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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TUAIRISC OIFIGIÚIL—Neamhcheartaithe
(OFFICIAL REPORT—Unrevised)

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SEANAD ÉIREANN

Déardaoín, 9 Deireadh Fómhair 2025

Thursday, 9 October 2025

Chuaigh an Cathaoirleach i gceannas ar 9.30 a.m.

Machnamh agus Paidir.

Reflection and Prayer.

Gnó an tSeanaid - Business of Seanad

An Leas-Chathaoirleach: The Cathaoirleach has received notice from the following Senators that they propose to raise the following matters:

Senator Victor Boyhan - The need for the Minister for Justice, Home Affairs and Migration to make a statement on the status of the local community safety partnerships across the country and to confirm if each of the 31 local authority partnerships have been established.

Senator Patricia Stephenson - The need for the Minister for Justice, Home Affairs and Migration to provide an update on the zero-tolerance strategy for domestic, sexual and gender-based violence.

Senator Linda Nelson Murray - The need for the Minister for Rural and Community Development and the Gaeltacht to make a statement on the provision of community space locations in Trim, County Meath.

Senator Teresa Costello - The need for the Minister for Children, Disability and Equality to make a statement on the support for elderly parents to forward-plan for the care of their children who have disabilities when they can no longer provide care.

Senator Sharon Keogan - The need for the Minister for Children, Disability and Equality to make a statement on the number of unaccompanied minors from Ukraine who are under the care of Tusla since March 2022; and the number currently in aftercare with Tusla.

Senator Sarah O'Reilly - The need for the Minister for Education and Youth to make a statement on the additional supports requested by the survivors of industrial and reformatory schools who are currently on hunger strike outside Leinster House.

Senator Joe Conway - The need for the Minister for Education and Youth to make a statement on the application for an extension for Scoil Gharbháin, Abbeyside, Dungarvan, County Waterford.

The matters raised by the Senators are suitable for discussion and the Cathaoirleach has selected Senators Boyhan, Stephenson, Nelson Murray and Costello and they will be taken now. The other Senators may give notice on another day of the matters that they wish to raise.

Nithe i dtosach suíonna - Commencement Matters

Local Community Safety Partnerships

Senator Victor Boyhan: I welcome the Minister of State, Deputy Collins to the House. I appreciate him coming. He has vast experience and involvement in local community policing and recognises its importance. County councillors from all parties, including the Minister of State's, and Independents have raised serious concerns about the Department of justice decision to scrap joint policing committees. I am a pragmatist and a realist. Those decisions were endorsed by the Houses of the Oireachtas. I tabled a number of amendments on to this in support of some of the concerns of the councillors who contacted me through their representative bodies, LAMA and the AILG. However, they were not successful. The reality is that we have to deal with what is on the ground now. The Minister of State knows that from 2006, the joint policing committees worked very well. They were a collaboration between An Garda Síochána, community representatives, volunteers, educational stakeholders, business and enterprise stakeholders and more. They were engaged with minority groups and so on. It was overall a good experience and a collaborative approach that worked well. Any garda you meet, from the lowest to the highest rank, will tell you that the joint policing committees worked well and were collaborative. That is critically essential when dealing with community issues, particularly in the area of community policing.

We now have local community safety partnerships, LCSPs. The concern expressed by county councillors on the ground and indeed by Senators and Deputies who were at the table for joint policing committee meetings is that they are perceived as an erosion of local democracy, engagement and accountability. I refer also to the knowledge of local politicians, be they Oireachtas Members or councillors, who represent their constituencies. One of the great things about our democracy is that our politicians are on the ground. I have no doubt the Minister of State will be around Limerick later today and tomorrow. Accessibility to our politicians at all levels is good and they are picking up information all the time themselves. Many councillors, Deputies and Senators will no longer have a seat at the table to engage with the garda responsible in the context of the LCSPs. Of course they will have opportunities to engage as gardaí and public representatives like to engage, and that is an important point to make. It has been put to me that the structures are fundamentally undemocratic. They are reducing the role of the elected members and increasing the power to statutory bodies. Statutory bodies have many opportunities to convey their concerns for their stakeholders and the groups and segments they represent. Is it really necessary to put them in on this structure? Councillors will say that their powers, audience and right to be heard are now becoming limited. We have seen the erosion of many aspects of the role of our city and county councillors.

I know that the Minister, Deputy Jim O'Callaghan will reject many of these arguments. He has said on the record that he has considered the matters. I am asking for clarity. If not today, maybe the Minister of State's officials could send out a briefing note on it. Who will actually

chair each of these 31 new policing partnerships? Is it fully open to a city or county councillor to be considered? Some of them are being told "No", or that they have to go through different processes. There is inconsistency across the 31 local authorities. We need some clarity on that. Could the Department send out a memo to sitting county councillors in order that they can understand what is going on? I am asking the Minister of State to take it back to the Department. We need to trust our city and county councillors. We need to engage with them and empower them in this collaborative approach with An Garda Síochána for policing. I know the Minister of State has every confidence in our city and county councillors, as I do, to engage respectfully and meaningfully on behalf of their communities. The issue is when all of these 31 committees will be established. Let us engage with our city and county councillors on this issue and give them as much information as possible. I ask for uniformity and consistency in the approach in supporting our city and county councillors in local community policing.

Minister of State at the Department of Justice, Home Affairs and Migration (Deputy Niall Collins): I thank the Senator for raising this issue. To create safe communities, we must go beyond policing alone, we must work together in partnership. We must take a strategic, solution-focused approach that is proactive rather than reactive. Local community safety partnerships represent a significant step towards a more collaborative, responsive, and locally driven model of public safety. I am pleased that members have been appointed to eight local community safety partnerships. Further members will be appointed across October and November with a view to establishing all safety partnerships by the end of the year. I know in my own local authority area of Limerick City and County Council, at this month's municipal and metropolitan area meetings they are discussing and populating the LCSP.

The first meeting of an LCSP took place in Wexford on 30 September, when members elected their own chair and vice chair. It is anticipated that the other partnerships will hold their first meetings in the coming weeks. I will get the Senator clear guidance on the election or appointment of the chairpersons but I know that local authorities did ask for expressions of interest, at least in Limerick. I am sure other local authorities put out a call for expressions of interest from people who would be interested in being considered for election as chairperson.

The LCSPs are designed to empower communities by giving residents, local groups and businesses a meaningful voice in shaping local safety initiatives. They will play a major role in enhancing public safety alongside An Garda Síochána, residents, businesses and State agencies. The Policing, Security and Community Safety Act 2024, which the Minister commenced on 2 April 2025, provides for the establishment of local community safety partnerships, which will operate at each local authority level. The regulations for these safety partnerships came into operation on Monday, 30 June and a total of 36 LCSPs can now be established. Each safety partnership will be led by a voluntary chair and supported by a full-time co-ordinator and administrator. The chair will be elected from, and by, the membership of the partnership. The role of chairperson is pivotal to the partnerships achieving their full potential.

Guidance and support in the process of establishing LCSPs is being given by the National Office for Community Safety and by LCSP co-ordinators and administrators, who are full-time staff based in the relevant local authority and resourced by the Department of Justice, Home Affairs and Migration. These full-time permanent staff posts are resourced by the Department and employed by the relevant local authority. In preparation for the establishment of the

partnerships, local authorities have been recruiting these staff and so far, 27 co-ordinators and 20 administrators have been appointed across the country. The appointment of members to further safety partnerships across the country will follow in the coming weeks. We only draw on our experience from our own area, but I know that local members of An Garda Síochána have been attending local municipal area meetings individually outside the function of the safety partnerships.

Senator Victor Boyhan: There is an inconsistency in this regard because that does not happen in many of the Dublin local area committees. The structure in the cities is slightly different from that in the counties. I thank the Minister of State for setting out his stall. There is a lot of work done, with more to do. We need consistency. We can see how few local authority areas have got the bodies up and running so there is a lot of work to do. There is a lot of recruitment and engagement to be done. The Government should trust our city and county councillors to continue to take the lead in this really important work. We should remember that they are democratically elected. They are representative of communities - minorities, majorities and other stakeholders. They have a mandate. Not too many people around the table have the mandate they have. They have a very strong mandate to represent their communities and are best placed at the heart of local communities to represent all stakeholders equally.

I commend the Garda Commissioner, Justin Kelly, on his announcement of the appointment of the first Garda rural crime lead. It is a very positive step. I join the deputy president of the IFA, Alice Doyle, who issued a statement last night strongly welcoming the appointment of Superintendent Michael Corbett as An Garda Síochána's first rural crime lead. This is another important facet of community policing, particularly in rural areas. I salute the Garda Commissioner for that appointment and the recognition of the need for a lead in rural communities. I acknowledge the support for that appointment from the deputy president of the IFA.

Deputy Niall Collins: I join the Senator in acknowledging the appointment of Superintendent Michael Corbett as An Garda Síochána's first rural crime lead. I spoke to him recently at the National Ploughing Championships when we launched our new rural safety strategy. I sit on the national rural safety forum and have attended its meetings. It is fantastic in respect of our approach to ensuring our communities are as safe as possible and reassuring people, particularly in rural Ireland, that our communities are being policed and that we are doing our utmost to ensure people feel safe in their homes and communities. Superintendent Corbett is a fantastic choice by the Garda Commissioner. I note the comments of the deputy president of the IFA, Alice Doyle, who co-chairs the national rural safety forum. She is doing a fantastic job in that role along with Assistant Commissioner Paula Hilman.

Given the experience of the joint policing committees - I sat on the Limerick joint policing committee, which was a fantastic forum - I regret that Oireachtas Members will not be sitting on the LCSPs but that does not mean that as public representatives, we cannot interact with An Garda Síochána. We interact and will continue to do so. That is our job as public representatives. The new safety partnerships provide for a broader reach and inclusion of stakeholders, which is not a bad thing. They do not provide as much for local authority members but drawing on my experience in Limerick, there is no reason that across the country,

local municipal or metropolitan areas cannot interact with An Garda Síochána on their agenda in the same way they meet any other group in the public service.

Domestic, Sexual and Gender-based Violence

Senator Patricia Stephenson: I thank the Minister of State for coming to the House to provide me with an update on the implementation of the zero tolerance strategy for domestic, sexual and gender-based violence. I have asked that we have a particular focus in our discussion on housing provision and on the Government's plans to address the acute crisis faced by survivors of domestic violence across the country.

Housing is not a peripheral issue in the context of domestic violence. It is central to safety, recovery and dignity. For too many survivors, housing insecurity is the single greatest barrier to escaping abuse. We cannot continue to expect people, mostly women and children, to choose between homelessness and a violent home. In the 2022-26 strategy, strong commitments were made to build a coherent national infrastructure of support for survivors. However, more than halfway through the strategy's lifetime, implementation is lagging, particularly in the case of housing and refuge provision. While the establishment of Cuan is a very welcome step, it must be matched with action. The strategy's promise of 400 new refuge spaces by 2026 is crucial but on current progress, we are unlikely to meet that target. We need clear timelines on this. There are about nine counties in Ireland that do not have a women's refuge.

Are plans in place for all of these remaining counties to have refuges established before the end of the strategy in 2026? Ireland's obligations under the Istanbul Convention on preventing and combating violence against women and domestic violence are explicit. Article 23 requires that sufficient, safe and accessible refuge spaces be available to meet the needs of victims. Article 20 demands access to housing and financial assistance as part of comprehensive support. Compliance with these obligations is not aspirational; it must be real in every local authority area. How is the Minister of State ensuring that every local authority is meeting these obligations?

Refuge provision is only part of the issue because refuges are designed for the short term only. Women fleeing domestic violence need long-term housing solutions. They need to be a priority group for council housing lists. While the housing crisis is affecting many people in this country, it is having a particularly cruel impact on survivors of domestic violence as they try to rebuild their lives. At the heart of any strategy must be care. I do not mean that in a sentimental or paternalist way; I mean it from a structural perspective. The zero tolerance policy is built on a promise to women that they will be listened to yet too often, we hear survivors speak of no space in refuges, of years on housing lists and of being told to be patient, to wait and to survive just a little bit longer. Safe Ireland has warned that without investment and urgency, the gap between reality and promises will continue to widen. Alcohol Action Ireland has pointed out that there is no mention of alcohol in the strategy even though alcohol is one of the most consistent drivers of domestic abuse. The glaring omission of alcohol in the strategy means that one of the most common drivers of domestic violence is not being taken into account from a prevention and recovery angle. How can this be the case?

As the Minister of State knows, coercive control thrives on women who have been bullied and psychologically abused and whose self-esteem is on the floor. We need wraparound

supports. They matter so much because they can empower women to pull themselves out of violent situations. They empower women who have fled the most horrendous abuse, often with their children, so that with the correct support they rebuild themselves and their lives. Women need support to get jobs, have their own independent income and psychological care. What provisions are in place to ensure that every woman who flees a violent situation is able to receive this care? Wrap-around supports for women fleeing domestic violence are not a nice little extra to have; they are fundamental for their care and protection.

Will the Minister consider the creation of a distinct housing allocation category for survivors of domestic violence? The current system often places survivors in the general housing queue and fails to reflect the urgency of the situation they are facing.

Will the Minister ensure that alcohol is acknowledged and included as a driver of domestic violence in the next strategy or amend the current strategy to reflect that reality?

Has mandatory training on gender-sensitive, trauma-informed approaches been rolled out for all gardaí, legal professionals and members of the Judiciary? The risk of re-traumatisation is severe and can affect people's long-term recovery when they are going through the judicial process.

Deputy Niall Collins: I thank Senator Stephenson for raising this matter. I am replying on behalf of the Minister, Deputy O'Callaghan. I welcome the opportunity to update the House on the implementation of the zero-tolerance strategy and to reaffirm the Government's commitment to supporting and protecting victims of domestic, sexual and gender-based violence.

Since January 2024, Cuan has been leading the co-ordination of Government actions under the strategy. A central commitment is to double domestic violence accommodation capacity in Ireland by the end of 2026. Cuan is working closely with domestic violence services, approved housing bodies, local authorities, the Department of housing and the Housing Agency to achieve this. By the end of 2024, 14 of 18 priority locations had identified suitable sites. Delivery schedules were mapped to ensure progress and new capacity had been delivered, including a 12-unit refuge in Wexford.

At the request of the Minister, Deputy O'Callaghan, Cuan undertook a review in early 2025 and worked with services and partners to assess and review progress and identify a series of actions to accelerate delivery. Following that review, completed in spring 2025, and in line with the commitment given by the Minister, the following targets will be delivered by the end of 2026: 52 new family refuge units; 45 new safe homes; and 50 new units under construction.

In 2022, at the start of the zero-tolerance strategy, there were 49 safe homes in place. By the end of 2026, it is envisaged to have 94 safe homes and 193 refuge units completed, bringing total safe accommodation to 287, with 50 further refuge units under construction. As part of this expansion, this week, the Minister had the privilege of opening a new nine-unit refuge in Dublin 4, a facility that will provide safe and secure accommodation for survivors at a critical time in their lives. In June, he launched the final implementation plan for the strategy, which focuses on expanding refuge accommodation and developing a comprehensive national emergency domestic violence accommodation plan.

Earlier this week, the Minister secured a funding increase to almost €80 million under budget 2026 to support Cuan and services working to tackle domestic, sexual and gender-based violence and the implementation of the strategy. This represents an increase of €11.5 million year on year.

My Department is also examining proposals to develop a policy on removal orders to take offenders out of the home in high-risk cases, subject to legal considerations. Through these combined efforts the Minister and our Department are delivering real progress. The clear message is that domestic, sexual and gender-based violence will not be tolerated.

Senator Patricia Stephenson: I am delighted to hear about the progress being made on the strategy for removing offenders from the home. That is a really positive step for women, particularly in situations where there are children. I would love to get an update on that as it goes through the Department.

The Minister of State's response focused mainly on emergency housing. In my contribution I was trying to underscore that this is a systemic issue. The point of a refuge is that it is short term. Women are finding themselves in hotels and refuges with their children. They are only supposed to be in those refuges for a short time. We need a commitment to long-term housing, particularly at a local authority level. I ask the Minister of State to respond to my question about having such women as a priority category on local housing lists. Long-term solutions are needed and these short-term fixes are not substantial enough.

I cannot say I welcome the €11.5 million additional funding for domestic, sexual and gender-based violence given that almost €20 million has been allocated for greyhound racing. That figure is allocated every year and it is almost double what is allocated for domestic, sexual and gender-based violence. For many women across the country, that really underscores how the Government prioritises tackling violence against women and girls. Those figures are quite shocking when they are looked at together.

Deputy Niall Collins: It is important to reflect not only on the commitments made but also on what has been delivered under the zero-tolerance strategy. The promise of safe accommodation is becoming a reality. The new refuge in Wexford and the refuge in Dublin 4 symbolise that progress. The pipeline of new refuge spaces and safe homes will continue to grow, moving us steadily towards our target of doubling capacity by 2026. To support our children and young people, more than €17 million has been allocated to 60 services that provide court accompaniment and related support services to children and adolescents who are witnesses in criminal trials. The Family Courts Act 2024 represents a significant reform creating family divisions at every court level to ensure families face a system that is tailored, compassionate and fair. The Game Changer campaign, led by Ruhama, is using the influence of sport to challenge harmful behaviour and promote respect. In addition, public awareness is being raised through zero-tolerance campaigns to encourage victims and survivors to come forward and seek support. Each of these steps represents progress towards the one clear goal that no one in Ireland should ever live in fear within their own home.

As I mentioned in my earlier contribution, the funding has also increased significantly year on year and that will continue to happen under this Government. I do not accept the Senator's criticism of the funding of the greyhound industry. It is not an either-or. The greyhound

industry is an economic driver, particularly in rural areas. People derive a livelihood from it. They support their families and their communities through greyhound racing. It is an industry. It is a sector within our community and within our society just as any other sector, whether it is the horse racing industry, the greyhound industry, the food industry or the farming industry. It is the job of Government to support all different subsets within our society and the greyhound industry is no different. I think it merits support. It is not a case of deciding to support the greyhound industry and not support people who need help in other areas of society. That is the job of Government. We try to support every cause within the community as well as possible.

Community Development Projects

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

Senator Linda Nelson Murray: I appreciate that the Minister, Deputy Calleary, has come here this morning. While I was running in the convention, I used a quote about women to sum up myself and my late mam, who loved a strong cup of tea: a woman like me is like a tea bag; you can't tell how strong she is until you put her in hot water. There are many women in County Meath who are strong women and who are fighting for a home for their groups. Those are the Trim women's shed, the Navan women's shed and the Meath cancer support group. Trim women's shed is a welcome space where women can connect, learn new skills and support one another through workshops, creative classes and social events. However, the absence of a consistent venue has become a major challenge to its continued growth and sustainability.

10 o'clock

This group has 450 members and would benefit from having somewhere it can call home for a number of reasons, including stability, continuity, ownership, pride, development and skill building. The group could plan activities and workshops for its huge member base without worrying about venue availability. Caroline Smith, who is the group's chair, has said that it wants to get women out and into the community, to provide a safe support space for women and to act as a non-judgmental group where women can gather, support each other and learn new skills. All women above the age of 18 are welcome to join and there is no cut-off age. A lot of women have said that the shed has saved them by bringing them out of isolation.

The women's shed movement has expanded rapidly across Ireland in recent years, as the Minister will be aware, inspired by the well-established men's shed model. Nonetheless, it is fairly safe to say that women's sheds are more shedless than men's sheds. Most women's sheds rent shared spaces, which means they must pack away their equipment after each session. Men's sheds, on the other hand, are often granted permanent spaces.

Today, there are 120 women's sheds across Ireland. Sheila K. Martin from Killarney women's shed made a super point when she said that communities function best when they feel connected. People used to use pubs for that but many of them have shut down. Women's sheds can fill that gap by providing a dedicated space where women can share experiences, build friendships and feel part of something bigger. These groups offer essential social, emotional and educational supports. All I have said about the Trim women's shed I could say equally about the Navan women's shed, which is in the same predicament. I urge the Department of

Rural and Community Development and the Gaeltacht to seek to ensure that women's sheds are equally looked after this year.

Another group that I would like to bring to the Minister's attention is the Meath Cancer Support Group. Rachel Mullen from Kildalkey never imagined that she would find herself in a life-changing battle, but that was exactly what happened when she found she had breast cancer. She did not expect to find that there was no support group local to her where she could cry, vent, rage, smile and speak to people going through the same thing. To do this, she would have had to travel to Dublin, Westmeath or Louth. We must bear in mind that Meath has a population of 240,000 people, which means there are potentially 1,600 people diagnosed every year, each of whom has various family members. This incredible lady set up the Meath Cancer Support Group with the wonderful support of Trim Family Resource Centre. Ms Mullen has some space but there are now more than 30 people looking to come to the group's meetings and the room can only hold 30 people. This group is a lifeline for individuals and families that have been affected by cancer. How can a group that provides such support continue to progress its work without a base? The group provides help through counselling, peer support, information sessions and practical assistance. It offers comfort and hope to people navigating one of life's toughest challenges.

I have mentioned three groups. I am sure there are many more in similar circumstances. I am focusing on these three groups to ascertain the Government's plans to provide homes for groups that go out of their way to support women, to support people, to support families and to support communities in County Meath.

Minister for Rural and Community Development and the Gaeltacht (Deputy Dara Calleary): I thank Senator Nelson Murray for raising this issue. Given that so many people in County Meath have roots in County Mayo, it is inevitable that there would be strong women there. It is important that the Senator has raised this matter today. The importance of high-quality accessible spaces for community groups is beyond doubt. As the Senator said, we have all witnessed the massive contribution of the men's shed movement, and now the women's shed movement. Is there any family out there that has not needed or will not need the assistance at some stage of the cancer support groups that do such amazing work across the country?

Since I became Minister for community development earlier this year, I have prioritised investment in community infrastructure and in services to support our communities. As part of budget 2026, I am delighted to announce increased funding for the programmes that are delivering on this priority. This includes an increase in the annual budget for the community centre investment fund, by €3 million to €20 million. This fund was introduced to provide high-quality accessible community spaces that are available to all groups in all communities, both in rural and in urban areas. The fund has provided €110 million since 2022 for the enhancement and refurbishment of existing community centres and the construction of new centres. This includes funding of up to €100,000 each that I announced for 369 community centres earlier this year. In the Senator's county, funding of €1.9 million has been provided for a new community centre in Kilcloon, one of 12 centres receiving funding under the fund. Over €4.8 million has been provided to County Meath through the community centre investment fund in less than four years. In addition, my Department has allocated over €1.1 million to Meath under the CLÁR programme, which is also focused on community facilities and community transport services in the more rural parts of the county.

I assure Senator Nelson Murray that I am fully committed to delivering further rounds of funding under the community centre investment fund and the CLÁR programme so that there will be many opportunities for groups such as those she has spoken about. I recommend that the Senator should speak to her colleague, Senator Mark Duffy, who has led on the creation of a community space in an old school in Ballina. That sounds like something that might work for the combined work that the Senator is envisaging here and I recommend that the Senator have a look at that model.

In relation to men's sheds and women's sheds, and I welcome my colleague, the Minister of State, Deputy Buttimer, to the Chamber, we are supporting men's sheds and women's sheds through the Local Enhancement Programme, SICAP and the LEADER programme. The funding under these schemes is also available to cancer support groups.

I encourage groups that need to invest in new or improved community spaces to engage with their local authority and local development company to identify what options may be available. I am more than happy to ask my officials to brief the Senator in relation to that.

My Department has channelled funding through the Irish Men's Sheds Association to distribute directly to men's sheds. The Minister of State, Deputy Buttimer, and I were pleased to announce a financial package with the association for this year which will enable it to distribute up to €1 million in supports to men's sheds across the country. We are awaiting the finalisation of that package with it. We are committed to providing any support we can for the development of a national governing body for women's sheds to ensure that individual women's sheds can benefit from having a strong national representative body to advocate on their behalf. My officials have been engaging with representatives from women's sheds and the Department of Health with a view to delivering on this objective. Once this is done, we are more than happy to discuss centralised funding.

I commend the work of all the groups the Senator referred. I thank all of the extraordinary volunteers who lead them. Without the volunteers in the groups the Senator has referred to, our country and the Senator's county would be a much poorer place.

Senator Linda Nelson Murray: I thank the Minister. Of all the Ministries, Deputy Calleary has a wonderful Ministry. It is a great Department because the Minister can do so much good with it. When I looked at all the different sources of community centre funding that increased in the budget, I was delighted to see that nearly all of them went up by €1 million, €2 million or €3 million. I welcome that. It is fantastic news.

I recognise the money that has come into County Meath. I worked with the Clady Hall project in Dunderry, County Meath, which got great money from the Department. People worked locally to raise funds to create an amazing community space in a building that had been closed - it was more or less derelict - but has now been partly reopened. I hope to welcome the Minister there at some stage when the job is totally finished. It is a fabulous space that will benefit three communities - Robinstown, Dunderry and a third one I cannot think of.

Do we have any idea when the national governing body for the women's sheds will be set up?

Deputy Dara Calleary: I thank Senator Nelson Murray. I endorse everything she has said.

Fundraising is important. It is very hard work, but it makes an important contribution, financially and otherwise. If a community buys into a project through fundraising, it will succeed. Speaking of fundraising, it would be wrong of me not to wish our colleague, Senator Costello, every success as she takes to the stage next weekend in her lip-sync fundraiser. I wish the Senator good luck with that.

We are working on the structure for the national women's sheds alongside the Minister of State, Deputy Murnane O'Connor, in the Department of Health. Our officials have been in touch with them. They are certainly making progress. I do not want to put a deadline on it so that we can get it working well together.

I will give the Senator a sense of some of the allocations in Meath that we have been able to do. Under the community centre investment fund, we allocated €20,000 to the Trim Family Resource Centre to fund the replacement of windows, bathrooms, flooring and insulation. We have also allocated €300,000 in Athboy and €90,000 for halls in Moynalty and Longwood. As the Senator will be aware, under the rural regeneration and development fund, we have invested almost €4.5 million in Trim to redevelop the existing library and the adjacent chapel.

I encourage the Senator to look at existing buildings and spaces within her community that we might consider partnering in. As I said, Senator Duffy has led on the redevelopment of an existing old school which has now become a centre for seven or eight different community organisations. It is definitely a model worth looking at.

Acting Chairperson (Senator Malcolm Noonan): I thank the Minister. It is always great to have a senior Minister in with us. We appreciate it.

Care Services

Senator Teresa Costello: I welcome the Minister of State. I am raising this really important issue today as it is one that I have encountered in my own constituency. However, I must admit that it was not a scenario I had ever considered until I came face to face with people living it and, unfortunately, it is one that affects many families throughout our country.

The role of our carers cannot be understated. Unless you have experience of being a full-time carer, you could not possibly comprehend the day-to-day of their lives. Any one of us, through circumstances outside of our control, could become a carer. It is a role that can happen through an accident or the illness of a loved one. Others become carers on the day their child is born.

To dedicate your life to the care of a loved one is admirable, but the hidden sacrifice and struggle is immense. I would like to concentrate today specifically on the challenges faced by elderly parents who are still caring for their adult children with disabilities. These people provide care at home for their children and, as they age, they worry about what will happen when they are no longer able to care for their child, and I say "when", not "if". I was struck last week while listening to an interview with elderly parents who care for their 40-year-old daughter who has an intellectual disability. This couple expressed how they are genuinely concerned about what will happen to their child, again, when, not if, they can no longer care for her. The father even went so far as to say that they hope their daughter goes before them.

Take a moment to reflect on that statement. This heartbreaking statement is a sentiment that is echoed throughout this cohort of people.

According to recent figures, more than 2,000 people aged over 70 are providing full-time care for their adult sons and daughters; 500 of those parents are now aged over 80. As a parent of a child who does not have a disability, I worry what the future holds for him. For a parent of a child with a disability, who is vulnerable, incapable of advocating for themselves and who relies on the care of others to have their needs met, I cannot imagine the worry they feel. The Minister herself has said that disability services in Ireland are coming from a very low base and she acknowledged that a particular emphasis has been placed on emergency planning and not enough on forward planning. A low base, where the most vulnerable in our society are concerned, is unacceptable. A low base can no longer be the standard, and we cannot operate on a system that often reacts only in crisis. Emergency is the least effective, most distressing and most expensive way to support a person to access their rights.

Today, I ask what forward planning is in place to support elderly parents in the care of their adult children who have disabilities when they can no longer provide care? If there is no plan, what plan is going to be put in place? What these people are asking for is not a luxury; it is a necessity. These parents need to be certain that when they need to step back, when illness forces them to, there will be a safe, local and permanent place for their children to live. The Minister has spoken of the need for a new mindset. That mindset must include enough funding for residential places, providing clear and accessible information for families, offering respite, planning supports and ensuring that adults with disabilities can live in homes that keep them connected to their communities. Parents who have devoted their whole lives to being carers should be entitled to take a step back when they can no longer provide care and live out their later years and enjoy their child. Most importantly, they should be able to die in peace knowing that their child will be cared for and loved just as they were when they were alive.

Minister of State at the Department of Rural and Community Development and the Gaeltacht (Deputy Jerry Buttimer): I thank the Senator for raising the matter and wish her luck in her lip sync at the weekend. The contribution she made is a powerful one because it is the lived experience of many parents. In many ways, the reply I give will be inadequate to the articulation she has given because she is right. There is a group of parents who are caring for their disabled adult child, and they are now reaching a point where they cannot do it anymore. It is a huge issue and one that we encounter. I speak as somebody who is involved with what was Cope Foundation and is now called Horizon in County Cork, and who recognises the powerful words the Senator spoke this morning, because people are living it every day. It is affecting their quality of life, and they want certainty for their beloved adult child for the future when they are not here. That is not dramatic; that is a real concern of the elderly for their children, who in some cases, as the Senator said, have been cared for from the cradle to the grave. It is when the parents leave that this becomes a problem. The Senator is right. I thank her for raising this important issue.

Government is aware that there are a growing number of elderly parents who are caring for people with disabilities and a lot - not all - of those adult children will require residential care as their parents continue to age and as they will after their parents die. Furthermore, Government recognises the vital work carried out by family carers as well as the impact that caring can have on carers' physical and mental health. The Senator rightly raised that point

because there is a huge concern for parents who want necessity of certainty and quality of care. Government acknowledges the importance of the voice of the person with the disability and the wishes they may have regarding their own future. It is also important to note that, currently, demand for specialist disability residential places exceeds what is currently provided.

The Department of Children, Disability and Equality is working with the HSE to address current levels of demand in line with the 2021 Disability Capacity Review to 2032, and the subsequent Action Plan for Disability Services 2024-2026. The disability capacity review 2021 identified a significant level of underprovision of residential care places, as the Senator outlined. The review projected a need for a minimum of around 100 new residential places every year from 2020 to 2032 arising from changes in the size and age structure of the relevant disability population.

The subsequent Action Plan for Disability Services 2024-2026 has committed to providing 900 residential placements for people with disabilities. The HSE, together with approximately 90 service providers, is providing 8,808 residential places to people with disabilities. In 2025, the Government has secured €3.2 billion for disability services, which includes €106.6 million in additional funding for disability residential services. This funding was provided to support in the order of 70 new residential placements. Up to August this year, 142 such places have been created. In budget 2026, a total of €3.8 billion has been allocated for specialist disability services, representing an almost 20% increase year on year. From the period 2020 to 2024, 709 new priority one residential places have been created for people with disabilities. This, with the places provided to August, brings the total number of new places to 851 since 2020. This level of provision has undoubtedly assisted those who were awaiting a residential placement, including those with disabilities who are being cared for by their ageing parents.

The Department of Children, Disability and Equality, alongside the HSE, is continuing to work to increase provision in order to assist those who are most vulnerable in our society and who urgently require services. In addition to residential services, there are other measures that are available to support people with disabilities and their families and carers. Other supports include day services, respite services, intensive support packages, home support and personal assistance. I recognise that, in some cases, they may not be available or they may not be what the people the Senator spoke about require. I recognise the burnout and the need for relief for family carers. I commit with the Department to ensuring that the provision of residential places through a multi-annual capital plan will be progressed. I look forward to working with Senator Costello and the Department to ensure we do meet the needs of elderly parents.

Senator Teresa Costello: I thank the Minister of State for his response. A really important part of meeting the needs is very good communication with the parents. They are going to be handing their child over for care when they are not there. I want people to be able to die in peace - I know it sounds dramatic - and to feel that their child, whom they have cared for all their lives, will be cared for in a loving, safe, high-standard environment in an area to which those people feel their children are connected. It will have to be very trust-based, working with people with the lived experience because they are the people who really know the ins and outs of it and they are the people who will direct us best in what they need and what is best for those children.

Deputy Jerry Buttimer: I again thank Senator Costello. She is right; it is about communication, but it is also about trust. It is about prioritising this very important issue she has raised because there is huge concern among that group of parents. It is a challenge. There is a significant waiting list for residential services. Demand is extremely high and exceeds what we are currently providing. The Government is working to address these challenges in order to provide people with disabilities with the services they require and their families deserve, including those being care for by ageing parents who, in many cases, require a residential placement.

There are huge challenges in providing residential places for a variety of reasons. It is important that we continue to face those challenges in the recruitment and retention of staff. We also need to examine how we can put in place certainty for individuals and families. The HSE has reported that the changing support needs of current service users is resulting in increased costs for additional adaptation services and that the cost of new residential placements has increased significantly, with the average cost of a new placement increasing year on year by 29% in the past six years. The availability of suitable housing also presents a challenge. I assure the Senator that the Department of Children, Disability and Equality, working with the HSE, is trying to address demand while also putting in place a range of supports, measures and programmes aimed at supporting people with disabilities to remain in the family home and ensure certainty for older family members, in particular.

Cuireadh an Seanad ar fionraí ar 10.21 a.m. agus cuireadh tús leis arís ar 10.32 a.m.

Sitting suspended at 10.21 a.m. and resumed at 10.32 a.m.

An tOrd Gnó - Order of Business

An Leas-Chathaoirleach: Before we move to the Order of Business, I welcome the head of mission to Spain and the staff from the Spanish Embassy here to mark Spanish National Day. They are accompanied by Deputy Michael Cahill, who is the convenor of the Ireland-Spain Parliamentary Friendship Group. They are very welcome and I hope they have an enjoyable day on their national day. Ireland and Spain have enjoyed a centuries-long relationship that goes all the way back to the 16th century, with the signing of the Treaty of Dingle in 1529. This bond has only grown as the centuries have passed, with many Irish pilgrims making their way along the Camino de Santiago, and those who have sought refuge in Spain in the aftermath of the Flight of the Earls in 1607.

Today we share strong cultural ties, with Spanish people being the fifth largest tourist group in Ireland and countless Irish people having made previous memories on holiday in Spain, given 2.3 million Irish people visit Spain every year. Many Spanish people travel to Ireland, not just for tourism but to learn English and Spain is Ireland's second largest EU market for English language training. The result has been a huge number of Spanish people having spent time in Ireland during their adolescence, continuing and strengthening our centuries-long friendship. To the 40,000 Spanish people who call Ireland home and to everyone in Spain, we wish them a happy national day.

I call the Leader to outline the Order of Business.

Senator Seán Kyne: I also welcome the head of mission and Deputy Cahill. I wish all the Spanish citizens living here a happy national day.

The Order of Business is No. 1, Defamation (Amendment) Bill 2024 - Committee Stage (resumed), to be taken at 12.30 p.m. and to adjourn at 2.30 p.m., if not previously concluded.

Senator Linda Nelson Murray: I would like to bring up the horrible issue of graffiti. More and more, when I travel through towns in County Meath, graffiti is becoming a major issue, especially in Navan, the town I come from.

Graffiti is criminal damage and it is against the law. The people doing it may not think they are causing much harm but this can come with a huge economic cost to the building owners. There are clean-up costs, it is unsightly and there is an increased fear of crime in the area. It encourages other crime, people do not want to see this near their home and it can discourage investment in a town.

Places like Venice, California and Copenhagen provide legal spaces for artists to work. Should we consider something like this? Should we have tougher penalties? I think we probably should. How do we stop it? Some lovely historic buildings are being destroyed. One that comes to mind is the lovely Spicer's Bakery on Kentstown Road in Navan. It keeps being destroyed by graffiti and it is really sad to see it. I would appreciate a debate on this to consider how we can tackle graffiti in our towns and villages and whether there should be tougher penalties against it.

Senator Pauline Tully: I want to raise the issue of a pilot project run in Cavan-Monaghan and Sligo-Leitrim that recently came to an end, called Retrofit Ready. It was a programme under the Department of the Environment's Climate Action Fund. Cavan County Local Development and Monaghan Integrated Development and the equivalent development groups in Sligo-Leitrim, employed a person in Cavan-Monaghan and a person in Sligo-Leitrim to talk to individuals and groups about trying to retrofit their homes. They advised them about the warmer homes scheme and the different SEAI grants available on the ground. In particular, they were able to talk to people about whether they were entitled to the fuel allowance. If people are, they can apply to the warmer homes scheme.

Many people were not aware they were entitled to the fuel allowance and had not been claiming it. There was a huge uptake of the programme and a lot of people have got works done to their house or are in the process of getting works done. Some of these are very old houses that need a lot of work under the warmer homes scheme or the SEAI grants. Unfortunately, the pilot programme came to an end a few weeks ago. Could it be rolled out on a nationwide basis? It was really worthwhile for not just those four counties, but throughout the State. The Minister might comment on that.

Senator Dee Ryan: Gabh mo leithscéal, everybody, we had a little timing issue this morning. We were under the misapprehension that the Order of Business was at 11 a.m. so I was downstairs in committee; I apologise. I thank the Leas-Chathaoirleach for the opportunity to speak.

I spent a very interesting morning with a group of business professionals on St. Stephen's Green who were launching the CFO 100 list for business and finance. They were also having an interesting panel discussion on AI and next generation finance. It was a wonderful insight into where multiple different sectors of industry are, not just those from the large technology companies or large businesses, but also SMEs, business owners and entrepreneurs. There was a really good take on where we are within the working world outside the gates of Leinster House with regard to the use of AI in the working world.

Could the Minister of State, Deputy Smyth, be brought in for an update on the important work she is leading in the establishment of the national AI office, which was funded in the budget this week and is due to be opened in August 2026? When the Minister of State has an opportunity, it would be great to have her in the House to get an update on that important subject.

Now that the budget has been published and people are digesting and working their way through it, I call their attention to the very important HIQA report that came out relating to Limerick and the mid-west in the week prior to the budget. I acknowledge the work been done and all the stakeholders who contributed to that. I want to put on record the feedback I have been getting from my community in Limerick. People were not surprised by the stark results laid bare in the report. Their immediate question was what are we going to do about it. With that in mind, I request that the Minister for Health would come into the Chamber and give us some time to discuss this. It is really important.

In Limerick we are facing into another winter that is likely to be a strong flu season, if what is happening in Australia is anything to go by. We know already that we are going to be under severe pressure. We are already under pressure and we know we will not be able to cope. I would welcome the opportunity for the Minister to come into the House to discuss what short-term measures she is able to take to support UHL.

Senator Sharon Keogan: I rise today to speak on a matter of grave urgency and moral clarity. I refer to the modern persecution of Christians, in particular in Nigeria, which has reached levels that many experts now describe as genocidal. According to the World Watch List 2024, more than 365 million Christians worldwide faced high levels of persecution, and nowhere was this crisis more acute than in Nigeria. In 2023, of the 5,000 Christians who were killed for their faith worldwide, 90% were killed in Nigeria. This year, the situation has worsened. Reports reveal that 7,087 Christians have been massacred in Nigeria in 2025. That is 32 killed every single day for their faith. More than 19,000 churches have been destroyed since 2009 and millions have been displaced. This year, a massacre in the town of Yelwata saw 200 Christians slaughtered overnight by jihadists. Victims include women, children and the elderly. This is not random violence; it is targeted, systemic and ideologically driven. Groups like Boko Haram and other militia are waging war on Christianity in Nigeria. Priests are being kidnapped, churches burned and entire communities erased from the map, yet the international response has been muted.

I echo the calls made in Westminster for the UK and the EU to prioritise freedom of religion or belief in foreign policy. I call on the Government to likewise hold perpetrators accountable through sanctions and diplomatic pressure. Let us not be silent. Silence is complicity. I call

on this House to condemn these atrocities, to stand in solidarity with persecuted Christians and to ensure that Ireland's voice is heard on the global stage in defence of religious freedom.

Senator Noel O'Donovan: I want to speak briefly on two aspects of the budget. As a newbie Senator, this is the first opportunity I have had to witness and see how the budgetary process works. As a member of a party that is in government, I also had an opportunity to see how the issues we raised formed part of the budgetary process.

Regarding the 9% VAT rate, I put on record the appreciation of the many businesses in west Cork that sought a reduction in VAT and contacted me in recent days. I thank them for their work in campaigning for it. I also want to call out the hypocrisy I see from some Opposition parties that are now opposing this, rejecting it and not supporting the 9% VAT rate that has been introduced. As has rightly been said, these businesses in our communities are not just coffee shops and restaurants; they are the hubs of our communities. They are busy businesses. I have seen the books of many of these businesses. They are struggling with costs and the increased cost of doing business. This is a measure that will ensure stability and sustainability in the years ahead. I call on many of the Opposition parties to look back at what was said in recent months, prior to the formation of the Government, and what their position was on the issue. I know full well the promises made by the Social Democrats, especially in west Cork, in the programme for Government and the calls that were made. Members should look back at what was said.

Like all Members, disability is an area I am very passionate about. We have a respite crisis in this country. I am delighted to welcome the additional €600 million put into the disability budget. It is important that the Minister with responsibility for disability would come to the Chamber as soon as possible to discuss respite.

Senator Alison Comyn: Before I begin this morning, I have just noticed that my Seanad colleague, Senator Andrews, has walked back into the Chamber. It is good to see him back safe and sound.

Senator Chris Andrews: I thank Senator Comyn.

Senator Victor Boyhan: Hear, hear.

Senator Alison Comyn: I genuinely hope that today is the day we see a permanent and lasting ceasefire, an end to the genocide, and a return of all the hostages to their families.

Closer to home, the buzzword at the moment is "living experience". I would like to speak on behalf of my two children. We have all gone through a journey of travelling from Drogheda in County Louth to UCD for the last four years. One is continuing for the next year. It is an impossibility to commute from Drogheda, the largest town in Ireland – a de facto city – to get to UCD for a 9 o'clock lecture. There are three private coaches that say they will get people there on time, but it is an impossibility. You are either 45 minutes late for your first lecture at 9 o'clock in the morning or you are forced to try to live in Dublin. We know the pressure that is on everybody trying to live in Dublin. I have done it for four years with my two children. It is an impossibility. They are being forced to sleep on couches or to drive, which again is an

impossibility for most youngsters at the moment, because of the cost of the travel or the cost of insurance. We must look at improving bus services, in particular for large commuter towns. We are talking about the largest university and the largest town, yet you simply cannot get to a lecture on time. I would like to have a debate in the House with the Minister for Transport, Deputy Darragh O'Brien, not only on the position in Drogheda, County Louth, and in Dundalk, but also right across the country, to make university much more accessible to everybody.

Senator Gareth Scahill: Like my colleague before me, I welcome Senator Andrews back. I cannot wait to hear the stories about his ordeal. It is good to see him return safely.

Following on from the budget, I want to acknowledge the €130 million in grants for older people for housing adaptations; the €140 million for the retrofitting of social homes; the €558 million in funding for residential and community energy schemes from the SEAI, including the warmer homes scheme; the better energy home scheme; the national home energy upgrade and retrofitting scheme; and the community energy grant scheme. In tandem with welcoming that funding, I acknowledge that the Department of further and higher education has allocated €65 million in funding to ensure the critical skills requirement for the delivery of housing and infrastructure, as set out in the national development plan, is achieved. This funding will allow for increased apprenticeship registrations and will help us to move forward on targets to achieve 12,500 apprenticeships annually by 2030, as set out in the programme for Government.

In that regard, I call for a debate in this House, possibly inviting the Minister of State, Deputy Harkin, or the Minister, Deputy James Lawless, to discuss how we are going to achieve that. The allocation of this money is much needed, including for apprenticeship places. When I looked back at the apprenticeship review for the year, I saw that last year the increase in plasterers was 3%, the increase in plumbers was 13%, and the increase in apprenticeships in wood manufacturing and finishing was 3%. We need a targeted focus on increasing the number of apprenticeship places in order to achieve the targets for the 2030 plan. I also call for regional balance in the location of the apprenticeship places.

An Leas-Chathaoirleach: Before I call on Senator Andrews to speak, I welcome him back. It is good to see him here safe and sound. I look forward to his contribution.

Senator Chris Andrews: I thank everybody for their good wishes. It is nice to be back. The surroundings are a lot nicer than I have been used to for the last month or so.

On 1 October, Israel kidnapped citizens of 44 nations from international waters. They were on a humanitarian mission, a non-violent peaceful mission. Despite kidnapping 44 citizens from 44 nations, Israel faces no consequences. It is remarkable that it has been allowed to act with impunity in committing countless war crimes, genocide and man-made famine. It has also dismantled the international rules that have applied for many decades. Its act of piracy against the Global Sumud Flotilla was just another example in the very long list of international crimes. As I said, it was a non-violent humanitarian mission looking to bring in baby formula and medicines. We had baby formula on our boat.

I am very thankful for all the support we received while we were in an Israeli prison. In particular I thank Irish Sport for Palestine which was really supportive to me and the group. On a daily basis it holds Israel to account in terms of sport. I also thank the ambassador to

Israel, Sonya McGuinness, who was fantastic. I thank Evan Cunningham in Israel who came into the prison to meet us and was very reassuring. I know they are working under very challenging conditions. They were very reassuring and professional. I also thank our ambassador to Greece, Ciara O'Floinn, and Leah Palleschi who were unbelievably kind, supportive, reassuring and professional. I thank Mary Lou McDonald, our party leader and Donnchadh Ó Laoghaire for their support from start to finish. Their support meant so much to family and friends. I also acknowledge the Minister, Simon Harris, for the empathy he showed to us. His calls were very much appreciated and very kind. I acknowledge the Department of foreign affairs which did so much to help the Irish delegation when we were released. We are forever grateful for their assistance.

Being part of the flotilla was a huge privilege and I met many amazing and inspiring individuals. It is now more important than ever to keep the momentum going, to keep protesting and to keep our eyes on Gaza and Palestine. We need to keep supporting justice for Palestinians. On the recent deal between Israel and Hamas, any respite that Palestinians get is welcome. It will be welcome to see all hostages released. I sincerely hope that the deal will bring justice. Obviously, peace is the objective and it is really important that we get peace. However, without justice there will be no peace. Palestinians have not had any justice for decades. We need to see Palestinians get justice. If there is a real justice, this deal will work. It remains to be seen whether justice will be built into this deal. If there is no justice, there will be no peace in the long run.

Senator Victor Boyhan: I thank Senator Andrews for his courageous journey. He walked his talk. It is great to see him back. Clearly, a few days away from home grub is good for the old diet; he is looking well. I ask him to mind himself. It was a huge undertaking. I think I speak for most people in this House in saying he can be assured of our support. It is traumatic. There will be days of unwinding. There will be recurring nightmares of the horrific issues he has seen and encountered. He is brave and courageous. I am proud that he is one of our colleagues in the Seanad. He not only brought a light to the issue, but he brought a light to himself and to the Upper House, something I am very proud of.

I am going around with the IFA budget 2026 document. One would think it is a bible. Everyone stops and asks what I am doing with it; the budget is over. I want to acknowledge and thank the IFA. While I have had many differences with it from time to time, it put enormous work into its pre-budget submission. Its representatives engaged and spoke to many of us about issues. I want to highlight one issue that it has highlighted today which is that tillage funding falls short of political commitments. It is not about a blame game, but we have a serious crisis in tillage. The IFA has worked hard to highlight that and highlight the economic benefits to our rural communities, to the wider community and to the international community, and the challenges around it. The budget announcement of €50 million for tillage growers was short of the €65 million it sought. Can we have a debate about tillage? Tillage is critical to this country. There are many other crops we should be looking at. Premier wheat for use in distilleries has been mentioned. I call for a serious debate on the tillage sector. I acknowledge the enormous work the IFA did in its pre-budget submission. All is not over and we will have other opportunities for it to continue to engage with us. That is part of the democratic process. I wish it well.

Senator Martin Conway: I also warmly welcome our colleague Senator Andrews back. I commend him on what was a truly heroic effort on his part to shine a light on the issue. In due course, I am sure we will hear some of the haunting stories. I join my two colleagues in wishing him well in the upcoming days. I wish him and his family well with his transition back to Irish life.

I would like a debate on the property owned by the State, specifically agencies like the OPW and local authorities. In my county there are a lot of vacant properties owned by various elements of the State, including CIÉ, Iarnród Éireann, Bus Éireann and the OPW. I can think of three buildings in a town in Clare that are boarded up and could be used for something more productive than they are being used for at the moment, which is nothing. The Department of housing needs to do a deep dive in collaboration with other Departments and agencies to do an inventory of the number of buildings in State ownership that are derelict or vacant and to see what can be done to bring them into use specifically for housing. Not enough is being done in that space to identify properties. I can give specific examples in my county and I am sure my colleagues here can give examples of buildings they are aware of that have lain vacant for decades.

Coupled with that, we need another layer when it comes to the State agencies, specifically local authorities, purchasing properties. While I fully understand and accept that the CEO of a local authority has to have autonomy from elected members when purchasing property, there needs to be another layer of accountability. I am looking for a debate on accountability for local authority CEOs when purchasing property. On another day, I will allude to why I am raising that particular issue.

Senator Margaret Murphy O'Mahony: I start by welcoming my colleague Senator Andrews back. I am glad he is back. As they would say in Cork, fair play to you, boy, for what you did.

I wish to raise the issue of farm safety. Already this year there have been 16 confirmed deaths following accidents on farmyards and in fields, and obviously others could be added to that list. This number is higher than the figure for the whole of 2024 and so obviously there is a problem there. Nine out of those 16 were people over the age of 65. Decisions taken with regard to machinery, livestock and heights have led to these people's deaths. I would like the Minister to come to the House to explain his plans to highlight safe procedures in agriculture.

11 o'clock

Senator Gerard P. Craughwell: I would like a debate on Iran. We are in election mode. The way we deal with elections here and the way they are dealt with in Iran are very different. I visited Iran with a delegation from this House and I can say that the people are just like us. They drink coffee, laugh, joke and enjoy life, but if you come the wrong side of the regime, they hang you. In 14 months, 1,850 people have been hanged. The way they hang them is horrendous. They put a noose around your neck and they lift you up and allow you to strangle rather than a drop hang, so it is not just hanging, it is absolute brutality. They are hanging up to nine people per day so we need to establish what Ireland's position on this brutal regime is. I ask the Leader to organise a debate on that if he can.

I read today is that Singapore has organised that small and medium-sized industries will have free cybersecurity protection for a year. What are we doing about cyber protection within the SME sector? In the next short period, small and medium-sized industries in this country will be responsible for adherence to the EU Cyber Resilience Act, the NIS2 directive, the Digital Operational Resilience Act, DORA, and the GDPR. There is so much coming through. Board members can be struck off for life for failing to meet their requirements and organisations can be fined. Imagine being a manufacturing company today. You have to manufacture goods that will be cyber-resilient for life. That means re-engineering and redesigning. It involves where you are getting your chips from if it is based on chip technology. We have CCTV in this House. I do not know if it is still provided by Huawei. If it is, where did the chips come from and who is watching us? Watch the watchers, that is why I say, so I ask the Leader to arrange a debate on that if he can.

Senator Maria McCormack: On behalf of the Sinn Féin, I welcome back our comrade Senator Andrews and say how proud of him we all are. It is really important that we keep the focus on Gaza and the peace deal that it is hoped will happen. We remember the ongoing mission and the five other Irish citizens who are in an Israeli prison.

I will address endometriosis today. Over the past few months, there has been an unbelievable turnout at public meetings on endometriosis we held across the country. Women have been coming out in their hundreds to share their stories, pain and determination to be heard. This campaign has shown the real strength and courage of women who have been ignored for far too long. A few weeks ago, the Minister for Health indicated that she was listening and might finally take action, so I was gobsmacked to discover that there was no funding allocation in the budget for endometriosis specialist care. This disease affects one in ten women, yet there are women who are still waiting over a decade for a diagnosis, travelling abroad for surgery and paying out of pocket for private treatment because the public system simply does not provide the care they need. We need to see specialist multidisciplinary centres established and properly funded, clear referral pathways so women are not bounced from one doctor to another, training for GPs and front-line staff to recognise and respond to symptoms, and investment in research and public awareness so that this condition is finally treated with the seriousness it deserves. I am calling for an urgent debate in the Seanad on women's health, especially endometriosis, because women's health must be prioritised and not pushed aside once again.

Senator Anne Rabbitte: East Galway and possibly many other areas around the country are being scourged by the conversation around the regulation of the provision of solar farms. I accept there is a real need for an increase in energy capacity. The issue concerns the conversation around solar farms, the lack of regulation and the review of wind farm guidelines. I am calling for a debate with the Minister with responsibility for regulation and provision. There was a very powerful presentation last week in the audiovisual room on the matter from various groups around the country. I know of developments in Kilconly in north Galway, the solar farm opposed by Abbeyknockmoy and Monivea Against Solar Sprawl, AMASS, and Ryehill. I know of solar farms of 1,000 acres of good arable land. When we do not have regulation, they go rogue. That is the reality. We need energy but maybe we need a conversation about small nuclear reactors. We are bringing in power generated by nuclear power through the interconnector so we need a grown-up conversation about what the solution might be as opposed to killing our countryside. It is clean, green and efficient. I am by no

means an advocate for nuclear power but I see how communities are being split, divided and torn apart and this is wrong. Could the Leader facilitate a debate? I have no doubt that, in his area, he has come across a lot of wind turbines as well.

Senator Seán Kyne: I thank Senators for their contributions. I start by welcoming back Senator Andrews. I know he had a strong advocate in Senator McCormack, who made ample phone calls on Wednesday evening looking for a debate on Thursday, which was facilitated. I acknowledge the Minister of State, Deputy Byrne, who came to the House on that. Senator Andrews has been a strong advocate on Gaza and his advocacy and publicity around it are important in highlighting the issues. The Senator mentioned peace and justice issues. We hope we will have peace and the deal that was agreed yesterday will work, the hostages will be released, the ceasefire will hold and humanitarian aid will flow. The Senator is right. We need to continue efforts to highlight injustice and deliver justice for the citizens in Gaza. I acknowledge all others who have spoken on the matter as well this morning.

Senator Nelson Murray raised the issue of graffiti in her own area in Navan and other areas in Meath and the possibility of having legal spaces for it. Finding such places would be the first step while the second would be targeting those who engage in illegal graffiti. It is certainly unsightly. It is not just found in this country. We see it in different parts of the world. It is not nice, particularly on historic buildings, but anywhere on private or public property. Perhaps this could be raised as a Commencement matter with the Minister for Housing, Local Government and Heritage for a more direct answer regarding funding possibilities.

Senator Tully spoke about the Retrofit Ready pilot project. I am not that familiar with it. I presume it is being done through the SEAI or the Department, so perhaps the Senator can put raise it as a Commencement matter.

Senator Scahill also raised matters relating to retrofitting and funding for it. He also called for a debate with the Minister of State, Deputy Harkin, and the Minister, Deputy Lawless, on apprenticeships. I spoke to the Minister of State, Deputy Harkin, on Tuesday and she will be coming to the House in the coming weeks to talk about apprenticeships. I know the Minister, Deputy Lawless, is due to come to the House as well to speak about his areas, so we will certainly have an opportunity there to raise those matters.

Senator Dee Ryan spoke about business professionals and called for a debate on AI and the national AI office, which has been committed to under the budget, so I will request that from the Minister of State, Deputy Smyth. I am not sure where it is planned to locate it but it is an important step. I know an Oireachtas committee on AI has been established of which many Members here are part. I am sure we will get updates on that in due course. The Senator also spoke about the HIQA report. I have requested a debate on this report as it relates to the mid-west and to Portiuncula hospital, so I will request that again of the Minister, Deputy Carroll MacNeill.

Senator Keogan talked about the persecution of Christians in Nigeria. Persecution of anybody for religious beliefs is wrong and certainly the atrocities in Nigerian are to be condemned. I will request a debate on that. She talked about freedom of religion and beliefs. We can all agree, irrespective of religion or beliefs, that there should be freedom to express and to practice those religions and beliefs, both in this country and around the world. I will request a debate on matters in Nigeria.

Senator O'Donovan raised budget matters, including the 9% VAT rate and the importance and appreciation of small business owners. He has also called out the hypocrisy of some parties, in particular the Social Democrats and party leader Deputy Holly Cairns in advocating for the 9% VAT rate and the separation of hospitality and accommodation prior to the election and now advocating something else. He is right to call out hypocrisy on that matter. He has also called for a debate on respite care and disabilities. On 4 November, the Minister, Deputy Foley, and the Minister of State, Deputy Naughton, will be in the House to talk about matters pertaining to disability, the disability strategy and the budget.

Senator Comyn raised the issue of public transport from Drogheda and the inadequacy of the service in ensuring people are brought to UCD and other universities on time. I will request a debate with the Minister for Transport, Deputy O'Brien, on that matter. There is always a need for increased public transport. The more public transport that is provided, the more demand there is. If buses are provided every hour, there is a demand to have them every half hour and if they are every half hour, they should be every 15 minutes, and rightly so. That change, together with better bus shelters for comfort, is needed to encourage better use. The BusConnects projects and the bus lanes in different areas are also important to ensure there is a speed and efficiency of travel.

Senator Boyhan raised the tillage sector and called for a debate. He mentioned the €50 million for the tillage sector and I wish to acknowledge the work of the Minister, Deputy Heydon, in delivering that. It was important. It was one of the top issues in farming this year. Tillage is often weather-dependent. The sector is dependent on international grain prices. There have been particular challenges in the sector this year so the funding was absolutely needed. I will speak to the Minister. He was in the Chamber prior to the budget on all matters and many Members advocated on tillage issues. I will request a debate with him.

Senator Martin Conway raised the matter of derelict properties and properties owned by the State. There were initiatives in the budget regarding the extension of the living city initiative and changes in the rules from buildings pre-1915 qualifying now to pre-1975. That is welcome and I hope that will make a difference to private properties. Regarding State-owned properties, one would hope there is an inventory somewhere in every State agency that owns property but also that they have plans for that. Sometimes, they may be held up in respect of funding, design, planning permission or whatever. However, no local authority or State agency should have property that is just sitting there. I will request a debate with the Minister of State with responsibility for the Office of Public Works on that matter.

Senator Murphy O'Mahony raised the matter of farm safety and the 16 people, nine of whom were over 69, who passed away this year. It is a very high figure and behind each of those figures is a family, loved ones, neighbours and friends. We will request a debate again. We have spoken with the Minister of State, Deputy Healy-Rae. He is agreeable to come in but Senator Paul Daly has requested that mental health be brought into that debate as well so we are trying to see if we can have two Ministers in at the same time. That is not always practical but we are seeing if we can arrange that.

Senator Craughwell raised the issue of Iran where 1,800 hundred people were hung, or as he said, strangled in the past year. There really are atrocities going on in different parts of the world that are hard to fathom. I will certainly bring that up with the Tánaiste. The Senator

called for a debate on cyberprotection and he mentioned Singapore and what is going on there. I will certainly request that.

Senator McCormack mentioned the situation in Gaza but also endometriosis and called for a debate with the Minister for Health. I will organise that. Funding of €3 million was provided for research into endometriosis in UCD. That is important. I will request the debate with the Minister on the matter or the Senator might table a Commencement matter to get a more direct response on that particular issue. Finally, Senator Rabbitte raised the issue of renewables. We all say we need more renewables but when the rubber hits the road and there are applications in a local community, whether it is solar or wind, or even nuclear if it came to that, public meetings would be packed out on this. I have seen it up and down the country. People are not happy with projects like this whether they are onshore or even offshore. People are not happy with the impact. I am not sure what the solution is. Guidelines can be brought in but these may not be positively received in some communities. I will request a debate with the Minister for climate, Deputy O'Brien, on this. Every political party and none has talked about the need to increase energy security and increase renewables but when we drill down into it, there are issues. There are certainly communities that are very upset about those matters.

Order of Business agreed to.

Cuireadh an Seanad ar fionraí ar 11.16 a.m. agus cuireadh tús leis arís ar 12.31 p.m.

Sitting suspended at 11.16 a.m. and resumed at 12.31 p.m.

Defamation (Amendment) Bill 2024: Committee Stage (Resumed)

NEW SECTIONS

Debate resumed on amendment No. 4:

In page 7, between lines 14 and 15, to insert the following:

“6.Nothing in this Part prohibits the trial in the High Court with a jury of a claim in defamation in conjunction with any related claim arising substantially out of the same alleged facts and circumstances which would otherwise be triable by the High Court with a jury.”.

-(Senator Michael McDowell)

An Cathaoirleach: I welcome the Minister. We are on amendment No. 4, in the names of Senators McDowell, Boyhan, Clonan, Conway, Keogan and McCarthy. The Minister is in possession.

Minister for Justice, Home Affairs and Migration (Deputy Jim O'Callaghan): I had actually just finished my contribution.

An Cathaoirleach: Does anyone else wish to comment on amendment No. 4? No.

Amendment put:

The Committee divided: Tá, 11; Níl, 21.	
Tá	Níl
Black, Frances.	Ahearn, Garret.
Boyhan, Victor.	Blaney, Niall.
Collins, Joanne.	Brady, Paraic.
Conway, Joe.	Byrne, Maria.
Cosgrove, Nessa.	Casey, Pat.
Craughwell, Gerard P.	Comyn, Alison.
Harmon, Laura.	Crowe, Ollie.
Keogan, Sharon.	Curley, Shane.
McCormack, Maria.	Daly, Paul.
McDowell, Michael.	Fitzpatrick, Mary.
Stephenson, Patricia.	Flaherty, Joe.
	Gallagher, Robbie.
	Goldsboro, Imelda.
	Kyne, Seán.
	Lynch, Eileen.
	Murphy, P. J.
	Murphy O'Mahony, Margaret.
	Nelson Murray, Linda.
	O'Donovan, Noel.
	Scahill, Gareth.
	Wilson, Diarmuid.

Tellers: Tá, Senators Michael McDowell and Sharon Keogan; Níl, Senators Garret Ahearn and Paul Daly.

Amendment declared lost.

An Cathaoirleach: I welcome to the Gallery pupils from Castlegregory Secondary School. They are most welcome to Seanad Éireann today. I understand this is the transition year class. Normally when a school comes in, there is no homework for the rest of the week, but I do not know what to give a transition year class - whatever they want. No homework for the first week of the first term in the new year after they go back into fifth year. They will be grand.

Amendments Nos. 5, 8 and 9 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Michael McDowell: I move amendment No. 5:

In page 7, between lines 14 and 15, to insert the following:

“PART 4

DEFAMATORY STATEMENT

6. Section 2 of the principal Act is hereby amended by the substitution of the following for the definition of “defamatory statement” appearing in that section:

“ ‘defamatory statement’ means a statement that tends to cause harm both to a serious and to a lasting extent in the eyes of reasonable members of society, and ‘defamatory’ and ‘serious harm’ shall be construed accordingly.”.

This is an important amendment and I want to put it in context. The Minister is proposing to amend the law in relation to defamations of bodies corporate, in other words, companies and associations and bodies of that kind. If the House looks at page 7 of the Bill as passed by the Dáil, the House will see that section 6 of the Minister's Bill proposes to insert a section 12 in the principal Act. Section 12(2) of the proposed section provides that, "A statement concerning a body corporate that is made on or after ... the coming into operation of *section 6* of the *Defamation (Amendment) Act 2025* is not defamatory unless its publication has caused, or is likely to cause, serious harm to the reputation of the body corporate." In other words, a test is being laid down for companies that it has to be serious harm. That does not apply, as the law currently stands, to defamations of people who are not companies. To take an example, if somebody says "You are nothing but a thief" in a pub at night or whatever, that is defamatory, and it is actionable in the case of an individual, as things stand, regardless of whether it cause serious damage to the reputation of the person concerned. In Britain, certainly in England and Wales - I am not sure about Scotland and Northern Ireland - there is a serious harm test for all defamation. One cannot sue because a defamatory remark is made without regard to whether it is seriously defamatory in the case of an individual. The Minister has made the correct distinction, in my view, in regard to companies. There has to be serious defamation for a company.

If we are going to have a two-tier gravity test from now on, it means that accusations or statements which do not meet the serious threshold for a company but which are made in respect of an individual are to be actionable. I gave the example of a person who is in a pub when somebody says, "You are nothing but a thief" or something like that. There are also much more practical cases than that. One would imagine that somebody about whom a remark of that kind was made in a pub would be told, if they went to their solicitor the next day, to cop on, only three people heard the remark and none are likely to believe it anyway.

I will outline for the Minister an example of where this would have effect. If somebody is stopped in a shop by a member of staff or store detective and that person says, "Excuse me, can I look in the bag? You may not have paid for X or whatever," is that a serious defamation if it turns out that the bag is, in fact, empty, there is a receipt in it or whatever? Are we saying that is actionable, *per se*, as a defamation?

I do not have to give graphic examples. We have a bad enough set of circumstances for retailers in urban areas, not just in Dublin, who are under siege in their own premises defending their own stock. Asking somebody to stop so that someone can look at their bags or ask them to produce receipts, or cases where a store detective or a man or woman behind a till asks someone about something in their bag and whether they have paid for it, are necessary remarks in order to defend the integrity and commercial viability of shops. People who are in trade are entitled to have those things said on their behalf without being sued.

Sometimes ridiculous things happen. When security tags go off when one is leaving a shop and suddenly one is embarrassed by that event, it could be said to be defamatory. It is embarrassing, but it is not worth suing over. That is the point I am making. It is certainly not worth giving a basis to initiate an action to a person who can claim that an ostensibly

defamatory statement was made regarding them which is not serious. However, from the point of view of the shopkeeper or the person conducting the business, if they receive a solicitor's letter and a Circuit Court civil bill, it is a disaster. The owner has to go to a solicitor, reply to the correspondence and probably come up with an offer to try to buy it off. They have to come up with a bill for their own costs and for the costs of the alleged injured parties.

An absolutely trivial incident can easily give rise to €20,000 or €30,000 worth of expenditure before you ever get to court and have the good luck to employ a barrister and be liable for the barrister on the other side. Even to fend off or settle an action costs serious money. In this amendment we are saying it has to be a serious defamation. If it has to be serious in the eyes of the Minister for a company to sue, why should it not be equally serious for an individual to sue?

I do not know where the Minister got the idea that in respect of bodies corporate, a seriousness test was to be brought in as applies in the United Kingdom. It is a reasonable thing to do. However, a lower test applies to a personal litigant who has been, arguably, defamed in a fairly minor manner in an incident which is bound to take place fairly frequently. I am sure the Minister is well aware of the dampening effect this has on the capacity of retailers to intervene. Unless a retailer is 100% certain that there is shoplifting going on, they are hamstrung as to what they can and cannot do.

On one occasion, I went to a petrol station in Rathmines and attempted to pay using the card system on the pump. I thought I had paid, but I received a phone call from Rathmines Garda station alleging that I had driven off without paying. It was a bit ridiculous. When I went back to the petrol station to pay, there was a large notice on the pump stating it was defective and the card system was not working. That was a small incident, but I had to suck it up. It was embarrassing that the gardaí had been notified. I will have to ask the Minister about this, but I assume I have been on the PULSE system ever since that incident took place. Those kinds of things actually happen. That happened to me. The idea that I could, in similar circumstances, start sending a solicitor's letter to the proprietor of the Circle K petrol station at Grosvenor Road and demand this, that and the other by way of apologies is nonsense.

Protecting one's good name, which is a constitutional right, does not involve threatening people who are trying to protect their business interests from what are minor matters. The real question is this: why it is right that the seriousness test that applies in all defamation in the United Kingdom will only to apply to corporate plaintiffs in Ireland? Why is it right that unserious or claims lesser than the serious threshold can be brought without any risk to the person making the claim, at very considerable risk to the person against whom the claim is made of legal costs, the cost of settling and buying off a claim and all of that? Why is this two-tier system for seriousness being put in place in the same statute?

I will be glad to hear from the Minister why it is considered the case that a company can only sue for what is called a serious defamation but a private citizen can sue for something which would not amount to a serious defamation. This is not a notional lawyer's argument that is happening here.

1 o'clock

This is to try to stand beside decent people trying to earn a decent living and trying to conduct a decent commercial activity who find themselves powerless and frightened to intervene in

some cases, and told by their lawyers to give the man or woman €5,000 and his or her solicitor €2,500 for their costs just for receipt of a letter. That is the kind of thing we are up against here. I can see nothing wrong with saying that defamation has to be serious in every case, personal or corporate.

It may be said that the Constitution talks about the good name of the citizen, and it does not talk about the good name of the company. That is true, but the Constitution, if you look at the directive principles of social policy, does favour private enterprise. It does favour people who are trying to make a living. It certainly does not mean that nuisance actions, and nuisance and trivial claims are to be protected on this differential scale of seriousness. If you are running a retail premises in the centre of the city of Dublin or any other city, and you really do consider you want to intervene and challenge somebody who you think is in the business of taking your property without paying for it, you should not be operating on the basis that if that person proves to have a receipt and sends you a solicitor's letter, the incident will cost you €5,000, €10,000 or €15,000 for something comparatively minor like that. I ask the Minister to accept this amendment. The amendment proposes to amend the entire definition of defamatory statement in the principal Act and to say that a defamatory statement must be one "that tends to cause harm both to a serious and to a lasting extent in the eyes of reasonable members of society". An incident in a shop does not normally fall into that category. The lasting effect in the eyes of reasonable members of society simply is not there. It is a momentary embarrassment perhaps. It is something over in ten or 15 seconds, or maybe two or three minutes at the outside. It is not worthy of defamation, and it is a waste of the court's time to consider such claims. Try-on defamation actions, which are designed to extract settlements from retailers, would be deterred if this amendment were accepted. I would like to hear the Minister in response.

An Cathaoirleach: I remind the Senator that we are taking amendments Nos. 8 and 9 as well.

Senator Michael McDowell: I will come back to them at a later stage. We are not on Report Stage yet. I will be proposing them later.

An Cathaoirleach: Before I call Senator Keogan, I welcome Duncannon ladies club. They are doers and dreamers from Wexford, guests of the Ceann Comhairle. They are most welcome to Seanad Éireann.

Senator Sharon Keogan: I speak to my first sole amendment, which is amendment No. 8. This Bill comes to the Chamber with a number of stated purposes, but they are best summarised in plain English as making defamation law fairer and more efficient. This is driven by the fact that there is simply too much defamation litigation in Ireland. I do not believe anyone in government or opposition will contest this. This purpose carries the acknowledgement that defamation law, as it is in Ireland, is not really fair or efficient and this is to be rectified by this Bill. However, there is a big gap between the intent and purpose of the Bill and what it will achieve. It is my belief, and that of many in this Chamber and of far too many in civil society organisations, that it will achieve very little. There are a number of international best practices in defamation law, and the best of them at present in either current Irish law, or they are barely

present in this Bill. To this end, I bring forward a number of amendments, which I hope will correct this.

The first is to introduce a serious harm test for individuals who seek to bring a defamation case to court. We are perhaps the only common law country on Earth that does not impose tests, either serious harm or malicious intent in the case of the United States on plaintiffs. This desperately needs to change. This is not a theoretical debate. Ireland does not exist in a legal vacuum, and the law does not exist in a vacuum from society. We can look at how laws differ in other nations and how those laws impact their societies. We can compare them with our own laws and our society. I, and many others, believe it is evident that defamation is out of control in this country. If the statistics and estimates are to be believed, we have twice as many defamation cases in our nation as in England and Wales. That is not per person. That is in total. Let that sink in. We have twice as many cases as a state that has more than ten times our population. We need to think of how that impacts the workload of our courts, which we all know are facing enormous backlogs in cases both criminal and civil. We need to reduce this backlog where we can, and here we have severely outdated defamation laws, whose antiquatedness is a cause of the caseload. Still, we are not putting in the necessary updates. A serious harm test is not curtailing of people's rights to their reputation. Would we say people lack this right in England, Canada or Australia? No, we would not, so why would we curtail it here in this Republic? This amendment and my others, which I will get to in time, are about rebalancing these rights in favour of the right to free expression and the right to speak and inquire in the public interest. By extension, it is about ensuring that within free public discourse we are able to achieve the end of holding one another to account without fear of grievous repercussions.

We had a heated discussion in this Chamber a few months ago, which I would like to address respectfully as it is relevant to my argument. I asked if there was any conflict of interest. I acknowledge that I used strong language in asking it, that it reflected fairly neither the Minister's character nor the nature of my concern and I would like to apologise, for the record, about the offence caused. I hold the Minister and his integrity in high esteem as a person, as a professional and as a politician. I have praised his appointment and welcomed his appointment in this Chamber many times. I hope I am not going to jinx him, but I look forward to seeing him as leader of Fianna Fáil in the near future.

However, I am still a member of the Opposition. While I would not question the Minister's integrity, and have seen nothing that would indicate improper conduct on his part, it is my duty as a public representative to act in the public interest and to put his judgment into question, which is the real essence of my concern, although I acknowledge I must do it in better and more precise language. As a Senator for the industrial and commercial panel, I have received serious outreach from people and their civil society representatives, as well as from society more broadly, especially the press. Almost all of them tell me that this Bill, as it stands, will effectively change nothing. When the system is broken, the *status quo* means things will only get worse. While I acknowledge the Minister did not draft the Bill, I am forced to ask why the Minister is standing over it. Why is he proceeding to push it through our Houses when it is clear we will be back here in a few years?

I initially intended to argue that his legal career left him with a tendency to overly concentrate on abstract legal principles, but last week I recall him putting forward the argument to my

colleague Senator McDowell that we in the Oireachtas change laws because we can. I assume he acknowledges that laws and their principles are not perfect or inviable and require regular alteration for the common good. In fact, that is arguably the entire reason we are sitting here today in this elected Legislature.

On Second Stage, the Minister made good arguments in favour of the individual's right to a good name. He gave the important example of the Maurice McCabe case. Let me be clear in making the following point. As Members of the Opposition, we have potential whistleblowers coming to us on a regular basis. For every one who is protected by defamation laws, there are at least ten others who back out, keep their heads down and keep silent for fear of those same laws. This is what is meant when people say defamation law has a chilling effect on our nation's public discourse.

One can speak of the rights of the defamed but let me clear on another point. These rights do not exist *de facto* for the majority of our population. Defamation cases usually cost between €20,000 and €50,000 when taken to the Circuit Court and can fly high into six figures when taken to the High Court. The vast majority of our population do not have money in the five figures floating around in their back pocket. Free legal aid is granted for defamation cases only in extremely rare circumstances. For the vast majority of Irish people, their right to free expression is not balanced against their right to a good name because the former right is not effectively actionable. Indeed, many people have neither right. They can afford neither to accuse another person of defamation nor to be accused of it. I propose that we correct this by combating the suppressive and trivial defamation claims that are freezing free discourse in our society and acknowledging that the balance of rights is unbalanced and must be adjusted accordingly.

That brings me to the core of amendment No. 8 which I am proposing today. It seeks to introduce a serious harm threshold for individuals bringing defamation cases, mirroring the standard already proposed in the Bill for corporate bodies. It is a modest, proportionate and internationally recognised safeguard. It does not abolish the right to sue for defamation; it simply ensures the courts are not used to pursue trivial, vexatious or strategic claims that are not about restoring reputation but about silencing criticism. If we are serious about making defamation laws fairer and more efficient, as the Government claims it is, we must be willing to apply the same standard of seriousness to all plaintiffs, not just corporations. It is not credible to say that a small company must prove serious harm but a wealthy individual need not do so. That is not equality before the law. It is not fairness and it is not efficiency.

Amendment No. 8 is not radical, partisan or punitive. It is a practical reform that aligns with best practice in England, Wales, Australia and other common law jurisdictions. It is a reform that will help to reduce the burden on our courts, protect freedom of expression and ensure defamation law serves its true purpose to vindicate reputations that have been genuinely harmed, not to chill public discourse or intimidate critics. I urge the Minister and my colleagues in the House to consider the amendment in that spirit. Let us not miss this opportunity to make a meaningful change. Let us not pass a Bill that tinkers at the edges while leaving the core problem untouched. Let us pass a Bill we can be proud of, one that protects both the right to one's good name and the right to speak truth to power.

Senator Mary Fitzpatrick: I thank the Minister for his engagement with us on the Bill. Before I speak to my amendment, I acknowledge the securing by him and his Department of more than €6 billion in the budget this week. That significant amount of public funds will go towards ensuring our State is safer and that justice is served for all our citizens. Well done. It is a big achievement and it should be acknowledged. The Minister has made a firm commitment to increase Garda numbers and this funding will provide for up to 1,500 extra gardaí. It will also allow for more Garda stations and vehicles, infrastructure to address cybersecurity and make provision for immigration services. There is an allocation of €18 million for services for those experiencing domestic violence. There will be money for additional staff for prisons, for the Probation Service and for extra prison spaces. All of this funding, which is accompanied by increased funding for the Legal Aid Board and Free Legal Advice Centres, is really welcome. It shows the commitment of the Minister and the Government to ensuring we have a fully functioning justice system that serves our citizens fairly and without prejudice.

In turning to the Bill before us, I go from that high-level consideration of billions of euro for State infrastructure and services to thinking about how State legislation affects some of our very important but very humble citizens. I refer to local retailers, particularly in my community. I think of Yasser in the local Spar, Omar in Centra and Mary in Phibsborough. These are people who have dedicated their lives to providing a service in my community. They invest in purchasing, leasing or renting properties, purchasing stock, hiring staff, attending to the welfare of those staff, creating quality employment and providing a really good service to their customers. They do their best every single day, often seven days a week. For them, it is a lifestyle choice. This is the purpose to which they choose to dedicate their lives. We are lucky to have them and we all appreciate them.

Increasingly, however, small retailers are challenged in delivering for their customers. Along with energy costs, employment costs and many others, one of the biggest costs is the threat to their livelihood and the service they provide from crime. Retail crime is real and it is pervasive, not just in urban areas, as Senator McDowell noted, but throughout the country. Under law, we are all entitled to defend ourselves, our property, our income and our right to trade. People have all those rights under law. My amendment No. 9 seeks to help retailers to achieve that defence without having to incur additional costs.

Shop owners often have to challenge individuals on their premises engaging with their staff and attempting to steal their products, actually stealing or pretending to steal. There are people who get up every morning with the sole purpose in life to do this. They are organised to do it; such activity is not a casual, opportunistic or once-off event. There are people out there - not a lot, thankfully, but there are some - who engage in this as more or less a full-time occupation. When challenged, they turn it on the shop owners, who are then accused of defaming those individuals. Taking the case to court costs retailers in time, energy and stress. They must engage with professionals and take time out of their workplace and away from their employees and customers. There is a financial cost to all of that, as the Minister knows, and it is having a real impact on retailers' ability to survive. It is undermining the viability of their businesses. I was nominated by RGDATA which represents over 3,000, largely independent, indigenous Irish retailers. These are not big, anonymous corporate organisations with big resources who can rely on those significant resources to defend their case. These are individuals, many of them second and third generation shop owners and operators, who were born into their

communities and have traded in and served those communities for generations. They want to continue to do that but they are increasingly being squeezed out. This is not just because of crime and defamation. I appreciate that there are many other factors at play and the Minister alone cannot solve those but this is a real cost to them that is undermining their viability. The legal costs to them can be in the tens of thousands of euro. For many of them this is an additional burden that hinders them and creates barriers to them continuing to viably trade.

I urge the Minister to consider my amendment. It seeks to remove a cause of action for the actions that are outlined in section 8 so that there is no doubt but that a court will not entertain a case of such a nature provided it fits within the criteria set out in section 8(1)(b). It would send a really clear signal to prospective claimants against pursuing such cases and remove the real exposure to costs that retailers face in invoking a defence, as currently outlined. I appreciate that people do have recourse as it stands. Under the law as it stands they have recourse and can defend themselves. The law allows them to do that but the cost of exercising that right to a defence is increasingly beyond too many of them. We should send a strong signal that our justice system is there to act reasonably and to defend them in the operation of their business and the provision of their service in our communities. I ask the Minister to consider the amendment.

Senator Linda Nelson Murray: Like my colleague, Senator Fitzpatrick, I also want to speak on this amendment. Senator Fitzpatrick mentioned RGDATA. We have been inundated with correspondence on this. It seems to me that everyone wants to see something happen with regard to defamation to support businesses and shop owners. Retail Excellence Ireland has been in touch, as has ISME, RGDATA, and the Alliance for Insurance Reform. I have been inundated with emails about this and we have spent a lot of time discussing it because it is so important.

On this section, I urge the Minister to look again at the definition of defamation before Report Stage because I really feel that we have missed something there. I am worried that the absence of a harm test means a person who has not been defamed can initiate a defamation action against another person, inflicting legal costs. According to the Courts Service data portal, 292 defamation cases were filed in the Circuit Court and 68 in the High Court, giving a total of 360 cases, in 2023 in Ireland. Comparative case numbers show that there were 250 defamation cases issued in England and Wales in 2023. There were 250 such cases over there and 360 here, but ten times more people live in the UK than here. This does not make sense. The UK implemented reforms to its Defamation Act in 2013 which became effective in January 2014. The most notable impact has been a significant fall in defamation cases. I am proposing an amendment to section 8 but would urge the Minister to look again at the definition of a defamatory statement in the principal Act and to replace it on Report Stage.

The Minister has been good enough to speak to me about this Bill and to discuss my worries about it. He is a very approachable person. I am very much about small businesses. I hear in my own town of Navan and all around Meath that shopkeepers do not even stop people from taking a drink out of the fridge and walking out of the shop. People can just rock in and get it and there are two reasons for this. One is that gardaí are under a lot of pressure to come for all these cases and two, more importantly, shopkeepers cannot stop them for fear they will be sued for defamation. The Minister rightly said that businesses should fight these cases, and in an ideal world, it would be amazing to fight cases, but I have done my research on this.

Defamation is the new minor injury claim, particularly exaggerated or fraudulent, because it is too easy. For example, with minor injury claims we now we have the Injuries Resolution Board and medical reports. Awareness has been raised in this area through the work done by the Government in recent years. We have a brand new action plan on all of this, and the Minister has very much helped in that space so that we can get to the stage of having fair and competitive insurance. However, when it comes to defamation I have been reliably informed by people in the Minister's profession that it is easy to fight on behalf of a claimant and that unless you have an absolutely watertight case, an insurer will not fight it.

When a shopkeeper signs up to an insurance policy, it is the insurer who decides whether to invest €30,000 in fighting a case, not the shopkeeper. Dubious claims can be brought with little or no risks to the claimant while the business, even if it successfully defends itself, is often unable to recover its legal costs. This forces insurers to settle many suspect claims and drives up premiums for small businesses already struggling with the costs of doing business. Some examples given to me by Retail Excellence Ireland include a €12,000 settlement for an eight-year-old claiming defamation after being barred from a shop for suspected theft, a €12,000 settlement for a teenager who produced a receipt from a different shop after being stopped for the suspected theft of a bottle of Coca-Cola, and a €6,000 settlement for a 14-year-old accused of shoplifting sweets. We see individual settlements of €7,500 to €12,000 for minors and legal defence costs of €15,000 to €50,000, even when retailers win. The operational impact is that staff are afraid to check receipts or to stop suspected theft. The projected impact of amendments to the Bill include the elimination of frivolous €7,000-plus settlements, the restoration of staff confidence if we do something in this defamation Bill on loss prevention, a significant reduction in retail crime which is currently costing millions, a stabilisation in insurance premiums, and Ireland being more aligned with European business norms.

If we cannot do something here on this Stage, I urge the Minister to consider introducing something on Report Stage that will help small businesses and retailers. I have been sitting here for many hours listening to people talking about this issue. It is very important to me in my role as a representative of businesses. I understand that the Minister is not going to accept any amendments today. I will probably have to withdraw my own amendment but I would urge the Minister to consider the issue further prior to Report Stage.

Senator Michael McDowell: The Minister has proposed in section 8 that there should be a provision which deals slightly with the circumstances we are discussing here but it is inadequate. There is not much point in waiting until section 8 is reached to point out that it is no answer to the points that have been raised by Senators. It proposes to extend the defence of qualified privilege to situations where the defendant inquires as to whether:

the person whom the statement concerned had—

(I) paid for goods or services,

(II) obtained services, or

(III) [had] in his or her possession—

(A) goods,

(B) proof of payment for goods, or

(C) proof of payment for services,

or

(ii) a statement that the means of payment proffered by the person whom the statement concerned was unable to be, or not capable of being, accepted [in other words, a payment card did not work],

and

(b) was not published excessively.

However, it does not deal with real situations in the shops that we are dealing with here. It does not really deal with the shopkeeper whose store detective is saying that something has not been paid for. That is not an inquiry; it is a statement. It does not deal with situations where the owner of a shop of the kind referred to by Senator Fitzpatrick gets into an argument or discussion with a customer as to whether he or she is loitering around to assist somebody else to shoplift. It does not deal with those kinds of situations at all. It purely states:

(i) an inquiry as to whether the person whom the statement concerned had—

(I) paid for goods or services,

(II) obtained services, or

(III) in his or her possession—

(A) goods,

(B) proof of payment for goods, or

(C) proof of payment for services,

That attracts the defence of qualified privilege. It does not deal with the real cut and thrust of what is likely to happen in the shop where the person at the checkout says, "The goods in your bag haven't been paid for." That is not an inquiry; it is a statement. Qualified privilege is not enough. Qualified privilege is a defence that has to be raised.

The benefit of a seriousness test is that from the very beginning the case will fail if it is not serious. It does not require defence witnesses to come to court and say they believed this or that. The seriousness issue goes back to the remark in a pub, "You're always taking rounds from others and you never buy one yourself - you're a mean git" or words of that kind. Those can be seen as defamatory statements but they are not serious. That is the point I am making. Is the Minister being advised by the Attorney General that the seriousness test that exists in the United Kingdom, Canada, Australia and other countries would be unconstitutional here or are the Department and the Minister choosing to keep our law frozen in the way it is at the moment? Is there some legal reason that seriousness should not be incorporated into defamation or is it a policy decision? That is the point that worries me. If the Attorney General is saying we cannot introduce seriousness, that is one thing. I would like that to be confirmed. However, if it is a policy decision that unserious defamation is to remain actionable, is that a policy decision being made in this legislation?

Many people in this House have been lobbied on the point about defending one's property. I welcome such lobbying by RGDATA and other trader organisations to amend this legislation to protect retailers more. The amendments on the seriousness threshold have been grouped together for debate here. I have not objected to that because I did not want to be accused of filibustering. The seriousness test is a separate issue. I want to hear somebody say either that it is constitutionally infirm to introduce a seriousness test because of the constitutional guarantee for the good name of the citizen or alternatively that a policy decision has been made that, unlike in Northern Ireland, England, Wales and the other common law jurisdictions mentioned earlier in the debate, it should not be done here as a matter of choice. I would like to hear the rationale for saying that a seriousness test, either as a matter of policy or as a matter of law, is unacceptable and that Irish defamation law should not have it.

Let us forget about retailers for a second. In any context if someone gets a solicitor's letter saying that a statement that was made was defamatory, at the very least they are entitled to get their solicitor to say in response, "This is not serious. It is trivial. Forget it." Someone can go and sue if they like but the costs will be awarded against them because even though they can make the case that it is defamatory in principle, it is not defamatory to a sufficient extent to constitute a serious defamation. That is the point I am making.

The qualified privilege proposals in section 8 of the Bill do not deal with many of the situations that happen on the ground. They do not deal with the whole seriousness dimension at all.

Deputy Jim O'Callaghan: I thank all Senators for their contributions. We are considering three amendments that have been tabled. I propose to deal with each amendment in the order in which they were raised. I will start with what I refer to as Senator McDowell's amendment No. 5. In this amendment, Senator McDowell and his colleagues propose that we would go back to section 2 of the Act and redefine "defamatory statement". Senator McDowell makes the correct point that the Bill we are discussing introduces a rule in respect of a corporate plaintiff that requires it to have suffered serious harm in order for it to succeed in a defamation action. The first question Senator McDowell asked me was why we have this distinction that on the one hand a corporate plaintiff has to have sustained serious harm, namely, financial loss, while a personal plaintiff does not. However, it is also important to point out that the amendment tabled by Senator McDowell and his colleagues requires that the harm be to a serious and lasting extent.

I will start by trying to answer the first issue that Senator McDowell raised as to the reason for a different test for a corporate entity. There is a very significant difference between a corporate entity and a human person. Corporate entities are created pursuant to the Companies Acts predominantly and most are designed to make a profit, while there are also some companies that are not for profit. Predominantly, however, companies that are established are in the business of making a profit; that is their sole purpose.

I am trying to deal with a situation where a company, let us call it McDowell Enterprises, claims that it has been defamed. A negative comment about a company is completely different from a negative defamatory comment about an individual. There really needs to be a consequence and an apparent result from the defamatory comment about the company. In the proposal here, we are trying to ensure the company can only succeed in a defamation case if it

can show it has sustained serious harm. How do we assess whether a company has sustained serious harm? We look at its profits and look to see whether there has been financial loss.

How do we determine whether a human has sustained serious harm? If somebody referred to a person as a child abuser, it is not possible to look at the person's bank account and say that because they have not sustained any financial loss, the statement was not harmful. There is a reason for distinguishing between a company and a person. It is reasonable for the Oireachtas to decide that a company making a claim of defamation has to establish financial loss. I think Members of this House are predominantly supportive of that but the issue they have is as to why we do not extend that to persons as well. I do not think anyone here is trying to say we should remove the serious harm test for corporations. Instead they are suggesting we should have the serious harm test for personal litigants as well. That brings me on to dealing with that issue of why we do not just have in our law the amendments as tabled by Senator McDowell or indeed Senator Keogan, which both state that for a person or indeed anyone to take a defamation action, there must be serious harm or, in Senator McDowell's version, it must be serious and to a lasting extent. As was indicated by Senator Nelson Murray, England introduced this back in 2013, but we also have to look to see what happens there as a result of that. Predominantly what happens, as I mentioned on the last occasion, is that if someone issues a defamation action in the UK and there is a dispute, as generally there is, about whether the alleged defamation constitutes serious harm, that results in there being an application to the court and a hearing before the judge to determine if the statement is in fact one that constitutes serious harm.

We need to think on a procedural basis that if we change the law so that there now has to be a serious harm test, we will increase costs, increase in the number of hearings, increase the jurisprudence of the law of defamation, and there will be a series of interlocutory applications at an early stage to the courts trying to determine if this alleged defamation is serious harm or not. It will make the law of defamation procedurally more complex and more costly. They are factors that I have to take into account.

There is the other substantive factor, aside from the procedural factor, of what serious harm actually means. I will come back to Senator McDowell's lasting extent point. Let us assume that we are talking about a serious harm test. If somebody describes a person on a front page of a newspaper as being a paedophile, I assume everyone accepts that is of serious harm. It is being published to hundreds of thousands of people. Everyone can see it. I assume we agree that is of serious harm to the individual concerned. If somebody says it in the confines of a quiet room to three people, as has happened previously, do we say that that is a test of serious harm or not? My view is that does constitute serious harm if a really serious defamatory statement is made, even to a small group of people.

I use that example for the purpose of showing that somebody is going to have to determine what constitutes serious harm. The way we do it at present is that the defamation action is issued, defences are put in and the matter is determined by the court. At the determination of it, the conclusion, the court assesses that it is not that serious and so nothing is due on foot of it.

I also have to remind Members that the courts are vigorous in ensuring that their processes are not abused. Anyone who brings a frivolous or vexatious case can have the case thrown out. Many applications are brought to dismiss frivolous or vexatious cases. Senators need to be

aware that if we are introducing a serious harm test, we need to define what constitutes serious harm. We can do it quite readily for corporate plaintiffs because we can say that they have to prove financial loss but for a personal plaintiff, how do we determine or how does a court confirm that it constitutes serious harm? Are we going to say at the outset that it has to be broadcast or published to a wide range of people for it to constitute serious harm, or do we recognise that serious harm could arise through publication to a small number? These are all the issues that are ultimately dealt with by the courts. The judge hearing the case or indeed the jury hearing the case, which may no longer be the case, has to determine if this is serious and if it causes serious harm. There is a determination of whether or not it is serious. If it is serious, there would be very negative consequences for the claimant.

Senator McDowell's amendment also refers to there having to be a requirement that it is a statement that harms the reputation of a person to a lasting extent. Again, I have to ask how that would be determined by the court, using the example that I have, if it was a serious allegation of child abuse made to three people? Is that something that is there for a lasting extent or does the fact that it was just communicated orally to three people mean that it is not to a lasting extent? These are all factors that are taken into account in determining the seriousness and consequence of the defamation statement.

I know the objective of many Members is to try to ensure that we reduce the number of defamation actions, and the voice here seems to be predominantly on the part of the persons who are being sued, to ensure that they are not dragged into costly, unnecessary litigation. I support that too. I do not want to see defamation law used unnecessarily or vexatiously, but it is the only statutory remedy that is available to a person whose constitutional right to his or her good name has been impinged.

My fear about amendments Nos. 5 and 8 is that although they are seeking to make the system more efficient, they will result in it becoming more protracted and costlier. There will inevitably be disputes at an early stage about a defamation not being serious harm, since although it accused a person of being involved in child abuse, it was only published to three people and is not serious enough. Somebody has to determine at some stage what is serious. It is already being done but it is at the end of the process and the efforts to put it in as a preliminary step will not make the system more efficient.

I acknowledge and thank Senator Keogan for her apology. I accept it gracefully and thank her for what she said. I knew when she was reading out those statements that they were not her words and I am happy to accept her apology in that regard.

Senator Sharon Keogan: Sorry; they were my words.

An Leas-Chathaoirleach: The Minister, without interruption.

Deputy Jim O'Callaghan: They were given to the Senator by others.

Regarding defamation being out of control, I will defer to Senator McDowell in respect of this, but my own assessment from some experience in the courts is that the number of defamation cases is declining. I will come to deal with the amendments about shops in due course. Where real defamation is taking place at present is online, where people are being

defamed. Their good name is being degraded and there is a very limited remedy available to them because sometimes it is extremely difficult to identify who the actual publisher is and the social media companies do not accept liability for their publication. They say they are merely a hosting environment. Defamation is an issue in our society. All of us as politicians take it on the chin that there will be defamatory statements online about us, but that should not preclude us from trying to ensure that in our legal system there is some mechanism to ensure that people have a remedy.

Senator Keogan referred to the situation in the United States. Some people in the United States think the defamation laws there are out of control because they are so weak. In the United States, to succeed in a defamation action, malice has to be proved on the part of the publisher. A newspaper could publish a front page story claiming a prominent politician is involved in corruption, and unless that was published maliciously, the individual has no remedy in respect of it.

We need to formulate our own laws in respect of defamation. I fully respect the right to freedom of expression. It is a valuable tool and fundamental right. My job as Minister is to ensure that the laws facilitate freedom of expression. A vocal community urges me to do that and I am very supportive of it. I also have to take into account the right of an individual to his or her good name. There is not a vocal community advocating that but, constitutionally, I and indeed all Members of this House have an obligation to ensure that we seek to vindicate that name.

Senator Keogan also talked about trivial and vexatious cases. I agree that we do not want a situation where the courts are being used for frivolous and vexatious cases. Those cases should be challenged. The way for them to be challenged is that applications are brought to strike them out.

I move to amendment No. 9 in the names of Senators Fitzpatrick and Nelson Murray. In fairness to both Senators, I carefully listened to what they had to say and what Senator McDowell said to follow up on them, and their argument is that a defendant may have a defence in place but, notwithstanding that, people are bringing claims and small businesses are required to devote resources to defending those claims. Insurance companies take responsibility for them. There are settlements agreed. In the long term, these small businesses are paying out money, which they should not have to pay out because of the unmeritorious nature of the claim. I appreciate that valid and strong point. I have listened to it carefully.

However, we should not underestimate or understate the provision that is being put in place in this legislation that was introduced last year. I am putting in a new section into section 18 of the principal Act, which will provide a separate defence for retailers. Senator McDowell referred to it as a "defence of qualified privilege". It comes within the section on qualified privilege in the principal Act, but in truth, it is a statutory defence that stands on its own. It provides an express defence to, for example, a shopkeeper who can say in respect of the defamatory statement for which they are being sued that it was a statement being made in the context of enquiring, "Have you paid for that or not?" People are perfectly entitled in shops to ask people to produce receipts and to ask whether goods have been paid for.

While I was listening to Senator Fitzpatrick, and I hope she did not think I was rude, I was looking up a couple of legal websites to look at some cases. There are a whole series of cases

that have been given under current law where courts have thrown them out on the basis that the shopkeeper was perfectly entitled to raise a query about whether or not the complainants paid for the goods. I am looking at an example of a case where somebody had put a bottle of wine into their bag. They had then put it back on the counter. They left the shop. They were pursued afterwards by the shopkeeper who said they had a bottle of wine in their bag, and they had not paid for it. They were able to show that they did not have a bottle of wine. They instituted proceedings, and the case was thrown out. We need be aware that judges are not some naive remote persons who are not aware of what is happening in the world. These cases are being thrown out. Recently in the High Court, there was an appeal brought by a large supermarket, which again successfully protected and recognised the right of retailers to enquire if someone has paid for the goods. Those cases are being thrown out on a frequent basis. That still does not answer the main issue raised by Senators Fitzpatrick and Nelson Murray about people winning the cases, but ultimately it costs them a lot of money to do that. Why do they have to go through that process when in fact at the end of it they win, but they still have lost a lot of money because they cannot get their costs back from the individual who brought the false claim?

I am giving consideration to the amendment. The way to deal with that is that there needs to be more unified and stronger response from retailers and the insurers of retailers that they do not pay out when these claims are made. There is a certain store in Dublin that I will not name. People do not sue it for things like this because they know it is not going to pay them out. If there was a bit more vigour in the defence and standing up to people who bring false claims, that would have an impact. Senator Nelson Murray mentioned a number of settlements. I am not criticising her. However, there is no corresponding example of court cases where judge X awarded a sum of because somebody was asked whether they had paid for the goods. What is happening - and it happens too much - is that settlements are being entered into because insurers predominantly are excessively cautious and wholly unnecessarily anxious about what is going to be outcome to the court case if it goes to a hearing. They need to fight the cases.

I have looked carefully at the amendment that has been tabled by the two Senators. They are proposing that the wording would be changed. I provide in section 8 that it will be a defence to a defamation action for the defendant to prove that the statement was simply an inquiry in respect of whether someone has paid for the goods or not. The Senators are asking me to insert "no cause of action shall lie where the defendant can" prove that the statement to which it relates was an inquiry. That would be a significant change in our law. As I mentioned yesterday in reply to Senator Fitzpatrick when we were discussing this amendment, I am not aware - and I would be interested to hear if other Members are aware - of any provision in our law that states that a group of people is immune from suit. That is, in effect, what the Senators are seeking to do here by stating "no cause of action shall lie where the defendant can" show that this was just an inquiry about goods. We do not even have it in respect of these Houses. The Constitution states that Members "shall not, in respect of any utterance in either House, be amenable to any court". However, under the Defamation Act, there is a list of absolute privilege, but absolute privilege like qualified privilege is a defence. Somebody could sue me for a statement that I made in the Houses of the Oireachtas. I would have to put in a defence saying, "Sorry, I have a defence of absolute privilege. I said it in Seanad Éireann. It is expressly protected under the Defamation Act and the Constitution." However, there is no rule that states that the no cause of action lies that I cannot bring the case, and I have an absolute defence. If

we got into the route of saying that no cause of action lies in respect of certain events, it would transform the law. We could say no cause of action lies in respect of personal injury accidents where the claim is less than €5,000 or where the claim is small. We do not go down that route.

Senator McDowell asked if I had got advice from the Attorney General's office. I probably should be doing this more obediently, but I will read from the script that my efficient Department officials have provided me with in respect of this issue. On serious harm, there is a specific constitutional obligation in Ireland to protect a person's good name and the right of access to the courts. Legal issues were raised by the Office of the Attorney General with the introduction of a general serious harm test. That is in response to the serious harm test, but similarly I have to take that advice into account when I am looking at the amendment being put forward by the two Senators on behalf of the retail sector. It is in effect excluding access to the courts for persons who in unusual circumstances may claim that they have a valid claim against a retailer. Under the laws that are drafted and if the proposal by the two Senators was enacted, it would mean that a shopkeeper could say virtually anything to anyone who comes in. If a person comes into a shop, at present the law provides that retailers have to be proportionate and cannot be malicious in their inquiry. If they are disproportionate or malicious, they will lose the defence. That is what stated at the end of it. It was not published excessively so it was not disproportionate.

At present, a shopkeeper can vigorously to say to someone: "You haven't paid for that; show me your receipt." Senator McDowell said it is statement. It is still part of an inquiry: "You haven't paid for that; show me your receipt." That is all protected at present. However, if I was shopkeeper who started excessively roaring someone or roaring around the shop and out the street stating, "You never paid for it. You are a thief" and walking up the street after the person, but it turns out to be untrue, then that person has no remedy. I have to balance their right to their good name as well. It may be an unlikely circumstance, but it has to be taken into account.

We need to recognise that all these defences like the defence, as Senator McDowell said, of qualified privilege, only kick in where the statement published has been established to be defamatory. The defence of truth still applies. If somebody has not paid for something and it is said that they never paid for it, the shopkeeper can rely upon the defence of truth and say, "It was true what I said. They were trying to steal from the shop." This is separate protection; this is an added protection. This is to protect the shopkeeper who gets it wrong. That is what qualified privilege is generally about. The law creates circumstances where the law of defamation does not operate as it normally does. It is like the communication between a person writing a reference and a prospective employer. He or she could get it wrong, but because the law has decided that such arrangements and communications should be protected, we are therefore going to permit wrongful statements to be made. Similarly, under what will be the new section 18, this is to protect shopkeepers who get it wrong.

2 o'clock

If they get it right and the person is a thief, they are perfectly entitled to do it - there is no issue there - but if they get it wrong and the person had, in fact, paid for it or they did not have something in their bag, this is also to protect them. I know a vigorous campaign is being waged against it but I would have thought this is heading in the right direction. I urge insurance

companies to fight cases they believe are unmeritorious. The more you give in to a particular type of claim that is unmeritorious, the more likely it is to persist.

For that reason, I cannot accept the first two amendments. I have listened carefully to Senators McDowell and Keogan. I think a serious harm test would make the issue more complicated. There is a legitimate reason we distinguish companies from persons. I do not know how in a preliminary stage it would be assessed whether a statement was one of serious harm or lasting effect or not.

In respect of the amendment from Senators Fitzpatrick and Nelson Murray, I cannot accept it because it is a revolutionary amendment that would have the effect of conferring immunity on one group of people. Why would newspapers not come in and say they want to be immune from any defamation suits against them that relate to stories of public interest? Everyone would be queuing up to have immunity from suit and we generally do not do immunity from suit in Ireland. I will reflect, however, on what both Senators Fitzpatrick and Nelson Murray said to see if there is any other mechanism within the draft at present that could make it more efficient and effective for retailers. I do empathise with the issues they have highlighted.

Senator Michael McDowell: I am grateful to the Minister for his reply. I am also grateful to him for quoting from his own officials' view about what people in the Attorney General's office have said. That is a first, I have to say.

Deputy Jim O'Callaghan: It could be a last for me as well.

Senator Michael McDowell: I would say there will be a salvo coming the Minister's way from Merrion Street for doing that. However, it answers the question in that I had suspected there was a notion that the serious harm threshold was regarded with suspicion by what I consider to be extremely conservative legal advice. I will give an example to Members of the House. If somebody called me a paedophile, that would be defamatory. If somebody says it to me in the presence of my wife and nobody else, there is practically no harm done to me of a lasting kind because my wife does not believe it, would not accept it and would reject it instantly. One is a case where a court can say, "Are you seriously suggesting that you were seriously harmed by a statement made to somebody who knew it was not true?" It happens very frequently that statements are made to somebody in the presence of another person who knows it is not true, but that is currently actionable. That is where the serious harm test comes in. If it was made to somebody who manifestly would not believe it, the serious and lasting harm threshold would not be met. That would be the end of the case. You cannot sue on the basis of, "You accused me of being a paedophile in front of my wife". You cannot succeed in that action and it is not a defamatory statement unless there was some basis for thinking the witness to whom the publication was made would attribute either lasting doubt on the issue or credibility to the statement that was made.

I do not accept the proposition that the serious harm test is constitutionally infirm or that there is a serious issue as to whether, under the Constitution, unserious statements - let us use that phrase about it - must be actionable because otherwise it would be unconstitutional to prohibit them. I do not accept that proposition. It is important that this has emerged in this debate. It has emerged in this debate that there is an extremely conservative view that the

guarantee for the good name of every citizen in the Constitution also means that the law of defamation must apply to unserious defamatory statements. I do not accept that proposition for one minute. I am not asking the Minister to comment on the hearsay account that came from the Attorney General's office via his own officials, but I am saying I reject that. I reject outright the notion that we in Ireland cannot have a serious harm threshold for persons but that we can have one for companies.

The Minister made the point that companies are normally concerned with profit and that, therefore, it is legitimate to provide a serious harm test for them. It is true that most companies' commercial activities are reflected on their balance sheet. I have no doubt about that but how can it possibly be that if I, on tax advice, operate a butcher's business in Ranelagh through a company, I cannot sue somebody who says I sell rotten meat, but if I am a person who operates that business without incorporation, I can? I do not understand that. I cannot understand that as a reasonable distinction. I would say most businesses in the main street in Ranelagh are probably corporate but I am not sure of it. Maybe the smaller coffee shops are personally owned and there is no company there. Maybe there is, maybe there is not. Nobody doing business with them really knows. However, I do not believe for one minute that a statement like "McDowell's Butchers in Ranelagh sells rotten meat" becomes actionable *per se* if it is Mr. McDowell's name over the premises but that if you look up the register of business names and find out it is Michael McDowell Limited that runs the shop, there is no cause for action unless I establish serious loss.

Serious harm is not always going to be reflected in a balance sheet. It cannot be reflected in a balance sheet. Imagine having to produce an accountant to say that the growth pattern of profits in McDowell's Butchers Limited dipped as a result, whereas if I was unincorporated, I would not have to prove any such thing. I do not accept that proposition at all.

The Minister made a point that the serious harm threshold would give rise to preliminary applications and that that would lengthen the whole process. Either the application succeeds or it does not. In the United Kingdom, if the case collapses on the application and the judge says there is no serious harm, that is the end of the case and you do not go to trial, so I do not see how it can be stated that it lengthens the case. If the defendant fails on the serious harm test, that is a different matter. What I am saying – most Senators will agree with me – is that if there were a serious harm threshold, a lot of potential plaintiffs would be told by their solicitors that they have to get across this fence if the case starts. They would advise them to think long and hard because if they were to fail, they would end up paying the cost of the whole claim.

I do not accept the proposition that it gives rise to the possibility that someone can make a pre-emptive strike and say at the very beginning that the trial must stop because there is no serious harm and that this will have the effect of lengthening the procedure. It will have the contrary effect. It will stop spurious, irrelevant, trivial and unserious claims being made. A solicitor acting for a plaintiff who wants to bring a case that is vulnerable on the serious harm threshold will say to his or her client not to bring the case forward because he or she could end up paying the costs because they are unable to prove serious harm in the sense laid down in statute.

The Minister says that his amendment in section 8 will give rise to some kind of defence. That defence is very narrow, however. It is only confined to where an inquiry is made, not to a statement being made. To say, "That has not been paid for" or "You took two bottles of

wine”, is not an inquiry. The points raised by the Senators who have tendered an amendment are not answered by the Minister’s amendment. It is not an inquiry to say to someone that they did not pay for an item or to ask them to give an item back. That is not an inquiry.

The Minister talks about online defamations, which we will come to later. Although the Minister has gone in the right direction in his proposed new sections, namely, sections 45 and 22 of the Bill, which were added to deal with online anonymous defamations, for the reasons we will come to when we get to that section, they are very weak. To point out one aspect of it, if someone applies for an order to be made against an Internet service provider to identify the author of an online defamation, under the Minister’s proposed legislation, he or she will face the risk of paying the costs of the Internet service provider, even if the person is successfully identified. That is in subsection 22(5). I was astonished to see that. For example, if something grossly defamatory about me is posted on X in the name of an online anonymous author, the Minister is making provision that if were to go to court to require X to identify who has defamed me, I would have to pay X for the costs of that application. That is wrong. In subsection 22(5), it states:

The court may, whether or not it has made an identification order and where it considers it appropriate to do so, order that an applicant pay any or all of the costs of the relevant intermediary service provider in relation to an application and the costs resulting from the making of any identification order.

If I had been defamed and went to court, and X informed me it was Senator Fitzpatrick who defamed me anonymously, I would then have to pay X for finding that information out. That cannot be right.

An Leas-Chathaoirleach: I will interrupt the Senator for one minute to acknowledge our visitors in the Gallery from the Ledley Hall Boys and Girls Club in east Belfast. They are visiting Leinster House today and meeting members of the Good Friday Agreement committee. I hope they enjoy their visit.

Senator Michael McDowell: They are very welcome.

An Leas-Chathaoirleach: I apologise to Senator McDowell for interrupting him.

Senator Michael McDowell: No, I am glad the Leas-Chathaoirleach did that.

We will reach the amendment at a later stage, but I ask the Minister to think about this point. The Minister is proposing that the courts will be able to say to people that yes, they have been defamed and they have no other way of finding out who defamed them other than to bring an application to court, but they must now pay Elon Musk and his lawyers for the expense involved. If the Minister wants to have something that will really numb applicants, this is it. People will be asked to pay Elon Musk to find out who defamed them anonymously. That could not possibly be right. I am out of order because I should not be talking about that amendment at this stage. I am firing a warning shot that this cannot be enacted into law.

Getting myself back in order, what I wish to say very simply is that this serious harm test should be part of our defamation law. No one should be bringing anyone else to court for

defamation if there is no serious harm in any circumstance. Freedom of speech, the protection of a citizen's good name and the like do not require protection by the legal process where there is no serious harm to an individual. Serious harm cannot just mean financial loss, depending on whether the business defamed is corporate or personally owned by a trader. To give an example, suppose a big burger joint is accused of using condemned meat or horse meat in a newspaper advertisement or article. Is it seriously contended that it then has to come to court to show, through an accountant, that its sales sank as a result, but the local chipper whose burgers were described in the same terms does not have to do it because it is not owned by a limited company? I do not accept that.

I radically disagree with the proposition, if it is seriously held as a view in the Attorney General's office, that to bring our law into alignment with other common law jurisdictions – not America but other common law jurisdictions - a serious harm threshold before defamation suits can succeed in general amounts to an unconstitutional invasion of the right to good name of the citizen. The State, through its laws under Article 40, as I recall, is obliged to defend and vindicate the rights, including the right to a good name, but only to the extent it is practicable to do so. It is not practicable to have courts considering trivial or unserious claims or claims that fall beneath a serious harm threshold.

Senator Mary Fitzpatrick: I thank the Minister for his reply and his consideration of the amendments before him. I really appreciate the thought he is giving to the real-life experience of the potential application of these laws in the retail space. I hear him and I agree with him when he says that spurious allegations should be challenged. They should be robustly challenged and good name should be defended. Unfortunately, there is a dynamic in this retail space, particularly for small retailers. They are independent. They are by definition small and they are working on their own. Many of them are family-owned businesses, sole traders and perhaps second or third generation operators of a shop. It can be a small or medium enterprise but they are operating independently on their own. Those type of people do not have the benefit of a HR department, quite typically. They do not have the benefit of a legal department. They engage professional support and services when they need them. They engage security in their shops. They engage solicitors when needed. They obviously pay for insurance, but when a claim is made against them, it is the insurer that makes the decision. I do not see how it is in the insurance companies' interest most of the time to defend the claim. I am not an insurance expert. I do not have the insight into the forensic economics of the insurance industry. However, from my layman's knowledge, I cannot see how the insurance company is incentivised to incur costs to defend what are relatively small cases when they can settle the case without having to incur the costs of defending it and they can ultimately raise the premiums for their customers. Therefore, it is difficult to rely on the insurance company to take the hit or to take on the cost. I appreciate there are examples and I appreciate the Minister having shared them with me. That is one dynamic which I appreciate the Minister considering.

There is a second one. The Minister quite rightly points out to me that for us to seek to create a blanket immunity for any sector of our population would be unprecedented. He challenged me to find a precedent. I stand here unable to point to it but what I can point to is a nuance, and I ask the Minister to consider this. As politicians, we do not have immunity. If I go out and I do or say something outside of this House, I do not have immunity. However, if I say something in this House, I have a privilege. What I am suggesting and what our amendment

is attempting to achieve is that in the instance - just in this instance and not in the generality - where a retailer has cause to enquire of an individual if they have paid for a purchase or goods, that would, in that unique and narrowly defined instance, not be cause for an action of defamation.

I have made my point. I thank the Minister for considering it. I will withdraw the amendment today if it goes to a vote when we reach it. I hope we can engage further over the coming time and find a resolution here. I believe the Minister's intention is to put forward the most robust and beneficial legislation in this space and I thank him for his consideration.

Senator Linda Nelson Murray: I also appreciate that the Minister is going to look at and take into good consideration what myself and Senator Fitzpatrick have said. We both really do have the interests of small shopkeepers and small businesses at heart. We both work a lot for them in this Chamber. I appreciate that. To go back on what the Minister mentioned about our cases falling, I had a quick look. In 2024, there were 289 cases in Ireland but there was only 209 in the UK where there is ten times the population. Something has worked over there. Something is not working here. I back up what Senator Fitzpatrick has said. I have done a lot of work when it comes from the insurance industry and the insurance companies will not fight cases. They will pay out because it is cheaper to pay €7,000, which is the average payout on a defamation claim, than to have to pay costs of €30,000 to fight it. I totally agree with the Minister that more of these should be fought. Insurance companies should put aside an amount to invest in fighting cases to prove to people that they are not going to win. Unfortunately, they do not do that. I also wish to withdraw my amendment but look forward to working with the Minister on making it better.

An Leas-Chathaoirleach: Would the Minister like to respond?

Deputy Jim O'Callaghan: How are we doing on time?

An Leas-Chathaoirleach: We have five minutes.

Deputy Jim O'Callaghan: I will try to answer Senator McDowell's and the other Senators' points quickly. Senator McDowell spoke about the serious harm test. However, I still do not know from listening to him what constitutes a serious defamation. He gave an example of someone saying in the presence of a person's wife that that person was a paedophile. On the Senator's reading, that would not be a serious defamation. As things stand at present, however, that is dealt with and provided for in the legal system. In order for someone to succeed in a defamation action, they have to call a person who heard it to say they heard what was said about the person and they believed it. They have to say they heard somebody accuse a person of being a paedophile and, when they heard it, they believed it. Obviously, that could not happen in that situation because the wife would not believe it so the person could not prove their case.

The Senator also referred to McDowell Butchers Limited and if someone said McDowell Butchers Limited sells rotten meat. If that does not affect the business of McDowell Butchers Limited, why should it have a claim? If it went on to reference the principle behind the business

and say they were involved in this activity, they would have a personal claim, but unless the business suffered a financial loss, I do not see why it should have a defamation claim.

Senator McDowell spoke about the procedural applications. He thinks it will shorten procedure. I disagree. I think we will have a whole series of defamation preliminary applications as to whether serious harm is involved or not. I note what he said about online defamation. We will talk about it in due course, not today. However, the provision says that the court may award costs. There is nothing mandatory about it, and obviously the court will exercise that with discretion.

I listened to what Senators Fitzpatrick and Nelson Murray had to say. I asked Senator Fitzpatrick yesterday if she could find an example of where any entity is immune from legal suit. In fairness, I knew there was none. Regarding what Senator Fitzpatrick said about absolute privilege, at present what would happen if someone sued her for what she said in this Chamber is that they could issue proceedings against her. She would have to put in a defence pleading absolute privilege. She could then bring an application to go to court to get it struck out but she would still be in the court system. No one else has this protection that says they cannot have a claim brought against them. I will consider the matter. I think I will sit down now so the Senator may be able to get a vote in.

Senator Michael McDowell: I do not want to call a vote at 2.30 p.m. because we will be here until 2.45 p.m. In the two minutes remaining, I want to make the point to the Minister that if Senator Fitzpatrick received a letter from somebody saying she had defamed them in something she said in this House, her solicitor could write back and say that was an occasion of absolute privilege. If the person then commenced a High Court or a Circuit Court defamation action, she would go to a competent barrister and solicitor. They would apply immediately that on the pleadings this was an occasion of absolute privilege, and have the case flung out with costs on day one. It would be a preliminary application and not delay anything. She would not be keeping her powder dry until she has all her witnesses lined up. She would act immediately to stop it. That is the point I am making.

Progress reported; Committee to sit again.

An Leas-Chathaoirleach: When is it proposed to sit again?

Senator Robbie Gallagher: At 2.30 p.m. next Tuesday.

Cuireadh an Seanad ar athló ar 2.30 p.m. go dtí 2 p.m., Dé Máirt, an 14 Deireadh Fómhair 2025.

The Seanad adjourned at 2.30 p.m. until 2 p.m. on Tuesday, 14 October 2025.