



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Déardaoin, 17 Iúil 2025

Thursday, 17 July 2025

Chuaigh an Cathaoirleach i gceannas ar 9.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Teachtaireacht ón Dáil - Message from Dáil

An Cathaoirleach: Dáil Éireann has agreed, on 16 July 2025, to the amendments made by Seanad Éireann to the Planning and Development (Amendment) Bill 2025.

Gnó an tSeanaid - Business of Seanad

An Cathaoirleach: I have received notice from the following Senators that they propose to raise the following matters:

Senator Mike Kennelly - The need for the Minister for Housing, Local Government and Heritage to make a statement on concerns regarding irregularities in registration on the main and supplementary voting registers and the inappropriate use of polling cards.

Senator Laura Harmon - The need for the Minister for Further and Higher Education, Research, Innovation and Science to make a statement on the student contribution fee to be paid in September 2025 and the measures being put in place to support third level students.

Senator Patricia Stephenson - The need for the Minister for Children, Disability and Equality to make a statement on her plans for improving respite care services.

Senator Alice-Mary Higgins - The need for the Tánaiste and Minister for Foreign Affairs and Trade to provide an update on the 40 students from Gaza who have secured placements at Irish universities and the steps the Department is taking to ensure these students will be in a position to commence their studies in Ireland in September.

Senator Chris Andrews - The need for the Minister for Agriculture, Food and the Marine to provide an update on his proposals to promote the welfare of greyhounds.

Senator Joe O'Reilly - The need for the Minister of State with responsibility for the Office of Public Works to make a statement on the proposed provision of a national children's science

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centre; and the possibility of a collaborative development of the new centre with the existing Explorium science centre in Sandyford, Dublin 18.

Senator Sarah O'Reilly - The need for the Minister for Transport to make a statement on the provision of adequate funding for local and regional road maintenance to address rising construction and materials costs.

Senator Eileen Lynch - The need for the Minister for Health to reform the long-term illness scheme to include inflammatory bowel disease as a long-term illness.

The matters raised by the Senators are suitable for discussion. I have selected those raised by Senators Kennelly, Harmon, Stephenson and Higgins and they will be taken now. The other Senators may give notice on another day of the matters they wish to raise.

Nithe i dtosach suíonna - Commencement Matters

Register of Electors

An Cathaoirleach: I welcome the Minister of State, Christopher O'Sullivan, to the House. He is most welcome to Seanad Éireann.

Senator Mike Kennelly: I thank the Minister of State for coming to the House. This is an issue I raised last wee. This is a worrying and serious matter that has come into the public domain following a court case in Killarney, County Kerry. Voter impersonation at a Kenmare polling station at the local and European elections in June 2024 was caught on CCTV. A Cahersiveen man pleaded guilty but avoided a conviction for electoral fraud after he used a polling card not in his name that went missing from a vehicle. It was even more extraordinary to learn, as every dog and divil in Kerry knows, that the defendant works for the Healy-Rae Plant Hire company. He was cited in court as a farmer and a contractor, but his employer, the Healy-Rae firm, was unusually not identified, even though he has worked for it for years. I called for a thorough investigation into the facts of the incident last week, and we still need clarity as to how this was quietly hushed up. It has made a mockery of our democracy. There have been no answers as to how this man got the polling card before he drove 40 miles from his home to vote in another town. He did not acquire it himself, the court was told, so who exactly gave it to him? The electors of Kerry, and indeed the rest of the country, deserve to know.

Another case in Kerry centres on potential criminal wrongdoing in the form of irregular supplementary registration. This case centres on allegations that, ahead of the May 2019 local elections, a garda officer in the Killarney electoral area stamped hundreds of supplementary voter registration forms without the applicants being physically present, which is a legal requirement. An Garda Síochána launched a formal investigation led by a superintendent from outside Kerry and a file was prepared. As of April 2024, GSOC had forwarded a file to the DPP, with a decision still pending. This happened over six years ago. When will this case be brought to a conclusion?

I have stated that these cases have made a mockery of our democracy. Illegal voter fraud strikes at the very heart of our democracy. When individuals or groups manipulate electoral rules or cast votes unlawfully, they undermine public trust in the fairness and legitimacy of our

elections. Every fraudulent vote cancels out the voice of a lawful voter. The fallout from these cases will massively impact people who want to get elected to represent their electoral areas without fear of any undercurrent that does not reflect a level playing ground when it comes to these irregularities being committed. I won a seat in the 2014 local elections in Listowel by two votes, so to say, as was said in the court that day, that this does not really affect the results is totally wrong. I call on the Minister of State to clean up the whole voting process, to review the cases I have mentioned and to make sure that everything possible is done to eradicate this kind of behaviour.

Acting Chairperson (Senator Malcolm Noonan): Before I ask the Minister of State to respond, I ask the Senator to be careful about naming individuals in his contribution.

A Aire, tá fáilte romhat.

Minister of State at the Department of Housing, Local Government and Heritage (Deputy Christopher O’Sullivan): I thank the Senator for raising the general issue of fraudulent voting. He will understand and will not be surprised to hear that I cannot comment on individual cases, but I will make some general comments because I agree with him that fraudulent behaviour in the voting process strikes at the core of democracy. There are other issues as well. We all, as the Senator said, have put ourselves up for election. It is a stressful time, including for our families and our friends, and one does so in the hope that we can trust the electoral system. If there is fear that fraud may be carried out or that votes are cast inappropriately, it undermines that. It undermines not only us as candidates but also democracy in general and means that people’s voices, essentially, are not heard in the way they should be. I just wanted to make that general comment at the start and say that I cannot, as the Senator knows well, comment on individual cases.

The primary role of the Department of Housing, Local Government and Heritage in electoral matters is to provide an appropriate policy and legislative framework for a modern and efficient electoral system. Within that framework, local authorities, in their capacity as registration authorities, are responsible for the management and maintenance of the electoral register, and returning officers are responsible for all matters in connection with the actual conduct of elections and referendums. Electoral law provides for significant measures relating to voter identification and the prevention of personation in order to counteract voter fraud and to protect the integrity of the register. Substantial reforms to the Electoral Acts in 2022 brought about a significant modernisation of the electoral registration process, including the introduction of rolling registration and the use of PPSNs in the application process to enhance the integrity of the electoral register. Local authorities are engaged in detailed work to improve the data quality of their electoral registers in advance of migration to a new national system in 2026. Electoral legislation provides that at the polling station, the returning officer or the presiding officer may, or if required by a personation agent shall, request any person applying for a ballot paper to produce a specified identification document. If a person fails to produce the identification required, they are not permitted to vote. In guidance prepared by the Department in advance of each poll, it is recommended that at least one in four voters should be asked for the required identification.

Electoral law also provides for a range of offences and penalties in this regard. Section 134 of the Electoral Act 1992 provides for the offence of personation. Section 35 of the Electoral (Amendment) Act 2004 provides that it is an offence to take or interfere with a polling information card or to use a polling information card at a polling station that is not addressed to the person presenting it. There are appropriate penalties for both offences. Similar offences are

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provided for in relation to all polls. The prosecution of offences is a matter for An Garda Síochána and the Director of Public Prosecutions. It is not appropriate for me as Minister of State to comment on a specific case or cases.

Separate to the role of returning officers and local authorities, An Coimisiún Toghcháin, which was established on 9 February 2023 and is independent in the performance of its functions, is tasked with carrying out post-electoral event reviews, oversight of the electoral register, conducting research on electoral issues and making recommendations on same. In combination with wider reforms of electoral registration, the work of An Coimisiún will strengthen our electoral system as a whole and help us to anticipate and respond to the challenges we face in an ever evolving electoral environment.

I have set out the procedures. There are reforms and reviews. The Senator is right; electoral fraud cuts to the core of our democracy and damages it. It should of course be taken seriously. Anywhere fraud is happening, those cases should be taken seriously and there should be serious penalties for anyone involved.

Acting Chairperson (Senator Malcolm Noonan): I remind the Senator to make general comments in relation to electoral form. As the Minister of State has outlined, it is not appropriate for him to reference specific cases.

Senator Mike Kennelly: I thank the Minister of State for his response. I accept it in general terms of policy and decision-making. Electoral fraud is not a victimless crime and it is totally wrong. This guy was not even asked for identification. To say we are running proper registration on voting day is wrong. We do not know how many of these cases exist. I ask the Minister of State and the Minister for local government to review what we have in store. Otherwise, we are preventing the next crop of young people who want to represent their areas from doing so because if this continues, no one will seek election given that it is not a level playing pitch. We know it is going on. If we can do anything today to wake up local government and have a policy driven to stop it, that is all I wish for. If the Minister of State could do that, it would be a good day's work.

Deputy Christopher O'Sullivan: I agree with the Senator about the impact of fraudulent voting. It strikes to the core of our democracy, has a serious impact on the candidates who put themselves forward and adds to the stresses associated with election time. We all understand that. There has to be trust in the process, and there is. If there is not, it undermines everything.

I disagree, however, in that I do not think it is happening as widely and at the scale the Senator asserted. I commend polling clerks and officers at polling stations who give up their days, whether adjudicating at polling stations or at the counts later on. They do incredible work in local authorities across the country. They are vigilant. I do not think it is happening at the scale the Senator asserted but I agree with him that where it happens, the consequences should be serious. If it is blatant and obvious and someone has been caught red-handed, I agree there should be serious consequences for the reasons the Senator outlined. It may deter people from getting involved in politics in the future, and it is a tough job as it is.

I appreciate the Senator raising the issue. I cannot comment on individual cases for obvious reasons but I accept the general tenor of his argument.

Senator Laura Harmon: I welcome the Minister of State. I would like clarity on the issue of student fees and supports. I was president of the national students' union, USI, ten years ago. Student fees, the cost of living, student housing and access to education were all issues then and are more prominent now than ever. It needs to be a priority for this Government. It is dismaying and alarming that the Minister for further and higher education, Deputy Lawless, went on the airwaves a couple of weeks ago and announced that there would be an increase in student fees of potentially €1,000 this September. There was previously a decrease in the fee but the decrease rowback is an increase. We have to call it out for what it is. What will the fee be for students going to college this September?

There has been a huge amount of miscommunication and a lack of clarity from the Government to students and their families. The Minister said one thing, while one of his colleagues in Fine Gael took to another radio show saying a different thing. In this Chamber, eight Fine Gael Senators consecutively said they disagreed with the Minister. They are in a Government party. We need clarity on what is happening. The people suffering are students and their families. They have been disrespected by this Government.

We need a plan for families. They need to be able to budget. The cost of living, rent and fuel costs are all rising. The cost of living is going up, not down, so I cannot see the justification for any change upwards in student fees. The programme for Government just six months ago committed to reducing the contribution fee over the lifetime of this Government. Increasing it is a poor start. I do not know how the Government will honour that commitment. It would be good to see a plan. To put it in context, the average rent in Cork city is €2,200 per month. UCC students' union in a survey last year found that 28% of students in UCC had gone to class hungry because of the cost of living. Student poverty is a real issue. We need more publicly owned student accommodation that is affordable. We are still waiting on the student accommodation strategy. We were told it would be ready before the summer and then that it would be the third quarter of this year. We need that concrete strategy in place. What will the fee be this September?

We need another Niamh Bhreathnach moment. We have surpluses. I do not understand why students and their families are the first in the firing line when we hear about things like tariffs. It was transformative to this society in the nineties when free fees were introduced. They were increased over a period but the late, great Niamh Bhreathnach had vision. It contributed hugely to the economic growth of this country in the nineties and into the noughties, much like free secondary level education did in the seventies. A third level qualification is now expected by many. It needs to be made as accessible as possible. We have among the highest fees in Europe. We are an outlier. The Cassells report and the OECD report have said we have among the highest student fees in Europe. I welcome the fact that efforts are being made to change the SUSI grant for the better through looking at adjacency rates. We need to look at estrangement as well in respect of who can access that grant. Ultimately, a promise was made regarding fees in the programme for Government so I ask for a reply on what the plan is and what the fee will be this coming September.

Acting Chairperson (Senator Malcolm Noonan): Cuirim fáilte roimh an Aire Stáit.

Minister of State at the Department of Justice, Home Affairs and Migration (Deputy Niall Collins): I thank Senator Harmon for raising this important issue and for the opportunity it provides to discuss the Government's ongoing work to make further and higher education more accessible and more affordable. The Minister, Deputy Lawless, is today at an informal

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meeting of EU researchers in Copenhagen so unfortunately he cannot be here to discuss this topic himself.

The Government is acutely conscious of the financial challenges facing students. We are committed to easing the financial burden on students and their families by reducing the cost of education in a way that is sustainable, equitable and targeted. This is a programme for Government commitment. The current student support framework, such as student grant supports and fee supports, has played a significant role in facilitating access to and growth in higher education. We have already taken a number of significant steps to improve the support framework, including the elimination of participation fees for post-leaving certificate, PLC, courses from September 2022 and major permanent changes to the Student Universal Support Ireland, SUSI, student support scheme, such as the introduction of a new part-time SUSI grant scheme in 2024. Over the past three budgets, temporary cost-of-living measures were introduced to support our citizens, including a once-off €1,000 reduction in the €3,000 student contribution fee. These measures were welcome and necessary at the time but they were never intended to be permanent.

It is important to consider that currently, under the free fees initiative, the State covers tuition fees for all eligible full-time undergraduate students. In the 2023-24 academic year, over 143,000 students benefited from this support. This is a universal scheme and therefore a means test does not apply. Students are, however, required to pay the student contribution. This Government acknowledges that for many, this contribution presents a significant financial hurdle. That is where SUSI plays a vital role. In the 2024-25 year, over 65,000 students received support from SUSI to help cover this fee. These supports range from full coverage to partial grants of 50% or €500. The €500 grant introduced in 2023 is now a permanent feature of the scheme.

From this September, we will increase the income thresholds for student grants by 15%, expanding access to even more students, but we must and will go further. While student supports have played a very significant role in facilitating access to and growth in higher education, we have to bring forward plans that recognise the wider costs of attending education and promote access through sustainable investment in support measures. As we look to budget 2026, the focus of the Minister, Deputy Lawless, is on long-term, structural solutions that can provide certainty and fairness for students into the future. He is conscious of the financial pressures students face, not just tuition fees but accommodation, transport, materials and day-to-day living costs. The Minister has spent the past few months listening to the views of key stakeholders. He has had multiple engagements with students, apprentices, access officers, student services staff and advocacy groups and in April he hosted a national cost-of-education event, bringing together key voices from across the sector. These insights have been invaluable.

In preparation for budget 2026, the Minister, Deputy Lawless, will publish an options paper, which will outline the costs and potential impacts of various policy choices. This paper will inform the national debate and guide Government decisions. At this juncture, as the Senator will be well aware, no final decisions have been made and the Minister remains open to hearing from all stakeholders, students, families, institutions and advocacy groups.

Senator Laura Harmon: I thank the Minister of State for the response. First, I note the positive indications regarding the student grant and the Government seeking to improve that and improve those supports. That has to be noted. However, it is an extremely disappointing and disrespectful answer to students and their families that this Government cannot give clarity to students on what the fee is going to be this September. I have people calling me - students

and families - who are worried about the cost of living. They are sitting around kitchen tables asking whether they can afford to send their son or daughter, or in some cases multiple children, to college. We had a case of triplets in Cork whose family were wondering how they were going to afford €9,000 in fees, potentially, for the upcoming academic year. This is a huge cost to families at a time when the cost of living is rising. I can see no logic as to why the fee would now be increased when it was implemented as a cost-of-living measure but the cost of living and the cost of accommodation are rising in this country.

It raises the question as to whether this was a vote-buying measure. Was it just a vote-buying tactic for the electorate from parties that are now in government? It is the first thing the Government is coming out now and saying it will change. The student movement seems to be very united on this and will continue campaigning to ensure we do not have a fee increase in this country. As I say, the programme for Government commits to this. We hear of options papers. We had the Cassells report previously. This stinks of a kicking-the-can-down-the-road decision to me while students and families need clarity right now. Trinity College Dublin has already issued invoices to students for €3,000 for the coming academic year. This is extremely worrying and is causing huge distress to students and their families all across the country. The lack of clarity simply cannot continue from this Government. We need clarity. What is the fee going to be in September?

Deputy Niall Collins: I have been following and engaging in this debate for the last number of weeks, I think it is fair to say that this is just pure populism politics being played by a lot of people in government and across the Opposition and I have no hesitation in saying that. When was there ever a budget announcement in July? The budget will be at the end of September or in October, the same as it has been for as long as I can remember, and I have been around politics a while. The Senator is standing up here saying she wants the Government to make an announcement now regarding the budget. She knows that cannot happen. She talks about wanting to have certainty and clarity. The Senator and I debated this on a radio programme about two weeks ago and I pointed out to her that with previous cost-of-living measures such as the energy payments, the fuel allowance, child benefit, the living alone allowance and a whole suite of other payments that were part of the cost-of-living package, she did not advocate for any of them. They were all part of the same package as that relating to student fees.

Why do Senator Harmon, the Fine Gael Senators and the Fine Gael TD who rang into the Joe Duffy radio show, or whatever talk show it was, not ask their party leader, who was Minister for further and higher education at the time? They should phone him and ask him. They should phone the subsequent Minister, Deputy O'Donovan. They brought it in as a cost-of-living measure. It was a Government decision, and the Government has decided there will not be a cost-of-living package on this occasion. The Senator will not get an announcement. What the Minister, Deputy Lawless, did when he went on radio and was trying to present it as being a big reveal was set it out factually as it is. The €1,000 reduction, and the Senator knows this well, was a one-off over a number of years. It was never baked into the base as a permanent measure. The Senator knows all this.

As regards the budget this year, let us see what happens. I imagine there will be a reduction. I would like to see a reduction and I will be calling for one. If people want to play politics with it and try to march the student body up and down to the top of the hill and make political capital out of it, they can be my guest. They can knock themselves out in doing so. However, the Senator knows, as do students, that it was a one-off. This time last year or the previous year, students were not asking for clarity, but this year everybody is looking for clarity. They will get

it when the budget comes out.

Disability Services

Senator Patricia Stephenson: I am here to speak about respite and care delivery. Respite is a crucial aspect of disability service provision and offers those with disabilities, elderly people and those who care for them critical and much-needed support. The role of respite service delivery within the disability policy has been labelled as a key priority for the Government and the HSE and improvements in this area in the latest programme for Government have included an action plan for disability services.

10 o'clock

However, like many other areas in our health service, respite delivery is experiencing severe strain and increased pressure. The respite investment plan announced by the former Minister of State, Anne Rabbitte last year, stated that a 40% increase in provision would be needed for known unmet need according to the disability capacity review.

Transparency is needed around HSE respite data too. In January the HSE could not provide explicit data on the average number of overnight respite beds. It noted that data on respite beds is not routinely compiled by disability services. We need to compile this data. It is simply not good enough to say it is not available. That same month, the HSE stated there was no centrally maintained waiting list for respite services regarding individuals whose respite has been refused. How can this be? How can we know the real need if we are not recording the actual requests that are being made?

While the disability support application management tool is welcome progress, greater transparency on the patient data and available respite resources must be ensured. The absence of a formal policy on respite is also unseemly. It is clear that many of the shortages in respite service delivery could possibly be mitigated against policy oversight. Skills, Opportunities, Success Kilkenny, known as SOS Kilkenny, is one example of a respite provider to adults with intellectual disabilities and autism across Kilkenny city and county. It is a fantastic organisation. This week marks its 50th anniversary and demonstrates its role as a cornerstone in the disability sector in Kilkenny. Its services include offering community-based day locations and a part-time short-break service to individuals. This gives people the opportunity to experience increased independence and build lifelong skills.

SOS Kilkenny provides respite care in one home but it is fully booked for this year and the only other respite it can provide is on an emergency basis. The respite it provides enables families to continue their care role while ensuring service users receive appropriate and dignified care. It is really unfair that families rely on respite. They face long waiting lists, reduced availability and the increased stress on their household that comes with that. Many care givers are completely exhausted and risk burnout. We have spoken many times to caregivers, particularly during the election campaign, many of whom are elderly themselves. They talk about how increasingly difficult it is to manage their care responsibilities. They have been calling out for more respite as a way to transition their loved ones from the family home to independent living.

SOS Kilkenny, in particular, needs a second home to be able to provide a more comprehensive respite service. Could the Minister of State give an update on funding for Sycamore

House, a dedicated respite facility in Kilkenny? I am aware that SOS Kilkenny had been promised an extra €1.5 million in funding. Can the Minister of State speak on that? Today is its 50th anniversary so it would be nice to have confirmation that funding is on the way.

In this context, will the Minister of State update the House on the plans to improve respite services for adults with disabilities, older people and children's disability services? Can he commit to better data collection so that we know the scale of need in respite? Without knowing those numbers, I doubt we will ever get to the stage where we are properly resourcing the services.

Deputy Niall Collins: The Minister would like to thank Senator Stephenson for raising this important issue and for offering her the opportunity to respond.

Respite is a key priority area for the Department and the HSE and we have seen significant investment in respite services. Respite services can play a crucial role in delaying and-or preventing moves into full-time residential placements, preserving the family unit and supporting family stability. There has been significant focus on respite provision in recent years, with additional funding to expand respite services provided in successive budgets. Between 2021 and 2024, €35.7 million in new development funding was provided to expand respite provision. This has resulted in the addition of tens of thousands of respite sessions for children and adults with disabilities.

The Department is aware that the demand for respite outweighs the current levels of provision and is committed to working towards meeting the high levels of demand. In the national service plan 2025, additional allocation has been provided to increase the occupancy of existing respite capacity where feasible and to increase alternative respite provision, including in-home respite support hours.

The Department and the HSE are working hard to ensure that respite provision expands around the country. Last year, the Department took the opportunity to examine in closer detail the level of respite provision and availability across CHO areas. The HSE data on the national distribution of respite has shown that there are significant variances in the levels of respite being supported across different areas. Consequently, a process has been initiated with the HSE to progressively move to a situation whereby respite services are more equitably distributed across the country. It is important to note that some areas may look to provide more respite and home support to maintain people with family, thereby delaying the pursuit of residential services, and *vice versa*.

The HSE is also committed, through the national service plan 2025, to undertaking an audit of respite services this year. This audit will provide further insight into how respite services are allocated and managed, allowing efforts to be focused where needed.

The HSE is operating in a very competitive global market for healthcare talent. There are significant shortages of qualified healthcare professionals across the globe. The HSE and specialist disability service providers are experiencing ongoing challenges recruiting and retaining staff across a range of disciplines and grades.

Ensuring that the disability sector is fully resourced is a key priority of the Government which has been reflected in the programme for Government. To address the high staff vacancy rate during 2025 across all disability services, the HSE is continuing to carry out sustained workforce recruitment and retention initiatives. These initiatives will support the HSE and

service providers to ensure existing services are utilised to their fullest extent.

The Senator mentioned locations in Kilkenny. I do not know if she flagged when she put down this Commencement Matter that she required some detail. If she sends us an email about what exactly she is looking for, we will endeavour to get that for her.

Senator Patricia Stephenson: I recognise there are recruitment challenges. The Minister of State might go into a bit more detail on the efforts being made. His remarks were quite general about how recruitment challenges would be addressed. The Minister of State might not be able to answer now on data and I might ask that the Department come back to me on this. Can we get a commitment for an audit of services and need? Can we start collecting data on the number of rejected applications for respite so we have a sense of how many people are on the waiting list? Without that data on how many people are applying, how many have been rejected, how many have been on the waiting lists and how long they have been there, we cannot really map the extent of the issue.

I note that plans for service delivery are contained within government initiatives including the programme for Government. However, as far as I can see there is not very much information on *Gov.ie* of the tangible work being done to achieve these targets. It would be great to have that uploaded so there is some accountability.

The development of a formal policy on respite was listed in the action plan for disability services 2024-26 but it was not in the programme for Government. Will the Department commit to do so in the lifetime of this Government?

Deputy Niall Collins: The data the Senator wants to see flow from the audit is something we can alert the HSE on. There has been steady growth in respite since 2022 with 2024 seeing a significant increase in activity with nearly 10,000 additional overnight sessions and 20,000 day sessions delivered. This coincides with an increase in funding year-on-year. Great work is being done to identify the best use of our resources in the area of respite. New respite services are being commenced. Existing services are being expanded and gaps in provision are being identified. Respite can be delivered in so many different places and ways and what works best will differ from person to person and family to family, which I know the Senator will appreciate. We continue to increase the funding and prioritise respite service provision. That will increase comparatively. Expanded and additional respite supports are critically important to many individuals and families across the country. The importance of this service to the service users and those who support them cannot be overstated. As I stated, respite plays a key role in supporting people to stay in their own homes with their own families for longer. In the first three months of this year alone 6,600 people accessed some kind of respite service, a number higher than that of 2024 entirely. It is important to keep in mind this momentum. The HSE and the Department are working tirelessly to achieve that.

International Students

Senator Alice-Mary Higgins: The urgent issue I am raising concerns 40 students who have secured places in Irish universities but are trapped in Gaza. These students have previously been told by the Irish Embassy in Tel Aviv that their visa applications would be approved as they met all the necessary criteria and that they would be on the next evacuation flight. They have been waiting for over three months in the most severe and dangerous conditions without

any updates or indications as to what the next steps are, what actions are being taken and why there are such delays in the evacuation process.

The students have shown formidable tenacity in the face of indescribable destruction and hardship, in the context of every university in Gaza having been destroyed, and have worked despite these circumstances to be accepted to Irish universities. This is deeply impressive. All of them have worked very hard during an ongoing genocide to earn these places. Their efforts are a testament to their steadfastness, their work ethic and the qualities that have already been noted and recognised by the corresponding universities and by the communities who are anxiously waiting to welcome them to Ireland. The application process required reviews of their transcripts, assessment of their English proficiency, letters of recommendation from living professors in order to qualify for the university places and to obtain scholarships in a number of cases. The visa application required that students demonstrate they would not be a financial burden to the State and they have shown this with support from scholarships and surrounding communities. They have met every single requirement for university placement and for visa applications and are now simply awaiting information on when those visas will be received and how evacuation from Gaza will be organised.

Even though there do not seem to have been Irish evacuation flights since April, other evacuation flights are still taking place. Just last Wednesday, another evacuation, including university students to other European countries, was carried out. The evacuees were taken via bus to the Karem Abu Salem crossing, through occupied Palestine and into Jordan, where they were flown to their respective countries. We know from this that evacuations are possible if the will is there.

Given that the academic term will start in September, I hope we can be provided with some useful information indicating that these students will be able to take up those places in September, especially given the unbearable uncertainty from day to day of their current living circumstances. What steps is the Department taking to ensure these students will be in a position to commence their studies in September? Is detailed information available in respect of evacuation flights or the steps being taken to arrange evacuation flights? Why have there been none since April? Are they scheduled? Are plans under way in relation to this? What are the necessary criteria to receive assistance from the Department? We have heard worrying references to a new layer for those who have already overcome such obstacles. It consists of additional criteria, different from what was in place in April, that they may need to meet in order to have basic assistance with this evacuation. Will be processes in place in the event of a ceasefire to expedite the evacuation from Gaza of these students and the others who are awaiting visas? As we know, it may be a very small window if it occurs. Have there been attempts to co-ordinate with other countries on shared evacuation flights or shared practices for same? Will any information be provided to the applicants to give them a sense of clarity? What has the engagement been between the Departments of foreign affairs and justice on these matters?

Deputy Niall Collins: I thank the Senator. Ireland has consistently condemned the ongoing Israeli military operations in Gaza and continues to urge all parties to do everything possible to support efforts under way to reach agreement on a new ceasefire and hostage release deal.

The Department of Foreign Affairs and Trade, including Irish embassies and consulates worldwide, provides consular assistance to Irish citizens who get into difficulty abroad, in accordance with its consular assistance charter. The provision of consular assistance to Irish citizens is a cornerstone of the work of the Department.

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I am acutely aware the situation in Gaza is appalling and deteriorating and I appreciate that those with a student scholarship for a higher educational institution in Ireland are desperate to take up their positions in the coming academic year. Ireland, as the Senator knows, has continued to steadfastly advocate for an urgent end to hostilities and for unimpeded humanitarian access. Ireland will continue to advocate on this matter on the international stage.

I appreciate the sentiments that have prompted the Senator to raise this matter but, as she will appreciate, the Department is extremely limited in its ability to provide consular assistance to non-Irish citizens. As she may be aware, exit from Gaza is dependent on receipt of permission from the relevant local authorities, both in Israel and, in certain circumstances, in neighbouring jurisdictions. Such permissions are outside the control of the Government of Ireland. Moreover, visa-required nationals wishing to travel to Ireland must apply to the Department of Justice, Home Affairs and Migration for a visa. Each visa application is reviewed in accordance with Irish legislation. Officials in the Department of Foreign Affairs and Trade, including in the Irish Embassy in Israel and the representative office of Ireland in Ramallah, have provided advice and guidance to individuals on these requirements over many months. Since the beginning of the crisis in Gaza, that Department has supported 153 persons to leave Gaza and travel to Ireland, including a small number of students. Where necessary, the Department of Foreign Affairs and Trade has been in direct contact with the Department of Justice, but the overall responsibility for engaging with the Department of Justice on visa matters rests with the individuals themselves.

This morning, the Tánaiste and Minister for Foreign Affairs and Trade, Simon Harris, confirmed that nine Palestinian students had safely left Gaza yesterday and are due to arrive in Ireland today. They will take up scholarships for the 2025-26 academic year under the Government's Ireland-Palestine scholarship programme, which is supported through Irish Aid. The students will be supported by the Irish Council of International Students and the managing agency for the Ireland fellows programme in anticipation of their courses starting in September. Three other Ireland-Palestine scholarship fellows were supported to leave Gaza in April of this year, having been unable to exit in 2024. We also look forward to further fellows from the West Bank arriving in September. Currently, eight Ireland-Palestine scholarship fellows from Gaza from the 2024 intake are completing their master's degrees.

There are currently no plans to operate evacuation flights from Gaza. All Irish citizens who remain in Gaza and have contacted the Department of Foreign Affairs and Trade seeking assistance have been offered the opportunity to leave, but for a variety of personal reasons they have chosen to remain. I assure the Senator the Department of Foreign Affairs and Trade stands ready to assist all Irish citizens who remain in Gaza.

Senator Alice-Mary Higgins: I am appalled. I realise the Minister of State has given us the text that people have been receiving in letters, which is that the Department is so busy it is limited in what it can provide to non-Irish citizens even if they have placements in Irish universities. I do not accept that. The idea that consular staff will deal only with Irish citizens, effectively, or those on a direct Irish scholarship is disgraceful in the current context. I ask the Minister of State not to bother talking about the position the Government claims to be taking on these matters. This is a direct shift in position from the kind of humane approach we took on Afghanistan and the kind of humane approach we were taking in April. It is clear the Government is now saying it is going to leave these people on their own, having overcome impossible obstacles and been told a few months ago that they would have access and support. They were told they could not apply for visas until the flights had been arranged and now we are hearing

there are no plans for delivering any flights or working on any flights. They are on their own because the very busy embassy in Tel Aviv - I would ask what it has been doing for a long period in terms of the absolute silence from it over years of abuses in Gaza - is too busy to help 21 students not covered by a Government of Ireland scholarship. With all its means, it is too busy to assist them. I do not accept that the Irish Embassy in Tel Aviv and the Department of foreign affairs with all of its resources are too busy and overwhelmed to help 31 additional students take up their placements. I do not accept that. It is disgraceful and a shift in policy. What has changed? Why has the Government changed from this position? Is it a new hard approach we are trying to take? Are we using the most vulnerable example we can possibly find to create a new hardline approach? I am shocked.

Deputy Niall Collins: The Department of Foreign Affairs and Trade has assisted 153 individuals in exiting Gaza. Where officials in the Department have received requests for assistance, they have reviewed each case within the context of the Department's consular assistance charter, which guides its overall consular assistance policy on the ongoing situation in Gaza and provides clear advice and guidance to these individuals. Those individuals the Department was in a position to assist have been assisted in exiting Gaza and travelling to Ireland.

I appreciate that this may be extremely disappointing for those who have a scholarship for an Irish university and have not been able to travel. However, as the Senator will appreciate, the Department, and Irish embassies and consulates worldwide, are extremely limited in the assistance they can provide to non-Irish citizens. I reiterate that Ireland continues to both bilaterally and at a multilateral level call on Israel to comply with international law, stressing the universal applicability of international law, including international humanitarian law. The nine Palestinian students who safely left Gaza yesterday are due to arrive in Ireland today and take up their scholarships for the coming academic year under the Government's Ireland Palestine scholarship programme, which is supported through Irish Aid.

Up to 30 students from the West Bank and Gaza have benefited from these scholarships each year since it was established in 2019. It is a competitive scholarship for students with a bachelors degree who are resident in the occupied Palestinian territories. The application process is rigorous and highly competitive comprising of application forms, essays and interviews. The scholarship programme is committed to providing equal opportunity to all applicants. I appreciate that this may be extremely disappointing for other students who have been awarded a scholarship for an Irish university and have not been able to travel. However, as the Senator will appreciate, the Department of Foreign Affairs and Trade and Irish embassies worldwide are extremely limited in the assistance we can provide to non-Irish citizens. I assure her that I will convey her sentiments to the Tánaiste.

Cuireadh an Seanad ar fionraí ar 10.22 a.m. agus cuireadh tús leis arís ar 10.33 a.m.

Sitting suspended at 10.22 a.m. and resumed at 10.33 a.m.

Gnó an tSeanaid - Business of Seanad

An Cathaoirleach: Before I call on the Leader to outline the Order of Business, I welcome the Belgian ambassador to Ireland, Karen Van Vlierberge, who is leaving us shortly. She is going back to Europe. She tells me that she is bringing an Irish dog and an Irish cat with her, so she will be taking a small part of Ireland. She is joined by Deputy Catherine Callaghan, who

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has been appointed as the convener of the Ireland-Belgium Parliamentary Friendship Group. We greatly appreciate the support of the Government and people of Belgium during the Brexit process. It feels like a lifetime ago now, but it was all very important at the time, and it continues to remain important as we deal with the ongoing fallout of Brexit. Ireland and Belgium were the two countries most impacted by Britain's decision to leave the European Union. We have put in place the structures to reinvigorate our opportunities as a result of it.

Our historical connections go way back through the annals of history to Irish missionaries going to Belgium and Irishmen leading battles in the Belgian Army. Many Irish diplomats have made Brussels their home and enjoy working with the ambassador's colleagues in the Belgian Government. We wish the ambassador every success as she leaves Ireland after her four long years of service. We mark her national day and celebrate it in advance. I thank her for being here today.

Senator Seán Kyne: I also wish the ambassador well on her return home and thank her for her stay in recent years in Ireland. I too wish her well on her national day.

An tOrd Gnó - Order of Business

Senator Seán Kyne: The Order of Business is No. 1, Defamation (Amendment) Bill 2024 – Committee Stage, to be taken at 11.45 a.m. and to adjourn at 1.15 p.m. if not previously concluded.

Senator Anne Rabbitte: This morning I raise a particular issue for probably the third time. It relates to compulsory purchase orders, which are a very serious issue for any community but in particular for the farming community. I raise an issue that is ongoing for ten years. It is ten years since the first liaison officer was appointed by Galway County Council to inspect a person's land on 10 September 2014. In that period, there have been numerous communications. The road has been developed and completed but a number of landowners along the N63 have not been paid. Notice to treat was served on 25 January 2016. It stated that when the notice to treat was served, reimbursement would take place within a 12-month timeframe. Now, it is the middle of July and that landowner has still not been reimbursed. In order for him to pursue the payment, he has had to engage a barrister, a solicitor, a valuer, an independent engineer, a senior planner and another engineer. He has made four offers. He has gone out of his way four times to give an amount he was prepared to accept and he asked the council to work with him. The last time he had a meeting with Galway County Council was this time last year. While he was at the meeting he was more than willing to close the door on this and to move on, but he got a letter saying the case was going to arbitration. He has never been offered anything by Galway County Council. Only in the last month he got another letter saying the date is fixed for 25 July, still without an offer. In the following week he was told the meeting had been cancelled and it would take place in October, but the council wanted to see who was involved in his team. There has not been engagement at any stage.

There is an issue in regard to how local authorities engage on strategic infrastructure projects with landowners. This is no way to treat a person. This takes a mental toll on families. This man is fortunate in that he is prepared to challenge the system but for those who cannot afford to do so, their land is being taken and they are not being compensated.

Senator Michael McDowell: I want to raise on the Order of Business today the need for a

full debate in this House on facts and circumstances, some of which have only partly emerged in the media, concerning grave issues relating to the armoury section of An Garda Síochána, which have been dealt with by An Garda Síochána and the Department of justice. There has been limited media coverage of the falsification of documents submitted by An Garda Síochána to the Department of justice, designed to facilitate the importation of firearms for civilians who are not gardaí. There has also been limited publicity in the media concerning the misuse of protected disclosures made in utmost good faith to the Department of justice concerning matters relating to the Garda armoury.

Deputy Alan Kelly has also raised in Dáil Éireann defective holsters issued to armed members of An Garda Síochána, which appear to have been contributory factors in the death of one garda and the very serious injury caused to another. Very grave issues arise in regard to the procurement process that led to the defective holsters, which have been withdrawn, being manufactured here in Ireland to a grossly substandard level. Other very serious issues have arisen in regard to the procurement of defective ammunition by An Garda Síochána.

Far more serious than any of this has been what appears to be the gross mistreatment of honest gardaí who have been affected by these matters, or who have raised them. There is clear evidence that criminal and disciplinary processes have been launched to conceal major malfeasance in the management of the Garda armoury. A senior Garda officer of the utmost integrity has been sidelined for his part in raising these matters. A junior member of An Garda Síochána, also of the utmost integrity, is currently facing criminal charges on indictment, which appear to be motivated by a desire to conceal abuses in the armoury section.

Senior management in An Garda Síochána is aware of all of these matters. Anyone who thinks that the culture in An Garda Síochána has been transformed by the outcome of the disclosures tribunal concerning Sergeant Maurice McCabe is, I fear, gravely mistaken. I am truly shocked by what I have learned. These matters must be brought into the public domain and an urgent debate is required on them in this House, attended by the Minister for justice, when it resumes in September.

Senator Ollie Crowe: Members will have seen reporting this morning of the comments by the Minister for justice at the Institute of International and European Affairs about a case currently before the Court of Justice of the European Union and its expected outcome. In short, he advised that the likely outcome is that asylum seekers will soon be entitled to damages from the State for its failure to provide them with accommodation, while Irish homeless people and homeless people from other EU member states will have no such right. As the Minister pointed out, this will be very difficult to justify to Irish citizens and, indeed, citizens of any EU member state.

The expected outcome of this case sounds like lunacy. It will be deeply problematic and will only cause anger and frustration among our people. Ireland has faced unprecedented pressure in terms of asylum applications while trying to deal with existing shortfalls in housing. Despite that, the State has continued to act responsibly in dealing with asylum applications. There are Irish citizens experiencing homelessness and waiting on social housing lists. Those people have no entitlement to compensation. For asylum applicants to be given additional rights over them is incredibly unjust. If the case is decided as expected, it will be an example of the people who make decisions being so far removed from the practical implications of those decisions as to make them blind to what justice actually is.

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Senator Michael McDowell: Hear, hear.

Senator Ollie Crowe: The decision will not be finalised until September at the earliest. We need an urgent debate on this topic after the recess. I would be grateful if the Leader would request that the Minister for justice come to the House to talk through the issue in depth as soon as possible.

Senator Aubrey McCarthy: I read a disturbing article on *thejournal.ie* this morning about 13 Oireachtas broadcast workers who will have to sign on the dole next week. I want to know what the situation is in that regard.

I reiterate the deep concern expressed by my colleague Senator Crowe regarding the upcoming ruling of the Court of Justice of the European Union. As he noted, the suggestion is that asylum seekers arriving in Ireland could have stronger entitlements to State support than do Irish citizens who are homeless. I have mentioned many times my involvement in the Lighthouse Cafe on Pearse Street, where we feed people of all nationalities who are experiencing homelessness, including Irish people, asylum seekers, etc. They eat, sing and play bingo together. It is a wonderful place where there is no division. It is a space where dignity, unity and compassion are shared in equal measure.

The suggested ruling risks undoing the delicate balance we have created. It will not just affect housing policy but also social cohesion. The perception, right or wrong, that Irish people are treated as second-class citizens in their country, while others are fast-tracked for accommodation and support, is a recipe for disaster, resentment and disruption. We never want a repeat of the riots we saw a while back.

Ireland absolutely has obligations under the European Union and we must remain a welcoming nation, but not by sidelining our own vulnerable people in the process. It is not about either-or; it is about fairness for all. I join Senator Crowe in urging that the Minister be asked to come to the House to discuss how the Government will ensure parity of treatment for all and that decisions made at European level do not fracture the social fabric we work so hard to mend every night in places like the Lighthouse Cafe.

Senator Alison Comyn: I join colleagues in thanking the Belgian ambassador for her many years of service and wishing her *bonne chance* in her new adventures.

I stand here, on the last day of term, with a sense of gratitude that I have had an opportunity to raise so many local and national issues. It is a privilege to be able to do so and we do not do it alone. Without wanting to sound like an Oscar winner, I thank the many people who are involved in enabling us to do this, from the ushers who meet us in the morning to the staff who give us our cups of tea. A cast of thousands help us to do our jobs, including my wonderful administrative assistant, Anna Brennan, who has become my right-hand woman.

There is a group of staff without whom we would not be able to pass our messages on to the great public. I refer to the Oireachtas broadcast workers. I am dismayed that as we go into the recess with security, 13 of those staff go into it with a lack of job security and will be forced to sign on or get work in other places. The Committee of Public Accounts is set to hear from them and review their situation. Perhaps the relevant Minister might write to the Houses of the Oireachtas Commission and ask that there be a pause in the tendering process until the issues are sorted out. These staff are not receiving the same fair pay and conditions as other Oireachtas staff. They carry out such a vital role that it would benefit us all if they were looked after with

the same fairness.

I wish everybody a good summer recess. I assure all those watching the proceedings, who are able to do so due to the Oireachtas broadcast workers, that our work will go on during the recess. I look forward to engaging with many people during the summer. I thank everybody here for their service.

Senator Joe Conway: There has been a significant European dimension to the contributions this morning. I am happy to add my three ha'pence worth before we go our separate ways.

I am charmed and warmed that a very important meeting is taking place this morning in London between Prime Minister Starmer and the German Chancellor, Friedrich Merz. It signals a rapprochement and closeness between two countries that were traditional enemies in times past. It also signals the urgency with which European leaders want to address the current situation, which is fraught with dangers all over the Continent, within and without the European communion. The Government should signal to all our European partners our ever-growing eagerness to stand up for what we believe in, which is European democracy and our way of life. We need to signal a greater co-operation and closeness in defending, and being willing to defend, those European values.

In a different Senate, a long time ago, a politician called Cato the Elder used to finish all his speeches with the ringing words, "*Carthago delenda est*", which means "Carthage must be destroyed". We could adopt the same attitude in this and the other House in terms of the need to stand up to Russia. I have said so many times during the course of this term. Russia is an ever-present threat and that threat will not go away by reconciliation or mediation. It must be faced up to with growing efforts of deterrence and strength by the Europe we hold dear. Unless we do that, we will face the same possibility as that faced by the unfortunate people of Ukraine not so long ago. Well done to our European partners. Let us get on board. We must stand up to Russia.

Senator Patricia Stephenson: I lend my support to the comments by Senator Comyn. We heard reports yesterday that 13 of the Oireachtas broadcast unit staff will be signing on the dole for the summer recess. This is appalling. They are our colleagues with whom we work every day. They are fundamental to the effectiveness of what we do. Their live streaming of the proceedings of the Seanad, Dáil and committees is not a little nice-to-have thing; it is fundamental for good democracy, accountability and transparency. It allows members of the public to tune in from wherever they are, follow proceedings across the Oireachtas and hold us accountable as elected representatives. Many of us use those streams to show the people who voted for us in our communities the work we are doing on a daily basis. This facility really strengthens the work we do.

That colleagues who work alongside us daily are forced to go on the dole is fundamentally wrong. The broadcasters have been incredibly brave in advocating for themselves and standing up against the deeply unfair working practices they face. I commend them on their courage, particularly given the statement by their employer, reported in *The Irish Times* yesterday, that they have "engaged in ill-informed criticism of their employment terms to further [their] objective". They are entitled to challenge poor working conditions. We are very lucky to have workers' rights in Ireland. In some parts of the world, workers do not have those rights. The broadcast staff are well within their rights to speak out and demand better employment conditions. I find it shocking that an employer would have a stance of ill-informed criticism because

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the employees know their conditions better than anybody else. Working rights and fair conditions are crucial. It is not sustainable for them to have no income until September. No one should be facing that. I request the Leader to write to the Houses of the Oireachtas Commission on behalf of all the Senators to request a pause on the tendering process for the next contract until these issues are addressed. If the next contract, which is due this year, comes in exactly the same form then these issues will continue until the next contract. We are in the moment now to evoke some sort of change. They deserve industry standards. They deserve retainers. They deserve income protection. They are being abused quite frankly. They deserve better working conditions.

Similar to Senator Comyn, I thank everyone who makes the Oireachtas function correctly, including cleaners, waiter staff, cooks, and all of the people who allow us to be able to work hard and do our jobs on a daily basis.

Senator Margaret Murphy O'Mahony: Under present requirements, a person with a disability who wants to access a postal vote has to pay €25 for the GP to sign off on the request. I call the Minister for Health to get this covered, either by paying separately or get it covered under the medical card. A person with a disability, even if he or she has a medical card, has to pay the €25. In a recent study, it is proven that this prevents some people from accessing a postal vote. We have an amazing system of one person, one vote, rich or poor. Whoever a person votes for is between them and their maker. However, this section of the community are the only people who have to pay to vote. In essence, having to pay that €25 is making them pay to vote. I ask for that €25 fee to be waived.

Senator P. J. Murphy: I express concerns about what is coming down the track soon with the Veterinary Medicinal Products, Medicated Feed and Fertilisers Regulation Act 2023. From 1 September, the new regulations will deem all antiparasitic veterinary drugs to be prescription only. These are a large number of remedies used on farms on a day-to-day basis, such as sheep dip, dry cow mastitis tubes and ivermectin that is used for treating cattle for worms, fluke and lice. These products are currently available over the counter and have been for many years. The products are on the market under tight Department of agriculture control and experienced well-trained staff provide advice to farmers at the point of sale.

According to new EU harmonised legislation, prescribing must be undertaken by veterinary practitioners, who are also permitted to sell and dispense these products. Most importantly, there is no requirement for vets to keep prescribing and dispensing separate from one another, creating a concerning conflict of interest. This shift is not just a regulatory update. It is an economic and structural seismic shift to the many small independent licensed traders across this country. According to the Central Statistics Office, CSO, Ireland's veterinary medicines market is worth approximately €400 million annually. While €300 million of this already ends up with veterinary practitioners, the remaining €100 million goes to a network of small, independent merchants and co-ops found in towns and villages across rural Ireland.

The Independent Licensed Merchants Association, which represents 350 of these smaller merchants nationwide, warns that only 38 of its members can remain in business under these new rules. That is a potential loss of nearly 90% of this industry. This is a choice that is anti-competitive. The justification given to this change is that we need to combat antimicrobial resistance by ensuring responsible use of medicines through mandatory prescriptions, while also improving traceability and oversight via the national veterinary prescription system which requires all prescriptions to be on a central controlled database. However, as a person who has

worked my whole life in the cattle farming sector and administered these medications on thousands of occasions, I assure this House that we as farmers are not in the habit of overusing these expensive medications and do not use them when they are not necessary. Indeed, it quite on the contrary. I fear the inevitable price rise, which will result from the gifting of a monopoly on the sale of these crucial antiparasitic products could result in their under use leading to severe animal welfare concerns. I have great fear that it could also lead to an increase in the purchasing of these medicines through black market sources.

While the goals of health and EU compliance are important, implementation must reflect Irish rural reality. Without safeguards for independent merchants, this regulation risks creating a dangerous monopoly in the veterinary medicine distribution sector. On my own behalf and my Fine Gael colleague and Councillor Michael Boyle from Donegal County Council, I urge the Minister for agriculture to postpone the implementation of these regulations and conduct a full and independent review of the economic and social impact before regrettable and permanent damage is done to this sector.

An Cathaoirleach: Before I call the next speaker, I welcome my fellow county men and women who are here today. They are guests of Deputies Danny and Michael Healy-Rae. They are most welcome to Seanad Éireann. I hope they have enjoyable day in Dublin. We will all be back up the weekend after next for another enjoyable day in Dublin, please God, and we will be bringing Sam Maguire back home.

Senator Sarah O'Reilly: I raise the issue of the roads in counties Cavan and Monaghan. They are in such poor condition that drivers are getting seasick, particularly those who drive tractors and there are many of those. Earlier this year, I welcomed the announcement from the Department of Transport that there was an 11% increase in funding for rural roads in Cavan and Monaghan. This increase, however, does not allow for the shortfall in the funding between 2008 and 2023. Over this 15-year period, we saw a €105 million shortfall in the funding for our road network in repair and maintenance.

Cavan has the highest NCT failure rate in the country with steering and suspension issues being the number one issue. These problems are directly linked to the poor condition of our roads. It is no coincidence that vehicles are failing where the roads are at their worst. People should be able to commute to and from work without worrying about ripping the wheel of their car. People pay motor tax, fuel tax, tolls and full excise. The least they should expect is the roads they travel on are safe. There may be an increase in funding, but there is an actual reduction in the number of kilometres of local and regional roads being maintained. When I started in the council in 2016, we were doing 23 km in our municipal district. Last year, we did 11 km. These incremental rises in the early budget do not cover the increase in cost of materials or match the rate of inflation. Given the cumulative deficit in road funding during the 15-year period, there needs to be a much higher allocation in funding if we are to see our roads improve. According to the executive of Cavan County Council, it will take 40 years and €220 million to get our roads up to an acceptable standard.

The Government is literally and politically patching over this problem. Rural communities like those in Cavan and Monaghan deserve more than token increases that barely keep pace with inflation. We need a serious sustained investment that addresses the backlog in funding and restores our roads to a safe reliable standard. I have asked for a Commencement debate a few times on this and it has never been picked. In the next term, I would like to have a Commencement debate with the Minister.

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Senator Dee Ryan: I rise to make my final contribution on my first term in the Seanad. During my time so far in Leinster House, I focused on highlighting the trolley crisis at University Hospital Limerick. I turn my attention to the other burning issue for us in Limerick which is the challenge of affordable housing. That term “affordable housing” is often misunderstood.

11 o'clock

When I say “affordable housing” in this context, I am talking about the Government scheme to support people who earn over €40,000, as the threshold is in Limerick, that is, over the threshold to qualify for social housing, but who do not earn enough to be able to purchase from the private market, so approximately €75,000 or €80,000. That is a huge salary range and those are fine earnings that people are making in Limerick. Unfortunately, however, the private market is not delivering homes at a cost at which they can purchase them. Affordable housing in this context is the scheme whereby the Government subsidises the cost to deliver housing for those people. I am really dismayed to learn that in Limerick, on foot of my questionings with the local authority, we have only 12 homes in that affordable range coming forward in the pipeline in the foreseeable future. They are rental; they are not even affordable purchase.

We need an urgent debate with the Minister for housing. I know it is an area he is very focused on. I look forward to the work he has done on this being unveiled in the coming weeks. At the earliest possibility, when we come back after the recess, I would like the Minister to come into the House to discuss this cohort of working people, the people who pay for everything, who are not being housed in our society. In Limerick, it is a significant number. We think it is approximately 20,000 people, according to the last census, over the age of 18 who are still living at home with their parents.

Senator Gareth Scahill: I rise today, on the final sitting of this term, to talk about school buses once again. It is something I have raised on at least two occasions in recent weeks, but this is a good news story. Bus Éireann this week came back to me and, after a submission I made initially in March, said:

We have investigated the feasibility of amending the school bus to serve Ballymoe Village and I wish to advise that this amendment will take effect for the 2025/2026 ... academic year.

Because of what I have said in this Chamber before, I want to acknowledge and thank Bus Éireann for coming back to me on that. Now that Bus Éireann has an idea of who needs buses for the next academic year, I would like it to engage with us as public reps much earlier, right now, to see what solutions we can put in place before September to ensure that everybody is serviced and has that service available to access school. However, I wish to put on the record my appreciation. It did take two and a half months to get a response from the reps' email address, so hopefully we can improve on that for the next term.

Before we finish up, on behalf of the Fine Gael Members in this House, I say “thank you” to all the staff here in the Houses of the Oireachtas, including the ushers, the caterers and the cleaners. It has been my first five months involved in this House and they have made us feel very much part of the furniture throughout. I thank them for that. I thank Bridget and all the staff here in the Seanad as well. They have made it a very easy transition from rural Ireland to coming up here.

Senator Sharon Keogan: Last Friday evening, the Department of Health published its

report on the number of abortion notifications received for 2024. The figure, totalling 10,852, is the highest yet on record. It represents a 63% increase in the abortion rate in 2024 by contrast with 2019, when 6,666 abortion notifications were received. To put it more starkly, newly released data means that at least one in six pregnancies were aborted, excluding miscarriages. This is a harrowing statistic and something we should all reflect on. It underlines the need for serious action by the Government to address the abortion rate, which continues to soar to horrifying new heights annually. More supports are needed for women in unplanned pregnancies to ensure no woman feels like she has no choice but to have an abortion. We also need to ensure that a woman facing an unplanned pregnancy and considering her options is truly given her options, including information about social welfare entitlements, parent support and adoption. I draw attention to the fact that the Department of Health issued a publication on its website late on Friday evening with no known associated press release. This meant that the news of the sky-high abortion figures did not receive much media attention and swiftly fell out of the news cycle. I am doubtful that this was just a coincidence. Under the Health (Regulation of Termination of Pregnancy) Act 2018, the Minister is required to issue a report of the previous year's abortion notifications, which is to be prepared by 30 June. It felt like the Government was just publishing this important data due to the statutory obligations but hoped it would receive as little public attention and scrutiny as possible. The revelation of 10,852 abortions last year has not received the proper attention it deserves. This should generate a national debate about our current abortion policy and raises questions about how the Government can try to reduce the spiralling abortion rate.

Senator Evanne Ní Chuilinn: I echo the sentiments of many Members today in wishing everybody the best of luck over the recess. There is lots of work to be done elsewhere, but thank you to all the staff here in the Seanad, the ushers and everybody who has looked after us so well, particularly us newbies just getting used to everything.

There is a group of workers here in Leinster House who face into a lot of uncertainty over the recess. The broadcast workers for Oireachtas TV face going onto social welfare while we are going into recess. Everything is very unstable and uncertain for them. Not only that, but the pay they receive is far below industry rates, even though the likes of RTÉ, Virgin Media, TG4 and others use their footage. It is broadcast quality. Speaking as a former broadcaster, it is the best of work that is being done by those broadcast workers. The contract with the provider of Oireachtas TV is up this year, and it is high time the Houses of the Oireachtas Commission looked at the contract because these workers are doing amazing work. None of us would have social media clips either without the work being done in these Houses by Oireachtas TV staff. I just want that marked as we enter recess and as our colleagues in the broadcast unit look at going on social welfare for the recess. It is time we supported them. As the contract is up for renewal, now is the time to do as much as we can to get them onto industry standards and the rights they deserve.

Senator Rónán Mullen: I spoke yesterday about my concern about the religious orders' interactions with the State and the need for them to be very careful about being bullied by the State in the context of future redress arrangements concerning not abuse in schools, which is a very separate thing, but what happened in mother and baby homes. I do not suggest that there is not a case in some cases for redress but I am very troubled. I read this morning an excellent article by John McGuirk on Gript about the Tuam babies and the whole cultural narrative being presented around that. I have heard of no credible suggestion or evidence of foul play and heard of no finding by any commission about deliberate neglect. I have heard a whole lot of

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doubt about how and when a structure that may have had a connection with a sewerage system at some point in the past came to be used as a repository for some children's bones. I suspect I am one of many silent dissenters from the idea that the State should be digging up and examining the bones of long-deceased infants who were unfortunate enough in life to begin with and concerning whom no credible claims of foul play or deliberate neglect have been made, to my knowledge. I have secular friends who dismiss the exercise as a waste of money. It would not be a waste of money if there were a real and honest purpose, but how realistic is it to expect that this long forensic exercise will unearth any significant fact that will lead to justice for any person, living or dead? Some see it as the State giving into performative politics or maybe catering to the asks of people who have been hurt in life in some way connected with the homes, and I understand that. I also wonder about the role of public commentators who are anti-Catholic and who want to ferment public rejection of Irish Catholic heritage and culture. Is that in play here?

I am interested in the truth, but the truth is complex and textured. Every time I hear RTÉ talk about a disused sewage tank, I know what that is contributing to in people's minds, and it has very little to do with a broad understanding of historical reality. It is for that reason that I ask that we have a respectful debate in the autumn. I know it is irrevocable at this stage that this forensic exercise is going on, and I hope it leads to facts that will bring justice to some person living or dead, but I really doubt it. We should have a discussion about the Tuam babies, the narrative around it, the role of the State, the way the State is acting on this, the type of motivations it appears to have and the way it publicly expresses its policy around this because I am not sure that justice is being done in the present in connection with the realities of the past.

Senator Linda Nelson Murray: I echo Senator Ní Chuilinn's thoughts and wishes for the support we have received from everyone in the Seanad since we began. We are total newbies. Lots of us are brand new politicians and greatly appreciate the support. I echo what Senator Ní Chuilinn said about the workers in the background because we all use our social media clips and little videos so I support the workers in all of their endeavours.

I have spoken on this previously, but I wanted to finish off the year by speaking about it again because it is so important and I will bring it back up in the autumn. The analysis from the Irish Dental Association shows we need an extra 500 dentists across the private and public sectors immediately. We are down 642 dentists who are on a DTSS contract nationally during the past 12 years. Focusing on County Meath, in quarter 4 of 2017, some 7,711 children were seen but in quarter 4 of 2023, 2,378 children were seen. It has not been good and children have not been able to be seen. In the public dental service the lack of dentists has led to a situation where fewer than half of the children who should be seen under the school dental programme have been seen and there are children in parts of the country who are facing a ten-year backlog.

The previous time I spoke about this I mentioned my own children. They have a condition that is growing in Ireland called molar incisor hypomineralisation. It means the enamel is not growing on their teeth. Only that I was lucky enough to be able to bring them to a private dentist, it would not have been a good story. They have had a lot of procedures and one operation. Many children have this condition and if children do not see public dentists in schools until they are in sixth class we will be in a lot of trouble in regard to children's teeth in the future.

I am delighted we have opened another 20 student places in Dublin but with only 90 people graduating every year and 45 of them returning to various countries, while we are adding 20 places we need to add a lot more to that. We need more investment in our colleges. We need specific training in other aspects of dentistry. I thank the Minister for Health, Deputy Carroll

MacNeill, for the work she is putting in but I ask for more to be done so more dentists can be qualified in future, particularly for County Meath.

Senator Chris Andrews: The Dublin City Taskforce should really be renamed the “north inner city Dublin task force” because it will not actually impact the south inner city. For instance, Pearse Street and Kevin Street are very important parts of the city and the task force will have no impact there. Dublin City Council has been appointed to head up this new task force and to regenerate the inner city. It is supposed to be doing that anyway. The reason Dublin City Council is not doing it is because it is not getting the funding. This task force says it will get Dublin City Council to fast track and work on the regeneration of the flats in the inner city. Dublin City Council is already supposed to be doing that and working on improving the lives of people living in the inner city. The difficulty is that the funding for the local authorities is not there. It is already Dublin City Council’s job to refurbish and regenerate flat complexes right across the city but it will not be doing that because it does not have the funding. The council has already pulled the plug on the redevelopment and regeneration of Pearse House. The conditions in which people are living in the inner city, such as in Leo Fitzgerald House, are absolutely shocking, not just on the northside but on the southside as well. The task force will not actually affect the lives of residents.

Look at Trinity College, which has turned its back on the local community in Pearse Street. If you walk from Trinity College down to Westland Row all of one side of the street is effectively sterile because Trinity College and planning has meant there is no life on that street. Very often there are tents lying open and homeless people on the other side of the street. Senator McCarthy will know well that Pearse Street is lively and active but on the Trinity College side there is that systemic neglect. The Dublin City Taskforce will not address the systemic neglect of the inner city. Dublin City Council has that remit. The local councillors do not and have not had any engagement in relation to this. Looking at the conditions people are expected to live in, the public realm and the lack of employment and educational opportunities for people living in the inner city, they are completely unacceptable and the task force will not solve this. All the task force will do is allow Government Senators and TDs to stand up and say they will do things differently now, even though they have overseen the demise of the inner city for decades.

An Cathaoirleach: Before I call the next speaker I welcome the delegation from Kerry who are up here on a scouting mission in advance of the all-Ireland football final.

Senator Rónán Mullen: They must not be planning on travelling in the coming days.

An Cathaoirleach: They are guests of the Minister of State, Deputy Michael Healy-Rae. They are most welcome and please God we will all bring home Sam Maguire the weekend after next. I thank them for coming in. Senator Joe O’Reilly is next, who does a great version of The Gallant John Joe about Cavan and how they won the all-Ireland final.

Senator Joe O’Reilly: Unfortunately, we are still dining out on 1947.

Senator Rónán Mullen: Think of all the money you are saving on hotels in Dublin.

Senator Joe O’Reilly: Cavan will be back shortly. We nearly did it this year. I wish all colleagues in the House a wonderful summer and great recess after a year of multiple elections and frenetic levels of activity. I wish our wonderful staff of the House a great summer also. Our ushers and all of the staff of Leinster House do a great job and provide such wonderful support. One cannot help but remember with fondness today the great Martin Groves who has now been

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very brilliantly replaced by Bridget, but we do miss Martin. He was a great man and we hope he continues to enjoy a good retirement.

Those of us of a certain vintage remember many great social revolutions, changes and advances over the years. Among the many I have seen and that were great was the introduction of carers to the homes of older people and people who are sick. This generation now take that for granted and assume it was always that way. It was not always so. Like everything else it is not flawless but a great initiative recently was raising the income limit by €200 whereby people can have carers. That is a huge reform and we have to move to a situation where carers are provided irrespective of income. My understanding is that it is contained in our programme for Government and we should work towards that.

The second thing we must look at is the provision of an adequate panel of carers in each county. When the hours are allocated throughout the country there is a shortage of actual personnel to do them and that means some reforms of the salary, contracts and basis on which carers work. That will need to be radically looked at. I ask the Leader to bring this to the Minister for Health, Deputy Carroll MacNeill, to see if we could have some debate or discussion on this in the autumn to examine whether the panel can be developed. We need to improve income for carers and also further improve income limits. We need to improve the supply of carers. We also should put home care on a statutory footing, like the fair deal scheme, so people are assured under the law they can get home care and have the option to be cared for at home. With the demographic structure of our country now, this whole debate and area is all the more pertinent now. If you take humanity, well-being and wellness out of it, from a purely cold economic perspective, in terms of money, it is the logical thing to do. It is the cheapest option, if also the preferred option. I thank the Cathaoirleach.

Senator Mark Duffy: I apologise for any confusion earlier. Before we finish for the summer, I thank the Cathaoirleach, all of the team and the Leader for his welcome, help and support to the new Senators. I thank Martin Groves for his professionalism and diligence in the short term I worked with him in the Oireachtas. Indeed, I also thank Bridget Doody, Clerk Assistant of the Seanad.

I also support the words of support by Senators Cummins and Ní Chuilinn on the Oireachtas broadcast staff who will be, essentially, on the dole from next week. I lend my voice of support to them.

Senator P.J. Murphy, my colleague in County Galway, raised the upcoming proposals and changes to veterinary prescriptions for farming. From discussions I have had with the farming community in County Mayo, there are serious concerns about how they threaten to monopolise the market. We need to have a discussion before these changes are brought into effect because it could have serious ramifications and increases in cost for farmers. I support Senator Murphy on it. I would welcome a discussion before any changes are made.

Senator Seán Kyne: I thank all Senators for their contributions this morning. I will start with Senator Anne Rabbitte who mentioned the particular case, or cases, of compulsory purchase orders, CPO in Galway. People had lands acquired for infrastructure projects, which in this case was for road widening and road realignment, but have not been paid. It is not good enough and the Senator is right to raise the matter. For any landowner to be waiting more than ten years to get paid is not good enough. In the first instance, I will raise this matter with the chief executive of Galway County Council and I will certainly join the Senator in anything I can

do to ensure that case is put to rest.

Senator McDowell put on the record issues regarding the armoury section of An Garda Síochána and called for a debate with the Minister for justice, Deputy O’Callaghan. I will certainly request that debate. It is an important issue and he has obviously put a lot on the public record in this Chamber. In doing so, I hope it gains traction and that this is examined. A new Garda Commissioner will be appointed in the next number of weeks and I am sure the Minister will engage with that new Commissioner on matters such as this.

Senators Crowe and McCarthy have raised the European Court of Justice’s possible decision in respect of compensation for asylum seekers. I absolutely agree with Senator McCarthy that this will cause issues. The Senator used the term “recipe for disaster”, and I agree. Pitting Irish people and the homeless against asylum seekers, and what that might result in, is worrying. I will request a debate with the Minister for justice in September. I also acknowledge Senator Crowe’s comments on this matter. It is of concern because of the implications of such a decision. While we have rights and responsibilities, we also have rights and responsibilities to Irish people as well and I wish to acknowledge that.

Senators Cummins, McCarthy, Ní Chuilinn and Duffy raised the issue of the broadcasting staff who will have to sign on for the summer. I will raise this initially with the Houses of the Oireachtas Commission to determine the stage this matter is at. If we write requesting the contract be stopped or paused, I do not know what will happen. I wish to ensure we have broadcasting services when we return in the autumn. Certainly, it is a valid issue. It has been highlighted in this Chamber and most of us have expressed support for our broadcast workers in recent months. I will engage with the Houses of the Oireachtas Commission in this regard. I know we have representatives present in the House today who were appointed from various groupings.

Senator Joe Conway spoke about signing up to Europe and standing against Russia. We have had a lot of debate in this Chamber on Gaza, the West Bank and Palestine, and rightly so, but we cannot forget the other war we have and the illegal invasion of Ukraine. We still have the Ukrainian flag outside on Merrion Lawn as a symbol. I acknowledge the work of the former Ceann Comhairle, Deputy Ó Fearghaíl, on those matters. He was a very strong advocate for Ukraine and stood against the illegal invasion of that country.

Senator Stephenson also raised the issue of the broadcast workers. As I said, I will engage on those matters.

Senator Margaret Murphy O’Mahony raised the issue of postal votes and the fee of €25 for signing off on that and argued it should be waived. It is a valid issue. She may raise it as a Commencement matter. I am not sure whether the Department of Health or the Department of housing and local government is responsible because it has the franchise section. Maybe it could waive that cost in some way.

Senators P.J. Murphy and Duffy raised the issues of concern regarding veterinary prescriptions. As both Senators know, the Veterinary Medicinal Products, Medicated Feed and Fertilisers Regulation Act was passed in these Houses in the summer of 2023. That is the law we are working with. There may be some sections that are now being commenced, but the law has been agreed and passed. There were debates on those matters at the time. I will raise this matter again with the Minister for agriculture, Deputy Heydon. Perhaps there are issues with the

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commencement of some of these regulations.

Senator Sarah O'Reilly raised issues with the roads in County Cavan. As I have said previously, there will never be enough money for roads throughout the country, including in Cavan. There is always extra demand. I could say the same about Conamara because we have boggy conditions, which means, even with nice new roads, they sink quite quickly with traffic. All we can request is that there is ongoing investment in our roads in Cavan and elsewhere. I will certainly continue to advocate for that. I hope the Senator has success in a Commencement matter being chosen on that issue in the autumn.

Senator Ryan raised issues regarding affordable housing. She is of course absolutely correct about those cohorts of people who do not qualify for social housing and, indeed, do not want social housing. They want to be able to own their own home but fall short of being able to get affordable housing or purchase their own home. It is a huge issue throughout the country, not just in Limerick. She is right to raise it. I will keep the pressure on this issue and will request a debate with the Minister, Deputy James Browne.

Senator Scahill raised the issue of school buses. I congratulate the Senator's advocacy on getting that matter sorted. It is a success for the children and parents of Ballymoe. It is important. It is a positive when public representatives, including councillors, and other people, who have the local knowledge, engage with Bus Éireann. It is a positive for Bus Éireann because it enables it to get the best routes to be able to weave their way around rural Galway and rural areas elsewhere and to ensure the best services are provided.

Senator Keoghan raised the 10,852 abortions and that one in six pregnancies have ended in termination. I draw her attention to my comprehensive response to Senator Mullen this week or last week on this very important issue.

Senator Ní Chuilinn again raised the issue of the broadcasting workers.

Senator Mullen raised the dig in Tuam. As he knows, the Institutional Burials Act 2022 was debated and passed in these Houses. I am sure he participated in those debates at the time and put his issues on the record. There was always divided opinion, even locally in Tuam, on the best approach. That decision has been made now. He is right in terms of rewriting history. I remember when the late Pope Francis visited Ireland and was with the then Taoiseach, Leo Varadkar, in Dublin Castle. As he said quite rightly, the churches were the Department of Health and the Department of Social Protection before they were actually established in this State. Religious institutions played an important role. We are where we are now, however, and legislation has been passed. We have to ensure those remains are given a dignified burial. There was debate at the time and there probably still is debate locally on that matter.

Senator Nelson Murray raised the issue of dental services. We had a comprehensive debate on the matter in Private Members' business recently. Deputy Colm Burke has consistently raised the need for additional places in our dental colleges and I know Senators Scahill and Boyle have raised the issue of dental hygienists. We raised it here because we believe it is an important issue and it is not getting adequate attention and investment. We are storing up trouble unless more is done regarding dentists and the reform of the dental Act. The Dentists Act goes back to 1985. It needs modernisation. There is also the work of the Dental Council and what happens when a dentist is suspended. If the practice closes overnight and someone leaves the country, what happens to the clients? There are insurance issues. There is a lot in

that whole area that needs investment and attention and I will certainly raise that again with the Minister for Health.

Senator Andrews spoke about the Dublin task force. I would hope that a Dublin task force is a positive thing. As I understand it, the task force at Cabinet level is being chaired by the Taoiseach. He will be in the Chamber in October and Senators will have an opportunity to raise these things. Obviously, having a focus on a particular area is right and proper. Dublin is a big city. If, within that task force, there is a focus on particular areas such as Pearse Street, that would be a positive and investment would be needed in that regard.

Senator Joe O'Reilly has raised the issue of carers and our elderly and, in some cases, those who are not so elderly who require support and care. The population is getting older. There are challenges as things stand today in terms of sufficient staffing. It is not so much resources or the funding, which may have been an issue a number of years ago, but actually getting people physically to do the work of carers. As the population gets older, it is an issue of which we need to be acutely aware. We need to continue to invest, improvise and see how we can do those things better. The Senator is right that there is a commitment in the programme for Government to an ending of the means test for carers and a move towards a statutory home care scheme as well.

Finally, I join with others in thanking all the staff in the Seanad Office. I extend thanks to Bridget Doody, Martin Groves, the ushers, the cleaners, the caterers and all who make these Houses function and assist in democracy in this great country. Long may it continue. As I said, all those people and groups are vital cogs in that wheel to keep things turning and moving. I thank them and I thank everyone for the courtesy shown to me over the last number of months. I hope they enjoy the summer.

An Cathaoirleach: I thank the Leader. I join with him in thanking Bridget Doody and all the staff in the Seanad Office. I thank Martin Groves for his great work and wish him a happy, long and successful retirement. I thank all the Senators for their courtesy to everybody on the Seanad team. We do not always agree but we always agree that the part we play in democracy is important in terms of scrutinising legislation. Holding Government and the institutions of the State to account is an important part of democracy and that is part of what we do. The people who make that happen are those who help out and keep the lights on and the cameras rolling; people who have to work long hours. We are looked after with great courtesy by all the staff and we thank them for that.

Order of Business agreed to.

Cuireadh an Seanad ar fionraí ar 11.34 a.m. agus cuireadh tús leis arís ar 11.46 a.m.

Sitting suspended at 11.34 a.m. and resumed at 11.46 a.m.

Defamation (Amendment) Bill 2024: Committee Stage

An Cathaoirleach: I welcome Anne Marie Lenihan to Seanad Éireann. I also welcome the Minister and thank him for being here.

Sections 1 to 3, inclusive, agreed to.

SECTION 4

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An Cathaoirleach: Amendments Nos. 1 to 4, inclusive, are related. Amendment No. 2 is a physical alternative to amendment No. 1. Amendments Nos. 1 to 4, inclusive may be discussed together by agreement. Is that agreed?

Senator Michael McDowell: I would prefer them to be discussed separately.

An Cathaoirleach: Not agreed. We will discuss them separately.

Senator Nicole Ryan: I move amendment No. 1:

In page 6, lines 26 to 28, to delete all words from and including “a” in line 26 down to and including line 28 and substitute the following:

“the court may, on the application of any party to a defamation action in the High Court, or a question of fact or an issue arising in such an action, order that the action or any issue of fact in the action shall be tried without a jury if it is of opinion that such trial—

(a) will require any protracted examination of documents or accounts or any technical, scientific or local investigation which cannot conveniently be made with a jury,

(b) is for any special reason (to be mentioned in the order) unsuitable to be tried with a jury.

(2) The court may, on the application of any party to a defamation action in the High Court, order that in matters which may involve substantial damages—

(a) issues of fact shall be tried with a jury, and

(b) the quantum of any damages which may arise be adjudicated by the presiding judge.”.

My amendment seeks to restore some measure of balance and common sense to what has become a deeply flawed approach. The amendment is not just a technical fix. It is at the heart of protecting people’s fundamental rights to vindicate their good name and to ensure that the process is fair, transparent and rooted in justice. The complete abolition of juries in High Court defamation cases as proposed by this legislation is not reform; it is actually rapture. It removes a pillar of our justice system that has stood the test of time. That pillar says when your reputation is on the line, it is your peers, not just the State, that should be trusted to decide the facts. What a defamation case is about is not numbers on a balance sheet, not abstract legal theory, but the value of your name, your character and your integrity. When they are called into question, people deserve the right to have their case heard not just by a judge but by a jury of their peers. If we remove juries, we are not just cutting costs; we are creating a democratic deficit. This is not just an abolition of choice. It is actually the abolition of a citizen’s statutory right to seek a trial by jury. That right exists not just as a procedural option, but as a reflection of the fundamental democratic value that ordinary people share in the administration of justice. It is also a safeguard and a check on judicial overreach and potential bias. Without it, we risk judicial caprice where one voice becomes the only voice in cases that cut to the core of a person’s identity. I ask the Minister directly: why now? Why is the Government creating this exception for defamation alone? Why is this the only area in law, uniquely among all torts, being carved out and stripped of its jury protection? This move has been justified on the grounds of efficiency

and cost, but the rationale falls apart on closer inspection. If somebody brings a case for both defamation and malicious falsehood, they currently can be heard together in a single trial without the option of a jury but under this Bill this will no longer exist. We will force citizens to run two separate cases: one for defamation without a jury, and one for malicious falsehood with the potential of a jury. That does not reduce cost; it actually increases it, and it does not streamline justice; it splinters it. We wish to be clear this is not about savings; this is about centralising decision-making power and limiting public participation.

We already have the tools to address excessive awards. The Higgins case was pivotal in this regard. The judgment created a new framework for assessing damages and introduced judicial guidance that brought balance and predictability. Since the ruling, there have been at least four cases where the recommendations held and functioned as intended. Would it not be fair then to pause and fully review the post-Higgins landscape before making this permanent change?

This Bill amends the law as it was, not as it is. That is a serious error. We are legislating blind to the outcomes already in motion. There is also a question of fairness to those currently in the system. This law will not apply retrospectively so we will not even have a clear, measurable view of the impact for some time. This amendment is a middle ground. It lets the courts, not the Oireachtas, decide if a jury is appropriate in a given case. It mirrors the approach taken in the North and across other common law jurisdictions. It recommends traditional oversight while preserving democratic involvement. We do not need to burn the house down to fix the window.

I regret that we are here. With some flexibility and humility, this could have been a moment for unity and cross-party agreement and a powerful signal that we as legislators can protect freedom of expression and the right to a good name without diminishing either. Instead, we are being asked to be remembered in this House as a House that removed the voice of the people from one of the most human and reputationally damaging of trials. I urge the Government to support this amendment and let us legislate with principle, balance and respect for both the Judiciary and the public.

Senator Michael McDowell: I support the substance of Senator Ryan's amendment for a number of reasons and I echo all the arguments she made without exception.

First, the newspapers of Ireland have convinced themselves that their problem with defamation law lies with juries. They have convinced themselves of that narrative and nothing will dislodge them from that conviction. They have convinced themselves that trial by jury leads to unpredictable results, excessive awards and the like. However, there are many alternatives to, for instance, the excessive award problem, if that is a problem, by simply providing very clear power for the judge, either alone to determine the maximum that can be awarded, or alternatively, to give to the judge and advocates for either side very clear entitlements to specify exactly what kind of damages should or should not be awarded, especially by reference to judicially ordained limits for other things.

If someone breaks his or her leg, the Judiciary has collectively decided what that is worth. If a person is stopped by a store detective in a retail shop and he or she is defamed - forget about the changes we will consider later - how can that not, in most circumstances, be dealt with just as simply as giving a guideline in relation to a broken leg, ankle, hip or whatever? What is it about excessive damages that cannot be dealt with unless we get rid of juries altogether? It is illogical, it is misguide, it will not achieve what it is supposed to achieve and in the end it is a

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delusion that the only way to deal with excessive damages is to exclude jury trial in its entirety in defamation cases.

I am not allowed to talk about my own cases but I am aware that in cases of assault by members of An Garda Síochána, the level of damages provided for is not limited by law. Assault, including sexual assault, by a person who has reached their majority against for example a child or even another adult, is determinable by a jury and is not limited in this way. Why is it therefore that the newspapers and the rest of the media have conducted a concerted campaign to convey that the only way to limit damages and to ensure that an injustice is not done on the damages front is to abolish the concept of a jury trial? It simply does not make sense. Why is it that we entrust a jury with the right to say if somebody is badly beaten up by members of An Garda Síochána, “Here is the issue paper, you determine all the issues, including aggravated or exemplary damages”, which will continue to be the law? Why is it that if a woman who is an employee of a wealthy man sues him in the High Court for sexually abusing her over, say, 15 years, her jury is entitled to determine what she receives by way of compensation? That is not going to change but one particular version of jury determination is to be abolished simply because the newspapers have falsely argued that the only way to deal with this is to get rid of juries.

The second point they raise is that jury trials are longer and more complicated because applications are made in the absence of the jury, and the jury has to have the law explained to it. Well, so what? In every criminal trial the jury has to have the law explained, where the onus of proof lies and how it should approach the evidence. We do not say that is an injustice, either to the prosecution or the accused. The same applies to every case of assault, whether a Garda assault or sexual assault, you name it. A jury has to be informed as to its function and how it approaches the evidence it is about to receive and has received. A jury has to have that explained. One of the advantages of so doing is that justice is administered in public and the parties can see precisely what instruction the jury was given in relation to the law and whether it was right or wrong or fair or unfair. Those kinds of instructions are subject to the potential to correct them on appeal, like every other judicial decision in any other case. I do not accept the proposition that jury trial is necessarily so lengthy as to make it not worthy of preservation in any aspect of law, including Garda assaults, sexual assaults, malicious falsehood, as my friend mentioned, and other things where it is going to be preserved. I do not accept that proposition, and I also make the point, which might be taken on board, that for years I participated in criminal trials in the Dublin Circuit Court and the Central Criminal Court.

12 o'clock

Thirty years ago, jury trials in the Circuit Court lasted about two days. They were serious cases such as rape cases or serious criminal cases. They only lasted about two days because the procedures were understood by both sides to be a lot quicker, and the judges got on with the case. In those days you could not spend a week or two weeks before a jury arguing all sorts of points. There was a certain momentum to a trial by jury. I must say on the part of the legal profession, and not on their behalf, that they are partly to blame for all of this. With criminal legal aid, the criminal process has now become far lengthier, even if we take account of the obligation to make greater disclosure than used to be the case on the part of the prosecution. The criminal process has become far lengthier than it used to be or than is necessary. We can have a reasonably lengthy but not excessively lengthy jury trial on defamation in the High Court, and we are dealing here with serious cases that merit a trial in the High Court.

Judges are not infallible. The reason we retain juries in criminal cases is that we believe that people should not be sent to jail on criminal charges unless it is established in public to 12 members of the public chosen at random that the prosecution case has been proven beyond reasonable doubt. We do not entrust that function normally to members of the Judiciary for very obvious reasons. One of them is that members of the Judiciary, where they become case-hardened by criminal law, tend to become – this is not a universal thing – somewhat more inured to the possibility of the innocence of the accused and to the possibility that Garda evidence and evidence brought forward by the prosecution are not to be believed.

I spoke to a judge recently who told me that on the day of his appointment, just as he left his chambers to go out and take the judicial declaration, a former Chief Justice told him he had one final point to make, which was that the men in Garda uniform do not always tell the truth. If we do not believe in that proposition, then we should look at what juries in Britain did to suspected IRA bombers who were entirely innocent. We must remember the evidence tendered by the West Midlands Constabulary. We cannot always simply say the Judiciary are infallible. All of those prosecutions were initially upheld on appeal, despite the pleas of the innocent men and women to the effect that they were, effectively, being framed. I am not saying juries are infallible but judges are far from infallible. I think of the Master of the Rolls, Lord Denning, dealing with the appeal in the case of the Birmingham Six. He referred to the appalling vista that the prosecution might be based on a web of police perjury, but of course it was true. That was the judicial mentality, that this simply could not be and that it was unthinkable to his judicial mind to even contemplate it as a possibility. He was by no means a reactionary judge. He was regarded by his fellow judges as a bit of a maverick on occasion. That shows the mentality that is there. We only have to look at judges determining significant evidence, like Lord Chief Justice Widgery in the Bloody Sunday inquiry, to see that there are problems with judicial adjudications. By themselves, the Judiciary are not infallible.

On one occasion the late Chief Justice Cearbhall Ó Dálaigh stated that the reason we had criminal trials by jury was not that we could not safely give the present Judiciary the right to determine criminal guilt by themselves but because some future malign Judiciary might be appointed and this was the purpose of the right to trial by jury. It was put there against the possibility that unfair judges might in the future be appointed. I had and still have the height of respect for former Chief Justice Ó Dálaigh, but that was a very naive statement. It is in the *Irish Reports* if anybody wants to go and look for it.

The second point relates to the requirement that some things in society should not be determined by professional judges but by empanelled jurors who are, broadly speaking, representative of society. That proposition disregards the merits of jury trials in their entirety. I have rarely if ever heard anybody criticise a jury, civil or criminal, for its verdict. People may criticise the amount of damages, but that could easily be dealt with in various other ways. I have never ever heard anybody stand up in public and say the jury should have believed A but they believed B. The media have never said that a jury in a civil case got it radically wrong, that they disbelieved the gardaí and believed the man who said he was assaulted by the gardaí or *vice versa*. People accept jury verdicts. The Judiciary should be very careful. Their verdicts will not be accepted when it comes down to the evidence of witness A or B on a matter of major controversy. They will immediately ask who is this judge. Has this judge dealt with other cases before? Has this judge ever dealt with a defamation case previously? Is he or she always for the plaintiff or is he or she always for the defendant? The acceptability of jury verdicts is something which we are being asked to throw away in the case of defamation. Let us be clear

about what we are asked to do today. We are being asked that a judge in future will set out in writing precisely who he believed and who he did not believe and give the reasons for disbelieving witness A and witness B.

One of the most inhibiting duties that judges have cast upon them is giving the reasons why they disbelieved one person's evidence rather than another's when it based fundamentally on their demeanour in the witness box, and it is based on something like that. You have conflicting evidence - two parties - and one said this happened and another said that happened. If a jury takes a look at the both of them and says they do not like the look of witness A and thinks witness A is unconvincing, it does not say so in its verdict. It just simply hands down the verdict – case dismissed or whatever. The person is not defamed. It does not go into the detail. I have noted that, for instance, in the Special Criminal Court, for many years the most that the members of the Judiciary there would do was to say that they were left in a doubt in a swearing match between the accused and Garda witnesses. The most they would ever say is that they were left in a doubt. They would never, or very rarely, say, for example, “I reject the testimony of Detective Garda McDowell and I accept that the man accused of being a member of the IRA - or whatever - is telling me the truth about what happened in that prison cell”. I have never seen that happen. The most one could expect from the Judiciary was – there are exceptions to this – an emollient remark saying, “I still have doubts about the testimony I have heard”. That is because if one says, “I reject witness A's testimony” and that person happens to be a public official, such as a member of An Garda Síochána, that is hung around that Garda witness's neck for the rest of his life. You were disbelieved. What is more, the Court of Appeal said it was right to disbelieve you. Will you continue to testify in criminal cases? Will you ever be called again? All of those consequences flow from a reasoned determination as to the credibility of witnesses. They all flow from that. That is why the Judiciary tends to be polite to gardaí they are slightly dubious about, to use a euphemism. They tend to say they are left in a reasonable doubt and, therefore, are acquitting. They do not say, “That Garda witness was telling me a series of lies and it was written all over his or her face”. They do not say things like that. That is why a jury trial is beneficial. Nobody says at the end of the case that they disbelieved that garda or they accepted the evidence of that person. They hand down a “guilty” or “not guilty” verdict, and the verdict stands. That is in criminal law, but the same applies in defamation and other areas such as malicious falsehood and assault, the other things for which jury trial will survive if this legislation is enacted.

The third thing I wish to say is this. Senator Ryan's amendment goes further than later amendments to which we will come in due time in that it effectively reverses the onus in favour of jury trial. In other words, the circumstances in which a person can be tried without a jury are those set out in paragraphs (a) and (b). In particular, it requires the notion that protracted examination of documents, accounts or technical, scientific or local investigation, which cannot be conveniently be made with a jury. What are those? Is the Lucy Letby case one which, if it was in a civil trial, too complex for a jury to decide and one that only a judge, looking at all the medical records, would be suitable to try? The reason I mention that is amendment No. 1 effectively puts into the law a presumption of trial by jury, on which subject I am relaxed. I think it should be discretionary. The grounds for discretion should perhaps be wider than are set out in her amendment. In the amendment, subsection (2) states:

The court may, on the application of any party to a defamation action in the High Court, order that in matters which may involve substantial damages-

(a) issues of fact shall be tried with a jury, and

(b) the quantum of any damages which may arise be adjudicated by the presiding judge.

That deals with the point I raised earlier, that the judge would deal with the amount of damages in such cases, but the facts would be determined by a jury. I would not go that far myself for this simple reason. If a judge totally disagrees with the verdict of the jury and the judge thinks that witness A, who the jury accepted the evidence of, was lying and exaggerating, the damages, including exemplary damages and the like, are likely to be coloured by the judge's view of the matter rather than the jury's view of the matter. For instance, for the quantum of any damages, with this amendment, you have to decide whether punitive damages or exemplary damages fall within the judicial remit or the jury's remit on the particular wording. We have a Report Stage coming in this legislation and those matters could be tweaked out without rejecting this amendment.

The fundamental point is this. The newspapers and the broadcast media have convinced themselves that juries are a problem for them and that things would be very different if judges decide these matters by themselves. I do not follow that logic. I recall, although I am not trying to suggest it should be reversed, that where juries dealt with personal injuries cases, the insurance companies got a rude shock when they discovered what the average judge was capable of doing to them. We have spent 30 years trying to put down damages guidelines. There were times where insurers, rightly or wrongly, believed that some judges merged their judicial role with that of Santa Claus and gave huge damages for things that otherwise would not be recoverable. On the other hand, many judges were regraded as mean. The offer to be made by an insurance company was and still is largely determined by the claims manager's view as to who will hear the case and who will not. The notion, therefore, that members of the Judiciary are going to be absolutely predictable arbiters in these matters is delusional.

My fundamental objection to the abolition of juries is that there are matters where it is wiser to leave the decision in defamation cases to a jury who simply come in with an issue paper answered "Yea" or "Nay" or deal with the issues that come before them. I believe in that. We have examples in the United Kingdom of politicians being disbelieved by judges. I think a Conservative chief whip got a roasting from a judge, which could have been career-ending, because of an altercation at the gates of Downing Street where he claimed he was required to dismount his bicycle by an over-officious policeman. He was disbelieved on his oath by a judge sitting alone. The result was his career being very seriously tainted by that decision. I hope we do not have as trivial a case as that, like an argument between a TD or Senator and a member of An Garda Síochána. I do not suggest that should end up in the courts at all, and it would not in Ireland given the way we see things. Consider an issue that involves the fundamental trustworthiness of a political figure or a public figure such as a bishop, president of a university, TD, Senator, a person with strong and known political opinions especially somebody who is known to have unpopular political opinions or even ones which would be rejected by the great majority of voters or jury people just looking at it that way. I do not believe those trials should be conducted by judges sitting alone for the very reason the importance of the outcome dictates a simple verdict be written on the issue paper by a jury that is impermeable, meaning you cannot go into the jury room and ask them why they did what they did and nobody attempts to do that. Nobody says they got it wrong. They say that was the jury's decision and that is what we will have to live with.

On amendment No. 1, I feel strongly that if we take the jury out of defamation we are asking the judge to look at a test that is a test of what ordinary right-thinking people would consider

as to whether something was defamatory or not or was true or not, having heard the evidence. It is a test quintessentially designed for a jury, not for a judge. Judges are not ordinary people. They simply are not. No matter who chooses them or how they are appointed, they are not ordinary people. They are people who are learned in the law, we hope. They are people who have practised as lawyers in the courts, we hope. They are people whom I do not doubt have many virtues, but are they representative of society as a whole? I say they are not individually representative of it. Their attitudes are probably different from the attitudes of society as a whole. Their approach to the credibility of witnesses is, for the reasons I mentioned earlier, probably very different from the approach of the woman and man on the street called to jury service on a random basis. If the test of what is defamatory is considered to be one which takes into account what the ordinary person would make of the alleged defamatory statement, we have a problem.

To underline this point, the meaning of the “defamatory statement” which must occur and be made public before an action can be brought is, under the 2009 Act, “a statement that tends to injure a person’s reputation in the eyes of reasonable members of society, and ‘defamatory’ shall be construed accordingly”. It is this test. Who are “reasonable members” and are judges typical of the attitude of people in society? It is not “right-thinking members of society” nor “left-thinking members of society”, but “reasonable members of society” and a jury is asked to consider what a reasonable person might make of something. Twelve jurors who sit down in a room after they have heard all the evidence are capable of arriving at, I suggest, a reliable, typical and representative determination as to what a reasonable person would regard as a defamatory statement. Let us consider assault as an example. An assault is not what a “reasonable” person would regard as an assault. When you come to something like a breach of contract, it is not what a “reasonable” person would regard as a breach of contract. It is either “Yea” or “Nay”, legally; in other words, that was an assault or it was not, or that was professional negligence or that was not. It is never said to a jury that they can find this doctor guilty of professional negligence if a reasonable person thinks they are guilty of professional negligence. It can be asked whether the behaviour of the doctor, surgeon or whoever was reasonable in certain circumstances but the core of defamation law is what reasonable members of society think of a person’s reputation and of whether it is going to be injured by what was published. It is not fanciful persons, persons of a particular political outlook or a particular religious belief, but what a reasonable person would say was tending to injure reputation.

The other point is that it is for a jury to determine the reputation of the person who comes before them. Is it a good reputation or a bad reputation? There is nobody who is above the law and nobody who is beneath the law. By that I mean nobody is so devoid of reputation that they cannot be defamed further. Any old lie cannot just be flung at a person who has a poor public reputation and be published as if it is true in the hope a jury will say the person is such a chancer it does not really matter if he or she is accused or murdered. Again, the function of a jury is quintessentially suitable for determining what is defamatory, what is not and also what reasonable persons would make of the plaintiff’s reputation, and asking themselves the question of whether it is further injured by what was published.

In summary, what I say is simply that amendment No. 1 is a well-crafted amendment. I have minor misgivings with some of it on the basis that it takes away an unfettered discretion from the Judiciary and seeks to regulate the manner in which the discretion would be determined. It also goes on to the question of damages and allocates that to the presiding judge, which I think is unsuitable, especially in cases of exemplary or punitive damages, or where the jury comes to a strong view about the degree of injury done. That should be left with the jury, subject to cor-

rection. Having made those remarks, however, I am supporting the amendment.

Senator Patricia Stephenson: I thank the Minister for coming in. I am also supporting Senator Ryan's amendment. I know we are not speaking about the amendments together but I have a similar amendment coming in after this. The amendments that both Senator Ryan and I tabled are effectively a fall-back position on the retention of jury trials, with some modification, as recommended by the Oireachtas joint committee on justice. If the Minister insists that the Government will not be moved on the issue of jury trial removal in its entirety, then I urge him to consider this amendment, because it is consistent with the Government's position of delivering judge-only jury trials in defamation actions, a position that I do not agree with, but I think Senator Ryan's amendment and my amendment both propose a sort of halfway house.

As the Minister will be aware, since 2022, the law on the method of trial in the North has been amended to bring it into line with the law in Scotland, England and Wales. Specifically, defamation actions are to be tried by a judge alone unless otherwise ordered. That is in the interests of justice. The court has the power to allow for jury trial when it deems it critical for the delivery of justice. This amendment therefore aims to ensure there is uniformity in the method of defamation cases across this island.

I would like to take this opportunity to touch on the Good Friday Agreement and to emphasise the incongruity that this new law will bring between the North and the South with respect to access to justice. In the North, it is open to parties in defamation cases to request jury trials in the interests of justice. If the Bill goes ahead without my amendment, in its current form, we will see a canyon of differential rights between the two jurisdictions on this island and there will be a divergence of rights afforded to litigants. The Minister will no doubt be aware of the fundamental principles of the Good Friday Agreement. One of the fundamental principles is the principle of equivalence of rights and equality protections. Equal rights for people living across the island is one of the cornerstones of the Good Friday Agreement, so I take great umbrage with the removal of juries, because it erodes the right of public participation in the justice system and relies too heavily, as Senator McDowell outlined, on judge decisions only, which I believe undermines justice.

In addition to that, this Bill erodes a fundamental piece of the Good Friday Agreement. I am deeply concerned that the Irish Government, as a co-signatory of the Good Friday Agreement, would ever consider taking a step that would see a divergence of rights on this island. We should be working towards greater equalisation. We all saw the fiasco of Brexit and what damage that did to the Good Friday Agreement and the divergence of rights. Both with regard to having an option for a jury trial and in the context of the Good Friday Agreement, I urge the Minister to consider accepting Senator Ryan's amendment or mine.

Democracy and rule of law are founded on the principle of people being at the core of administrative justice. I know the Minister has much experience in the legal profession, so I am not telling him something he does not know. The removal of juries will lead to taking rights away from the people. The justice committee unanimously agreed last term to recommend that jury trials be maintained. The Government is going against the express recommendations of the justice committee, hence the importance of this amendment. The committee heard all sides of the argument and came to the decision that jury trials should be maintained. I would love to hear why the Minister is choosing to ignore those recommendations of the Oireachtas committee. We heard from the Law Reform Commission, which also unanimously recommended the retention of jury trials.

17 July 2025

This Bill was produced after a report following a review by the Department of justice. There were several reviews. We had a review in 1924, 1930, 1961, 2003, 2007 and 2008, and in 2022. I think that is seven reviews of defamation. We had reviews in the Department of justice and of course the Oireachtas joint committee report, which I mentioned before. All the independent reviews have said that we must keep trial by jury. The only outlier is the review by the Department. It is curious to me how the vast majority of reviews say we should keep trial by jury.

The central concept of the core of the legal system is democratic principles, specifically in the involvement of the public in the administration of justice. It is really core to our democracy. In fact, hundreds of years before we even had the right to vote, we had the right to trial by jury. That dates back to medieval times and the Magna Carta. I know the Magna Carta is a British document. We have our own version in the crypt of Christchurch. The concept of trial by jury is one of our oldest public rights in the democratic process. That we are being asked through this Bill to take the jury out of the question is, I believe, profoundly undemocratic. I cannot fathom why, beyond Senator McDowell's comments about media concerns. People are not out on the streets demanding that this right be removed from them. We have many rights enshrined in our Constitution, including the right to a good name, freedom of speech, the right to assembly, the inviolability of the home, the right to private property, bodily integrity and the liberty of the citizen. They are fundamental rights guaranteed by our Constitution. All of these rights allow for the plaintiff in the case to be entitled to trial by jury. Currently, all of these rights are therefore vindicated by trial by jury, not trial by judge.

As it stands, the public have a choice, to a trial by judge or a trial by jury. The removal of the statutory right in defamation cases means you are removing the choice from the public. If this measure is enacted without our amendments, we would create an extraordinary exception. Of all the rights, only with defamation will Irish citizens be deprived of the choice of trial by jury. I ask the Minister to comment on why we are creating such an extraordinary exception in our laws. Surely by the Government's own logic, we should then be abandoning trial by jury in all civil cases equally, for cases of false imprisonment or trespass. If the Government believes that juries can indeed be trusted in other civil cases, why can they not be trusted in defamation cases?

As well as the ousting of the public in the administration of justice in defamation cases only, there are significant other logical and factual flaws behind the decision to remove juries. That brings us to the Higgins case. Guidance to juries on damages was provided after the 2009 Act. I know the Minister will know this. This is as much for my benefit and perhaps that of other colleagues who have not been following this case. In the very first case that guidance was provided to juries, a significant amount was awarded and the defendant appealed the decision and went to the Court of Appeal. The Court of Appeal decided that the award was really oversized and took away 80% of it on appeal. This Court of Appeal ruling is the bedrock of the Government's decision to remove jury trials. It apparently provided evidence - I emphasise "apparently" - that the juries gave oversized awards. However, the law on how defamation cases assess damage was then fundamentally changed by the Supreme Court ruling on exactly the same case when it rejected the Court of Appeal ruling, restored the original award to the plaintiff and said it was correct. The publication of the Supreme Court ruling should be the actual basis of legislation in this area and this Bill does not draw from that Supreme Court ruling. It is drawing from the appeal court ruling. As I said, I know the Minister is aware of this but it is important to state it for the record.

Why did this all matter? The report recommending abolition is based on an understanding of the law as it was in 2022, including a decision of the Court of Appeal, but the Supreme Court ruling which overturned the Court of Appeal decision and returned the full award to the plaintiff came just three weeks after the report publication. By doing so, the Supreme Court ruling swept away the legal basis for this Bill, because the Supreme Court in the Higgins case totally changed the law on how damages are assessed. What does that all mean? Under the 2009 Act, the number of successful appeals on the basis that juries give disproportionate awards is fewer than five cases out of almost 100. That tells us that the idea that juries give outsized awards is largely based on fantasy and not on fact. I know we are not debating this section yet because we are not debating the Bill in totality, but I urge the Minister to consider withdrawing the abolition of jury trials. If not, at the very least, I urge him to consider the amendments we have tabled today that offer some method of jury trial, both in the interests of the Good Friday Agreement and in the interests of democracy and accountability.

Senator Michael McDowell: I echo what Senator Stephenson has said about ignoring other voices in society. If the Irish Council for Civil Liberties thinks jury trials should not be abolished, if the Law Reform Commission thinks they should not be abolished and if the justice committee of this House and Dáil Éireann thinks they should not be abolished, who actually is demanding that they should be abolished? If we are holding the scales of justice and if the justice joint committee and these impartial, pro-citizen bodies, especially the Law Reform Commission, cannot see the argument for abolishing juries, who is moving this?

I have to be cynical and say the commitment to do this was made under the Ministry of the previous holder of the Minister's position and was done, in my view, to enlist the support of the media uncritically in an electoral context. That is what I believe was going on. It was made a manifesto commitment at the demand of the media. The media felt they did not get a fair deal from juries and felt, for the reasons I mentioned earlier, none of which I will repeat, that somehow they would fare better without juries.

It is true, however, as Senator Stephenson has said, that if we pass this legislation, there will be forum shopping. Will *The Irish Times* or *The Sunday Times* be soon before a jury in Belfast because they circulate there or will they be sued in the Republic? One court will have a jury; the other will not.

People do forum-shop. I remember that on one occasion when I was Minister for justice I said the newspaper which the Sinn Féin-IRA movement was trying to establish to take out the *Irish News* in Belfast - unsuccessfully, as it turned out - was a danger to Irish democracy in the same sense as the *Völkischer Beobachter*, the people's watchdog, was to Weimar Germany. I was sued in the Northern courts by a man who later became finance Minister in the Northern Executive. He was at that stage editor of the newspaper. I had to plead sovereign immunity and the case was dropped. He did not dare come to a Dublin jury with his case. He dropped it in Belfast. There is such a thing as cross-Border forum shopping, and it will happen, especially if one gets jury trial in one place and judge trial in the other place. Is there any reason, as Senator Stephenson says, to accord somebody the right to a jury trial north of the Border, where the juries are smaller in number, by the way, and to deny him or her that right south of the Border? I cannot see the logic of that.

Minister for Justice, Home Affairs and Migration (Deputy Jim O'Callaghan): I thank Senators Ryan and Stephenson for tabling the amendment. I also thank Senator McDowell for his contribution in respect of it. When we are discussing the defamation Bill, as I have said

before, we have to have at the centre of our focus and our discussion what are in effect two competing rights. On the one hand, we are trying, as Houses of the Oireachtas, to vindicate and protect the constitutional right that people have to their good name, as protected under Article 40 of Bunreacht na hÉireann. Separately, we are trying to protect and balance the right to freedom of expression, which is also contained within Bunreacht na hÉireann. It is important when we try to introduce legislation that seeks to balance competing rights that we recognise that what we are doing is a balancing act. We cannot simply adopt the viewpoint of people who say the right to freedom of expression is the right that should be given precedence. Similarly, we cannot just adopt the position of individuals who say the right to one's good name has to be sacrosanct and given precedence. That is why any defamation legislation will have to take into account that the persons advocating for freedom of expression will not get everything they want and, similarly, the persons advocating for the protection of the good name will not get everything they want either. It is a balancing act. It is a difficult job. It is the job I, as Minister, am seeking to do and it is the job that this House and the Lower House have to do.

The amendment we are discussing concerns the abolition of juries in High Court defamation actions. It is important before we start discussing their abolition that we are aware of the current law in respect of the presence of juries in hearings before our courts. When we talk about the constitutional right to a jury, we need to be clear about what we are talking about. We are talking about the fact that there is a constitutional right to a jury under our Constitution when it comes to criminal prosecutions. Not every criminal prosecution will result in the entitlement to a jury. If you are stopped for a driving offence and prosecuted for what is referred to as a summary offence in the District Court, you are not entitled to a jury because it would be untenable for all prosecutions in the District Court, which are criminal prosecutions, to be determined by a jury. It would just be practically impossible to achieve. What you are entitled to, however, is a trial by jury when you are being prosecuted on indictment in the Circuit Criminal Court or the Central Criminal Court. Of course, even that right to trial by jury is not absolute because, as many people in this House fully respect and honour and recognise, there is the need for the Special Criminal Court to hear certain serious criminal trials without a jury. That is perfectly constitutionally permissible because the provision in the Constitution states that one should be tried by jury except when the ordinary courts are inadequate to deal effectively with the administration of justice. We know the circumstances when we have trials before the Special Criminal Court.

That is what the law on juries is when we look at the criminal sphere, and no one is talking about interfering with that constitutional right to a trial by jury. It is worth noting, however, that most European countries do not have juries in the same way as we have them here for criminal offences. If people are prosecuted and convicted in France, they are convicted by a group of three or five judges, members of the judiciary. We have seen that with some of the famous cases that have come from France. In Ireland, there is a constitutional right to have criminal cases tried on indictment heard by a jury, save in the circumstances of the Special Criminal Court.

Civil law is different. In America, for instance, a huge number of civil trials are dealt with before juries. We see them and the juries award the very large amounts of damages. In Ireland, at present, very few civil actions are heard by juries. We spoke earlier about personal injuries. Prior to 1988, personal injuries actions were heard by juries. I was not around at that time but I suspect there was some controversy in the Oireachtas when the proposal was put forward that for personal injuries actions there would not be trial by jury. The effect of that, and part of the reason for that, however, was to make the system more efficient. When there is a jury it takes

time to swear in the jury and it lengthens the time it takes for the trial to be determined. Senator McDowell is probably correct that at the time those who advocated the removal of juries from personal injuries actions probably thought it would be in their interests. Insurance companies thought, "Let us get juries out of this in order that we can have judges on their own who can determine these cases." It certainly improves the speed at which a case is heard; it has not decreased the amount of awards. I do not know if I have heard it in this House before, but when it comes to the quantification of awards, juries probably award lower amounts in general than judges. That is something that may not have been significantly taken into account, but it is another matter. In the civil sphere, at present, the vast majority of civil actions in the High Court are determined without a jury, including personal injury actions and breach of contract actions.

We spoke about tort earlier on. I think Senator Ryan referred to how it will be highly unusual that this will be the one tort that will not be heard by a jury. That is not correct; negligence actions will continue to be determined without a jury and have been heard without juries for many years. It is easier, in fact, to look to see what type of civil actions have juries in the High Court. The cases are defamation actions, assault actions, false imprisonment actions and actions that are regarded as a breach of the trespass to the person or a constitutional interference with the rights of the individual. Senator McDowell is correct. It means assault-type cases and imprisonment cases. They are the limited number of cases that are tried in the High Court by a jury in civil actions at present. It is a pretty small amount of them. Senators are correct. We are not proposing to get rid of the jury from assault cases or false imprisonment cases. As Senator McDowell said, unfortunately one of the most common types of civil cases heard by a jury in the High Court is assault cases. Many of them are assault cases against members of An Garda Síochána, which are contested. An Garda Síochána succeeds in many of them. There is a limited number of civil cases in the High Court that are heard by juries. It is the exception.

People can bring a defamation action in the Circuit Court. The jurisdiction of the Circuit Court is up to €75,000. People can take their case there, have their rights vindicated and they do not have the right to a jury there. In accordance with how the jury system operates in those small numbers of cases where juries determine civil actions in the High Court, what they reveal is that a basis upon which to get a jury trial is at the discretion of the plaintiff. If a defamation action is brought in the High Court and the defendant newspaper does not want a jury, but the plaintiff or claimant wants a jury, the plaintiff gets his or her way. The plaintiff always can determine whether there is a jury to hear the case. If the defendant newspaper does not want a jury, the response is that it is at the prerogative and discretion of the plaintiff. That is the general view and operation of juries in civil actions in the High Court at present. It is important to emphasise that a small number of cases are dealt with by juries in civil actions. They are declining. It is different in the United States.

I will return to the specific amendment put forward by Senators Ryan and Stephenson. This is very relevant to their amendment. The advantage of the current system is that there is a clear mechanism for people to be aware as to when they get a jury or when they do not. The plaintiff, or the person taking the claim, decides it. Under this proposed amendment, a whole series of tests would be determined by the court in order to assess whether a jury shall be allowed. As has been indicated, the presumptive position in amendment No. 1 is that there shall be a jury in a defamation action, except if the court, on an application of either party, believes that such a trial "will require any protracted examination of documents or accounts or any technical, scientific or local investigation which cannot conveniently be made with a jury". If that becomes the law, we will have very lengthy interlocutory hearings in advance of the hearing of a defamation

action to try to determine whether the case will involve protracted examination of documents or accounts. Affidavits will have to be sworn by solicitors and experts stating the evidence they intend to give. Then the court will have to assess whether “technical, scientific or local investigation” is required that cannot be made by a jury. We will create a whole body of complexity in trying to identify during an interlocutory hearing whether we should have a jury or not.

The second provision in the amendment provides “for any special reason” it would be “unsuitable to be tried with a jury”. I welcome amendments that come forward, but I am putting myself in the position of the judge who has to decide whether to grant a jury based on this being the law. On what basis could a judge say that this is an unsuitable case to be tried with a jury? We have already ruled it out on the basis of complexity, so it has to be something else. What will happen is that a whole body of common law will be developed by the Judiciary who is looking at this and does not know what the Oireachtas means. It will have to come up with its own reasoning as to why it would be unsuitable for a jury to hear an action in a civil defamation claim in the High Court. I cannot think of a reason a High Court judge would state that a case is unsuitable to be heard by a jury. The first paragraph is too complex, lengthy and protracted. The second paragraph must mean something different. I would appreciate being told what type of unsuitability we are talking about.

The second aspect of the Senators’ amendment concerns what I refer to as the “hybrid rule”, that part of the issues would be dealt with by a jury, such as questions of fact, to determine whether a person had been defamed. The case would then be handed over to the judge to determine how much money should be awarded by way of damages or what remedy should be granted to the claimant. I agree with what Senator McDowell said. That would be an unnatural division. I know the jury determines the guilty or innocence of the accused in criminal cases and the judge then decides the sentence. However, this is something different. No one ever suggested that the jury should be determining the length of a sentence in the context of a criminal trial in Ireland. It would be unusual if a judge were given the function of a jury, which is to assess damages.

I cannot accept amendment No. 1. The amendment would delete the current wording of section 4 and replace it with a provision that allows a party to apply for a non-jury trial and enables a court to grant such application where the case is considered unsuitable for jury trial, either because it was protracted or because of a special reason. It is also important to point out that amendment No. 1, if accepted, would divide the roles of judge and jury in cases that may involve substantial damages. Amendment No. 1, which provides for jury by default, operates on the presumption that a defamation action would be determined by a judge, unless the public interest and interest of justice otherwise requires. Even if I were sympathetic to some level of retention of a jury in a High Court, I do not think this would be the way to do it. It would make it a much more complex process.

At present, if a person is defamed, a person could go to the Circuit Court if they want to claim less than €75,000. There is no jury in the Circuit Court, but there is in the High Court. It is up for the plaintiff to decide. There is no reason for the court to get involved in trying to navigate and assess whether a case is suitable for a jury trial. That type of legislative complexity will simply add to cost and increase delay. If people wanted juries to remain in the High Court, there needs to be a system where there is a simple, straightforward test. The current test is unfair because the plaintiff gets the option to determine whether there is a jury. If the plaintiff in the High Court action does not want a jury, I think a defendant can seek a jury. It is still at the ultimate discretion and control of the plaintiff. It is a bit of unfairness in litigation that one

party can determine whether a jury is used and another has no real say in whether it goes before a jury. It is on that basis that I will not accept amendment No. 1.

1 o'clock

Senator Patricia Stephenson: Recognising that the Minister feels there are implementation challenges with amendment No. 1, perhaps he will consider amendment No. 2 when we get to that stage, which has slightly different wording, or indeed, maybe he will commit to us that he will take on the essence of our amendments and bring forward his own amendment on Report Stage. We will be readily available to discuss the intricacies of that. The Minister stated that a plaintiff has the right to the final decision on whether there is jury or not. I thought a defendant could then take an appeal against that so there was the right to appeal. No one is saying that we want to have differential treatment when it comes to the right to freedom of expression versus the right to have a good name, but we will have that differential treatment by the removal of juries. The Minister mentioned the Special Criminal Court. He said some of us support that, but some of us do have an issue with the Special Criminal Court and its process of not having juries because it violates international human rights standards.

The Minister did not feed back on how he feels about the differential rights this will create and the implications for the Good Friday Agreement. That is important. The Government signed the Good Friday Agreement more than 25 years ago. The Government was rightly critical of the British Government for its flagrant disregard for the fragile peace we have in the North. Why does the Minister think it is appropriate to create differential rights on the island? Why did the Department feel it was okay to ignore the various recommendations we had from all the reviews and, indeed, the joint committee on justice in the previous term? Why were those recommendations not heard in the report?

Senator Michael McDowell: I agree with Senator Stephenson's remarks. The funny thing is that if a person brought a case in the Circuit Court for defamation, the judge could disbelieve them. The judge in the Circuit Court may or may not give a long judgment one way or the other on the matter. The judge can come to a view, one way or another, without a jury. However, if a person does not think they got a fair hearing in the Circuit Court, they can appeal to the High Court and get another judge to look at exactly the same claim they had brought. We are talking, however, about one judge on one occasion only who looks at the facts. Let us remember what the law is. The Court of Appeal is not going to reverse a decision on credibility except in the most extreme of circumstances, where it comes to the view that no reasonable person could have come to the view that the trial judge did in the High Court. It is not going to say that the trial judge was wrong to believe A and right to believe B. At least in the Circuit Court, if a case is determined there and gets what is necessarily a much shorter trial - I have not heard of any lengthy defamation cases in the Circuit Court - there is the right and the safety valve whereby they can appeal to the High Court against the entirety, have the whole case retried, bring different evidence if they like and improve their case. That is not possible in the High Court. It is a one-off job. If the judge disbelieves a person or accepts the other side's evidence, there is no way out of that.

One issue the Minister has not dealt with is the necessity in the High Court to give reasoned decisions. A judge cannot simply say with one sentence that they are holding for the plaintiff and against the defendant and awarding damages of, say, €40,000. A High Court judge cannot do that. They have to say precisely why they disbelieved the defendant and are holding for the plaintiff. They have to set out the reasoning for their decision, such as why they discounted the

witnesses that were brought by the defendant and why they did not appeal to the judge as credible witnesses. They cannot simply give a broad-brush, jury issue paper-type determination in a High Court proceeding.

The Minister said, and this is important, that there is a balancing act over the Constitution. That is very true. The freedom of expression, on the one hand, versus the right to protect one's reputation, on the other, is a question of a balancing act. As we all know, in the United States of America, the balance is struck ridiculously differently. People can say anything they like in America about anybody else and it is freedom of expression. It is not actionable unless the plaintiff establishes that the defendant did not believe a word of it when they said it. In other words, that was akin to a malicious falsehood. That is the test in America. There was a case of President Trump in his primary campaigns hinting that one of his colleagues had pushed his wife down the stairs. You could not get away with that in Ireland, but he got away with that because he is entitled to say that is his view and that he had probably pushed her down the stairs. Unless the would-be rival in that case said Trump did not believe that and unless he could prove that Trump did not believe it when he said, it would not be actionable.

There is a balance to be struck. The balance is set out in the substance of our law, but it is not to do with a jury. The jury is not the problem with establishing a balance between the rights of the media, and the rights of the individual about whom they write or the rights of people who are defamed on a casual basis day to day, for example by a store detective or somebody like that. It is not a question of the jury determining the balance between the right of free speech and the right to protect one's reputation. The jury has to decide the case in accordance with the law of defamation. As for pointing out that there is a balance to be struck, Ireland has struck that balance. It is noteworthy that the Bill deals with section 26 of the Defamation Act 2009 and proposes to change it. I agree with the changes that are proposed, but they are changes to the law that will bind a jury just as much as anybody else. Without disclosing what went on in government, I can tell the Minister that the present state of section 26 of the 2009 Act was radically affected by people other than me in government at the time who did not like Reynolds defence and wanted to trim it down. I was the liberal on that occasion. I will not identify anybody as being illiberal but the Minister can draw his own conclusion. I do not want to trespass onto the defence set out in section 26 of the Act, but the defence is a defence to be observed by either a judge or a jury. Therefore, applying the proposed amendment, there is no difference between what a jury properly instructed should do and what a judge properly instructed should do in that context.

Assault cases can be brought in the Circuit Court. If somebody alleges that they have been beaten up by a member of the Garda, they are entitled to go to the Circuit Court if they wish, but they are also entitled to go to the High Court if their case merits that. To say we have to get rid of juries in the High Court because they are not available Circuit Court is a false argument. People go to the High Court and ask for a jury because they do not want a judge, High Court or Circuit Court, to decide their case. They want a jury to do it. It is important that when it comes to the forces of law and order and other cases, jury trial be preserved in the High Court. The mere fact that a person can bring an assault claim in the Circuit Court does not justify abolishing jury trial in the High Court. The argument that it is not available in the Circuit Court simply does not carry the day. A feature of the amendments tabled by the Opposition and not by the Government strangely is the serious harm threshold. That is the curious thing. The Government is not adopting the serious threshold for most plaintiffs - only for companies and only in very limited circumstances. If we did introduce a serious harm threshold, as the Opposition

amendments are claiming with regard to this Bill, the argument that it is a waste of time having a jury trial in the High Court would evaporate. What I would call silly defamation cases, which are often brought, for example, because they mixed up two photos or got someone's age wrong, are the kind of cases that the poor embattled media have been fending off for years. We have an opportunity in this Bill to simply say there should be a serious harm threshold for everybody. Someone cannot waste a court's time about remarks that were shouted across at him or her in a pub unless on the test we are proposing, lasting and serious damage is done to the person.

Senator Nicole Ryan: We have talked at length about this amendment but the one thing we have not yet heard is why the Government is proposing this now and why it is being proposed in this legislation. We still do not understand why that is being pressed now.

Deputy Jim O'Callaghan: I am conscious that we will not get to a vote but I will try to respond to the issues raised. Senator Stephenson asked me why I am proceeding with this diminution of rights. We have to be careful about the use of the term "right". There is a statutory provision under the Courts of Justice Act 1924 and the Defamation Act 2009 that states someone is entitled to a jury in the High Court so we are entitled to change the law. It is not like a right that comes from the Constitution or the ECHR. It is simply a statutory provision so we are entitled to change it. Simply because we are changing or removing juries from the High Court does not mean it is an interference with a right. People who go to the Circuit Court still have their rights vindicated. Everyone who has a civil action before the High Court that is not heard by a jury has his or her rights vindicated so the idea that simply because there is no jury, that is a diminution of one's rights is not correct.

We also need to recognise that the vast majority of civil actions are dealt with by judges hearing cases and justice is being administered so we cannot say that just because someone does not have a jury in a civil action, he or she is not getting justice. People's access to justice is provided.

Senator McDowell said that it will be a necessity to give reasons if it involves a judge sitting on his or her own. That is correct. However, I would have thought it is an advantage that the public is able to find out why it was that a plaintiff in a particular action lost his or her defamation action or why he or she was awarded €100,000 or €200,000. At present, we do not get that information because all that happens is that the jury comes back with the issue paper and answers "Yes" to the question of whether the plaintiff was defamed, there are a couple of other questions and then damages are assessed. The judge just reads out "Yes, €100,000" and then enters the judgment so we do not get any explanation as to why the jury reached a determination that the plaintiff was defamed and that €100,000 was the appropriate amount of damages so it is to the benefit of the public and in the public interest that we find that out. Senator McDowell said that this will have a detrimental effect because individuals will be identified as untruthful or unreliable and that will hang over their heads for eternity. That is one of the consequences of civil actions in the High Court. Judges write judgments stating: "I disbelieve the evidence of Mr. O'Callaghan. I prefer the evidence of Mr. McDowell".

Acting Chairperson (Senator Garret Ahearn): As it is 1.15 p.m., according to the order of the House, progress must be reported.

Progress reported; Committee to sit again.

The Seanad adjourned at 1.15 p.m. *sine die*.