



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Business of Seanad	279
Commencement Matters	280
Farm Inspections.	280
Departmental Budgets	283
Home Help Service.	287
Order of Business	289
Proceeds of Sale of Aer Lingus: Referral to Joint Committee	305
Joint Committee of Inquiry into the Banking Crisis: Motion	305
Criminal Law (Sexual Offences) Bill 2015: Order for Second Stage	305
Criminal Law (Sexual Offences) Bill 2015: Second Stage	306

SEANAD ÉIREANN

Dé Máirt, 6 Deireadh Fómhair 2015

Tuesday, 6 October 2015

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

An Cathaoirleach: I have received notice from Senator Lorraine Higgins that, on the motion for the Commencement of the House today, she proposes to raise the following matter:

The need for the Minister for Agriculture, Food and the Marine to change the farm inspection process for applicants in receipt of direct payments.

I have also received notice from Senator Trevor Ó Clochartaigh of the following matter:

An gá atá ann go leagfaidh an tAire Ealaíon, Oidhreachta agus Gaeltachta amach conas a bhí tearc-chaitheamh €8 milliún ag a Roinn i dtaca leis an mbuiséad a leithdháileadh uirthi an bhliain seo caite.

I have also received notice from Senator Darragh O'Brien of the following matter:

The need for the Minister for Health to outline the status of gratuity payments to home help workers.

I have also received notice from Senator Paschal Mooney of the following matter:

The need for the Minister for Transport, Tourism and Sport to outline his Department's proposals for the development of the greenway from Sligo to Enniskillen, via Manorhamilton, and if he will provide the necessary funding for its development.

I have also received notice from Senator Mary White of the following matter:

The need for the Minister for Communications, Energy and Natural Resources to clarify whether it is possible for constituents to lodge an appeal in respect of their Eircode when it is different from the property's geographical address.

I have also received notice from Senator David Cullinane of the following matter:

The need for the Minister for Health to provide a breakdown of inpatient and outpatient waiting times at University Hospital Waterford, the number of vacant consultancy posts there, details of theatre capacity and the steps he intends to take to reduce waiting times.

I regard the matters raised by the Senators as suitable for discussion. I have selected those raised by Senators Higgins, Ó Clochartaigh and Darragh O'Brien and they will be taken now. Senator Mooney has withdrawn his commencement matter which I had selected. Senators White and Cullinane may give notice on another day of the matters they wish to raise.

Commencement Matters

Farm Inspections

An Cathaoirleach: I welcome the Minister for Agriculture, Food and Marine, Deputy Conroy.

Senator Lorraine Higgins: I welcome the Minister and thank him for taking this matter on the Commencement. I have raised this issue a number of times in recent years. As the Minister is probably very well aware, the inspection regime causes considerable distress to farmers whose properties are being inspected. It is imperative that I highlight the practices that have been carried out by some officials during the most recent inspection period.

In the Galway East constituency and elsewhere throughout the country, inspectors arrived on farms and conducted inspections without giving prior notice. In the ordinary course of events, this would render their arrival on farms illegal. However, they carried out their inspections under the terms of the animal feed and hygiene regulations and, under EU law, no notice is of such inspection is required. A difficulty arose in many cases in that the Department officials then proceeded to carry out tagging inspections on sheep and cattle, in respect of which 48 hours' notice is required, and further inspections on land eligibility, with regard to which 14 days' notice should be given.

Many farmers have come to my office to complain about the penalties imposed on them. From my legal experience, it is clear that these departmental officials would have exceeded their jurisdiction in cutting any single farm payment stemming from cases where minimum notice was not respected and, therefore, the penalty could not be upheld if challenged through the courts. Some departmental officials gave notice to farmers and some of them gave notice about their payments being cut. This was done on an *ad hoc* basis, without any particulars relating to which cuts were being made or how they had arisen being provided. It is clear that we need to strive for better standards to ensure that best practice is adhered to and that the fundamental principles of fair procedures are upheld in the context of farm inspections. A number of farmers in the Galway East constituency, where I live, have informed me that they dread farm inspections. In many cases they feel they are being treated unfairly and are afraid to stand up for themselves for fear of detrimental action being taken against them in the future. This is wrong. It is an unacceptable imposition on the farming community and we need to put a stop to it.

I have raised this issue in the Seanad on several occasions. While I acknowledge that the

Department and the Minister have worked hard on the charter of rights for farmers, it is very much a fluffy document. I do not believe it gives any legal status to farmers and does little to empower them throughout this process. Procedure is important. It should be incumbent on agencies to give farmers at least seven working days' notice in writing that an inspection is to be carried out on their land, including in respect of cattle and sheep tagging and so on. This is standard practice on the part of other agencies of the State. I refer, for example, to the Revenue Commissioners and the fact that they give notice of proposed audits, etc. I do not think farmers should be treated any differently. It is unacceptable that they would not get, at the very minimum, a letter informing them that they are to be subject to an inspection in the weeks ahead. Farmers, particularly hill farmers, of which there are many in the constituency in which I live, would then at least have an opportunity to enlist the support of neighbours in rounding up cattle and sheep to ensure they are properly tagged and can thereby pass inspection. These are proactive measures to deal with the current situation relating to procedures for carrying out farm inspections. I look forward to the Minister's response.

Minister for Agriculture, Food and the Marine (Deputy Simon Coveney): I thank the Senator for the opportunity to set the record straight on a number of matters. I would first like to outline to the House the background of the inspection requirements relating to the direct payment scheme and other area-based schemes.

In the context of the delivery of the direct payment scheme and rural development measures, my Department is required to carry out an annual round of inspections on a number of farms. These cover such issues as eligibility under the schemes and compliance with cross-compliance requirements as set down in EU legislation. The basis for such inspections is governed by EU legislation and there are certain minimum numbers and types of inspections that must take place annually. Eligibility inspections must be carried out on a minimum of 5% of beneficiaries. These inspections verify the eligibility of the land declared for the drawing down of payments and ensure that any ineligible land or features have not been included for aid purposes and that other scheme-specific eligibility criteria have been met.

My Department has made every effort to respond to concerns about the impact on farmers of on-farm inspections. Arising from this, 75% of land eligibility inspections are initially carried out without any farm visit as the information required is acquired using the technique of remote sensing via satellite imagery. In addition, the governing regulations allow for eligibility inspections under the various schemes to be combined. For example, cases selected for inspection under the basic payments scheme can also count towards the inspection requirement under greening, the young farmers scheme, etc., thereby limiting the overall number of such inspections required to be carried out.

The rate of inspection for cross-compliance is a minimum of 1% of beneficiaries regarding all statutory management requirements, SMRs, and good agricultural conditions, GAC, in terms of standards. However, 3% of farmers must be inspected under the bovine identification and registration, IDR, requirements and 3% of sheep or goat farmers must be inspected, covering 5% of the flock.

My Department endeavours to minimise the number of farm visits as much as possible by combining animal IDR inspections with land eligibility inspections where feasible. Rules regarding the advanced notification of inspections are clearly laid down in the governing EU regulations and must be adhered to by officials of my Department. The regulations allow the Department to give notice of land eligibility and cross-compliance inspections involving

SMRS, other than those relating to food, feed and animal welfare. However, this notice must be strictly limited to the minimum period necessary and shall not exceed 14 days. For checks involving cattle and sheep identification and registration, the minimum advance notice is 48 hours. For SMRs dealing with feed, food and animal welfare, no advance notice may be given and these inspections must take place on an unannounced basis.

Following discussions with the farming organisations, as part of a review of the farmers' charter of rights, it has been agreed that where the purpose of the visit by the inspecting officer is a combined notice and non-notice inspection, this will be clearly explained by the inspecting officer to the farmer.

All no-notice inspections will be conducted separately from all notice inspections unless the farmer requests otherwise, which I think is the issue the Senator is raising. A written notice will be given to the farmer on arrival at the holding, and the inspector will inform and will agree with the farmer when he will return to complete the notice elements of the inspection. In other words, we are separating the two. We have had a long and detailed discussion with farming organisations on this issue. I was involved in much of those negotiations and to simply brush that off as fluffy language is-----

Senator Lorraine Higgins: It was the charter of rights-----

Deputy Simon Coveney: Yes, the charter of rights.

Senator Lorraine Higgins: -----that I referred to as fluffy. There is no legal basis for it.

Deputy Simon Coveney: Sorry, you have had your say, Senator, and I am now responding if that is okay. There is an agreement between farming organisations, that represent the interests of farmers, and the Department in terms of how a new approach towards inspections would take place, that is consistent with the regulations we need to operate under, otherwise we will be subject to disallowances. Farming organisations have signed up to that but the Senator does not seem to be happy with it. I am not quite sure whose side she is on. Farming representative bodies are happy with the new farmers' charter. We are now going to implement that new approach, which is a much more farmer-friendly approach towards inspections. That has been the result of long and blunt discussions to ensure that we abide by the rules and regulations, as we are legally obliged to do. At the same time, we are introducing as farmer-friendly a regime as possible.

I do not want any scenario whereby farmers are in fear of departmental officials coming onto their land. I know the Senator has raised these issues before and I think we have responded to them in the context of discussions with farming organisations in putting together a new approach in the charter for farmers' rights. The approach will now be to ensure that the new system works and is implemented in a way that is farmer friendly on the one hand, but also abides by the tight regulations under which we have to operate.

Senator Lorraine Higgins: I thank the Minister for his response. I fully understand why farm inspections happen and I am also well aware that some occur without a physical visit to the land. I am not interested in those, but I am interested in situations where there is a physical inspection. I acknowledge that the Minister has made efforts with the charter of rights for farmers, but there is nothing wrong with potentially putting that on a legal footing down the road. Perhaps that is something the Minister could look at. In the interim, however, perhaps he should consider this regime of a seven-day written notice to farmers in advance of an inspection

taking place.

Deputy Simon Coveney: I do not think that is necessary. The Senator seems to be operating a parallel negotiation to what the farming organisations were seeking. We have spent hours discussing a charter for farmers' rights. We made decisions and signed off on that, so I am not going to start undoing that now when it has already been finalised and agreed by all the farmers' representative bodies. The focus we need to have now is to ensure that we have a consistent and fair inspection regime, and that we do not go on farms unless we absolutely have to. Some 85% of area-based inspections are now made via satellite and we only have visitations if it is necessary to follow up on that and if there is a reason to do so.

Some of the other unannounced inspections are in areas where one has to have such inspections. If one is concerned about welfare, one must be able to make an unannounced inspection to see the reality of what is happening on a farm. One cannot give notice for that, so we are required to have a certain amount of unannounced inspections. To be fair, the Senator is right to raise this issue. The real problem arose in the past where unannounced inspections turned into announced inspections, because inspectors were on the farm on unannounced inspections they were also looking at other issues in the farmyard. That really upset farmers who felt they were entitled to receive notice before people came to look at a whole series of things. We have addressed that issue by saying no farmer will now be required to accept an announced inspection, for which the period of notice should be reasonable, on the back of an unannounced inspection. That will no longer happen, unless a farmer chooses to say, "I have nothing to hide. You can look at what you want. Let us get it out of the way today." An impression was given by farming organisations that there was pressure on farmers to accept a series of inspections on the back of an unannounced inspection. That is not acceptable and we have changed it. It will not happen in the future.

Senator Lorraine Higgins: May I come back in?

An Cathaoirleach: No, there is no provision for that to happen.

Departmental Budgets

An Cathaoirleach: I welcome the Minister of State, Deputy Joe McHugh, to the House.

Senator Trevor Ó Clochartaigh: Cuirim céad fáilte roimh an Aire Stáit. Táim ag ardú ceiste bunaithe ar thuiriscí sna meáin agus ar thuarascáil a d'fhoilsigh an tArd-Reachtaire Cuntas agus Ciste an tseachtain seo caite maidir le caiteachas na Roinne Ealaíon, Oidhreacht agus Gaeltachta. Bhí mé ag éisteacht ar maidin lena mhuintir féin as Tír Chonaill ag caint faoin easpa caiteachais atá ar na hoileáin Gaeltachta ó thuaidh i dTír Chonaill. Is dócha go gcuireann sé olc orthu i ndáiríre píre nuair a chloiseann siad go bhfuil €8 milliún den bhuiséad a bhí ag an Roinn nach bhfuil caite. Cuireann sé olc ar go leor daoine ar fud na Gaeltachta atá ag plé le tograí éagsúla agus a bhíonn ag déanamh éilimh ar an Roinn Ealaíon, Oidhreacht agus Gaeltachta ar thacaíocht airgid toisc go ndeirtear leo nach bhfuil an t-airgead sin ar fáil.

Ba mhaith liom soiléiriú a fháil ón Aire Stáit ar an chaoi a bhféadfadh sé seo a tarlú. Cén chaoi nár chaith an Roinn €8 milliún den bhuiséad a bhí ann? De réir an taithí atá agam féin ag plé le tograí ar an talamh, caithfidh mé adhmháil go raibh Roinn na Gaeltachta, go háirithe, an-mhaith ag deireadh na bliana, sna blianta a caitheadh, má bhí airgead fágtha sa chiste, ag

tabhairt tograí eile chun cinn. Tograí iad seo a bhí réidh le himeacht. Bhí an Roinn ábalta an t-airgead a chur ar fáil do thograí, b'fhéidir, nach raibh ar bharr an liosta i dtosach báire ach a tháinig chun cinn de bharr go raibh airgead fágtha sa bhuiséad.

Tá sé dochreidte nach gcuirfí an t-airgead ar fad atá ar fáil don bhuiséad Gaeilge, Gaeltachta, ealaíon agus oidhreachta ar fáil don phobal a bhfuil sé sin ag dul dóibh. Léiríonn sé seo domsa cineál mí-stuamacht ó thaobh bhainistiú airgid agus ó thaobh ábaltacht na Roinne na tograí a bhí an Roinn ag plé leo a thabhairt chun cinn sách sciobtha nó léiríonn sé nach raibh an Roinn ag déanamh an faisnéis airgeadais agus cuntasáíochta de réir a chéile i rith na bliana le go mbeadh a fhios ag an Roinn go mbeadh farasbarr i dtreo deireadh na bliana agus go bhféadfaí sin a roinnt ar thograí fiúntacha eile.

Ní gá dom ach dul tríd chuid de na tograí éagsúla atá fíor-thábhachtach dúinn ó thaobh phobal na Gaeilge agus na Gaeltachta. Bíonn muid á bplé anseo go rialta. Ó thaobh an phleanáil teanga, ní leor an méid airgid atá curtha ar fáil. Tá sé sin ráite ag an Aire Stáit é féin roinnt uaireanta. Nuair a fheiceann muid go bhfuil milliúin curtha ar ais ó Roinn na Gaeltachta nach raibh caite in 2014, is é an trua nach raibh sé sin curtha ar fáil le caitheamh ar an bpleanáil teanga do na grúpaí pobail sin atá ag iarraidh an teanga a chur chun cinn. Tá na comharchumainn bánaithe ag Roinn na Gaeltachta le roinnt blianta anuas. Bhí sé sin ag tosú sula raibh Rialtas an Aire Stáit tagtha i gcumhacht, leis an gceart a thabhairt, ach is trua é nach bhféadfaí airgead breise a chur ar fáil dóibh siúd. Tá go leor tograí éagsúla ag na comharchumainn ar fad ó thuaidh, ó dheas agus san iarthar agus mar sin de agus obair fiúntach á dhéanamh acu a bheadh an-tábhachtach sna ceantair Ghaeltachta agus a bhainfeadh an-leas go deo as an airgead sin.

Bhí cás an-bheag ag an irisleabhar *An tUltach*. Ní raibh na daoine ansan ag lorg ach €20,000 le fanacht ag imeacht ó thaobh an foilsíochán sin a chur i gcló. Léirigh siadsan a gcuid díoma an tseachtain seo caite nuair a chonaic siad go raibh €8 milliún á chur ar ais agus nach bhféadfaí €20,000 de sin a bhaint as an geiste agus a thabhairt dóibh siúd le deis a thabhairt dóibh maireachtáil. Tá grúpaí ealaíne agus amharclainne ar fud na tíre. Táimid ag cloisteáil go bhfuil ganntan airgid ag na hinstiúidí cultúrtha, go bhfuil gearradh siar déanta ar na huaireanta oscailte agus go bhfuil deacrachtaí acu ó thaobh líon foirne.

Tá Teach an Phiarsaigh luaite go sonrath sna hailt a fhoilsíodh an tseachtain seo caite a luann nár caitheadh €250,000 air. Cuireann sé sin olc orm. I bhfad sula raibh an tAire Stáit ceaptha mar Aire Stáit, bhí muid ag ardú cás Theach an Phiarsaigh, ag rá go raibh brú ama ann ó thaobh 2016 de agus go raibh gá an áit a bheith réitithe. Cuireann sé olc orainn nuair a fheicimid gur cuireadh ar ais €4 milliún toisc nach raibh an Roinn agus an dream a bhí ag plé leis an obair sin á dhéanamh sách sciobtha.

Gearradh buiséad caipitil Údarás na Gaeltachta ó €26 milliún in 2008 anuas go dtí €5 milliún. D'ardaigh sé rud beag anuraidh ach tá ganntan airgid caipitil ar Údarás na Gaeltachta ó thaobh chruthú fostaíochta sa Ghaeltacht. Cén fáth nár tugadh cuid den airgead dó sin? Ghearr an Roinn an deontas ó thaobh an bháid farrantóireachta go hInis Mór. Dúirt an Roinn nach raibh dóthain airgid sa chiste. Bhí deacrachtaí againn le deireanaí ó thaobh Aer Arann agus an Roinn ag iarraidh gearradh siar ansin. Tá na hoileáin eile ó thuaidh, mar a luaigh mé, ag lorg sciar níos mó den airgead. Bhí airgead sa bhreis anseo go bhféadfadh a bheith caite ansin ach níor chaith an Roinn é. Tá Comhar na nOileán i bponc agus an chosúlacht air, muna n-aithreoidh cúrsaí, go mbeidh fíor-dheacrachtaí ag an gcomhar an bhliain seo chugainn.

Tá seans ann go mbeidh an Aire Stáit ag rá liom gan bheith buartha agus go bhfuil cuid den

airgead sin iompraithe ar aghaidh go dtí an bhliain seo chugainn. De réir mar a thuigim an chaoi ina oibríonn sé, bainfear na milliúin seo as chiste 2015. Dá bhrí sin, tá an t-airgead sin imithe agus ní raibh sé caite. Níl sé seo maith go leor. Níl sé ceart go mbeadh muintir na Gaeltachta, muintir na n-ealaíon nó muintir na hoidhreachta fágtha siar leis ós rud é nach raibh an Roinn ábalta a jab a dhéanamh mar is ceart. Tá súil agam go bhfuil míniú sásúil ag an Aire Stáit dúinn ar an fáth gur tharla sé sin. An féidir an t-airgead sin a fháil ar ais ar bhealach ar bith?

3 o'clock

Minister of State at the Department of Arts, Heritage and the Gaeltacht (Deputy Joe McHugh): Tá díospóireacht leathan ar intinn an Seanadóir inniu. I dtosach báire, cuirim fáilte roimh an deis atá tugtha dom ag mo chuid chomhghleacaithe sa Seanad léargas gairid a thabhairt ar sheasamh caiteachais na Roinne Ealaíon, Oidhreachta agus Gaeltachta ag deireadh na bliana 2014. I dtosach báire, ní raibh fo-chaiteachas de €8 milliún i gceist in 2014. Leagtar amach i dtuarascáil an Ard Reachtaire Cuntas agus Ciste do 2014, a foilsíodh an tseachtain seo imithe thart, na figiúirí ábhartha.

Taispeánann an tábla ar leathanach 7 den chuntas leithreasa don Roinn Ealaíon, Oidhreachta agus Gaeltachta gurbh é €263.897 milliún an t-ollsoláthar caiteachais a vótáil an tOireachtas don Roinn do 2014 agus gurbh é €257.166 milliún an táirgeacht. Sin difríocht de €6.731 milliún. Léiríonn tuarascáil an Ard Reachtaire Cuntas agus Ciste freisin gur tugadh ar aghaidh 92% den iarmhéid sin i gcomhair caiteachais in 2015 agus géilleadh an fuilleach de bheagán os cionn €500,000 don Stáitchiste. Is gnáthghné de chuntasaíocht an Rialtais i ngach Roinn airgead a bhaineann le tionscadail chaipitil, a reáchtáiltear thar bhlianta féilire, a thabhairt ar aghaidh.

Tabharfaidh mé tuilleadh eolais anois ar na ceisteanna seo. Ba é €259.458 milliún soláthar iomlán an mheastacháin a vótáil an tOireachtas i gcomhair na Roinne don bhliain 2014. Chuimsigh sé sin ollsoláthar caiteachais vótáilte de €263.897 milliún lúide fáltais mheasta de €4.439 milliún. Ag deireadh na bliana ba ionann an táirgeacht iarbhír agus €251.262 milliún. Sin difríocht de €8.196 milliún ón mbun-mheastachán de €259.458 milliún. Trí rud is cúis leis an difríocht seo. An chéad chúis ná beagnach €500,000 de choigiltí i gcostais riaracháin. An dara chúis ná €1.465 milliún i bhfáltais a bhí níos airde ná mar a bhíodhas ag súil leis, nach mór a ghéilleadh don Stáitchiste mura vótálann an tOireachtas ar son a mhalairt. An tríú chúis ná €6.216 milliún i gcaipiteal a choinnigh an Roinn agus a tugadh ar aghaidh in 2015.

I ndáil leis an ollsoláthar caiteachais vótáilte de €263.89 milliún, ba €257.166 milliún an t-ollchaiteachas iarbhír agus b'shin €6.731 milliún níos lú ná an meastachán, mar a luaigh mé ag an tús. Seo a leanas mar a baineadh na coigiltí sin amach. Fuarthas coigiltí de beagnach €500,000 as bainistiú stuama ar chostais riaracháin ar nós taisteal agus cothabháil, seirbhísí comhairleoireachta agus teicneolaíochta faisnéise. Géilleadh an choigilt riaracháin sin don Stáitchiste ag deireadh 2014. Ní mór don Roinn coigiltí den sórt sin a ghéilleadh ach amháin má tá a mhalairt údaraithe go sonrath ag an Roinn Caiteachais Phoiblí agus Athchóirithe.

Bhí coigiltí €6.216 milliún ar chaipiteal ann. Tháinig na coigiltí sin chun cinn ar na cúiseanna seo a leanas. Tháinig €4.75 milliún as ionad imeachtaí Chorcaí ós rud é nár úsáideadh an soláthar ceadaithe mar gheall ar chastacht an tionscadail agus mar gheall gur thóg an próiseas tairisceana níos mó ama ná mar a bhíodhas ag dréim leis. Tháinig €1.216 milliún as Deich mBliana na gCuimhneachán 1912-1922 de bharr an dul chun cinn a bhí ní ba mhoille ná mar a bhíodhas ag súil leis i dtaca le roinnt tionscadal comórtha, go príomha ionad taispeántais léirmhínteach Ard-Oifig an Phoist. Tháinig €250,000 as Teach an Phiarsaigh, áit a ndearnadh

coigilt de bharr nach ndearnadh dul chun cinn ar an tionscadal chomh sciobtha agus a bhíothas ag dréim leis, mar gheall, go príomha, ar cheisteanna a bhain le talamh a fháil.

É sin ráite, níor chaill an Roinn aon cheann de na coigiltí sin, mar gur tugadh iomlán an €6.216 milliún ar aghaidh trí ghéilleadh iarchurtha sa dóigh is go dtiocfadh leis an Roinn an t-airgead a úsáid in 2015. Mar is eol don Seanadóir, is córas é seo faoi alt 91 den Acht Airgeadais 2004 trína bhféadfaidh Roinn suas le 10% dá cuid caipitil a thabhairt chun cinn trí ghéilleadh iarchurtha go dtí an bhliain ina dhiaidh sin, lena chaitheamh le linn na bliana sin ar chláir tosaíochta caipitil.

Mar sin de, tugadh an €6.216 milliún ar aghaidh go 2015 le caitheadh mar seo a leanas. Bhí €1.216 milliún le caitheamh ar Dheich mBliana na gCuimhneachán, €1 milliún le caitheamh ar ionad imeachtaí Chorcaí, €3.75 milliún le caitheamh ar oidhreacht nádúrtha, an tSeirbhís Páirceanna Náisiúnta agus Fiadhúlra, agus €250,000 le caitheamh ar Theach an Phiarsaigh. Mar shampla, rinneadh an €250,000 den choigilt a bhain le tionscadal Gaeltachta Theach an Phiarsaigh a thabhairt ar aghaidh lena húsáid in 2015. Tá tabhairt ar aghaidh na gcoigiltí caipitil chun na críocha sin leagtha amach san imleabhar meastachán athbhreithnithe do 2015 agus iad faofa ag an Oireachtas.

I dtaca le soláthar fáltas réamh-mheasta 2015 de €4.439 milliún, ba é €5.904 milliún fáltas iarbhír na Roinne, arbh ionann sin is €1.465 milliún d'airgead breise isteach don Státchiste. Tharla sin de bharr méadú ar líon na gcuariteoirí ar áiseanna ar nós Páirc Náisiúnta Chill Airne agus Teach Mhucrois agus tá sé i gcomhréir leis an méadú ar líon na dturasóirí a tugadh faoi deara ar fud na tíre le blianta beaga anuas. Ní mór don Roinn insreabhadh méadaithe den sórt sin a ghéilleadh ach amháin má údaraíonn an tOireachtas go sonracha a mhalairt.

Go hachomair, mar sin, rinneadh an difir de €8.196 milliún atá luaite thuas a thabhairt ar aghaidh go 2015 lena úsáid ag an Roinn nó a ghéilleadh don Státchiste i ndiaidh é a fháil mar gheall ar bhainistiú stuama ar chaiteachais riaracháin agus fáltas fheabhsaithe isteach sa Roinn.

Is í an teachtaireacht is mó a ba mhaith liom a chur in iúl anseo inniu ná gur tugadh ar aghaidh aon choigiltí a bhí ar fáil i Vóta mo Roinne agus a d'fhéadfaí a thabhairt ar aghaidh lena n-úsáid in 2015 agus gur méideanna beaga a bhí i gceist leis na coigiltí eile a d'eascair as bainistiú stuama ar chostais riaracháin. Tá dea-theist ar mo Roinnse maidir lena chinntiú go n-úsáidtear na hacmhainní a leithdháiltear ar a réimsí cláir ar an mbealach is éifeachtaí is féidir. Ní mór a rá thar aon rud eile gur caitheadh, nó gur tugadh ar aghaidh le húsáid i mbliana, isteach is amach le 99.8% den mhaoiniú uile a vótáladh do mo Roinn.

Senator Trevor Ó Clochartaigh: Sin freagra Státseirbhíseacha gan dabht. Nach bun agus barr an scéil ná go bhfuil an Aire Stáit ag rá gur tugadh an t-airgead ar aghaidh agus go gcaithfear i mbliana é, ach nach mbainfear é sin as an ollmhéad a bheas le fáil i mbliana? Dá bhrí sin, b'fhéidir nach raibh sé cailte anuraidh ach beidh sé cailte i mbliana. Léiríonn sé sin go bhfuil droch-bhainistíocht á dhéanamh ar na tograí éagsúla agus ar an sreabhadh airgid i Roinn an Aire Stáit. Céard tá sé chun a dhéanamh chun é sin a leigheas?

Deputy Joe McHugh: Sin an freagra atá ann agus is léir go bhfuil na figiúirí iomlána ann. Tá soiléireacht ann. Tá achan amhainn sa Roinn tábhachtach. Labhair an Seanadóir Ó Clochartaigh fá dtaobh den laghdú airgeadais a bhí ann d'Údarás na Gaeltachta agus Rannóga eile thar na blianta. Ar an drochuair, ní raibh mise freagrach as an Roinn na blianta sin nuair a bhí an tír i dtrioblóid eacnamaíochta. Ní mise a bhí freagrach as an Roinn ag an am sin agus ní mise agus

6 October 2015

mo chomhghleacaithe a bhí freagrach as an Rialtas. Sin an fíor-scéal. Ba mhaith liom bualadh le hachan duine a bhí freagrach as agus mo chomhghleacaithe atá ar an taobh eile sa Teach seo chun é sin a phlé. B'fhéidir nach bhfuil cúrsaí eacnamaíochta fós ceart ach tá rudaí ag dul ar aghaidh agus b'fhéidir go mbeidh scéal dearfa sna blianta romhainn amach anseo.

Home Help Service

An Cathaoirleach: I welcome the Minister of State, Deputy Kathleen Lynch.

Senator Darragh O'Brien: Cuirim fáilte roimh an Aire Stáit. I have raised this matter on a number of occasions. From my file I see that in February 2013, I raised the matter of the two Labour Court recommendations that gratuity payments be made in lieu of pension entitlements to a cohort of home help workers that are funded in the main by the HSE. In the intervening period, we have had some changes in the health service. I have continuously corresponded with the Minister for Health, Deputy Varadkar, on this matter. In February of this year, we got a little bit of light when he informed me following further correspondence to him:

My Department in conjunction with the Department of Public Expenditure and Reform and the HSE has initiated a review of the matter involving the Department's legal advisers. It is expected that this will conclude in March 2015.

That did not happen. I raised the matter again as a Commencement matter in the Seanad. I was told that in line with the discussions that were happening around the new pay deal with the public and Civil Service, it was being looked at again and that a conclusion would be reached by September 2015. I am obviously very anxious that these low-paid workers get what they are entitled to. In some instances, it will run into a few thousand euro. It is not an insignificant sum. I think everyone will agree that home help workers carry out a crucial role on the front line of our health service in caring for our sick, elderly and infirm at home. I do not think we can allow a situation to persist where what the Labour Court recommended in 2009, one of two recommendations I might add, that they are entitled to these payments, should be withheld any further.

I hope the Minister of State will have some good news for me today. We were told that this issue would be effectively resolved by September 2015. It is not a substantial sum of money. From the calculations my party colleagues and I have done, we are looking at a figure of between €12 million and €15 million countrywide but it might not even be that much. The recommendation has been made and the workers are entitled to this money.

I thank the Minister of State for her presence and look forward to her response.

Minister of State at the Department of Health (Deputy Kathleen Lynch) (Deputy Kathleen Lynch): I thank Senator O'Brien for raising this issue which I went through with his colleague, Deputy Billy Kelleher, recently.

The Senator's question on home helps is specific and he has clearly stuck to his question but the issue has a wider context. I thank him for raising the issue in the House. He will of course be aware that the issue of paying gratuities to a particular group of home help workers was considered by the parties at the recent public sector talks that were facilitated by the Labour Relations Commission. The Minister and I believe it is important that we do all we can

to ensure that those members of our elderly population who wish to stay in their own homes and communities are supported and facilitated to do so. Also, I want to ensure that we support in every way we can the return of those who have required acute hospital care back into their homes when they are fit for discharge.

In 2015, the HSE will spend €330 million on home care packages and home help services, including €185 million to provide 10.3 million home help hours. As the Senator rightly pointed out, these people form an invaluable group in terms of services delivered within the wider community. Home help services are provided mainly by HSE directly employed staff. A home help contract introduced for HSE employees in 2014 followed on from a lengthy consultative process under the auspices of both the LRC and the Labour Court. The annualised contract which was accepted is fundamental to both parties as it matches the actual workforce to the changing needs of the service as well as giving certainty to employees by way of guaranteed weekly minimum paid hours. However, in the greater Dublin area, as well as in Wicklow and Clare, home help services are provided by voluntary providers on behalf of the HSE. It is this group of home help workers that I shall focus on now and I know the Senator has a particular interest in this group. Voluntary providers are funded under section 39 of the Health Act 2004. The HSE has in place service level agreements with these providers that sets out the level of home help service to be provided in respect of the grant to the individual organisations and requirements in terms of standards of care. As the home helps employed by these section 39 organisations are not HSE employees, the HSE has no role in determining the salaries or other terms and conditions applying to these staff, including pension arrangements. Accordingly, such arrangements offered by individual providers will vary.

Access by home helps, who work in voluntary organisations, to a pension has been the subject of a number of Labour Court recommendations involving SIPTU, IMPACT and the HSE. Implementation of a Labour Court recommendation on the payment of a gratuity to the home helps employed by the section 39 organisations has been hindered in recent years by the budgetary situation, a situation that I know the Senator will understand. The matter is further complicated by the fact that the HSE is not the employer and, therefore, has no role to play.

As I noted in my opening comments, this issue was discussed during the recent Lansdowne Road talks in the context of which a side agreement was made. The parties reached agreement on a process for giving a more formal consideration to the matter and to establish, in the short-term, a working group to examine a number of issues, including gratuity payments for home helps. This process will now be progressed following the recent ratification of the Lansdowne Road agreement. Initial contacts have taken place between the HSE and the relevant staff associations. It is expected that the first meeting will take place during this month of October. The precise time for the duration of the work involved will be agreed at that stage which is likely to be approximately three months.

I want to acknowledge the valuable contribution that home help workers make in our communities and the fundamental role they play in ensuring that our growing elderly population are facilitated as much as possible to live as independently as they can. I hope that this is the beginning of the process. I also hope that the Senator's long and considered correspondence with the Department of Health, more than anyone else, will in fact contribute to an outcomes that we can all live with.

Senator Darragh O'Brien: I thank the Minister of State and I appreciate the response. I know it came from the Department and not specifically from herself. However, I am very dis-

6 October 2015

appointed with the response and I shall quickly tell her why. I know she will raise the following matter and, in fairness, she has done so before. The HSE and the Department have broken every timeframe up to now. On 9 June I was told the first meeting would take place within four weeks - that is in writing from the Minister for Health, Deputy Leo Varadkar - and it was scheduled to conclude its business by 30 September 2015. Would the HSE and the Department allow this to happen if these were highly-paid hospital consultants? Is it that these are the lowest paid workers within our health service that they are not being given the priority? I know the Minister of State would have a great deal of sympathy and support for these workers. All that is happening - I mean no disrespect to the Minister of State as this is the response she has been given by the Department - is that we are being strung along big time. Every single response, going back to early 2013, referred to timeframes, to an understanding of what I was saying and so on. The Minister, Deputy Varadkar, was explicit in the timeframes he gave to me on 9 June and this now kicks it into next year. God knows where any of us will be at that stage. I was trying to get it concluded before the end of this Dáil and Seanad term. I ask the Minister of State to use her good offices to tell the Department officials and the HSE that this is not acceptable. This is a small number of people who have been earning €8, €9, €10 and €12 per hour, some of whom are due €5,000, €6,000, €7,000 or €8,000 back. It is a significant amount of money due to them. They have been incredibly patient up to now.

I am really disappointed with this response. I intend to take it up again and will write to the Minister, Deputy Leo Varadkar, asking why he is permitting the Department to continually miss deadlines and set new deadlines which I know will be missed. I am seeking the Minister of State's assistance to tell them this is not on, because it affects low-paid workers all across the country. They only asking for what they are entitled to. I realise there have been budgetary constraints. We realised that in 2013 when I first raised the issue. We have been incredibly patient but I will not be patient anymore. I seek the Minister of State's direct intervention and assistance to put a fire under a couple of people within the Department and get them to sort it out. It is not a whole hill of beans; this can be very quickly.

Deputy Kathleen Lynch: The significant part of the answer refers to the conclusion of the Lansdowne Road agreement. This issue needs to be discussed to reach agreement on it in terms of the section 39s. While they are funded in the main by the HSE, it is not the direct employer. I take on board what the Senator is saying. Depending on the circumstances and the urgency of any issue, and depending on who is involved and who are direct beneficiaries, things move slowly or quickly. What is significant about the answer is the fact that the Lansdowne Road agreement has concluded. That should be the benchmark in terms of the three-month process as and from October. The clock is running. Most definitely, I will convey the Senator's concerns to the people involved.

Senator Darragh O'Brien: That is much appreciated.

Sitting suspended at 3.18 p.m. and resumed at 3.30 p.m.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, motion regarding the proceeds of the sale of Aer Lingus - referral to committee to be taken on the conclusion of the Order of Business without debate; No. 2, motion regarding the Joint Committee of Inquiry into the Banking Crisis, to be taken on the conclusion of No. 1 without debate; and No. 3, the Criminal Law (Sexual Offences) Bill 2015 - Order for Second Stage and Second Stage to be taken at 5 p.m. and to adjourn no later than 7 p.m. if not previously concluded, with the contributions from group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes and the Minister to be called on to reply to the debate no later than 6.50 p.m.

Senator Darragh O'Brien: On No. 2, I hate to tell members of the CPP, "I told you so" but there was no way the banking inquiry was going to be able to do its work in the set time and many Members agreed with me at the time.

Senator Ivana Bacik: It was a collective "We told you so".

Senator Darragh O'Brien: It was a collective "We told you so". I do not know how this will fit in with the general election, which is proposed for between now and then. It might all be done for nothing.

I cannot agree with No. 1 being taken without debate. It relates to the disbursement of the funds from the sale of the Government stake in Aer Lingus, to the tune of €335,272,000.

Senator Maurice Cummins: The Senator can come back to us and we can have a debate on it.

Senator Darragh O'Brien: I am aware that I can do that but I have used every opportunity to argue against what has happened to the retired and deferred pensioners in the Irish aviation superannuation scheme, the airport pensioners, many of whom have lost up to 60% of their pension. All of the retired members, people in their 70s, 80s and 90s, have lost six weeks' pay and are taking a case to Europe as we speak, having lodged a case on account of the fact that their basic pension rights have been torn up by this Government.

Using part of the proceeds of that sale would go a long way to reducing the level of cuts facing the retired members, represented by RASA, and the deferred members, many of whom have sent e-mails to colleagues in this House in the past couple of days detailing their situations. Some of them have paid into their pension scheme for 42 years but they have now been butchered to permit the sale of the Government's stake in Aer Lingus. The whole thing was a divi-up purely to get rid of the deficit in the pension scheme to sell to IAG. That has been done and the Government has moved 5,000 existing members of the scheme into an inferior pension scheme and cut the other 10,000 substantially.

At every stage available to me I will argue that we should not have sold the 25% stake but, now that the Government has done that, it is not prohibited from finding other funds to make a payment which will reduce the level of cuts suffered by the retired and deferred members of the IASS scheme. For that reason, I oppose taking No. 1 without debate. It is important the Seanad's voice is heard on that prior to it going to the committee and that ideas for the use of the funds should come from the Seanad and then go to the finance committee. That is what I want. I and my colleagues in Fianna Fáil will oppose taking No. 1 today without debate. We should have a debate and the Minister for Transport, Tourism and Sport, Deputy Donohoe, should come to the House.

An Cathaoirleach: Does the Senator wish to propose an amendment?

Senator Darragh O'Brien: I propose an amendment to the Order of Business that the Minister for Transport, Tourism and Sport, Deputy Donohoe, come to the House to explain what, if any, steps he is taking to reduce the savage cuts foisted on the retired and deferred pension members of the Irish Airlines Superannuation Scheme, IASS. Furthermore, I would ask him to take on board the views of the Seanad with regard to the use of the proceeds of the sale of the Government's stake in Aer Lingus. The Leader can fit that in the bottom of the stream.

Senator Ivana Bacik: Many of us raised the issue of the timescale for the banking inquiry when the matter was brought before the Committee on Procedure and Privileges, CPP. The Chair of the inquiry acknowledged that the date might be pushed back.

I welcome the announcement over the weekend that the Labour Party will propose a candidate in the Seanad by-election, following the very regrettable retirement of our colleague and friend, Jimmy Harte. I welcome the fact we have announced that we will propose Máiría Cahill. She is a really fine and wonderful candidate. I know my colleagues join me in that welcome.

I welcome the Startup Gathering. On Monday a series of over 400 events in five cities over five days started, led by the not-for-profit group Startup Ireland, supported by the Department of Jobs, Enterprise and Innovation, with the sponsorship of Bank of Ireland. I commend the Minister of State at the Department of Jobs, Enterprise and Innovation, Deputy Nash, who chairs the steering committee of the Startup Gathering, and wish them well in making progress on the Action Plan for Jobs arising out of this welcome initiative. I hope we will have an opportunity soon to again debate the Action Plan for Jobs and the concept of the Startup Gathering and the events that will have taken place.

Will the Leader arrange a debate soon on the role of the Data Protection Commissioner and the issue of digital privacy following today's judgment by the European Court of Justice, ECJ, in the action taken by Max Schrems in the case against Facebook? This is a very significant judgment. Senators are aware of the lead-up to the judgment. The Austrian privacy campaigner, Max Schrems, took a case initially in the Irish courts and then to the ECJ in Luxembourg against the safe harbour agreement, the data transfer agreement between the European Commission and the US. He won his challenge today. There will be a press conference this afternoon hosted by the Vice President of the European Commission, Frans Timmermans, on the implications for the EU of this judgment. It will also have implications for Ireland. The matter is being remitted to the High Court here. The Data Protection Commissioner here has welcomed that move and the clarity offered by the ECJ. It has implications for the overall issue of data sharing between the EU and the US. I would like us to have a debate on that when the matter has been dealt with in the High Court.

I strongly condemn the dreadful attack on Kunduz Hospital in Afghanistan which killed staff of Médecins Sans Frontières, MSF, and patients. There were approximately 22 people killed, apparently by US airstrike. I join with others in calling for a full and transparent investigation into the circumstances of what MSF has described as a war crime.

Senator Sean D. Barrett: I congratulate the Nobel Prize winner, William Campbell, a native of Ramelton, County Donegal. He studied at Campbell College, Belfast, and Trinity College Dublin, TCD, where he graduated in zoology in 1952. His work and that of his colleague, Professor Satoshi Omura, has been praised by the Minister for Health because they developed

medicines to kill parasites and have been active in promoting the sale of low-priced drugs for Third World countries. I presume this will be celebrated in both places. There is no need to change the name of Campbell College to celebrate the Nobel Prize winner. TCD gave him an honorary degree two years ago, so somebody on the committee was fairly good at anticipating great developments. Professor Campbell begins each lecture, no matter where in the world he delivers it, with a slide of The Mall, Ramelton, to remind him and the audience of where he comes from. I also found that humility with Ernest Walton who was especially concerned, in his time as a Nobel Prize winner, with the fact that physics was not taught widely in girls' schools and, therefore, provided extra tuition. There is a humility in both Noble Prize winners, which is commendable. Our Nobel Prize winner is aged 85 years and, therefore, will support Senator John Crown's Bill to abolish the retirement age. Let us hope we are all winning Nobel Prizes at that age.

The Trans-Pacific Partnership is not just a trade deal, as it addresses environmental and labour considerations, including International Labour Organization standards, minimum wage requirements, and ensures they are actionable within the terms of trade. That is a huge advance on traditional trade agreements and something we might note in future agreements involving this country.

With regard to the banking inquiry, we might have made the timetable, but the whistleblower required the absorption of the secretariat in dealing with the whistleblower investigation, but I hope the report will be worth waiting for in January, given the additional time required.

Senator Fiach Mac Conghail: I would like to say a few words about the recent death of Brian Friel, the master and a giant of world theatre. I understand time can be set aside for Members to pay tribute to great leaders of our nation, of whom Brian Friel was one. Will the Deputy Leader set time aside to pay tribute to him? Brian Friel was a Senator in the 18th Seanad between 1987 and 1989, as a Taoiseach's nominee. He has the record of not having spoken a single word. For such a prolific writer, he kept his own counsel and never said one word in the Chamber during this period. Is binn béal ina thost. He was born in Omagh, County Tyrone in 1929. His working relationship with the Abbey Theatre and other theatres dated back to 1962 when "The Enemy Within" had its world premiere. Other premieres at the Abbey Theatre included "The Freedom of the City", "Volunteers", "Living Quarters", "Aristocrats", "Dancing at Lughnasa", "Wonderful Tennessee", "Give Me Your Answer, Do!" and, of course, "The Loves of Cass Maguire" and "Faith Healer".

Brian Friel began his career as a short story writer, but his play, "Philadelphia, Here I Come!", revolutionised Irish theatre. Plaudits followed over the course of a long and prolific theatre career in the form of the London *Evening Standard* Award for "Aristocrats" and again for "The Home Place" in 2005, which was staged at the Gate Theatre, a Tony award in 1992 and an Olivier award in 1991 for the massively successful "Dancing at Lughnasa", as well as a lifetime achievement award from *The Irish Times*. He was also a Saoi in Aosdána. As a co-founder of the Field Day Theatre Company in 1980, he worked with a number of other seminal artists, including Seamus Deane, Stephen Rea and Tom Kilroy, to provide a theatre company for Northern Ireland and particularly for Derry in the middle of the Troubles. It opened with a premiere of another extraordinary seminal play, "Translations". His legacy is a collection of plays which interrogate language, family, religion, history and our concept of what it means to be Irish. These works will resonate with future generations.

I consider Brian Friel to be one Ireland's greatest nation builders who forensically inter-

rogated and challenged the establishment of the Republic of Ireland. He understood the power and ambiguity of memory in developing a sense of who we are as a people and a nation. His work constitutes a living, evolving history of Ireland. Here was a playwright who was striving to ensure the past never became fossilised and deeply aware that it was not the literal past, the facts of history, that shaped us but images of the past embodied in language such as in “Translations”. His loss is deeply regretted not only by his family, including his wife, Anne; son, David; daughters, Sally, Mary and Judy, but also his friends and colleagues across all theatres in Ireland, Britain, elsewhere in Europe and the United States, from Broadway to Los Angeles and from Ballybeg, the mythical site of Glenties where all his work was based, to the Abbey Theatre. However, in his own words, we are now invited to a place where words are no longer necessary.

Senator Terry Brennan: I welcome the recent launch by the Minister for Foreign Affairs and Trade of the Irish passport card which can be used in 30 EU countries. This innovation will allow Irish citizens to travel within all 30 countries of the European Union and also within the European economic area. Adults who already hold a valid passport book are eligible to apply for this new card. It will fit into a wallet or a purse, which is very handy. The Passport Office is now open for online applications for this new card.

I take this opportunity to commend our Naval Service on its migrant rescue mission in the Mediterranean. I understand its mission is due to be suspended from early December, when the Mediterranean will be much rougher and stormy weather will prevail. I do not think the boats carrying migrants will cease to travel. They will continue to be launched and migrants’ safety will be threatened.

I commend the three naval ships, the *LE Eithne*, which I had the opportunity to visit when it was berthed at Greenore Port some 18 months ago, the *LE Niamh* and the *LE Samuel Beckett*. Since these naval ships were deployed to the Mediterranean, in excess of 7,500 people have been saved. Unfortunately, however, far too many migrants did not survive and many bodies were found. I ask the Minister to keep an eye on the situation and to consider providing for our rescue mission to re-enter the Mediterranean, as I believe boats carrying migrants will continue to travel over the rough seas and fatalities will occur.

Senator Paschal Mooney: I second the amendment to the Order of Business proposed by our leader in the House, Senator Darragh O’Brien.

In response to Senator Bacik’s reference to the forthcoming Seanad by-election, I wish to put on record that it is the intention of the Fianna Fail Party to present the electorate with a candidate about whom I am very pleased. I also wish to place on record the fact that while we all have enormous admiration for Máiría Cahill, whom I have had the pleasure of meeting on a number of occasions in the House, as a brave and courageous woman, we, as a political party, believe that it is serving the democratic process at its most effective to present the electorate with alternative choices. Obviously, there will be further details forthcoming in that regard.

I also wish to place on record my condemnation - I am sure those on all sides of the House would agree with me on this - in respect of last week’s attack on two Israeli parents who were driving in their car with their children. Effectively, these people were assassinated or executed in front of their two children. There has been very little international reaction to this incident. I suppose I should not be too surprised because there is an overwhelmingly pro-Palestinian sentiment in this country that is fuelled by certain elements within the media. All I have ever

attempted to do here is not to take sides but rather to present an alternative view to that which is sometimes aired in this House.

Senator Rónán Mullen: Fair play.

Senator Paschal Mooney: I firmly believe that the only solution to the Middle East problem between Israel and Palestine is a two-nation formula. I utterly and completely condemn the actions of the IDF on many occasions, particularly in the context of the massacres that took place in the West Bank and Palestine last year. My credibility in that regard should not be questioned in any way. It is right and proper that whenever there are issues to be raised in respect of both sides, a balance should be struck. I sometimes fear that there is not a complete balance in this House when it comes to issues relating to the relationship between Israel and Palestine. I raise this matter because I am sure people on all sides will utterly condemn this terrible attack. Can Members imagine an innocent couple with two of their children in the back of the car driving along a road and then being stopped and shot dead in front of those children? It is terrible and it is an indication, perhaps, of the sad descent into violence that has happened in terms of the relationship between Israel and Palestine. All one can do is pray and hope. I am sure the Leader will convey to the Minister, Deputy Charles Flanagan, that we in Ireland will continue to promote peace between both factions. I have always admired the Government's stance of supporting the two-state solution to the Israel-Palestinian problem. In the past, my party's spokesperson on foreign affairs, Deputy Brendan Smith, has highlighted, and will continue to do so in the future, the need to strike a balance and that, as a country which has its own colonial history, we do not condemn one side without taking account of the other.

An Cathaoirleach: The Senator is way over time. I call Senator Moloney.

Senator Marie Moloney: I add my voice to Senator Bacik's welcome for the nomination of Máiría Cahill for the forthcoming Seanad by-election. She will contest a selection convention in the Labour Party, should there be other nominees. If she is successful, or if there is no other nominee, then she will go on to contest the by-election. I welcome Senator Mooney's announcement that Fianna Fáil will be putting up a candidate too. Of course, it must put up a candidate; that is democracy at its best. We will be ready and able for that challenge.

I welcome the work done by the Minister of State, Deputy Nash, for workers' rights and for the unemployed. He has fought tirelessly on these issues, issues on which I have worked with him. He has delivered on the Low Pay Commission, the joint labour committees, the employment regulation orders, the Workplace Relations Commission and the Startup Gathering 2015. I welcome what he has done to date in these areas.

When I first became a Senator, I moved a motion on domestic violence which received cross-party support at the time. As it was in the early days of the Government, funding was an issue at the time. It was impossible then to get extra funding for any service relating to domestic violence. I was saddened last week to read about the Tallaght women's refuge which is expected to close by Christmas. This is a worrying issue. This service helps people from the very rich to the very poor. It does not matter how much money one has. If one has to flee home in the middle of the night with one's clothes on one's back, one will still need somewhere to go. I would prefer to see these services enhanced and funded rather than eroded. These services are vital, particularly for women. I ask Members, particularly women Members, to stand up and fight the closure of this refuge centre, as it is vital for women. While it is considered a second stage refuge centre, where those out of immediate danger move on to, they still have nowhere

to go. Will the Leader make representations to the Minister, Deputy Reilly, on this issue and ensure it does not close?

Senator Paschal Mooney: I just want to correct the record. There were four children involved in the unprovoked attack to which I referred earlier. They were nine years of age, seven years of age, four years of age and a four month old baby.

Senator David Norris: With regard to the forthcoming Seanad by-election, the selection of the candidate, Máiría Cahill, is an internal matter for the Labour Party. It can do whatever it likes. She is a fine person but the election is a complete farce with only 100 voters. It is not even an election because Fine Gael has withdrawn from it. It is an own goal for the Labour Party. It is a nomination, not an election at all.

Senator Marie Moloney: The last by-election was not an own goal.

Senator David Norris: It was an own goal. Senator Moloney is damn right. It was a goal against Fine Gael's goalkeeper.

Senator Marie Moloney: This is not an own goal.

(Interruptions).

Senator David Norris: The Senator should go and join the National Museum board.

Senator Marie Moloney: Senator Norris cannot have it both ways.

An Cathaoirleach: Senator Norris, without interruption.

4 o'clock

Senator David Norris: I am horrified, as I am sure everybody else here is, by reports today that an 11-year old boy has been arrested in America for the murder of an eight-year old girl with his father's shotgun. One looks at what President Obama is trying to do, but the appalling National Rifle Association is stymying all of his efforts.

With regard to the date for the general election, I always believed when the Taoiseach said he would hold it in the spring that he would live up to his word. I look at the repercussions, for example, for the banking inquiry where my colleague, Senator Sean D. Barrett, has played such an important role. That would all be down the drain if the Government was to go in November.

Like the Senator Ivana Bacik, I welcome the judgment of the European Court. I opposed the measure when it was introduced in this House. I was one of very few Members to do so, but nowadays, with the kind of technology available, people are spying on everybody else all the time. They can photograph others from space in a remote location. I have had my telephone bugged. However, I do not say anything in private that I would not say in public, which sometimes has got me into trouble; therefore, let them just listen, but I do think citizens' rights were impinged on in the legislation. I felt so at the time and thought the transfer of information to the United States was completely and utterly wrong. I hope something will happen as a result of the judgment.

Senator Michael Mullins: I join Senator Ivana Bacik in condemning the appalling bombing of the hospital in Afghanistan over the weekend, with the appalling loss of life, including the deaths of workers with Médecins Sans Frontières, whose only interest in being there was to

help people and save lives. It is an appalling war crime that must be independently investigated by an international body and there must be consequences. It is absolutely appalling when such indiscriminate bombing takes place. We must have a discussion on what is happening in Syria, the escalation in bombing by the Russians and the dreadful situation there that seems to have no ready solution.

The decision of the courts in Egypt over the weekend to postpone the mass trial that involves an Irish citizen, Ibrahim Halawa, is very much to be regretted. It is a mass trial in which more than 400 people are involved, but because two people were unavailable to attend, the entire trial was postponed. That says a lot about the justice system in Egypt. I very much applaud and thank the consular service for the support and help it is giving Ibrahim and the very frequent visits it is making to him. I welcome the pressure and involvement of the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, in trying to have this young man released. He should be at home with his family and back in college, pursuing his education. It is truly shocking that he has been incarcerated for almost two years, even though he has not been charged with any crime. It is heartbreaking to see his sisters outside Leinster House again today, protesting and keeping the issue on the agenda. As parliamentarians, it is incumbent on all of us to ensure we keep the issue highlighted and that the Minister for Foreign Affairs and Trade continues to give Ibrahim support and keep pressure on the Egyptian authorities to release him.

Senator David Cullinane: This is the first opportunity I have had to offer my best wishes to former Senator Jimmy Harte who has retired. On behalf of Sinn Féin, I wish him continued success in his recovery. We all hope he will recover fully. It was untimely and dreadful that his time in the Seanad was cut short. He was a very able Senator and we had many exchanges across the floor, as Members know, but we were always very fond of him as a Senator who represented a constituency that needed strong representation. I wish him the very best and continued success in his retirement. It is important also, regardless of whether it is a farce, as it has been described by some in the Chamber, that there be a Seanad by-election. There may be a number of candidates from different groupings and I wish all of them the very best. I acknowledge that Fianna Fáil will also put up a candidate. All elections should be contested and I wish all the candidates in that election the very best.

I welcome the suspension of the strike action by the Communication Workers Union regarding An Post and IO Systems. We now have some breathing space for negotiations that are taking place as we speak. Some fundamental issues have been raised. IO Systems first got a three-year contract in 2003. Pay reductions were introduced in January 2011, which followed a Labour Court finding. Both sides agreed to this and it was binding. The most recent contract was signed in September 2013 and following that, further pay cuts were sought by IO Systems. Talks between IO Systems, the Communication Workers Union and the LRC failed to reach agreement. IO Systems proceeded anyway and introduced its so-called new pay and roster arrangements which meant a cut in pay for some staff. As we know, this resulted in strike action on 1 October.

What is interesting and very worrying is that we almost had the complete closure of the entire postal service in the State. How did that happen? The Minister for Communications, Energy and Natural Resources, Deputy White, told the Dáil last Thursday that An Post had a contingency plan to deal with any dispute. According to the Communication Workers Union, that contingency plan included closing the entire service. Was the Minister aware that the contingency plan included closing the service? Did he give the nod to that? These questions need to be answered. If he was not aware of that, it surely raises questions about senior management

in An Post failing to give information to the Minister when he made his statement to the Dáil. Irrespective of those questions that the Minister needs to answer, I hope the negotiations result in agreement on the substantive issues.

I ask the Leader to raise those questions with the Minister. If he is not in a position to do that, the Minister should come to the House to answer the questions that should be put by the Opposition and there are genuine questions from our perspective.

Senator John Kelly: I call for a debate on the proposed amalgamations the statutory committee to review local government boundaries is considering. It is proposed to merge Monksland in County Roscommon with Athlone and County Westmeath. As ratepayers in Monksland contribute significantly to Roscommon County Council, there would be a massive loss to Roscommon County Council's coffers if this was to happen. I know that Councillor Tony Ward and many others have made submissions to the statutory committee, but submissions always seem to fall on deaf ears. We have had experience of that with submissions on wind turbines and pylons in the past and this smells like it is a done deal.

In this particular case from a sporting perspective this could decimate two of County Roscommon's top clubs, St. Brigid's, former all-Ireland champions, and Clann na nGael. It is important to bring the Minister to the House to discuss with the elected Members the ramifications of any proposed changes to these boundaries.

We can look at the experience of this issue. Two areas from County Roscommon have amalgamated with Westmeath County Council and have been consistently neglected over the years. There are 45 closed shop units with no investment in the area. The fear is that something similar would happen here. If any proposal comes before us to merge Monksland with Westmeath between now and the general election, I will vote against it. If I get elected in the general election, I will vote against any statutory committee proposal that would decimate south County Roscommon, which I regard as nonsense.

Senator Jim Walsh: It is not just south County Roscommon, but the whole of rural Ireland that is being decimated. It is one of the major failures of the Government.

I agree with Senator Mullins's comments on Ibrahim Halawi. It is a disgrace and sad reflection on the justice system and on the Administration of President el-Sisi in Egypt that once again Ibrahim Halawi has been incarcerated because of the failure of the legal system there. I also join with the Senator in condemning the bombing of the hospital in Afghanistan. The US has previously chastised the Russians for what they were doing in Syria. The bombing of the hospital in Afghanistan by a US military aircraft is, in my opinion, a resigning matter at some level within the US Administration. We have not seen or heard anything in that regard.

What we have been hearing recently about NAMA, in particular its proposed sale for €1.1 billion to €1.5 billion of loans which it purchased for €31 billion, is alarming and warrants debate in this Chamber. The private equity companies and others who are buying those loans are making 50% to 100% profit on some of those loans. This is the result of a failure by the State to properly set targets. I believe NAMA should be seeking, at a minimum, a 50% return on that investment.

On the Seanad by-election, I have no doubt it will be overtaken by a general election. It appears very obvious now that the Taoiseach is set to cut and run. Despite the best wishes of the Labour Party, it will be cut adrift to stormy political waters within, probably, the next two

to three weeks.

The self-congratulatory comments from the Government benches, of which I am sure we will hear more over the next few weeks and during the election campaign, ring very hollow to the many people who have been badly affected by the failures of this Government in particular. The situation in relation to the banking inquiry, which was mentioned by Senator Norris, is a good reason to call a general election now. The establishment of that inquiry was a political ploy by Government. I would welcome a debate on that.

This Government has also failed to bring about any public service reform. Irish Water speaks for itself. The people will give their verdict on it when approached on the doorsteps. Homelessness is now at an unprecedented level and measures to tackle burglaries have been a complete failure. The current Minister for Justice and Equality, Deputy Fitzgerald, and her predecessor, Deputy Shatter, have been two of the worst Ministers for Justice in the history of this State, yet they are being applauded by Members on the Government benches for all they have done.

We also need a debate on the issues of bankruptcy and insolvency. Repossessions are being ratcheted up. This Government is running to the public now in order to avoid any fall-out from its failure to manage the banks whose actions resulted in the crash of the banking sector.

Senator Mary Moran: I, too, welcome the nomination by the Labour Party of Máiría Cahill as its candidate in the Seanad by-election. I have already made known my views on her suitability in that regard. She would be a great asset to the Seanad. I welcome also the Fianna Fáil announcement that it, too, will be nominating a candidate, which is very good for democracy.

This Saturday is Positive Mental Health Day. In many places this week has been Positive Mental Health Week, in respect of which a number of events have been organised around the country. In my own town of Dundalk, events such as a walk, coffee mornings, art exhibitions and cookery classes have been used to promote what people can do to ensure positive mental health.

I welcome the launch last Friday at Farnleigh of the comprehensive employment strategy for people with disabilities, the introduction of which I have worked on consistently for some time. The strategy seeks to address difficulties experienced by people with disabilities when it comes to accessing and maintaining employment. While I welcome publication of the strategy, for which we have been campaigning for the past year, it is important it is acted on now and implemented swiftly so as to ensure that people with disabilities, who can and want to gain paid meaningful employment, can do so with the supports that are necessary.

I also wish to mention the fact that Our Lady of Lourdes Hospital is once again in the news as a result of having 41 patients - the highest number in the country - on trolleys. The news that broke in the past week alone in respect of what has happened at that hospital really needs to be addressed. I call on the Minister for Health, Deputy Varadkar, to come before the House to address the issues that arise, including those relating to data protection and the fact that medical notes were found strewn across the road in Drogheda last year, and the unannounced HIQA inspection in respect of the danger of legionnaires' disease.

An Cathaoirleach: The Senator is way over time.

Senator Mary Moran: The Louth Hospital in Dundalk was downgraded to ensure that Our Lady of Lourdes Hospital would become a centre of excellence. It is now recognised as probably the worst hospital in the country. The latter is in no way due to the staff, who are excellent.

Senator Rónán Mullen: I am very much in agreement with what Senator Norris had to say about the Seanad by-election. I wish Máiría Cahill and other candidates well. No doubt they are very worthy individuals but it is disturbing that the timing of elections seems to be a tool of party political consideration. Whatever her merits, the nomination of Ms Cahill is obviously aimed at Sinn Féin. Indeed, the Government is speaking out of both sides of its mouth about when it is going to hold the general election.

Senator Mary Moran: That is not true. The Senator cannot surmise about matters in that way.

Senator Rónán Mullen: It would serve the public better if there was not this pretence that it is all going to be in the national interest, when it is really about party political jostling. I say that with no particular axe to grind regarding when the general election will be called.

As somebody with a personal interest in the care of people with dementia and Alzheimer's disease, it was an honour to attend the pre-budget briefing held by the Alzheimer Society of Ireland last week. When home in Galway recently, I encountered a person who is caring for somebody with Alzheimer's. When the discussion about extra care came up, the helpful local health board representative asked the carer "Would you consider putting him into respite for a week?" The carer found this very upsetting because the person in question would not be fit for that and would find it extremely disorienting. Whereas she realised that the health board official was seeking to be helpful, she felt all the more lonely that her particular situation was not understood. Cases such as this underline what the Alzheimer Society of Ireland and others are saying when they talk about the need for intensive, dementia-specific care in the community. In fact, they are talking about funding such provision beyond the eight current pilot sites to all local health office areas, which would cost approximately €320 million. Of the order of €1.69 billion is currently spent on caring for people with dementia, but most of that is spent on nursing home care when in fact such care should be the last resort. It is important to have care in the community and that people are assisted in living and being cared for at home. That requires supports, including people who understand the evolving situation that having dementia or Alzheimer's involves being brought in. The care on offer should be specific to the condition of the person. With all the pre-budget and pre-election talk, I hope that care in this important area is something the Government will take seriously. It should listen to the Alzheimer Society of Ireland and provide funding to meet the need that exists in this area.

Senator Jim D'Arcy: I support the request made by Senator Mac Conghail for tributes to and statements about Brian Friel in this House. I recall attending the first production of "Dancing at Lughnasa" in the Abbey Theatre and I walked out stunned. It was something completely new and revolutionary. There was a statement there which is still ringing in my head all these years later. Mr. Friel was a prolific writer whose plays included "Translations" and "Philadelphia, Here I Come!". He wrote 24 plays and many other learned pieces. Bearing in mind that he, John Hume and Seamus Heaney attended the same college in Derry, it shows how close we are on this island. They all considered themselves to be Irish and we consider them to be great Irish people. Taken together with our new Nobel Prize winner, we have great people in the North of our island and should be very proud of them.

Senator Gerard P. Craughwell: Go raibh maith agat, a Chathaoirleach. I join with colleagues who have spoken about the forthcoming election to the Seanad. I agree with what Senators Norris and Mullen had to say. We debase ourselves in this House in the way we allow elections to take place. It is a foregone conclusion before it has even started. Indeed, it has been in the public domain, put there by members of---

Senator Paschal Mooney: Not in Senator Craughwell's case. He jumped through the gap.

Senator Marie Moloney: He would not be here.

An Cathaoirleach: Senator Craughwell without interruption.

Senator Gerard P. Craughwell: As one of my colleagues on the other side of the House said, somebody kicked an own goal and that is the only reason I am here. The bottom line is that I do not believe Fine Gael will put up a candidate. I compliment Fianna Fáil and hope Sinn Féin will consider it. Indeed, if there is a person who is independent and is looking for a signature, my signature is here waiting.

I believe the candidate who is now nominated is a worthy person. She has been through a lot in her life and is highly articulate. Like any other victim of abuse who is equally articulate, she would be a great asset to this House. I will welcome her when she comes here.

I ask the Leader to establish how it was that the National Monuments Service allowed the destruction of over 75% of a bronze age road in Mayne bog in Coole in County Westmeath. We had some debate here about the Beit collection previously. It appears the company in question in this instance was trying as hard as it could to comply. No instruction came from the National Monuments Service or Dúchas; nobody told the company what it could not do so it ripped up an archaeological site. It is outrageous.

Senator Lorraine Higgins: I call on the Minister for Justice and Equality to come to the House to have a debate on rural crime. I wish in particular to discuss why many of the recent criminals robbing and plundering rural Ireland have not been disqualified from driving. Section 27(1)(a) of the 1961 Road Traffic Act provides that where a criminal has used a mechanically propelled vehicle in the commission of a crime or an offence, he or she can be disqualified from driving. This has not happened to any of the ringleaders imprisoned recently, who were responsible for a spate of burglaries, robberies and assaults.

It is not good enough to do nothing about this. We should try to curtail the freedom of movement of these criminals in more ways than one. The law is being under-utilised by our legal officers. I feel strongly that the DPP should throw the book at these thugs and put forward charges of disqualification against every criminal using a car in the commission of their crimes.

If we are serious about combatting rural crime, it is imperative that we use the legal infrastructure that is already in existence to punish those who rob and plunder our rural communities. We should also consider amending this legislation so that we can include a further provision that any criminal who is a passenger in a car and is intent on being an accessory to a crime could also be disqualified from driving. Unless we introduce hardline deterrents for all these criminal gangs, we will lose the battle with crime in rural Ireland.

Fear is pervasive in every town in my constituency - I am sure it is the same across the country - from Athenry to Dunmore, Loughrea and Gort. The Garda is working hard but our

laws need to be more hardline. We need to deter criminals and cut them off from their market, which is rural Ireland. At the same time we must offer solace to those who are living in their homes in fear. As rural dwellers, we deserve nothing more but certainly nothing less than that. I ask that the Minister for Justice and Equality come into the House so that we can have a proper discussion about why section 27(1)(a) is not utilised more often in our courts.

Senator Trevor Ó Clochartaigh: Senators may remember that last May we had the unprecedented sight of psychiatric nurses marching outside University Hospital Galway due to a dispute over staffing levels. An engagement took place with management and a resolution was agreed and promised. Unfortunately, we are back to a situation where those promises have not been delivered upon and there was a crisis scenario in University Hospital Galway at the weekend when there was a shortage of psychiatric nurses in the acute unit, putting the lives of the nurses and patients in jeopardy. I have spoken to nursing representatives this morning who are extremely angry at what has happened. They feel no move has been made to try to move the psychiatric patients and the staff into the new unit at the hospital which is lying idle because of inexplicable delays and the nursing quota has not been put in place.

This is in the broader scheme of mental health services in Galway-Roscommon which are also in crisis. We have seen a reshuffling of management in that area recently. We have seen scandals in Roscommon but they all come back to the management of the service overall. Much of the pressure in UHG is due to the closure of the facility at Ballinasloe. When the facility at Ballinasloe was closed there was a promise that a community service with up to about ten nurses would be put in place to deal with people in the community but that has not been delivered upon. I ask that the Minister of State at the Department of Health, Deputy Kathleen Lynch, come to the House to look specifically at the issues around Galway-Roscommon which are in absolute chaos as nobody appears to be managing the services. When the Psychiatric Nurses Association, PNA, was trying to contact management at the weekend in respect of UHG, the management which is responsible for putting nurses into the unit was nowhere to be found. It is disgraceful. This put lives in jeopardy at the weekend and the position does not appear to be improving, so we need the Minister of State, Deputy Kathleen Lynch, to come to the House. I hope it is only a Galway-Roscommon issue and not a nationwide issue. Certainly it is at crisis point and needs to be dealt with as a matter of urgency.

Senator Maurice Cummins: Senator Darragh O'Brien has opposed motion No. 1, re Aer Lingus, being referred to the committee. I was trying to explain to him that it will be referred to the committee and will come back to the House to be discussed at that stage. I appreciate Senator O'Brien's position on the matter but I certainly cannot accede to his request for an amendment to the Order of Business, as proposed.

Senator Bacik and several other Senators raised the issue of the Labour Party proposing to nominate Máiría Cahill to contest the Seanad by-election. We have had many people speak about whether we should have a Seanad by-election. In the past people have been appointed for two or three weeks without by-elections. This is a democratic process and-----

Senator Diarmuid Wilson: Sometimes it can go wrong and we can end up with-----

Senator Maurice Cummins: It is quite true that we have had people appointed for two or three weeks after a general election to take up Seanad positions.

Senator Diarmuid Wilson: Is the Leader confirming that will not happen; that was in the

past?

Senator Maurice Cummins: I am only saying that is what happened, so we certainly should not be afraid of a by-election in this regard.

Senator Darragh O'Brien: We are not afraid.

Senator David Norris: A couple of hundred voters all know what to do.

Senator Maurice Cummins: I am sure we will elect a very good person to represent them because-----

Senator David Norris: Senator Cummins knows very well we will elect.

Senator Maurice Cummins: -----we still have about four months to go before an election.

Senator David Norris: Hear, hear, well said.

(Interruptions).

Senator Paschal Mooney: Do not be trying to fool the Labour Party.

Senator Maurice Cummins: I can assure the Senator that we have at least 28 Bills to pass by Christmas so we will have a very busy time.

Senator Gerard P. Craughwell: The Senator is rowing back-----

Senator Maurice Cummins: Whether we come back after Christmas is another matter but I can assure the Senators we will be here-----

Senator Gerard P. Craughwell: -----another three weeks.

Senator Maurice Cummins: -----until 2016 before we have a by-election.

Senator Paschal Mooney: I hope the more excitable elements of the Irish media will pick up on those remarks.

Senator Maurice Cummins: I am glad to clarify that matter to the best of my ability.

Senator Darragh O'Brien: That is 2016-----

Senator Maurice Cummins: However, Senator Bacik mentioned the Startup Gathering and the Action Plan for Jobs and called for a debate. We will have a debate on Horizon 2020 on Thursday.

Senator Norris and other Senators were in agreement about citizens' rights and data protection in terms of today's decision by the European Court of Justice. I am sure we will hear a lot more on that matter and that when the time is appropriate, we can debate it in the House.

Senator Mullins and others joined with Senator Bacik in condemning the bombing of the hospital in Afghanistan. It was a dreadful incident in which so many people were killed. There is definitely a need for an inquiry in that regard.

Senator Barrett congratulated William Campbell, the Nobel Prize winner. I am sure we all wish to compliment Professor Campbell on his wonderful award. The Senator also noted the

trans-Pacific trade agreement and the issues involved in that regard. Perhaps we will have time at a later date to discuss the matter, especially in regard to the European and US trade agreement, which has been mooted also.

Senators Mac Conghail and Jim D'Arcy mentioned the sad passing of Brian Friel. The Senators paid fitting tributes to a man who was certainly a giant of theatre and a wonderful playwright. I would like to extend my condolences and those of the House to his wife, family and his extended family in the arts community in Ireland and abroad. It is customary to pay tribute to former Senators at a later stage and we will try to arrange for same.

Senator Brennan welcomed the new biometric passport that has been announced. He also complimented the Naval Service on its work in the Mediterranean. Senator Mooney notified the House about the four Israeli children that were murdered and he outlined the need for a two-state solution in the Middle East. Certainly, both Senator Mooney and all Members of the House condemn all violence on all sides in this dispute.

Senator Moloney complimented the Minister of State, Deputy Gerald Nash, on his work in his Department. She also made a point about the closure of a women's refuge. Perhaps she might table the issue as a Commencement matter. Senator Norris referred to the arrest of a 12-year old child for the murder of an eight-year old child in the US. He again outlined the futility of the gun laws which exist in the United States of America. It is incomprehensible to people in other countries that such laws should exist.

Senators Mullins and Walsh mentioned Ibrahim Halawa and the ninth postponement of his trial. They agree that this is an appalling position for an Irish citizen to find himself in. The Minister for Foreign Affairs and Trade is doing everything possible to secure the release of Ibrahim Halawa. Let us hope he will be released sooner rather than later and that he can be returned to his family.

Senator Cullinane welcomed the suspension of strike action which brought postal services to a standstill in recent days. He also wished the negotiations well. I am sure the Minister is on top of his brief in this regard. Senator Kelly rejected the amalgamation of electoral areas in Roscommon and Westmeath. I am sure we will have an opportunity to discuss the matter when there is legislation in that regard. Senator Walsh mentioned NAMA, which has been debated extensively in committee. I do not think this House should duplicate the efforts of the committee. The Senator also chose a number of issues on which he hopes that the next election will be fought on. Senator Moran talked about promoting Positive Mental Health Week, which is laudable as it is a very important subject. She also welcomed the employment strategy for people with disabilities, which was announced last week. In respect of her question about Our Lady of Lourdes Hospital, perhaps she could put the matter down for a Commencement debate. It could then be discussed and she could get the relevant information from the Minister.

Senator Mullen spoke about Alzheimer's disease and dementia. I agree with the Senator that care in the home is the most important thing we have in this area and I note his points. Senator D'Arcy paid tribute to Brian Friel on his work and Senator Craughwell wondered why the National Monuments Service did not intervene in regard to the archaeological site in the midlands. Perhaps he could also put down the matter for a Commencement debate so that he could ask the Minister himself.

Senator Higgins said a driving disqualification should be mandatory for a burglar who uses

a car and called for more effective laws in this regard. The Minister has indicated that she will be bringing a burglaries Bill before both Houses in early course. I am sure those points can be made at that time.

Senator Ó Clochartaigh raised the plight of psychiatric nurses and services in Galway-Roscommon. Again a Commencement debate might be appropriate.

An Cathaoirleach: Senator Darragh O'Brien has moved an amendment to the Order of Business, "That a debate with the Minister for Transport, Tourism and Sport on the reduction in the pension entitlements of airport pension scheme members be taken today."

Amendment put:

The Seanad divided: Tá, 17; Níl, 21.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Brennan, Terry.
Craughwell, Gerard P.	Coghlan, Eamonn.
Cullinane, David.	Coghlan, Paul.
Healy Eames, Fidelma.	Comiskey, Michael.
Leyden, Terry.	Cummins, Maurice.
Mooney, Paschal.	D'Arcy, Jim.
Mullen, Rónán.	Gilroy, John.
Norris, David.	Higgins, Lorraine.
Ó Domhnaill, Brian.	Keane, Cáit.
Ó Murchú, Labhrás.	Kelly, John.
O'Brien, Darragh.	Landy, Denis.
O'Donovan, Denis.	Moloney, Marie.
Power, Averil.	Moran, Mary.
Walsh, Jim.	Mullins, Michael.
White, Mary M.	Naughton, Hildegard.
Wilson, Diarmuid.	O'Keeffe, Susan.
	O'Neill, Pat.
	van Turnhout, Jillian.
	Whelan, John.
	Zappone, Katherine.

Tellers: Tá, Senators Paschal Mooney and Diarmuid Wilson; Níl, Senators Ivana Bacik and Paul Coghlan.

Amendment declared lost.

6 October 2015

Question, “That the Order of Business be agreed to”, put and declared carried.

Proceeds of Sale of Aer Lingus: Referral to Joint Committee

Senator Maurice Cummins: I move:

That the proposal that Seanad Éireann approves the payment by the Minister for Finance, pursuant to section 46(1) of the National Treasury Management Agency (Amendment) Act 2014, from the Central Fund to the Ireland Strategic Investment Fund of €335,272,562.50 (three-hundred and thirty-five million, two-hundred and seventy-two thousand, five-hundred and sixty-two euro and fifty cent) being the amount of the funds derived from the proceeds of the sale of the State’s shareholding in Aer Lingus, be referred to the Joint Committee on Finance, Public Expenditure and Reform, in accordance with Standing Order 70A(3)(j), which, not later than 15th October, 2015, shall send a message to the Seanad in the manner prescribed in Standing Order 73, and Standing Order 75(2) shall accordingly apply.”

Question put and agreed to.

Joint Committee of Inquiry into the Banking Crisis: Motion

Senator Maurice Cummins: I move:

That, notwithstanding anything in Standing Orders, the Order of the Seanad of 26th November 2014 relating to the Joint Committee of Inquiry into the Banking Crisis is amended in paragraph (8) by the deletion of ‘30th November 2015’ and the substitution therefor of ‘28th January 2016’.”

Question put and agreed to.

Sitting suspended at 4.55 p.m. and resumed at 5 p.m.

5 o’clock

Criminal Law (Sexual Offences) Bill 2015: Order for Second Stage

Bill entitled an Act to give effect to Directive No. 2011/93EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, for that purpose to amend certain enactments; to amend the Punishment of Incest Act 1908; to amend the Criminal Evidence Act 1992; to repeal the Criminal Law (Incest Proceedings) Act 1995; to amend the Criminal Law (Sexual Offences) Act 2006; to provide for offences relating to payment for sexual activity with prostitutes, offensive conduct of a sexual nature and harass-

ment of victims of sexual offences and to provide for related matters.

Senator Ivana Bacik: I move: “That the Second Stage be taken now.”

Question put and agreed to.

Criminal Law (Sexual Offences) Bill 2015: Second Stage

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

Minister for Justice and Equality (Deputy Frances Fitzgerald): I am very pleased to present this Bill to the House.

This Bill is the most comprehensive and wide ranging piece of sexual offences legislation to be introduced in almost a decade. It strengthens existing law to combat child pornography, the sexual grooming of children, incest, exposure and other offensive conduct of a sexual nature. Not only will the provisions in this Bill target those who target children, there is also recognition of the needs of victims of sexual offences and those who assist them. In this respect, I am particularly pleased that provisions are included in this Bill which, when enacted, will regulate and bring certainty to the disclosure of counselling and therapy records in sexual offence trials. In addition, amendments to criminal evidence legislation acknowledge the difficult experience which a trial process may be for the victim of a sexual offence.

Other measures include the introduction of harassment orders prohibiting convicted offenders from contact with their victim. Finally, and an issue which has already been the subject of considerable debate, the Bill will criminalise those who purchase sexual services.

All of the provisions in the Bill, which I will outline in more detail, are the culmination of a long process and wide consultation.

Senator David Norris: Not very wide.

Deputy Frances Fitzgerald: As well as implementing the recommendations of a number of Oireachtas committees, the Bill brings Irish law more closely into line with our international obligations.

Senator David Norris: Not with New Zealand.

Deputy Frances Fitzgerald: For example, in terms of EU directives on child sexual exploitation and abuse and other international obligations which we have. There are, however, and I want to clearly acknowledge at the outset, provisions absent from the Bill which were approved for inclusion - most notably provisions to replace section 5 of the Criminal Justice Act 1993 in relation to the protection of mentally impaired persons and provisions to amend and update the Sex Offenders Act 2001. I assure Members of the House that these are not matters which have been discarded, far from it.

The repeal of section 5 of the Criminal Justice Act 1993 was the subject of a Bill brought forward by Senator Zappone last year. As I acknowledged when we debated that Bill, section 5 - titled protection of mentally impaired persons - is of its time and should be repealed. It fails

to facilitate the full participation in society of disabled persons and the full expression of their human rights. Achieving the necessary balance between those rights and ensuring appropriate protection is crucial. However, I can assure the House, and in particular Senator Zappone, that I will bring forward amendments in this House to this Bill to address section 5.

In relation to the amendments to the Sex Offenders Act 2001, the drafting of these provisions is also continuing. Legal issues which arose during drafting as well as the need to update the provisions to reflect operational advancements have been the primary cause of delay. However, many of those matters are now resolved. It is my intention that these provisions will be brought forward as a separate piece of legislation amending the 2001 Act. I assure the House that bringing forward the amendments to the 2001 Act is an absolute priority.

Given the wide-ranging nature of this Bill, it is not possible to outline every aspect and detail but I am confident that the provisions will be thoroughly considered during the further discussions today and at later Stages.

In my view the provisions contained in Part 2 of this Bill which address the sexual exploitation of children are among the most important criminal law provisions to be brought forward. We must take every step possible to combat and target those who engage in the sexual exploitation of children, and in those activities which support and promote the sexual exploitation of children. While we already have significant legislation in place to target those who prey on children, the provisions under Part 2 are a further step. Contained in this Part are measures which strengthen existing law in the area of child pornography as well as new offences targeting child sexual grooming which focus on those who use modern technologies to engage with children with the purpose ultimately of sexually exploiting those children.

Section 3 is an offence of obtaining or providing a child for the purpose of sexual exploitation. This offence builds on the existing offence of sexual exploitation under the Child Trafficking and Pornography Act 1998. In terms of paying a child or another person for the purpose of sexually exploiting a child, the provision is clear that such would include “any other form of remuneration or consideration” other than monetary. For example, the giving of a computer game or such to a child would fall under the provisions of this section. The section also criminalises offering a child or obtaining a child without reference to monetary or other form of remuneration. In order to target, at the earliest possible point, any intention to exploit a child, it is important that the law sets out in detail those initial acts or steps which a predator may take to gain access to a child.

What constitutes sexual exploitation is defined in section 2 and includes engaging a child in prostitution or child pornography, the commission of a sexual offence against the child or causing another person to commit such an offence. In line with the offence of sexual exploitation under the 1998 Act, and the requirements of an EU directive on combating the sexual abuse and sexual exploitation of children, the offences targeting these pre-emptive steps to the exploitation of children apply to children up to the age of 18 years.

Section 4 closes a possible gap in existing law in relation to the sexual assault of children. Under the law as it stands, a child under the age of 15 years cannot consent to an act which, without consent, would amount to sexual assault. While the touching of a child would amount to sexual assault, this section clarifies that a person who invites a child to touch them or another person is committing an offence. The penalty of up to 14 years is the same as for sexual assault.

Sections 5 to 8, inclusive, are offences connected with the sexual grooming of children. Sections 5 and 6 provide for offences relating to sexual activity in the presence of a child or causing a child to watch sexual activity. Familiarising children with such activity or material can take place during the early stages of the predatory process, leading to more serious forms of child sexual exploitation.

Section 7 is an offence which targets the point at which initial contact has been made with a child by a person intent on the sexual exploitation of that child. The offence arises where the person then meets with the child or makes arrangements to meet with the child. Again, this targets activity prior to actual exploitation of a child.

Section 8 contains two new offences addressing the use of modern communication technologies in the grooming and exploitation of children. Modern communication technologies and social media generally are incredibly useful tools for everyone. However, children and young people in particular are vulnerable to unwanted and seemingly innocuous contact from those who may prey on them. The offence under this section is an acknowledgement of that risk. It criminalises the initial stages of grooming where communication via, for instance, the Internet is the first step in facilitating the sexual exploitation of children. Section 8 offers further protection to children from unwanted advances by including an offence of sending sexually explicit material to a child by mobile or Internet communication. The seriousness of these offences is reflected in the potential penalties, which may be imposed, of between ten and 14 years.

Sections 9 to 14 amend the Child Trafficking and Pornography Act 1998. There are already significant offences under Irish law relating to child abuse material or child pornography as defined under the 1998 Act and the provisions in the Bill strengthen those provisions. In terms of new offences, recruiting or causing a child to participate in a pornographic performance is now a specific offence as is attending a live pornographic performance including viewing such by means of information and communication technology. We are hearing more and more disturbing reports of the international exploitation of children and children being made available for sexual exploitation that is being recorded and being viewed around the world.

I would also like to draw attention to the provisions in sections 16 and 17 of the Bill which provide for offences of a sexual act with a child below the ages of 15 and 17, respectively. These offences replace the existing defilement offences under the Criminal Law (Sexual Offences) Act 2006. There are two notable amendments to the existing offences. First, there is a change in relation to the defence of “mistake as to age”. Under the 2006 Act, an accused could rely on a defence of honest belief as to the age of the complainant. This is a subjective test requiring the accused to prove that he or she honestly believed that the other party had reached the specified age. Under this Bill, the defence will be one of reasonable mistake as to the age of the complainant. This is an objective test under which the court shall consider whether in the circumstances of the case, a reasonable person would have concluded that the child had attained the required age.

The second issue I would like to highlight is the recognition in the Bill of under age, consensual, peer relationships through the introduction of a “proximity of age” defence. Under this provision, a person charged with an offence of engaging in a sexual act with a person between the ages of 15 and 17 years can rely on a defence where the act is consensual, non-exploitative and the age difference is no more than two years.

Part 3 of the Bill deals with the criminalisation of the purchase of sexual services. I will

return to this Part shortly but would first like to outline some of the main provisions contained in the other parts of the Bill. Part 4 of the Bill modernises and restates the law in relation to incest. It corrects a gender anomaly with regard to the penalties for an offence of incest by a male and incest by a female. At present, incest by a male is punishable by a maximum sentence of life imprisonment whereas incest by a female is punishable by a maximum sentence of up to seven years' imprisonment. Under this Part, both offences will be subject to penalties of up to life imprisonment.

Part 5 of the Bill provides for a number of amendments to the Criminal Evidence Act 1992 designed to support and protect victims of sexual offences during the criminal trial process. Measures to further protect child victims of sexual offences from any additional trauma during the giving of evidence include giving evidence from behind a screen. Provision is also included preventing a person accused of a sexual offence from personally cross-examining a person under the age of 14 years unless the interests of justice require such cross-examination. A court may also direct that an accused may not personally cross-examine a child between the ages of 14 and 18 years. Safeguards to protect the rights of the accused to a fair trial are included, such as directing the jury that no inferences may be drawn from the fact that an accused has been prevented from conducting such a cross-examination.

A further provision in this part, which I would like to highlight, and which I mentioned earlier, is the provision under section 33 on the disclosure of third party records in certain trials. The appropriateness of the disclosure of such records will be the subject of a pre-trial hearing and any disclosure will, while respecting the rights of an accused to a fair trial, take account of the right of a victim of a sexual offence to privacy. Only records, or parts thereof, which are likely to be relevant to an issue at trial and which are necessary for the accused to defend the charges against him or her should be disclosed.

Part 6 of the Bill deals with amendments to existing jurisdiction legislation to include new offences created under this Bill to enable the prosecution of offences committed against children outside the State by citizens of the State or by persons ordinarily resident in Ireland.

I would like to draw attention to two provisions in Part 7 of the Bill. Section 39 contains an offence of exposure and offensive conduct of a sexual nature. The existing offence of public indecency has been struck down by the courts on the grounds of vagueness and the new offences contained in section 39 clarify the acts and activities which give rise to an offence.

Section 40 introduces harassment orders whereby a court can impose an order prohibiting a convicted sex offender from contacting or approaching his or her victim for a specified period of time. The order can be imposed at the time of sentence or at any time prior to the offender's release. The order may be imposed where the court is satisfied that the offender has behaved in such a way as to give rise to a well-founded fear that the victim may be subject to harassment or unwanted contact by the offender such as would give rise to fear, distress or alarm, or amount to intimidation.

I think the House will agree that the provisions of this Bill are a significant step forward in targeting those who would abuse children, as well as offering some further protection to victims of sexual offences.

Returning now to Part 3 of the Bill, this part contains two sections providing for the criminalisation of the purchase of sexual services. This is a matter which has already been the sub-

ject of considerable debate both inside and outside these Houses, and indeed beyond this State. The two offences contained in the Bill, the first a general offence of paying to engage in sexual activity with a prostitute, and the second, the more serious offence of paying to engage in sexual activity with a trafficked person, are the result of considerable and extensive public consultation by my Department but, primarily, by the Oireachtas Joint Committee on Justice, Defence and Equality, which recommended similar proposals in 2013.

Senator David Norris: Without adequate consultation-----

Senator Ivana Bacik: There were 800 submissions.

Senator David Norris: -----and the exclusion of evidence.

Deputy Frances Fitzgerald: The committee received 800 submissions.

In deciding to put forward these provisions I have considered all sides of the debate. I have considered the experience of those states which have introduced similar measures and those states which have addressed prostitution in a different way. First, let me be clear as to what these provisions do. It will be an offence for a person to pay, offer or promise to pay, a person for the purpose of engaging in sexual activity with a prostitute. The person providing the sexual service, the prostitute, will not be subject to an offence. The purpose of introducing these provisions is primarily to target the trafficking and sexual exploitation of persons through prostitution. Both the Council of Europe and the European Parliament have recognised the effectiveness of the criminalisation of the purchase of sexual services as a tool in the fight against human trafficking.

Senator David Norris: Can the Minister give us statistics, figures?

Deputy Frances Fitzgerald: Yes there are. There is a very detailed report from the Council of Europe and the European Parliament on this issue. However, even to leave aside this unquestionable objective, there is undoubtedly evidence of a wider exploitation of persons involved in prostitution outside of those trafficked, such as those coerced or otherwise forced through circumstances to engage in the activity. The most direct way of combatting this form of exploitation is to send the message to those who pay for these services and who ignore the exploitation of women and men involved, that their behaviour is unacceptable and that it supports the exploitation of other people. There are many aspects to the debate on these provisions which I expect will be raised here today and during the passage of this Bill. These include issues regarding the impact of them on the safety, health and well-being who work in prostitution; concerns that these changes will drive prostitution further underground; and arguments that women and men can freely and voluntarily provide these services without experiencing the exploitation which I believe is widely and normally associated with prostitution. In deciding to put forward these proposal I have listened to all sides of the debate and I am convinced that to target the exploitation associated with prostitution requires targeting those who demand those services. I look forward to hearing and discussing all of these issues with the Members of the House and in further debates on the Bill.

In recognising the exploitation associated with prostitution I would like to inform the Senators that I will bring forward amendments in this House which will further decriminalise the women and men involved in prostitution by removing from the existing offences of solicitation and loitering for the purposes of prostitution those who offer sexual services. I thank Members of this House, many of whom have contributed to the content of this Bill, through their work

both inside and outside the House. I also thank the victims' support groups and community groups who have contributed to the development of this Bill over a long number of years, who have made very thoughtful submissions and clarified their points of view, particularly in working with the justice committee.

I believe this Bill is overall a reflection on the advances in technology, research, experience and debate. Regardless of the focus of the debate today, or later inside this House or outside it, let us not forget the primary purpose of the Bill, which is to substantially strengthen our law, to target our most vulnerable - our children - and to send a message to all victims of sexual offences that we recognise the unfathomable harm and trauma inflicted upon them and that we support them.

Acting Chairman (Senator Terry Leyden): On behalf of the House I thank the Minister for bringing this Bill to this House. Senators welcome the fact that as a former Leader of this House, the Minister appreciates that the contributions will be very worthwhile. I also welcome to the House the Minister's senior officials from the Department of Justice and Equality.

Senator Mary M. White: I welcome the Minister here this evening. I will refer to key points in her speech which I fully support. The Minister said that the House will agree that the provisions of this Bill are a significant step forward in targeting those that abuse children as well as offering some further protection of victims of sexual offences. She said the Bill will substantially strengthen our law, to target our most vulnerable - our children - and to send a message to all victims of sexual offences that we recognise the unfathomable harm and trauma inflicted upon them and that we support them.

I believe that the sexual abuse of a child is on par with murder and that we are lax in our vigilance of potential predators of children, albeit in innocent circumstances. There are children in Ireland who are being minded by people where there is no oversight or Garda vetting. The vast majority of pre-school children in this country are in situations where there is no vetting of the people who are minding them. One day this will blow up in our faces.

I understand from the passion in the Minister's voice that she is totally in support of the Bill. That is her prerogative. I would, however, like to deal with the section 20, as there is great confusion on this aspect. No matter what happens in the future, following the next election I will not be returning to the Seanad but leaving that aside, it is never wrong to say the right thing. I am a left of centre feminist but I am not an extreme feminist. I treat men and women equally but I believe that on this issue there is an alliance between extreme feminists and extreme conservatives. It is an extraordinary alliance and the less said on that the better, but I feel I must be honest with myself and say it. In this regard I believe that section 20 confuses trafficking with prostitution. It is daft. We all oppose trafficking of human beings. We are totally and utterly opposed to it. Our record is very poor on trafficking, criminalising trafficking and the people who traffic human beings. I want this to be on my record in this House, even as I do not intend to be here again following the election.

The buying and selling of sexual services in a private dwelling in Ireland is currently legal but virtually all other activities associated with buying and selling sexual services are criminalised. For example, it is illegal for more than one person to sell sexual services in a private place, it is illegal to buy sexual services on the street or in a public place and it is illegal to sell sexual services on the street or in a public place. Section 20 criminalises the purchase of sex in Ireland making it illegal to pay a person for sexual services. The stated aim of criminalising the

purchase of sex is to stop sexual exploitation and trafficking by ending the demand.

However, in countries such as Sweden, where similar laws were introduced, there is no coherent evidence that demand is reduced or that exploitation and trafficking are decreased, as outlined by Sex Workers Alliance Ireland in its paper on criminalisation and safety. The sex industry merely adjusts and sex work continues, further from the authorities and further from safety. Independent research shows that the legislation proposed in line with section 20 simply does not work, rather it increases the risk of exploitation, trafficking and abuse. Sweden enacted legislation in 1999 to criminalise the purchase of sex. However, in the sex workers report, there are ten reasons outlining why the Swedish law does not work. Dr. Kathryn McGarry of NUI Maynooth states how the people that the Swedish ban purports to protect are the very people most adversely impacted by the ban. The report goes on to state that the 2010 official evaluation of the Swedish sex purchase ban provides little valid evidence of any noticeable difference since the introduction of the ban. Instead, sex workers were forced to sell their sex in areas less familiar, less safe and less visible. Their relationship with the law enforcement agencies deteriorated further.

Criminalised environments limit the abilities of sex workers to manage their own safety. It pushes those who may be more vulnerable in the first instance, street-based sex workers for example, to less familiar areas out of sight from law enforcers. The ban on the purchase of sex fails to acknowledge how and why women and men make choices to sell sex and it merely imposes constraints on sex workers in their abilities to make contact with clients. Evidence is growing on the adverse effects of the sex purchase ban on sex worker's lives in Sweden. There are negative impacts, not just on sex worker's ability to keep safe, but also threatening sex worker's personal lives in terms of eviction, child custody arrangements and immigration problems. Women's voices are too often sidelined and silenced in debates on sex work. Instead, women are often infantilised regarding their choice to sell sex, as something that they have been coerced into through circumstances. By only allowing voices that fit a particular victim frame to be heard, we deny women the opportunity to speak for themselves, to own their own issues and, crucially, to be involved in decisions that affect their lives. Sex workers themselves should be at the centre of any policy or law which directly impacts their lives.

Senator Catherine Noone: I welcome the Minister and her official to the House and thank them for all their work on this very important legislation. I welcome those in the Gallery who are involved in this area, in particular John Cunningham, the chair of the Immigrant Council of Ireland. They are all very welcome.

As a strong advocate for the welfare and well-being of children, I strongly welcome this Bill which, in addition to tackling sex trafficking, will include stronger sanctions aimed at protecting children from sexual exploitation, child pornography and online grooming. I want to address one point that Senator White made on the Sex Workers Alliance report on the Swedish situation or model. The findings of our own justice committee completely dispute the statements that Senator White has made on the matter. I think it is important-----

Senator David Norris: It refused to take contrary evidence.

Senator Catherine Noone: Yes. Exactly-----

Senator David Norris: You excluded anybody who didn't agree with you.

Senator Catherine Noone: I will try to continue.

Senator David Norris: You did. It is true.

Senator Catherine Noone: I will try to continue.

An Cathaoirleach: Each Senator will have an opportunity to make a contribution.

Senator Catherine Noone: Over the last two decades child pornography and online grooming, in particular, have become increasingly widespread both at a national and international level. As such, I am particularly encouraged that this Bill includes two new offences that target online sexual predators so as to protect children from exploitation by way of new technologies, including social media. This Bill includes provisions to criminalise adults who contact children either online or through mobile communications, such as text messaging, for the purpose of sexually exploiting the child. This offence is targeted at the initial stages of grooming and does not require physical contact or meeting between the adult and child in question. The penalty of up to 14 years' imprisonment reflects the serious nature and intent behind the communication and I welcome this in particular.

The Bill also includes the offence of sending sexually explicit material to a child. This new provision protects children from unwarranted and unwanted advances. This is also recognition that the intention behind this type of activity may be to expose the child to such material with a view to developing the child's familiarity with such material or activity.

The Minister has already outlined many of the provisions of the Bill but other new provisions in the Bill which I am very much in favour of include the strengthening of offences to tackle child pornography, the strengthening of the post-release supervision and monitoring of sex offenders, and the introduction of a new harassment order. It also addresses the gender anomaly in incest law.

Sections 3 to 8, in particular, introduce a range of offences that target the sexual exploitation of children. The new offences relate to: paying for the purpose of sexually exploiting a child; invitation to sexual touching; sexual activity in the presence of a child; causing a child to watch sexual activity; and making arrangements to meet a child for the purpose of sexually exploiting that child. New provisions included in the Bill will increase the penalty for incest by a female to up to life imprisonment in line with the existing penalty for incest. Heavy imprisonment penalties for all these new offences will hopefully be a sufficient deterrent and provide a significant step in combatting the risks posed to our children.

This Bill also contains a number of amendments to the Criminal Evidence Act 1992 which are intended to protect child victims of sexual offences from any additional trauma which may arise as a result of giving evidence during a criminal trial, such as extending the use of video recorded evidence and limiting the circumstances in which an accused can personally cross-examine a child witness. Moreover, additional protection will now be provided for victims of sexual offences who are at risk of continuing to be a target of their attacker. Persons convicted of sexual offences and who are to serve a sentence of imprisonment may be prohibited by court order from making contact with their victim.

On the specific issue of child pornography, this Bill includes provisions which strengthen the existing child pornography laws by specifically setting out the very wide range of activities and behaviours related to child pornography which will constitute a criminal offence and which will attract serious penalties. Building on existing offences, the new offences include recruitment of a child or arranging for a child to participate in a pornographic performance, attending

a pornographic performance involving a child or organising child prostitution or child pornography. Moreover, offences relating to the possession and distribution of child pornography are strengthened, as the Minister has outlined.

This Bill criminalises the purchase of sexual service. This is a crucial addition if we are to successfully tackle the scourge of sex trafficking. This Bill introduces two new offences that criminalise paying for sexual activity with a prostitute. These offences specifically target the demand for prostitution. The first is a general offence of paying to engage in sexual activity with a prostitute and the second is the more serious offence of paying to engage in such sexual activity with a person who has been trafficked. I see no ambiguity here or confusion between the two. In both cases, the person providing the sexual service does not commit an offence. This approach seeks to address the very real and tragic crimes of trafficking and exploitation associated with prostitution. This provision mirrors the approach adopted in Northern Ireland and in other jurisdictions where there has been a reduction in demand and, notably, over time, an increase in support for similar laws. As such, this Bill reflects an all-island consensus on targeting the exploitative nature of prostitution. It is my understanding that the Minister also today confirmed that she is examining the possibility of introducing proposals to decriminalise a person offering sexual service from the existing offences of soliciting and loitering for the purposes of prostitution under the Criminal Law (Sexual Offences) Act 1993.

In conclusion, this Bill is crucial because it will bring Irish law into line with a number of international instruments including an EU directive on combatting the sexual abuse and sexual exploitation of children and child pornography. It is also a further step towards the ratification of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. I commend this Bill to the House and thank the Minister and her officials for the hard work on the legislation.

Senator Katherine Zappone: I welcome the Minister to the House and I also welcome the Immigrant Council of Ireland, Ruhama, the Dublin Rape Crisis Centre, the representatives of unions and others who have also participated in bringing about this Bill. The Bill before us is a huge achievement for the Minister and her Department. As the Minister has indicated, it is lengthy, complex and deals with a number of reforms. It is time for these reforms. Many children, adults, citizens and civil society organisations wanted them long ago. Their advocacy, legal analysis, research and experience from the front line significantly influenced the coming of these reforms. My own view is that many have suffered exploitation or injustice or a demeaning of their dignity in the absence of such reforms and until we enact and commence new law, this will continue to be the case.

I will speak on Part 3 of the Bill and also on a section of the Bill that is still absent - the Minister has referred to this in her speech - an amendment to section 5 of the current 1993 Act that prevents people with intellectual disabilities from having sexual relationships before marriage.

I will begin by addressing changes in the law that the Minister has outlined in Part 3. I welcome these changes to the Irish law. I know that some of my independent colleagues will also speak to this section because, as the Minister is aware, members of our independent group put forward two Private Members' motions in October 2011 and April 2012 calling on the Government to develop legislation to criminalise the purchase of sex in order to curb prostitution and trafficking. Indeed it was these motions that prompted Deputy Alan Shatter, the former Minister for Justice and Equality, to direct the Joint Committee on Justice, Defence and Equality to conduct a public consultation on the matter, out of which the recommendations for the Bill

before us came. When the reform of our prostitution laws came before the Joint Committee on Justice, Defence and Equality the committee's recommendations were the result of an extensive consultation process and are cross-party and independent recommendations. I acknowledge the great leadership shown, and still being shown, by Senator Bacik in this matter.

In addition to the consultation, a number of Members visited Sweden to be informed by the experience there and we learned that it was necessary to engage directly with various organisations and individuals regarding the impact of the 1999 legislation enacted to prohibit the purchase of sexual services.

I wish to put on record my conclusions from that evidence-gathering visit.

Senator David Norris: Did the Senator speak with any of the prostitutes?

Senator Katherine Zappone: The size of the industry is dramatically smaller in Sweden than in other European countries and this has been verified by all the European and international experts. Critics maintain that there is no evidence that this is a result of the law but there is no other determining factor in comparative studies for similar countries such as Denmark. An approach that diminishes the size and scale of prostitution has major implications for the control of trafficking as there is increasing evidence that there is a direct corollary between the level of trafficking in a destination country and the size of the sex industry in that country. An emphasis was placed on the extensive services in Sweden which, in the view of the delegation, negated the unnecessary polarisation of harm reduction versus criminalising buyers. We heard evidence that the Swedish law ensures there is a focus on exit routes, which is what the vast majority of women say they want in any regime.

I am also of the view that prostitution is intrinsically a violation of human rights and the UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, and the Convention on the Elimination of All Forms of Discrimination against Women are clear on that. The pimping or procuring of others for the purpose of prostitution has been condemned by the UN convention on trafficking and the Palermo protocol states that ratifying nations must aim to reduce the demand that leads to sex trafficking. Research has shown that decriminalising leads to sex trafficking.

I will direct my next remarks to the amendment to section 5 of the 1993 Act, which the Minister has addressed and to which she will table amendments on Committee Stage. I express my gratitude to her for her willingness to take Second Stage of my Criminal Law (Sexual Offences) (Amendment) Bill 2014, which puts forward a way to bring our laws with regard to people with intellectual disabilities into line with what they advocate for themselves and with best international human rights standards, including the United Nations Convention on the Rights of Persons with Disabilities. My Bill, which was written in consultation with self-advocates and the centre for disability law and policy in Galway university, proposed to delete section 5 of the current Act, which criminalises people with intellectual disability if they engage in sexual relationships before marriage. I understand that is what the Minister will also propose but my Bill puts forward additional amendments to the Act to avoid any discrimination against people with disability, including a statutory definition of consent to sex that respects the sexual agency of all actors while criminalising all sexual acts that are not agreed upon or understood by all parties. It provides a nuanced definition of consent which is inclusive of people with disabilities. It states that, in determining whether consent was validly given, a person's mental impairment is not a determinative factor. This requirement reflects the obligations contained in the UN Con-

vention on the Rights of People with Disabilities, especially in Article 12, as interpreted by the UN committee, which states that deficits in mental capacity must not be used as a justification for denying legal capacity.

The debate has been considered by the Minister and her Department in order to assist them deliberate on how to amend these parts of our current law. I am grateful for that but I am dismayed by the fact that these amendments are still not part of the Bill before us. As she will be aware, the Joint Committee on Justice, Defence and Equality met with the Department on 4 February 2015 and was briefed on the heads of the Bill, which were published approximately a year ago. The heads did not contain a replacement of section 5. It was blank apart from a note that the Department was considering submissions received on this section. I am aware that submissions received in this section from at least nine organisations supported a move away from any disability-specific offences or any offences specifically targeted at vulnerable persons where vulnerability is primarily defined on the basis of an impairment.

At the meeting of the Joint Committee on Justice, Defence and Equality on 11 March we sought an update on the drafting of this head and on 1 April the Department responded by saying it had not yet been finalised but that it was expected shortly and a copy would be sent to the committee. That never happened and it is deeply regrettable that the Joint Committee on Justice, Defence and Equality was unable to do any pre-legislative scrutiny of this issue. I think this reduces the potential of the Government amendment to be as good as it could be. The self-advocates and the advocates and legal experts who support them have a right to be disappointed in this hole in our legislative process. Let us hope that, when the amendments are tabled on Committee Stage, these people are not also disappointed in their content and their substance.

Senator Ivana Bacik: I welcome the Minister and her officials to the House and welcome all those in the Gallery who have played such a strong role in helping to form the shape of and influence this Bill for the good, namely, the Immigrant Council of Ireland, Ruhama, ICTU, the INMO and the Dublin Rape Crisis Centre in particular. As the Minister said, it is a genuinely reforming Bill which brings in substantive and significant changes to our law on sexual offences. If there is one overarching theme, it is that it is a Bill which addresses sexual exploitation, in particular of children and those engaged in prostitution. I am particularly proud of the role the Joint Committee on Justice, Defence and Equality has played, to which the Minister paid tribute, in formulating some of the policy basis for the changes proposed in the Bill. I take strong issue with some of the comments by Senator Mary White on the changes in Part 3 of the Bill relating to prostitution and I will speak on those in a moment. I absolutely agree with all Senator Zappone said on Part 3 of the Bill, in particular relating to sections 20 and 21 on the changes in prostitution law.

Two aspects of the Bill are particularly welcome. Part 2 deals with sexual exploitation of children, which Senator Noone has dealt with in detail. I wholeheartedly welcome the changes here, particularly those in sections 16 and 17 that change the 2006 Act in respect of the defence of mistake and in respect of consensual underage peer relationships. These are sensible changes that will greatly enhance protections in our law for children.

Part 5 of the Bill deals with provisions for criminal evidence. I welcome a couple of changes there, in particular section 33 which deals with disclosure of third party records in sex offence trials. The Dublin Rape Crisis Centre has worked very hard on this. Senator van Turnhout introduced amendments on this issue in 2013 which I supported and the Minister deserves our thanks for bringing in these careful provisions. I know from colleagues in practice what a huge

issue the disclosure of records, particularly counselling records, has been in sex offence trials. It will be helpful for practitioners, judges and, most of all, complainants to see the clear criteria set out for decision making on the question of disclosure.

I also welcome section 30, a provision granting protection against personal cross-examination by the accused in sex offence trials where a witness is under 18 and under 14, for which there are different provisions. We are carrying out research in Trinity College on the real trauma that can be caused to complainants where a defendant chooses to cross-examine in person and currently there is no restriction on that in Irish law but this Bill will change that. It has been a huge and high profile issue in other jurisdictions and I am glad to see we are taking pre-emptive action. I suggest we consider extending this, perhaps in a more limited form, to adult complainants. This has been done in other jurisdictions to some positive effect.

Part 3 has been addressed in detail by others but I agree with and strongly support the new provisions in sections 20 and 21 concerning purchase of sexual services. Those who have commented on this should know that these changes are supported by a wide range of organisations, including the Immigrant Council of Ireland, the National Women's Council, Ruhama and the Turn Off the Red Light campaign. The change is only being introduced, as Senator Katherine Zappone said, following careful consultations and, in particular-----

Senator David Norris: It is the argument of one side.

Senator Ivana Bacik: -----the long consultations carried out at the Joint Committee on Justice, Defence and Equality. Like Senator Katherine Zappone, I was proud to be part of that and part of the small group which travelled to Sweden and heard direct evidence from those engaged in front-line implementation of the Swedish approach there. Our committee received 800 written submissions. We heard from 26 individuals and representatives of groups through public hearings. Senators may be interested to know that, through hearings, we heard from those for and against the Swedish approach. We heard from those engaged in prostitution both for and against the Swedish approach. I ask colleagues to look at the evidence basis of our recommendations and our report which is careful and well-worded and sets out how persuasive we found the evidence on the reduction of demand for prostitution in Sweden since the introduction of the prohibition on buying sex there in 1999. We noted that 80% of the submissions to us favoured the Swedish approach, that these were drawn from a broad cross-section of civil society, including, trade unions, frontline medical workers, service providers and those working with migrants, in particular.

We also found, again on evidence we heard, that prostitution is widely available across Ireland. It is highly organised, highly profitable, highly exploitative and largely controlled by organised crime interests. We heard that women enter prostitution in Ireland at a young age, many under 18, many are trafficked into prostitution and the vast majority are subject to control by a third party or pimped.

Even those witnesses who told us that they had entered prostitution freely and who argued against the Swedish approach said they represented, at most, 15% to 20% of those engaged in prostitution. Clearly, there is a huge level of coercion and exploitation taking place on a daily basis across Ireland in the actual reality of prostitution and yet I know, as a former practising lawyer, how flawed our current Irish model for regulating prostitution is based on public order and on prohibiting the visible manifestation of prostitution through criminalising loitering and soliciting.

I welcome the Minister's undertaking that she will bring forward amendments in this House to further decriminalise those women and men involved in selling sex and prostitution by removing those who offer sexual services from the existing offences of solicitation and loitering. We did not address this directly in the Joint Committee on Justice, Defence and Equality report but we asked the Minister to make those amendments to the legislation. We found ultimately that the focus of our current law on regulating supply and on targeting those engaged in selling sex, because those convicted of prostitution-related offences are overwhelmingly women and overwhelmingly those selling sex, was flawed and ineffective and we argued instead that we should adopt, as we are going to do in this legislation, a different approach which targets demand and criminalises only the purchase and not the sale of sex, similar to that introduced not only in Sweden but in other jurisdictions, including Norway, Iceland, Canada and, very recently, our neighbouring jurisdiction of Northern Ireland. There are real and valid concerns that if we do not adopt a similar law, we may become a safe haven for traffickers moving women South. We know the immense levels of exploitation here in the sex industry and we know how extensive it is.

The approach we are seeking to adopt in sections 20 and 21 is a sensible alternative one. We also found from our studies in Sweden and in our research that the Swedish law is part of a multi-policy initiative; it is not just a penal law approach. The Swedish authorities have also introduced harm reduction measures, initiatives to support those exiting from prostitution and, generally, they have adopted a holistic approach to tackling prostitution.

Senator David Norris: They have not. They do not distribute condoms.

Senator Ivana Bacik: That is what we recommended in our report should be undertaken here.

I strongly welcome this initiative. May I quote Monica O'Connor, who gave an excellent briefing, along with Nusha Yonkova, earlier to colleagues on the changes? The idea of free choice in prostitution is a misnomer. For anyone who has investigated and looked at the evidence, we know that prostitution in Ireland, as elsewhere, is about exploitation and commodification, in particular, of women but of those selling sex generally. We know the approach adopted in Sweden has had a strongly positive normative effect on social attitudes to sexuality and to equality. We seek to introduce a meritorious set of amendments.

I strongly support the Bill and look forward to raising issues, in particular issues around section 39 and around the definition of "consent" which I have raised previously with the Minister's officials. I hope the Minister might consider accepting amendments on section 39, in terms of vagueness of language on the indecency offence, and the definition of "consent" in sex offences, which has been raised with her by the Rape Crisis Centre and the Rape Crisis Network.

An Leas-Chathaoirleach: I call Senator David Norris, who has eight minutes.

Senator David Norris: There are many good things in this Bill. In particular, I am glad the Minister has looked at a situation to which I drew attention over many years, which was completely misunderstood, where people close in age, but underage, are engaged in sexual activity and are criminalised. For example, there was a case of a sexually experienced girl of 16 and a half years of age seducing a 14 year old boy and he was guilty of rape. That is absolute nonsense. I am glad a bit of sense is being introduced. I have to say with regard to this criminali-

6 October 2015

sation of the purchase of sex, this is a combination of spiritual self-aggrandisement on the part of the people who are promoting it and voter appeal. That is what got it through in the North of Ireland. Some 98% of the sex workers in Northern Ireland, according to a really detailed impartial study by Queen's University of Belfast, which did not start off from a position as the Joint Committee on Justice, Defence and Equality and the Swedish Government did, were completely against these proposals. Nothing was done to listen to them. I am not advocating prostitution but I am simply facing reality. In Sweden, a recent progress report in Gothenburg covering the years 2008-2010 showed an increase in trafficking of 106% and an increase in sexual services sold of 569%. With regard to the health risks, which have been so cavalierly dismissed here, *The Lancet*, in July 2014 had an article stating that full decriminalisation would stop HIV transmission by up to 40%. These are the realities. This is what we should be facing, not some sentimentalised notion.

In 2007, eight years after the law was passed in Sweden, the Swedish national police board conceded that it could not give an unambiguous answer to the question of whether prostitution has increased or decreased. This is from the Swedish authorities. At most, it could discern that street prostitution was slowly returning after swiftly disappearing in the wake of the law. I have a later press release from March 2010 in which the Swedish national police board stated that serious organised crime, including prostitution and trafficking, has increased in strength, power and complexity during the past decade - in other words, since the introduction of the Bill - and constitutes a serious social problem in Sweden and organised crime makes large amounts of money from the exploitation and trafficking of people under slave-like conditions. This was after the passage of the legislation.

Let us look at the Joint Committee on Justice, Defence and Equality. Why did it neglect to examine a variety of social models and concentrate exclusively on the Swedish model? Why did it refuse to liaise with the New Zealand authorities where their policy has shown-----

Senator Ivana Bacik: Read the report, Senator.

Senator David Norris: -----success in full decriminalisation? Why did it refuse to invite in Swedish sex workers who expressed grave dissatisfaction with the model in Sweden? At a Dublin conference in October, Pye Jakobsson of the Swedish Rose Alliance spoke about the various negative consequences experienced by sex workers under the Swedish model. I would have expected that would have been of interest to the committee but it was not, not a bit of it. Anything that disagrees with its preordained position is ruthlessly excluded and, of course, it is popular with the public, that is why it is being done by politicians.

Why did the delegation which visited Sweden in November refuse to meet with the Rose Alliance? What about openness to another point of view? The Chairman, Deputy David Stanton from Fine Gael, put on his website before the hearings a complete endorsement of the Swedish model. How impartial is that? I was astonished that anybody with an academic background would stand over this kind of thing. Why did the Chairman say at the 6 January meeting that all models dealing with prostitution legislation had been examined by the committee when no such examination of alternative models has happened?

6 o'clock

While the committee was in Sweden the Swedish Forum for Human Rights confirmed the trafficking of over 166 children between 2008 and 2011. With regard to the fact that some sex

workers were ultimately admitted to the committee, the decision was made not to record their views. They were excluded. How impartial is this? Where is academic integrity?

I turn to the Queen's University report. It found that between 2009 and June 2014, the total number of confirmed victims of trafficking for sexual purposes was 26. That is very regrettable but it is not the kind of flood or catastrophe that people have been talking about here. With regard to the motives for people getting involved, it is terribly patronising for middle-class people to stand up and tell people whether they are victims are not and that no matter what they say, they are not being listened to. What about all the slogans that we used to hear about "Hands off my body"? In a survey of 171 sex workers, between half and one third responded as to what they like about prostitution. Here are the first six: "It helps me to be financially independent. I like the freedom of being self-employed. It helps me save money for something important. I like the flexible working hours. I enjoy meeting different people. I enjoy bringing happiness to clients". I have spoken to people in Fine Gael, Labour and Fianna Fáil and they are against this legislation but they are afraid to say so because there has been an ideologically driven campaign to push this through.

Here is what one of the people involved says: "It was empowering, to be honest. If I hadn't turned to sex work I would have lost my house and it was fantastic to be able to do that ... It enabled me to do things I would never have been able to do otherwise". "[When it was my daughter's] birthday I was able to take her into town and spend £200 on her, on clothes. Whereas, I was never able to do that before, never, and Christmas was always, you know, you're getting stuff out of catalogues, and then you just paid off before next Christmas, and then you have to get stuff again, so it was just a vicious circle. Plus I am able to help my sister out a lot,..." Here is another one:

I realised through this job that I was quite good at counselling people and people opened up to me. It is a lovely feeling. For disabled people, I found that difficult to begin with because I'm not used to being around people with certain disabilities. Again, it makes you realise that you are just one person in the whole tapestry of the world. I felt quite privileged that I was able to make somebody else happy that may never have had the chance to experience intimacy otherwise ... I like the fact that it made me a better person because I'm not judgmental as I used to be.

I do not think this could be seen as the words, the language of a victim.

I am not saying prostitution is wonderful. I am just saying face the reality, the medical reality. What about the welfare of the people involved in this? I remember when decriminalisation of homosexuality went through this House and, as usual, the Government tacked on a counterweight which was inimical to the welfare of prostitutes. I stood up in this House and I said I would not accept my freedom at the expense of other vulnerable people and that I would be speaking here as more or less a lone voice for those vulnerable people.

With regard to the Swedish issue, in a recent survey by the Global Slavery Index, the Republic of Ireland and Britain did better than Sweden, after 15 years of this legislation. The Norwegians have been instanced. The Norwegian Ministry of Justice talks about a general problem with statistics in Sweden since they are highly uncertain. This is what it says about the 2010 official evaluation by the Swedish Government:

The criticism has primarily been focused on the evaluation's lack of scientific rigor: it

did not have an objective starting point, since the terms of reference given were that the purchase of sex must continue to be illegal; there was not a satisfying definition of prostitution; it did not take into account ideology, method, sources and possible confounding factors; there were inconsistencies, contradictions, haphazard referencing, irrelevant or flawed comparisons and conclusions were made without factual backup and were at times of a speculative character.

This is the Norwegian Government talking about the Swedish Government's report:

The Swedish street prostitutes experience a tougher time. They are more frequently exposed to dangerous clients, while the serious clients are afraid of being arrested. Prohibition will never be able to stop the purchase and sale of sex. It could only make conditions worse for the prostitutes. They have less time to assess the client as the deal takes place very hurriedly due to fear on the part of the client. They (the prostitutes) are exposed to violence and sexually transmitted diseases.

That is where we are going. I know the Minister is a concerned and decent person and I urge her to take on the welfare of these people engaged in this business and not the ideological pretensions of what amounts to an ideologically driven lobbying group.

Senator Hildegard Naughton: This is very welcome legislation and has been greeted as such by the non-governmental organisations in this area. The Bill addresses many anomalies which exist in our laws relating to sexual offences. In particular, I welcome the provisions dealing with the online sexual exploitation of children. Additionally, provisions to protect children against grooming and online predators are most welcome. Of particular note are the introduction of heavy sanctions for production and possession of images of child sexual abuse.

There are also positive provisions in respect of the age of consent. While the age of consent is to remain at 17 years, the Bill properly contains a modern provision in respect of younger teenage sexual activity. It acknowledges that such teenagers might indeed engage in consensual sexual activity and, importantly, it attempts to provide that teenagers of the same age would not be criminalised for doing so.

The advocacy group, One in Four has indicated that it has an issue with consent not being defined in the legislation. I do not have a fixed view on this matter but I wonder if the Minister is satisfied that existing legislation and case law is sufficient and that no further definition is warranted here. She might perhaps comment on that.

While the major focus of media coverage has been on the welcome criminalisation of the purchase of sex, there are a few other areas I would like to concentrate on. In respect of the disclosure of counselling notes during a trial, I welcome the tightening of procedure contained in the legislation. There has been a belief that the alleged abusers were merely engaged in fishing expeditions in seeking such disclosure, the purpose being to discredit the alleged victim. This legislation is therefore welcome in that proper reasons will now have to be advanced before the court allows any disclosure. Is the Minister satisfied that this is as far as she can go constitutionally? There are some who would advocate a total ban on counselling notes being made available. The Minister might comment on that.

On a somewhat related matter I would like to hear the Minister's views on a total ban on personal cross-examination of alleged victims by alleged abusers in sexual crimes. While we could not deny counsel for an accused the right to cross-examine there is a stateable case for

preventing an accused doing so him or herself. This is the case in England and Wales. Is the Minister legally constrained in that area? It would seem that the accused does not have an absolute right to personally cross-examine. I say that as this legislation provides that an accused may not personally examine a person under 18 years of age in a criminal trial. Would the Minister consider that a complete ban in sexual offence cases would be open to legal challenge?

I welcome the repeal of section 13 of the Criminal Evidence Act 1992 which provided that where evidence has been given by a child through video link neither the judge nor the barrister or solicitor involved in the examination of the witness shall wear a wig or gown. Section 30 of this Bill introduces a similar provision which will be extended to the giving of evidence in all circumstances by children under the age of 18. The requirement not to wear a wig or gown will no longer be limited where a child under 18 gives evidence via video link. I welcome this updating of the law in respect of sexual offences and refer to the Children's Rights Alliance comments on the publication of the Bill, which it warmly welcomed. It views it as "a critical step towards protecting our children from grooming, exploitation and abuse". It went on to say that the legislation will "combat the exploitation of boys and girls" and that the law will "bring Ireland into line with a growing international trend and send out the message that Ireland is not a soft target for paedophiles, pimps and traffickers". I commend the Minister and her officials for bringing forward this progressive legislation.

Senator Denis O'Donovan: I support the concept of this Bill and my party fully supports the criminalisation of the purchase of sexual services. The matter was discussed at two Ard-Fheiseanna and motions on it were passed by the grassroots of my party. The Children's Rights Alliance rightly states it knows from the testimony of prostitution survivors and women who have been trafficked that children are being abused in brothels. We are concerned about the use of the word "consent" and how it can be defined. There are issues, on which we may table amendments on Committee Stage.

A total of 73 organisations made submissions to the Joint Committee on Justice, Defence and Equality and I fully concur with the thrust of the committee's report. I acknowledge the significant work done by my colleague, Senator Ivana Bacik, in this regard. Are we to ignore submissions made by organisations such as Ruhama, Turn Off the Red Light and the INMO which stated, "Ireland must act now to end the demand for exploitation and, at the same time, decriminalise those who were prostituted so as to facilitate their access to vital health care and support services". My party has consistently supported efforts to eradicate prostitution in Ireland and put an end to the human trafficking the sex industry fuels. In government we passed the Criminal Law (Human Trafficking) Act 2008 which criminalised the human trafficking of persons for the purposes of sexual exploitation. It is now clear, owing to the changing nature of prostitution, that we need legislation to criminalise the purchase of sex. We must take cognisance of the "Prime Time" programme, Profiting from Prostitution, which was broadcast by RTE a few years ago and highlighted the appalling treatment of migrant women trafficked into Ireland and forced into prostitution.

We fully support the work of the Turn Off the Red Light campaign to have our laws strengthened. In this regard, I was contacted by at least 100 young women aged between 18 and 23 years, some of them students in my constituency of Cork South West, urging me to support legislation and proceed to along the lines on which the Government had embarked.

The nature of prostitution in Ireland has changed dramatically in the past decade. Street prostitutes who are the most visible face of prostitution have been largely replaced by off-street

prostitutes who can be contacted over the Internet or by telephone. The massive explosion in the number of foreign prostitutes operating in Ireland compared to a decade ago raises a question about the extent of the trafficking of women into and within Ireland for sexual exploitation. According to Garda testimony before the justice committee which we cannot ignore either, the number is estimated at 800 women a day; a year long RTE “Prime Time” investigation estimated it at 700 a day, while on any given day, regular checks of websites, chat rooms and forums by the Turn Off The Red Light campaign show that as many as 1,000 a day could be involved in prostitution. The issue at stake in the Bill is the exploitation of these women and the need to develop a fresh approach to the problem. An attempt was made to portray sex trafficking as modern day slavery, but it is more sophisticated than that. People are not brought here in containers or chains; they arrive at Dublin, Cork or Shannon airports, often under false pretences relating to work, a relationship or marriage, etc. It is only outside the terminal when their passports, documents and money are taken from them and within hours they are placed in a brothel that reality dawns.

In 1999 Sweden was the first country to pass a law that prohibited the purchase of sex. The rationale for the offence was rooted in the belief prostitution was a serious barrier to gender equality and that it caused serious harm to those involved in prostitution, as well as to wider society. A high level inquiry headed by a Swedish Supreme Court judge in 2010 showed that since the introduction of the ban, street prostitution had halved, which contradicts what Senator David Norris said. In 1995 the estimated total number of women involved in prostitution was 3,000, 650 of them on the streets. In 2008 there were 350 prostitutes advertising on the Internet and 300 on the streets. The law in Sweden assumes that prostitution is incompatible with contemporary values and a serious problem which can and should be abolished.

We have come a long way. My party supports this legislation and I am a member of the justice committee. I have issues with the legislation, but this is not the day to deal with them. I have been contacted by Rape Crisis Network Ireland regarding tabling amendments on Committee and Report Stages and I may do so. The thrust of the Bill, however, is worthy of support. I am concerned about the comments of those who say this is not an open and transparent debate. The justice committee put a great deal of work into considering this issue and the legislation is not a knee-jerk reaction. The issue has been in the ether not only in my party but also in other parties. The Bill might not be the silver bullet or the utopian answer, but we can protect some of the women who are in slavery as prostitutes. There has been no mention in the debate by those who oppose the legislation of the pimps or traffickers who control the women involved. They are operating openly with disdain and no respect for the law, society and the authorities.

Senator Cáit Keane: I welcome the Minister and thank her for bringing forward the Bill. I welcome the representatives of the various organisations in the Visitors Gallery, including the Immigrant Council of Ireland, Ruhama, Dublin Rape Crisis Centre and ICTU.

I am not a member of the Joint Committee on Justice, Defence and Equality, but I would like to congratulate its members on their preliminary work and the report they published. I have read the report and it is good that representatives of both sides of the debate were recognised, had an input and appeared before the committee. Appendix 6 is a list of all the organisations concerned. Voices were heard and there cannot be a good or an informed debate without hearing from all sides. That is why I welcome Senator David Norris’s contribution. The committee heard from all sides and I congratulate its members on their input.

I welcome Fianna Fáil’s support for the Bill. While I was in my office listening to the begin-

ning of the debate, I had a different impression listening to one of the other Members. There is free speech in every party and I thank Senator Denis O'Donovan for outlining the party's support.

I have taken an interest in this issue because everybody in Ireland has done so, particularly women. As I look around the House, I congratulate the men sitting on the opposite benches. Women sell their bodies and men pay for them, but money is freely available, while one's consent and precious body is one's alone. Women suffer in this regard, but men pay with money.

The Bill comprises seven Parts and 45 sections. Senator David Norris concentrated on sections 20 and 21 in Part 3. While they are among the most important, there are other important provisions which should be commended and lauded. Part 2 details protections for children from sexual exploitation. Contacting a child for the purpose of sexual exploitation will become punishable by law, with the invitation to sexual touching and causing a child to watch sexual activity. Children can be spared the trauma of abuse by the recognition that sexually suggestive language and other pervasive actions by adults are used to groom children for the purposes of sex. Part 2 also includes a provision on the age of consent, which remains 17 years. When the Bill is enacted, a consensual act engaged in by two minors within two years in age of each other will no longer be treated as sexual abuse or rape of a minor. Senator Hildegard Naughton referred to the definition of "consent". We have all received representations on the lack of a definition in the Bill. One in Four, in particular, made representations on the issue.

I welcome section 8 which strengthens provisions on the use of IT to facilitate sexual exploitation. Technology is like a second hand to children who are more familiar with it than adults.

Part 3 relates to the payment of adults for sexual services and has generated the most discussion. The Bill criminalises the buying of sex but not the sale of sex. The latter aspect remains. The crucial change is for the good of women. As a woman speaking on this subject, some women, for whatever reason, feel the need to sell sex but perhaps they have been pushed to their limits. Whether their consent is freely given is questionable. Some people think prostitution is an easy way to make money. Consent is an issue and questions arise for many as to whether women truly have free will in respect of this matter. This legislation represents a key development in the national conversation on consent.

There is a key distinction between the decriminalisation of the person selling sex and decriminalisation of the industry. Our society judges the buying of consent to be morally and legally wrong. With the enactment of the legislation before us, women who sell sex will no longer be judged as the wrongdoers in this exchange, rather the buyer will be so judged. The legislation will send a clear message to boys and men that consent is important and cannot be traded like a cheap commodity. The duty of An Garda Síochána will revolve around the protection, rather than the punishment, of women who chose to be involved in such sexual activities, which is a welcome development. The training and education of gardaí will be critical. The message is that consent should be contemplated within the larger conversation relating to this matter.

Section 21 relates to the amendment of section (5) of the 2008 Act and refers to where it is known that a person receives payment for sexual activity in cases where an individual has been trafficked. I know about this matter because I am a member of the North-South body that conducted a report into trafficking. This new and stringent provision is most welcome.

Acting Chairman (Senator Marie Moloney): I ask the Senator to conclude.

Senator Cáit Keane: I welcome section 21. One could say that when a person enters counselling, such a delicate matter should only be discussed between the counsellor and himself or herself. I would like the provision to be further strengthened. I do not have time to discuss Part 4. I thank the Minister for bringing forward the legislation.

Acting Chairman (Senator Marie Moloney): I call Senator Power and she has five minutes.

Senator Averil Power: I welcome the Minister of State, Deputy English, who has just arrived to take over from the Minister for Justice and Equality. I wish to say to her, before she leaves, that I commend her initiative to push this Bill. Over the past few years we have consistently raised the issue to which it relates in the House and pressed the Government on it. It is remarkable that within a short period of assuming responsibility for the justice brief, the Minister has pushed this matter forward. It is fair to note all of that.

The Bill is quite comprehensive and comprises many different elements. I am restricted to five minutes so I shall focus on two areas, namely, section 3 and the Rape Crisis Network's call for a definition of "consent". First, I wish to acknowledge the people from the Rape Crisis Network, the Immigrant Council of Ireland, Ruhama, the Irish Congress of Trade Unions, ICTU, and other organisations who are seated in the Visitors Gallery.

In the context of Part 3, I strongly support the Government's intention to criminalise the purchase of sex. The provision follows an extensive consultation process that was undertaken by the Oireachtas Joint Committee on Justice, Defence and Equality. It was probably one of the most extensive consultations conducted on any issue, particularly in view of the large volume, namely, 800, submissions received. It should be noted that the proposal has the support of the widest coalition of civil society groups I have ever seen in respect of any issue. The proposal has the support of the ICTU, the IMO, nursing organisations and a wide range of groups representing civil society. The fact that they have all come together with the Immigrant Council of Ireland and other organisations to push for reform reflects a broader concern about prostitution in our society and a desire for change. I wish to acknowledge the fact that it has taken a great deal of work on behalf of that group - in addition to briefing and lobbying of Members and others - to get to where we are today.

Some people like to glamorise the sex industry and have claimed that those who work in prostitution are equal partners in a legitimate transaction. The reality is very different. Those who sell sex - it is mainly women but there are some men - rarely choose prostitution. For many, it is just a survival strategy. A large proportion of the people who enter prostitution do so in their mid-teens. Many of them have experienced the most horrific sexual and physical abuse at home. Many of those involved in prostitution are homeless or have drug addition issues. How anybody could claim that people who enter an industry in such circumstances genuinely provide consent is beyond me. Even if somebody in his or her 30s or 40s is involved in prostitution, the fact that he or she got involved and was first exploited as a 13 or 14 year old child mitigates any notion that there was ever any real consent or that his or her current involvement is anything other than a follow through on a litany of abuse that he or she faced at an earlier point in his or her life. It is important to acknowledge that the people who are involved in prostitution are in a very vulnerable situation and that, by contrast, those who buy sex have all the power. The buyers of sex have the money, power and opportunity. Our laws on prostitution, as

they currently stand, do nothing to help victims and encourage people trafficking. I have heard Senator Norris and others say that some people have a notion that one can separate trafficking from prostitution. I contend that there is no supply without demand and, therefore, that it is not possible to separate the two elements and claim they are completely distinct. The Turn Off the Red Light campaign has estimated that the industry generates €250 million annually. The reality is that if there was not such a lucrative industry in Ireland for the exploitation of women and children, then there would not be a pull factor that brings people into this country through trafficking. That is the reality of the situation.

Under existing Irish law, the buying and selling of sex are not crimes. Soliciting is a crime which applies equally to the purchaser and seller. Instead of seeing the women and some men who are involved in prostitution as victims we criminalise them for soliciting and other related offences, plus we stigmatise them. That is totally the wrong approach.

I know that the Oireachtas Joint Committee on Justice, Defence and Equality considered a number of different options before deciding to recommend the Swedish model. I admit that no model or law is perfect, particularly when one takes on such a complex, well-funded and well-organised industry. As the Garda has pointed out, the links between prostitution and organised crime in this country are extraordinary. In terms of international organised crime, many of the people who are now involved in pimping and managing the industry here are involved in international criminal gangs. As a result, no law that seeks to tackle such an industry will be perfect. In my view, the Swedish approach is the best option as I have surveyed the different laws that are in place in other countries. I know that the justice committee held months of hearings before deciding on their final proposal. The Swedish model has not only reduced prostitution it has also made prostitution unacceptable to Swedish society which is another important aspect. If we are genuinely committed to equality in Irish society then we must reject the idea that women and children are commodities that can be bought and sold. We must send out the clear message that paid abuse is something that we will not tolerate and I welcome the fact that the Bill does so.

I wish to briefly put on the record my intention to support, on Committee Stage, amendments that deal with the lack of a definition of consent in the Bill. Consent is an issue. A lack of consent is an issue that must be proved in every rape case and, therefore, we need more clarity on consent. There is also a general concern in Irish society about the lack of rape cases that go forward and a poor rate of conviction when they do. The more clarity that can be provided in law the better.

Senator Trevor Ó Clochartaigh: Cuirim céad fáilte roimh an Aire Stáit. Tá áthas orm go bhfuil mé ag fáil deis labhairt ar an mBille fíor-thábhachtach seo. Cuirim fáilte roimh na haíonna speisialta atá anseo.

I commend all the individuals involved in framing this legislation, those who lobbied on behalf of the various groups and people who have been the victims of these crimes. The groups in question include the Immigrant Council of Ireland, the National Women's Council of Ireland, the rape crisis centres, Ruhama, the INMO, ICTU, those involved in the Turn Off the Red Light campaign and others. I welcome to the Visitors Gallery those from the groups to which I refer who are able to be in the House today. I also wish to commend the Oireachtas Joint Committee on Justice, Defence and Equality on the work it has done in respect of this issue. My colleague, Deputy Pádraig Mac Lochlainn, has worked very hard on the committee and he would concur with the thoughts of those that have been mentioned previously.

Prostitution is a vicious, exploitive and brutal criminal enterprise which allows pimps, traffickers and thugs to take millions out of the Irish economy by trampling on the rights of others. The organised crime which lies at the heart of Irish prostitution and human trafficking has been well documented, not just by the Garda but through multiple media investigations, the experience of front-line support agencies and, most importantly, the testimony of those women and girls who have survived this evil trade. The fact that the debate on this legislation is taking place is a tribute to the bravery and courage of those survivors. I refer, in particular, to people who sacrificed their privacy in order to relive their ordeals and make this Bill a reality. I want them to know that Sinn Féin and, indeed, Members on all sides of this House this evening stand shoulder to shoulder in solidarity with them.

While I have a general welcome for this Bill, I am keenly aware that this debate is overdue. The legislation before us will restore the all-island approach to combating these crimes that was broken when laws targeting the buyers of sex became a reality in the North on 1 June. On that date, six counties on our island moved ahead of the rest of us in wrecking the business model for pimps and traffickers. Indeed, I note that the Immigrant Council of Ireland recorded a steady increase in online prostitution along the Border in the weeks running into the commencement of the laws in the North. To take one example, the number of women for sale online in Dundalk increased by 85% as those behind the trade moved their business to the safety of the South. As the law took hold, there were 26 women profiled on escort websites in Dundalk, while ten minutes over the Border in Newry there was just one. This cannot continue.

The figures for sex trafficking speak for themselves. The US State Department “Trafficking in Persons Report”, released earlier this year, found that Irish authorities initiated 79 trafficking-related investigations last year, up from 56 in 2013. Some 46 suspected victims were identified, most of them victims of sexual exploitation. Through its front-line services, the Immigrant Council of Ireland last year supported 20 women, with a further 11 new cases so far this year. Almost without exception each survivor tells of being placed in prostitution as a girl. As with all crime, it is difficult to get an exact figure on how much these crimes cost our country but figures range from €180 million to €250 million a year. To put it another way, sex buyers are putting an estimated €600,000 a day into the pockets of thugs. In fact, the sex trade is now only second to drugs in terms of financing those behind Irish crime.

We know that targeting demand can crush this activity. Sex buyer laws are a reality from Sweden and Norway to Canada, as well as in major US cities and, as I said, most recently in the North. Laws are also expected in France by January, while targeting demand for sex trafficking is backed by both the Council of Europe and the European Parliament. Sinn Féin representatives were proud to back such measures both in Stormont and in Brussels.

There is one area, however, where the legislation before us does not meet best international standards. It is wrong that those who have been exploited and abused in prostitution could end up being treated as criminals. That is unacceptable. The decriminalisation of the seller was a key plank of the Stormont legislation and one for which Sinn Féin fought hard. When the Oireachtas justice committee issued its unanimous recommendations on laws covering prostitution it could not have been more clear. It wanted a full package of measures where the buyer faces the law and those being sold are offered support and protection, not running the risk of ending up in a Garda cell or in court. That package of measures is commonly referred to as the Swedish model, and the police, social services and politicians in Sweden cannot be more clear that the model involves decriminalisation. I welcome the commitment of the Minister today to deal with this by amendment and urge her to do so as a matter of urgency.

At the outset, I referred to this legislation as historic. It is - not for us in this Chamber but for those survivors watching, some of whom are in the Visitors Gallery today. It is not good enough to listen to their stories with sympathy. They want us to act. I urge all Members to do that and let us join the growing list of countries criminalising buyers, not sellers. We support the Bill but we intend to bring forward amendments on Committee Stage.

Senator Fiach Mac Conghail: I welcome the Minister. I will speak in particular on Part 3, sections 20 and 21. The Bill is exceptionally important legislation. On a historic day I wish to acknowledge the members of civil society who have campaigned long and hard for this historic change. They should be very proud.

Unlike Senator Norris, I believe this is ideologically driven. At the heart of this are human rights, equality and protection of the vulnerable. I call that ideological, and I am proud to acknowledge that and to support that section in the Criminal Law (Sexual Offences) Bill 2015. Our group, which includes Senator van Turnhout and Senator Zappone, tabled and supported several motions, notably on October 2011 and April 2012, and several Senators who are present today supported our motions. The April 2012 motion contributed to accelerating the referral of the matter by the then Minister, Deputy Shatter, to the Joint Committee on Justice, Defence and Equality. I commend the work of Deputy Stanton, Chairman of that committee, and also Senator Bacik, who invited me to be part of the committee proceedings even though I was not a member of the committee. I listened to the evidence from all sides. It was not ideologically driven or a set up. We listened to, and looked at, everything. I commend the work of the committee in that regard. The public consultation in which it engaged and the subsequent report that was produced were in-depth and comprehensive. I welcome Part 3 of this Bill providing for the criminalisation of the purchase of sex and strongly support this move.

I acknowledge the work of the former Minister, Deputy Shatter, and the current Minister, Deputy Frances Fitzgerald, in not allowing this subject to fall off the radar and disappear from the public discourse. That is key. I have criticised the Government for delaying much legislation, particularly electoral reform, but this is something of which we should be proud. I hope a general election is not called in November because otherwise this Bill would fall. I call on all Members to listen to those who have most experience in this field. A total of 73 organisations have come together to support this legislative move, including Ruhama, the Immigrant Council of Ireland, the Rape Crisis Centre, the National Women's Council, Focus Ireland and Barnardos, to name a few that have been fighting for this cause under the Turn Off the Red Light campaign. We must listen to these voices, which have the experience, and continue to work hard to highlight the evidence and reality of prostitution for all who find themselves the victims of it.

Ruhama has stated that one can procure a prostitute anywhere in Ireland and have access to her services within 30 minutes. Over 1,000 women and girls are for sale for sex in Ireland daily. Monica O'Connor, who has worked and campaigned on this issue for years, cites demand as the main driver of prostitution and strongly supports this legislation. There is currently no definition of prostitution in Irish statute law and most people are unaware that it is currently legal. This is not acceptable. The reality is that this State is failing some of the most vulnerable within its borders.

Prostitution encompasses layers of abuse. It feeds violence against women, child abuse, racism and particularly trafficking. We must do more to protect the women and girls who, through vulnerability and not consent, find themselves trapped in cycles of prostitution and poverty. A brief compiled by Grainne Healy and Monica O'Connor in 2006 stated that women who have

worked in prostitution exhibit the same incidents of traumatic brain injuries as a result of beatings as do those who suffer and survive torture. The idea that women who end up working as prostitutes have made a willing choice can no longer be tolerated. It can be due to anything from physical abuse to actual poverty. We heard that evidence during the committee hearings.

This legislation alone, if passed, will not immediately impact the existence of prostitution in Ireland but, as the Swedish model shows, it opens the door to system change and increases the onus on the State to provide real exit strategies for women. Significantly, Sweden also introduced supports for the criminalised users to target root causes. It should be a normative shift away from the idea that it is acceptable in our society for financial power to buy consent. In Sweden over the past ten years, the demand for prostitution has fallen whilst the decriminalisation of sex workers has meant they maintain access to support services. The industry did not go underground. In countries that have legalised prostitution, such as Germany and Holland, all reports appear to show a huge increase in the numbers of women entering sex work, with pimps and traffickers gaining a form of legitimate business status.

As a man nearing middle age, with two daughters, I am within the primary bracket of those who most frequently use the services of prostitutes. As a nation, we tend to turn a blind eye to the issue because it makes us uncomfortable, but we must address it. To this end, I note the striking and truly eye-opening “Prime Time” investigation of Paul Maguire into the reality for women involved in prostitution. He appeared before the justice committee to give evidence. It is a programme of extraordinary impact which was screened over two years ago.

Over the past six months-----

Acting Chairman (Senator Marie Moloney): I am sorry but I must interrupt you, Senator.

Senator Fiach Mac Conghail: I will conclude.

Acting Chairman (Senator Marie Moloney): Your time is up and so many other Senators wish to speak that we will not be able to accommodate them.

Senator Fiach Mac Conghail: There are not that many. I have been waiting since 2011 for this.

We might be a long way from significant improvement on this issue but that is why we must make this change now. In the short few months since Northern Ireland changed its law on 1 June last, the Immigrant Council of Ireland has recorded a marked increase in prostitution in Border areas such as Dundalk, as Senator Ó Clochartaigh mentioned. We are in danger of becoming a safe haven for traffickers and pimps if we do not act now. Victims of prostitution and trafficking are individuals who, in almost all cases, find themselves without options or personal choice. As the Government of this country, we must start making changes to re-open the choices of these women and girls, and this Bill is an excellent start.

Acting Chairman (Senator Marie Moloney): There are three Senators remaining who are offering to speak and time is limited, so I ask Senator Mullen to be as brief as possible.

Senator Rónán Mullen: I welcome the Minister and this Bill, there is so much to welcome in it. It is comprehensive and it engages many issues and it is certainly not possible to deal with all the issues in any one speech here. I note the comments of the Minister in relation to sexual offences, the vulnerable and people who are disabled. I look forward to discussing the Min-

ister's proposals at a later point. I am concerned about the possible impacts of some of Senator Zappone's proposals in relation to sexual offences and people who are disabled, but I will revisit this matter later. As the Minister is aware, section 176 of the Criminal Justice Act 2006 creates an offence of reckless endangerment of children, however there is no specific equivalent relating to reckless endangerment of people who are vulnerable. I would advocate for a criminal sanction, equivalent to the civil tort of misfeasance in public office, specifically in relation to sexual offences against those who are vulnerable. I hope the Minister will comment at a later stage regarding offences where predators target those who are vulnerable.

I will now turn to the main element of the Bill which will make it a criminal offence to purchase sexual services. This country has gone on a journey and even some of the people in these Houses who support this legislation have been on a journey. I remember during my first term in the Seanad putting down motions calling for the criminalisation of the purchase of sex. I put down amendments to the human trafficking legislation which was for too conservative and timid in its approach. It remains my view that by criminalising the purchase of sex we help to make this country a cold house for traffickers of humans which is one of the big arguments in favour of this Bill.

The human trafficking legislation which was brought in some years ago did not go nearly far enough. We had the ridiculous situation that one had to have convicted somebody of engaging in trafficking before anybody could be prosecuted for buying sex from a trafficked person. That was clearly an unsustainable situation. It was doing nothing to protect victims of trafficking and it was certainly doing nothing to protect victims of prostitution. I am glad that we in this country have made the journey and that those who were previously timid now realise that we must follow the Nordic model and criminalise those who would purchase sexual services.

It is farcical and ridiculous to claim in any kind of serious argument that there is some kind of legitimate adult choice going on in the decision to enter prostitution. When one considers the lives, the background, the suffering, the self-esteem issues, the drug addiction - and so many things which blight the lives of those in prostitution - it is clear that it is not a profession that anybody would willingly or freely enter into in the same way that we would encourage young women to enter other areas of the workforce and to train up. It simply is not an industry like anything else. It is a sordid industry, one that corrupts people and entices them through the supposedly respectable front door of strip clubs and gentlemen's clubs. In reality, in the back room, there is the direst exploitation of people and the deprivation of their human rights.

It is one of the great tragedies of recent times that Amnesty International has allowed itself to become corrupted on this issue. It has called for the decriminalising of prostitution based on a human rights principle of consensual sexual conduct between adults being entitled to protection from state interference. I believe it is not too adventurous to say that Amnesty International, among others, has been corrupted by people who have a vested interest in the sex industry. They do not make some kind of intellectual argument. Organisations like that go wrong and Amnesty has gone wrong in several areas recently. Tragically it has sullied its great reputation, probably to the point where some alternative human rights advocate is needed to take centre stage to promote human rights and human dignity in an authentic and inclusive way. Organisations like Amnesty International do not just go around because they meddle with ideas and then come up with bizarre theories, they go around because of the people who entice them, get involved, infiltrate them and seek to make the organisations pursue their agenda. They claim to agree with the approach taken by the German Government in 2002 when it decriminalised the sex industry. By registering, prostitutes were supposed to get more access to benefits but in

reality the prostitutes did not register and there are now mega-brothels in Germany. According to one advocate against violence against women, the German situation is deeply harmful. The reality is that the women are sex workers and the men are clients who can ring up and order a woman like a take-away. This is the tragic scenario happening in this world.

The Government has taken the right direction by disregarding the advice of Amnesty and the advice of my esteemed colleague, Senator Norris, who must be aware of the shambles in the Netherlands because of its approach of decriminalisation. It is a welcome step that has been taken here. It is a step in favour of human rights and the dignity of men and women and I hope it will pass speedily through these Houses.

Senator Jillian van Turnhout: I extend congratulations to the Minister and her officials in the Department. Many of the aspects we see in this Bill were raised in the 2006 Law Reform Commission report. I know that the Cabinet gave the Minister approval for this Bill in 2014 and I say “Well done” to all involved. I could not have predicted in 2011 how important and relevant this Criminal Law (Sexual Offences) Bill 2015 would be to my work in the Seanad. It seems that throughout my tenure it is where many of the issues I have worked have ended up. I speak specifically about my work on child sexual abuse material, criminalising the purchase of sex in Ireland and third party disclosure of children’s confidential counselling records during criminal trials. My entry point into these issues has consistently been to promote and protect the rights and interests of children who are particularly vulnerable to exploitation and damage across these areas. This is an extensive Bill and a genuine effort to reform the law and, where necessary, to introduce new laws to protect children from sexual exploitation, child sexual abuse material and online grooming. While I welcome and support the Bill, there are opportunities to strengthen it in areas such as the issue of consent, which is raised by the Dublin Rape Crisis Centre. I will provide more detail about this on Committee Stage where there will be adequate time to make a full contribution.

I will now turn to three issues I mentioned. The first is the sexual exploitation of children. The Minister is aware of my commitment to tackling child sexual abuse material on the Internet. While I welcome the introduction of new categories of offences in this Bill, and a bolstering of existing offences, I am disappointed that the decision was taken not to introduce a filtering system against online child sexual abuse material or to do so by statutory instrument. We remain reliant upon the threat of the same as a means to coerce ISPs into self-regulation and on the Garda to develop a response. The UK has this system in place and we should have a similar protection.

I also have concerns about the continued use of the term “child pornography” rather than taking this opportunity to replace it with a more apt and more reflective descriptor of child sexual abuse material, which is suggested by Interpol and Europol. The Minister is aware that I tabled an amendment on this issue under the Children First Bill and I note that the Minister for Children and Youth Affairs, Deputy James Reilly, agreed. He said, “The term child pornography is outdated and fails to reflect the full horror of the sexual abuse involved.” The word “pornography” implies there may be some consent but we are talking about children, there is no consent, it is a crime seeing any such picture of a child. I note that the term “child pornography” is used in existing language and international instruments and will revert to this issue on Committee Stage. I will also return on Committee Stage to concerns I have around a new offence called “sexual extortion”.

I fully echo and support what my colleagues, Senators Zappone, Power and Mac Conghail,

have said on the purchase of sexual services. As a group we have worked on my interventions in October 2011 and April 2012 focused on the impact of prostitution and trafficking on children and noted that the majority of women in prostitution and trafficked into prostitution enter as children. Once again we cannot even discuss the issue of consent as there is no consent.

I am delighted that the recommendations of Dr. Geoffrey Shannon, special rapporteur in child protection, and my amendment to the Courts and Civil Law (Miscellaneous Provisions) Bill 2013 on the admissibility of sexual assault communications made by children have led to the inclusion in section 33 of this Bill of a disclosure of third party records in criminal trials. I am grateful to the Law Reform Commission for acknowledging my contribution in this area in its report on Disclosure and Discovery in Criminal Cases in 2014 and I will return to this issue on Committee Stage. I fully support the Bill in what it aims to achieve and from what I have heard in the House this evening, any amendments tabled will be to strengthen, bolster and support it. I wish the Bill a speedy passage in this term.

Acting Chairman (Senator Marie Moloney): Does the Minister of State wish to respond?

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Damien English) (Deputy Damien English): I was caught by surprise there. I thought there were a few more speakers.

The Minister for Justice and Equality and I would like to thank Members for their contributions. As the Minister said in her opening remarks, this is a wide-ranging Bill which addresses child protection, including new emerging threats, support of victims, the updating of existing law and a reform of prostitution laws. Dealing with such a range of issues in a single Bill is challenging, to put it mildly. On behalf of the Minister, I welcome the broad support for the Bill in this House, which reflects the support its provisions have received since they were published. It also recognises and reflects all the hard work that has been done on this issue by many people and groups over a long number of years.

There will be an opportunity to address a number of the issues raised at this Stage when the Bill is debated in more detail on Committee Stage. There has been wide, if not outright, support for Part 3 of the Bill on the criminalisation of the purchase of sexual services. These proposals were brought forward by the Minister for Justice and Equality as a result of the extensive review by the Joint Committee on Justice, Equality and Defence. The Minister would like to specifically acknowledge the hard work of that committee and all its members, led by its Chairman, Deputy David Stanton. It is recognised that much great work was carried out, and I make that point on behalf of the Minister.

The Minister will bring forward amendments on Committee Stage to address the matter raised by Senator Zappone and others on section 5 of the 1983 Act and to further decriminalise those involved in prostitution from the offences of solicitation and loitering. The Minister will also consider all of the issues raised today and expects to further discuss them on Committee Stage.

The Minister and I would like to thank all Members of the House for their contributions. The Minister looks forward to even more detailed consideration of the Bill on Committee Stage. This is a very important Bill and what is contained in it will add substantially to the protection of our children against sexual abuse by targeting those who would abuse or attempt to do so. Every step necessary must be taken to achieve that goal. The Bill will introduce additional

6 October 2015

provisions to further protect vulnerable victims during criminal trials and of particular importance are the provisions which will, for the first time, regulate the disclosure of counselling and therapy records. I am sure the House agrees that this Bill represents a significant step forward. I again thank the House for all its efforts on working on this.

Question put and declared carried.

Acting Chairman (Senator Marie Moloney): When is it proposed to take Committee Stage?

Senator Ivana Bacik: Next Tuesday.

Committee Stage ordered for Tuesday, 13 October 2015.

Acting Chairman (Senator Marie Moloney): When is it proposed to sit again?

Senator Ivana Bacik: Tomorrow morning at 10.30 a.m.

The Seanad adjourned at 6.55 p.m. until 10.30 a.m. on Wednesday, 7 October 2015.