáit. Díospóireacht iontach tábhachtach é seo agus fáiltimid, go ginearálta, roimh an mBille seo atá á thabhairt chun cinn ag an Aire. Go deimhin, bhí páirt dlúth ag mo chomhghleacaithe, na Teachtaí Caoimhghín Ó Caoláin agus Pádraig Mac Lochlainn, ins an plé ar fad a bhí ann maidir leis an mBille.

I welcome the Bill and commend the Minister for bringing it forward. We are all aware that the State has a poor track record in protecting children. We can look back on the history of industrial schools, general schools, churches, institutions and clubs where children were left open to abuse.

During the debate on the Bill in the Dáil, my colleague, Deputy Pádraig Mac Lochlainn, drew attention to a 2011 report by the special rapporteur on child protection, Mr. Geoffrey Shannon, which exposed the alarming inadequacy of laws, procedures and resources to protect children from abuse. He highlighted the lack of regulated access to soft information on potential abusers of children as one of the main issues that needed to be tackled. Sinn Féin agrees with this viewpoint. During his time on the Joint Committee on the Constitutional Amendment on Children, Deputy Caoimhghín Ó Caoláin joined with the other members of the committee, in September 2008, to recommend that legislation to regulate soft information be introduced. We are glad to see this done. It is long overdue but it is also appropriate that it is now being debated some weeks after the constitutional amendment to protect children was passed.

The purpose of the Bill is to regulate and control the manner in which records of criminal convictions and information, including so-called soft information, can be stored and disclosed by the Garda Síochána and other agencies for the purpose of child protection. Soft information

may include, but is not limited to, circumstances in which an allegation of child abuse is made against a person although it does not result in a conviction. It includes conclusions from investigations of child abuse or neglect that have been conducted by the HSE where such investigations have concluded that a person poses a threat to children or vulnerable persons.

As numerous previous contributors have highlighted, there is a balance to be struck, and striking that balance is key. Clearly, the rights and interests of the child are paramount. This is an area in which the State in previous generations simply failed. The State did little or nothing to protect many children, and generally the most vulnerable children, the poor and the marginalised. The State turned a blind eye while various private institutions covered up.

Much of this abuse is now in the past, which is a cause for great relief. It would, however, be naive to think the reality of children being at risk is all in the past. I think, in particular, of our system of direct provision. The Minister of State will be familiar with the difficulties I have with this system. I have expressed reservations about it in the past. It is an inhuman way of treating people and allows for a degree of out-of-sight and out-of-mind. Children who are pushed from pillar to post and then left largely to their own devices are, of course, vulnerable and isolated. Can the Minister of State clarify whether employees of the private companies that run direct provision centres will be covered by the Bill? I hope the Minister for Justice and Equality will soon follow through on his commitments to review the system of treating asylum seekers.

Child safety and the safety of vulnerable people are of paramount importance and we must ensure the highest standards are in place to protect the young and vulnerable. We must also ensure that this right is balanced with the right to due process. The right to one's good name is covered by the International Covenant on Civil and Political Rights and Article 6 of the European Convention on Human Rights. As such, it should be a cornerstone of any human rights-based justice policy. We must ensure in the desire to protect children that we do not become reckless and run the risk of ruining the good name of innocent people.

The protection of children is a key policy priority and constitutes exceptional circumstances, and in those circumstances there is a clear argument in favour of sharing information. To permit this, certain steps must be taken to ensure the risks are minimal. The dissemination of information must be carefully managed, with independent oversight and subject to robust safeguards. It must be done while ensuring full human rights and data protection compliance. In our view, the provisions concerning soft information should only deal with information that has been brought to the attention of the Garda or the HSE. Persons should be informed if they are placed on a soft information list and be given appropriate opportunity to appeal the limits set upon them by being placed on such a list prior to any request for vetting being placed upon them by a third party.

On the whole, as what the Minister proposes strikes that balance, we are satisfied to support and welcome this legislation. As well as the safeguards, the other key aspect is that there must be adequate resources to ensure these safeguards do not fail. The new national vetting bureau must be properly resourced. The work of vetting and the protection of children will become more onerous in the coming years after the passing of the recent referendum and after the Children First guidelines are placed on a statutory footing. The workload of the bureau will be considerable. Already there are significant pressures on vetting bodies. Approximately 300,000 vetting applications are processed by the Garda vetting unit each year. Figures from the Teaching Council of Ireland reveal that due to lack of resources at the Garda vetting unit,

42,000 teachers still await vetting. There cannot be any shortcuts in this regard or children will be put at risk, innocent people's names will be ruined or both will occur. We must ensure there are robust safeguards, both for soft information, including limits and controls monitored by an independent body, and on how the vetting bureau gains, stores, accesses and reproduces soft information.

There are jurisdictional issues. Sex offenders will move north and south and failure to maintain an awareness of where they are will pose significant risks for children. The partition of the island poses a considerable challenge for the Garda and the Police Service of Northern Ireland, PSNI, in the management of those who pose a risk to children and young people or those who are sex offenders. Currently, agencies in the North risk-manage all sex offenders in a structured way. Risk management approaches are only now being advanced in the Twenty-six Counties. The Government must work with Northern authorities to ensure the safety of children, and there must be uniformity to the best degree possible across the board and across the island.

On balance, we will be pleased to support the legislation while reserving the right to table amendments on Committee Stage.

Senator Martin Conway: I welcome the Minister of State, Deputy John Perry, to the House again. He is a frequent visitor and is always most welcome.

I welcome the all-party support for this critical legislation for child protection. The people recently voted in favour of inserting the rights of children into the Constitution. This was ground breaking, necessary and important. It was an accurate and fair response to what had happened before. As a result of that vote, however, there is an onus on the Houses of the Oireachtas to legislate accordingly. I hope there will be a comprehensive suite of legislation in the area of child protection. The Bill is an extremely important part of ensuring children are put at the heart of everything we do in society.

Vetting of people who have regular access to children is a must and is just. One often received anecdotal information over the years whereby a someone might say they would not let a certain person within an ass's ear of their child. Parents were very much in tune on this and the person they suspected was somebody about whom they needed to be concerned. History over the decades has shown there were sex offenders disguised in all facets of individuality among the citizens. The profile could range from the most professional, highly respected sports stars, teachers, coaches and people in the public domain to people in the religious orders. Although the religious orders tend to get the publicity and the ball-breaking headlines, the other professions are equally represented in terms of people who have interfered with the most vulnerable members of society, our children.

This legislation is important. It is also balanced. It is pointless to require an individual who might take part in the annual sports day or the annual St. Patrick's Day parade in the community, where they are visible to the public at all times, to go through the Garda vetting process. It will just clog up the system and ultimately make it unworkable. This legislation targets individuals who have regular access to children, whether it is through work or voluntary activity. Thankfully, there are significant numbers of people in this country who participate in voluntary activities, ranging from youth clubs to a myriad of sporting organisations. In recent times, we have seen new sporting activities such as cricket coming to national prominence.

There is a meitheal spirit among the people. People want to be involved and if there is one

benefit of the downturn in the economy, it is that people are beginning to realise the importance of community and that one can achieve a huge amount of satisfaction, both personally and within one's community, by participating and being involved. I hope this meitheal or community spirit and the sense of belief and generosity will not change when our country inevitably gets back on its feet and is in a position to move forward. I hope what we have learned and what we are achieving will be sustained. I see it in my community and others. The type of people who are involved in community activities now would not necessarily have been involved at the height of the Celtic tiger economy. That is very welcome and there should be some way of ensuring this type of voluntarism is ring-fenced as we move forward in order that people realise everybody is part of the community. A community is a community because of its people.

However, the new people who are involved must be properly vetted and the system must work. I noted Senator Mooney's comments about the delays, and those are unacceptable. People should not have to wait for a prolonged period to secure Garda clearance. Perhaps the legislation will have to be amended in due course. Amendments will probably be tabled on Committee Stage, but I consider this legislation to be an incremental type of measure that can always be reviewed, if that is deemed necessary, and further strengthened. We would all be amenable to that. The welfare of children and legislation such as this are political issues but, thankfully, not party political ones, and the generosity from all sides of the House is very welcome in this regard.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry): I thank the Senators for their contributions to the debate and their support for this important legislation. The points that were raised have been noted and will be brought to the Minister's attention.

This is an important Bill. It is another step in fulfilling the Government's commitment to ensure the required measures are in place to provide for the protection of children and other vulnerable persons. A significant element of the Bill concerns the use and disclosure of so-called soft information. When enacted, the Bill will ensure relevant information which gives rise to concern regarding a person working or seeking to work with children is available and disclosed in the appropriate manner. The disclosure of such information will follow a defined procedure set down in the Bill ensuring that individuals who are the subject of such information have the right to defend their name. The Bill also seeks to ensure that information such as vague rumours, innuendo or false allegations cannot form part of the vetting process. This is an important feature of the Bill as recognised by the Joint Committee on the Constitutional Amendment on Children which called for legislation to ensure such information could be stored and not disclosed by the Garda Síochána and other agencies for the purposes of child protection.

I wish to make some preliminary responses on a number of issues. The issue of babysitters and childminders being exempt from vetting was raised. We need to consider the fact that there are many private childminding arrangements where people employ neighbours' children, family members, in-laws or nannies in the child's own home. There are also many arrangements, formal and informal, where people will leave a child with a neighbour or a relative for childminding. Currently, under the of the statutory Child Care (Pre-School Services) Regulations 2006, a person carrying out a preschool service shall ensure appropriate vetting of all staff, students and volunteers who have access to a child. The Bill will also create the requirement that childminders or nannies employed with an agency must be vetted by that agency as this would fall within the definition of an employment. This is covered by the Bill. Any parent who wants to hire a childminder or nanny who is vetted can, therefore, do so through an agency. I

would, however, pose the question whether it is appropriate or feasible for the State to extend this requirement and effectively prevent parents from making their own arrangements for the care of their children. In preparing the Bill it was considered that this would not be either appropriate or feasible.

It also has been suggested that organisations might exchange vetting disclosures. The Bill does not make such a provision. First, it is considered that organisations would not be willing to do so in many cases. More important, however, under the Data Protection Act, personal data cannot be used for purposes that were not disclosed at the time the data were obtained. The Data Protection Acts already apply to the collation of criminal records data by the vetting unit and the Acts also apply to the collation of soft information in accordance with the provisions of this Bill. The Data Protection Commissioner, therefore, has an inspection and oversight role in regard to the use of both the criminal records database and the soft information database which will be established under the Bill. I should add that the reason there is no provision for use of personal public service numbers in regard to vetting is because of data protection considerations. The use of PPS numbers in this way would be outside the scope of the current legislation in any case because the Bill provides for the use of a passport number and the mother's maiden name - that is, the personal identification number - in addition to the usual information regarding identity. The vetting units are satisfied that the use of PPS numbers would not be necessary.

I wish to refer to the issue of making vetting disclosures portable between jobs in order that a person vetted to be a J1 volunteer would not have to submit a separate vetting application to apply to be a nurse. Similar points were raised during the debate in the other House but it should be recognised that once there is a time lapse between the two applications for two different jobs, any conviction incurred under the first application would not be contained in the vetting disclosure. There is, therefore, a potential danger posed to children or vulnerable persons by such an approach. This issue is much broader than is encompassed by the Bill. Portability of vetting would be contrary to the provisions of the broad range of Acts which require vetting at the time a person is being considered for appointment. The Bill does, however, provide for each vetting applicant to be given a unique ID number. This would then be used when duplicate vetting applications are received in time in respect of individuals instead of each application being treated as a new application. The previous vetting record will be used and any additional information that has arisen since the last application will be added to the disclosure. This is expected to speed up significantly the process of repeat applications concerning the same individual.

The Minister is also aware of the need to continue to ensure the bureau is satisfactorily resourced and the need for it to provide an effective service. The Minister is also considering bringing forward an amendment to the Bill which will require the chief bureau officer to report directly to the Garda Commissioner. This will ensure any urgent issues relating to the management and operation of the bureau are brought to the attention of the Garda Commissioner without delay. The Minister also engaged in discussions with the Department of Public Expenditure and Reform to ensure adequate funding to meet the new demands of the Bill. Equally he will continue to ensure this is prioritised. In September there were a huge number of applications from schools and teachers everywhere, which is a reason for the delay. September is the busiest month of the year but the vetting bureau is doing a very good job.

In regard to the issue raised by Senator Jillian van Turnhout, if the organisation, of necessity, had to have a volunteer at short notice to fill a vacancy, it can go ahead under the provisions of section 3(1)(c). The organisation is not obliged to conduct a vetting where a person is giving

assistance on an occasional basis. It should be borne in mind that once the Bill is enacted, organisations that are compliant with the Bill will be able to cite the provisions of the Bill in any defence in a legal action where a person fails to secure a position due to criminal convictions.

Senator Norris raised the issue of the appropriateness of dialogue in connection with major road traffic offences. It should be borne in mind that speeding or parking tickets are not disclosed as they are fixed penalty offences which are not a criminal offence. They would only become a criminal offence where a person does not pay the fine.

Senator Paschal Mooney asked the time taken to process a vetting application. The vetting time was six weeks but it now takes up to eight weeks to process applications. The Minister is acutely aware of the need for vetting to be conducted as speedily as possible. However, there is always a surge in applications in September. The Minister is having discussions with the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, who is conscious of the funding requirement. As a matter of policy, the Department does not propose providing vetting directly to self-employed persons. Self-employed persons must be vetted via third parties. The policy objective is that self-employed persons are not responsible for either making disclosures on their own behalf or for deciding on their own behalf whether they are fit persons to be employed working with children or vulnerable persons. This is provided for in section 13(3)(c). Self-employed persons can apply for vetting either through the organisation which is engaged in a service, such as a school or community organisation, or through an umbrella organisation which represents them for the purpose of vetting.

In response to the comments on re-vetting, I advise the House that the intention is that re-vetting will commence once the retrospective vetting of teachers and health workers has been completed. It is sensible not to prioritise re-vetting of persons already vetted until everybody who requires vetting has been vetted at least once.

The points raised by Senators Hayden, Ó Clochartaigh and Mooney will be taken on board by the private secretary to the Minister for Justice and Equality, Deputy Alan Shatter. The Minister is anxious to get as many views as possible. As a far-sighted Minister he wants to get the Bill right.

I thank Members for their consideration of the Bill. As I have mentioned, the matters raised will be brought to the attention of the Minister and no doubt there will be further opportunity for discussion and amendments as the Bill progresses through the House. I commend the Bill to the House.

Question put and agreed to.

Committee Stage ordered for Tuesday, 4 December 2012.

An Cathaoirleach: When is it proposed to sit again?

Senator Paul Bradford: Tomorrow at 10.30 a.m.

7 o'clock

Flood Relief

Senator Denis O'Donovan: I am glad that a very understanding and sympathetic Minister of State is taking this matter.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry): I will be sympathetic all right.

Senator Denis O'Donovan: When I raised the issue of flooding in west County Cork about six or eight weeks ago, the Minister of State, Deputy Brian Hayes, gave me a commitment to give me an updated report regarding what is happening with Bandon, Clonakilty and Skibbereen. Tremendous work was carried out in Bandon, which was flooded in November 2009 to the extent that in some cases properties were flooded to a depth of six or eight feet of water. Work had progressed there but, unfortunately, in recent weeks the contractor left the site resulting in the work being stalled, which is of serious concern to the people of Bandon. On Monday, 19 November, I attended a removal in Bandon and it was almost impossible to get to the funeral home because of the presence of the fire brigade, Garda vehicles, etc., following a flood warning. Thankfully, the projected flood with potentially disastrous consequences did not emerge.

A number of assurances were given and schedules outlined for works in Skibbereen, and every year the works have been delayed or postponed. Last spring, the senior county engineer promised an early warning system, but that has not materialised. Such a system is essential because on two or three nights last week members of a voluntary flood-prevention group in Skibbereen were up at 2 a.m. or 3 a.m. trying to predict when the high tides and the swollen river waters would converge and cause flooding in the town. Thankfully, only minimal flooding occurred. Why have the scheduled works been deferred? Is there a problem with the money? Why has there been a lack of progress given the commitments made by the Minister of State, Deputy Brian Hayes, and his predecessor, Dr. Martin Mansergh?

Clonakilty was flooded again recently. This and the previous Government made a commitment that where towns or villages are subjected to increased and constant flooding, no issues would be put in the way with regard to lack of finance. As far as I can gather, that commitment has been reasonably honoured, but in these three towns in my area in different ways and at different times severe flooding has occurred. Following this year's abnormal rainfall resulting in major saturation of the land, I am deeply concerned that during the winter one or more of these three towns will be flooded with major personal losses to individuals in their homes and losses to businesses. There are also concerns of bodies such as Civil Defence, the county council and others that are there to defend it.

In the past 12 months it appears that when the county council office closes at 5 p.m. the engineers and the other staff who are critical to the monitoring and prevention of floods seem to vanish. The continued input by senior staff such as engineers and area managers is not available after that time in the evening, which is ridiculous. I do not know if this is caused by a shortage of staff following cutbacks. The high tides and torrential rain which can lead to flooding are easily predicted and the people who should be in command of these situations, such as the senior engineers, should be available 24 hours a day and seven days a week, as are the people on the ground and the voluntary people. I ask the Minister of State to comment on that.

Acting Chairman (Senator Paul Bradford): I thank the Senator for his interesting tour of south-west Cork.

Deputy John Perry: I apologise on behalf of the Minister of State, Deputy Brian Hayes, who is not available. I thank the Senator for raising the matter. I am very aware that these issues are of great concern to the people affected.

The Office of Public Works is working closely with Cork County Council to deal with flood risk in a number of locations in the county including, Bandon, Skibbereen and Clonakilty. In June the Minister of State, Deputy Brian Hayes, launched the exhibition of the proposals for the Bandon flood relief scheme, following the study of the flooding problem there for which consultants were appointed by the OPW in December 2010. The proposed scheme comprises the construction of new walls and embankments, the excavation of the channel for a distance of 3.5 km, replacement of the existing footbridge, underpinning of Bandon Bridge, provision of a rock ramp for fish passage along with works to the drainage system and the provision of new pump stations.

The proposed scheme was warmly welcomed by elected representatives and the general public, and it is expected that the detailed design of the scheme will commence very soon. The advancement of the scheme to the detailed design stage was hampered by events outside of the control of the OPW when the project design consultant, WYG (Ireland) Limited, was placed in voluntary liquidation in August. The matter has now been resolved with the water services division of WYG being taken over by Byrne Looby Partners, allowing the project to proceed. A key aspect of this transition is that the staff involved in the Bandon scheme since its inception will continue to work on the project, thus ensuring full continuity in service and design input.

It had originally been hoped construction works would commence in the river during the summer of 2013, outside of the October to May fish spawning period when such works are prohibited. Unfortunately, due to the delay incurred as a result of the situation with the design consultants, it will no longer be possible to meet that timeline. A significant amount of time will be required for the necessary site investigation works, detailed design and the procurement of a civil works contractor. Everything possible will be done to maintain progress on the scheme and it is hoped that land-based works may be possible towards the end of next year, with the river works commencing in the next available environmental window during the summer of 2014.

The Senator has referred to the Bandon sewerage scheme works and the fact that the contractor has left the site. This is not a matter for the OPW, as this is a contract being undertaken by Cork County Council. I understand, however, that the contract in question has been terminated and that the council is in the process of re-tendering the contract. The council has indicated to the OPW that the works are likely to restart in May 2013. The OPW has requested that any works in areas that will also be affected by the flood relief scheme will be programmed to commence at the start of the sewerage scheme contract, in order to avoid any potential difficulties.

In Skibbereen, a flood relief scheme is being developed by Cork County Council with funding being provided by the OPW. There have been two information days where a preferred scheme was presented to the public, with the main proposals including new walls and embankments, some localised channel widening, localised regrading of the channel and some improvements to the local drainage system. The proposals were warmly welcomed and it is expected that the council will bring the full scheme to formal exhibition in the first quarter of next year. Subject to the exhibition process going well, it would be hoped to advance the scheme to detailed design and procurement of a civil works contractor with a view to commencing construction in late 2013 or early 2014.

Clonakilty has been identified as an area for further assessment under the OPW's ongoing south-west catchment flood risk assessment and management study. In light of recent severe flood events, it was agreed with Cork County Council that the OPW would request the consultants for the CFRAM study, Mott McDonald, to accelerate their assessment of the flooding problem in the town including the hydrology, hydraulic modelling and mitigation measures option selection process for the town. This process is now under way. A public information day was held on 16 October 2012 where the public was invited to provide as much information as possible to the consultants on the flooding events which have occurred in the town. This was well attended. It is expected that a preferred option will be presented for public consultation in summer-autumn of next year. In the interim, I welcome the fact that Cork County Council is proceeding with works to help provide some short-term alleviation to the flooding situation in the town, primarily focused on measures to improve the surface water drainage in the town.

The OPW has made financial provision for flood relief schemes for Bandon, Skibbereen and Clonakilty in its multi-annual capital expenditure profiles from 2013 and the Minister of State, Deputy Brian Hayes, looks forward to progress being made on the schemes and to construction works commencing on the ground as currently programmed, subject to the continued availability of funding in that period.

I am quite certain I can raise the Senator's point on the offices with the Minister, Deputy Hogan. I would say the Cork county manager would provide after-hours services. I will convey the Senator's concerns to the Deputy Hogan who is the line Minister for the county council.

Senator Denis O'Donovan: I appreciate what the Minister of State, Deputy Perry, stated and will take it on board. Despite his response, and while I accept he is not the line Minister dealing with this issue, I am concerned that the delays on these issues are of grave concern to the communities in these areas.

Flooding creeps up in the night. It affects people, with water damage to their homes and businesses. It does significant damage. The progress that was promised has not been as effective as I would like it to be. For example, this exhibition in Skibbereen was to have been held a couple of months ago and they now say it will be next spring. There is a delay every year in different phases of five or six months and over a five year schedule, there could be another year or a year and a half tagged on. I am concerned about the delay.

I do not expect the Minister of State, Deputy Perry, will be in a position to give me a response. I am deeply concerned, particularly about Bandon and Skibbereen which have a history in recent years of appalling flooding, that progress could be certainly much better.

Deputy John Perry: The Minister of State, Deputy Brian Hayes, is very concerned. This is a detailed response from OPW. There is no ambiguity at all about this. The company went into voluntary liquidation and there was reappointment. Unfortunately, it is like anything else in that certain matters would be outside of one's control. There is all the evaluation and public consultation. The Senator has been a politician for even longer than me and knows exactly how months can slip by. He can be assured of the commitment of the voted estimate of the Department, that the allocation will be made in 2013 and 2014. There is total commitment within the Government to ensure this matter is corrected.

No doubt the OPW does an effective job, as has been shown in such work that has already been carried out in other areas in Cork. I am confident from the commitment of the Minister of

State, Deputy Brian Hayes, that this work will move forward as quickly as possible.

Senator Denis O'Donovan: On a point of clarification, the Minister of State, Deputy Perry, has stated I have been in politics longer than him. That is probably true, but I am not as prominent.

Acting Chairman (Senator Paul Bradford): I shall not adjudicate on that matter.

Courts Service

Senator Thomas Byrne: Táim an-bhuíoch den Chathaoirleach as ligint domsa an t-ábhar seo a ardú ar Athló an tSeanaid anocht. Is ábhar an-thábhachtach é seo maidir le teach cúirte Ceanannais Móir, Contae na Mí.

This is the third time that I have stood in the Seanad to address what I perceive to be the downgrading of the town of Kells by the Government. I spoke on the cancellation of the Eureka school building project, I spoke on the broken promise on the Kells primary health care centre and I speak tonight on the possible closure of Kells courthouse in County Meath. I may well seek to table a further Adjournment matter about the possible abolition of Kells Town Council as well.

Kells is receiving a great many hammer-blows from the Government which relate to the prestige, services and infrastructure of the town. It has come to the attention of the County Meath Bar Association that Kells courthouse may well be earmarked for closure. I ask the Minister of State, Deputy Perry, who, presumably, is present on behalf of the Minister for Justice and Equality, Deputy Shatter, to clarify the exact position on Kells courthouse.

The courthouse in Kells is widely used. On one day in November, there were 63 cases listed. This does not merely involve, as some might perceive, a quick courthouse visit in which persons get their convictions and everybody holds their breathe and sees them go to jail. Rather, it brings much business to the town, whether visiting gardaí, lawyers or unfortunate defendants and their families, and adds to the prestige of the town. The business community in Kells is most concerned about this issue as well. It is about the status of the town and the services available in it.

With all of the downgrading of Kells by the Fine Gael-Labour Party Government, I plead with the Government to consider this decision carefully and not go ahead with it. It would turn a once proud town with many facilities into what would be effectively a village if it does not have a court facility. If there is to be a consultation process regarding the closing of Kells courthouse, I ask the Government to cancel it and to show that this courthouse is needed and the figures are there to prove it. I look forward to a good answer from the Minister. The people of Kells are quickly losing patience with the Government.

Deputy John Perry: On behalf of the Minister for Justice and Equality, I thank the Senator for raising this matter. As he will appreciate, under the provisions of the Courts Service Act 1998, management of courts is the responsibility of the service and the Minister has no role in the matter. This was my experience of Ballymoe courthouse in the previous Administration, and was there since 1804. It was closed down as well. It was on the list, and was there for nearly 200 years. Section 4(3) of the 1998 Act provides that the Courts Service is independent

in the performance of its functions, which, of course, include the provision, maintenance and management of court buildings.

However, the Minister has had inquiries made with the Courts Service and is informed that in the current financial climate the Courts Service has been reviewing all aspects of its organisational and operational structures throughout the country with the specific objective of ensuring that the service can continue to maintain the delivery of front-line court services and an appropriate level of service to court users. The Minister understands that no court venue has been singled out or, indeed, exempted from the review process.

A comprehensive review of venues has recently been completed, the purpose of which was to establish a general framework within which venues could be considered for closure taking into account a range of criteria such as caseload, proximity to an alternative venue, physical condition of the building, availability of holding cell facilities, etc. The likely impact on other departmental agencies, such as An Garda Síochána and the Irish Prison Service, is also taken into account. The Minister is informed that the review identified a range of venues nationwide which, based on the criteria applied, could be considered for closure subject to a detailed assessment and the preparation of a business case in respect of each identified venue.

It is worth noting that since its establishment in 1999, the Courts Service has amalgamated over 150 venues while benefiting from a substantial capital investment to upgrade larger courthouses. The policy has been successful resulting in a more efficient use of time for the Judiciary, court users and gardaí. Rather than short sittings in the smaller venues, a full day's list can be dealt with which leads to reductions in delays in the District Court.

The Courts Service has indicated that its priority is to provide the best possible facilities for all court users, including Judiciary and Courts Service staff, bearing in mind the health and safety of users as well as their need for privacy and dignity in their proceedings. The Senator has inquired about Kells courthouse and the service has informed the Minister that it has been identified as a venue which should be considered for closure subject to a detailed assessment and the preparation of a business case as mentioned. The standard courthouse requirements includes basic facilities such as consultation rooms, victim support facilities and holding cells for prisoners which are essential to ensure public safety and efficient use of Irish Prison Service resources.

It should be noted that the Courts Service has advised that the identification of venues as part of the review process does not conclusively mean that the identified venues will close and I can confirm that the Courts Service board will take no decision on the future of Kells courthouse without full prior consultation with local interested parties and court users. The Minister is informed that the consultation process in respect of Kells courthouse has not yet begun. However, the service assures the Minister that the views expressed in that process will be taken into account in the decision-making process in due course. As I have said, the final decision in this matter will be a matter for the Courts Service board.

On behalf of the Minister for Justice and Equality, I thank the Senator for raising the matter and the Minister appreciates his interest in the administration of justice in County Meath. I know the Senator will understand the need for the Courts Service to take the measures necessary to promote greater efficiency in the courts and I hope the constructive engagement involving the Courts Service will result in reasoned and appropriate decisions being made on the venues.

Senator Thomas Byrne: Is oth liom go bhfuil an méid sin á rá ag an Aire Stáit. Ba mhaith liom cuid dá ráitis a lua. I want to specify part of the Minister of State's speech, where he said, "the identification of venues as part of the review process does not conclusively mean that the identified venues will close". This is reminiscent of the 35 health centres which I raised in relation to Kells. In that case the small print said inclusion on the list of 35 did not necessarily mean a health centre would actually be built. When I raised the question of the Kells health centre in the Seanad it became clear that there is little or no plan to build a health centre in Kells, despite that fact that it is on a list for progression.

I take a similar approach. I must assume that the fact Kells courthouse is on the list means the Government is washing its hands of the matter and passing it over to the Courts Service. When the Minister of State was in opposition he did not accept Ministers washing their hands of decisions and passing them over to State boards for final decision.

I am holding the Government to account and ask it to reconsider. Kells is a large market town covering a big district. The courthouse provides an economic benefit to the town. The Minister can close down all the courthouses he likes but it goes against the Government's jobs strategy. It will take people away from towns because there will be less reason to visit them. Kells does not have a new school, its health care centre has been cancelled and the town council is to be abolished. There will be nothing left.

Acting Chairman (Senator Paul Bradford): Does the Senator have a question?

Senator Thomas Byrne: I ask the Government to stop downgrading the town of Kells, County Meath.

Deputy John Perry: I remind the Senator of the legacy the Government was handed. The country is, regrettably, in the hands of the troika and we have no funding. It is all about value for money. The Government must make decisive choices.

I advise the Senator to engage with the consultation process in Kells. No definitive decision has been taken on the closure of Kells courthouse. It is all about engagement and the requirement of the State.

The Courts Service is a separate identity from the Government. In good times, the previous Government closed down courthouses, even when it had money.

Senator Thomas Byrne: Not in large towns.

Deputy John Perry: Yes, I know that for certain. In the good times when the country was awash with money and the Government had no reason to close anything down it closed courthouses.

This matter is in the effective management of the Courts Service. I advise the Senator to engage with the community, the borough council and the Garda Síochána and put a case to the Courts Service as to why the courthouse should remain open. I fully appreciate where the Senator is coming from.

The Seanad adjourned at 7.25 p.m. until 10.30 a.m. on Wednesday, 28 November 2012.