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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Déardaoin, 26 Márta 2015

Thursday, 26 March 2015

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

Commencement Matters

School Staffing

Senator Mark Daly: In 1968 John Healy wrote a book called "No-one Shouted Stop: Death of an Irish Town" about his home town of Charlestown, County Mayo. He was lamenting the fact that rural Ireland was dying on its feet. In recent years we have seen 100 banks, around 214 post offices and 1,290 pubs in rural Ireland close. However, what affects rural Ireland more than any of that is the loss of schools and the loss of teachers in rural schools. The previous Minister for Education and Skills stated quite clearly that two-teacher and three-teacher schools should consider their future and consider amalgamation. If a community or parish loses its school, no more houses are built and no more families move into the area. Then one sees the fruition of what John Healy wrote about in 1968, namely, the death of Irish parishes, towns and communities.

The case I raise today is that of a school in west Kerry in a Gaeltacht area. The loss of a teacher and the subsequent loss of resources will mean that schools in the area will be forced to amalgamate. As a result, we will see the very embodiment of what John Healy wrote about in 1968, namely, schools amalgamating and communities dying.

I ask that the Minister for Education and Skills would review the case of the school in west Kerry which is due to lose a teacher and to consider the impact that will have on both the school and the wider community. I ask if there is any possibility that this decision will be reversed.

Minister of State at the Department of Social Protection (Deputy Kevin Humphreys): I am taking this Commencement matter on behalf of the Minister for Education and Skills, Deputy O'Sullivan. I thank the Senator for giving me the opportunity to respond to the issue he has raised, although I am not too sure why I am responding. The Senator's contribution on Ireland and Kerry was very poetic-----

Senator Mark Daly: As Senator Paul Coghlan would know, we are very poetic in Kerry.

Senator Paul Coghlan: The matter has been resolved and dealt with, as the Minister of State will tell Senator Daly.

Deputy Kevin Humphreys: I know Kerry very well and go there on a regular basis. It is a very beautiful and scenic part of the country and is doing exceptionally well from a tourism perspective. Its employment figures are going in the right direction, as per recent announcements.

To deal with the matter in hand, the Senator will know that the Minister for Education and Skills has outlined the new pupil teacher ratios for small schools. That information is available on the Department's website and I will not rehearse it in the House now. The school to which Senator Daly refers went to the primary staffing appeals board and outlined that its future enrolment would be approximately 93 pupils in September. If the school achieves and maintains an enrolment of 83, it will retain the teacher. The school board has been notified of the decision. The entire process is independent of the Minister and the issue should not have been raised as a Commencement matter because a decision was made some time ago. In that context, I am not too sure why I am here this morning.

Senator Paul Coghlan: I have already informed the school of that decision.

An Leas-Chathaoirleach: This is Senator Daly's Commencement issue. He is entitled to ask a supplementary question, although he may be quite happy with the response from the Minister of State.

Senator Paul Coghlan: No doubt he is happy.

Senator Mark Daly: The school is not entirely happy. I am asking for a review of this case, on the basis of the criteria that were sent out to the school. The previous Minister for Education and Skills was implementing a system which would have ensured that small rural schools would be closed. The particular school to which I refer would have been affected but this is not just an issue for that school. This is about rural schools not just in Kerry but also in the Taoiseach's home county of Mayo. Almost 50 years ago, John Healy spoke about the loss of services. Over the past number of years, we have seen the loss of services, such as post offices and banks, and of social facilities, such as pubs, but in particular schools. The Minister's stated policy is for the amalgamation of schools in rural areas. By implementing the requirement in regard to the pupil teacher ratio, the Minister was effectively closing schools by stealth over time.

Handing over this decision to an independent body, as was done by previous Governments, is washing one's hands of the process in a Pontius Pilate fashion. The Minister is in charge of education but she is saying she has nothing to do this, the board has been informed and the decision is independent. Many of the decisions in regard to how this country is run have been taken away from Members of this House and of the other one. Education is the most important factor in improving our society. Decisions in regard to schools in rural areas cannot be abdicated to third parties and must rest with the Minister.

An Leas-Chathaoirleach: The Senator has amplified his case very well. Does the Minister of State want to add anything?

Deputy Kevin Humphreys: I certainly do. I was asked to respond to a particular matter, which I did. I would be quite happy to come back for a Commencement matter to discuss rural Ireland, as would the Minister of State at the Department of Agriculture, Food and the Marine, Deputy Ann Phelan. When the Minister changed the criteria for two, three and four teacher schools, it was widely welcomed. A positive decision has been made and it has been communicated to the school but it is of no use to anybody to generate fear among people about the possible loss of a teacher. The school meets the criteria. It has a projected enrolment of approximately 93 pupils but the criterion is 83.

The Minister sets out policy, as she or he should, and an independent body should decide on appeals. For far too long things were done in a backhanded way in this country and we should not go down that route. The criteria should be laid down by the Government and there should be an independent appeals body. Whether one gets a school, a classroom or an extra teacher should not be because one knows the local Senator, Deputy or councillor. It is the role of the Government to lay down the policy and the criteria and there should be an independent appeals body. That was not always the case but it is under this Government. I am happy that an independent body adjudicates on any appeals, as it should.

Senator Paul Coghlan: The school's appeal has been upheld.

An Leas-Chathaoirleach: We cannot add any more. The Senator has made his points.

Sitting suspended at 10.45 a.m. and resumed at noon.

Order of Business

Senator Ivana Bacik: The Order of Business is No. 1, Children and Family Relationships Bill 2015 - Committee Stage, to be taken at 1.15 p.m. and adjourn not later than 7.30 p.m., if not previously concluded.

Senator Paschal Mooney: Yesterday, my colleague, Senator Thomas Byrne, raised the issue of Leader funding. I return to that theme to point out that the Government has been forced to admit that Leader funding has been slashed by some 43% under the Rural Development Programme 2014-2020. In real terms the funding has dropped from €376 million to €220 million. Some 36 Leader companies will have to reduce dramatically their community projects such as child care, rural transport and business start-ups. In a Private Members' motion in the Dáil last year, Fianna Fáil stated our commitment to maintaining the independence and partnership core of the Leader companies, which have been emasculated to a large degree and are being integrated into local government structures, generating a great deal of hostility.

12 o'clock

We tabled a Private Members' motion calling on the Government to fully review its approach to the delivery of community services and programmes by these companies. We argued that far from being emasculated, these companies should be used as a one-stop shop to deliver rural services, including rural transport and community schemes, and continue to play a central part in sustaining the fabric of communities across Ireland. We have repeatedly raised the issue

of the erosion of democratically-run services in rural Ireland. I will not repeat the litany but this is yet another massive blow for rural Ireland. I ask that the Minister for Agriculture, Food and the Marine, Deputy Simon Coveney, come to the House and outline his plans for the development of the programmes that have been run so effectively and efficiently by the partnership programmes during the previous term of the Leader programme which has proved to be hugely successful. Ireland has been a benchmark and a model for other European nations in this regard. I ask that the Minister come to the House to explain what he intends to do to address this issue and whether there is any hope of restoration of funding.

May I raise another issue which has appeared in the national media? Special needs assistants represented by the IMPACT trade union have voted for industrial action. The union represents some 6,000 special needs assistants. It appears that the problem of reduced hours was becoming worse each year to the point where many jobs were no longer viable, according to the union. In some cases individual SNAs have been reduced to as little as ten hours of work over a week and as many as seven children with special needs were being dealt with by one SNA, thereby impacting on the quality of care. When contacted, the Department kicked the can down the road stating out that the finger of blame should be pointed at the National Council for Special Education, NCSE, which oversees the annual allocation of the SNA service.

As everybody in public life who has had to deal with the issues of SNAs around the country is aware, many of us from rural Ireland have had to do this, the Department always kicks it over to the NCSE. That is not good enough. The Department should take responsibility in this regard. It was a Fianna Fáil Government under the then Minister for Education and Skills, Deputy Micheál Martin, who introduced the concept of special needs assistant. It is a credit to that system that it has worked so well and so effectively and now it appears it will be dismantled yet again. Can one imagine one SNA having to deal with seven special needs children in one classroom or one school? It is not fair. It is not equitable. It is totally unacceptable. I fully support the union on this matter and seek a response from the Acting Leader as to what measures she believes should be taken to address this very serious issue.

Senator Paul Coghlan: Today we have more tangible strong evidence of an uplift in activity, boosting further our economic recovery. I refer specifically to the Bord Bia sponsored Irish food event at the convention centre today, following three days of visits to more than 100 Irish farms, factories and food producers nationwide. Almost 400 international food buyers from around the world are gathering today for this event at the convention centre. The international buyers and 450 Irish food and drink buyers and food service operators will meet 185 Irish food and drink companies. More than 5,000 pre-scheduled speed-dating style meetings are taking place throughout the day and the Minister for Agriculture, Food and the Marine, Deputy Simon Coveney, and the Minister of State at the Department of Agriculture, Food and the Marine, Deputy Tom Hayes, are speaking with the participants and further boosting the business.

Bord Bia is targeting at least €30 million worth of new business which is tremendous. However, there is further huge potential in building more than 500 new trade relationships for the Irish food and drink industry which will greatly enhance our exports valued at €10.5 billion in 2014 with exports destined for 175 markets around the world. In addition to the strong representation of UK and European buyers, 106 Asian buyers have travelled to attend the event compared with just 14 in 2012 when the last marketplace event was held. Meanwhile 38 buyers will attend from the Middle East, 24 from North America, 15 from Africa and 12 from Russia. All international markets show a renewed growth reflected in a 16% increase in trade which stands at €3 billion or 29% of Ireland's total food and drink exports. The key point is this is

a major event for the country. As we all can imagine and will welcome greatly, it will significantly boost further our export trade. All of the graphs are going in the right direction. Today's event will further enhance the efforts of this country and our economy.

Senator David Norris: I want to return to something I said yesterday about the way business is ordered in this House. It is instructive that there is a sprinkling of people - maybe half a dozen - from the two Government parties, two Opposition Senators and two Independents here. There are considerably more people in the Gallery. I have always said that it does not really matter when legislation is being discussed whether there are Members present because Members are in their offices preparing amendments, reading material, etc., and they are watching the television monitor to see when their time to come in is approaching. However, for the Order of Business to be so very thinly attended is regrettable. For most of my time here - I am here nearly 30 years - it was always the most heavily attended part of the day's business and it was lively. We now commence business in this House in a ragged way. I would not like to see the business disintegrate and I would urge that we would rethink this system.

The only other point I would make is-----

An Leas-Chathaoirleach: Senator Norris might be minded to refer that matter to the Committee on Procedure and Privileges.

Senator David Norris: I shall do that. I thank the Leas-Chathaoirleach for the suggestion.

The other point I would make is that on the Order of Business yesterday a colleague on the other side - I am not sure if it was Senator Bacik or not - expressed sympathy to the victims of the German air crash. It was seen as an accident. It now transpires it was not an accident, that the co-pilot locked the door of the cabin using the anti-terrorist devices and deliberately crashed the plane. On the black box recorder, one can plainly hear the pilot desperately trying to smash the door in and the terrified screams of the passengers. This is very shocking news and it makes it all the worse for the relatives, who know that it was not an accident but an act of appalling air piracy. I join in the expression of sympathy to those relatives.

Senator Hildegarde Naughton: I want to raise the issue of community enterprise centres, particularly the largest once in the country which is in Galway. The Galway Technology Centre is currently home to 41 start-ups and growing companies and SMEs. The centre has supported more than 140 companies and 1,200 jobs since it commenced in 1994. This week, the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, visited the Galway Technology Centre where they announced €360,000 worth of investment in the facility. This investment comes on the back of hugely impressive growth for the centre, which has had a 33% increase in revenue and the occupancy rate of which has increased by 30% to 90% since 2014. This is most impressive. It is a clear sign of the resurgence in the economy. These centres are supported by the State and they are in need of further funding right throughout the country. I would ask the Leader to arrange a debate with the Minister, Deputy Bruton, in due course to discuss this matter.

Senator Gerard P. Craughwell: First and foremost, I support the call this morning with respect to the IMPACT special needs workers in schools. Slowly but surely, we have watched the education system being run down to a point where zero-hour contracts and contracts by the minute are almost the order of the day, and I would support IMPACT.

I rise this morning in support of the call by the Dyslexia Association of Ireland which has

been excluded from the support scheme of national organisations by the Department of the Environment, Community and Local Government administered through Pobal. Dyslexia destroyed the educational opportunities of thousands and thousands of those of my vintage who passed through the education system and who have not been recognised until much later in life. We are now in a situation where temporary funding was provided until June of this year but, despite numerous appeals and submissions by the dyslexia association, and promises of a review of the decision, to date there has been no reply. I understand that the Disability Federation of Ireland and the Neurological Alliance of Ireland have called for an extension of the current temporary funding arrangements up until December 2006. These organisations are also seeking a commitment to be included in funding up to 2017.

As an educator, my concern here today is the potential damage being done to children of this country by limiting funding for the Dyslexia Association of Ireland. Despite improvements over the past decade, the Irish education system is still not meeting the needs of children and young people with dyslexia, as evidenced by the following information. Some 28% of children receive public assessment by NEPS and the HSE and 72% must seek private assessment. Even after dyslexia is identified, 56% of parents report difficulty in gaining access to help for their children. The average annual family cost associated with dyslexia is running at some €1,100. This is way above what many families can afford. Some 68% of families report that these costs have created significant financial stress. Some 60% of parents report being unable to access appropriate supports for their children due to the lack of funds.

The situation with dyslexia for anybody who has been involved for any period of time in the education world is really serious. Highly intelligent persons are being denied access to proper education. The dyslexia association does a significant job around this country and by cutting off funding, we are cutting off its ability to fund branches which provide services and information locally. I ask the Leader to ask the Minister to whom I refer, Deputy Alan Kelly, if he will review this funding and report back to this House as quickly as possible. If it is all right, at some stage in the not too distant future I will also table a Commencement debate matter on this with the Minister for Education and Skills. In this particular instance, it is the Minister for the Environment, Community and Local Government I wish to review the scheme to support national organisations, SSNO, funding.

Senator Michael Comiskey: I join my colleague, Senator Paul Coghlan, in welcoming the significant food conference that is taking place over these couple of days in the convention centre. I congratulate Bord Bia, the Minister for Agriculture, Food and the Marine, Deputy Coveney and the Minister of State, Deputy Tom Hayes, on this initiative. This means we will have 100 food companies from Ireland displaying their goods and 150 buyers from all over the world. Over the past number of months, we have seen food exports to the United States, China, right across Asia and all over the world increase year on year. Over the number of difficult years that we have had, farming has brought us through the recession. This is positive news. It indicates further that any investment we make in farming and in the farming community is well worthwhile. I look forward to an exciting year, in 2015 and in the years to come, for the agrifood sector.

Senator Thomas Byrne: The Seanad should take hold of a few issues. Previously, we addressed the issue of the elderly. This week, we have addressed the issue of farm safety. Unfortunately, I could not be in attendance for that debate but it was a worthwhile exercise. We should grab hold of the issue of housing. We should invite in those in the sector who plan such strategies. I refer to the non-governmental agencies involved in housing, the Department of the

Environment, Community and Local Government and the groups, such as Threshold, that Senator Hayden is in charge of. This is a crisis like no other. It is a crisis that is having a significant effect at present. While there is a plan for housing, not a penny has been spent or allocated to any local authority to do anything about it. The Seanad needs to look at that. I would include social housing and voluntary sector housing. I would also include the private sector because they all have a role to play.

This is a crisis, by the way, that was predicted by the former Minister of State, Deputy Brian Hayes, here in this House just after he was appointed. Even then it could be seen that there would be a shortage of housing in the Dublin area. He was right. It is one of the few matters that the Government got right. It predicted that almost four years ago. We could play a role here. We could show the people that we are relevant and that we are addressing something that is of considerable concern. I would include the issue of repossessions and the housing of those whose houses are repossessed because these factors are contributing to the crisis. There is also a major issue about the order of repossessions at the moment. It seems to be the case that there are many unoccupied, abandoned houses that are still sitting there, not having been repossessed, while banks are happy to go after families. All of these issues could be debated in a worthwhile fashion by this House.

I formally request the Deputy Leader to arrange a debate soon on the potato and horticulture industry in Ireland. It is a major industry but parts of it are under severe pressure, despite all the good news that comes out from that sector. The potato industry, in particular, is under pressure not just from changing eating habits, but also from imports. Believe it or not, we import many potato products into this country, particularly processed products. We could have a good debate here on that sector. It is of major importance in Meath, North Dublin, Louth and nationally. It is our national vegetable.

Senator Michael Mullins: I support Senator Naughton's call for a debate on how we can further finance and leverage our successful enterprise centres. She cited the very successful one in Ballybane in Galway. In my own town of Ballinasloe, we have an enterprise centre that has 170 people working in it currently. It has great potential to develop further, provided that additional funding could be made available.

I welcome the publication in the past hour of a very significant document by the Joint Committee on Jobs, Enterprise and Innovation, of which I am happy to be a member. The chair of that committee is Deputy Marcella Corcoran-Kennedy and I want to acknowledge the good work done by the rapporteur to the committee, Deputy John Lyons. It sets out a number of policy options to support business growth, job creation and job retention in towns and village centres. The committee invited and received submissions from many interested bodies and business organisations in the course of the preparation of this significant document.

Among the recommendations are that Government would look to support local authorities to introduce grant relief schemes similar to that being piloted in Limerick to incentivise new businesses to take up vacant properties on high streets and town and village centres. Another recommendation was that local authorities would consider rate reductions for small independent businesses in city and town centres to ensure a retail and hospitality blend is offered to consumers. The committee further recommends that action be taken to relieve businesses of the burden of upward-only rent revision, which is suffocating many struggling businesses at present. There is a recommendation, which was very strongly supported by all members of the committee, that local enterprise offices would work closely with local chambers of commerce

and other industry bodies to further develop online training for online sales and the benefits of social media in promoting businesses. There is also the issue of banking charges and the need for dialogue between Government and the pillar banks on the level of charges being levied on small businesses for banking services. There was much discussion at the committee of the need to give consideration to free parking periods for several hours during the day in town and village centres, as a measure that should be considered by local authorities. Finally, the committee recommends that Tourism Ireland and other bodies strongly market towns and cities as shopping destinations in the course of their work. This is a very significant piece of work, so I would like the Seanad to have an opportunity at some future date, perhaps in the coming month, to discuss this publication by the joint committee on jobs and enterprise.

Senator John Crown: I would like clarification from the Deputy Leader on a few issues. They are really the same issue, but they have different ramifications. As Members may remember, I introduced legislation earlier in this term which would have prevented Government agencies suing anybody, presumably including each other, in defence of their good name. My own belief is that in a democracy, where they are answerable to the public, the reputation of Government agencies, public bodies, quangos, Departments and so on depends entirely on their effectiveness and the quality of the service they provide. It should not be something that hides behind either legal challenges or public relations companies. There should be no public relations professionals employed anywhere in the public service other than in technical areas where advertising is required. Public officials should be required, perhaps in rotation in their own Departments, to take the rostrum, as it were, and to answer questions from the public, through their representatives in the press, about their activities.

I was very disappointed to see the discussions which have come into the public domain between the HSE and HIQA on the issue of Portlaoise and other obstretrics services in the country. This was commented on earlier in the week, but unfortunately I could not be here at the time. I feel strongly on this issue. This is an area where a clear directive needs to be given by the Government to all public employees. I would like the Government to support my Bill and get it through its next couple of Stages. That would be the simplest thing to do, but we all know how difficult that can be with independent backbench legislation originating in the Seanad. However, an executive order could be given, certainly in the Department of Health, by the Minister, to all Department employees and agencies, the HSE, and all bodies funded by the Department that they simply are not to fall back on any kind of legal threat in an attempt to silence any kind of dissent, either from outside the State or from within it. I understand that people who work in State bodies have personal reputations that can be and need to be defended and they have a right to defend them. However, the entities themselves do not.

Two of the charges raised by the HSE in its correspondence with HIQA were that HIQA was suggesting that the HSE was guilty of reckless endangerment when it came to the provision of obstetrical services. I would like to ask the questions that would help me decide whether the HSE is guilty of reckless endangerment in maternity services right now. Could the Deputy Leader find out for us from the Minister, or the Minister himself could come in if he wishes, and answer the following questions? How many consultant obstetricians are there in this country? How many posts are there? How many of these posts are filled and how many are filled by locums, as opposed to people who are on permanent contracts? What is the typical tenure of a locum contract? How rapidly are locum staff actually rotating through? Similarly, what percentage of the deliveries that require some degree of medical assistance are being attended by consultants and how many by NCHDs? I mean no disrespect to any normal deliveries which

are supervised very competently by a fine cohort of midwives, but sometimes a doctor needs to intervene and a doctor needs to assess everybody who is pregnant at some stage. What percentage of the NCHD jobs in obstetrics are currently occupied by locums? I believe we are right at the bottom of the international league tables for the number of obstetricians per head of population. If that is the case and if throughout the country people are experiencing sometimes adverse events in a service that generally provides very safe care to pregnant women and their children, is there any link between that and understaffing and not only understaffing, but also poor staffing, through a lack of appropriate forward planning and sufficient people in permanent posts?

Is that bell to warn me I have 30 seconds left?

An Leas-Chathaoirleach: The Senator had two minutes and is now going on five minutes. I am being very lenient today.

Senator John Crown: I would also note in passing the final quote from the HSE to HIQA, which was that the apparent allegations which may or may not have been made by HIQA would have the appearance of shattering confidence in the ability of the HSE to deliver services. I certainly require a little reassurance on the competence of the HSE to deliver services.

Senator Aideen Hayden: I want to bring the House's attention to a PRTB rent index study published today, which shows that rents nationally are rising by about 5.8%, but in Dublin they are rising by about 10%. Just in case anybody believes this is a Dublin problem, a more recent survey, by *Daft.ie*, shows that while rents rose in Dublin by almost 15%, they rose in Cork by 7.9%, in Galway by 7.2% and in Limerick by 6.4%. Many of the counties surrounding Dublin are also experiencing very significant rent increases. The Minister for the Environment, Community and Local Government has indicated his willingness and intention to introduce a model of rent certainty, in other words, a model that will limit the extent of rent increases in the rental sector. We already know that people are losing their homes because they cannot afford to pay rent increases. We are now seeing a new category of people, namely, the one third of those in the market who believed they would be buying their own homes but who, because of Central Bank rules, now face renting for a very long time to come and may never have the option of moving into their own homes. May we have the Minister in the House to talk about the future of rented housing? This is a very important debate that we need to have. Some 20% of the nation are living in the rental sector and have little or no security. They are subjected to very significant rent increases. I would like to expand the debate to talk about the future of home ownership. Historically, Ireland has had a very high level of home ownership, but it has dropped dramatically. We have Generation Rent but possibly Generation Lost, a generation for whom the option of home ownership may be lost for the entirely of their lives. We need a broad debate on housing and home ownership and to focus specifically on a strategy for rented housing.

Senator Paul Bradford: I very much agree with the previous speaker, Senator Aideen Hayden. I support Senator Thomas Byrne's request that we use this Chamber, in so far as possible, to activate, rather than reactivate, a very genuine holistic debate on the housing crisis. It is a matter on which I have spoken frequently in recent months. We were promised that the Minister would attend, but we need much more than a once-off session. We in the Seanad are perhaps best placed politically to have this urgent debate. Society and the Administration seem fixated on the importance of the construction industry, developers and bringing them in to meet Ministers and Taoisigh. We seem fixated on the traditional model of home ownership, but we

must consider what is happening all around us and in Europe. There was a very interesting radio documentary recently on rental arrangements in Germany and France, where tenants have very secure and absolute rights of tenancy. Many people make a very happy choice to remain in rented accommodation for five to 20 years. Therefore, we need to start thinking holistically about this area. The Seanad Chamber, the Seanad Public Consultation Committee or a variation thereof could provide the ideal mechanism for having that debate. The issue certainly needs to be brought to the top of the political agenda.

I referred during the week to the confusion about the number of available housing units and the availability of land. I had a specific question, but there was absolutely no clarity from the Minister. We are hearing statistics about millions of euro ready to be invested and a new social housing programme, but there are many tens of thousands of people looking for houses simultaneously. There are tens of thousands of vacant units across the country and it is an absolute shame socially and a political disgrace that we cannot marry these problems into a solution. Therefore, since nothing is happening in the other House on this issue, I suggest to the Deputy Leader that we try to run with the ball and begin a very comprehensive debate on it. There is no better expert than the Deputy Leader's colleague, Senator Aideen Hayden. Many of us would like to join her and add our views. We should wait no longer.

Senator Tony Mulcahy: I support Senator Paschal Mooney's call for a debate on special needs assistants. We sometimes get lost in making global statements on special needs assistants and refer to cases where one is minding or helping to mind seven children. One might be all that is needed as there is a teacher in the class also. I can talk from experience because I was in this position with my daughter. There was one teacher with two special needs assistants and seven children of varying ability and with varying difficulties in the class. There is a raft of issues to be considered. I heard RTE interview a school principal one night. On being asked whether she had a special needs assistant, she said she did not but would love one. There actually has to be a child in the school with special needs before it can get a special needs assistant. I know of schools where the special needs assistants are minding classes and running the shop part-time and have functions that are not theirs. A school might require 40 to 60 hours of special needs assistance, but next year the children might have moved. There is an absolute need for a debate and an understanding of what is occurring in this area.

There is a much more serious problem in preschools, where there is no support, other than for six hours per week. There is a double-barrelled problem in that in many cases it is the person running the preschool who identifies that a child has a special need. She sends the child to early service providers and then he or she is sent back to the general practitioner, etc. By the time he or she goes through this process, it may be time to leave preschool. It should be an issue for the Department of Education and Skills right from the time the child is born, rather than having part of the responsibility lie with HSE and the other with the Department.

Recently there was a case in which a child needed an educational aid. A report was written by a clinically qualified educational psychologist, but that, in turn, was overruled by the special educational needs officer from the NCSE because she decided he did not need the aid. I rang the Department and asked whether there was a cut in funding and the exact words used in response were that there was a bucket of money in the Department for educational aids and supports. Despite this, the officer made the decision that the child should not receive the aid. I rang her boss and the decision was overturned. Four paragraphs were written by the educational psychologist on why the child should have what effectively turned out to be an iPad and how it would benefit them in the future. The parent should not have had to contact me to get

what the child was absolutely entitled to and what would have been available had the special educational needs officer not overruled the decision. I do not know why we need the NCSE and certainly do not know why we need the special educational needs officers because they are overruling decisions. I do not see any reason the principal cannot deal directly with the Department of Education and Skills on foot of a report from an educational psychologist. That would solve many of our problems. We would take out all of the people in the middle who were put in place to give jobs to the boys. When we talk about special needs assistants, we must be careful to quantify exactly what we are talking about and what is needed. Many children in school need a special needs assistant for four or five hours per week; they do not need one for 40 hours per week. However, as there are those who do need somebody for the full school term, we cannot make global statements. I certainly would welcome an open and frank debate in the Chamber on this issue.

Senator Rónán Mullen: As I was not here at the start of the Order of Business, the Leas-Chathaoirleach may be able to assist me. Is it still proposed that Committee and Remaining Stages of the referendum legislation be taken tomorrow?

An Leas-Chathaoirleach: That is a matter to be considered for inclusion in the Order of Business tomorrow. The only business that has been ordered for today is No. 1, Children and Family Relationships Bill 2015 - Committee Stage. The debate is to commence at 1.15 p.m. and adjourn no later than 7.30 p.m.

Senator Rónán Mullen: Committee Stage is being taken today.

An Leas-Chathaoirleach: Tomorrow's business will be dealt with in the morning.

Senator Rónán Mullen: Could we arrange to change it? When I was a member of the Committee of Procedure and Privileges and meeting the other groups, many of us took the view that taking Committee and Remaining Stages on the same day should very much be the exception rather than the rule. It would be particularly inappropriate to do so in the case of the referendum Bill tomorrow, not least because I have tabled four substantial amendments thereto on Committee Stage. I would like to believe tomorrow's deliberations might have an impact on the Government's decisions and that it will have time to reflect on the content of the amendments. Unless the Government agrees to them on Committee Stage, which would be rare, I would like Report Stage to be postponed until next Monday or Tuesday. That is the least a Bill of such social significance requires.

An Leas-Chathaoirleach: The point has been well made. This matter will be dealt with tomorrow morning by the Leader who will be here in person.

Senator Rónán Mullen: Perhaps the Deputy Leader would convey that to the Leader because it is significant and I want to give people early notice of that.

An Leas-Chathaoirleach: I do not think she can make a decision because it is tomorrow's business.

Senator Rónán Mullen: I understand.

I would like a debate on the rural practice allowance, a payment of approximately €17,000 to general practitioners who establish their practices in rural areas, provided for under the Health Act 1970. The public benefit associated with this is obvious. Many older people living in rural

areas face substantial difficulties in accessing health care resources, as other Members know better than I. The rural practice allowance is designed to offset costs which a doctor faces associated with a rural practice. The HSE has reduced this payment by approximately €5,000 since 2005, with the result that it is increasingly difficult to attract doctors to establish a practice in a rural area. I have been contacted by a doctor in a rural part of east Galway who told me that, in his view, the HSE has adopted a deliberate policy of delaying the payment to doctors. He has spoken to his colleagues and they report similar difficulties in being paid the allowance.

We often speak about decline in rural areas and small towns. Let me be very clear here. The chief evil complained about by rural dwellers is the withdrawal of services and the chief agent responsible for the withdrawal of services is Government. Post offices, rural schools, Garda stations, health services have been closed. Again and again, Government policy has been responsible for eroding the quality of life in rural Ireland. It is increasingly difficult, if not virtually impossible, to convince young doctors to situate in rural areas and rural dwellers suffer the obvious consequence of that by not having access to a GP service.

I call on the Minister for Health, Deputy Leo Varadkar, to direct the HSE to promptly pay the rural practice allowance to GPs in rural communities. I would also like the Minister to investigate whether there is a deliberate policy of delaying payments as some kind of money saving scheme.

Senator Catherine Noone: I welcome this morning's news that self-employed people and business owners could be treated in the same way as PAYE workers from the next budget, as set out in the standing up for small business campaign, which the Taoiseach will launch next week.

Senator Thomas Byrne: It has not been implemented yet.

(Interruptions).

An Leas-Chathaoirleach: Senator Byrne, I have allowed Senator Noone to make a brief comment so let her------

Senator Catherine Noone: This is policy and this is what will be happening. The two main changes involve reducing the higher rate of USC paid by business owners and allowing self-employed people to claim unemployment benefit should they find themselves unemployed, which is long overdue. There will also be a return of tax rebates towards redundancy costs for businesses forced to lay off staff, which was the case before the recession when businesses were assisted with up to 60% of redundancy costs. These measures are most welcome as self-employed workers have been forced to bear a greater burden of the austerity taxes introduced after the collapse of the economy. I hope this standing up for small businesses campaign will deliver on its stated mission to level the playing field between self-employed and PAYE workers as it is clear that self-employed people are paying more tax yet if they get into trouble, they receive fewer supports and that needs to change.

Currently, self-employed workers whose businesses go to the wall are forced to endure an arduous means test process to receive social welfare payments. For many tradesmen, small business owners or taxi drivers, this often means they are deprived of supports they would receive if they were regular PAYE workers. This situation is wrong and I hope this policy will remedy that inequity.

Senator Ivana Bacik: Senator Mooney raised the issue of Leader funding. I agree entirely

with him about the success of the Leader programme. He asked for the Minister for Agriculture, Food and the Marine, Deputy Coveney, to come to the House for a debate on the future of the Leader programme and I will certainly ask for that debate. To be fair, both the Minister, Deputy Coveney, and the Minister of State, Deputy Ann Phelan, have been very regular visitors to this House to debate a range of issues many of them related to-----

Senator Paschal Mooney: Either one of them.

Senator Ivana Bacik: -----the Leader programme so it could be the Minister of State, Deputy Ann Phelan.

Senator Mooney also called for a debate on special needs assistants, SNAs, with the Minister for Education and Skills, Deputy Jan O'Sullivan, and I am happy to seek such a debate. As many colleagues have said, it was very welcome to hear the Minister for Education and Skills announce this week the allocation of additional resources to support children with Down's syndrome in schools in terms of access to special needs assistants. Senator Mulcahy also spoke very strongly on this issue and on the varying abilities and different needs of children in terms of SNA allocation. We would all be very conscious of that and the National Council for Special Education take that into account in allocating. Not all children require special needs assistants for the same number of hours per week, which is a very obvious point to make. We will certainly invite the Minister to House to discuss that issue.

Senator Paul Coghlan referred to the Bord Bia Irish food showcasing event in the Dublin Convention Centre today. I think it is being referred to as speed marketing but it is modelled on speed dating. Irish companies are being matched with international buyers and clients to boost the food industry here. As the Senator said, many millions of euro worth of new business is being targeted and it is a really welcome initiative. I listened to some of the reports on it this morning and it sounds like a very exciting initiative. There is no doubt the food industry has been a major success in recent years in Ireland. A number of other colleagues supported the idea of a debate on the food industry, which would be worth having in this House.

Senator Norris referred to attendance at the Order of Business and I entirely agree with him. He raised two related issues, one of which Senator Cummins, the Leader of the Seanad, referred to earlier this week, namely, Members appearing at the start of the Order of Business and leaving or appearing right at the end and intervening then. There is a matter of common courtesy of people staying in the Chamber for the response, having sought one.

The second issue the Senator raised was the timing of the Order of Business. Only today I put in a request that we have a meeting of the Committee on Procedure and Privileges to address this issue and to bring back the starting time of the Order of Business on Wednesday and Thursday mornings to 11.30 a.m. rather than 12 p.m. That would be a sensible move but it is a matter for the Committee on Procedure and Privileges.

Senator Norris also raised the very tragic German aeroplane crash. As others have done, I have expressed sympathy to the families of 150 tragic victims. The Senator referred to recent reports that this may not have been an accident but at the moment, it is not yet clear what caused that terrible crash. There are new reports this morning about the cause but it may be too soon to express a settled view on that. However, it is an utter tragedy for all concerned.

Senator Naughton referred to the community enterprise centres, in particular the enterprise centre in Galway which has 41 new start-ups and the increased funding for that, which she

welcomed. She sought a debate with the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, on jobs creation generally, for which we will certainly look. The Minister, Deputy Bruton, comes to the House on a fairly regular basis on this important issue.

Senator Craughwell referred to the Dyslexia Association of Ireland and support for it from the Department of the Environment, Community and Local Government's Pobal scheme. Last year when he was appointed, the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, intervened to restore funding to a number of different groups facing loss of funding. That was dealt with at that point. In terms of the specific association to which he referred, it might be best dealt with by way of a Commencement debate. The Senator said he will look for the Minister for Education and Skills to come to the House but perhaps he should ask the Minister for the Environment, Community and Local Government to do so specifically on that issue relating to one organisation. There is a broader issue of funding generally through the same scheme which the Minister might come to the House to deal with because many organisations are affected.

I agree entirely with the Senator's comments on dyslexia. I have taught many law students with dyslexia. They have graduated with flying colours from law studies in Trinity College, Dublin, but in the past, they would probably not have made it to third level. The supports at all levels are hugely important and at third level, we have put in very significant supports across colleges for students with dyslexia as it is now well recognised.

Senator Comiskey also welcomed the food conference in the convention centre today and referred to 2015 as a very exciting year for the food industry. Again, we might ask the Minister, Deputy Coveney, or the Minister of State, Deputy Tom Hayes, to come to the House to discuss that issue.

Senator Byrne referred to the very successful public consultation held in this Chamber on Monday on farm safety. We will have a debate on the report to be produced as a result of that. He also made an excellent suggestion that the Seanad Public Consultation Committee might take on a review of housing policy rather than just have a debate in this House. There is quite a number of different strands. As we know, the Minister for the Environment, Community and Local Government has allocated significant increased funding for the social housing construction programme. Social housing building effectively ceased in the boom years and we are now playing catch up. That is a large part of the problem but as Senator Hayden said, there are other issues around the future of home ownership and the rental sector. The issue of repossessions was also mentioned. It is an issue which perhaps the Seanad Public Consultation Committee would be better suited to address rather than simply having statements in the House. The Senator might wish to ask the Seanad Public Consultation Committee to take that on as the next issue, following farm safety.

The Senator also called for a debate on the potato and horticulture industry. Perhaps it would be appropriate to include that in a general debate on the food industry.

Senator Mullins remarked on the publication by the Joint Committee on Jobs, Enterprise and Innovation of a report today on policy options to support business growth and job creation and retention in town and village centres. I have had a quick look at the report, which Senator Mullins gave me. Certainly, it seems to make some important recommendations. Perhaps we could have a debate on the report in the House in the context of a more general debate on job creation. Undoubtedly, focusing on growth in town and village centres is singularly important.

Issues like free parking, rates reduction and so on are vital to ensure more vibrant community development in towns and villages throughout Ireland.

Senator Crown raised the issue of potential legal challenges between different State bodies. Other colleagues raised this issue earlier in the week. The Minister for Health, Deputy Varadkar, has indicated he wants to see the matter between the HSE and HIQA on Midland Regional Hospital, Portlaoise resolved in particular without recourse to the courts. I imagine we would all agree on that.

The Senator also raised a bigger issue concerning the state of obstetric services throughout Ireland and associated data. There are two issues. First, some of the specific information the Senator seeks might best be sought through a Commencement matter or a parliamentary question in the Dáil. As the Senator is well aware, there is an issue relating to data in maternity hospitals and data concerning maternity and obstetric services. I spoke on the matter recently at an Irish Nurses and Midwives Organisation midwifery conference. Midwives and those engaged on the front line of the profession are concerned. A debate in the House with the Minister for Health on the state of obstetric and maternity services more generally might be appropriate. It is a matter of trying to get what data are available but there is a more general debate.

Senator Hayden commented on the housing issue and in particular on the Private Residential Tenancies Board rent index study released today. It shows dramatically rising rents throughout different areas in Ireland, not only in Dublin. Senator Hayden was very impressive on the radio this morning on the same topic. The Senator asked for the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, to come to the House to speak about the future of rented housing and home ownership. Perhaps we might look at dealing with those issues as part of the Seanad Public Consultation Committee process because these are far bigger issues than can be dealt with in a once-off session. Senator Bradford also raised this issue and called for a comprehensive debate. He noted the expertise we have in the House with Senator Hayden. We might take that to the SPCC.

Senator Mulcahy spoke on the special needs assistants issue and called for a debate. Many colleagues will empathise with the stories Senator Mulcahy has told of parents contacting him concerning SNA allocations. It is a pressing issue for many people throughout the country.

Senator Mullen asked about tomorrow's business. Clearly, that is a matter for tomorrow's Order of Business and a matter for the House to deal with tomorrow. I cannot deal with it today. I have suggested the Order of Business for today, as the Leas-Chathaoirleach has said.

Senator Rónán Mullen: Perhaps the matter can be passed on to the Leader.

Senator Ivana Bacik: The Leader will be aware of it. It has been raised. The Senator also raised the issue of the rural practice allowance and payments to general practitioners. Again, since it is a specific matter, it might best be raised through a matter on the Commencement debate and a question to the Minister.

Senator Noone raised the welcome new policy proposals on provision for self-employed persons and access to social protection payments and so forth. Again, I believe that will be important as part of a job creation debate. I realise this is a major issue for self-employed persons in the context of taking risks and initiatives and being entrepreneurs. It has real implications for job creation as well. I think I have dealt with all queries raised.

Order of Business agreed to.

Sitting suspended at 12.55 p.m. and resumed at 1.20 p.m.

Children and Family Relationships Bill 2015: Committee Stage

Acting Chairman (Senator Pat O'Neill): I welcome the Minister for Justice and Equality, Deputy Frances Fitzgerald.

Sections 1 to 3, inclusive, agreed to.

SECTION 4

Senator John Crown: I move amendment No. 1:

In page 11, to delete lines 35 and 36 and substitute the following:

"(a) a child born in the State, as a result of a DAHR procedure which was carried out after the commencement of this section, or".

I welcome the Minister. Over the course of the day, we will find ourselves disagreeing a little on some issues and I know the Minister will not infer that I am in any sense disrespectful of the colossal effort that has gone into drafting this incredibly complex legislation which deals with a very complex set of issues which could never have been foreseen by the folks who authored our Constitution.

The purpose of the amendment is to ensure that a child who is born as a result of a donor-assisted human reproduction, DAHR, procedure will be born under the same legal regime as that under which he or she was conceived. The focus of Parts 2 and 3 is not birth but the DAHR process. The Bill does not emphasise genetic heritage but consent and, therefore, the intention of the intending parents and donors at the time of conception. Where women are pregnant as a result of an assisted reproduction procedure and the legal regime changes over the course of the pregnancy, treating the pregnancy as though it were conceived after the Bill has been signed into law would be an Act of *ex post facto* law and would be contrary to natural justice.

Minister for Justice and Equality (Deputy Frances Fitzgerald): I have examined the amendment carefully, have received legal advice on it and would like to go through my reaction to it. The purpose of the amendment is to specify that a donor-conceived child is a child born as a result of a DAHR procedure carried out after the commencement of section 4. The existing provision specifies that a donor-conceived child is a child born in the State after the commencement of the section as a result of a DAHR procedure. The Senator's amendment would see a very clear cut-off. Where a child is born through a procedure which took place before commencement, the parents can guarantee the assignment of parentage only by means of an application under section 21 or 22. Where a child is born through a procedure which took place after commencement, parentage is assigned under section 5.

The difference in effect between the two provisions is that the current formulation will allow greater flexibility. It will take some time to prepare all the necessary regulations and forms concerning consent, and this would be done by the Department of Health. The form is likely to be clear well in advance of the commencement of Parts 2 and 3. Where a child is born after

commencement and if the consent of the intending parents has complied with the requirements set out in sections 9 and 11, it may be possible, therefore, to assign parentage under section 5. This will provide greater confidence and certainty for couples undertaking or contemplating donor-assisted fertility treatment. There is extra protection for those families if their child is born after commencement but the donor is unknown or the consent does not comply with the criteria set out in sections 9 and 11 in that the provisions of sections 21 and 22 will still allow them to obtain a court declaration of parentage.

Given the lead-in time to commencement and the fact that the treating clinics are already commencing preparations, the extra flexibility provided by the current formulation is both practical and desirable and is to the benefit of the intending parents of the child who may be born as a result of procedures which the prospective parents are already considering. I hope, on the basis of this explanation, the Senator might withdraw the amendment.

Amendment put:

The Committee divided: Tá, 5; Níl, 23.	
Tá	Níl
Craughwell, Gerard P.	Bacik, Ivana.
Crown, John.	Burke, Colm.
Healy Eames, Fidelma.	Byrne, Thomas.
Norris, David.	Coghlan, Eamonn.
Quinn, Feargal.	Coghlan, Paul.
	Comiskey, Michael.
	Conway, Martin.
	Cullinane, David.
	Hayden, Aideen.
	Henry, Imelda.
	Kelly, John.
	Landy, Denis.
	Moloney, Marie.
	Mulcahy, Tony.
	Mullen, Rónán.
	Mullins, Michael.
	Naughton, Hildegarde.
	Noone, Catherine.
	O'Donnell, Marie-Louise.
	O'Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.
	Zappone, Katherine.

Tellers: Tá, Senators Gerard P. Craughwell and John Crown; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

Question proposed: "That section 4 stand part of the Bill."

Acting Chairman (Senator Pat O'Neill): Section 4 is opposed by Senators Mullen, Quinn and Walsh. Is it agreed that section 4 stand part of the Bill?

Senator Rónán Mullen: No.

Acting Chairman (Senator Pat O'Neill): Does Senator Mullen wish to speak on the section?

Senator Rónán Mullen: No, I am just opposing it.

Senator David Norris: I want to point out that opposition to this section constitutes opposition to the entire Bill.

Acting Chairman (Senator Pat O'Neill): That is noted.

Question put and declared carried.

SECTION 5

Acting Chairman (Senator Pat O'Neill): Amendments Nos. 2, 3 and 26 to 28, inclusive, are related. Amendments Nos. 26 to 28, inclusive, are physical alternatives. The amendments may be discussed together. Is that agreed? Agreed.

Senator Rónán Mullen: I move amendment No. 2:

In page 13, line 5, to delete ", civil partner or cohabitant, as the case may be,".

As will be clear to people who have looked at the amendments, the approach that Senator Quinn and I have taken is that we are opposed to all of the provisions on donor-assisted human reproduction because we believe that all of those provisions are replete with injustices from a child welfare or children's rights perspective.

I certainly believe that. Senator Quinn will speak for himself. Therefore, the approach we have taken with this legislation is to oppose all of those sections but of course we also have other amendments in which, in default of getting the Minister's agreement to remove those sections, we propose certain amendments that would at least mitigate the situation, always from the perspective of trying to secure a child's rights and a child's best interests, which I believe must always flow from a presumption that all things being equal it is better that a child be brought into the world and be brought up by his or her mother and father, except in exceptional circumstances and that where it is not possible for a child to be brought into the world by his or her own mother and father that every child would have a father and a mother. Notwithstanding the circumstances of life that need to be addressed in justice to children and their families, and the many good things that are in the Bill which seek to address real-life situations, the law should never embrace, facilitate or countenance circumstances where by virtue of the actions of adults or fertility professionals situations are brought about where, by definition, a child will be

deprived of the right to be brought up by his or her father or mother.

Very often when Government proposes to do what are, bluntly, bad things, it uses a euphemistic term of "regulation". We are told that in order to prevent the free-for-all that might take place now or could take place in the future, the Government is going to regulate a situation. I do not support that approach in the context of the Bill. Regulation embraces things that are, by definition, unjust. In opposing the sections on donor-assisted human reproduction, DAHR, I am not saying that the *status quo* is fine. I am saying that we need laws that would restore to children the right to never be deliberately deprived of the possibility of being brought up by their father and mother. In order to outline my approach I will borrow an old and perhaps overly used story about the old man in Connemara who is asked for directions to Dublin and who says "Well, to be honest with you, I would not start from here at all." That is my approach. Starting from here with this highly flawed and unjust legislation is the wrong approach, without in any way denying that a measure of regulation is needed in this area to prevent current injustices and possible future injustices in relation to children's rights to be brought into existence and loved by their genetic parents.

I am not taking the approach of trying to create the perfect law. I am opposing what I see as being fundamentally unjust within this law. I am not for a moment denying there are good things in the Bill which address real-life situations such as provisions on guardianship. The Bill is good wherever it is proposed to regulate the situation in favour of a child's rights. However, where the Bill proceeds from an assumption that a child must put up with certain things which flow from certain adult aspirations to have children in circumstances where that prevents the child from being brought into existence or from knowing for a considerable period who they are or having the love and society of their genetic parents, to my mind that is most profoundly unjust. That is the fundamental critique of this legislation. It is not about the position of same-sex couples *per se*, it is about the widely held view that marriage is the gold standard for bringing up families while recognising, respecting, appreciating, loving and supporting all of those situations where children are being brought up outside of marriage but never denying what the evidence shows time and time again, which is the proven benefits of marriage. That was perhaps even more apparent from the initial version of this Bill in relation to certain other sections. I wish to note in passing that I did not hear the Minister in her Second Stage speech in the Seanad engage with the substance of the critique of this Bill in that I do not think I have heard her deny the assertions that have been made by me and others about the right of children to a father and mother wherever that is possible. I could be wrong. Neither have I heard her cite social studies, insight or argument with the fundamentals of the critique.

The DAHR provisions of the Bill are fundamentally misconceived and deeply harmful. In essence, the effect of introducing these sections in the legislation is to declare that it makes no difference whether one's biological parents raise one or whether two men, two women or a single man or a single woman to whom one may or may not be related does so. It is a complete neutrality. That is why I have felt it necessary to criticise and express my disappointment with the children's rights fraternity as well. They seem to proceed from the view that whatever adults impose on children is fine until they are born and then they will start taking an interest in children's welfare. There is a complete abandonment of responsibility about promoting as socially desirable the idea that a child would have his or her own father and mother in their life, or at least a father and a mother. All of the children's rights fraternity who are implicated in that should really call themselves aside and ask what is behind this failure to vindicate the rights of children in that particular and very important situation.

It should be clear that being a biological parent is something far different and much more important than being something like a blood donor. A parent is the person who gives one half one's identity. He or she does not cease to be simply that because the Bill says so. The majority, some 90%, of people who use IVF in this country do not use donor eggs or sperm. We are not talking about that cohort. The Bill normalises and reinforces the idea that it is fine to use donor eggs and sperm so long as one gives the child some meagre information once they turn 18 and go looking for it. Indeed, they might not discover it until much later or it might come as a surprise to them, unless their parents have sought to inform them earlier. What a travesty. What a pathetic attempt to vindicate a child's rights, to confine their right to know who they are to that, long after the formative years are over, when they are not in a position to have the experience of being loved and cared for by their genetic parent. How adult-centred it all is. The use of donor eggs and embryos is banned in Germany, Austria, Italy and Switzerland unless the law has changed in recent times in those countries.

To reassure you, Acting Chairman, other than these opening comments which address all of the sections, I will not give additional long speeches. The Minister will have her opportunity to consider these amendments. I look forward to hearing her reply. Some of this will be highly relevant to the debate on the referendum, because as I said yesterday and will say again tomorrow, there is an interconnection. However, we will not be detained by that today. This is the chance for the Minister to prove without a doubt that she does indeed put children at the centre of the legislation. What this country is proposing in the legislation is deeply radical in contrast with many countries. I admit that Britain has very radical laws in this regard, but what we propose is radical when one compares us with Germany, Austria, Italy, France and Switzerland. In those countries only married males and females or stable unmarried male and female couples may access assisted human reproduction. There must be a reason for that. I would love to hear the Minister explain to me why she thinks those countries have gone that route. I would also love to hear whether she considered that approach as a possibility or whether a promise was made to certain interest groups and it is all about the will to power from there on and there will be no real engagement with the different possibilities. In Germany, Austria, Italy, France and Switzerland, single women and lesbian couples do not and cannot access assisted human reproduction. I do not think they are in the dark ages. The use of donor sperm is only exceptionally allowed in Germany, Austria, Italy, France and Switzerland, and the use of donor eggs is not allowed in Germany, Austria or Switzerland. It is allowed in Italy and France. The use of donor embryos is not allowed in Germany, Austria, Italy or Switzerland. It is allowed in France. Compared to some of these countries, what is proposed here is a complete free for all. As I said on Second Stage, how remarkable it is that we had so much more and lengthier debate about animal welfare legislation then we are having about this legislation, which is fundamentally about child welfare. It is no argument to say we had some measure of pre-legislative scrutiny some months ago at the Oireachtas Joint Committee on Justice, Defence and Equality, but that was fleeting indeed, and a large number of organisations were rushed through like an express train.

Senator Fidelma Healy Eames: Hear, hear.

Senator Rónán Mullen: The Minister has had much more consultation, I would aver and I would be bound, with the fertility industry than she has with people who have deep concerns about the legislation. I would like to know whether the Minister has actually had a one-on-one meeting with anyone who is concerned about where the Government is going on this. I would love if she had met Dr. Joanna Rose; perhaps she did. Dr. Rose has been in Ireland on numerous occasions. She is a woman who discovered she was donor-conceived. She took the case

to the High Court in London looking to vindicate donor-conceived persons' rights to their genetic identity. She won, although because of evasive practice it remains a partial victory. She has a PhD in the area of the human rights of donor-conceived persons. She has spoken about the heartbreak and difficulty that goes with having discovered she may have hundreds of half-siblings. I cannot see that this legislation has anything to say to this other than "Go ahead," if that is what one decides, except that it will not allow donors to be anonymous. Even then, as we will see, the penalties for clinics that fail in their record-keeping are very weak and poor, which suggests that what is really at work is all about facilitating such donation. I will come to that in due course. When one considers that a failure to keep proper records in a clinic could prevent a child from ever knowing who he or she is in terms of one of his or her parents, it is remarkable how light the Minister goes on them in the Bill and it is highly revealing. So much for Ireland following international best practice.

Conception and the creation of children involves more than a transfer of genetic material. The need of a child to be loved and cared for by the man and woman who conceived them and gave them one half each of their genetic and family history is no small matter. The legislation declares that a donor is not the parent of a child born as a result of that procedure and has no parental rights and duties in respect of the child.

Senator Marie-Louise O'Donnell: On a point of order, will Senator Mullen repeat the last paragraph? I lost what he said. He said something about a man. What was the last sentence?

Senator Rónán Mullen: I stated that the legislation declares that a donor is not the parent of a child born as a result of that procedure and has no parental rights and duties in respect of the child. I suggest that the majority of Irish people would be appalled by this notion. These issues should be addressed in the context of a Bill purporting to regulate the assisted human reproduction industry and should not be rushed through to facilitate an easier passage for the forthcoming referendum on marriage. This is what the timing is all about.

Senator David Norris: The Senator is confusing the issues all the time.

Senator Rónán Mullen: Everything here is being subjected to the exigencies of a referendum, which is why this is being rushed through like an express train or, as somebody said to me the other day, more like a dose of salts. If we had any respect for the electorate and the Oireachtas we would not allow something so cursory on something so fundamental.

I mentioned Dr. Joanna Rose. She is regularly told she should be grateful to be here at all and therefore she has no right to express any sense of loss arising out of what happened to her.

Senator David Norris: Will Senator Mullen give us quotes for this? Who said this to her?

Senator Rónán Mullen: I will get them for Senator Norris.

Senator David Norris: If he would, it would be very helpful.

Senator Rónán Mullen: Suppose one took a baby away from a parent and said to the adult, "Never mind; you will be able to find out her name and some selected details in 18 years' time." People would be rightly outraged, but through reproductive technology we bring children deliberately into the world in a way that is designed to separate them from ever having a parental relationship with either their genetic father or their genetic mother, or in some cases both, and this is supposed to be just fine for the child. There is a growing online community of people in

the UK conceived through donor-assisted human reproduction who speak of their innate desire, which their situation could not satisfy, for their real parent - the father or mother, known or unknown, who was not there.

Senator Averil Power: On a point of order, I am a little confused as to which amendment the Senator speaking on. I am concerned. We have 112 amendments and this is really important legislation. It is important that we have time to go through all of them. It sounds to me as though the Senator is speaking on the Bill in general and not on a specific amendment. I want to hear Senator Mullen's points, but I would rather he made them about the specific sections as we go through them so we can do our business in an efficient way and ensure we get to all of the sections and tease through the issues in a sensible way. This would be preferable to people giving general speeches and going on at length.

Senator David Norris: Hear, hear. I agree.

Senator Averil Power: I am genuinely lost as to how this is relevant to amendment No. 2.

Acting Chairman (Senator Pat O'Neill): We are discussing amendments Nos. 2, 3 and 26 to 28, inclusive.

Senator Rónán Mullen: Senator Power may not have been here when I said I would make one general set of comments-----

Senator Averil Power: I did hear the Senator say that.

Senator Rónán Mullen: -----and I would not be making speeches after that.

Senator Averil Power: That is not the procedure for Committee Stage of a Bill. On Committee Stage we go through the individual sections and debate them, and that is appropriate for this important legislation.

Acting Chairman (Senator Pat O'Neill): We are discussing the content of five amendments.

Senator Rónán Mullen: This is something I never do to colleagues. I never engage in this type of obstruction.

Senator Marie-Louise O'Donnell: It is counter-opinion.

Senator Rónán Mullen: We will all get our say. My say will be short. I do not have much to say on the two amendments-----

Acting Chairman (Senator Pat O'Neill): There are five amendments.

Senator Rónán Mullen: I will not speak on each of them at any great length. The second amendment-----

Acting Chairman (Senator Pat O'Neill): It proposes to delete "civil partner or cohabitant, as the case may be,".

Senator Rónán Mullen: It is clear from what I am saying I do not think we should be starting from here-----

Acting Chairman (Senator Pat O'Neill): We do not need a repeat.

Senator Rónán Mullen: What I am trying to indicate is that if donor-assisted human production is introduced, with all of its injustices, surely a child should have two parents who are in a committed legal relationship with each other. This, I say to Senator Power, is why it is relevant. If one looks at the law in this area in Germany, Austria, Italy, France and Switzerland, they all require that couples have a legal relationship with each other. When Senator Power goes back over the transcript she will find that everything I have said connects and makes sense. That two parents should be married, or at least in a committed relationship, to be able to share the burden of the task of raising a child is common sense.

Senator van Turnhout sought to push an issue with regard to the fact that yesterday I quoted Dr. Geoffrey Shannon, and it is absolutely clear that he referred to marriage as the gold standard. This is the underlying premise in part of what I am proposing, but it is not just he who says this. It is common sense and is based on the findings of much research.

Senator Marie-Louise O'Donnell: It may be common sense, but it is not common reality-----

Acting Chairman (Senator Pat O'Neill): Allow Senator Mullen to continue.

Senator Marie-Louise O'Donnell: -----if we are speaking about common reality in 2015.

Acting Chairman (Senator Pat O'Neill): The Senator can speak-----

Senator Rónán Mullen: Stability given by a committed relationship is the least that children deserve.

Senator Marie-Louise O'Donnell: What exactly does the Senator mean by common sense?

Acting Chairman (Senator Pat O'Neill): Senator O'Donnell will have an opportunity herself.

Senator Marie-Louise O'Donnell: It is just one generalisation after the next. It is very hard to sit and listen to this.

Senator Jim Walsh: Senator O'Donnell does not have to.

Acting Chairman (Senator Pat O'Neill): That comment was uncalled for, Senator Walsh.

Senator Marie-Louise O'Donnell: Disingenuous Fianna Fáil.

Senator Rónán Mullen: We are discussing amendment No. 2, which proposes to delete "civil partner or cohabitant, as the case may be,". An alternative amendment proposes that a child born as a result of a donor-assisted human reproduction procedure shall have two parents. Will the Acting Chairman assist me again? Which amendments are in this group?

Acting Chairman (Senator Pat O'Neill): Amendments Nos. 2, 3 and 26 to 28, inclusive.

Senator Rónán Mullen: I think one of those amendments is Senator Walsh's. Very briefly, amendment No. 26 says that a person shall not perform a DAHR procedure other than at the request of the intending parents who are legally married to one another. Section 27-----

Acting Chairman (Senator Pat O'Neill): Amendment No. 27.

Senator Rónán Mullen: Amendment No. 27 says that a person shall not perform a DAHR procedure other than at the request of intending parents who are legally married to one another, in a civil partnership with one another or in a co-habiting relationship with one another. These are alternatives. Any of these would be less bad than the free-for-all that the Bill proposes. I have set out reasonably and as cursorily as I can why there are fundamental problems running through all those sections.

2 o'clock

Acting Chairman (Senator Pat O'Neill): Does Senator Quinn want to speak on the amendment?

Senator Feargal Quinn: I am rising to support Senator Mullen, but I think he has said it all to a strong extent. My one point is that the aim of this Bill is to put children at the centre. I know the Minister is behind this. I was impressed on Second Stage by listening to the radio and hearing that man who said he believed that our aim should be that every child should have a father and a mother. I know that was not agreed and some will say that is old-fashioned and out of date. Of course there are exceptions, for various reasons, but the ideal is that every child should have a father and a mother to bring him or her up and hopefully on that basis, the effort Senator Mullen is putting in here is to aim at that.

Acting Chairman (Senator Pat O'Neill): I call on Senator Norris to speak on amendments Nos. 2, 3, and 26 to 28, inclusive.

Senator David Norris: Senators Mullen and Walsh, theoretically if not by their vote, also oppose marriage equality, they opposed civil partnership, they oppose just about bloody everything that marks a social advance, so it is not a great surprise to me that they are opposing this as well. The grounds on which they do so are quite remarkable. Some 36% of the births in this country are now outside marriage. What are they doing about them? Are they all rotten? Are they all wrong? Are they all defective in some way? Are the children of these marriages defective? Are these children second-class citizens? Are they properly brought up? My mother was widowed when I was five and a half. I was wonderfully brought up by a remarkable and splendid woman. I did not miss my father at all. It is rather a calculated insult to people, to the many mothers of Ireland who, like my mother, did a superb job in bringing us up. That is one situation.

Senator Fidelma Healy Eames: That is not the point.

Senator David Norris: Well, it does not matter. It is the point I am making and you are another one who opposed all these things.

Senator Fidelma Healy Eames: Incorrect. I voted for civil partnership.

Senator David Norris: You did so reluctantly.

Acting Chairman (Senator Pat O'Neill): Senators. Through the chair.

Senator David Norris: Can I just say-----

Senator Fidelma Healy Eames: On a point of order. That is a terrible slight. I voted for civil partnershp and not reluctantly.

Senator David Norris: Give over.

Senator Fidelma Healy Eames: I would like that the record be corrected on that.

Acting Chairman (Senator Pat O'Neill): The record of the House will show that.

Senator Fidelma Healy Eames: Sorry?

Acting Chairman (Senator Pat O'Neill): The records of the House show how the Senator voted.

Senator Fidelma Healy Eames: I would like Senator Norris to withdraw the comment.

Senator David Norris: I will not.

Senator Fidelma Healy Eames: That is ignorance.

Acting Chairman (Senator Pat O'Neill): Senator Norris may continue.

Senator David Norris: Senator Healy Eames's interrupting is pretty ignorant too, but I do not mind it. It suits me very well.

Single people can adopt at the moment. That is the law in this country. Single gay people can adopt at the moment. With regard to respect, I wonder how respectful it is to say, as one of the contributors said on the radio a couple of years ago when discussing civil marriage, that gay men wanted children as fashion accessories. I noted with interest Senator Mullen's reference to the fertility "industry" and the AHR "industry". That is fairly loaded language, I would have thought. One must be very careful about these things.

Senator Mullen speaks for the embryo and he speaks for children. I do not know who gave him this right. Then again, of course, he spoke for registrars, as did Senator Walsh. They spoke for registrars in the civil partnership case, even though the registrars had not asked them to do so and subsequently said they did not want them to. I wonder about this idea that they are the spokespersons for the embryos. I would say give the embryos a chance. Do not let the spokesperson for the embryo be Senator Mullen all the time.

With regard to these amendments, I understood, but I could be wrong - perhaps the Minister could indicate to me - that as a result of the legislation, a child will still have two parents. They may be the biological parents or they may not be, but I think I am right in saying that under this legislation a child will have two parents. That is the situation. The amendments are unnecessary and should be withdrawn. Good night and thank you very much.

Amendment No. 26 is astonishingly restrictive.

Senator David Cullinane: Hear, hear.

Senator David Norris: This would mean that assisted human reproduction would be denied to anyone who is not legally married within the State. They would not be allowed to have it. The Senators are imposing their social views on the majority of the population. I come back to the fact that 36% of births occur outside marriage. People are voting with their reproductive organs and they are ignoring what is being said here. It is about time that Members of this House faced the human reality that is out there and not this theological theorising that is going on all the time. "A person shall not perform a DAHR procedure other than on the request of intending parents who are legally married to one another." I am astonished. When I read that, I could hardly credit what I was seeing, that in order to get access to DAHR, a couple must be

married to each other. These are the same people who oppose marriage equality, "You have to be married in order to have a child, but you can't be married". Come on. For God's sake. Let us have a bit of logic and just a tiny bit of humanity, a tiny bit of understanding of the human realities behind these things and not just this absurd, monotonous theologising about the whole thing.

While I am at it, would the Minister be able to look into the Iona Institute? I think it could bear a little-----

Acting Chairman (Senator Pat O'Neill): That is not relevant.

Senator David Norris: It is part of this argument and in my opinion it helped formulate these amendments.

Acting Chairman (Senator Pat O'Neill): It is not part of the amendments here.

Senator David Norris: The Iona Institute is something that is funded from America. It gives the two fingers to the Standards in Public Office Commission, and it has got itself registered as a charity but there is nothing whatsoever charitable about its work.

Acting Chairman (Senator Pat O'Neill): The Senator can raise that on the Order of Business, but not-----

Senator David Norris: I have.

Acting Chairman (Senator Pat O'Neill): Well then, please do it again.

Senator David Norris: I am asking the Minister directly here to find out a little bit, if she could, and come back and report here-----

Senator Marie-Louise O'Donnell: You had better be up in the morning for Senator Norris.

Senator David Norris: -----on the current status of the Iona Institute. I am the Norris Institute. I hereby declare myself the Norris Institute.

Senator Marie-Louise O'Donnell: I hereby second it.

Senator David Norris: I am open to funding from Domino's Pizza.

Acting Chairman (Senator Pat O'Neill): Back to amendment No. 26.

Senator David Norris: Yes, but it was a useful little excursion because it highlighted some of the things that are going on in this country. Reference was made by Senator Mullen to pressure groups. He never refers to the pressure groups that helped to produce the climate of opinion that creates these amendments. What about that? What about the pressure groups that helped to create them.

Acting Chairman (Senator Pat O'Neill): I have eight more Senators who want to speak on these amendments, so could the Senator stick to the amendments?

Senator David Norris: I will not take very much longer. "A person shall not perform a DAHR procedure on the request of the intending parents unless" he has obtained all this information, the intending mother has consented, and so on. My God. Under what situations would a mother not consent? Does the Senator seriously imagine that there are squads of people going

around Dublin with shillelaghs to whack women on the head and insert sperm into them? This is the most absurd thing I heard in my life. What world are we living in?

Senator Marie-Louise O'Donnell: Maybe in the 1960s.

Senator David Norris: I am glad the Senator is laughing because it is laughable. The husband must also consent to be the parent. Then, just to make things even more confused, we have another amendment. In amendment-----

Acting Chairman (Senator Pat O'Neill): Is it amendment No. 28 or amendment No. 27?

Senator David Norris: I am just coming to that, before I was so unhelpfully interrupted. It is amendment No. 27. This amendment is supposed to be an alternative. However, everything is confined in amendment No. 26 to legally married people. When one turns to amendment No. 27, they have suddenly had an access of liberalism because they are expanding it and now - goody, goody - it states, "A person shall not perform a DAHR procedure other than on the request of intending parents who are legally married to one another or in a civil partnership [Hooray] with one another or in a cohabiting relationship...". What happened to all these principles? Where did all the principles disappear to in the space of less than one page? Principle has evaporated completely. I just do not understand it. This is an attempt to frustrate the Bill's passage.

Senator Mullen is perfectly right. This is a cleaning up exercise because people like him and the Iona Institute have deliberately confused the issue and introduced parenting, adoption and so on into the equality legislation. The equality referendum is about equality and the passage of this legislation will make that absolutely abundantly clear. That is why this half baked, confused, muddled, unprincipled series of amendments has been tabled and I am against every single bloody one of them. I regret that Senator Mullen was not present to hear my words.

Senator Ivana Bacik: I welcome the Minister to the House. Senator Norris has spoken most eloquently and I share his views. I absolutely oppose these amendments. The effect of the five amendments taken together, which contain serious contradictions, would seriously undermine the careful framework set out in sections 5 and 25 concerning donor-assisted human reproduction and, in particular, the issue of parentage. Section 5 clearly sets out the procedure for ensuring a child born through DAHR will have a second parent. A mother's spouse, civil partner or cohabiting partner will be the second parent through the process described in the provision. It is an important provision for children born in this way. I reject Senator Mullen's comments on DAHR. He seems to be opposed to DAHR altogether, although I am not clear what is his view because he seemed to suggest he would support AHR once no donor egg or sperm is involved.

He also seriously misrepresented law in other jurisdictions. The Commission on Assisted Human Reproduction conducted a review of a range of jurisdictions and found that, in general, they permitted the donation of both sperm and eggs subject to particular conditions within a regulatory framework. The amendments undermine the careful framework in sections 5 and 25 and elsewhere in the Bill concerning regulation of DAHR. Currently, it is unregulated in the State and, therefore, the Senator appears to favour a free for all and a scenario where this issue is unregulated. This is a denial of reality because many thousands of couples, most of whom are straight and married, have turned to AHR or DAHR because they have struggled with the human tragedy of infertility. All of us know people who have struggled with this and it is a trag-

edy for them. AHR and, in some cases, DAHR offer to them the prospect of becoming parents.

I cannot see how people who are proponents of children's rights can oppose, in principle, AHR or DAHR within a carefully regulated framework such as that set out in sensible fashion in this Bill. It is disrespectful, distasteful and objectionable not only for those parents, but also for the many children and adults living in Ireland who were born through AHR and DAHR and who are alive and well. It is a denial of reality to suggest that we should not legislate on this issue. This legislation is sensible and careful. It recognises human reality and the reality mentioned by Senator Norris whereby 36% of births are outside marriage and it is child centred because it recognises the rights of children. We will come to the amendments on the issue of identity but that is also very important in terms of prospectively legislating against anonymous donations.

There has been a careful genesis to this legislation to which Senator Mullen also referred. I was part of the justice committee consultation process. We held a careful consultation and we had hearings with people for and against the Bill, although mostly for the Bill, because there is a general welcome for it across society. Most people who share a common sense of humanity and a sense of reality support this Bill and its sensible measures. We heard from them before the justice committee. We had the consultation period mentioned by the Minister yesterday and the lead-in period to the legislation. I refute Senator Mullen's comments on behalf of Government colleagues.

Senator Fidelma Healy Eames: The law currently only recognises the woman who gives birth to the child as the mother but the legislation proposes to change this. Commissioning parents here will become legal parents. There is an unacceptable blurring of biological lines to enable legal definitions to fit. This distortion of family will inevitably only serve to complicate matters for children as they grow up and we must remember at the end of this process the purpose of AHR, which I support for married and stable cohabiting couples. We also must be careful about carefully regulating situations that we may now legislate for.

I refer to where Ireland stands in comparison to other countries. Only married male-female or stable unmarried male-female couples may access AHR in Germany, Austria, Italy, France and Switzerland. Single women and lesbian couples can access AHR only in Ireland. Use of donor sperm is only exceptionally allowed in-----

Senator David Norris: What about America?

Senator Fidelma Healy Eames: -----Germany, Austria, Italy, France and Switzerland. Use of donor eggs is not allowed in Germany, Austria, Italy, France-----

Acting Chairman (Senator Pat O'Neill): Senator Mullen has read all those into the record.

Senator Fidelma Healy Eames: He did not read this.

Senator David Norris: He did.

Acting Chairman (Senator Pat O'Neill): He read the list.

Senator Fidelma Healy Eames: He may have touched on one section

Acting Chairman (Senator Pat O'Neill): He read the list. We are dealing with amend-

ments. Second Stage contributions should not be made.

Senator Fidelma Healy Eames: I am outlining the backdrop to the amendments I will discuss.

Acting Chairman (Senator Pat O'Neill): The Senator should identify the amendment and then speak to it.

Senator Fidelma Healy Eames: We are creating a situation that is not typically available in many other European countries according to PhD research.

Amendment No. 27, which has been tabled by Senators Mullen and Quinn is reasonable. It states: "A person shall not perform a DAHR procedure other than on the request of intending parents who are legally married to one another or in a civil partnership with one another or in a cohabiting relationship with one another." Regulation of cases where the donor of sperm, eggs or even an embryo is a relative of one of the intending parents is missing. This is critical. Can the Minister explain why there are no restrictions in this regard to prevent the deliberate procreation of a child in circumstances where the structure of his or her family and extended family as a matter of law will directly contradict that structure as a matter of nature and biology?

Senator David Norris: The Senator is talking about another amendment.

Acting Chairman (Senator Pat O'Neill): Please allow Senator Healy Eames to continue.

Senator Fidelma Healy Eames: I am not. I am pointing out an exception in this Bill that relates to this set of amendments.

Senator David Norris: Can the Senator make clear how it relates to them?

Senator Fidelma Healy Eames: Examples of cases covered by media highlight the issues that can arise. This is extraordinary. For example, Mary Portas, a UK television personality, recently made public that she and her female partner had a son through IVF using the sperm of her younger brother.

Senator Martin Conway: What is the relevance of this? This relates to a different section.

Senator Jim Walsh: On a point of order, the topic we are discussing is important. The House should not be unruly. There is difference of opinion in this regard but there should be absolute respect. All we are doing is conveying the bullying that will go on subsequent to the implementation of the measures in the Bill to which people will be subject. Members should-----

Acting Chairman (Senator Pat O'Neill): The Senator has made his point.

Senator Jim Walsh: This is connected to the Bill we will take tomorrow and we should separate them.

Acting Chairman (Senator Pat O'Neill): Senator Martin Conway, on a point of order.

Senator Martin Conway: I take exception to the word "bullying" being dragged into the debate by any Member of this House. It is unbecoming of Senator Walsh, to be quite honest. I would expect more from him. I would also point out that what Senator Healy Eames is referring to is for a later section of the Bill. To be quite frank with her, she is trying to confuse

everybody. Nobody seems to know what she is talking about

Senator Fidelma Healy Eames: I am beginning to feel a little bit harassed here. I would like-----

Senator Martin Conway: Withdraw that immediately.

Senator Fidelma Healy Eames: I am beginning to feel it.

Senator Martin Conway: Withdraw that immediately.

Senator Fidelma Healy Eames: It is a general approach across the House.

Senator Martin Conway: I am looking for a ruling from the Acting Chairman.

Senator Fidelma Healy Eames: I am seeking to put my concerns on the record in order that I can put a decent question to the Minister. I know she will answer it.

Senator David Norris: It is not relevant to the section.

Senator Fidelma Healy Eames: It is relevant to the section.

Senator David Norris: Show how it is relevant.

Senator Fidelma Healy Eames: It is relevant.

Senator David Norris: She is talking about consanguinity.

Acting Chairman (Senator Pat O'Neill): Senator Norris, Senator Healy Eames has linked this to amendment No. 27. Let Senator Healy Eames continue. Many more Senators wish to speak on this amendment.

Senator Fidelma Healy Eames: I have about ten sentences to say.

Senator Averil Power: On a point of order, Senator Healy Eames is speaking about amendment No. 112. My concern, as expressed earlier, is that we need time to get through each of these amendments-----

Acting Chairman (Senator Pat O'Neill): She is speaking about amendment No. 27.

Senator Averil Power: -----and I am very concerned that if people keep making general speeches, we will not get to amendment No. 10, let alone amendment No. 112. That is just a matter of procedure.

Acting Chairman (Senator Pat O'Neill): Yes. I did not read amendment No. 112.

Senator Fidelma Healy Eames: My point is also related to this because the debate being put forward by Senators Mullen and Quinn points to the fact that there is a missing piece which needs to be clarified. If this information is put on the record now, it may change how the debate continues. I would like my concerns to be put on the record. I have three questions.

The Bill will introduce the same problem as that which exists under English law. This boy's father, as a matter of nature and genetics, is his uncle in the eyes of the law. His mother, in the eyes of the law, is in fact his aunt. It is clear that there are issues for the child who results from

donor-assisted reproduction using relatives as donors. Perhaps the Minister can clarify the matter. There is a deliberate blurring and entangling of the legal and biological family. The child's personal and family identity becomes confused and complicated by such procedures. We must think of that child. All babies-----

Senator David Norris: On a point of order, could I ask the Acting Chairman for a ruling because this is about consanguinity and degrees of relationship between the donor and the rest of the family. This is dealt with in amendment No. 112. It has absolutely no relevance and the Senator has singularly failed to demonstrate any relevance.

Acting Chairman (Senator Paschal Mooney): I remind the Senator and the House that each Senator has every right to put forward whatever proposals or express opinions they feel are within the context of the amendment.

Senator David Norris: Where have I challenged that?

Acting Chairman (Senator Paschal Mooney): You do not have any right to challenge that whatsoever.

Senator David Norris: Where have I challenged it? I have not claimed any right. I have not done so.

Acting Chairman (Senator Paschal Mooney): What is your point of order?

Senator David Norris: Rulings continually come from the Chair to say something is not relevant to an amendment.

Acting Chairman (Senator Paschal Mooney): What is your point of order?

Senator David Norris: We are dealing with amendments.

Acting Chairman (Senator Paschal Mooney): What is your point of order?

Senator David Norris: My point is that this is only relevant to a much later amendment.

Acting Chairman (Senator Paschal Mooney): That is noted. Thank you.

Senator David Norris: I asked for a ruling on this from the Chair.

Acting Chairman (Senator Paschal Mooney): I do not need to be advised by the Chair, as every Senator will know-----

Senator David Norris: You are the Chair.

Acting Chairman (Senator Paschal Mooney): -----that you and others are entitled to express an opinion and make your point. The Senator is making a point.

Senator David Norris: It is on another amendment.

Acting Chairman (Senator Paschal Mooney): She is making a point. I will rule on that.

Senator David Norris: I wish you would because she has been very confused so far.

Senator Fidelma Healy Eames: Intergenerational donation is also a possibility under this

Bill. That occurs, for example, where a mother donates an egg for use by her daughter or a daughter donates an egg for her mother. In the former case, we know how they will be related. From the child's perspective, his half sister will be treated by the law as his mother. The people whom the Bill will treat as his maternal uncles and aunts will in fact be his half siblings. Their children, whom the Bill will treat as his first cousins, will in fact be nieces or nephews. How will the child feel about this in the future? One may laugh, but this is how ridiculous it can get unless we regulate for this. I am asking the Minister, between now and Report Stage, to regulate very carefully in the Bill for this situation. It is a very fair request. Does the Minister accept there are issues in respect of donors who are related to the intending parents?

Senator David Norris: I must ask for a ruling. I remind the Acting Chairman that about five minutes ago I was brought to order because the then Acting Chairman said I was not talking to the amendment.

Acting Chairman (Senator Paschal Mooney): I understand.

Senator David Norris: Amendment No. 112 talks about prohibitive degrees of relationship with respect to the intending parent and refers to situations where the donor is the parent of the intending parent or the donor is a brother or sister of the intending parent. These are exactly the matters that Senator Healy Eames is referring to and I am astonished that the Acting Chairman does not find it possible to bring her to order.

Senator Fidelma Healy Eames: I am almost done. I can guarantee the House I will discuss my views again at that point if necessary-----

Senator David Norris: Again. We will be here all bloody week.

Senator Fidelma Healy Eames: -----but not if they are taken care of here. Given that this is an issue which was not addressed in the 2005 report of the Commission on Assisted Human Reproduction, will the Minister please elaborate on the Government's position on this matter? Will she come back to us on this? This is a matter of ethics, human rights and the child's rights. We can say all we want. I have had a lot of personal experience in this area and when one wants to have a child, one is often thinking of oneself as a adult, but we are legislators and must think of the child and his or her future. Babies are beautiful, but all babies grow up to be children, young adults and adults. We do not want to legislate for a situation today which will haunt them into the future.

Senator Jillian van Turnhout: I would like to oppose these amendments. I want to speak to the principles behind them. I do not plan to use up much of the time today, but I feel I need to clarify certain things for the record. The first is the citing of a quote from Dr. Geoffrey Shannon, the special rapporteur on child protection. I have verified the quote with him personally over the past 24 hours. I am taking the quote directly from the Official Report of the Joint Committee on Health and Children meeting on 29 January 2015. It states:

> Senator van Turnhout also asked about my views on marriage, which have been grossly misrepresented. A number of years ago I put together a piece in which I had described marriage as the gold standard but I mentioned it in the context of that institution as being available to all citizens. I see it as being manipulated by some people and I do not intend to include it in today's discussion. However, it is important to clarify that point for the record.

That says it all.

Senator David Norris: Well done.

Senator Jillian van Turnhout: In regard to the UN Convention on the Rights of the Child, obviously I am delighted that people are taking a renewed interest in this convention because it is something I have read countless times. We are evolving in our understanding and are furthering children's rights in Ireland. However, I am concerned about the references made today and on Tuesday to the convention. There has been an interpretation that I cannot find.

I reread the convention last night. I want to be absolutely clear. The word "mother" is mentioned once in the convention, in article 24, regarding pre and post-natal health. The word "father" is mentioned zero times. The word "parent" is mentioned 36 times and the word "family" 19 times. There is no definition of any of those terms in the convention. Article 5, for example, clearly states there is a wide interpretation of who may be involved in a child's life and states that state parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided by local custom, legal guardians or other persons legally responsible for the child. Article 9 concerns care orders, custody and access where parents are living separately. Article 8 refers to the right to identity. I do not agree with the interpretation that has been given of the convention by some Members of the House.

I would like the convention to be binding in Ireland, but it is not. What is binding in Ireland is the European Convention on Human Rights. I examined its laws. In all of the case law of the European Court of Human Rights, ECHR, the overriding consideration of the court is on the substance of the relationship between the social or biological parent and the child, not the biological link. This is clear. Nowhere in that case law does the court place biological parents over social parents. There is no such ruling. It is firmly established in jurisprudence around the European convention's Article 8 on the right to respect for private and family life and Article 14 on the prohibition of discrimination. The European convention forms part of our domestic law through the European Convention on Human Rights Act 2003. We comply with these laws.

Without knowing it, maybe the ECHR is in on the groupthink in which we are all supposed to share. I believed that I was thinking independently. It is difficult to understand how people can claim that the Ombudsman for Children and the Children's Rights Alliance and its member organisations are acting against the best interests of the child. When explaining the UN Convention on the Rights of the Child to someone, my understanding of its importance is that it gives paramount consideration to the best interests of the child. It also addresses continuity of care, a child's security, his or her right to an identity and voice, and non-discrimination. These are the principles within the convention. I have listened carefully to all of the debate. When we state matters as fact, I ask that they really be fact and that we not misrepresent the UN convention.

Senator Averil Power: I thank Senator van Turnhout for putting her comments on record. Like the Minister, I attended a recent conference on this Bill at which Dr. Geoffrey Shannon spoke. He was clear on the issue. He made the point that it was doubtful that the shape of families mattered and that what was important was the stability of the relationship. He stated that this was what the research said. He criticised those who sought to misrepresent it to suit an agenda instead of respecting it. From the point of view of a child's development, the most important factor is that he or she should grow up in a loving, supportive and stable family unit, be it headed by a single parent, grandparents, step-parents, a married heterosexual couple, a female-female couple or two gay men.

I take issue with some of the language that has been used in this debate. Senator van Turnhout rightly debunked the misrepresentation of Dr. Shannon's remarks on the gold standard. Opponents of the Bill often refer to ideal families and so forth. That is unfair and stigmatising and has been used for too long to deny rights, not just to parents, but also to children. It is the type of language around matters like illegitimacy that was used against children like me who were born to unmarried mothers. It is the type of stigma that led to women being forced to give up their children for adoption and to tens of thousands of people being taken away from their biological parents because of the social prejudice to the effect that one was better off with any married mother and father than with one's own parents. A modern iteration of this is now being used against same-sex couples. It is time that we put all of that prejudice and discrimination in the past and base our views on research and on understanding what matters in families.

Senator Fidelma Healy Eames: That is what we are doing.

Senator Averil Power: That is absolutely not what the Senator is doing. I would like to hear her opinion on amendment No. 112, which is important.

Senator David Norris: We have heard it.

Senator Averil Power: Yes. My only concern is that we address these issues discreetly. It is important that we hear the alternative opinions as we go through the amendments so that we can weigh them up and vote on them at the time.

Senator Fidelma Healy Eames: My amendment was linked. I have said why.

Senator David Norris: It was not.

Senator Averil Power: I have some sympathy-----

Senator Fidelma Healy Eames: Yes, it was.

Senator David Norris: No, it was not.

Acting Chairman (Senator Paschal Mooney): Senator Power, without interruption, please.

Senator Averil Power: I have some sympathy for where Senator Healy Eames is coming from on amendment No. 112-----

Senator Fidelma Healy Eames: I thank the Senator.

Senator Averil Power: -----but it would be more appropriate to discuss the issue when we reach that amendment.

Senator Fidelma Healy Eames: We can.

Senator Averil Power: My concern is that people will be voting on amendment No. 112 who have not heard the remarks that have been made about it during our debate on amendment No. 2. On serious legislation like this Bill, it would be more appropriate and efficient were we to discuss the relevant issues as we go through the amendments. It will be confusing if we have general debates only to repeat the points on unrelated amendments.

Senator David Norris: As it happens, amendment No. 112 is covered by other legislation.

Senator Averil Power: Yes.

Senator David Norris: The amendment is redundant.

Senator Averil Power: As has been mentioned, we have assisted human reproduction, AHR, including donor-assisted human reproduction, DAHR. It is not regulated. I have concerns about DAHR in particular. I have tabled amendments on behalf of the Fianna Fáil group to ensure greater rights to identity for people conceived through that process, to try to improve the Bill as much as possible and to address the issues. By voting down the legislation, all that the Senators will achieve is to have no regulation of assisted or donor-assisted human reproduction. I do not see how that will address their concerns. Opposing every section of the Bill as some amendments do will have the same effect. Yes, try to improve it. I will engage in that process because I have an open mind on many of the issues. Senators van Turnhout and Healy Eames and I co-sponsored a Bill on adoption. Identity is an important issue for me. It is critical that we get these matters right. I urge colleagues not to try to ignore the social realities of life and pretend that these kids do not exist. There are children born through AHR who do not know what is their legal situation. The House has a long-overdue responsibility to correct that. Senators cannot ignore this fact because they disapprove on the grounds that it does not fit with their social view. Those kids exist and deserve rights and legal clarity. It is important that we do this job properly.

I ask Senators to engage genuinely with the spirit of the Bill instead of rejecting all of it. That is my only concern when I ask them to stick to the amendments. I want us to have enough time to go through the Bill in its entirety. We have been debating it for nearly an hour and a half, but we are still on the first set of amendments. I will be brief and conclude because I want us to get through the amendments. This is not meant to disrespect anyone's opinions. I want to hear those.

Senator Fidelma Healy Eames: It is not meant to be disrespectful.

Senator Averil Power: I just ask that Senators keep to the individual amendments so that we can hear their opinions at the relevant time, engage with the arguments and weigh them. I assure Senators that I will be open-minded when listening to what they have to say. It would be more constructive if we followed the procedures of the House and engaged with the appropriate issues instead of making general speeches on AHR that were relevant to Second Stage.

Acting Chairman (Senator Paschal Mooney): I thank the Senator, but I remind her that the Chair will decide on the orderly procedures of the House, not individual Senators.

Senator Averil Power: The Chair has already stated that Members are entitled to express their views.

Senator David Norris: Could the Acting Chairman speak up, please? I could not hear him.

Acting Chairman (Senator Paschal Mooney): I call Senator Walsh.

Senator Jim Walsh: I will wait on the Minister.

Senator David Norris: Will the Acting Chairman repeat himself? I could not hear him.

Acting Chairman (Senator Paschal Mooney): I stated that the Chair would rule on relevance.

Senator David Norris: The Acting Chairman failed signally earlier.

Deputy Frances Fitzgerald: I thank Senators for their comments on this amendment. I will make a number of points. On Second Stage, I explained that, in this Bill, we were dealing with some of the parentage aspects in respect of AHR. There is no doubt that broader legislation on AHR and DAHR is necessary. A vast range of relevant issues require it. I have worked closely with the Department of Health to ensure that the Bill's measures are congruent with its policy approach to the forthcoming legislation on AHR.

In terms of the treatment process rather than the parentage issues, access to treatments, consent and counselling, gamete and embryo donations, surrogacy, posthumous assisted reproduction, and genetic screening of embryos for medical purposes and associated research are complicated matters. This is why, following permission received from the Government a couple of weeks ago to develop a scheme on AHR, the Minister for Health, Deputy Varadkar, has stated that there will be a consultation period. The heads of that Bill will be developed in the course of this year, and there will be a very significant consultation process. The point is there are certain aspects of assisted human reproduction and donor-assisted human reproduction that are dealt with in this legislation with respect to parentage, but I am not saying to the House that this is the entire range of issues relating to assisted human reproduction, many of which have been raised by Senators absolutely legitimately. They are areas that need legislation.

With this legislation, we are moving from a position where there is no regulation. There are currently clinics operating in this country where practitioners are working according to medical guidelines and ethics, making some reports to Europe. Not all the clinics are reporting. There is effectively an unregulated sector, which raises many issues. There is no question about that. The Commission on Assisted Human Reproduction indicated in 2005 that the area was in need of regulation. As I was developing the Children and Family Relationships Bill, I felt it appropriate to deal with certain aspects of parentage relating to assisted human reproduction and donor-assisted human reproduction. I indicated on Second Stage yesterday, and indicated repeatedly on previous occasions, that we have considered how to improve the system so that children born as a result of assisted human reproduction and donor-assisted human reproduction can have access to identity and there are very clear consents from those who make donations. I indicated that we will move from anonymous to identifiable donations, which is a critical child-centred approach. The legislation is child-centred and protects those children's rights. That is what we are doing in the legislation. We are making it very clear what the clinics must do with regard to consents and information. We have suggested keeping a national register of donor-conceived persons so a child can have the information as he or she grows older. Of course, the parents can at any point give the information they have, as clinics provide much information to anybody who uses their services about the donor. Just as with a child who is adopted, the parent is in a position on an ongoing basis to give information to the child from the very beginning. That would be best practice and the right course of action.

The reality is this area has been shrouded in secrecy. There has been stigma in this area, in the same way as there has been stigma attached to adoption. It is clear from discussions with various groups and my research in the area that there is work to be done culturally, socially and practically in this area so that couples who use fertility treatments understand issues around the best interests of the child. As parents, I am sure most of them do that anyway, as they care about their children and want to do their best. From a public policy perspective, we are now making it clear that consent issues are important, as well as access to genetic information. We are putting that as a central provision.

The approach being put forward is in line with that in many jurisdictions, including certain Australian states, Sweden, Denmark, the UK, Belgium, Canada, Estonia, Finland, Greece, Latvia, the Netherlands, New Zealand and Spain. They all have legislation very similar to what is being proposed here. This is not legislation that has been plucked from obscurity without serious consideration. The policy issues have been thought through carefully by the Department of Health's bioethics section, as I accept there are serious ethical issues relating to the area we are discussing today. I have outlined the policy position of the Department of Health on assisted human reproduction and donor-assisted human reproduction, and this will be further developed in the broader assisted human reproduction legislation.

I will discuss the amendments in detail, but there is an important context to speak about. There are 300,000 people affected by infertility or sub-fertility matters in this country. Some of these people are in married families, some are single and some are cohabiting. It is a very serious issue of our time, and we need to consider the myriad of issues that go with access to the variety of treatments and technologies that are increasingly available. We must examine the realities of what we know from census data about Irish family life, as we are not making constitutional change but giving legal protection to diverse family types, particularly the children in those family types. There were 215,000 lone-parent households in Ireland in 2011, with 4,000 same-sex couples living together. Of the 115,000 divorced or separated women, 66% were living with their children on their own. There were 49,000 households of cohabiting couples with children under 15. A relevant statistic in terms of a changing family culture in Ireland is that the number of children living in households headed by cohabiting couples increased by 41% between 2006 and 2011.

The purpose of the amendment is to confine the assignment of parentage in donor-assisted human reproduction to the birth mother and her husband. It would not be possible to assign parentage to the civil partner or the cohabiting partner of the mother. This is a very restrictive amendment that would ensure that only married couples could jointly be the parents of a child born through donor-assisted human reproduction. It would specifically deprive cohabiting couples or civil partners from joint legal parentage of a child. This goes much further even than establishing a hierarchy of families, as it sets out that the only family we are prepared to recognise of a donor-conceived child is the constitutionally recognised marital family. I have already spoken in this House about the hierarchy of family types and how in 1987 we stated that we would do away with the concept of illegitimacy. This would seek to reverse the policy behind that, in effect, and it would discriminate once again between certain family types. That is utterly against the spirit of this Bill, which is intended to protect and support a range of families and their children. It is not just problematic in terms of public policy; it has serious implications in terms of the European Convention on Human Rights in that it would completely fail to recognise the rights of non-marital couples to private and family life. If we examine case law relating to children's rights to family life as well, it would also cut across that; the amendment indicates that the reality of children in varying family types cannot be recognised.

The evidence does not support a contention that only a married couple can provide for the welfare and best interests of a child born through donor-assisted human reproduction. The evidence indicates that a range of family types, including single women, can look after children extremely well. There is some very detailed and interesting research relating to the experiences of children in same-sex families. Senator Power commented that what matters is the stability of families and the quality of relationships, which will have an impact on how well a child does. The amendment is not supported by the evidence and I cannot accept it.

Amendment No. 3 would specify that a child born as a result of a donor-assisted human reproduction procedure would have two parents. Again, this involves a hierarchy of family types and would deprive single women of the possibility of fulfilling what might be a much-desired wish to become a mother. As I have already stated, it would stigmatise lone parents again to suggest that lone parenting is unacceptable from a public policy perspective. This is not the type of attitude we should be reflecting in legislation. Amendments Nos. 26 to 28, inclusive, propose restrictions which would prevent people other than married couples, in the case of amendments Nos. 26 and 28, or couples, in the case of amendment No. 27, from accessing donor-assisted human reproduction. The evidence does not support such an approach to public policy.

I would like to make a number of other points. The Bill does not change the parentage of the vast majority of children in Ireland. The child's birth mother will continue to be the child's mother, except where the child is adopted, just as at present. There are a small number of children who are donor-conceived and who are in an insecure position in terms of their second parent. Many of them are born to married couples. The Bill enables these children to have the chance of a second parent, which is in line with what is desired by some of the Senators who are putting down these amendments. It is giving a right to certainty to that donor-conceived child in respect of his or her parents. Obviously, all donor-conceived children have mothers. The Bill will also give them the chance to have a second parent and it safeguards the parentage rights of the husband who is not biologically linked to a child as the presumption of paternity of a married husband can be overturned.

I believe we must legislate for the realities. These children are here in Ireland and this technology is being used. I have the figures regarding the number of children. I have already said that there are hundreds of thousands of men and women who are affected by fertility issues in this country and who are seeking to resolve them. The vision in this Bill is that a child has loving parents and can grow up in love and security. I do not want to depart from the amendments but I believe the legislation is helping children in these situations to move to a position of greater certainty.

Senator Jim Walsh: I thank the Minister for her response. At the outset, I acknowledge that it is a very complex area. I drafted a Bill relating to it about three years ago and tried to tease it out as best I could. Ultimately, I was not satisfied. I met with Dr. Joanna Rose, who the Minister probably knows. I suggested to the Chairman of the Oireachtas Committee on Justice, Defence and Equality that she be one of the invitees when this was considered but it did not happen. This is a pity because she would have given an informed view from somebody who has been working and fighting this and who has gone through the courts in Great Britain with some success. She knows exactly what the effects on people produced through AHR are.

I put down an amendment opposing this section so that it can be looked at and I will talk about that later when we come to the section. I will concentrate on amendment No. 28. I accept the point the Minister makes, which I think was made by Senator Bacik as well, that there are many families, particularly married couples, who are challenged with infertility. It is a problem. I know how much they desired to have a child and that they have taken steps to achieve that aim. We should use science in a positive way to assist the natural process as far as we possibly can.

The purpose of putting down this amendment was to confine the donor-assisted human reproduction to married mother-and-father couples and to facilitate only assigning parentage of a child conceived through AHR to a married man and woman, thus providing for a child having a

mother and father who are married to each other. It is done in the best interests of the child. My rationale is that assigning parentage to a married man and woman is something several European countries do and would give maximum protection to the welfare rights, needs and interests of donor-conceived children. Marriage is the ultimate and most binding relationship commitment. Insisting that the intending parents be married would ensure that they are able to provide a child with a stable environment and are legally committed to each other as mother and father.

Natural human reproduction provides children with an identifiable mother and father. In regulating AHR, we should try to ensure that the children who result are not denied the rights other children enjoy, including the right to know and as far as possible, be raised by their parents - mother and father. If Irish AHR laws do not protect the child's natural presumptive right to a mother and father, they discriminate against children conceived using AHR. This is a serious discriminatory step we are taking. Marriage is the best guarantee of a child growing up in a stable mother-and-father family.

The Minister is probably aware of the Evans case in Great Britain which shows the importance of requiring that only married couples be allowed access AHR. Natalie Evans started IVF treatment with her cohabiting partner who was not her husband. Following the creation of embryos and prior to their implementation, the couple split and her partner requested that the embryos be destroyed. Ms Evans wanted to continue with the implementation. She had, unfortunately, been diagnosed with ovarian cancer so the embryos represented her only chance of having biologically related children. The case became a bitter legal battle that ultimately found its way to European Court of Human Rights, so clarity is essential and the best interests of the child are paramount.

I have listened carefully and respect what the Minister had to say. She said that she is looking at reality. She mentioned single mothers and the numbers who are involved, which are remarkable. I think 36% of children are born outside of marriage. I spoke on Second Stage about my own experience and the experience I have in dealing with mothers who find it extremely difficult. A recent CSO report showed the poverty that exists among children reared in one-parent families. They are seriously financially challenged. The mother makes enormous personal sacrifices in the interests of her child or children and this needs to be respected and supported.

However, we also need to recognise that there is a requirement to ensure that the State does not stand back. This is why I have to disagree greatly with the approach the Minister is taking. The State should not be neutral about the best interests of children. Any mother who is a single parent will admit without hesitation that if she had a supportive husband or partner, her situation and that of her child would be far better. I pointed out how the cost of this is enormous. I pointed out the US figures. No research has been done on it here but Great Britain has carried out exercises. I think $112 billion per year is spent in the US and it is a minimum of £15 billion in Great Britain so it is very significant. Even from an Exchequer point of view, leaving aside the interests of the people themselves, there should be a huge compunction on the State not to stand back and be a spectator on the sideline but to actively support what is in the best interests of the child, which is couples working together.

The Minister mentioned diverse family types. There have been a lot of studies on various forms of families. On Second Stage, I pointed out the fragmentation of families in Great Britain but fragmentation of families is not a good thing. It is a reality, as the Minister noted, but that does not mean it is a good thing and I think throwing a legislative umbrella over everything that exists and hoping it will go away is not the right answer. We need to steer society in a way

that is in the interests of everybody, particularly those unfortunate people who end up rearing children on their own. I have no hesitation in fighting for the rights of fathers to have access to their children but I am equally as strong about ensuring that those fathers have a responsibility to support the mother of those children and the children themselves. That should be the reality.

I have looked at other countries. I took an interest in the list of countries the Minister gave. She mentioned that if we accepted the amendments I have put down, the European Court of Human Rights would have a problem. In Germany, assisted human reproduction is only utilised for married couples and only the sperm of the husband should be used. If donor sperm is used, additional requirements must be met. Germany also allows an unmarried woman to access it if she has a stable relationship with an unmarried man who acknowledges paternity. Donor insemination may not be performed on women who are not in a stable relationship or who are in a homosexual relationship.

Senator David Norris: The Germans are great on racial purity.

Senator Jim Walsh: The use of donor eggs is forbidden in Germany. I could go on and say that Austria is similar and only permits it for stable heterosexual couples living together. Sperm donation for single women or lesbian couples is forbidden. Egg donation and the use of donor eggs are forbidden.

I understand that, even in France, that is the situation, and Switzerland and Italy are quite interesting as well. Without going into the detail, they all have forms of this. Admittedly, the amendment I have put down is perhaps a little more restricted than some of those because I have this applying just to married couples. However, in Switzerland, for example, donor sperm can be used only by married couples and egg donation is forbidden. The aim is to enable a couple to overcome infertility where other treatment methods have failed or offered no prospect of success, and there is no other way of avoiding the risk of transmitting a serious or incurable disease. Apart from that, there are restrictions, even on married couples.

3 o'clock

I think what is in this Bill is premature. Not near enough thought and consideration has been given to the overall situation. I know what the Minister said and I take note of it, namely, that in the later Bill, which is often referred to as the surrogacy Bill, serious outstanding issues will be addressed, and I certainly hope that is the case. However, we have no regulation. We are the only country out of those countries I mentioned that has no regulation in place. That is not good enough.

To be honest, I was caught in two minds as to whether to go with this amendment or just oppose donor-assisted human reproduction altogether until such time as it was fully fleshed out and all aspects were considered, and until the complexity was ironed out in a way that would be satisfactory and would be to the welfare of society, in particular the welfare of children. I certainly do not think allowing the broad span that is contained in this Bill is the way to go, given it would be one of the most liberal that occurs. I believe this is driven by a political imperative, and I have said that. I was surprised, when I went through the Bill, to discover the number of times "civil partnership" and "same-sex" was mentioned - 196 times, and I have had them counted. This comes about because of the Bill we are discussing tomorrow, and that is not the right way to approach it. In fact, I do not think it even helps the Minister's position in regard to the Bill we are discussing tomorrow because it leaves a whole plethora of outstanding issues about which the citizens have no certainty, in particular how those issues are going to pan out

in regard to the fallout from endorsing that Bill on 22 May.

At this stage, the Minister should make some refinement of where she is going. While diversity is there, I do not accept the Minister would just throw a legislative veil over it without having some direct policy input into it. We are not spectators in this whole area. There are, of course, advances in science but this is now leading into areas of social re-engineering. We need to be acutely conscious of the effect it may have on youngsters and other people in the future. I have seen evidence of this from some people who have engaged with it, or who have been the product of assisted human reproduction. We need to be cautious. Other countries are cautious, and I would wish that, equally, we would show the same caution and that the best interests of children would be absolutely paramount. To me, that should be the prime consideration. Everything else is secondary to that, including the interests of adults.

Senator Fidelma Healy Eames: I thank the Minister for her response. To be fair, I completely agree with her and am happy to hear her say this Bill does not cover a wide range of issues. Can I presume, in that, she is referring to donor-assisted human reproduction with regard to related persons or intergenerational donation?

I was very disappointed the justice committee hearing on this Bill was so short. It was one I attended because I have a great interest in this area, so I know it was less than a full day. I did not think it was open enough. All of us, across the House, have an interest in this issue because of how serious it is. We are talking about creating human beings. It is a phenomenal gift; it is the gift of life. Nonetheless, there is the question of how we manage that. We have a duty to take into account people's experiences. Maybe we will do things a little differently. I regret the justice committee did not, for example, listen to Dr. Joanna Rose, and I believe there was a lady talking to George Hook this week, Elizabeth Howard, who had great concerns about having been donor-conceived. We are now beginning to hear of the fallout from this process. What we should be doing is learning from it in order to create the right regulation.

There is potential for great debate on this issue. I am grateful the Minister has indicated there will be hearings. Am I correct there will be a broader consultative process?

Deputy Frances Fitzgerald: Yes.

Senator Fidelma Healy Eames: I do not think it fair to compare single parents or widowed persons - the Minister referred just to single parents - who have conceived their children naturally. I completely agree that 36% of our children are now born to single parents and that it is a social reality. I really do not know how they do it. I take my hat off to them, because it is so difficult sometimes to rear a child with two parents, never mind with just one. However, we cannot compare that situation, which occurs through natural circumstances, to donor-assisted human reproduction, which is by design and is where we are deliberately creating a child. It is different from adoption as well because, in that case, the child is already there and we are trying to make the best decisions around the placement in the best interests of the child. I would ask respectfully that all of us would stop comparing what we are talking about here, namely, parentage as a result of donor-assisted human reproduction, to naturally occurring children through single parents or in the case of widowed persons as well.

I agree that information is good and healthy. Again, however, according to people who are now the product of donor-assisted human reproduction, waiting until they are 18 to find out, for example, there was a hereditary illness in the family is not good enough. The Minister should

clarify whether there is a way of that being put on the record earlier, given I have read that this might be the case in the Bill. I again thank the Minister.

Deputy Frances Fitzgerald: With regard to the points on consanguinity and the whole area of intra-familial gamete donation, there are both intragenerational and intergenerational issues and, clearly, this is very complex. Senator Walsh has also spoken on this point. My understanding from the work we have done in this regard is that it is certainly an area that will need to be spelled out in future legislation - there is no question of that. From an Irish perspective, and for the purpose of information for the Senators, I would point out that we have the Punishment of Incest Act 1908, as amended, with its provisions on that issue. We also have the rules and legislation in regard to marriage not being permitted between individuals within prohibited degrees of relationships on the basis of consanguinity, for example, parents, grandchildren, brothers or sisters, including half-siblings, aunts, uncles, nephews and nieces. There is a whole issue in that regard.

At the moment, we do not have regulation in regard to assisted human reproduction but what we have, and what I understand the professionals work to because there is no legislation, is the Medical Council's guide to professional conduct and ethics. In regard to assisted human reproduction, that guide states that where a registered medical practitioner offers a donor programme to patients, he or she must consider the biological difficulties involved and pay particular attention to the source of the donated material. The practice in the clinics, of course, is that there are very clear rules in this regard but there is no statutory legislation underpinning it. If we were having a debate on the broader AHR legislation, we would be discussing that matter. I reiterate that we are dealing with certain aspects of AHR in the context of the parentage provisions contained in the Bill. I am not for one moment saying that this legislation covers the wide range of issues to which I refer. The discussion of those issues is a matter for another debate. The provisions contained in the Children and Family Relationships Bill in respect of identity and consent represent a move in the right direction. In the context of any issues which might arise in court, the Bill makes provision for that which is in the best interests of the child - whether in respect of guardianship or access - to be the deciding principle.

It is clear there is a need for rules and regulations. In the absence of legislation at present, what holds sway at present is the best practice in which the clinics are engaged. I absolutely accept that this is not enough. The issues of consanguinity, etc., to which the Senator refers would really be proper to broader legislation relating to AHR.

Senator Rónán Mullen: I will not address the Minister's final point now. I will deal with it when we reach the relevant amendment.

I was particularly taken by something the Minister said during her contribution. Any use of the comparison with illegitimacy or with the concept thereof is completely misconceived. To suggest that restricting DAHR to married couples is tantamount to calling donor-assisted children illegitimate, comes perilously close to insulting such children and the Senators who are making certain arguments in this debate. The Minister should reconsider the position in respect of this matter and I will tell her why. The Bill provides for guardianship arrangements in circumstances where children are outside the marital family and for non-marital fathers to be recognised as guardians where they have been cohabiting with the mother for a period, including for three months after the birth of the child. Nobody is suggesting that those children would be deemed illegitimate by virtue of the Minister restricting the recognition of the status of such fathers. It would be much better if we did not make such highly emotive, inaccurate

and vague comparisons that are really designed not to address the argument rather to create an aura of odium around what is being proposed.

I ask the Minister to reconsider the comment she made in respect of illegitimacy. It is a loathsome idea and I do not believe she should make a comparison or suggest that we are in any way revisiting the concept in question. The logic of what she is saying is that unless one acknowledges everything adults do, one is calling the children involved illegitimate. That really implies complete recklessness on the part of the Minister, as both a legislator and a member of the Government. Basically, she is stating that the Government is going to allow everything lest it be seen as being judgmental not to. She should remember that what we are proposing relates to restoring to all children the right not to be brought into the world in a way that intentionally deprives them of the opportunity of being brought up by their own biological father or mother or both. What we are about is vindicating children's rights, not stigmatising them. I really wish the Minister had not used the word "illegitimate". As she can see, it has elicited a strong reaction from me.

I am awaiting the arrival of a note regarding a quote I found last night in respect of what Senator van Turnhout had to say regarding Geoffrey Shannon. When I have it in my possession, I will seek to read it into the record.

Deputy Frances Fitzgerald: I do not want Senator Mullen to misunderstand what I said. I was referring to establishing a hierarchy of family types whereby some family types would be entitled to access to the procedures, which is what the amendment does.

Senator Jim Walsh: I do not accept what the Minister said. It is not about establishing a hierarchy of family types. Rather, what is involved here is an attempt to establish a hierarchy for children. As Minister for Justice and Equality and as a former Minister for Children and Youth Affairs, that is what Deputy Fitzgerald should be seeking to do. Earlier, I provided some information in respect of different family types. I will cite one example. I prepared a paper for the World Meeting of Families in 2012. I spent a considerable amount of time researching the paper in question because I wanted to get it right. Every bit of the research I carried out showed that, in general, not all family types give rise to the same outcomes for children. I have seen very good examples of children being well cared for. I wish to refer to a study carried out in Britain which indicates that a child whose biological mother cohabits with someone is 33 times more likely to suffer serious abuse when compared to a children with married parents. I have compiled charts in respect of various family types. Robert Whelan's "Broken Homes & Battered Children: A Study of the Relationship Between Child Abuse and Family Type", which was published in Britain the 1990s, indicates that a child whose biological mother cohabits is 73 times more likely to suffer fatal abuse than a child with married parents.

It is not right to put forward the very simplistic notion that diversity is grand and that all children will enjoy the same outcomes. The latter is not the case. We know from statistics available here that single mothers experience serious financial difficulties in terms of raising their children unless they receive support from the fathers of their children and their own families. We know that those kinds of outcomes affect them from the point of view of education and employment, and in many other ways. It is not good enough for the Minister or the Government to state that it really does not matter. I am of the view that the State has a responsibility to ensure that children get the best opportunities in life. Everything we do in this area is so problematic for children. As a result, we should be absolutely certain that whatever action we take will give them the best prospects going forward. We must take a much more cautious approach.

It is evident from what the Minister stated that we are ill prepared as a result of the bits and pieces approach taken in the Bill. What we are doing is being done for one reason and one reason only. That is wrong. I would have preferred it had a much more measured approach been taken and if, perhaps, either a Green Paper or a White Paper had been compiled. This would have ensured that when we reached this stage of passing the legislation, we would have been certain with regard to what we intend to do. I urge the Minister, even at this late stage, to consider adopting such an approach. This matters to children and the Minister is aware of that. She should not let any ideology - regardless of its source, of how well it is funded or of how professionally it is framed - get in the way of what is right for children.

Senator Averil Power: I wish to respond to Senator Walsh's suggestion that this Bill is being progressed for one reason only. The subtext to his contribution is that said reason relates to the marriage equality referendum. The legislation before the House has been in the offing for ten years. As previously stated, many children who have been born through assisted human reproduction - mainly to heterosexual couples - do not know who are their legal parents. Regardless of how anyone intends to vote, these are legal issues and they have nothing whatsoever to do with the referendum. Earlier, the Minister provided statistics in respect of different family types in Ireland. She indicated that approximately 200,000 households are headed by single parents and that 230 are headed by same-sex parents. The proportion of gay and lesbian people to which the Bill relates is minute. It is a deliberate misrepresentation to claim that the Bill is being rushed through.

Senator Rónán Mullen: On a point of order, I hate to do this to Senator Power - whom I like on a personal level - but perhaps she might address her comments through the Chair.

Senator Averil Power: If that is the Senator's only point, it is perfectly fine.

An Leas-Chathaoirleach: Perhaps Senator Power will-----

Senator Averil Power: Senator Mullen was responding to me but I will address my comments through the Chair.

An Leas-Chathaoirleach: There has been an exhaustive debate on these amendments. I never seek to stymie debate. However, in many instances when Senators table amendments and put forward views in respect of them, the relevant Minister is very well briefed and can respond. It does not behove Members to start disagreeing with each other across the floor. The Minister will respond to the points raised and it might be more appropriate to have her do so rather than having Senators offering tit-for-tat arguments. The Minister and her officials are very well briefed. I have been monitoring proceedings for the past hour or so and I am of the view that the Minister has provided extensive responses to Senators' points.

Senator Martin Conway: Well said. I agree.

An Leas-Chathaoirleach: Does Senator Power wish to continue?

Senator Averil Power: No. The point had been made several times but it had not been rebutted. I intervened because I wanted to rebut it. The legislation is being misrepresented not just in the House but also outside. Many people following the debate in the media in respect of it would be of the view that it is a same-sex adoption Bill or that it has something to do with same-sex relationships. The proportion of the Bill that relates to same sex couples is 1%.

An Leas-Chathaoirleach: The difficulty is that by allowing Senator Power to rebut what Senator Walsh said, he might want to do the same. We should let the Minister respond. She has done so extensively, which has been acknowledged.

Senator Jillian van Turnhout: The Bill is absolutely based on the best interests of the child as the paramount consideration. I do not agree with alternative views. I outlined my views on Second Stage and do not intend to repeat them but the focus is on the best interests of the child as the paramount consideration. That is why I am supporting the Bill.

Senator David Norris: With regard to the gestation of the Bill, I have been in the Seanad for 20 years and in that time people have called for this legislation, notably former Senator Dr. Mary Henry.

An Leas-Chathaoirleach: The Minister has had her spake on this part of the Bill, as we say in west Cork. Is the amendment being pressed?

Senator Rónán Mullen: No.

Amendment, by leave, withdrawn.

Senator Rónán Mullen: I move amendment No. 3:

In page 13, to delete lines 6 to 8 and substitute the following:

"(2) A child born as a result of a DAHR procedure shall have two parents."

I will withdraw this amendment.

An Leas-Chathaoirleach: Is the Senator reserving the right to re-enter it on Report Stage?

Senator Rónán Mullen: Yes.

Amendment, by leave, withdrawn.

An Leas-Chathaoirleach: Amendments Nos. 4 and 6 are related and may be discussed together.

Senator David Cullinane: I move amendment No. 4:

In page 13, after line 36, to insert the following:

"(9) The intending parents of a donor-conceived child must undergo counselling prior to their initiation of DAHR.".

I will speak briefly on it.

An Leas-Chathaoirleach: The Senator has been relatively silent for the past hour so he is entitled to speak.

Senator David Cullinane: I will be brief regardless. We received representation on this from a number of clinicians. It was dealt with by the Minister previously but it is important, given the many ethical and legal elements of entering into the DAHR process, that this is considered. I am interested in the Minister's view of issues raised by clinicians.

Deputy Frances Fitzgerald: The purpose of the amendment is to ensure intending parents have counselling on the consequences of having a child through donor assisted reproduction before undertaking the procedures. In broad terms, I accept the principle that intending parents receiving fertility treatment should receive counselling. That is correct. From my discussion with clinics, I understand they regard counselling as vital and will not provide treatments unless their clients first undergo counselling. I have had one meeting with the Institute of Obstetricians and Gynaecologists, which represents a variety of professionals working in the area, and one meeting with one of the clinics, the Sims IVF clinic, at its request. That is the extent of my discussion with the clinics. From those discussions, clinics regard counselling as vital and will not provide treatment unless their clients first undergo counselling. This is one of the wider issues of assisted reproduction, which remains fully within the remit of the Minister for Health, Deputy Leo Varadkar. In parallel, he is advancing his policy proposals on broader regulation of assisted human reproduction. His proposals will address issues ranging from who may access treatment to measuring long-term outcomes. Counselling of individuals or couples considering or planning treatment is clearly within his area of policy responsibility. His proposals in that regard were recently approved by the Government and include requirements that people availing of all forms of assisted human reproduction, not just donor assisted fertility treatment, undergo counselling in advance of treatment. To the extent that the Bill regulates aspects of donor-assisted human reproduction, it is confined to what I am advised is reasonably necessary to allow the assignment of parentage while protecting the identity and rights of the child. The Bill does not purport to regulate the many related issues, such as access to treatment prohibitable procedures etc. I am in sympathy with the general spirit of the amendment but I hope the Senator will understand the reasons I am not accepting it today.

The same issue arises with amendment No. 6, proposed by Senators Mullen and Quinn, which proposes that prospective donors should provide certification that they received appropriate counselling. Counselling is part of the donor recruitment process and the proposals of the Minister for Health, Deputy Varadkar, will ultimately address this. Counselling takes place on the basis that it is best practice. We know many donations are imported from other jurisdictions and I am advised that donors are counselled there but importation is part and parcel of the current situation. One cannot legislate in an extrajudicial fashion.

As with the counselling of the intended parents, the requirement for counselling is not one that is essential and intrinsic to the assignment of parentage. The proposals in the Bill are not the totality of legislation which will apply to donor assisted human reproduction and we have those transition issues in the Bill. They are a smaller part of the approach to AHR and are limited to the requirements that must be in place to allow the assignment of parentage in a robust and clear manner while respecting the identity rights of the child. I have sympathy with the amendments but I see it as part of the broader approach to AHR. It is taking place currently because it is considered by all of the clinics to be best practice.

Senator Rónán Mullen: Are we discussing amendments Nos. 4 and 6 together?

An Leas-Chathaoirleach: The Senator plans to withdraw his amendment and reserves his right to re-enter the amendment No. 4 on Report Stage.

Senator Rónán Mullen: I have a few words to say about amendment No. 6. The purpose of the amendment requires the provision of appropriate documentation whereby the donor of the gametes certifies having received independent counselling. The Minister sought to address it but not in a satisfactory way. There is a sense in which we cannot legislate in an extrajudicial

fashion but we can certainly legislate to require certain things of foreign donors. I think it essential that we do. The purpose of the amendment is that people receive counselling prior to donating gametes so that they are fully aware that at some indeterminate future date they may be contacted by adults who are their biological children. A separate section rightly requires the Minister to refrain from recording or releasing relevant donor conceived personal information "unless the Minister is satisfied that the person has received counselling on the implications of his or her recording such a statement or, as the case may be, receiving such information." This is information that relates to the donor conceived person providing information on the register intended either for the donor or for a donor conceived sibling.

I have a separate proposed amendment on the age at which it is legitimate to make a donation. Donating gametes is not the same as donating blood and is a serious thing. In some cases, people donate gametes and get the price of a few drinks for doing so. It does not have to be commercialised for it to become a very casual transaction engaged in by people who are not yet mentally or emotionally mature for a longer term commitment of the type society wants to encourage, yet we do not require certification that they have received the necessary counselling. Our duty of care to such people, at a minimum, requires us to seek certification that people have received independent counselling about donating gametes and have not been browbeaten or encouraged in a casual or self-serving way by the industry or others to donate their gametes.

Senator David Norris: I wonder whether Senator Mullen might refrain from using emotionally loaded language like "industry".

An Leas-Chathaoirleach: I will allow the Senator to have his say. He is the next to speak. I ask Senator Mullen to conclude.

Senator Rónán Mullen: That is what it is. The potential exists for people who are really not at a mature stage of their lives to donate gametes. If they do so, it could come back to haunt them, as they will see it, at a future date. In my view, this is something socially destructive because it contributes to the separation of a child from the love and society of one of his or her natural parents. At the very least, we should require independent counselling and certification. We could certainly insist that we would not tolerate the use of such gametes unless the donor, even if he were a foreigner, could show that he had received independent counselling. I should say, before Senator Norris jumps up and cackles at me, that I do not use the word "foreigner" in any pejorative sense.

Senator David Norris: No, I just laugh at the revelation.

An Leas-Chathaoirleach: Does the Senator want to laugh or contribute?

Senator David Norris: I would like to do both.

An Leas-Chathaoirleach: Okay.

Senator David Norris: I find it a judicious mixture. In light of his frequently expressed desire for a respectful debate and all the rest of it, I ask Senator Mullen to avoid words like "industry" and all this rubbish about "a few drinks". That suggests that the next thing he will be looking for is a certificate for a one-night stand. I do not see why the Minister cannot accept amendment No. 4, in the name of the Sinn Féin representatives. She indicated that she agrees with it. She said that clinics do this at the moment. We should not be acting at the behest of the clinics. I understand the difficulties she mentioned. She said they are being examined by

the Minister, Deputy Varadkar. Can we have a timescale for that? When is this going to be produced? I do not see why amendment No. 4 should not be accepted. I would be very much inclined to accept it. I am not sure how the proposal set out in amendment No. 6 could be regulated in an extra-territorial jurisdiction. How on earth can we demand that people in Denmark go for counselling because they make a sperm donation? That is in the realms of fantasy.

Senator Fidelma Healy Eames: This is about Ireland now.

Senator David Norris: No, it is not, dear. It is not.

An Leas-Chathaoirleach: Senator, through the Chair.

Senator David Norris: The amendment would require donors to provide "appropriate documentation certifying that they have received independent counselling on the implications".

An Leas-Chathaoirleach: Please do not interact with each other.

Senator David Norris: For Senator Healy Eames's information, none of the sperm donation comes from Ireland.

An Leas-Chathaoirleach: Senator Norris, the Chair is up here.

Senator Fidelma Healy Eames: We are talking about the future.

An Leas-Chathaoirleach: I have asked you not to interact with each other.

Senator David Norris: The Chair is up there and Senator Healy Eames is somewhere in the future where all kinds of odd things appear to be happening. The situation at the moment is absolutely clear. None of the donations of sperm comes from Ireland.

Senator Fidelma Healy Eames: At the moment.

Senator David Norris: That is why I say it is idiotic to be looking for certification from Danish people. We have no legislative authority. It is beyond our authority to do this.

Senator Rónán Mullen: The Senator should tell the Minister for Agriculture, Food and the Marine that we cannot have certification.

An Leas-Chathaoirleach: I would like to get clarity. Senator Cullinane intends to withdraw amendment No. 4 on the basis that he may wish to enter it again on Report Stage. I am not sure what position Senator Mullen is taking on amendment No. 6. Is he doing the same?

Senator Rónán Mullen: In relation to amendment No. 6, yes.

An Leas-Chathaoirleach: If that is the case, it is a futile discussion. Amendments Nos. 4 and 6 will be withdrawn.

Senator Fidelma Healy Eames: I just want to make an input.

An Leas-Chathaoirleach: They are being withdrawn.

Senator David Norris: Exactly.

Senator Fidelma Healy Eames: Okay.

An Leas-Chathaoirleach: By withdrawing his amendment, Senator Mullen has reserved the right to revisit it on Report Stage.

Senator Rónán Mullen: Yes.

Amendment, by leave, withdrawn.

Section 5 agreed to.

SECTION 6

An Leas-Chathaoirleach: As amendments Nos. 5, 11 and 15 are related, they may be discussed together by agreement.

Senator Rónán Mullen: I move amendment No. 5:

In page 14, line 4, to delete "18 years" and substitute "21 years".

I will be brief because I adverted to this proposal previously. Part of the problem here is that there is a complete mentality of contract around how donor gametes are being viewed in this legislation. We need to consider the ramifications of donating one's gametes without knowing with whose other gametes they will be used to bring a child into being in the future. I think we have got it all wrong here. A socially responsible approach would be to say that when one is bringing a child into the world, one should respect that child's right to be in the company of his or her father and mother. From a public policy point of view, we should be insisting that the donor is an older person and is in a position, or perhaps a better position, to fully engage with the implications of what he is doing.

Senator Fidelma Healy Eames: This amendment, which has been tabled by Senators Quinn and Mullen, proposes that we delete "18 years" and substitute "21 years" in section 6(1) of the Bill. Could I clarify at the outset that we are talking about the regulation of the donation of sperm donated in this country, as opposed to sperm donated in Denmark or some other country?

Deputy Frances Fitzgerald: Yes.

Senator Fidelma Healy Eames: Exactly. That is what I thought. I am talking about donations made here. I do not know if there are other people in this House who have sons aged 18 or 19. I certainly think it would be very wise to let them be as old as possible before they make such a far-reaching decision. It is very little to ask that the age limit be extended from 18 to 21. I will set out what I have learned about how young men are encouraged to donate in other countries. According to what I have heard, they are told they are saving the human race and doing good for their country. I think this is a little disingenuous, to say the least, given that the people in question are just 18 years of age. I assure the House that most 18 year old boys probably have the maturity of a 15 or 16 year old girl. It is interesting that we are saying in this Bill that the woman has to be at least 21. We are allowing sperm to be donated by a really immature boy while providing that the woman has to be at least 21. I think it would be very reasonable to move the age limit for the donation of sperm to 21. This is a massive responsibility for young lads of 18. Of course they are going to be encouraged by money. They have to be aware of the commitment involved. I agree with Senator Cullinane that counselling is vital here. Senator Mullen made the reasonable point that there should be proof that the counselling is independent. The truth is that the donor-assisted reproduction facility has a vested inter-

est. It cannot continue unless it can continue to get people to give the sperm. There will be a comeback in years to come. I would say the greatest comeback might not be for the child who is conceived. It could be for the young lad who gave the sperm when his child reaches the age of 18. If he was 18 when he donated the sperm, he will be just 36 years of age when he realises that his sperm was used to create a young person who is now 18. We need to be really careful about how we proceed here. As I have said previously, life is precious. We should be careful when we are legislating for the conditions in which life is created. I will conclude by asking a question. What types of advertising and information will be allowed to be used by the donor-assisted human reproduction facilities to attract donors?

An Leas-Chathaoirleach: Does Senator Norris wish to contribute at this point?

Senator David Norris: Yes. I understand that people in this country get married at the age of 18. Is that incorrect? If one can get married at 18, there seems to be a perfectly good argument to say it should be 18 right across the board. I understand that Senator Crown has tabled amendments concerning this. I will strongly support them. It seems to me that if one can get married and have a child at a certain age, one should be allowed to use the mechanical means of reproduction at the same age.

An Leas-Chathaoirleach: I think the legal age for marriage is 16, technically.

Senator David Norris: With parental consent, yes.

An Leas-Chathaoirleach: Yes.

Senator David Norris: Thank you very much for your helpful intervention. I have to say I rather smiled when somebody said they should be "as old as possible". The swimming capacity of sperm declines considerably with age. I would think they are swimming around merrily at 18. They are hopping, jumping, diving and all this kind of stuff. They are the boys you want. Come on.

An Leas-Chathaoirleach: I will let the Minister answer all of that.

Deputy Frances Fitzgerald: All right. I note the Senator's concerns and the points that have been made. However, the area is completely unregulated at present and we are beginning to put legislation around certain aspects of AHR and DAHR.

The purpose of amendment No. 5 is to raise the minimum age of a donor to 21 years. This appears to be to match the minimum age of intending parents, although we do have the opposite amendment later on. The basis for setting different ages, however, is not arbitrary. The age of 18 is set for a prospective donor on the grounds that he or she is of full age and has the capacity to consent to any necessary medical treatment and to give full legal consent in relation to the assignment of parentage. That said, I am advised that it takes quite a while to recruit suitable donors, given the clinical requirements for medical screening and counselling and, in the case of women, the medical interventions which are required. The age is unlikely to actually be 18 because of all those factors and the fact that, for the most part, donors will be somewhat older than the minimum age established. I do not think it is necessary or appropriate to set a higher minimum age and it potentially creates a barrier to the donor recruitment process.

Senators raised questions about the implications of a donation, but consent is key, and that is in the legislation. The donor has to give detailed consent and this should alert him to the im-

plications of his actions. He has to consent to the information being put on the register, to being contacted and to the implications around parentage. We discussed counselling earlier, and there is counselling, albeit on a voluntary basis. Senator Healy Eames makes a very relevant point about the objectivity of counselling, and it will be for the Minister for Health, Deputy Varadkar, to consider the precise form that counselling should take.

Senator Rónán Mullen: In light of Senator Healy Eames's very pertinent point, I am very disappointed about that response from the Minister. The Senator is absolutely right in making the point about equality and the fact that an intending mother must be at least 21 years of age. The difference between the two minimum age requirements is perhaps explained by the emphasis the industry places on getting students to donate their gametes. That is a very troubling thing, because the exploitation of students is an issue. Concerns that it could not be provided for because the donors might be abroad are absolute nonsense. The Minister for Agriculture, Food and the Marine knows all about issues of traceability, creatures crossing boundaries and the massive bureaucracy involved in tracing the identity of other creatures. It would not be beyond human ingenuity for the law to require that a donor abroad would have to show evidence that they had received independent counselling.

In common law, people try to set contracts aside because of a particular relationship between the parties and questions of undue influence, but the idea that one can show independent legal advice is one of the great defences. It is such a well established concept in our law that it should be obvious to the Minister, but everything she says seems designed to give the clinics whatever they want and to facilitate the industry. That is why our proposals are getting no traction.

Senator Fidelma Healy Eames: I note the Minister's acceptance that my point about the need for independent counselling rather than something which comes from the donor facility is relevant. We should not put something into law that is not good practice. She says the Minister for Health, Deputy Varadkar, will bring a provision forward in the future, but let us do it now. The Minister has time before Report Stage to bring forward an amendment to clarify this. She says that a declaration under subsection (1)(c) shall be made before the donation is made and shall be in writing, dated and signed by the person in the presence of a person authorised in that behalf by the operator of the donation facility where the gamete is provided. That seems awfully basic to me. It is basically saying that if the consent is given and signed over to the donor facility or clinic then that is good enough. The Minister agrees with me that independent counselling is vital. We are talking about the maturity of a person as young as 18 who is making this decision, so let us fix the Bill now. Will she bring forward an amendment to this end?

Senator John Crown: My two amendments to sections 9 and 11, taken together with this discussion, are fairly transparent. They are part of a bigger issue I see in other areas of our legislation. I am always troubled by the idea that we have differential adulthoods, whereby some adults have some rights that others do not based on how far into adulthood they are. There is some paternalism implicit in a decision to let some adults have access to donor-assisted human reproduction while others do not. I believe the State should view people as either adults or not, and discriminating against some adults by saying they are old enough to bear the consequences of donating gametes but not old enough to become a parent through donation, when one's more fertile peers are physically, biologically and legally capable of becoming parents, is a bit ludicrous. It is a bizarre and illogical situation. Perhaps we think a 20-year old is not capable of making a decision that can impact on their life or save the lives of others, but they can serve in the Army, they can die and be prosecuted for war crimes or donate kidneys. The Bill may let them contact their genetic parents or siblings but regards them as being at such a tender year

that they cannot make a decision to become a parent themselves in the very manner which brought them into the world.

Perhaps it might be argued that donor-assisted human reproduction procedures, as a process, would be unnecessary for someone so young. In most cases that would be the case, but not in all, so let that be a medical decision, not a legal one. We are putting an unnecessary restriction into a Bill and formulating two different categories of adult, which I do not think is in accordance with the principles of natural justice.

Deputy Frances Fitzgerald: I wish to explain why the age of 21 was set as a minimum for intending parents. This was arrived at in consultation with the Department of Health following policy work and research it had carried out in this area. The Department of Health advised that, while it would vary a bit depending on the cause, it takes approximately three years to arrive at a diagnosis of infertility. There may be other factors in the area in which Senator Crown specialises, but if an adult is seeking to become a parent in the earliest stage of adulthood it would take at least three years to have a diagnosis of infertility which would indicate donor-assisted human reproduction. It is for that reason, rather than any presumption of a greater level of maturity, physical or emotional, that 21 is set as the minimum age for intending parents.

Amendments Nos. 11 and 15 seek to reduce the minimum age to intending parents to 18, but the age has been set in close consultation with the Department of Health in order to dovetail with the period of adulthood it would take for the intending parent to have a diagnosis of infertility. The Department of Health has taken a clear policy line that the minimum age for donor-assisted human reproduction should be 21 to take account of the general rule that infertility cannot be diagnosed until a couple has failed to achieve a pregnancy over a period of three years. I am conscious that the infertility rule will not generally apply to same-sex couples and that infertility may in particular circumstances be clear at an earlier age. However, the significant majority of couples undertaking donor-assisted human reproduction procedures are opposite-sex couples, often with unexplained fertility, and the rule has sufficiently broad application to justify putting it on a statutory basis. That is the advice I have, and I hope Senators understand the reasoning behind the different ages. It is not an assumption about maturity in respect of males or females. It is based on the point regarding fertility, diagnosis and time and arises from a policy decision by the Department of Health, which makes sense.

Senator John Crown: In general, the advice available to the Minister has obviously been expert and she has dealt with some complexities. I am sorry to always cite extreme cases but a person who has become infertile in childhood as a result of treatment for childhood cancer or leukaemia or has had his testicles removed or her ovaries removed does not have to wait three years after the age of 18 years to know that he or she is infertile.

Amendment, by leave, withdrawn.

Amendment No. 6 not moved.

An Leas-Chathaoirleach: Amendments Nos. 7, 8, 17, 18, 32 and 33 are related and may be discussed together by agreement.

Senator John Crown: I move amendment No. 7:

In page 14, between lines 35 and 36, to insert the following:

"(6) Notwithstanding any other part of this Act, an intending mother may decide to use, for the purpose of a DAHR procedure, an anonymously donated of a gamete or embryo.".

The four amendments in my name deal with the tricky issue of anonymity, on which I am aware that I am in something of a minority. I have a particular perspective on anonymity, as I indicated in the Chamber on another day and in another context, because I occasionally cause infertility. While we are conscious that the rights of the child are paramount, an existential right comes into play here. Someone who cannot be conceived or born is losing a certain set of rights as well. I have a great fear that access to a large swath of treatments currently available to people who suffer from infertility, namely, gamete donation, will decrease as a result of the loss of anonymity.

Combined, these amendments would allow an intending mother, the woman who desires to become pregnant, to request an anonymous donor and permit someone to donate anonymously. Someone who has created an embryo through donor-assisted human reproduction would be able to donate anonymously and a couple who have created an embryo through whatever means would be able to donate that embryo anonymously to another couple who do not have the biological capacity to create an embryo of their own.

I am well aware of the trickiness of this issue. The data suggest when anonymous donation ended in England donation ended with it. While it has been argued that we will still have access to imported sperm from Denmark, which is apparently much the largest source of sperm for donation in this country, I am worried that, as people fully understand all the implications arising from the end of anonymity, sperm donation will, in time, also decrease.

This may sound a little extreme but another issue that is also slightly troubling is the question of what will happen if the total number of donations available from Denmark does not decline, whereas the total number of donors who provide these donations declines. Let us imagine that 90% of those who are happy to donate anonymously decide they will no longer donate if they can be traced, while the remaining 10% decide to continue to donate. This would mean a much smaller number of people will act as the biological parents of a much larger number of children in this country and other countries, with all the questions that would arise as a result of consanguinity, etc.

I am conscious that there is a significant ethical problem with this amendment and I do not dismiss the right of people to know their biological origins. However, I ask people to remember that if this Bill is passed without the amendments, many people who would otherwise have existed will simply not be born.

Senator Averil Power: On the issue of anonymous donation, while I have great sympathy with the motivation behind the amendments, we need to strike a balance because people who are born through donor assisted human reproduction have an entitlement to their identity. The adoption laws have done untold damage to many Irish people because they have operated under a veil of secrecy that has resulted in people being denied the right to any information about who they are and where they come from. It is difficult to describe the importance of having this information. Knowing who one's parents are is an important part of a person's identity as it allows him or her to find out where their personality, looks and different aspects of themselves come from. Those who are denied this information lose a part of themselves and this will cause them great pain. For this reason, I cannot support amendments which propose anonymous

donation.

Having said that, I have sympathy with the patients to whom Senator Crown refers, those who desperately want to have children, would make amazing parents and would find it easier to access anonymous donations if the restrictions applied in the Bill were not in place. The legislation does not outlaw donation but simply provides that certain information should be collected and made available to those who have been conceived through the donation process. While this makes the process more restrictive, it is also appropriate. I have great sympathy with people who wish to conceive but conception must not come at all costs and not at the cost of bringing people into the world who will never have an opportunity to find out anything about their genetic history. This country's experience of adoption shows that this causes permanent loss for people because they are never able to find out about a piece of themselves and their origins.

I will propose an amendment later to provide that people conceived by donor-assisted human reproduction have access to basic information about their family's medical and genetic history. We must strike a balance between our sympathy for the reasons people use donor-assisted human reproduction and the need to respect the rights of those who are conceived through that process. As an adoptee, I have many misgivings in this area. These are connected to my experience of not growing up with a genetic parent and not having access to information.

I have sympathy with Senator Crown's position and my party's position is to support assisted human reproduction in a controlled and regulated environment. I support the Bill because it at least provides for greater regulation than is currently in place. It is important, however, that those who are conceived through this process have access to as much information as possible.

Senator Fidelma Healy Eames: I agree with Senator Power that we must think of the child and his or her identity because knowledge of one's identity is vital to one's personality. Why would we do anything that conflicts with this view, which is supported by the recent legislation introduced by the Oireachtas? It is very important that people have certainty that they will be able to trace their genealogy.

That the identity of the donor will be revealed in the register is likely to make donors think twice, which is a good thing because this process places on the donor a responsibility and commitment towards his or her genetic children.

The Minister did not respond to my question on whether she will introduce an amendment on Report Stage to provide for independent counselling in order that we have the best possible legislation. I have many misgivings in this regard. The amendment highlights the benefit to the child when the donor is not anonymous.

Senator Gerard P. Craughwell: I am totally opposed to the notion of being able to trace the original donor. I am thinking of the child because from the moment of conception using this system, the parents will be the mother and father, couple or mother to whom the child is born. I see the reason for being able to trace the genetic issues surrounding the donor.

I can see no justifiable reason for being able to identify the donor. We will drive donations underground because people do not want to be identified. We will end up with people getting on planes to receive treatment abroad. I am all for being able to trace genetics but I do not believe it serves any purpose to be able to trace individual names. What good will it do? The alleged father or egg donor will have no tie to the child who is born. They will never see him

or her. Professionals in this area, including gynaecologists and obstetricians, are also opposed to this proposal.

Senator David Norris: I support Senator Crown's amendments. The question arises of somebody with cancer who may be unable to have a child due to radiation treatment. However, I should be concentrating on the question of anonymity. There is a difference between adopting a child who has been already born as a result of the activity of two separate people and deliberately setting out to create an embryo. There is no doubt that the absence of anonymity will seriously decrease the number of donations available. It is worrying when one thinks that a very small number of donors will provide all this material. Issues may arise in regard to consanguinity. It also may be the case that married couples, or whoever they are, would not welcome the intrusion of a third party into their relationship.

4 o'clock

Senator Fidelma Healy Eames: That is the same as the adoption argument.

Senator David Norris: It is not the adoption argument.

Senator Fidelma Healy Eames: It is like saying that adoptive families do not want to know about the child's birth parents.

An Leas-Chathaoirleach: Allow Senator Norris to speak without interruption.

Senator David Norris: There may be situations in which the parents do not want to see the intrusion of a third person.

An Leas-Chathaoirleach: Senator Crown's amendments are Nos. 7, 8 and 17.

Senator John Crown: I am not sure about the procedure for speaking to additional amendments to the section.

An Leas-Chathaoirleach: He has spoken on amendment No. 7. If he wishes, he can wait for the Minister's reply before speaking again or he can speak now. It is his entitlement.

Senator John Crown: I will listen to the Minister's reply before speaking again.

Deputy Frances Fitzgerald: The effect of these amendments is to allow continued anonymity on the part of donors of gametes or embryos. This would run counter to the careful provisions we have made to safeguard the identity rights of a child born through donor assisted human reproduction. These provisions are aimed at securing the child's genetic identity and to ensure he or she has an opportunity to find out the identity of the donor and, potentially, to contact him or her. If we allow continued anonymity, we will be ensuring that generations of children yet to be born have no knowledge of their genetic identity. We have heard very different views on that issue today.

Senator David Norris: It is already available through the clinics.

Deputy Frances Fitzgerald: It is something intrinsic to a person's sense of self. If we took Senator Crown's proposed route, we would fly in the face of the recommendations made by the joint committee after it examined the public policy aspects of this issue. We would also be ignoring emerging international best practice and the spirit of the provisions in the UN Convention of the Rights of the Child on the right to identity. The golden thread running through this

Bill is the best interest of the child. We would be putting that principle to one side.

There is growing consensus internationally regarding non-anonymous gamete donation that identifying information about donors should be released to donor conceived children on request, once they have reached a specific age or stage of maturity. This increased focus on transparency and openness in donations stems from the argument that individuals have a fundamental interest in their biological and genetic origins. It has been argued that the ability of individuals to know their genetic origin is at the core of self-identity. A number of comments and reviews of the UN Convention on the Rights of the Child have been invoked in support of the child's right to know his or her genetic parents. Many would say, for example, that relevant provisions include Article 3, which posits the best interest of the child as a primary consideration, Article 7, which provides that children have a right to a name and a nationality, and Article 8, which provides that State parties should undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference and that where a child is illegally deprived of some or all elements of his or her identity that State parties should provide appropriate assistance and protection with a view to re-establishing his or her identity. It is very much in the spirit of the UN convention to provide for identifiable donations.

A number of jurisdictions have prohibited anonymous donations, including anonymous gamete donation. These include Austria; New South Wales, Victoria and Western Australia in Australia; Finland; the Netherlands; New Zealand; Norway; Switzerland; and the UK. In other Australian states and territories which lack specific legislation, AHR providers can voluntarily seek accreditation from the appropriation accreditation committee in their area. Such accreditation requires that they uphold national guidelines providing that they only use gametes donated non-anonymously. There is a move towards this internationally. Sweden moved to this model some 30 years ago. The UK changed its legislation in 2005 to enable donor conceived children to request the identity of their donor from the authority established there. We do not have an authority yet but we will proceed towards establishing one once the broader AHR legislation is in place. Ideally there also will be a centralised register in which information can be stored and accessed. Most countries which have moved in this direction have developed registers.

I acknowledge Senator Craughwell's point that parents are often reluctant to inform their children that they were conceived with donor gametes due to concerns about the possible psychological impact this could have on the children and the family structure. However, the professional bodies working in this area, including the American Society of Reproductive Medicine, support disclosure and there is a growing professional movement in the direction of encouraging disclosure. There is an increasing tendency to openness and transparency on gamete donation and non-anonymity.

Senator Power has spoken on several occasions about the comparisons with adoption. I realise there are also differences but our approach to adoption was formerly secretive and there was a lack of basic information. We have almost moved to a situation of open adoption, whereby everything is known and there is ongoing contact. I accept the issues arising are different but there are some parallels.

Research suggests that the age of disclosure is important in determining the child's response to being donor conceived. Like adoption, those told at an earlier age have a less negative experience and families benefit from openness about the child's genetic origins. There is an interesting debate in this regard but I do not doubt that a Bill dealing with children and family

relationships should observe the basic principle of upholding the best interest of the child. I feel strongly that the right of access to genetic information is a key part of this. For these reasons, I will not be accepting the amendments.

Non-anonymous identifiable donations are already available. From my discussions with the clinics, it is clear that they can request identifiable donations. That will take time, because up to now Irish clinics have not been asking for that and have used anonymous donations. There would need to be a transition period and clinics abroad would need to be informed by clinics here of the standards we are including in our legislation and the kind of information that would need to be available. I appreciate the concerns raised, but I am told that even when the legislation was introduced in the United Kingdom, there was a change initially, but then donations increased again.

An Leas-Chathaoirleach: Senator Crown may speak on amendment No. 7 and on any of the five amendments related to it and grouped with it.

Senator John Crown: I know the Minister means well, but I am seriously concerned about this. What I am going to say is not about the Minister, but it may sound harsh. We have effectively largely eliminated adoption as a option for people who are not capable of having children. The right to adoption has dwindled to almost nothing in the past few years as a result of the collateral effect of well-intentioned legislation and regulation designed to ensure unregulated, irresponsible adoption does not take place. I fear yet another shutter is coming down for people who face the tragedy of infertility and I am concerned about that.

I have also spoken to people from assisted reproduction facilities and clinics and have, perhaps, taken a slightly different nuance from what they were saying. They expressed great concerns to me that for people for whom the only fertility options involve some type of gamete donation, this would become more difficult and perhaps end completely. They also felt that the proposals would inevitably result in an increase in fertility tourism. They also made an interesting point. I do not mean to use the hard exceptions to prove a case, but they made the point that among people who come from more traditional family structures, it is sometimes unappreciated how often there is divergent genetic origin compared to what they feel is the case. In those circumstances, a sort of constitutional conundrum arises, that some people will have a right to get biological confirmation of who their genetic parents are, but others at the moment do not.

In respect of amendments Nos. 32 and 33, amendment No. 32 would allow for the situation where gametes that were harvested in advance of enactment of the Bill and in advance of the current regulations, could be used without regard to the restrictions that would apply following enactment of the Bill. I understand from discussion with the Minister that for the purposes of the law, assisted reproduction does not exist in Ireland until the Bill is enacted, whereas, of course, it does. Perhaps, therefore, we are understanding this nuance a little differently.

In regard to amendment No. 33, will the Minister assist my understanding? Where a donor assisted human reproduction facility knows the identity of the donor, and the donor contributed a gamete to an embryo which was created under the current legal regime and if this embryo is used in a procedure which occurs after the new legal regime is signed into law, will the Act require the donor assisted human reproduction facility to send the donor details to the registry, even where the donor has not consented to that information being used? Our amendment would permit this to occur only where the donor has given consent for that transfer of information.

Senator David Norris: In regard to maintaining the separation between the right to access identity and the right to access genetic information, I understand that as of this moment, the clinics have possession of or have methods of gaining possession of all the genetic material that is required and will make it available. Therefore, that is the situation currently. Also, I understand that in places like the Czech Republic, this would require legislation, but the legislation has not yet been prepared that would bring the Czech Republic into line with our legislation.

Deputy Frances Fitzgerald: The answer to Senator Crown's question on the donor details is "No". Those details will not be sent to the registry. In response to Senator Norris, the information the clinics have varies quite significantly. Some of the donations they receive are anonymous, so the clinics do not have much information on them. What we are doing is moving to a situation where information on donations will be available.

Senator David Norris: My understanding is they have the complete information, or at least they have a method of accessing the complete information. That is what I have been told.

Deputy Frances Fitzgerald: They have some DNA information, but they do not have the full genetic information we say should be available.

Senator David Norris: I understood they have information concerning, for example, any sort of genetic defects and details relating to illnesses of various kinds. This is precisely the kind of information to which people would have a legitimate interest in gaining access.

Deputy Frances Fitzgerald: What we are speaking about in regard to the information we would want to have available would be the name being made available to the child on becoming an adult, or earlier if the parents wanted that information to be given to the child sooner. That is a more developed concept in regard to information.

Amendment put and declared lost.

Senator John Crown: I move amendment No. 8:

> In page 14, between lines 35 and 36, to insert the following:
>
> "(6) Notwithstanding any other part of this Act, under this section, a donor may donate a gamete, or embryo, for the purpose of a DAHR procedure, or a further DAHR procedure(s), anonymously, wherein all information pertaining to them in the National Donor-Conceived Person Register, established under *section 33*, will read "ANONYMOUS".".

Amendment put and declared lost.

Section 6 agreed to.

SECTION 7

Senator Feargal Quinn: I move amendment No. 9:

> In page 15, line 17, to delete "desirable" and substitute "mandatory".

This amendment seeks to delete the word "desirable" and substitute the word "mandatory". The word "desirable" refers to something we would like to see happen, but "mandatory" would mean it would have to happen.

Deputy Frances Fitzgerald: This amendment relates to contact details being provided on an ongoing basis. There is no clear method to enforce this and there is a risk that if we make it mandatory, a later failure of a donor to update his or her contact details could somehow affect the legal parentage of the child. In this day and age it is relatively easy to trace people, based on the level of information required. We know the name, date of birth, address at the time of donation and the nationality. I agree it is desirable that a donor should update his or her information, but I cannot see a justification for making that mandatory or see a way to enforce that. This is the difficulty. In terms of initial consents, ongoing updating of information would be helpful. Nevertheless, the child on becoming an adult has the opportunity to get significant information because the name and contact details are available from when the person is 18.

Senator Feargal Quinn: We have probably not made the point well regarding the word "desirable". It should be mandatory. Having regard to the child's rights to his or her identity, it should be mandatory that he or she be kept updated. I believe this is necessary and that we should make this mandatory.

Senator Fidelma Healy Eames: The way the provision is written is pie in the sky. While it is desirable to update the information, once the donor makes the donation and hands over the original information, what is the chance he or she will stay in contact with the registry and keep updating it? I would imagine they are very slim. What type of information does the Minister want the donor to add to the register as time progresses? Does she have in mind developing illnesses or something like that?

Senator David Norris: I presume what is intended are changes of address but I agree with Senator Healy Eames that these people are unlikely to keep in contact. I do not see a sperm donor updating every time they change their address or telephone number. It is desirable but it is simply not realistic. What penalties would be imposed if they do not update the register? One cannot say something is mandatory without there being a penalty but what are we going to do? Will we fine them €50? Will we send them to jail? Will we make them provide additional donations? I think it is absurd.

An Leas-Chathaoirleach: I am glad the Senator is *ad idem* with Senator Healy Eames on this matter.

Amendment, by leave, withdrawn.

Section 7 agreed to.

SECTION 8

An Leas-Chathaoirleach: Amendment Nos. 10, 13, 14 and 16 are related and may be discussed together by agreement. Is that agreed? Agreed?

Senator John Crown: I move amendment No. 10:

> In page 15, between lines 31 and 32, to insert the following:
>
> "(3) Where a donor revokes their consent for the use of a gamete under this section, the donor may use that gamete for the purpose of an assisted human reproduction procedure where they are an intending parent.".

My amendment refers to an extreme but plausible situation where a person has donated their

own gametes and they have not yet been used but are in storage. The information we have received about the length of time for the storage of gametes may become obsolete as technology advances. If such a person finds themselves infertile, gets cancer, has to have chemotherapy or have their ovaries or testicles removed, they will not be in a position to generate gametes. A person who has generously donated their sperm or eggs may then discover that they need them but the Bill, as it stands, is silent on this issue. Perhaps it can be dealt with by regulation but without a reference to it in the Bill these people are hostages to fortune and their chances of becoming a parent may depend on an official somewhere remembering to fight for this to be included in a regulation. It is too important to leave to chance and a minor amendment would tighten the loophole.

Do I speak to the other amendments in this group?

An Leas-Chathaoirleach: Yes, they are grouped so you may discuss them.

Senator John Crown: I will speak to the other three amendments at a later stage. They relate to a slightly different issue but they are internally connected.

Senator Fidelma Healy Eames: The Senator has made his point very well and it is well worth considering. One cannot always plan for the future and circumstances change.

Senator Feargal Quinn: I add my support to the comments of Senators Crown and Healy Eames. One cannot anticipate the future so if a person becomes ill it is worth considering allowing them this facility. I do not know if it was considered in the other House but it certainly should be considered.

Senator Averil Power: I support this amendment, which is a good example of the benefit of the House having as a Member a doctor who is experienced in this area. It is a very sensible suggestion.

Deputy Frances Fitzgerald: Amendment No. 10 specifies that a donor who revokes consent may subsequently use his or her own gamete for an assisted reproduction procedure in relation to which he or she is an intending parent. I am happy to confirm there is no barrier in the legislation to his or her doing this so the amendment is not necessary.

Shall I deal with amendments Nos. 13, 14 and 16?

An Leas-Chathaoirleach: Senator Crown wishes to make a further comment.

Senator John Crown: This is a different issue entirely. There is a risk that couples who embark on the process of donor assisted reproduction break up. This might be amicable but it is inevitable that some relationships will end badly. It is a feature of our legal system that bitter marital break-ups lead to very protracted court cases and custody of children has, on occasions, been used almost as a weapon in the family courts. I cannot see how custody over embryos would escape the same unpleasantness occasionally.

The Bill as it stands allows one party, the intending mother, the right to veto the use of an embryo even where the other party has a genetic link to the embryo and the intending mother does not. This could happen where a female partner has had her egg fertilised using a donor's sperm or where the male in a couple uses his sperm and the egg has been donated by a third party. Given the law of large numbers it will inevitably occur that one party to the relationship will ultimately have a veto over whether the other party to what will be, by then, a broken

relationship leaves a genetic legacy. These amendments seek to put in place a legal framework which confers some right to the genetic progenitor of an embryo where the relationship has collapsed in a conflicted way. Furthermore, there is no requirement for anyone to notify the other intending parent, if there is one, where the intending mother has revoked consent for the assisted human reproduction procedure to occur.

Senator David Norris: I support Senator Crown in this and I believe there is case law to back him up. I recall two cases, in one of which the father was alive but the couple had separated and the mother was very anxious to have a child. It may have been because of medical complications but in any case the father denied it. The other case was even worse. It involved a woman whose husband had made the donation but then died. She sought permission to use the material but she was denied it because of the absence of consent.

These are very real issues and I commend Senator Crown on raising them. It would be tragic to have a situation where a married couple make donations but the father dies and, in the absence of written consent, the wife is denied the opportunity of having a child. The authorities do not even know the wishes of the father. It is something this House should address.

Deputy Frances Fitzgerald: Amendments Nos. 13, 14 and 16 all refer to the use of embryos by intending parents. The principle behind these amendments is that, where an embryo has been formed for use by a couple and the couple subsequently decide not to use it as joint intending parents and if only one of those intending parents has a genetic connection to the embryo, the intending parent with the genetic connection shall not require the consent of the other person to use the embryo at some later stage. That has a lot of implications and there have been a number of court cases relating to whether it is feasible to allow a situation where both people give consent but one can unilaterally decide to withdraw consent.

This approach cuts across the consent provisions we have made which require very specifically that where an embryo is formed for the use of a couple both must consent to any onward donation, including directed donation. It sets the genetic connection above the detailed and careful, informed consents jointly made by the couple who must consent in the knowledge that both of them have an equal stake in this potential human being. I have designed the embryo donation provisions so that directed donations can be made. If the couple no longer wish to be joint parents a directed donation can allow one of them, regardless of genetic connection, to become a parent, so the circumstances envisaged by Senator Norris can be dealt with by this provision.

If I accepted the amendments we would be saying, on one hand, that genetic connection is not determinative as intention and informed consent are crucial aspects of the assignment of parentage but, on the other, in the case of later disagreement the genetic link trumps all of those relevant consents.

Senator Averil Power: Will the Minister elaborate more on the directed donation? How would a situation of a relationship breakdown where one person out of spite would seek to influence this decision or where one person has passed away, as Senator Norris stated, be dealt with?

Senator Fidelma Healy Eames: I have some sympathy for this amendment. I also see the Minister's point because this is about an embryo which is created by two people, not a gamete by one or another. Is it possible that a measure would be included in the original consent that

would address the issue of one person dying or a separation? This would ensure there is a clear roadmap because we do not need court cases on issues such as this.

Deputy Frances Fitzgerald: The couple can both agree in the event of the embryo not being used. Obviously, the embryo is not in any circumstances destroyed. They can both agree that there would be onward donation if it is not being used with the consent of both. That is what I mean by directed donation.

Senator Averil Power: The purpose of the amendment is to deal with situations where there is not the consent of both. That is why I was wondering how the directed donation would get around that.

Deputy Frances Fitzgerald: It must be the consent of both.

Several Senators have raised the posthumous issue but that is not being dealt with in this legislation. The assisted human reproduction Bill will deal with that issue subject to consent.

Senator John Crown: It is quite possible that we could be in a situation where people's last chance at parenthood involves an embryo which is genetically one half theirs and the other half a donor's which, for want of a better word, is contracted under the new law. There could be a disputed break-up, perhaps acrimonious, where the consent to use an embryo rests with someone with no genetic connection and he or she wields that veto power over that embryo as a weapon. My own sense is that this is wrong. Take the case of someone who is the genetic parent of an embryo with someone who has legally donated another gamete to the formation of that embryo. Then the situation arises where someone extraneous to the genetic parentage of the child but not still in a relationship with that person has a veto over the embryo. Such people should not have veto power over the use of it, especially if it effectively condemns the other person to childlessness.

Deputy Frances Fitzgerald: Senators will recognise that the approach cuts across the consent provisions completely. I empathise with the Senator's point but the consent provisions we have made provide very specifically that when an embryo is formed for the use of a couple, both must consent to any onward donation.

Senator Fidelma Healy Eames: Can we fix it so that when the consent is given initially, all those eventualities will be looked at? Life is not perfect.

Deputy Frances Fitzgerald: One can at the beginning say there will be a directed donation. If there is a disagreement at a later point, one cannot allow one partner to decide unilaterally on the use of the embryo. It has to be consensual. There have been several cases in the UK which have examined this issue. They were cases where the genetic material belonged to both but there was disagreement. It was found that the consent carries through. If there is a break-up, one partner cannot decide unilaterally to use the embryo, even though the other partner disagrees.

Senator John Crown: The situation we are teasing out probably revolves around a donor in a foreign country donating sperm to be used in a jurisdiction where in several years from now, he can be traced from any offspring from that sperm. I am not certain that a person in, say Denmark, is specifying the sperm has to be used by Mr. and Mrs. Smith or Mrs. and Mrs. Smith. I am not sure what level of consent that person has to the ultimate disposition of where the sperm is used. The other person who is already one half the genetic parent of the embryo

clearly gives their permission for it to be used. If the relationship ends, surely they can try again.

I am not trying to be disrespectful but the Minister is saying we cannot do this because we will not do this. She could accept the amendment with the specific derogation from that consent in specific circumstances and the problem is fixed.

Amendment put:

The Committee divided: Tá, 7; Níl, 18.	
Tá	Níl
Byrne, Thomas.	Bacik, Ivana.
Craughwell, Gerard P.	Burke, Colm.
Crown, John.	Coghlan, Eamonn.
Heffernan, James.	Coghlan, Paul.
Norris, David.	Comiskey, Michael.
Power, Averil.	Healy Eames, Fidelma.
Quinn, Feargal.	Henry, Imelda.
	Landy, Denis.
	Moloney, Marie.
	Mulcahy, Tony.
	Mullen, Rónán.
	Mullins, Michael.
	Naughton, Hildegarde.
	Noone, Catherine.
	Sheahan, Tom.
	van Turnhout, Jillian.
	Whelan, John.
	Zappone, Katherine.

Tellers: Tá, Senators John Crown and Feargal Quinn; Níl, Senators Ivana Bacik and Paul Coghlan.

Amendment declared lost.

Section 8 agreed to.

SECTION 9

Senator John Crown: I move amendment No. 11:

In page 15, line 36, to delete "21 years" and substitute "18 years".

Amendment put and declared lost.

An Leas-Chathaoirleach: Amendments Nos. 12, 21 to 24, inclusive, and 31 are related and may be discussed together, by agreement. Is that agreed? Agreed.

Senator Averil Power: I move amendment No. 12:

In page 16, between lines 27 and 28, to insert the following:

"(iv) understands that the child will be contacted by the Minister upon reaching the age of 18 years to advise her/him of her/his rights under this legislation.

(v) agrees to provide the information outlined in *section 24* about the donor's occupation, hobbies and interests throughout the donor-conceived person's childhood.".

Amendment No. 12 is designed to ensure that donor-conceived individuals are made aware both of the fact they are donor conceived, which is important in respect of establishing their identity, and of their rights to access certain information on the donor register. My colleagues and I will seek in subsequent amendments to expand upon information as set out in the Bill but it is important that people be made aware of their rights and that such awareness not merely be at the discretion of the parents. People, as individuals, have rights in and of themselves and should not be reliant on their parents to make them aware that they are donor-conceived or that they have an entitlement to certain information.

The amendment also touches on the type of information that may be made available to the donor-conceived person throughout his or her childhood. This is at the request of the Adoption Rights Alliance, which wrote to me and to some other Members on this issue. It is about the desirability of someone who is growing up having information about his or her genetic inheritance. It is not the identifying information that such people would get at the age of 18 but some information about the donor's occupation, hobbies and interests. To be honest, I am not certain how that would be done and I tabled this amendment because I agreed with the sentiment behind it. I seek the Minister's feedback in this regard although I am unclear as to what mechanism could be used for a child in such a situation to be in a position to access that kind of information.

Senator David Norris: While I have the greatest admiration for Senator Power, this is an appalling and ghastly amendment. First, regardless of whether the child wishes to be contacted, he or she will be faced with it and I do not think that is right. I think a child has a right to be left in ignorance if he or she wishes and I do not believe that Ministers contacting them all over the place is a good idea at all.

As for this stuff about the donor's occupation, hobbies and interests, how bloody invasive is that? In terms of hobbies, will it be a case of stating one likes playing with Meccano or has a collection of Dinky toys or has a stamp album or plays tennis or makes donations to the sperm bank? I am sorry, because Senator Power is a dear friend of mine and I have the greatest admiration for her, but I really think this is dreadful. I believe this is the first time I have disagreed with her but this amendment is awful. Eighteen years after one makes a sperm donation, one must keep up with one's hobbies, occupation and interests. How does one define interests? I simply do not agree with this amendment at all, although I probably am in a minority of one.

Senator Fidelma Healy Eames: I have a lot of sympathy with this amendment because I know how important it is in the area of adoption, for example. When birth parents have met adoptive parents before the placement, one of the conversations to occur has been on what are

a person's interests or on the type of interests in which the family is engaged. For example, it could be as basic as whether the birth parents had hurling in their background or were musical. While Senator Norris may laugh at this-----

Senator David Norris: I do.

Senator Fidelma Healy Eames: ----- I can stand over the point that it is a strong indicator that the child is likely to have the very same gifts.

Senator David Norris: It is a blob of sperm.

Acting Chairman (Senator Jillian van Turnhout): Senator Healy Eames, without interruption.

Senator Fidelma Healy Eames: From that perspective and to be fair to Senator Power, in this amendment she states this was a donation that created a child and asks whether it would not be nice to have the fullest possible picture for that little child as he or she grows up. I do not suggest this is a life-or-death issue, as are other parts of this Bill, but I have a lot of sympathy with the amendment. In my own case, for example, when we adopted our children we were given some of that information about one particular child before we adopted him and it was all true.

Senator Rónán Mullen: I will support this amendment if Senator Power puts it to a vote. I endorse everything Senator Healy Eames has just said. Senator Power has stated herself that she had certain concerns in this regard. I say this with great respect for her but the more I think about it, her concern and great track record on related issues really suggests to me that she should be a lot closer to the side of the argument on which Senator Quinn and I have been.

Acting Chairman (Senator Jillian van Turnhout): The Senator should address the Chair-----

Senator Rónán Mullen: Actually, I was addressing the table or my desk.

Acting Chairman (Senator Jillian van Turnhout): ----- rather than individual Senators.

Senator Rónán Mullen: She should be a lot closer to the side of the argument that Senator Quinn and I have been trying to advance this afternoon. It leads me to think that sometimes, Members get fixed views about one another's position. They acquire fixed views or perhaps may suspect the motives of those who propose something that is not that far away from what they themselves think in their minds and hearts. In other amendments, I certainly have been trying to advance the idea that this relationship does matter. Senator Power and others have been eloquent and assiduous in trying to make contact with their birth mothers or to find out more about who they are. Why? It is because it matters deeply.

The only fault I find with what Senator Power has proposed is she is adopting an altogether too limited approach to trying to vindicate what really matters to a child in this circumstance. While this is a step in the right direction, unfortunately it is only a baby step in a context in which Members are allowing all these procedures that really treat the children and the gametes in question as a commodity in the way that Senator Norris described. He sees the gametes in question as a commodity, whereas it is quite clear from the amendment she has tabled, Senator Power sees it completely differently. Perhaps she and I should have had further and other conversations well in advance of this Bill.

My point is that Members should follow the logic of what she is proposing here. If it matters so much, and it does, there will be a future for these children in which they will want to know more about themselves. Moreover, it will not be consoling to them to discover they were brought into existence and that in one case, their genetic parent supplied that gamete perhaps for the price of a few drinks, because that is the reality of what has gone on. I have a case to mention and will do so on Report Stage. I say "Fair play" to Senator Power for bringing forward this amendment. I wish she had gone a great deal further. However, I give full credit for this amendment and I will support it.

Senator Feargal Quinn: I also add my voice in support of Senator Power's amendment. When I first read the amendment, I did not quite understand it. I was impressed by the contribution of Senator Healy Eames, who spoke of her own adoption experience. It appears to me as though this is an area in which people do wish to know and would value such information. I believe that had they some knowledge of this, it would improve their life as well. Consequently, I support this amendment.

Senator Averil Power: To respond to Senator Mullen's comments, I already have outlined earlier in the debate that I have some misgivings about donor-assisted human reproduction. However, I also accept it is a reality. I accept there now are many children who have been born through this process and who need to know who are the parents. Members cannot ignore this social reality and people deserve to have their situations clarified. On this as on many other issues, it is not a black-and-white absolute situation. It is extremely unfair to portray those who wish to use assisted human reproduction as being people who wish to commodify children.

5 o'clock

That is very unfair and very insulting language. Many of the people who conceive through this process go through years of pain, years of not being able to get pregnant and realising that their fertility difficulties can be addressed by going through clinics. By God, it is some effort they put in to having children compared with some people who get pregnant very easily. They spend years desperately trying to conceive a child and amazing parents they are.

I have sympathy with Senator Crown's view regarding people who, because of illnesses such as cancer, cannot naturally conceive and yet would make amazing parents. I remind Senator Mullen that this is not a black and white issue for me. I disagree as strongly with Senator Norris as I do with Senator Mullen on that. Like many social issues, it is not that straightforward.

Senator Norris spoke about this information. He sees it as a trivial thing. I will be upfront about this; I am influenced by my own background. It is difficult growing up for someone who is different from everybody else in the family and one cannot see any physical similarities. One does not understand where one gets one's gifts, skills or interests. We can have an argument about nature versus nurture. I have spoken to many other adopted people who, when they finally find their parents, discover that is where they get their musical gift or sporting interest. That is where they get certain aspects of their personality. One feels very lost growing up without that information.

It was stated earlier that a donor-conceived child's relationship will be with those who are assigned legal parentage. Of course, those are the people who will bring those children to their first day at school, look after them and bring them up. However, there is another aspect to the picture for a donor-conceived child or an adoptee, which is their genetic parentage. That is

important and it is not to lessen the parentage provided by the people who bring up the child. It is just like an adoption situation, it is the parents who bring up the child, but there is another aspect of their personality to which they are entitled.

I would not belittle it in the way Senator Norris has done. I think this is the first time we have disagreed; we usually work together on many issues. There are sensitivities on both sides of this argument. It is wrong just to see it as a scientific or medical process and assume that people should just accept the circumstances into which they are born. They do not want to be left, as the Senator said, in blissful ignorance of having been donor-conceived at all without any opportunity to find out about their background.

Equally, I am concerned over the lack of sympathy from some others who use language such as "commodification of children". It is insulting and very unfair to the many fantastic people who have brought children into the world through this process. They are amazing parents and look after their children and care for them even though they had a very difficult pathway to parenthood. I just think that is equally wrong. That is fair enough on an issue like this. It is not black or white. It is a sensitive and emotional issue.

I reiterate to Senator Mullen that without this legislation there would be no regulation. The amendments that effectively oppose the Bill section by section would leave us without regulation. The Senator is just ignoring the social reality, whereas I am accepting that the technology exists and is being used. We just need to do the best we can to protect people being born through this process to ensure they at least have as much information as possible. I will be pushing the Minister on this issue because I do not believe the information that is being collected for the register is sufficient. The spirit behind these amendments is to ensure donor-conceived people are made aware their rights. Just opposing this on a point of principle and ignoring it because Senator Mullen does not accept it or agree with it will not help anybody.

Senator Ivana Bacik: I believe the provisions in the Bill as drafted strike an appropriate balance. I accept, as others have said, it is a sensitive area. It is very difficult and complex to ensure we strike an appropriate balance between the right of donor-conceived children to know their identity and other interests, including ensuring that it will be possible for couples or individuals who are suffering from infertility to access the facilities we are talking about and which people are already accessing in a situation that is unregulated.

I think the balance is struck appropriately. I refer colleagues to the recommendation of the Oireachtas Joint Committee on Justice, Defence and Equality which is being followed in the Bill that there should be access to identifying information. To go beyond that and include too much information is probably not appropriate in the context. More importantly in this debate we need to be very careful about recognising the sensitivity and should not use terms such as commodity and commodification as Senator Power has said. That is most distasteful and unfair. It is disrespectful to the many thousands of couples and individuals who have suffered from infertility problems and also to the children and adults who have been conceived through donor-assisted human reproduction currently living in Ireland.

Senator Rónán Mullen: I am going to do something that perhaps I do not do often enough and perhaps not many of us here do often enough and say that I got it wrong. I would like to refine the context in which I referred to commodification because it is a word that should be used in a very precise and specific manner only. First, I am only referring to the commodification of gametes. Second, I am only talking about the donor-assisted human reproduction context.

Third, I actually have sympathy with those who might have an aspiration to donor-assisted human reproduction on grounds of infertility so I exclude according to that.

I reserve the right to use the word "commodification" otherwise because this is about the commodification of gametes. There is that category where people are dealing with infertility that I feel sympathy for as everybody rightly does. What I am saying is that even in this instance there is a prior right, which is the right of a child not to be separated from his or her parentage - his or her genetic parentage, his father or his mother or her father or her mother.

I note that Senator Power reserves words such as insulting and other words of censure for what I have to say, but not for what Senator Norris has to say.

Senator Averil Power: On a point of order, I think I did, to be fair.

Senator Rónán Mullen: It was not in the same tone. With regard to Senator Bacik, I think I could have written the script beforehand.

Acting Chairman (Senator Jillian van Turnhout): Senator Mullen-----

Senator Ivana Bacik: Let us be respectful in this debate.

Senator Averil Power: I said I disagreed equally with both Members, with both perspectives.

Acting Chairman (Senator Jillian van Turnhout): The record will show what was said.

Senator Rónán Mullen: The words of censure were reserved for one side.

Acting Chairman (Senator Jillian van Turnhout): I ask Senator Mullen to keep to the amendment.

Senator Rónán Mullen: Absolutely. However, Senator van Turnhout, if you had been in my position I think you would also have made a comment about this. Let us respect each other as colleagues. I am advancing what I believe is the fundamental human rights position, which is the prior right of the child. I do that with integrity according to my likes and in no sense to denigrate any other person but in a real way to advance what I believe are children's rights and best interests in all situations as the central consideration.

I said beforehand and I repeat that if Senator Power were to reflect on what I am proposing, she would see it very much tends in the direction she has advanced rightly and admirably in other areas, which is that core aspect of the child's best interests. Just because one believes that a child's best interests rule out or ought to rule out certain procedures does not mean one lacks sympathy for those who would aspire to those procedures. As grown-ups in a national Parliament, we should be able to get that distinction clear in our heads and our hearts.

Acting Chairman (Senator Jillian van Turnhout): There are a few more speakers and I would like to allow the Minister in at some stage. I call Senator Power.

Senator Averil Power: I want to respond to the clarification that my Seanad colleague has just given. He said he has sympathy with those using the assisted procedure on the grounds of infertility. Perhaps he might clarify further. I think it is clear from the pretext. He said he would reserve the word "commodification" for others. By that he means he has no difficulty in terms of heterosexual couples who cannot have children because of infertility but he has

said that others he would regard as commodification. He is fine with DAHR - at least he is more sympathetic to it - provided it is heterosexual couples, but his difficulty is with same-sex couples using it. I think that is more to do with prejudice than anything to do with concerns for child welfare.

Senator Martin Conway: I reiterate what Senator Bacik said. Having participated in the hearings on the Bill as a member of the Joint Committee on Justice, Defence and Equality, I have concluded that it strikes the correct balance. I concur with Senator Mullen and other speakers on the use of language in this debate. I have known the Senator for many years and have always found him to be utterly respectful of Senators from all sides, irrespective of whether they agree with him. He is always exceptionally careful in his use of language and I wish other colleagues were of a similar disposition. I agree with his views on many issues, while disagreeing with him on certain other issues. I find his engagement in debate very respectful.

Senator Rónán Mullen: As there is no need to say much, I will do not do so. On the accusations of prejudice, how can anyone know what is going on in another person's heart or mind? I contrast Senator Conway's generous-----

Acting Chairman (Senator Jillian van Turnhout): I ask Senators to revert to discussing the amendments. Much of this conversation could take place outside the Chamber.

Senator Rónán Mullen: The bottom line is that while the amendment is very good in so far it goes, it is modest and timid on giving children what they deserve from these circumstances.

Senator Fidelma Healy Eames: The debate is going downhill fast now that pejorative language has entered it. I am not happy with prejudice rather than child welfare.

Senator Averil Power: I am not happy with qualification.

Senator Martin Conway: I am not happy with intimidation.

Senator Fidelma Healy Eames: I accept Senator Power's point but language is important.

Acting Chairman (Senator Jillian van Turnhout): I ask Senator Healy Eames to confine her remarks to the amendments.

Senator Fidelma Healy Eames: I have said my piece on the amendments. Senators must stop insulting other speakers and allow the debate proceed in a healthy manner.

Acting Chairman (Senator Jillian van Turnhout): I ask all Senators to take a deep breath and concentrate on the amendments. The conversation on other matters can continue outside the Chamber.

Senator Jim Walsh: I wish to respond to a couple of points, as I am entitled to do on Committee Stage. There is a mistaken presumption running through the Bill that everyone is entitled to a child through assisted human reproduction. There is also a presumption that because some of us oppose sections 4 to 42 we are opposed to the principle of the legislation. That is not the case. My problem with the entire Bill is that it is premature and piecemeal as it addresses some issues and fails to address others. I acknowledged on Second Stage that it has good elements. However, it also contains many voids, for which I do not specifically blame the Minister because she was under pressure to produce something. What we have before us is the result.

I am in favour of all the amendments in this group, one of which is in my name. They are all done in the interests of the child and, as I have stated on many occasions, these interests should underscore every line of the Bill. I will speak to my amendment No. 24, which would introduce an obligation to update information on any inheritable life-threatening condition "within six months of the diagnosis of such a condition occurring in the future". The purpose of the amendment is to place a requirement on the donor to register medical information in respect of an inheritable life-threatening condition that might manifest itself in future. Such information should be registered within six months as it could be crucial to the child who is a product of the donation.

The rationale behind the amendment is Article 10 of the Oviedo Convention which states: "Everyone is entitled to know any information collected about his or her health." The donor conceived child is entitled to know any information relevant to her or his health, particularly where it relates to any inheritable life threatening conditions to which he or she may be vulnerable. This is straightforward common sense. I hope the Minister will accept some of the amendments because they, too, are straightforward.

The section on donor-assisted human reproduction refers to the desirability of the donor keeping updated - "the information in relation to him or her that is recorded on the Register". Section 7(b)(*v*) provides that the operator of a donation facility "shall, before a person makes a declaration under *section 6(1)(c)*," inform him or her that, in the event that a child is born as a result of a donor assisted reproduction procedure and having regard to the child's right to his or her identity, it is desirable that he or she keep updated the information in relation to him or her that is recorded on the register". I fully support the right of the child to his or her identity and compliment my colleague, Senator Power, on her work in this regard. She has been a champion of this right for some time based on personal experience.

It is especially important that any medical information recorded is kept updated, particularly in the event of the donor being diagnosed with an inheritable life-threatening disease. I hope the Minister will agree that we need to ensure such information flows. The presumption is that this Bill will do a marvellous job and I ask the Minister to underpin this assumption. We know the overwhelming majority of donor assisted human reproduction procedures in this country use sperm from Denmark or eggs from Ukraine. Only a tiny proportion of them are generated in this jurisdiction and in such cases the sperm or eggs are generally provided by members of the extended family or friends. All we are doing here is providing for identity rights for a small number of persons. How do we capture the large proportion of procedures where donations from abroad are involved? For example, what efforts are being made at European Union level to ensure the best principles to safeguard the interests of the child will have a Union wide effect? Without such safeguards, this legislation will be full of gaps and have little effect. None of the questions we are raising has been answered.

Deputy Frances Fitzgerald: It would not be appropriate for the Minister to contact directly a donor conceived child to inform him or her of his or her status. That is the job of the parents. The safeguards we have put in place to ensure a child is informed when requesting a birth certificate are as far as we can go in this area. While I fully understand Senator Power's position on the issue of information, we are discussing a national register that will contain information which will give the child the possibility, as an adult, to obtain information on his or her genetic inheritance. This is our primary concern in this area.

Senators will accept that some of the other information they would like to be made available

is available in the clinics. Practice varies in the clinics because they are not regulated to the degree necessary. Information is, however, provided by donors and this is shared with prospective parents. It is then up to the parents to share that information with the child. The medical information will be addressed in due course in the Bill to be introduced by the Department of Health.

We know that the level of screening of donors is clinically robust, although I accept that this matter is not regulated in the broadest sense because this entire area is not regulated. There are no detailed provisions in place. As such, Senator Walsh is correct that this is a Europe wide issue and consistency in standards is required across Europe. We have not reached that point as the area is developing differently from country to country.

The information requested in the amendment goes well beyond what it is intended to provide in the national donor conceived persons register. Some of the amendments give rise to issues about enforceability and their impact on donation. My main point is that they go far beyond what is intended. What is intended is a point of contact and information for the child and it would not be appropriate for the Minister - in fact, in the longer term it would be the authority - to contact the child. That provision where, if a birth certificate is being sought, the adult would be told that there is further information available, which is what we are saying, will open the door to quite a lot of information. That is the primary intention, that there will be information available, such as the name and the contact details.

I reiterate that the parents will have access, as with adoption, to a lot of information at the point of being involved with a clinic and undergoing the procedure. I take Senator Power's point that the parent having access to it is different from the child having access when he or she reaches 18 years, but he or she will have the contact point then and the information. That opens the door to most of the other information that the clinic will have at that point.

There is also an issue as we develop the consent forms and the regulations that will be developed by the Department of Health. Clearly, one can decide what exactly should be in the consents. That will be developed by the Department of Health, as it moves on to the further regulation and as it works out the consent. It is that Department which will work out the precise details of the consents. That is why these provisions will not come into play immediately. There will be the transition period for that to be done. That will provide an opportunity for the Department to consider further the kind of information on the consents which will deal with some of the information that is contained in some of these amendments.

Senator Averil Power: The Minister has given her response to amendment No. 22. I have not yet spoken to it. Earlier, I referred to the general issue of a donor-conceived person having access to as much information as possible on his or her genetic history. As the Minister stated, much of this information is already collected by the clinics. For that reason, I do not accept that it would deter donations. People are already giving this information.

The issue here is around access. The Minister stated it is made available to parents but I strongly believe that the donor-conceived person, particularly when he or she reaches the age of 18, as an individual and adult, should have an entitlement to this information because it is his or her identity. Of course, one would hope that in most cases the parents would want to give their child as much information as possible on his or her genetic history but, unfortunately, our experience of adoption is that does not always happen. Some have found out that they are adopted when they were 40, 50 or 60 years of age, and their parents had never told them. One would like to think that everybody would deal with this appropriately but it is only right that

the donor-conceived person would have a right to this information. This should not be at the whim of his or her parents. It should not be down to parents to control that information. The donor-conceived person should have an entitlement to it. The information is not accessible. As I stated, most of it would be there already and collected by clinics.

I also make the distinction between information and contact. In the adoption scenario, many merely want information. Such persons have no intention of ever having contact with their natural parents but they want to have their medical history. They want to have some information on where they have come from but they do not necessarily want to have any form of relationship or contact. While I appreciate that these are different issues, our experience of adoption should inform our understanding of this area. The Minister states if they want information, and if they do not get it from their parents at the age of 18, they can contact the donor and look for it. That is not good enough. They should not have to contact the donor and look for it. Some want information and contact. Some will only want information. We should be providing for that, particularly where the information is already there - it is held by the clinics. I do not understand why one would withhold that from the individual, particularly where the donor can see the person has reached the age of 18.

Senator Rónán Mullen: I do not intend to speak to my amendment similar to that of Senator Walsh on inheritable diseases as he addressed eloquently the same issues.

I ask the Minister to clarify. Is it the case that a person who is donor conceived might never discover that fact if he or she does not go looking for that information? If that scenario is possible, is it that their parents do not inform them? At what point would it emerge? Is it where they would go looking for their birth certificate? A person might not have reason to go looking for his or her birth certificate until he or she is 40 or 50 years. Would that be the case in such a given situation? Potentially, they would never discover the truth about themselves. Is that the position?

Senator Jim Walsh: I find myself in agreement with all of what Senators Power and Mullen have said. I am not sure of best practice on how one accesses the information, but I have come across anecdotally instances where persons did not learn they were adopted until they were well into the teenage years and they felt a little betrayed. When it comes to Santa Claus, we all experience a touch of that where we feel maybe we should have been told sooner. This is a much more serious situation and can impact on the person concerned and his or her relationship with the parents. It is a difficult one and I do not know the best practice on it.

I will raise with the Minister the letter we all received from the Institute of Obstetricians and Gynaecologists. I probably would not be a champion of much of its contents. It contained a couple of points, one of which was to do with this issue. The institute raised the question of children at 18, who are adults or getting into adulthood, only becoming aware at that stage and the impact it might have on them. There needs to be teased out somewhere along the line some form of guidelines so that where parents engage in AHR, best practices are developed that ease the child into knowing about it over a period in a way that caters for his or her understanding at that time and it does not come as one big revelation at a certain stage later in life. Perhaps that is something the Minister should look at.

I heard what the Minister stated about the European Union and that should be done. There is a need for that. Specifically, are we really talking in this Bill about the small minority of cases which will be harvested in this country which may be reduced because the Minister is provid-

ing these regulations whereas there will be neither restriction on the foreign donations coming in nor information on identity available to those children? I ask the Minister to address that because I am concerned that there is a lacuna in all of this.

On the amendments, particularly my amendment No. 24, I understand the difficulty in enforcing any of this. Obviously, when the person is making the donation here it is easier for them to be captured to give the information that the Minister will prescribe initially. I accept that what I am doing makes it more difficult because it relates to perhaps ten or 20 years into the future where there would be an obligation on them to update the register with information that would be not only valuable, but perhaps crucial, to the survival of the baby or maybe, at that stage, adult who has been conceived from the donor gamete, eggs or whatever else.

I am inclined to press these amendments with the Minister. I respect the points she makes about enforceability but, because the Bill is so piecemeal, the least we should do is strengthen it in so far as we can. A person will require two pieces of information, one of which is his or her identity. The other, obviously, important, piece of information is his or her history of genetic health.

On identity, this is why I am strong about the foreign one and we need to ensure that it is copper-fastened for what we do here as well. As I have said previously, it is a shame that Dr. Joanna Rose was not asked to appear before the justice committee. In terms of her personal experience, which is a matter of public record, she had to take a case to the courts in Britain to learn the identity of her father. While there might have been a little doubt in her mind, she was pretty sure the right person had been identified. The person concerned works in the city of London and is, I understand, a prominent businessman or professional. When she approached him, she was turned away. He wanted nothing to do with her. She subsequently received a letter from his solicitor saying that if she ever approached him again, she would be sued.

The circumstance about which we are now speaking is not, in my opinion, the same as that of a child being put up for adoption. A person who gives up a child for adoption has valid reasons at the time for doing so. In this instance, that is not the case. In this case, we are speaking about people who make a conscious decision to participate in a process. I understand many of those who do so are students and that they do it to boost their income. They may not want to have any attachment to, connection with or responsibility for the child. I will speak later about limits, which are essential but missing from the Bill.

We have an opportunity today at least to improve this Bill, which the Minister agrees goes only a small way towards address of this issue. I hope that the Minister can take on board these amendments and, perhaps, some later amendments.

Deputy Frances Fitzgerald: Again, this is a children and family relationships Bill dealing with the issues I have already outlined. It is not an assisted human reproduction Bill. There are elements of AHR in it but it is not an AHR Bill. That is a matter for address into the future. It is important to note that.

What we are trying to do is create a culture of openness. That is clear. There has not been a culture of openness in relation to AHR or donor-assisted human reproduction. That is the reality. There are probably hundreds of children who have been conceived using AHR and DAHR who do not know, and will never know, this unless their parents tell them. There is no public policy in this area. What we are doing through this legislation is putting in place a mechanism

of public policy around consent and identity. We have already discussed each of those issues. This is a major shift away from anonymity and a lack of information. What this does, in the context of trying to create a culture of openness, is make it clear that parents will have secure parentage. I have also discussed that already. The parents know that the child will eventually be informed. They are being given a clear incentive to be open and honest with a child about his or her donor-conceived status. Currently, other than good parenting or people being sensitive to a child's identity and wanting to be open and truthful with them about their origins, there is no public policy imperative around this. What we are putting in place is a structure that allows for this. This is a major shift to ensure the child will have access to details regarding genetic information. That is a big change.

The point of contact is the national donor-conceived person's register. For example, when a person applies for a passport, he or she will be told, as in the case of adoption, that there is further information available. It is to be hoped it will not come as a surprise to the child to hear that. It is very important that parents ensure this is not the case. Gametes that are sourced from outside the jurisdiction but used here will also have to be accompanied by personal information. As I said, the practice in other countries varies. Some clinics have known donations and others have non-identifiable donations. Once this legislation becomes law, however, clinics here importing from other countries will be required to import only known donations. The obligation is on the clinics here to source identifiable donations. Clinics here are already in discussions with clinics abroad in that regard. For example, while clinics in Denmark deal with known and non-identifiable donations, clinics here will be permitted to import only known donations from Denmark. What we are doing is putting in place the public policy that ensures that more information will be known and made available to the child.

In regard to the proposals that there be ongoing contact by the donor with the clinics in terms of updating information on a constant basis, in my view these are unenforceable. I would not want them included in the legislation in case they would impact in any way on parentage. As I said already, issues such as the type of information that needs to be included on the consent forms have yet to be worked out. This Bill cannot come into effect until issues such as the consent forms and the regulations around them have been dealt with by the Department of Health.

Senator Fidelma Healy Eames: The Minister mentioned a couple of times that there is a culture of secrecy and stigma around assisted human reproduction. That has not been my experience within married relationships. In cases involving use of the couple's sperm and eggs, that is definitely not the case. I do not have any data in that regard. If the Minister has those data, perhaps she would read it into the record. I apologise if she has already done so.

In my experience, most IVF and assisted human reproduction takes place between married couples. In the Minister's opinion, what percentage or number of cohabiting couples have had IVF and, of that figure, what percentage have had donor-assisted human reproduction?

Senator Jim Walsh: I thank the Minister for her clarification, which is helpful and informs the debate. I acknowledge there would be difficulties around the gathering of ongoing information. While, as provided for in amendment No. 24, a life-threatening condition might not arise too often in a person's life, such a crisis could trigger a need for a donor to inform their offspring. That does not interfere with the parents. This has nothing to do with parentage, rather it is about ensuring the best interests of the child born by way of donor-assisted human reproduction.

The Bill includes a requirement relating to updating of the register. As such, there is already an onus on the donor to provide information on an ongoing basis. I appreciate the point made by the Minister about a person faced with a life-threatening condition, about which the clinic is not informed, and how one would in that case pursue the child and so on. Placing an obligation on a donor to do so would address this. One would hope that, within all of this, there would be appropriate sanctions for people who do not comply with the law.

Deputy Frances Fitzgerald: Based on annual reports submitted by fertility clinics to the Health Products Regulatory Authority in Ireland, the demand for AHR services is increasing. In 2013, there were 7,939 treatment cycles of IVF and frozen embryo replacement and 6,574 embryo transfers. A total of 971 babies were born as a result of AHR procedures, which represents approximately 1.2% of all births, and 20% of those births were multiple births. Based on an approximate 50% success rate of AHR across all age groups, approximately 1,000 clients in that year accessed AHR treatments. Births as a result of sperm donation in that year were 54 and births as a result of egg donation were 20. We do not have details in terms of cohabiting or married couples. Due to the lack of regulation, such data are not readily available. The majority of clinics report at European level, but some do not. Thirteen fertility clinics operate in Ireland and some of these are satellites of larger clinics.

Senator Fidelma Healy Eames: I missed the point. Was that in one year?

Deputy Frances Fitzgerald: Yes.

Senator Rónán Mullen: Perhaps the Minister answered this indirectly or perhaps I did not hear the response, but will she clarify the question I asked as to whether it is the case that under the law a person may never find out the truth about his or her origins or may not find out until in his or her 40s or 50s? Is that the case under the proposed law?

Deputy Frances Fitzgerald: The current situation is there are probably hundreds of children who have been born through IVF who are not aware of that fact. What we are doing through this Bill is providing a system whereby the information will be recorded and available. Information is moving from non-identifiable to identifiable and will be available. This depends on whether the parents tell the child of his or her origin. I expect in this context most parents will tell the child, because we are creating a culture of openness. Children will have access to that information once they know their origin from their parents or see it on an official document, for example, on their passport.

Senator Rónán Mullen: Does the Minister acknowledge she is legislating for the potential a child will never find out?

Deputy Frances Fitzgerald: I acknowledge we are legislating to improve the position and to ensure there is a culture of openness and that as much information as possible is made available to a child. From a public policy viewpoint, we are creating a mechanism where that information can be made available.

Amendment, by leave, withdrawn.

Section 9 agreed to.

SECTION 10

Senator John Crown: I move amendment No. 13:

In page 16, between lines 35 and 36, to insert the following:

"(3) Where a gamete of an intending parent, other than the intending mother, has been used to create an embryo which is effected by this section, the intending parent, other than the intending mother, may consent to that embryo being used in a further DAHR procedure, without the consent of the original intending mother.".

Amendment put and declared lost.

Senator John Crown: I move amendment No. 14:

In page 16, between lines 35 and 36, to insert the following:

"(3) Where a person has consented to be a parent under *section 11*, and the intending mother has revoked her consent under this section then —

(a) the DAHR facility shall notify this person that consent has been revoked,

(b) the embryo effected by this section may be used in any further DAHR procedure without the consent of that person who originally gave their consent to be a parent, unless the embryo was created from an egg which derived from the intending mother.".

Amendment put and declared lost.

Section 10 agreed to.

SECTION 11

Senator John Crown: I move amendment No. 15:

In page 17, line 3, to delete "21 years" and substitute "18 years".

Amendment put and declared lost.

Section 11 agreed to.

SECTION 12

Senator John Crown: I move amendment No. 16:

In page 18, between lines 8 and 9, to insert the following:

"(3) Where a person has revoked their consent to be a parent under this section, then —

(a) the DAHR facility shall notify the intending mother, and

(b) the intending mother may use an embryo affected by this section in further DAHR where the embryo was created from an egg which derived from the intending mother, without the consent of the person who revoked their consent to be a parent under this section.".

Amendment put and declared lost.

Section 12 agreed to.

Sections 13 agreed to.

SECTION 14

Senator John Crown: I move amendment No. 17:

In page 20, between lines 2 and 3, to insert the following:

"(10) Notwithstanding any other part of this Act, under this section, a donor, or donors, may donate an embryo, for the purpose of a DAHR procedure, or a further DAHR procedure(s), anonymously, wherein all information pertaining to them in the National Donor-Conceived Person Register, established under *section 33*, will read "ANONYMOUS".".

Amendment put and declared lost.

Question proposed: "That section 14 stand part of the Bill."

Senator Jim Walsh: I said earlier in this debate that I was conflicted as to whether we should remove sections 4 to 42, inclusive, on donor-assisted human reproduction until there has been a full discussion on the ethics of donor-assisted human reproduction and until the Government proposes comprehensive regulation governing the whole area of assisted human reproduction. I was conflicted as to whether to make that proposal or whether to submit an amendment that would confine donor-assisted human reproduction to a husband and wife married couple. The reason for this is that this Bill does not regulate AHR fully, but only some aspects of it and in a piecemeal fashion. Assisted human reproduction will still take place in an unregulated environment and without the influence of any independent regulatory authority. The Bill only deals with parentage issues and access to limited donor related information. Its parentage provisions give full legal effect to whatever donor-assisted human reproduction has already been performed but do not regulate the circumstances or facilities in which the donor-assisted reproduction is performed.

The Bill also ignores the fact that assisted human reproduction is an international and commercial business, with gametes and embryos being traded between overseas bio-banks and facilities in this State. For example, the Bill does not require that donor gametes and embryos used in donor-assisted human reproduction in Ireland be harvested and stored in facilities that fall within the reach and operate under the scrutiny of Irish law. Before introducing laws that radically re-imagine parentage, relatedness, kinship and identity, Ireland should have the chance for a proper social conversation about all these matters. Do children have a right to their natural identity and parentage? Do children have a right to a parent-child relationship with their genetic parents? This conversation about ethics, globalised commercialised donor-assisted human reproduction, genetic relatedness, the right to know, etc. has not taken place because the Government has sought to rush this legislation which only deals partially with what is a huge ethical issue. That is the reason I have opposed all of these sections and, as a fallback, I seek to restrict the Bill in a number of ways we have yet to come to.

Senator John Crown: I do not want to fall into the trap others have been accused of in regard to making general comments on the specifics of an amendment. However, I want to record my complete respect and appreciation for the patience of people, mainly women, I have met

over the years who found themselves making a harsh decision about compromising cancer care that would increase their chance of cure because they wished to have an incremental increase in their chance of retaining fertility. It is in respect for those women, some of whom are not alive, that I moved the amendments I did today. I hope all here will consider them in the discussion on any of the remaining amendments we raise in the Bill. Human assisted reproduction may be an international and commercial business and perhaps there are questions that need to be asked, but it is a business that has brought significant joy to the lives of many people I have known who have been able to fall back on it. We should not lose sight of that here.

Deputy Frances Fitzgerald: What the Government does in this Bill is to give certainty to donor-conceived children with regard to their parentage. It will enable those who brought a child into being in mutual love and commitment to each other and to the child to be recognised as the child's parents. The Bill addresses the current anomalous situation whereby the second person, who may have shared in all the joys and fears of pregnancy and birth, is recognised as a stranger in law to the child. It rectifies this situation and provides a pathway to parentage for the second parent.

Provisions which recognise two people as the child's legal parents, with full responsibility for caring for and raising the child, are directly beneficial to a child. At the same time, the Bill recognises the importance of ensuring a donor-conceived child can know his or her genetic identity. All of this was strongly recommended by the Oireachtas committee and by the Ombudsman for Children. I believe it is important we deal with this aspect of AHR in this Bill. I believe it is important that we deal with this aspect of AHR in this Bill.

Senator Jim Walsh: I thank the Minister for her comments and I will return to what she said shortly.

I take on board what Senator Crown said and I know women who have had the experience to which he referred. I also know couples who have had IVF and whose lives have been enhanced so dramatically by the successful birth of their children. Therefore, I understand the situation. My only point is that there are many ethical and other issues surrounding all of this with regard to the child and those issues have not been flushed out. All we are doing is skimming over the surface of it which is not good enough, in my opinion. That is why I suggested that this provision should be postponed until such time as there has been comprehensive discussion and analysis. That is my only point.

The Minister talked about parentage. Breaking the natural link concerns me. It is one thing for fate to deprive a child of a parent or two parents. Unfortunately, that does happen but it is nature. It is quite another thing for the State to intentionally foist a child into single parenthood or another situation which is not in the best interests of the child. We need to look at this particular scenario. This is unusual because science has probably outstripped or outpaced where we are socially and certainly where we are legislatively. Therefore, we should move with caution. I have listed all of the other countries that have taken a more cautious approach to this matter. We seem to have adopted a stance of whatever it goes, we will cover legislatively and, personally, I do not think that is right.

Deputy Frances Fitzgerald: I have nothing further to add.

Acting Chairman (Senator Pat O'Neill): Is it agreed that section 14 stand part of the Bill?

Senator Jim Walsh: No.

Question put and declared carried.

Question, "That section 15 stand part of the Bill", put and declared carried.

SECTION 16

Senator John Crown: I move amendment No. 18:

In page 22, between lines 13 and 14, to insert the following:

(10) Notwithstanding any other part of this Act, under this section, a donor, or donors, may donate an embryo, for the purpose of a DAHR procedure, or a further DAHR procedure(s), anonymously, wherein all information pertaining to them in the National Donor-Conceived Person Register, established under *section 33*, will read "ANONYMOUS".

Amendment put:

The Seanad divided: Tá, 6; Níl, 21.	
Tá	Níl
Barrett, Sean D.	Byrne, Thomas.
Craughwell, Gerard P.	Coghlan, Eamonn.
Crown, John.	Coghlan, Paul.
Heffernan, James.	Comiskey, Michael.
Norris, David.	Conway, Martin.
Quinn, Feargal.	Cummins, Maurice.
	Hayden, Aideen.
	Healy Eames, Fidelma.
	Henry, Imelda.
	Landy, Denis.
	Moloney, Marie.
	Mulcahy, Tony.
	Mullen, Rónán.
	Mullins, Michael.
	Naughton, Hildegarde.
	Noone, Catherine.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Power, Averil.
	Sheahan, Tom.
	van Turnhout, Jillian.

Tellers: Tá, Senators Gerard P. Craughwell and John Crown; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared carried.

Section 16 agreed to.Sections 17 and 18 agreed to.

An Leas-Chathaoirleach: The Leader wants to make an announcement.

Senator Maurice Cummins: I propose an amendment to the Order of Business to provide that Committee Stage of the Children and Family Relationships 2015, if not previously concluded, be adjourned at 8.30 p.m. rather than 7.30 p.m.

An Leas-Chathaoirleach: Is that agreed? It is extended to 8.30 p.m. by agreement.

SECTION 19

Senator Rónán Mullen: I move amendment No. 19:

In page 23, line 30, to delete "any".

I will not keep the House long with this one.

(Interruptions).

An Leas-Chathaoirleach: Ciúnas. If Senators want to have a conversation, they should do so outside the Chamber. Senator Mullen, without interruption.

Senator Rónán Mullen: This is where the law will provide for the "payment of reasonable expenses" to the donor. Section 19(3) provides:

> In this section, "reasonable expenses" means, in relation to a donor, the donor's—
>
> (a) travel costs,
>
> (b) medical expenses, and
>
> (c) any legal or counselling costs,
>
> incurred by him or her in relation to the provision of the gamete or, as the case may be, the giving of consent under this Part.

I do not know why the word "any" is included in section 19(3)(*c*). I am proposing its deletion to avoid the incurring of spurious legal and counselling costs in a way that would inflate what amounts to reasonable expenses. In other words, I am seeking to prevent commercialism by the back door. I do not think the word "any" is needed in section 19(3)(*c*). That adjective is not used to qualify travel costs or medical expenses as provided for in sections 19(3)(*a*) and 19(3)(*b*).

6 o'clock

I do not see why it is being inserted here and I propose, for the avoidance of doubt at the very least, that it be removed.

Senator Feargal Quinn: I add my voice to that-----

Senator Gerard P. Craughwell: On a point of order, the Minister and her staff have been sitting here for the past four hours. In light of the fact that we have extended the debate by an hour, it would not be terrible to adjourn for ten minutes for a cup of tea.

An Leas-Chathaoirleach: There is a break of ten minutes every time there is a vote.

Senator Gerard P. Craughwell: I know, but we could have a break to allow the Minister to leave altogether.

Deputy Frances Fitzgerald: I thank the Senator for his concern but I am fine.

An Leas-Chathaoirleach: I am sure the Leader consulted the Minister, who is a resilient Minister.

Senator Gerard P. Craughwell: I will take my flogging.

Senator Rónán Mullen: We sympathise with her.

Senator Susan O'Keeffe: As a former Senator, she knows how long the Senators can keep talking.

Senator Martin Conway: She would not be the Minister for Justice and Equality unless she had stamina.

Senator Feargal Quinn: I am just adding my voice to the amendment. Section 19(3) states:

> In this section, "reasonable expenses" means, in relation to a donor, the donor's—
>
> (a) travel costs,
>
> (b) medical expenses, and
>
> (c) any legal or counselling costs,

Why does it not say any travel costs, any medical expenses and any legal or counselling costs? It seems that it leaves the door open and I suggest we should not have it, or we should include "any" in the other cases.

Deputy Frances Fitzgerald: The amendment would remove the word "any" from "any legal or counselling expenses". However, this would alter the nuanced meaning of the phrase, which is intended to convey that, in certain circumstances, legal and counselling expenses may not apply. For example, on the donation of an embryo, counselling expenses may not arise on the grounds that the donors have already undergone counselling as part of their own undertaking of assisted reproduction or donor-assisted reproduction. These would not be chargeable expenses just as the medical expenses are not chargeable under this section. Likewise, legal expenses may not arise depending on the circumstances of donation. This section, as drafted, allows for that.

Senator Rónán Mullen: I have not understood the reply of the Minister. Is she saying that, without the word "any", it would be broader or less broad in terms of what could be claimed for?

Deputy Frances Fitzgerald: Broader.

Senator Rónán Mullen: Without the word "any"?

Deputy Frances Fitzgerald: Yes.

Senator Rónán Mullen: Surely, any legal or counselling costs means that anything can get in as legal or counselling costs.

Deputy Frances Fitzgerald: No. What it is intended to convey is if any legal or counselling expenses arise. I hope the Senator will accept that this is the intention.

Senator Rónán Mullen: That "if" does not require that "any", if I may say so.

Senator Fidelma Healy Eames: I think "if" makes it worse and "any" is fine because any legal or counselling costs are both essential. It is good that it is broad because it is good that the donor considers the ramifications of his decision to donate sperm. It is good that adequate counselling costs be included. I recommend going with "any".

Senator Rónán Mullen: I do not intend to detain the House any more at this point. We may return to the matter on Report Stage when I have read the response.

Amendment, by leave, withdrawn.

Section 19 agreed to.

SECTION 20

Question proposed: "That section 20 stand part of the Bill."

Senator Averil Power: I raise an issue I have written to the Minister about previously. I am concerned about the fact that the Bill does nothing to assist those born prior to the legislation with known donor sperm or those conceived outside the State in foreign clinics when the procedure has been carried out outside the State. I wrote to the Minister about the concern but I have not yet received a response. I am not sure whether the issues flagged previously need to be addressed. I intend to table an amendment on Report Stage. It is a major oversight that there is not provision for the courts to decide in such scenarios. My reading of the Bill and the advice I have received is that, in those scenarios, a court will not be able to assign parentage. Parents will be able to apply for adoption or other routes and I appreciate that is an alternative but it seems bizarre that, in a situation where there is agreement and where all concerned are agreed on parentage, and where there is a known donor but the known donor is prepared to give consent under a similar procedure to what is provided for in the future, the court does not have the facility to assign parentage. That is a major gap and leaves a huge number of those born prior to the legislation in a lacuna. I would like to get the response of the Minister to this point. Unless the Minister can reassure me on this point, I will table an amendment on Report Stage.

Deputy Frances Fitzgerald: The legal advice indicated to me that we could not extinguish the parentage of a known donor retrospectively. There are major legal issues when dealing with retrospective measures in law. My legal advice was that parentage could not be extinguished retrospectively.

An Leas-Chathaoirleach: If the Senator is not happy with the Minister's response, she can table an amendment on Report Stage.

Senator Averil Power: I would like to respond. I understand that an issue arises where

there is a dispute. If there is a dispute about whether the donor is an intentional parent or is disputing the fact of being only a donor, this would be a difficulty for the courts to decide on. However, in situations where the known donor, albeit in an arrangement that preceded the act, donated with the intention of only being a donor, not a parent, and is prepared to testify to that fact in court after the Bill has passed, I do not understand why the Minister is not providing for the court to have such a facility where there is no dispute and where we are not stripping someone of parental rights without consent and the person is willing to testify to having no intention of being a parent and is happy to have the court assign parentage to the two intended parents.

Deputy Frances Fitzgerald: Legally, he is a parent in law and we cannot change that retrospectively.

An Leas-Chathaoirleach: The Senator can consider her position and has the right to come in on Report Stage. I am sure the Minister will also reflect on it.

Question put and agreed to.

SECTION 21

Senator Averil Power: I move amendment No. 20:

In page 24, after line 39, to insert the following:

"(4) In proceedings related to this section, *section 22* and any other proceedings in relation to parentage, the court may, by order, do either or both of the following:

(a) give such directions as it thinks proper for the purpose of procuring from an expert a report in writing on any question affecting the welfare of the child; or

(b) appoint an expert to determine and convey the child's views.".

The amendment is designed to address a gap in the legislation. The provisions relating to access, custody, maintenance and guardianship provide for a procedure whereby the child's views may be heard but there is no such procedure for proceedings regarding parentage. Perhaps it is appropriate, if there is a dispute, that the child's views are heard.

Deputy Frances Fitzgerald: This section requires an expert to report to the best interests of the child in order to assign parentage. I have made provision that the court must be satisfied that the order is in the best interests of a minor child, as it is generally for a child to have security in his or her family relationships. However, the order is generally to be made on the facts of the case, as set out, rather than on a wide-ranging investigation of the child's best interests. The child's views must be considered in guardianship, custody or access applications but parentage, the topic of this section, is rather different in that it turns primarily on the facts and the child does not have all of that relevant information at that point.

Amendment, by leave, withdrawn.

Section 21 agreed to.

Sections 22 and 23 agreed to.

SECTION 24

Senator Averil Power: I move amendment No. 21:

In page 27, line 17, to delete "The" where it firstly occurs and substitute the following:

"In accordance with the 'best interests' principle as set out in Part V of the Guardianship of Infants Act 1964 (as amended by this Act), the".

Amendment put and declared lost.

Senator Averil Power: I move amendment No. 22:

In page 27, between lines 23 and 24, to insert the following:

(f) a photograph;

(g) the contact details of a person who has consented to be contacted for family information in the event of the donor's death;

(h) his or her occupation;

(i) his or her education level and what was studied;

(j) his or her hobbies and interests;

(k) his or her parents' and grandparents' occupations;

(l) his or her marital or civil status;

(m) number of siblings in his or her family;

(n) whether the donor parent's family is aware that the donor is making a donation;

(o) whether the donor's family is aware of the existence of any children born as a result of the donated gamete;

(p) information on the medical history of the donor, including any serious genetically-inherited illnesses that run in their family.

Amendment put:

The Seanad divided: Tá, 9; Níl, 16.	
Tá	Níl
Barrett, Sean D.	Coghlan, Eamonn.
Byrne, Thomas.	Coghlan, Paul.
Crown, John.	Conway, Martin.
Healy Eames, Fidelma.	Craughwell, Gerard P.
Mullen, Rónán.	Cullinane, David.
Power, Averil.	Hayden, Aideen.
Quinn, Feargal.	Henry, Imelda.
van Turnhout, Jillian.	Landy, Denis.
Walsh, Jim.	Moloney, Marie.
	Mulcahy, Tony.

	Mullins, Michael.
	Naughton, Hildegarde.
	Noone, Catherine.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Sheahan, Tom.

Tellers: Tá, Senators Thomas Byrne and Averil Power; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared carried.

Amendment No. 23 not moved.

Senator Jim Walsh: I move amendment No. 24:

In page 27, between lines 23 and 24, to insert the following:

"(f) any inheritable life-threatening condition, with an obligation to update this information within six months of the diagnosis of such a condition occurring in the future.".

Amendment put:

The Committee divided: Tá, 7; Níl, 19.	
Tá	Níl
Barrett, Sean D.	Coghlan, Eamonn.
Byrne, Thomas.	Coghlan, Paul.
Crown, John.	Conway, Martin.
Mullen, Rónán.	Craughwell, Gerard P.
Power, Averil.	Cullinane, David.
Quinn, Feargal.	Cummins, Maurice.
Walsh, Jim.	Hayden, Aideen.
	Henry, Imelda.
	Landy, Denis.
	Moloney, Marie.
	Mulcahy, Tony.
	Mullins, Michael.
	Naughton, Hildegarde.
	Noone, Catherine.
	O'Donnell, Marie-Louise.
	O'Keeffe, Susan.
	O'Neill, Pat.

	Sheahan, Tom.
	van Turnhout, Jillian.

Tellers: Tá, Senators Thomas Byrne and Jim Walsh; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

Section 24 agreed to.

SECTION 25

Senator David Cullinane: I move amendment No. 25:

In page 27, lines 25 to 27, to delete all words from and including "(1) A" in line 25 down to and including line 27.

Deputy Frances Fitzgerald: We discussed this issue in the Dáil when Sinn Féin submitted this amendment. It would remove the requirement that a donor assisted human reproduction procedure would be carried out by a registered medical practitioner or by a registered nurse.

The aim appears to be that the parentage of a child born through a non-clinical procedure, such as self-insemination, would be recognised under the provisions of the Bill. The provisions of the Bill have been carefully designed to allow the assignment of parentage in limited and specified circumstances. There is a provision and it is a requirement that the treatment take place in a clinical context. This is an important element of the safeguards. If wider provision were made, other than on the basis of genetic connection, this could have significant consequences for the position of natural fathers.

There are some difficulties with the proposal, even if consents could be taken in broadly the same way as envisaged. In particular, issues around independent verification might arise in regard to the necessary certificate under section 27(5). That certificate is essential to enable a couple to jointly register as the parents of a donor-conceived child. There would also be significant difficulty in ensuring that the safeguards allowing revocation of consent by a donor can be properly implemented. The case law on the position of a donor in cases of self-insemination is to be found in the Supreme Court judgment in the case of McD *v.* L, which found that the man concerned was, in law, the child's father and had the same statutory right as an non-marital father to seek guardianship, custody and access. The Bill does not attempt to regulate or ban self-insemination, it simply does not allow parentage to be assigned, as set out in section 5. However, where all of the adults involved are in agreement and it is in the best interests of the child concerned, there are options available which would allow a non-biological parent to secure a legal relationship with the child. For example, the person could apply for guardianship under section 6(*c*) of the Guardianship of Infants Act 1964, which is provided for in section 45 of this Bill, thereby leaving the parental status of the natural father unaffected. Alternatively, the child could be jointly adopted under the Adoption Act 2010, as amended by this Bill. In short, they will have a route to parentage which does not run the risk of undermining the posi-

tion of natural fathers. I cannot accept the amendment.

Amendment, by leave, withdrawn.

Amendments Nos. 26 and 27 not moved.

Senator Jim Walsh: I move amendment No. 28:

In page 27, to delete lines 28 and 29 and substitute the following:

"(2) A person shall not perform a DAHR procedure other than on the request of a married male-female couple.".

Amendment put:

The Committee divided: Tá, 3; Níl, 20.	
Tá	Níl
Mullen, Rónán.	Barrett, Sean D.
Quinn, Feargal.	Coghlan, Eamonn.
Walsh, Jim.	Coghlan, Paul.
	Conway, Martin.
	Craughwell, Gerard P.
	Crown, John.
	Cummins, Maurice.
	Hayden, Aideen.
	Healy Eames, Fidelma.
	Landy, Denis.
	Moloney, Marie.
	Mulcahy, Tony.
	Mullins, Michael.
	Naughton, Hildegarde.
	Noone, Catherine.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Power, Averil.
	Sheahan, Tom.
	van Turnhout, Jillian.

Tellers: Tá, Senators Rónán Mullen and Jim Walsh; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

Senator Rónán Mullen: I move amendment No. 29:

In page 28, between lines 16 and 17, to insert the following:

"(4) A person shall not perform a DAHR procedure unless account has been taken of the welfare and best interests of any child who may be born as a result of the treatment.".

7 o'clock

This amendment, as do they all, has to do with the welfare of the child. The text to be inserted would read "A person shall not perform a DAHR procedure unless account has been taken of the welfare and best interests of any child who may be born as a result of the treatment." The purpose is to insert a child welfare clause that mirrors closely section 13(5) of the United Kingdom's Human Fertilisation and Embryology Act 1990, as amended by the 2008 Act. Section 13(5) of the aforementioned Act, as amended, provides that "A woman shall not be provided with treatment services unless account has been taken of the welfare of any child who may be born as a result of the treatment (including the need of that child for supportive parenting), and of any other child who may be affected by the birth." The 2008 amendment to the British legislation substituted the words "supportive parenting" for the words "a father" - no surprise there.

In the coming few years, ever more experimental donor-assisted human reproduction techniques are likely to be attempted to provide same-sex couples with their own genetic children. Scholarly articles refer to things like multiplex parenting and so on in which one is talking about attempts to artificially create gametes. A welfare clause, such as the measure I am proposing, may be useful in challenging the use of such techniques, at least in their early years, given the possibility of unknown health effects on the children conceived. It would be ironic were Ireland, with its new children's rights article in the Constitution, to produce legislation that is even less child-centred than the British one by reason of the Bill's omission of any statutory requirement similar to that of the British section 13(5). Like all the restrictions on donor-assisted human reproduction procedures contained in section 25, there are no enforcement provisions or related offences contained in the Bill.

Members also should recognise that section 13(5), perhaps not surprisingly given its general terms and the inherent vagueness of the phrase "account has been taken", has proved to be something of a dead letter in practice in Britain. However, that is not to say that an equivalent provision in this Bill might not be useful because it possibly could be pleaded in conjunction with the children's rights article, Article 42A, which obviously currently is pending before the courts. I think it would be useful and, at the very least, we should mirror that British provision even if it has not proven to be that useful in the past. The circumstances in Ireland, given our constitutional situation, might give it some effect.

Deputy Frances Fitzgerald: This amendment requires an assessment in advance of the best interests and welfare of a child to be born. In current practice, this is a matter for clinics in the dealing with patients. There are wide implications for assisted human reproduction, AHR, more generally, which is why I have not made explicit provision in the Bill. This provision has implications for access to all forms of fertility treatment and the Minister for Health will be setting out the statutory framework for access to assisted reproduction generally. The Department of Health advises me that such provisions are planned for the AHR legislation that will provide for welfare of the child assessment, which effectively will provide a way of assessing if patients are suitable for treatment with all the usual criteria being considered. Based on these assessments, clinics may refuse to provide treatment to particular individuals in order to protect

potential children from serious medical, physical or psychological harm. That would be very much in line with the 2005 Commission on Assisted Human Reproduction report, which recommended that legislation should be enacted to confer on AHR service providers a discretion to deny AHR treatments to individuals where there is serious concern, supported by objective evidence, that the welfare of any resultant child could be at risk.

Currently, every fertility clinic in Ireland carries out some form of assessment procedure. However, the lack of regulatory guidance means that assessment criteria may be inconsistent. This goes back to the need for a wider regulation of the sector. We will bring coherence to that system through the AHR legislation.

The remit of this Bill is narrowly focused on what is essential to allow the assignment of parentage. This specific issue has relevance for all forms of assisted human reproduction, whether or not there is donor involvement. On this basis, the proper place for the best interest assessment for access to treatment is in the overall legislation. This amendment has implications for all of AHR, so I believe the best place for it is in the wider AHR legislation.

We have the best interest principle in the Bill generally. When there are any court decisions to be made, the golden thread running through the legislation concerns the criteria of the child's best interest. The Department of Health will ensure that such provisions are planned for in the broader AHR legislation so that it is implemented in a uniform way across the country.

Senator Rónán Mullen: I thank an tAire for her response. I can hardly fault the Minister any further for departing from the best interests of children in this section, given the criticism I have of the Bill as a whole. Nonetheless, I thank her for her response and will consider it when deciding whether to resubmit this amendment on Report Stage.

Acting Chairman (Senator Diarmuid Wilson): Is the Senator pressing the amendment?

Senator Rónán Mullen: Not at this point.

Amendment, by leave, withdrawn.

Section 25 agreed to.

SECTION 26

Senator Jim Walsh: I move amendment No. 30:

> In page 28, between lines 26 and 27, to insert the following:
>
> "(*c*) the operator of a DAHR facility is certain that the use of the gamete would not exceed the limit on the number of children who may be born as a result of donor gametes from one individual donor. That limit should be a maximum of three births per individual donor.".

The purpose of this amendment is to place a strict limit on the number of children who might be born as a result of donor gametes from one individual donor. I am suggesting that the limit should be set at a maximum of three. It should be illegal to use donor gametes for the purpose of creating more than three children from the same donor material.

The reason behind this is reasonably obvious. Consanguinity is the kernel of it. It is the quality of being descended from the same ancestor as another person. It is vitally important

that we restrict the number of births resulting from any one individual donor in donor-assisted human reproduction.

It worries me that the Bill would allow a donor to have an infinite number of births to emerge from those donations. There is no control at all. That is totally unacceptable to me and to many reasoned people. I would be surprised if the Minister herself did not find that unacceptable. When Britain banned donor anonymity in 2005, the HFEA set a limit of ten families within Britain that can be created using the gametes of an individual donor. Irish law should go further by limiting the number who may be born from the same donor.

Section 34(1)(*b*) states that a donor-conceived child may request the Minister to provide him or her with the number of persons who have been born as a result of the use in a DAHR procedure of a gamete donated by the relevant donor, and the sex and year of birth of each of them. The Bill acknowledges the importance of knowing the number of half-siblings a donor-conceived child may have, so we should try to ensure that no donor-conceived child has innumerable half-siblings in innumerable countries. I accept that this is difficult for one state to do. There really needs to be at least an EU-wide provision for restriction and regulation in this regard. We need to start it here and should not start from the base at which this Bill starts.

I recognise that it is complex. I have a draft Bill here, entitled the children (right to know genetic history) Bill 2012. I drafted that Private Members' Bill, which covered such items as the licensing of fertility services, registration of donor information, right to information on genetic parentage, genetic siblings, request for information as to intended intimate partner or spouse, and a limit on the number of offspring. That Bill also dealt with importation and the retrospective effect of the Act. I subsequently examined the possibility of having a gene library. Part of what they have done in Britain includes a DNA database and we should also look at that. Records should be safeguarded and there should be severe penalties for not handing over intact recordings to the central authority. That should be part of what we do.

I decided not to proceed with the Bill having consulted with Dr. Joanna Rose, to whom I have referred before. She has a lot of expertise in this area. When we went through the individual sections of that Bill, we were uncomfortable as to where it would go because it is very complex.

As regards the right to information on genetic history, it is worth pointing out that we had included an age limit of 16 years, rather than 18 years which is in the Bill before us. We were looking at offspring being notified in writing at the age of 16 years. We referred to the obligation on the State and on parents in that regard.

It is a complex area and one in which I have taken an interest for a long number of years. I was prompted to draft that Bill because I chaired a well-attended meeting in Dublin at which Dr. Joanna Rose spoke. It was the first time I met her and I was taken with her own personal story. She has an estimated 200 to 300 siblings, but I do not think it is right or fair to put any child in that position.

The Minister, and others in the Chamber, will be familiar with the case in England in recent years where a young man and young girl got married, but subsequently discovered that they were half-siblings. That is the risk we run in not regulating this area properly and that is why I have tabled this amendment. In this Bill, I had set the limit at five, but when I came to tabling the amendment I put it at three. I am open as to what the number should be, but there definitely

should be a limit.

Senator Fidelma Healy Eames: I tend to agree with the thrust of this amendment because we are a very small country. From talking to people who have been donor-conceived, I know they sometimes have a fear of sleeping with half-siblings. Let us face it, a donation can provide for more than one pregnancy.

When I was in Fine Gael, I recall that a clinic - it may have been the Beacon Clinic - came to address the Joint Committee on Health and Children. The clinics were seeking a limit of six donations from an individual. The Minister might clarify the situation as she understands it. Is the Minister putting a limit in the Bill on the number of donations from any one individual? It is important because otherwise one literally could have a case where any one genetic father could be a father to dozens of children. In a country as small of ours, one can see the risk of people ending up together without knowing that they are genetically related.

I have heard Dr. Joanna Rose speaking about the importance of a gene library. Will that gene library not be the same as the register we are discussing here? Will it provide for the same thing?

Senator Martin Conway: I have a lot of sympathy with Senator Walsh and Dr. Rose on this matter. The assisted human reproduction legislation is currently being drafted, but I have no doubt that it will be referred to the Committee on Justice, Defence and Equality for consideration. I have heard Dr. Rose speak before. I would certainly be happy for her to come and give evidence. I would be happy to propose that. I do not know why she was not invited to discuss the previous Bill. When we were told about that today, it was news to me. I believe she has a story to tell. It should be heard. We can deal with these important issues in the context of the next tranche of legislation, which relates to assisted human reproduction.

Senator Rónán Mullen: We all know socially what we would think of a person who had quite irresponsibly fathered a lot of children and abandoned any responsibility in terms of maintenance and so forth. By contrast, Lars from Denmark seems to escape requirements for maintenance. It appears that there is no limit on how many children he might have. It raises all kinds of health questions into the future, especially in light of social mores. For example, it will be quite possible for people to end up in sexual relationships with people to whom they are related. It seems to me that a whole lot of social irresponsibility is potentially underlying this legislation.

Deputy Frances Fitzgerald: Clearly, the move to identifiable donations is an important aspect of a more regulated approach to this matter and deals with some of the issues that have been raised. This amendment requires a maximum limit on births through donor gametes from an individual donor.

Senator Fidelma Healy Eames: How many?

Deputy Frances Fitzgerald: I was speaking about the amendment when I said that it proposes a maximum limit on births through donor gametes from an individual donor. This is another issue that will be dealt with in the broader assisted human reproduction legislation. I can inform the House that the Minister for Health will be imposing limits on the maximum number of births. I understand the limit will be set out not in terms of the number of births, but in terms of the number of recipients who may receive donations from each donor. These limits will be set in due course. I think they will be quite low, as this amendment suggests. When Senator

Walsh spoke on this amendment, he suggested that the limits should be low. The Minister for Health and I agree with that. The limits will be set under the new assisted human reproduction legislation. When the Minister brought this scheme to the Cabinet, the limits were part of the proposals for the scheme. The limits will be set in due course. They are not appropriate to this Bill because they do not relate directly to assignment of parentage. I reiterate that a transition period is envisaged in relation to the provisions that are being introduced under this Bill, where they will dovetail with the new assisted human reproduction Bill.

Senator Jim Walsh: I welcome the good and valuable information the Minister has provided to the House. Will she expand on what the Minister for Health has suggested to the Government with regard to the numbers? There is a need to keep it very tight. We have regulations on who can get married for very specific reasons. I know small pockets of the country where considerable inbreeding led to many mental health issues in those areas. That is a very significant factor. I do not think we should allow it in this. I see all the difficulties in trying to control it. I welcome what the Minister has said. I will be happy to withdraw the amendment on that basis.

Senator Marie Moloney: What the Minister has said is very important. The Minister for Health intends to bring forward a proposal on the number of recipients as opposed to the number of donations. One family might decide to have three or four children from the same donor. If we limit to two the number of recipients from a single donor, three donations might be used up by a family from that donor. The limitation on the number of recipients is very important.

Senator Rónán Mullen: It is like "Seven Brides for Seven Brothers".

Senator Marie Moloney: Yes.

Senator Fidelma Healy Eames: I notice that the Minister is saying all the time that future legislation is coming with regard to assisted human reproduction. We are dealing in this legislation with donor-assisted human reproduction. I am truly amused because the issue of assisted human reproduction is generally less contentious than the issue of donor-assisted human reproduction. It really puzzles me that assisted human reproduction is not being dealt with now. Donor-assisted human reproduction is the most difficult area and it is in this Bill. Assisted human reproduction should be dealt with in this spot in the Bill. It is a terrible pity that the Minister is putting it off and saying it will happen in the future. I would like to know why that is the case.

Deputy Frances Fitzgerald: It is the case because it is more appropriately dealt with by the Department of Health. As I outlined earlier to the House, assisted human reproduction and indeed donor-assisted human reproduction encompass a range of broad issues and need to be dealt with. We have mentioned many of those issues here today. It is clear from the work of the 2005 commission that this significant legislation needs to be introduced. The legislation on assisted human reproduction and donor-assisted human reproduction that needs to be drafted is very complex.

Senator Fidelma Healy Eames: Is the Minister not putting the cart before the horse?

Deputy Frances Fitzgerald: We are dealing with aspects of parentage. As I keep saying, we are not dealing with the broader issues. The legislation will dovetail together. There is a transition period as well. The consents and the regulations are appropriately dealt with by the Department of Health and will be dealt with by that Department.

This is the first time any Government has attempted to deal with this issue. It is the first time any Minister for Health has ever brought it to Government. People can talk all they like about how unregulated it is. I accept it is unregulated, but this is a move towards regulation. No other Minister has taken legislation on the broader assisted human reproduction issues to Government in the manner that the Minister, Deputy Varadkar, has done. He has outlined a scheme that is going to be developed. He has been doing a huge amount of policy work, which is being led by the head of the bioethics section in the Department. I have given an indication of the key principles, having worked very closely with him. I am giving as much information to the House as I can in terms of the policy approaches. I have taken the policy approaches that are relevant to the assignment of parentage in terms of critical issues like donation, anonymity and consent.

All I can say is that there are broader issues. I can understand the Senator saying she would like to see legislation in the area of assisted human reproduction. This is the first time anyone has attempted to draw up such legislation. I am not talking about myself. I am talking about the Minister, Deputy Varadkar, who is bringing to the Government a scheme and the policy imperatives that need to underpin it. That is being done and will continue to be done. The heads of the Bill will be published later in the year. There will be a consultation process. It will go to a committee. There will be an opportunity to discuss these issues. I am responding today to anything that is relevant to the parentage element of assisted human reproduction. Quite a few of the broader issues remain to be teased out.

I was asked about my understanding on the limit that will be imposed. Obviously, I am not sort of guaranteeing that this is the limit. The indications are that it will be three.

Senator Jim Walsh: That is interesting. I was unaware of that, just in case anyone thought otherwise. I would readily concede that the figure I proposed was an arbitrary one. If that is the actual outcome, I will welcome it. I understand the complexity of this issue, which needs to be regulated and dealt with. I applaud and compliment the Minister and her colleague, the Minister for Health, on going down that road. It would strike me that the assisted human reproduction architecture and framework should be in place to inform the parentage decisions. It appears to me that we are moving in a vacuum on parentage without having the other architecture in place. I have no doubt that when the assisted human reproduction legislation is fully discussed, debated and considered, it will have implications for parentage. I would have thought it would be much more logical for this Bill to follow rather than precede the legislation relating to the fundamental part of this developing area, which definitely needs to be regulated.

Senator Rónán Mullen: The Minister keeps saying that other matters remain to be dealt with in more broadly encompassing assisted human reproduction legislation. I think we can at least infer that it is not proposed to prohibit donor-assisted human reproduction later in the year. That is why I believe a big policy decision is being made in this legislation. Could the Minister clarify what she means by "it will be three"? I assume she is referring to three procurers of donated gametes. Is that correct?

Deputy Frances Fitzgerald: I was asked about the limit. I said that the limit is expected to be three donor families.

Senator Rónán Mullen: Or individuals, I presume. They do not have to be families, presumably.

Deputy Frances Fitzgerald: No. Three donor families. I will repeat what I said. The

limit will be set out not in terms of the number of births but of the number of recipients who may receive donations from each donor. It is three.

Senator Rónán Mullen: That is not necessarily families. An individual person may procure a donation. Is that correct? A single person, for example.

Deputy Frances Fitzgerald: Yes. I am using "family" in the broadest sense.

Senator Rónán Mullen: The family will be when the child comes along. I presume that is what the Minister means.

Senator Fidelma Healy Eames: I accept what the Minister has said. Both the Minister for Justice and Equality and the Minister for Health have shown a lot of initiative in this area. She is right to say there have been gaps and that there has been a need for a lot of regulation and safeguards for a long time. Again, I go back to the fundamental point that assisted human reproduction is the broad umbrella of which donor-assisted human reproduction is a subsection. We are putting the cart before the horse. To me, it looks as though we are facilitating the same-sex marriage referendum, and that is the reason.

Acting Chairman (Senator Diarmuid Wilson): Does the Minister wish to add anything?

Deputy Frances Fitzgerald: No.

Senator Jim Walsh: In light of the Minister's response, I am very happy to withdraw my amendment.

Amendment, by leave, withdrawn.

Amendment No. 31 not moved.

Senator John Crown: I move amendment No. 32:

In page 29, lines 16 to 19, to delete all words from and including ", and" in line 16 down to and including "donor" in line 19.

Amendment put and declared lost.

Senator John Crown: I move amendment No. 33:

In page 29, line 29, after "formed" to insert "if the donor gives consent for this to occur".

Amendment put and declared lost.

Senator John Crown: I move amendment No. 34:

In page 29, lines 35 to 38, to delete all words from and including "procedure," in line 35 down to and including line 38 and substitute the following:

"procedure.".

I shall not delay because I am pretty convinced at this stage that no amendments will be accepted.

The purpose of this section is to try to clean up some of the problems which occur when

we have complicated laws relating to the family and pertaining to things that are technically as complicated as fertility. This particular section, as it stands, requires the prospective parents who have an embryo fertilised under the existing arrangements to give consent to becoming legal parents under the new legal regime, which at the time of creating the embryo had not yet been signed into law. Again, this is an example of *ex post facto* law which we should not include.

Deputy Frances Fitzgerald: I understand the Senator's intention is that the donor details will not be recorded on the donor register in this case. I should clarify that this is not the intention and that regulations for the operation of Parts 2 and 3 will help to clarify this.

In regard to embryos already in existence, I assure the Senator that there is no question of lifting the veil of anonymity. However, it is crucial that the intending parents give full and informed consent to the parentage of the child to be born.

Amendment put and declared lost.

Amendment No. 35 not moved.

Senator Rónán Mullen: I move amendment No. 36:

In page 29, after line 38, to insert the following:

"(9) (a) The operator of a DAHR facility commits an offence if he or she makes or permits to be made an appointment or any other arrangement for or on behalf of an intending parent or parents with a person or facility that provides anonymous gamete donation services outside the State.

(b) A person who commits an offence under this subsection is liable—

(i) on summary conviction, to be a class A fine or imprisonment for a term not exceeding 12 months or both, and

(ii) on conviction on indictment to a fine not exceeding €70,000 or imprisonment for a term not exceeding 2 years or both.".

The purpose of my amendment is to prohibit clinics from referring people abroad to avail of anonymous gamete donation. The amendment provides for certain sanctions in the event of an offence being successfully prosecuted. It is analogous to the provisions of the abortion information legislation of 1995. The offence imposed in this section is proportionate and matches that provided for in section 29(8), which concerns obstructing an authorised person from ensuring that a facility is compliant with the recording standards required in the legislation. A prohibition in legislation has no legal reality without a penalty. The penalties here match those provided for elsewhere in this legislation. The offence is analogous to that which has been provided for in section 8 of the Regulation of Information (Services Outside the State for Termination of Pregnancies) Act 1995.

Senator John Crown: What happens if I am right and they are all wrong? What happens if sperm donations pretty much end and we do not have a pool of legally registered non-anonymous donors providing sperm for people whose only recourse and opportunity for pregnancy is artificial insemination by donor? What happens if there is no supply? What if somebody comes to me crying their eyes out because I have made them or their partner infertile, and says "We

want to go abroad because there are places where we can get this done anonymously"? Is the Senator proposing that I be fined €70,000 because the system here failed and there is no other opportunity for somebody to access donor sperm in a more liberal environment? The amendment is becoming punitive at this stage.

Senator Rónán Mullen: It is intended to be punitive. That is the nature of criminal law.

Senator David Norris: That is the nature of the Senator.

Senator John Crown: The amendment looks as though it is becoming punitive at this stage. It does not look like an attempt to construct reasonable social policy. I urge Senator Mullen to reconsider his amendment and to think through its implications. I know he is a thoughtful and compassionate person. I ask him to think this matter through. I happen to believe that I am right and they are wrong about what is going to happen to donor sperm availability in this country. There is a perfect storm of bad stuff that could happen here if we suddenly find there is no other opportunity available for people other than to take part in yet another Irish solution to an Irish problem. This time they should be allowed do it.

Senator David Norris: This is a grotesquely restrictive and deeply offensive amendment. I am pretty disgusted that this House has to suffer through this kind of stuff. This is exactly what the people from the IVF clinic whom I have spoken to warned us about. They form part of what Senator Mullen so charitably called "the industry". They warned us about this both when they talked to me privately and when they addressed Members of this House in the AV room.

Perhaps the Minister could clarify the following. I understand she gave an undertaking that there would not be punitive measures against people who facilitated in this area. This provision deals with matters such as scans, psychological advice and that kind of stuff, which is helpful. To invade people's privacy in this disgusting way is utterly reprehensible.

Senator Crown may find Senator Mullen compassionate, but I have yet to detect that. It may be there somewhere. I know there is a rictus of a smile every so often, but whether there is real compassion I do not know. I have not seen it. I did not see it during the civil partnership Bill.

Acting Chairman (Senator Diarmuid Wilson): Senator Mullen is not here to defend himself.

Senator David Norris: That is because he ran out with his tail between his legs. He can read what I have said, but I would say it to his face.

Senator Marie Moloney: Every time the Senator speaks, he goes.

Acting Chairman (Senator Diarmuid Wilson): As the father of the House, the Senator is quite well aware of the protocol of the House, under Standing Orders, that one should not mention Members or make allegations-----

Senator David Norris: Senator Mullen had left his seat but he was still inside the door of the Chamber when I started talking.

Acting Chairman (Senator Diarmuid Wilson): -----or personal remarks against colleagues if they are not present.

Senator David Norris: Yes.

Acting Chairman (Senator Diarmuid Wilson): Senator Norris knows that.

Senator David Norris: That is Senator Mullen's problem.

Acting Chairman (Senator Diarmuid Wilson): I suggest Senator Norris is being mischievous.

Senator David Norris: I am, most definitely. It is much better to be mischievous than to be utterly lacking in compassion. Let us forget Senator Mullen and instead talk about the whole lobby. Where is the compassion in these people who have fought against everything? I have looked at the names listed under the amendments. They are the same Senators who tabled the most disgraceful amendments on the civil partnership Bill.

Acting Chairman (Senator Diarmuid Wilson): We live in a democracy.

Senator David Norris: Yes, I know.

Acting Chairman (Senator Diarmuid Wilson): This is a democratic Chamber and people are entitled to table amendments.

Senator David Norris: I will sit down shortly. Earlier I had to leave this House to open an exhibition of wonderful stuff created by young architectural students who redesigned O'Connell Street, which was heart lifting. I came back in here and was astonished to learn that we had only reached amendment No. 36. Obviously we are not going to finish the debate today. I urge the Government to guillotine the legislation.

Acting Chairman (Senator Diarmuid Wilson): It is called democracy.

Senator David Norris: I hope the debate is guillotined at 8.30 p.m. The Government would have my full support if the legislation was guillotined and it put an end to this rubbish.

Deputy Frances Fitzgerald: In my view, going so far as to ban referrals at this stage is a step too far. That is aside from the fact that the prohibition in this amendment is so phrased that if intending parents are referred to a facility that provides anonymous gamete services - and we must remember that many of them provide anonymous and non-anonymous services, which is another factor - the operator will commit an offence even if the referral is not in order to receive services using anonymous gametes. In other words, the same would apply if the referral had been referred for non-anonymous gametes. I cannot accept the amendment.

Senator David Norris: This is a mindset to try to imprison a 14 year old who is the victim of rape.

Amendment, by leave, withdrawn.

Section 26 agreed to.

Amendment No. 37 not moved.

Section 27 agreed to.

SECTION 28

Senator John Crown: I move amendment No. 38:

In page 31, lines 17 to 26, to delete all words from and including "with" in line 17 down to and including line 26 and substitute the following:

"with the information referred to under *subsection (3)* where the procedure has resulted in the pregnancy of the intending mother, the date on which the intending mother is expected to give birth or, where applicable, the information specified in *subsection (5)*.".

This amendment seeks to limit the information sent to the Minister for Health to only information which relates to pregnancies that have occurred as a result of a DAHR procedure. Why would the Minister or any official of the Department of Health be interested in information which pertains to unsuccessful fertility treatments? What purpose would it serve to catalogue the personal tragedies of failed attempts at pregnancy? There is no reference in this Bill as to where all these data regarding treatments as opposed to births will be held or what might be done with them once they have been received. While there are rules regarding the data pertaining to those who have been born as a result of DAHR, there are no rules governing what is to be done with extraneous, unnecessary, intrusive data collection regarding something as sensitive and private as medically assisted fertility treatment.

Senator David Norris: I always stand advised by the superior knowledge of Senator Crown, from which I have personally benefited. However, I wonder about this proposal. I am in favour of collecting information. Perhaps, it is intrusive - I do not know - but it would seem to me logical for the State to collect statistics regarding whether these treatments are successful for the purpose of informing people and improving the procedures. I take it this could be done without naming the people involved. Unless otherwise persuaded, I am in favour of collection of this information. Perhaps I have misunderstood Senator Crown.

Senator John Crown: My esteemed and learned colleague has not misunderstood me. With great respect, perhaps I misunderstood the implications of the Bill.

Senator David Norris: Quite possibly. In what way?

Senator John Crown: I will await the Minister's clarification.

Deputy Frances Fitzgerald: This amendment would limit the information being provided to the Minister for Health for the performance of his functions in managing the national donor-conceived person register. Obviously, this function will become the function of the authority, when established. It is only in the interim that the Minister for Health would have responsibility in this regard.

I understand the Senator's concerns that we should not require the provision of excessive levels of information which is, after all, of an intensely personal nature. However, it is worth emphasising that the child's right to identity are at the heart of Part 3 and the provision of information under section 28 is designed to provide a system of checks and balances. I understand that, particularly in relation to intrauterine insemination, some intending parents never inform the treating clinic of the outcome. In a case where the clinic is not so informed, there would never be confirmation of a pregnancy and, therefore, information for the purposes of the national donor-conceived person register would never be provided. For this reason, there is a requirement of double reporting, first, of the fact that the procedure took place and, second, of the outcome of that procedure. This ensures that there is time for follow-up and that where a child is born as a result there is security for the child's identity. This is very much linked to the

provisions around identity. This system of notification will allow the necessary follow-up in order that the child's identity rights are preserved. That is the thinking behind this provision.

Senator John Crown: With respect, I understand the intention. My concern is in relation to the implementation. These data are not anonymised, such that if the pregnancy does not occur or proceed successfully, there is no child who has a right to those data. I am not sure why data, which are essentially maternal data or data of the couple, are being collected when there is no possible benefit to anybody else because no child has been conceived or delivered as a result of the procedure in the first instance.

In response to Senator Norris, these are not anonymised research data. These are actual patient records.

Senator David Norris: Could they not be anonymised?

Senator John Crown: That would be a different form of data collection, of the type undertaken in registries for research purposes. In this instance, this is notification of what a specific person had done, which becomes utterly irrelevant if there is not a living child resulting from it. While I do in general trust the integrity of the data systems of our public systems, there have been occasions when they have broken down. It could happen that they could be misused. One could easily imagine a situation whereby this data could be misused, not by the Minister or this Administration but in the future for political purposes.

Senator Rónán Mullen: I only heard the second half of the Minister's reply. I take it she is not accepting my amendment.

Acting Chairman (Senator Diarmuid Wilson): We are on amendment No. 38.

Senator Rónán Mullen: My apologies, I will resubmit amendment No. 37 on Report Stage.

Amendment put and declared lost.

Section 28 agreed to.

Sections 29 to 31, inclusive, agreed to.

SECTION 32

Amendment No. 39 not moved.

Senator Rónán Mullen: I move amendment No. 40:

In page 34, to delete lines 37 to 40 and substitute the following:

"(6) An operator of a DAHR facility commits an offence if he or she fails in their obligations to comply with *section 28* to the extent of causing the Circuit Court to make an order under *subsection (3)*.

(7) A person who commits an offence under this section is liable—

(a) on summary conviction to a fine not exceeding €3,000, and

(b) on conviction on indictment to a fine not exceeding €100,000."

This amendment relates to the likely level of compliance by clinics with their requirements. It appears to me that there is a lack of consistency in thinking in this area. If the law requires a particular approach, surely this should be backed up by a willingness to prosecute. It seems to me, in the context of something as fundamental as depriving a child permanently of the right to know one or other of his or her genetic parents, that if we are serious about not allowing for an anonymous system, there must be sanctions. As things stand, it is proposed to impose a sanction where it is perceived an investigation to determine whether the DAHR facility is compliant with its record-keeping requirements is being obstructed, but no sanction applies if it is established that such a facility is not compliant. The offence is about a failure to facilitate an investigation. The sanction, such as it is, in respect of non-compliance is merely that the operator of the facility may be prohibited or restricted from providing further services at that facility until such time as the court has been satisfied of its ability to comply with its obligations. That is a mere slap on the wrist. In fact, it is not even a slap on the wrist, it is a tap on the wrist. Even Senator van Turnhout could not call that corporal punishment by parents, it is so mild.

Senator David Norris: Senator van Turnhout is not present.

Senator Rónán Mullen: She is not being insulted.

Acting Chairman (Senator Diarmuid Wilson): If Senator Norris would like to take the Chair, he is welcome to do so.

Senator David Norris: I thank the Acting Chairman; I might.

Senator Rónán Mullen: It is almost as though the Government is laughing up its sleeve. It is bizarre that there is so little sanction on the clinic when one considers the consequences of a failure to be compliant. It is that a child or children would be deprived in perpetuity of knowing who they are. Is it possible that that is of such little consequence, even though the Government is purporting to prohibit an anonymous donation system, to Senator Crown's great dissatisfaction? If it means anything that a child should know who he or she is, then the law should come down like a ton of bricks on any facility that would deprive even one child of knowledge of who he or she is.

My amendment is simply to ensure consistency by providing that the operator of a DAHR facility would commit an offence if he or she failed in his or her obligation to comply with section 28 to the extent of causing the Circuit Court to make an order under subsection (3). It is not at the later stage when the court makes an order to require the operator to comply with an order previously made by the court. It is the earlier order that he or she must comply with. Where the Minister is bringing an application that the operator comply when it comes to his or her knowledge that the facility is not in compliance, then if the Circuit Court has to make an order to make the operator comply with the recording requirements, that should be enough to ground an offence. It is mere consistency if the Minister means what she says about the importance of children having access to knowledge about their parents.

Senator David Norris: This is a hasty and ill-conceived amendment. I get a feeling that the sponsors of such amendments would actually be quite pleased if the assisted human reproduction facilities were closed down. A fine of €100,000 would close one, and I think that is probably the ultimate intention.

When I say it is hasty and ill conceived, I am not sure whether my colleague, Senator Mullen, has considered the impact of his amendment. The first part of the amendment strikes out

lines 37 to 41, which would remove the possibility of appeal, a very extraordinary thing to do. I ask him to think again, because part of the legal process is the capacity to appeal.

I do not agree with these huge heavy-handed fines in what is essentially a civil matter. These are civil matters of interpersonal relationships. It is not about slapping on fines and sending people to jail. It is about interpersonal relationships. This section provides the means to rectify a situation. There is no desire to inflict punishment. That is an irrelevance. What needs to be done is to put the situation right. The Minister has put in place a mechanism by which the situation can be put right.

If there is an ignoring or a contempt of the court, then the rules of contempt of court apply, and then fines and all these nasty punishments to which Senator Mullen is so inquisitorially addicted might come into play. We should forget about the amendment; it is a tissue of nonsense.

Senator Fidelma Healy Eames: Let me tease this out with the Minister. I note that there will be a series of inspections to decide whether a donor-assisted facility is compliant. What will the expertise of those inspectors be? Will HIQA have a role in this? I have considerable respect for HIQA. To be fair, the Minister has laid out very sound first principles around consent, disclosure and record keeping, and against anonymity. It follows, therefore, that the Minister would want to enforce those principles. How will she enforce them if the process is to go to the Circuit Court followed by appeal to the High Court? The Bill is written in such a way that it gives the facility every chance to correct itself. I accept Senator Norris's point that if it does not comply the rules of contempt of court should apply, but I am not so sure. I would like to know more about that.

Senator David Norris: Of course they do.

Senator Fidelma Healy Eames: But let us hear it from the Minister. Senator Norris said this is a question of interpersonal relations and asked why we were regulating there. However, this is about the State-----

Senator David Norris: No. I asked why we were talking about fines and imprisonment.

Senator Fidelma Healy Eames: The State's role here is regulation. The State now wants to go in and regulate this situation.

Senator David Norris: Absolutely.

Senator Fidelma Healy Eames: Therefore, it has a responsibility here. I ask the Minister to outline the steps from the inspection forward and when the State would intervene. How will she ensure that her first principles are implemented?

Senator Rónán Mullen: To paraphrase another poet, Senator Norris never deviates into sense, except on this occasion on one point. He is right about appeals. Perhaps in the AHR legislation that we are being promised it could be dealt with under the heading of "Miscellaneous". To mix up contempt of court with sanction for an offence is simply not rational or logical, because contempt of court relates to punishing the failure to comply with a court order and disrespect for the courts system.

There has to be a sanction if there is a failure to keep records. Let us remember what that could mean - namely, that a child would never know who his or her genetic parent was. If that means anything, then the fact that the court would be required to make such an order would be,

in effect, evidence of such a serious failure that there ought to be a prosecution in that regard. That is my only point. It is not inquisitorial except in so far as any piece of criminal law requires an investigation of some kind - hopefully not an inquisition.

Senator David Norris: Senator Mullen has illustrated exactly what I say. The refusal to comply with an order of the court involves contempt. Of course it does.

Deputy Frances Fitzgerald: This amendment would create a specific offence of a DAHR operator's failure to comply with its obligations under section 28 to keep and retain certain records. The Senators' desire is to ensure that there are direct and serious consequences of such a failure, which is entirely understandable.

However, section 28 provides remedies for failure to comply. These are to be found firstly in subsection (3), enabling the Circuit Court to order compliance. Second, if there is an ongoing failure to comply, the Minister may make a further application to the court under subsection (5). Of course a Minister would do so, as the State would intervene if there are failures. That will allow the court, if the failure is ongoing, to order the clinic to cease providing donor-assisted human reproduction services. If it is possible to order a facility to cease providing the services, it would have serious financial and reputational repercussions for the clinics concerned. There will be a strong incentive to comply with the requirements set out in section 28.

8 o'clock

I believe that where the failure is not so persistent and wilful as to give rise to offences under section 31, the measures available under section 32 are sufficient to bring clinics into compliance and thereby safeguard the identity rights of the child.

Senator Healy Eames said we were trying to give facilities the chance to comply. We do want to give them the chance. They should comply, and if they do not, there are quite serious consequences.

Senator Fidelma Healy Eames: What are the consequences?

Deputy Frances Fitzgerald: The consequences are that the clinic can be closed down if it is not effectively doing what it is meant to do under the various sections. That will have huge consequences.

Senator Fidelma Healy Eames: Will HIQA have a role?

Senator Rónán Mullen: Does the Minister accept that a failure to keep a record such that it would deprive a child of ever knowing who his or her genetic parent was is a serious injustice to that child?

Senator Ivana Bacik: On a point of order, we seem to be discussing Second Stage issues repeatedly rather than looking at the amendments.

Senator Rónán Mullen: Senator Bacik has been missing for most of the debate and now she considers a question is completely irrelevant.

Acting Chairman (Senator Diarmuid Wilson): Please, Senator Mullen. Does the Minister wish to respond?

Deputy Frances Fitzgerald: No, I think I have made the point.

Acting Chairman (Senator Diarmuid Wilson): Is amendment No. 40 being pressed?

Senator Rónán Mullen: No.

Senator Fidelma Healy Eames: With respect, I think it would be useful if the Minister were to answer that last question.

Senator David Norris: It was a rhetorical question; move on.

Acting Chairman (Senator Diarmuid Wilson): Senator Norris, please. I asked the Minister if she wished to respond and she said she did not wish to respond.

Senator Fidelma Healy Eames: I did not hear that.

Senator Rónán Mullen: She was eloquent in her silence.

Amendment, by leave, withdrawn.

Section 32 agreed to.

SECTION 33

Acting Chairman (Senator Diarmuid Wilson): Amendments Nos. 41 and 42 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Averil Power: I move amendment No. 41:

In page 35, between lines 18 and 19, to insert the following:

"(5) In the case of children and adults born as a result of a DAHR procedure that was performed before the date on which this section comes into operation,

the Minister shall—

(a) permit persons who provided a gamete or embryo that was used in a DAHR procedure that resulted in the birth of the child to register their particulars on the National Donor-Conceived Person Register to assist donor-conceived persons in establishing their genetic identity, and

(b) assist all such donor-conceived persons in establishing their genetic identity.".

This amendment addresses an issue I raised earlier about donor-assisted human reproduction that has taken place before the Act will come into effect. The amendment provides that in such scenarios the Minister will permit persons who provided a gamete or embryo used in a DAHR procedure that resulted in the birth of a child to register their particulars on the donor-conceived register to assist donor-conceived persons in establishing their genetic identity. More significantly, the amendment requires the Minister to assist all such donor-conceived persons in establishing their genetic identity. The reason for this is that it will be more difficult for people conceived prior to the Act to get any kind of information and be able to piece together their genetic history. My amendment puts responsibility on the Minister to assist in so far as possible and not completely ignore those people. I welcome the fact that a register will be put in place but we need to do something for people conceived prior to this legislation.

Senator John Crown: My amendment is related to the previous amendment which I sug-

gested. This amendment would ensure that information that pertains to failed attempts at fertility treatments, such as miscarriages or perhaps terminations, is destroyed. The argument is the same as for the previous amendment but it provides for the fact that the Minister has been notified about a pregnancy that was as a result of a DAHR procedure but which pregnancy was not successful. Thereafter, once the Minister has been informed, I cannot believe there is any reason for any of that patient's personal records to be retained and they should be destroyed. If it is the Minister's responsibility to get the records, it should be the Minister's responsibility to see that they are destroyed.

Senator David Norris: I am all in favour of keeping records. It seems to me it would be useful to have a record of which treatments were successful and which were unsuccessful for the purpose of perfecting those and relying mostly on those treatments that have a proven track record of success. I completely understand Senator Crown's trouble with this and that is because the information contains the name and address. I think it is quite reasonable to collect this information so long as it is anonymised. Would Senator Crown accept that the collection of the information itself could be valuable in certain circumstances but only if it were anonymised?

Deputy Frances Fitzgerald: Amendment No. 41 is about the identity rights of the child, and I fully understand the principle behind the amendment. I had originally intended to establish a voluntary register on a statutory basis. I reconsidered this after extensive discussion with other Departments and having examined the effect of putting the register on a statutory basis. In reviewing the position, I took into account, for example, that the voluntary contact register for adopted people operates on an administrative basis. This gives a high degree of flexibility without compelling anyone to participate. The reason for placing a register on a statutory basis is often to compel registration where relevant. I have discussed the matter with the Department of Health, in particular, which will be responsible for operating the national donor-conceived person register. It is expected, in due course, to set up an independent regulator in relation to AHR in general. The Department intends to develop and operate, on an administrative basis, a voluntary register to enable donors and donor-conceived children who are born as a result of pre-commencement procedures to register their particulars and, potentially, to contact each other. I hope that clarifies the Department's intentions.

Amendment No. 42 calls for the destruction of records where a live birth has not resulted from a DAHR procedure. Senator Crown raised this matter earlier and I wish to make further comments. This is a wholly understandable recommendation but it is already covered by two major protections. First, the Minister for Health is a data controller within the meaning of the Data Protection Acts. Under the Data Protection Acts 1988 and 2003, information may not be held for longer than is necessary for the purposes for which it was originally retained. This deals to some degree with the other amendment tabled by Senator Crown. This means that where the DAHR procedure does not give rise to a pregnancy and birth, the records in relation to the procedure cannot be retained. Regulations under Parts 2 and 3 can also help clarify this matter, but I am confident and I assure the Senator that in light of existing legislation, there is no need for a provision in this Bill specifying that the relevant records must be destroyed.

Senator Averil Power: I will reflect on it before Report Stage.

Amendment, by leave, withdrawn.

Senator John Crown: I move amendment No. 42:

In page 35, between lines 18 and 19, to insert the following:

"(5) Where a DAHR procedure has not resulted in a live birth, and information has been provided to the Minister under *section 28*, then the Minister shall ensure that records pertaining to this DAHR treatment are destroyed.".

Amendment put and declared lost.

Section 33 agreed to.

SECTION 34

Acting Chairman (Senator Diarmuid Wilson): Amendments Nos. 43, 44 and 46 are cognate and may be discussed together by agreement. Is that agreed? Agreed.

Senator Rónán Mullen: I move amendment No. 43:

In page 35, line 20, to delete "18 years" and substitute "16 years".

My amendment would provide for the right of a donor-conceived child to access information from the age of 16 years. This amendment is being proposed in the context of it being a very unhappy situation to begin with. Anything that would lessen the deprivation of access of the child to information that is deeply personal and deeply relevant to them represents something of a mitigation of that bad situation.

Deputy Frances Fitzgerald: Amendments Nos. 43, 44 and 46 are intended to ensure that a donor-conceived child can access information about a donor from the age of 16. This would reflect an evolving view of the ability of older minors to make important decisions in their own right. I can understand why the Senator has tabled this amendment because this is an evolving issue and there are different views about the position of mature minors. Different age limits have been prescribed across a range of legislation affecting young people's rights and actions at ages 16 to 18 years. In the Non-Fatal Offences Against the Person legislation, the age is 16 in regard to medical consent, but that is totally clear. This is an issue that requires consideration at whole-of-Government level, rather than being addressed specifically in regard to children in this particular circumstance.

There are far wider issues to be considered, such as the capacity of mature minors to take important decisions about medical consent or their capacity to participate fully in the democratic process through voting at a specific age. There are different views on that and there is a broader issue here than to decide on the age of 16. The parents of children have the information and the ideal is that they would share the information from an early stage with the child.

Amendment, by leave, withdrawn.

Amendment No. 44 not moved.

Section 34 agreed to.

SECTION 35

Amendments Nos. 45 and 46 not moved.

Acting Chairman (Senator Diarmuid Wilson): Amendments Nos 47, 48 and 49 are re-

lated and may be discussed together.

Senator Averil Power: I move amendment No. 47:

In page 35, line 36, after "birth" to insert the following:

", medical history, including information in respect of any serious genetically-inherited illnesses that run in their family".

This amendment aims to ensure that medical information is available for donor-conceived children. It is important that people conceived through this process are able to get information, particularly in respect of any serious genetically inherited illnesses that run in the donor's family. In the case of several such illnesses, if people were made aware of them in time, they could take preventative steps to avoid it becoming a life-threatening illness or at least to lessen the risk of that. It is crucial donor-conceived people can obtain this information.

I appreciate the information they would get would only be that information available at the point of donation. Senator Walsh may move an amendment that seeks up-to-date medical information to be added continually. At the least, the information already collected by the clinics on the medical history of the donor should be made available to the donor-conceived individual as part of his or her history. People should be aware of any serious issue relating to medical risk.

Senator Fidelma Healy Eames: There is sense to this amendment. I have anecdotal evidence of two cases of preventable deaths had the information been provided at an early stage. Could the information be communicated to the parents? It should not be communicated to the child. We do not want to shock a child, but we should inform parents in order that they can act and intervene where appropriate. We all know that inherited genetic illnesses can be missed until it is too late to do anything about them. Therefore, I support this amendment.

Deputy Frances Fitzgerald: We had some discussion on this issue earlier and I indicated that the retention of medical information relating to donors would be dealt with in a Department of Health Bill in due course. That Bill will also set out the rules under which the Minister for Health may be asked to contact a donor or a donor-conceived child or provide for the authority, when developed, to do that in the unlikely event that a serious genetic issue is identified. I use the word "unlikely" because the donor screening is extensive and is likely to identify any serious issues and to ensure unsuitable donors are not recruited in the first instance. Clearly, I recognise that some information may become available at a later point. I said also that a mandatory requirement to update the register with certain information could be problematic and likely to discourage or prevent donation. However, the donor-conceived child will have the option of contacting the donor and can ask for the information if he or she chooses to do so.

Amendment No. 48 would eliminate the discretion of the Minister for Health to refuse to release donor information where representations were made to him that the release of that information would prejudice the safety of the donor or the donor-conceived child. We had some discussion in the Dáil on this and I changed the wording used. The word "well-being" had been used and I removed it because it was too broad a term. What is in the legislation now mentions where there is "serious" risk to the safety of the child or the donor. This is an exceptional provision. It is unlikely information will be withheld, but I am advised legally that I need to include a provision that allows for an exception where there might be safety issues and that it is essential the Minister for Health will have some means of dealing with truly exceptional circumstances that might arise.

I do not consider it necessary to change from the use of the word "sufficient" to "sufficiently grave" as proposed in amendment No. 49. This is clearly the case as the carefully set out safeguards set out a presumption that the donor-conceived child is entitled to the information and ensure he or she has the possibility of appealing a decision against release to the Circuit Court. Therefore, even in exceptional cases an appeal to the Circuit Court is possible. The court would then be in a position to access the information, which would be about the safety of the child or the donor. The Minister for Health would be the defendant, but the issue could be appealed to the court.

Senator Averil Power: I thank the Minister for removing the reference to "well-being". I had raised that matter directly with the Minister when she briefed me and Senator van Turnhout prior to the introduction of the legislation. I appreciate that and will withdraw the amendment.

Senator Rónán Mullen: I thank the Minister for her response to amendment No. 49. However, she seems to say that it is not necessary to require that there be sufficient "gravity", as distinct from sufficiency of "reason", to persuade the Minister to withhold the information. We should remember what is involved here, the denial of the knowledge of who he or she is to a child. The Minister seems to say that this is reasonable because there is some mechanism of appeal, but the mere fact of a mechanism of appeal is insufficient, because when the matter falls to be considered, the court will look at the threshold of sufficiency and will decide, presumably by an objective test, whether there were sufficient reasons. I believe there should be an element of gravity about any reasons that would cause a person to be deprived of information. It is irrelevant to talk about the possibility of an appeal. The question is according to what criteria any appellate will decide or determine whether the Minister had a well-founded reason to withhold the information. I will, therefore, press the amendment.

Senator Fidelma Healy Eames: I support Senator Mullen's amendment. If the Minister enforces the wording proposed in the Bill, the child is at a loss. Can the Minister give us some examples of situations where the Minister for Health might agree with the donor not to reveal the information? I can only think of extreme situations, but I would like to hear what the Minister has to say on this. Clearly, her first principles relate to informed consent, revelation of information and being against anonymity. Here, the Minister is saying, "if satisfied that sufficient reasons exist to withhold the information concerned from the donor-conceived child, shall refuse the request under subsection (1) and notify the donor-conceived child of the refusal and, in doing so, may inform him or her of the content of the representations of the relevant donor under subsection (2),". Here is a time when the State is coming down on the side of the donor against the child. I ask the Minister give me examples.

Senator David Norris: Senator Mullen's amendment is tautologous because "sufficient" contains of itself "sufficiently grave".

Deputy Frances Fitzgerald: This provision must be seen against the other provisions in the Bill where there is a clear and strong presumption in favour of release. As I stated, I was advised by the Attorney General that I needed to include a provision here that would allow for exceptional circumstances. I included the well-being of the child, but I took that out because we had a discussion about that on Committee Stage in the Dáil, where we thought it was too broad a concept. It is exceptional, and, therefore, hard to begin to describe to some degree. It is where the safety of the child or the donor would be absolutely at risk if the information were in the public arena. It is a question of a threat to life because of the divulging of the information. As Senator Healy Eames states, it is difficult to imagine it, but one can assume that there

might occasionally be such a situation, and the appeal is possible then. Even at that point, if the Minister, or the authority that will be in place subsequently, made the decision an appeal would be possible to the court. The court would then begin to examine it, looking at it from the point of view of the evidence available. The Minister or the subsequent authority would have to go to court and defend the position. The court would hear the defence, look at the evidence and decide whether, given the balance contained in the Bill of a clear and strong presumption in favour of release, it met the criteria of a fair decision.

Senator Rónán Mullen: Recently, in Brussels, we were discussing complex legislation going through the European institutions, and it was like getting blood out of a stone trying to get the bureaucracy to make concrete what it was proposing and to give real-life examples that would illustrate the choice it had to make. It seems we are teetering in that direction here. The Minister made some attempt, by referencing "threat to life", to answer Senator Healy Eames's question, but I cannot but imagine that the Minister must have talked this up and down with her officials and with various other parties, and talked about the kind of scenarios that would justify an exceptional withholding of information by the Minister. Why the Minister cannot share some of those with us to elucidate the justification is one point.

Second, I am not objecting in this terribly flawed situation to the possibility of withholding such information, but the grounds should be very exceptional and grave. I would ask the Minister what mischief would it do to insert the notion of gravity. She states already that a harmonious interpretation of the other section of the Bill would point to that anyway. What harm does it do? I have already pointed out to the Minister that a court called on to determine whether grounds for withholding information were sufficient might come to a different decision than it would if called on to determine whether the grounds were sufficiently grave. If the Minister agrees that it should only be in exceptional cases that information - that will tell a person who he or she is - should be withheld, she should give us an example or two that will make sense of it. More importantly, since I agree with her anyway, the Minister should tell me what harm it would do to insert the word "grave" to provide for sufficient gravity.

Senator Ivana Bacik: As the Minister stated, it is difficult to contemplate a scenario in which a refusal would be made by the Minister. If one reads the section in its entirety, the context is clear. The Minister shall release the information under subsection (4) and it is only where representations have been made to the Minister by the relevant donor setting out why the safety of the relevant donor, the donor-conceived child or both require the information not be released that there is any prospect of the Minister refusing to release the information. Even then, the Minister has only got an obligation to consider the representations, and he or she need only agree if satisfied that there is sufficient reason. As the Minister stated, the text currently sets out enough safeguards that "sufficient reasons" is clear. There is no requirement to insert any other word there.

Senator Fidelma Healy Eames: Obviously, I am supportive of any wording that would protect the safety of the child and against anything that would pose a risk to the life of the child, but I am also thinking of what we know about - for example, a person who abuses children. Hiding that reality, for example, from the parents might rob them of important information with which they could ensure that the child, if necessary, was counselled. I am a little worried here because I am not exactly sure what the Minister is saying.

The Minister might also clarify whether at this point the donor knows who the child is. There is an exchange of information, and we are talking about identities being revealed to both

sides. Maybe I am wrong, but I would assume that the threat would be to the child's life as opposed to the donor's life. I wonder who knows what.

Senator Rónán Mullen: I wanted to know, first, whether it is only in circumstances of questions about safety that the information would be withheld.

Second, is the Minister's satisfaction on that point an objective or a subjective test?

Deputy Frances Fitzgerald: Will Senator Mullen elaborate?

Senator Rónán Mullen: Is the satisfaction of the Minister that sufficient reasons exist to withhold the information an objective or a subjective test?

Deputy Frances Fitzgerald: One can assume that the Minister would need objective fact on the threat that would be there. When we were discussing the circumstances, as I said, I was legally advised that I needed to include the exception. The exception would be in very particular circumstances of safety. In response to Senator Healy Eames, it is for the child who is looking to access the information.

As for examples, it could be with regard to death threats. There could be a question of involvement in organised crime. These are so exceptional. I am not being, as was stated, "coy" about not describing it. I am merely saying that, legally, I was advised that I needed to include this. We are talking about exceptional circumstances.

Of course, if the Minister refuses based on the objective information that was supplied to him or her to release the information, then there is still the possibility of court. That is really all I have to say on that.

Senator Rónán Mullen: I could conceive of circumstances in which somebody who wanted to prevent his or her identity from becoming known might construct allegations that were not well founded. Therefore, it is not a matter of objective facts. It is a question of whether it would be required for the Minister to be objectively satisfied. Otherwise, if it was merely a subjective test, it could be that a Minister might for a trivial reason satisfy himself or herself that there was sufficient reason when, in fact, there was not sufficient reason.

Acting Chairman (Senator Diarmuid Wilson): A Aire?

Deputy Frances Fitzgerald: I have no further comment.

Senator Rónán Mullen: The question was, is it a subjective or an objective test of the Minister's opinion?

Acting Chairman (Senator Diarmuid Wilson): Sorry, Senator. The Minister does not wish to add anything further. Is Senator Power pressing amendment No. 47?

Senator Averil Power: No. I do not wish to withdraw amendment No. 47. I withdrew the earlier amendment on safety.

Progress reported; Committee to sit again.

Acting Chairman (Senator Diarmuid Wilson): When is it proposed to sit again?

Senator Michael Mullins: At 10.30 tomorrow morning.

The Seanad adjourned at 8.30 p.m. until 10.30 a.m. on Friday, 27 March 2015.