



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

TUAIRISC OIFIGIÚIL—Neamhcheartaithe  
(OFFICIAL REPORT—Unrevised)

|   |     |
|---|-----|
| Gnó an tSeanaid - Business of Seanad.....   | 531 |
| Nithe i dtosach suíonna - Commencement Matters .....                              | 532 |
| Child Protection .....  | 532 |
| Housing Provision.....  | 535 |
| Trade Agreements.....   | 537 |
| Legislative Process.....  | 540 |
| Tobacco Control Measures .....  | 543 |
| Health Screening Programmes .....   | 545 |
| Death of Former Member: Expression of Sympathy .....                              | 547 |
| Visit of Austrian Delegation .....  | 548 |
| An tOrd Gnó - Order of Business .....   | 548 |
| Visit of Finnish Delegation .....   | 550 |
| An tOrd Gnó (Atógáil) - Order of Business (Resumed) .....                         | 550 |
| Death of Former Member: Motion .....  | 560 |
| Seanad Public Consultation Committee: Motion.....                                 | 560 |
| Election of Acting Chairperson .....  | 562 |
| Defamation (Amendment) Bill 2024: Committee Stage (Resumed) .....                 | 562 |
| Housing Finance Agency (Amendment) Bill 2025: Committee and Remaining Stages..... | 596 |
| Domestic Violence (Free Travel Scheme) Bill 2025: Second Stage.....               | 598 |

## SEANAD ÉIREANN

*Dé Céadaoin, 22 Deireadh Fómhair 2025*

*Wednesday, 22 October 2025*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.*

*Prayer and Reflection.*

---

### Gnó an tSeanaid - Business of Seanad

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

Senator 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 Aubrey McCarthy - The need for the Minister for Housing, Local Government and Heritage to make a statement on his plans to address homelessness and the housing crisis.

Senator Garret Ahearn - The need for the Minister for Foreign Affairs and Trade to make a statement on his communications with the European Commission to date in 2025 in respect of the impact of tariffs on the pharmaceutical and medtech sectors.

Senator Nessa Cosgrove - The need for the Minister for Foreign Affairs and Trade to make a statement on the content of the proposed Israeli settlements in the occupied Palestinian territory (prohibition of importation of goods) Bill 2025.

Senator Dee Ryan - The need for the Minister for Health to provide an update on the introduction of licences for the sale of tobacco and nicotine-inhaling products and if she will consider a derogation for small retailers and grocers.

Senator Robbie Gallagher - The need for the Minister for Health to make a statement on when spinal muscular atrophy and severe combined immunodeficiency will be included in the heel prick test.

Senator Sarah O'Reilly - The need for the Minister for Agriculture, Food and the Marine to make a statement on applicants who missed out on the forgotten farmers scheme.

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.

Senator Martin Conway - The need for the Minister for Transport to provide an update on funding for the N85 realignment project, Ennis to Inagh, County Clare.

The matters raised by the Senators are suitable for discussion and I have selected Senators Sharon Keogan, Aubrey McCarthy, Garret Ahearn, Nessa Cosgrove, Dee Ryan and Robbie Gallagher 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**

### **Child Protection**

**An Cathaoirleach:** I welcome the Minister of State, Deputy Niall Collins, to the House. Before I call Senator Keogan, I welcome Hanna Gregor and Hanna Steil from Cologne in Germany. They are welcome to Seanad Éireann. I also welcome the school from Athlone and thank the students for coming in today. I apologise if it is a transition year class. What happens is students get no homework for the rest of the week when they visit Seanad Éireann. If the students are from a transition year class that is not much good to them, but it carries over into fifth year if that is any help. There is no homework for the students from the Athlone school visiting today.

**Senator Sharon Keogan:** This subject might be of interest to the children. There might be some unaccompanied minors from Ukraine here this morning. We are now over three years into the largest displacement crisis Europe has seen since the Second World War. Ireland, rightly so, opened its doors, but opening doors is not the same as ensuring safety. Safety begins with knowing who is in our care. How many unaccompanied minors from Ukraine have been taken into the care of Tusla since March 2022? How many of them are currently in aftercare?

These are not abstract figures. These are vulnerable children and young people, many of whom have fled war, trauma and separation from family. We must be honest with ourselves. The State has a troubling history when it comes to institutional care. Last week's murder of Vadym Davydenko in Donaghmede has made it harrowingly clear to us what happens when oversight is weak and accountability is absent. We cannot afford to repeat those mistakes.

I am not here to cast aspersions on Tusla staff, many of whom work under immense pressure, but I am here to demand transparency. Without transparency, there is no trust, and without trust, there is no safeguarding. I want the Minister of State to delineate clearly what we know and do not know. What are our norms? What are our unknowns? What systems are in place to ensure that our blind spots are actively sought out and addressed?

We know from parliamentary replies that as of 25 January, 33 separated children seeking international protection were missing from Tusla care and that some of these children may have left the country to join family elsewhere. We also know that data on sexual exploitation risk is not centrally collated. That is a known unknown. That is unacceptable. The justice

committee was recently informed that it is expected that 1,200 minor asylum seekers will be cared for by Tusla by the end of this year and that over half of these are from Ukraine. This number is likely to increase. A large number of these are 17-year-old boys who likely leave due to the fact that men between 18 and 60 are forbidden by martial law to leave Ukraine. By leaving at 17, they stand a chance by avoiding conscription. The question of aftercare is especially important as many of them may have to enter the aftercare system within months of arriving.

We know that Tusla has a dedicated team for separated children and that foster care, residential settings and pledge family accommodation are among the options considered. What proportion of Ukrainian minors are in each category? What proportion are designated social workers? What proportion are in aftercare? These are basic questions yet they remain unanswered.

We cannot protect what we cannot see. We cannot safeguard children whose whereabouts, legal status and care arrangements are unclear. We cannot claim to be a compassionate country if we do not treat these children with the same rigour and care we would demand for our own. How many are housed in special emergency arrangements? How many are in each room? Do they have their own room? Are the staff Garda vetted? I ask the Minister of State to give us the numbers, the breakdown and the plan. These children deserve more than warm words. They deserve safety, stability and a future.

**Minister of State at the Department of Justice, Home Affairs and Migration (Deputy Niall Collins):** First, the Minister and I want to take this opportunity to again express our sincere condolences to the family of Vadym Davydenko and everyone associated with his tragic death last Wednesday, 15 October.

The Minister acknowledges the interest of the Members of this House in issues surrounding unaccompanied minors from Ukraine. In particular, the Minister thanks Senator Keogan for raising the important issue of unaccompanied minors in the care of Tusla and in aftercare services.

Children in the care of the State are some of the most vulnerable individuals in our society. A priority for the Minister for children and Tusla is ensuring that all children in care have a place of safety. Tusla's separated children seeking international protection, SCSIP, service provides a response to the needs of minors who present in Ireland unaccompanied by parents or caregivers, whether they are fleeing the war in Ukraine or otherwise seeking international protection. Tusla has seen a 500% increase in the arrival of unaccompanied minors since 2022, which has placed significant pressures on it and the State more generally.

Tusla has reported that since the beginning of the war in Ukraine, it has received 879 referrals in relation to children and young people from Ukraine and it has provided care and accommodation for 777 children under the Childcare Act 1991. Tusla has advised that since the commencement of the war in Ukraine, 432 Ukrainian young people have aged out and are no longer in the care of or accommodated by the agency. The agency has also informed the Department of children that it has provided continuing support to five young people from Ukraine who are over 18. However, this does not amount to the provision of a statutory aftercare service. Young people who become adults, are beneficiaries of temporary protection and transition into accommodation under the international protection accommodation service

receive a range of supports in line with other beneficiaries of temporary protection from Ukraine. The Department of children continues to engage with Tusla and the Department of justice on the implications of the EU Migration Pact through engagement on the development of the international protection Bill which has been brought forward by my colleague, the Minister for justice. This important legislation will impact on the manner in which unaccompanied minors are dealt with in the State. It should be noted that the specific circumstances of young people arriving from Ukraine are always taken into account when deciding on the type of care and accommodation offered to them. These circumstances can include whether they have family already here, their age, their language skills and their assessed needs.

I would like to share with this House a number of developments that the Department of children and Tusla continue to progress in this area. Tusla is undertaking a strategic review of the purpose and function of its separated children seeking international protection service to include a plan for improved governance in a new accommodation strategy, data management strategy and workforce plan. It has developed a new model of care for this service to offer care and protection to these young people and to integrate them into Irish life. Finally, Tusla has established a national steering group for the service through which it can engage with relevant organisations including non-governmental organisations on issues that most affect this vulnerable cohort.

**Senator Sharon Keogan:** I thank the Minister. Unfortunately, none of my questions were answered but the most shocking line of that contribution is that 777 children are under the care of Tusla and 432 Ukrainian children have aged out. They are no longer in the care of or accommodated by the agency. It is only supporting five young people over the age of 18 today. That is absolutely shocking. I know one young man who, on the day he turned 18, was picked up by a taxi outside his accommodation and was brought to a hotel room with three other men in that room. That is not aftercare for children coming from war-torn countries; it is absolutely letting down the children we have brought in from war-torn countries. He has not heard from a social worker since that day.

The agency is under pressure. I get that. Aftercare is really hard to get for these children. I know this because I have had children in care over the years and children who have gone into the aftercare system. This is not good enough, particularly for children who do not have anybody. The State is their guardian and is letting them down. This special emergency accommodation is not good enough. It is unregulated. We must do better by these children.

**Deputy Niall Collins:** I thank the Senator again for bringing forward the important issue. I thank her for her comments in relation to it. I reiterate that Ireland has responded to the Ukrainian crisis by welcoming more than 110,000 Ukrainians who were forced to leave their homeland in the most difficult of circumstances and have sought sanctuary in Ireland. A significant proportion of them are unaccompanied minors who fled the war and have been taken into care or provided accommodation by Tusla. I acknowledge the extraordinary efforts and achievements by the State in general and by Tusla in particular in accommodating those 777 children who have had to flee Ukraine. Many of the children and young people who fled Ukraine have since turned 18 and have begun the process of integrating into Irish society. They are contributing to our culture and our local economies. I have no doubt that in time they will

play a crucial role in rebuilding their country when it is safe for them to do so. Lastly, the Minister would like to acknowledge the invaluable role that care workers, including foster carers and aftercare workers, play in the lives of our children in care and care leavers. The support these workers provide to children and young people is critically important in providing the best platform for their transition from care into adult life.

### **Housing Provision**

**Senator Aubrey McCarthy:** I thank the Minister of State for being here with us today. I know he is representing the Minister for housing, Deputy James Browne, on this Commencement matter. As I have said previously, I really want the Minister, Deputy Browne, to succeed in his role as Minister for housing. It would certainly lift the spirit of Ireland. The housing crisis is a debacle. If we can make a difference, it will change many people's lives.

This is not the first time I have spoken about homeless and emergency accommodation figures in this House. When I was first elected to this House, I put on a whiteboard in my office the homeless numbers on that date. The number of people in emergency accommodation at that time was 15,286, and the number of children was just over 3,000. I was excited to see the new Minister for housing and I was hoping that we would all be part of the solution to improve the numbers in an area with which I am very familiar through my voluntary role as chair of Tiglin. Today, I want to review progress. I am sad to say that the situation has deteriorated even further since then. The latest figures from the Department are stark. There are 16,353 individuals in emergency accommodation. We now have 5,145 children in homeless accommodation. That is an increase of over 700 in total in the past year. For the first time, the number of children in such accommodation has exceeded 5,000. Those are not just statistics; they are kids who are going to be brought up in emergency accommodation, which is going to have a huge impact going forward.

When we look at the numbers, we see that the number of emergency accommodation applicants has risen by 13% in the past year. Included in that are 2,400 families and 252 people over the age of 65. It reflects a system that is not working. It seems we have a housing plan that is failing to meet the urgency we are presented with. As we approach the start of winter, it is getting colder. Like isolation and vulnerability, cold weather impacts people who are homeless far more than the ordinary person. Focus Ireland and the Simon Community have said in recent reports that housing alone is not enough, and that support is also needed. An example is one guy who came to us with his son at the Lighthouse, the homeless café on Pearse Street. He had a dual diagnosis of mental health and addiction issues, but he was homeless. He had tried different services for many years. We got him into rehab. He got his life back on track but he also had supported housing. He started to work through our community employment scheme. Today, that guy owns a house in Wicklow. He is a productive member of society as a manager in a company. I have noticed that with the proper supports, change can actually occur for the individual, for the world and certainly for Ireland.

I believe we need to be more ambitious in our approach. The Minister of State knows that. We need to provide housing solutions, and we need to provide the supports that go with those solutions. In the Lighthouse homeless café on Pearse Street, we feed about 500 people a day. If the Minister were to give me 500 houses today, it would not solve the problems of the people who go there. A lot of them need extra supports. That is where we need to focus. As has been

mentioned before, the establishment of a housing task force would ensure housing accountability, and it would also ensure co-ordinated action. My question is this: how are we going to deal with the numbers on my whiteboard in a way that ensures we are not back here in six months looking at a worse situation?

**Deputy Niall Collins:** I thank Senator McCarthy for raising this Commencement matter on the plans of the Minister for Housing, Local Government and Heritage to address the homelessness and housing crisis. The Minister and this Government are absolutely determined to meet the needs of people who need us to respond at pace to the housing challenges we face.

The programme for Government commits to delivering 300,000 new homes by 2030. To drive this delivery, the Government has committed to a new national housing plan to follow Housing for All, which will be underpinned by the required funding in the national development plan. This new national housing plan will be published early next month. This plan will focus on building social and affordable housing, delivering infrastructure and activating land, securing finance and addressing viability challenges, boosting the capacity of the construction sector, promoting affordability, and continuing to reduce vacancy by bringing much-needed stock back into use as we seek to secure a long-term pipeline of delivery and funding to 2030 and beyond.

In July, the Government published the revised national development plan, the largest ever capital injection in our economy in the history of the State. Of the €102 billion to be invested over the next five years, over €40 billion will be provided for housing and related water services in the period to 2030. The Government is already investing record levels in the delivery of housing this year, with overall capital funding of almost €7.5 billion available.

Addressing homelessness, and in particular homeless families and children, is a key priority for the Minister and for this Government. Ireland signed the Lisbon Declaration in June 2021, which committed all signatories to work towards ending homelessness by 2030. The Minister will continue to work with the National Homeless Action Committee to ensure an all-of-government approach to drive the ambition of the Lisbon Declaration.

Critical to supporting households to exit homelessness is our continued investment in the social housing programme. Budget 2026 has continued the record level of investment in social housing, with €2.9 billion in capital funding allocated to support the delivery of social homes by local authorities. This continued investment in the social housing programme will increase the supply of stock available to allocate to households on the social housing waiting list, including households in emergency accommodation.

A key focus for the Minister is to reduce the time that families are spending in emergency accommodation. In September, the Minister wrote to 21 local authorities that have families in emergency accommodation for more than 12 months and asked them to use all available housing schemes to exit these families from emergency accommodation. He has ring-fenced an additional €50 million, under the national development plan process, to exit the households longest in homeless accommodation with a focus in the first instance on larger families with children and housing first clients. Ensuring that families and children experiencing homelessness are provided with accommodation and supports is critical.

Budget 2026 provides an allocation of €513.5 million to provide homeless emergency accommodation and supports. Capital funding of €50 million has been allocated to support the provision and maintenance of quality emergency and transitional accommodation. The new housing plan will ensure all possible measures are being taken across government to prevent homelessness.

**Senator Aubrey McCarthy:** I appreciate the reply. One line stands out and I am excited about it where he said, “Addressing homelessness, and in particular homeless families and children, is a key priority for the Minister”.

I am slightly concerned in dealing with the people through my voluntary work. I would welcome the Minister to come to Pearse Street, which is fairly close by, to meet some of the people I have spoken about and to realise they are not just statistics. We can do more and can do better to resolve the problem. At the moment home ownership seems like an impossible dream for many and it seems that we are missing out on a generation of homeowner. This evening, 5,145 children are doing their homework in emergency accommodation, with no play area and of course without being able to have their friends over etc. Even the results of that will be seen in the future. If we are serious about solving the housing crisis, we have to prepare to be stronger and use urgent measures.

I want the Minister, Deputy James Browne, to be the most successful housing Minister. I want this to work. I do not want to criticise just for the sake of gaining political capital. I want to be there so that if there is anything we can do, even as a Seanad, to improve the housing situation, we are totally behind the Minister.

**Deputy Niall Collins:** I thank the Senator for giving me the opportunity to respond on behalf of the Minister for housing. I want to reassert the strong commitment of the Minister and this Government to addressing the housing challenges we face, which are touching every level of our society, as the Senator has outlined. While there is still much more to do, considerable progress has been made to date under Housing for All. Between July 2020 and the end of quarter 2 in 2025, over 50,600 social homes were added to our social housing stock. There is a strong pipeline of social housing. The latest construction status report showed 26,684 social homes at all stages of design and build at the end of June 2025.

Since the launch of Housing for All at the end of quarter 2 of 2025, nearly 16,900 affordable housing units have been delivered by approved housing bodies, local authorities and the Land Development Agency through the home first scheme, cost rental, the tenant *in situ* scheme and the vacant property refurbishment grant. Therefore, a solid foundation has been laid for future housing delivery which will be driven by the new national housing plan and underpinned by record levels of State investment under the national development plan. The new housing plan will include a range of measures to address homelessness, including the development of a homelessness prevention framework to ensure all possible measures are being taken across government to prevent homelessness. I again thank the Senator for raising this really important issue.

## Trade Agreements



**Senator Garret Ahearn:** I thank the Minister of State for being here this morning. I am looking for an update on conversations that have been happening with the European Commission on tariffs with America. As we are all aware, an agreement had been reached a number of weeks or months ago of a 15% tariff for the EU with America. There had been a certain level of fear that that might change for pharmaceuticals and the medtech sector. Thankfully we have got clarity that it will remain at 15% even though other countries seem to be up at 100%.

I am asking about this because of the volatility in America where things can change very quickly. What conversations is the European Commission having? What is its strategy for dealing with America with the constant fear of things changing almost overnight? I spoke to a delegation from Switzerland and they were talking about the negotiations they had with America on tariffs. Everything had been agreed up to the morning that the agreement went to the White House, but within three hours everything changed and the tariffs were massively increased. The same has happened with Japan to a lesser extent.

As the Minister of State comes from Limerick, he will be very well aware of this. I speak about it in the context of my home town of Clonmel. Over the past 40 or 50 years, Clonmel has been very fortunate in having significant foreign direct investment for its size, particularly Merck Sharp and Dohme, which came 50 years ago. It now has Abbott, Boston Scientific and many more. They employ thousands of people in Tipperary and surrounding areas. It is important that we protect these well-paid and good jobs. I welcome many of the measures announced by the Minister for enterprise in the budget to protect jobs and companies, particularly investment in research and development to attract those companies to remain in Ireland regardless of changes made in America.

When we talk about tariffs and decisions made in America, we cannot forget that this has a direct impact on people in our own individual counties. That is why the conversations the European Commission is having on behalf of us and all countries in the European Union are critical to ensure that some sort of consistency or some sort of comfort and clarity can remain.

**Deputy Niall Collins:** I share Senator Ahearn's concern and disappointment on the imposition of US tariffs.

11 o'clock

As I have said many times, tariffs are not good for anybody. They hurt business and consumers on both sides of the Atlantic. However, US trade policy has shifted and both Ireland and the EU have to respond to this new reality. The life sciences sector, which both the pharmaceutical industry and medtech are part of, is a significant sector of the economy and employs over 100,000 people. The Government recognises its importance, as evidenced by our commitment to develop a national life sciences strategy. After months of uncertainty, on 21 August, the EU and the US published a joint statement on the EU-US framework agreement on reciprocal, fair and balanced trade. It confirmed a single 15% tariff on EU goods inclusive of current MFN rates. It also made clear that any new tariff announced by the US under its section 232 investigation would be capped at this level. While there have been recent announcements on possible higher tariffs on pharmaceuticals, the EU was clear that the 15% tariff on the EU was a cap, which was confirmed by the US side. This example underlines the value of the agreement reached in August. This clear, all-inclusive 15% tariff ceiling for EU

exports represents an insurance policy that no higher tariffs should emerge for Irish and European economic operators. The joint statement also includes lower tariff rate carve-outs for aircraft and aircraft parts, automobile and automobile parts. Importantly for the pharma sector, further carve-outs are to be determined for certain products in generic pharmaceuticals and chemical precursors. These tariff rates will be at the pre-existing US MFN rate, which is zero. This is welcome.

During the lead-up to the EU-US joint statement, the Tánaiste engaged intensively with EU and US counterparts, in particular the US Secretary of Commerce, Howard Lutnick, trade representative Jamieson Greer and Commissioner Maroš Šefčovič, emphasising the huge potential and scope for the EU and the US to work together in the interests of patients, their economies and the pharma industry. While of course we do not want any US tariffs, the joint statement provides a degree of stability and certainty in what has been a very difficult period for Irish and European exporters to the US. I strongly believe this was the best available deal. However, I am acutely aware of the impact of higher tariffs and the existing difficulties that many Irish exporters have already faced this year as well as the possible implications for the all-Ireland economy. I fully appreciate that there will be disappointment and concern in some sectors, including medtech, which are hugely important sectors for the Irish economy. Importantly, however, the joint statement leaves the door open for negotiation of further tariff reductions in the future on products of strategic common interest. Ireland is now working with the European Commission to see what exemptions can be made in areas of interest for Irish exporters. We continue to advocate for these exemptions for the medtech sector, as well as for spirits.

Since the US Administration entered into office in January this year, the impact of US tariff policy on Ireland's exports to the US has been a priority for the Government. The Tánaiste has made this clear to the US Administration, including in his most recent meeting with US Secretary of Commerce in September. In this regard, we have also had ongoing contacts with the European Commission to discuss Irish concerns, including with regard to the pharmaceutical and medtech sectors. This is done formally through Ireland's representation at the trade policy committee, our ambassador to the EU in Brussels and the Foreign Affairs Council of trade ministers, where EU-US trade relations have been regularly discussed throughout the year. The Tánaiste has discussed Ireland's concerns on a number of occasions directly with Commissioner Šefčovič, most recently when he visited Dublin earlier this month where they discussed our concerns regarding pharma and medtech. I am in no doubt that the Commissioner understands the importance of these sectors for Ireland.

**Senator Garret Ahearn:** I thank the Minister of State for his response. When the Tánaiste and our diplomats have discussions with the European Commission, I hope it takes on our concerns particularly in relation to medtech and pharmaceuticals. As the Minister of State said, there are still possibilities for lower tariffs in certain areas. Medtech is one that needs to be highlighted on behalf of Ireland. A lot of work has been done in the past ten years or so to try to develop our economy. We have built it into the fastest growing economy in Europe, and a proportion of that is dependent on FDI and businesses we have in America. While we also need to look east and look for more opportunities in areas we have not before, it is important that we protect the livelihoods of people working in that sector as best we can in conjunction

with the European Commission, making sure it is fully aware of the challenges Ireland has with these tariffs.

**Deputy Niall Collins:** I assure the Senator that pharma and medtech are hugely important sectors for the Irish economy, as is he well aware, and for Europe. The interconnected supply chains across countries and across the Atlantic are not just a necessity but ultimately make us more resilient and stronger in the manufacture and delivery of treatments that improve health and save lives. The health of these sectors is good not just for our own economy and jobs but for the health of our citizens. It is for this reason we will continue to make the case for low or zero tariffs on pharma and medtech as well as other important sectors in the economy. The Senator can rest assured we will continue to engage with the Commission and the US in seeking to protect important sectors.

### **Legislative Process**

**Senator Nessa Cosgrove:** I welcome the Minister of State. Many Senators have raised this issue as members of the foreign affairs committee. I ask for a straight answer about the timeline for the occupied territories Bill and the advice of the Attorney General. My Labour Party colleague and my party's spokesperson on foreign affairs, Deputy Duncan Smith, has asked the Tánaiste if we would get an answer in October and was told it will probably be in November. From talking to Senator Black, I understand a meeting had been scheduled for last week but because of the motion of confidence it was moved from that date and she has not been given a specific date. Many Members of this House have raised it. The Taoiseach was here last Thursday. We just want to know. It was agreed in the foreign affairs committee to include services in the Bill. Can we please get an answer on what aspects of services are believed not to be implementable? The foreign affairs committee has met international lawyers who were able to outline a clear pathway for the inclusion of services. There was a strong argument that we should not be worried about the inclusion of services, that they should be part of the Bill and that if it does not work out, it can be changed to exclude services. In my understanding, that is easily done. I acknowledge we are waiting for the advice of the Attorney General but by not including services, are we not uncompliant with the International Court of Justice? As the Minister of State knows, we have all stood on the side of justice and the majority of people in Ireland want to see this Bill passed as soon as possible, but they want the inclusion of services.

What is the point of witnesses coming before our foreign affairs committee, which deliberated for a significant amount of time, or any Oireachtas committee if its recommendations are not adhered to? Spain has banned the importation of goods and the advertisement of services. As a country, we want to go further than this. In fairness, credit where credit is due, we have been leading out on Palestine and as a country. Huge credit has to be given to Senator Black for drafting the Bill in the first place. It is going on too long. It was very much an election promise that this Bill would be enacted. How can Israel get away with genocide in front of our eyes when the International Court of Justice has made a ruling on it? How is this going to stand for humanity? I am not going to give a big lecture about it because we all know where we stand. We need a clear answer. When will we get the advice from the Attorney General? What is preventing services being included? I know the constant

argument is that it will affect the trade of Irish companies because of the boycotting and divestment rule in America but we should not be trading with illegal settlements anyway.

We just need to get a clear answer on it, and I thank the Minister of State for coming here to address this.

**Deputy Niall Collins:** First, the Government's position and, indeed, that of the European Union is clear. Settlements are illegal under international law and undermine the realisation of the two-state solution. This is the long-standing position of Ireland, the European Union and many other international partners.

In June 2025, the Government approved the general scheme of the Israeli settlements in the occupied Palestinian territory (prohibition of importation of goods) Bill. The main purpose of the Bill, as set out in the general scheme, is to prohibit the importation of goods into the State from Israeli settlements in the occupied Palestinian territory, including East Jerusalem. This is in line with the programme for Government which commits to prohibiting the importation of such goods. It is also priority legislation for this term, published by the Government through the Department of Foreign Affairs and Trade.

On the specific issue of services, the Tánaiste has said that he has no policy issue in relation to the inclusion of services. Trade in services is considerably more complex, which I think the Senator will appreciate, than is the case with goods, and there remains considerable legal uncertainty as to whether their inclusion is permissible under EU law. Legal clarity is needed on whether it is possible to include services, and the Tánaiste has asked the Attorney General to advise on this, as the Senator will be aware. We also have to take account of practical issues with regard to implementation should services be included in the scope of the Bill.

On the timeline, over the summer the Joint Committee on Foreign Affairs and Trade, to which the Senator referred, held a number of hearings on the general scheme, and received submissions representing a range of views and perspectives. The joint committee then published its report on the Bill. Work to analyse the report and its recommendations is well under way. A regulatory impact assessment is also currently being finalised by the Department of Foreign Affairs and Trade and will be available on the Department's website quite shortly when completed.

The next steps in the process, including the timeline for the progress of the Bill, will be considered by Government shortly. The Tánaiste expects to engage further with Government colleagues and the Attorney General on these issues in the coming weeks. In addition, we continue to engage at European Union and international levels with like-minded partners on this issue. In the absence of action at the EU level, Ireland has welcomed the announcements by the Dutch, Spanish, Slovenian and Belgian Governments regarding their own intention to ban the importation of goods produced in illegal Israeli settlements. It remains the Government's preference that collective action would be taken at EU level and Ireland continues to pursue this. In light of recent developments, the EU's immediate focus is on ensuring the success of the ceasefire and peace deal. It is essential that peace is given a chance to succeed.

At the Foreign Affairs Council in Luxembourg on Monday, the Tánaiste met his EU counterparts and welcomed the ceasefire and release of hostages as well as calling for the EU

to support efforts to flood Gaza with urgently needed humanitarian aid. Preserving the very fragile ceasefire and ensuring humanitarian access at scale is a priority. The Tánaiste also recalled the unacceptable nature of what has been happening in the West Bank and stressed the importance of ensuring that the concept of a two-state solution resulting in a viable, contiguous Palestinian state in the West Bank, Gaza and East Jerusalem remains front and centre in the EU's approach and that all future phases of the current agreement are conducive to its implementation.

**Senator Nessa Cosgrove:** We do not really have a response yet and do not have a timeline. The danger is that, because of the presidential election and then we are going to be coming up to Christmas, this issue will be kicked down the road again. The Minister of State mentioned the fragile ceasefire. It is very fragile, but surely the ceasefire would be kept in place if Israel knew that there would be some sanctions or that it could not get away with this. Since 7 October 2023, the Israeli aggression on Palestine has resulted in 69,215 people being killed, 179,237 people being injured, 18,700 Palestinians being detained, and 1.9 million people being displaced. Israel is still getting away with it, and I am disappointed that there is not a clear timeline and that we cannot get a straight answer.

**Deputy Niall Collins:** I do not agree with the Senator that the issue is being kicked down the road. It is a very significant priority for Government. It is a priority for me, as a member of Government, and for my party. I have been to the West Bank and settlements. I have seen the proliferation of Israeli settlements across the West Bank and in East Jerusalem. It is beyond comprehension. I have been a supporter of the occupied territories Bill since it was first introduced into these Houses by Senator Frances Black. I co-sponsored it in Dáil Éireann when we were in opposition. We have come from a position where it was deemed that we could not progress that legislation to where it is now: the Bill being a Government priority. It is in the programme for Government. When the Bill is passed, regardless of whether services are in it, and I am not going to die in the ditch in relation to the services piece - I think too much of a big deal is being made of that element - it will be a powerful international statement by Ireland, have no doubt about that.

To be fair, when you produce legislation, it has to be robust and has to be able to stand up to scrutiny. There is no point in producing cackhanded legislation that will not stand up to a challenge or scrutiny. Have no doubt about it, it will be challenged. It is absolutely going to be challenged, so the Attorney General is right. I appreciate the Senator's concern, and everybody's shared concern, in wanting to see this legislation progress.

It is not the case that Government is dragging its heels when it comes to this legislation. The opposite is the case. It is a priority for all of us. We want to do it, we want to do it right and we do not want it to rebound and fail at the very first test. It is reasonable that the Attorney General and the Department of Foreign Affairs and Trade should be allowed to bottom out the piece about the services element. Certainly, banning the importation of goods in the first instance will be a huge first step. If we do not get services in the first draft of the Bill then, like any legislation, it can be revisited. Whether it will be included in the first instance, I cannot say at this time. I would like to see it in there, but if it is in there, it must be airtight and hold water.

## **Tobacco Control Measures**

**Senator Dee Ryan:** Cuirim fáilte ar ais roimh an Aire Stáit. Gabhaim buíochas leis as teacht isteach sa Teach seo chun mo cheist a fhreagairt.

I would like to raise an issue that was brought to my attention by the proprietor of my local grocery store in the village in County Limerick that I am from. This person is the third generation of their family to run the local grocery store in the village. This person is well respected and, indeed, is an integral part of our village life and community. George Lee, the independent grocer, brought to my attention that the Minister for Health, Deputy Carroll MacNeill, is proposing to introduce in February of next year an annual licensing fee for the sale of tobacco and nicotine inhaling products. Will the Minister for Health consider a derogation for small grocery stores and small retailers in consideration of the significant cost increases they have experienced in recent years?

It is worth restating those cost increases. They have seen increases in lighting and heating bills, in insurance costs, in the minimum wage and in their basic inputs, the stock that they are buying in to sell on. All of these increases have put a significant squeeze on the very small profit margin these businesses are operating with. Indeed, these same businesses, as the Minister of State will remember, remained open to serve all of us during Covid. They were deemed essential services and did not close but persevered through the years of the lockdowns to ensure that communities like mine and that of the Minister of State, and communities throughout the country, were able to access the goods and groceries they required.

These businesses have faced a perfect storm in recent years.

The storm is not over yet because the Minister is proposing to introduce a licence fee of €1,000 per year to sell tobacco and €800 per year to sell nicotine-inhaling products, or vapes. That is regardless of the size of a premises, turnover or footfall. It is a blanket charge that is, in effect, a further tax and cost to small, independent grocers throughout the country. While the Government is rightly trying to drive down demand for these products, they are not profitable in their own rights. They are loss leaders and footfall drivers for businesses that are trying to sell other products.

We have heard a lot over recent weeks in the lead up to the budget about how important coffee shops were to rural communities throughout the country and how important small restaurants were to small towns. There was a grocer, a local corner shop, in my village for a hundred years ever before we had a coffee shop and I can tell you that the loss of that grocery store would be as keenly felt as anything else in the fabric of our village. Will the Minister for Health consider a derogation, an exemption, for small groceries and retail businesses around the country from this new licence fee?

**Acting Chairperson (Senator Garret Ahearn):** Before the Minister of State responds, I welcome guests of Deputy Edward Timmins from Wicklow - Annamoe, I believe. I hope they have an enjoyable day and I wish them well.

**Deputy Niall Collins:** The Minister for Health has asked me to thank Senator Ryan for raising this matter. I am sure the Senator and the House are aware the measure she has raised

is currently the subject of judicial review proceedings and on that basis it is incumbent on all of us to respect the work the court has to do and be circumspect in our discussion about it. Any call for the Minister to make any further decision is also pending the backdrop of the judicial review.

There are some aspects of the issue we can be very direct about. One of these is that we are in the year 2025 and, despite the time that has elapsed since it was recognised as a lethal product, combustible tobacco is still killing a large number of our population every day. Medical evidence shows that approximately 12 people among our family, friends, neighbours and communities die every day from tobacco smoking in Ireland in 2025. Tobacco smoking is both addictive and lethal. There is scientific consensus that smoking kills at least one out of every two smokers. According to international analysis, smoking is the risk factor that drives the most death and disability combined in Ireland. In addition to the death toll, combustible tobacco products also cause a vast range of illnesses, including chronic obstructive pulmonary disease, peripheral arterial disease, diabetes, stroke and 16 types of cancer. The World Health Organization has estimated that 14% of Alzheimer's disease cases worldwide are attributable to smoking. When our young people smoke, there are additional risks to them. Smoking during childhood and adolescence causes both reduced lung function and impaired lung growth.

The licensing system, which the Senator has raised, relates to the retail sale of tobacco products and also of nicotine-inhaling products such as e-cigarettes. In relation to nicotine-inhaling products, there remains an absence of scientific consensus on their possible health harms. However, it is generally agreed that nicotine inhaling products are not harmless, but that they are less harmful than tobacco products. It is also generally agreed that further research is needed to establish possible long-term health effects of these products. The Health Research Board reviewed the evidence on e-cigarettes in October 2020. It found that, for adolescents, the use of e-cigarettes is associated with an increased likelihood of smoking. In addition, the World Health Organization has recommended since July 2014 that sales of e-cigarettes to minors be prohibited as there is sufficient evidence of the potential for adolescent nicotine exposure to have long-term consequences for brain development.

It is in this context that the Public Health (Tobacco Products and Nicotine Inhaling Products) Act 2023 was developed. The primary policy objective of the Act is to reduce the health harms of smoking through reducing the use of tobacco products and nicotine-inhaling products, primarily by young people. This objective fulfils two overarching principles of our national tobacco control policy, tobacco-free Ireland. These are the protection of children and the denormalisation of smoking. The Act was designed to achieve this objective through a suite of measures that addressed each phase of the sale of these products, including the licensing of retailers, the regulation of sale and the strengthening of enforcement. The measures in the Act include the licensing of the retail sale of tobacco products and nicotine-inhaling products, the introduction of additional restrictions on the sale of both types of product and restrictions on the advertising of nicotine inhaling products. The important provision prohibiting the sale of nicotine-inhaling products to a child into effect on 22 December 2023. The sale of both types of products by a child is prohibited except in very limited circumstances. The sale of both types of products by self-service, for example through self-service vending machines, is prohibited. That measure came into effect last month. The sale of both types of products at events for children is prohibited. The advertising of nicotine inhaling products around schools

and on public transport is prohibited. The advertising of nicotine-inhaling products in cinemas is restricted.

The final group of measures in the Act are those which provide additional enforcement powers to the national environmental health service of the HSE which is the enforcement authority for the 2023 Act and previous tobacco control Acts.

**Senator Dee Ryan:** I acknowledge all of the actions the Minister of State listed that Government is taking to drive down the sale of cigarettes but I question whether this measure will achieve that aim. From discussing the issue with other retailers, it seems to me this will be successful in driving the sale of cigarettes and vapes underground and further into the black market, which is thriving in this regard. Regrettably, it is my view that this measure, should it be introduced without a derogation for small businesses, will be a further nail in the coffin for independent retailers who are struggling in what is already a very difficult and challenging trading environment. I ask the Minister of State to pass on to the Minister of Health, Deputy Carroll MacNeill, the need to examine this issue for small grocery stores.

**Deputy Niall Collins:** I absolutely understand the points Senator Ryan is making in relation to small retail and grocery shops, which are the lifeblood of many local communities, as we know. They are under pressure, as the Senator has outlined, on many fronts in terms of their viability and sustainability within our communities. Like our post office networks, it is important that people shop local and support their local shops and enterprises inasmuch as possible. The request she has made is a fair and measured one in terms of the backdrop of viability and sustainability, particularly of the smaller shops. The points the Senator made about the potential licence fee *vis-à-vis* the turnover of some enterprises is also a point that has merit and requires examination. I will pass on the Senator's request to the Minister for Health to have this matter examined once the judicial review proceedings have been exhausted.

### Health Screening Programmes

**Senator Robbie Gallagher:** Ba mhaith liom fáilte a chur roimh an Aire Stáit go dtí an Teach inniu. The newborn bloodspot screening, NBS, programme, commonly known as the heel prick test, is carried out on babies in their first 70-120 hours of life and currently screens for nine rare but serious conditions. Approximately 120 babies with these conditions are identified per year through this test. However, parents are still calling for the urgent roll-out of the potentially life-changing heel prick test for spinal muscular atrophy, SMA, nearly two years after it was approved for the newborn screening programme. It is estimated that six or seven babies are born in Ireland every year with SMA. If it is not treated, 90% of children born with this most severe type of SMA do not live past their second birthday.

SMA affects the cells in the spinal cord, making muscles weaker and causing problems with movement, breathing and swallowing. It is a rare genetic disease where early detection is crucial because symptoms typically appear at three or four months, when irreversible neurological damage has already occurred.

Without early intervention, SMA can be fatal up to the age of two but several treatments are available in Ireland that can significantly alter prognosis if there is early diagnosis. In 2023,



the then Minister for Health, Stephen Donnelly, accepted the recommendations of the national screening advisory committee to increase the number of conditions to be screened to include the implementation of early screening for spinal muscular atrophy. However, unfortunately, this has yet to materialise.

Some €1.4 million of new development funding was provided back in 2024 to export the expansion of a newborn screening programme. The funding covered areas such as new equipment, staff, recruitment, validation, quality assurance and training of staff. Recommendations from the NSAC on the addition of spinal muscular atrophy and severe combined immunodeficiency, SCID, to the national newborn bloodspot screening programme, NNBSP, have been approved. I raise this issue today in this House, as I have done on a number of occasions, and I am hopeful the Minister of State will be able to give us some information as to when we can expect this test to be rolled out and in operation.

**Deputy Niall Collins:** I thank the Senator for the opportunity to update the House on this important matter. The Government is determined to support Ireland's screening programmes, which are a valuable part of the health service, enabling early treatment and care for many people and improving the overall health of our population.

In terms of newborn bloodspot screening specifically, the Government is aware of how difficult it is for parents whose children have received a diagnosis of a rare disease and how challenging daily life can be for them, their families and their children. The programme for Government commits to continually reviewing the number of conditions babies are screened for. Additionally, the national rare disease strategy launched by the Minister for Health in August of 2025, includes actions related to the expansion of newborn bloodspot screening. I highlight that any proposed changes to Ireland's screening programmes are facilitated through established and evidence-driven protocols.

The national screening advisory committee is the independent expert group that provides advice to the Minister for Health. The rigorous processes utilised by the committee are critical to ensure that our screening programmes are effective, quality assured and operating to safe standards. Since May 2022, babies born in Ireland are offered screening for nine conditions through the HSE's national newborn bloodspot screening programme. In 2023, two recommendations from the committee for the introduction of screening for SCID and SMA were approved. A total of €1.4 million in additional funding to support the implementation process was provided through the budget of 2024. Implementation planning included a procurement of specialised equipment, the recruitment of 12 additional staff, the physical reconfiguration of existing laboratory and the validation to inform appropriate cut-off values for screening. The implementation process for both conditions commenced in 2024 and is ongoing, involving close collaboration between officials at the Department of Health and the HSE national children's screening programme. Once completed, it will bring the number of conditions screened for through the NNBSP to 11.

In terms of progress, all additional staff have now been recruited, and the required equipment has been purchased, delivered and successfully installed at the newborn screening laboratory. Significant processes continue with regards to the laboratory verification process, as well as the development of necessary treatment pathways. It is crucial to note that the expansion of the NNBSP is a complex and time-consuming process. This was emphasised in

the health technology assessment reports for both SCID and SMA, which were completed by HIQA on behalf of the committee.

In relation to concerns raised around the length of the implementation process, it should be emphasised that Ireland is not taking longer than any other comparable countries to access and implement additions to the NNBSP. The Health Council of the Netherlands first recommended screening for SMA in 2019, and implementation was completed three years later in October 2022. In the United States of America, it took six years to fully implement SMA screening after it was added to the recommended uniform screening panel in 2018. Screening for SCID and SMA have been under consideration by the UK national screening committee since 2017 and 2018, respectively.

**Senator Robbie Gallagher:** I thank the Minister of State for his response. I welcome the fact that progress has been made on the recruitment of staff and the necessary equipment. It does seem to take an awfully long time, which he outlined in his response, not just in this country but in different jurisdictions as well. As he rightly outlined, this is a terrible, stressful situation for parents who find themselves in such a position, and it is vital that we move to get this up and running as soon as we can. I would like the Minister of State to bring the message back to the Minister, Deputy Carroll MacNeill that we should not delay and should expedite the roll-out of this as soon as is practically possible.

**Deputy Niall Collins:** We have always evaluated the case for commencing or expanding our national screening programmes against internationally accepted criteria, collectively known as the Wilson and Jungner criteria. The evidence bar for screening programmes should and must remain high. This ensures that we can be confident that programmes are effective, quality assured and operating to safe standards. While Ireland currently screens for fewer conditions than many other European countries, direct comparisons are not always accurate. Ireland adopts a national population-based approach, with screening being the first part of a full pathway that also involves onward diagnosis and treatment. The evidence related to each of these is examined in advance of the recommendations by the NSAC. Unlike some other European countries, Ireland does not screen on a regional or indeed pilot basis. Nevertheless, the Government is aware of how difficult it is for parents whose children have received a diagnosis of a rare disease and how challenging daily life can be for them, their families and their children. Advances in technology and treatments for many of these conditions are continually emerging, which is very welcome, and the House can be assured that all stakeholders involved in the implementation process are working to ensure that screening for both conditions is introduced as soon as possible, and the Minister will continue to advocate on behalf of the rare diseases community in this regard.

*Cuireadh an Seanad ar fionraí ar 11.38 a.m. agus cuireadh tús leis arís ar 12 meán lae.*

*Sitting suspended at 11.38 a.m. and resumed at 12 noon.*

### **Death of Former Member: Expression of Sympathy**

**An Cathaoirleach:** Members will be saddened to have heard of the death of the former Member of this House, former county councillor and Chair of Cork County Council, Michael

Calnan. Michael had many interests and talents. He had a great interest in Manchester United, I understand. He was a long-serving member of the council, was vice-principal of Maria Immaculata Secondary School in Dunmanway and a founding member of Dunmanway Credit Union. Michael was a proud member of the Labour Party and to his Labour Party colleagues, I express my deepest sympathies. He was an active member of the ASTI. Michael was elected to the Twentieth Seanad on the agricultural panel and he had a great knowledge of the Standing Orders of this House and of the county council. He had a long career, both in national and local politics. He had a love of music and played the guitar. On behalf of this House, I express deepest condolences and sympathy to all his family. Ar dheis Dé go raibh a anam dílis. I ask Members to be upstanding for one minute's silence in respect of the late former Senator, Michael Calnan.

*Members rose.*

### **Visit of Austrian Delegation**

**An Cathaoirleach:** I welcome the ambassador from Austria here today. The ambassador is most welcome to Seanad Éireann. In October Austria celebrates its national day and we celebrate with them in the many and enduring links between Ireland and Austria.

Obviously, as two militarily neutral countries in the European Union, we share a great interest in the work of the United Nations and work on peace and peacekeeping. Our connections go way back to the Wild Geese where many of those who left Ireland served in the continental army and in the Austro-Hungarian Empire. Their long service is long remembered. One Irishman, Maximilian O'Donnell, who had been exiled from Ireland, became a prime minister under the Emperor Franz Josef and he saved the life of the emperor many years ago. Of course, our links now relate to peace and security in the European Union. As Ireland assumes the Presidency of the European Union in the latter half of 2026, we look forward to working with the ambassador and the people of Austria in making sure the people of the EU and the world enjoy peace and prosperity together. I thank the ambassador for coming in here in advance of Austria's national day. Go raibh míle maith agat.

### **An tOrd Gnó - Order of Business**

**Senator Seán Kyne:** I too welcome the ambassador and wish all Austrian citizens here a very happy national day.

The Order of Business is No. 1, motion regarding the order of references of the Seanad Public Consultation Committee, to be taken on the conclusion of the Order of Business without debate; No. 2, Defamation (Amendment Bill) 2024 - Committee Stage (resumed), to be taken at 1.15 p.m. and to adjourn at 4.15 p.m., if not previously concluded; No. 3, Housing Finance Agency (Amendment) Bill 2025 - Committee and Remaining Stages, to be taken at 4.30 p.m., and the proceedings thereon shall, if not previously concluded, be brought to a conclusion at 6.30 p.m. by the putting of one question from the Chair, which shall, in relation to amendments, include only those set down or accepted by Government; and No. 4, Private Members' business,

Domestic Violence (Free Travel Scheme) Bill 2025 - Second Stage, by the Cross-Party Group, to be taken at 6.30 p.m., with the time allocated to this debate not to exceed two hours.

**An Cathaoirleach:** Before I call the first speaker, I welcome from County Clare Barefield National School from Doorra-Barefield. They are most welcome. Would this be in the same area as St. Joseph's Barefield? Thanks for coming in.

I also welcome Deputy Cormac Devlin with his guests. The Deputy is most welcome.

**Senator Fiona O'Loughlin:** On behalf of the Fianna Fáil Party, I too extend my voice of welcome to the Austrian ambassador. I also extend condolences to the Calnan family and to the Labour Party.

Tomorrow is an important day, not just in Brussels but across Europe, for an Irishman Séamus Boland who is the first Irish person to take the presidency of the European Economic and Social Committee, EESC. Many of us got to know Séamus through Irish Rural Link. He is an Irish community leader and a farmer. He is to be inaugurated tomorrow as president of a very significant organisation. Séamus has been a lifelong advocate for civil society and for rural communities. He attributes a lot of his success in life to his involvement with Macra na Feirme and through learning speech and drama, about which I had a very interesting conversation with him only recently. This is a very powerful example of grassroots activism and how it can absolutely influence European policy. It is important that we wish Séamus well and that we possibly look at some type of engagement down the line because he is taking a very important role.

Yesterday was a milestone day for Jennie's law. I absolutely so appreciate that in December 2023 the Members of this House gave their full support to the Second Stage of Jennies' law when I brought that Bill forward. We are now in a very significant space in this regard and I want to pay a huge tribute to Jason who has advocated relentlessly since the very sad and tragic passing of his sister Jennifer in April 2021. I thank the Minister for justice, Deputy Jim O'Callaghan. From day one when we examined proposals that would introduce a Jennie's law, he has been a very firm supporter. Now he has brought action to those words.

The last issue I want to raise is workforce planning. I understand that local authorities around the country are in the process of doing that now.

Workplace planning is very important. It means a strategic approach to ensuring the right people with the right skills are in place to deliver public services effectively and sustainably. It is vital for improving service delivery and, of course, economic and community development under any of our local authorities. Staffing levels are currently being assessed. In Kildare in particular, which has two constituencies but only one council, and which has one of the fastest-growing populations, we urgently need more staff to meet the rising demand for services and support strategic growth in housing, community and infrastructure. We need to have a debate in this House on local government staffing because, all too often, the answers and replies that councillors, other public representatives and the public receive state that, due to decreased staffing levels, projects are not being delivered. We need to deliver them.

### **Visit of Finnish Delegation**

**An Cathaoirleach:** Before I call the next speaker, I welcome the Speaker of the Parliament of Finland. He is most welcome. I thank him for coming to Seanad Éireann today. He is joined by his ambassador and MPs [Mikko Savola] and [Jenna Simula]. They are most welcome. We had a great discussion on the importance of working together in the EU, recognising the immediate threat to Finland from its nearest neighbour, Russia, and how we should all work together in the EU to ensure that threat does not impinge on Finland's security or sovereignty. We look forward to working with the delegates in the months and years ahead.

### **An tOrd Gnó (Atógáil) - Order of Business (Resumed)**

**Senator Garret Ahearn:** I, too, welcome the Speaker of the Parliament of Finland. Funnily, I was actually talking this morning to a Finnish citizen who lives in Ireland. She came back from Finland only yesterday. We are lucky to have her. I wish the delegates well on their visit.

There was some very welcome news for my home county, Tipperary, this morning. Lonely Planet came out with its annual review of destinations to visit across the world and it recommended 25, including Botswana, Peru and Mexico. Tipperary was also on the list. This is a genuine success for us. It has not happened by accident. Incredible work has been done, particularly by the county council, led by Sinead Carr, and particularly in conjunction with the food producers of Tipperary. When people read the reasons Lonely Planet highlighted Tipperary, aside from its scenic views, mountains and lakes, they will see it refers to the quality of the food and locally produced food. This has not happened by accident; it is because an awful lot of work was done by volunteers to build up the reputation.

I am very conscious that I am talking to a Cathaoirleach from Kerry and a Leader from Galway, in which counties there is a tradition of tourism, but we in Tipperary have certainly noticed the number of tourists coming in. The numbers for Cahir and Cashel have been very positive, particularly last summer. This has a knock-on effect on the local economy, which brings a huge benefit. One reason Lonely Planet recommends Tipperary as a place to visit is that there is nothing fake about it. If you want authentic Ireland, Tipperary is the place to go. I encourage everyone, including those from Finland, to visit Tipperary if they are coming to Ireland because it presents an authentic view of the country. For a county that does not have the traditions of Kerry and Galway, this is very welcome. Does the Leader agree that when we talk about tourism and people coming to Dublin, Kerry and Galway, we should acknowledge that we also have some local gems? Now that Tipperary is on the list, will he encourage people to look beyond the traditional locations and go there as well?

**An Cathaoirleach:** As the Speaker of the Parliament of Finland will have heard, Senator Ahearn has invited him to Tipperary for his next visit. If the Speaker does not have time to go there on this visit, I am sure the Senator will put him up in his house on the next occasion. However, he will always be welcome in County Kerry and can stay with me there. We will make sure he enjoys the scenery. The food is quite good there as well.

**Senator Aubrey McCarthy:** I welcome the Speaker of the Finnish Parliament. He has an amazing ambassador representing his country in Ireland: Leena Gardemeister. She is very welcome here this morning.

I want to mention some sad news, which is the disturbing report of the alleged sexual assault of a young girl in Saggart. My thoughts and prayers are certainly with the child, her family and the people who were meant to be looking after her. The wider community is devastated by such news, and rightly so, but the incident certainly raises questions – they have been mentioned in this House this morning – about how a vulnerable child under the care of Tusla and who was meant to be protected was not adequately protected. We have to demand answers and accountability in this regard. On another note, we have to seek answers on the accused individual and the circumstances surrounding his presence in the community.

Equally troubling was the violent unrest last night in Citywest. Fireworks were thrown at Garda vans and blown up. The gardaí are doing their best to protect us all in the community. To see them attacked by our own is simply unacceptable. The behaviour was not only putting the public in danger but also members of the gardaí, who were simply doing their duty. Violence is never the answer. As with after the riots in Dublin, those held responsible for the events in Citywest must be held to account. I call for a full and transparent investigation into both incidents. The public deserves clarity and action. We must ensure our systems to deal with what happened in Citywest safeguard the vulnerable and that public order is upheld. I ask the Leader to schedule time with the Minister for justice to address these matters in this House as a matter of urgency.

There is an urgent need for increased cybersecurity across both public and private sectors in light of the disruption last weekend to Amazon's Web services. My Duolingo crashed so I could not learn Irish. The disruption caused widespread outages, affecting businesses and services. We must remember what happened the HSE in 2021, which exposed serious vulnerabilities in the national infrastructure. Cyber threats are escalating, not just in frequency but also in sophistication. We have to act to protect our critical systems and that means investing as a country in robust digital defences, staff training and protocols. I call on the Leader to schedule a debate with the relevant Minister to outline Ireland's cybersecurity strategy and ensure we are not left exposed again, as we were with the HSE. The digital resilience of the country is surely a national priority.

**Senator Joanne Collins:** I want to raise the issue of wind farms, most particularly in County Limerick. There are two action groups: Coolcappagh action group and the Bruff–Dromin–Athlacca action group. They are both in the process of putting in submissions to stop major wind farms from being located in their areas. There has been very little consultation with the communities on these wind farms. They are dividing communities. A landowner may be willing to give up their land for a massive wind farm near a community that does not want it. There are arguments at school gates and people not turning up for kids' parties because there is a complete divide in the community. Shannon Foynes Port Company has an amazing strategy and plan for offshore wind generation in the estuary to the extent that it would generate electricity for the entire island of Ireland and be a huge exporter of energy at the same time. If we could have the designated maritime area plans for this produced as soon as possible, it would mean the communities would not be fighting among themselves because of the massive wind farms proposed. It is not just about where wind farms go but also about future planning

applications in the relevant areas. Rural Ireland will be decimated if we keep putting wind farms in areas where planning permission could be sought in the future.

If a wind farm goes in and, two or three years down the line, people want to get planning permission to build on their parents' land, they will now be too close to a windmill and will not get permission. It will completely turn people off living in rural Ireland. I would like to see the report that was done and the new guidelines the Government have been sitting on for what feels like years. It has probably only been a year and a half but it feels like we have been calling for this for a long time. We need to see the new guidelines and have them published for the public and developers to see because if a developer puts in these 158 m turbines and the new guidelines say they cannot be that high, no developer will pull them out to put in new ones. I would like a debate in the House, although I would prefer these guidelines to be published as soon as possible.

**Senator Laura Harmon:** I also extend my sympathies to the family of the late Michael Calnan, a former Labour councillor and Senator. He was also a cousin and mentor to the former TD and Senator Michael McCarthy. I extend my condolences to his family, including his daughter, Julie, and his son, Michael.

I will also raise the issue of presidential voting rights. We have a very important election on Friday. We hope that there will be a high turnout in that election. The President of Ireland represents all Irish citizens across the world and those who identify as Irish, no matter where they live. It is a missed opportunity that citizens in Northern Ireland and those living across the world will not be able to cast their vote on Friday. We had a citizens' assembly on this issue and the vast majority of its members voted in favour of extending the franchise to citizens abroad. Over 150 countries around the world facilitate their citizens abroad to vote in elections. We are very much an outlier in that regard. This needs to be looked at and put in place before the next presidential election in seven years' time. It is a missed opportunity that it is not going to happen on Friday. As I have said, we hope there will be a high turnout for the election.

**Senator Linda Nelson Murray:** I will bring up something I brought up last week and on which I had a Commencement matter yesterday. It is about donating blood. A colleague who is sitting here in the Chamber came up to me yesterday to tell me that, because of what I said, they have registered to donate blood. I really appreciate that. Another two people also said that to me. If today means I could get another three people to do so, I am going to use this time to do that. Something I did not mention the last couple of times is that I unfortunately lost my dad last year. I stopped counting the number of blood transfusions he received before he died at 55. Every time you see these transfusions, you think about how people gave up their time to give this blood to keep people going for another day. That is what happens. We can save lives by donating blood. The average age of a blood donor in Ireland is 46. We can do better in trying to get younger people to donate blood. You can donate blood from the age of 18. The maximum age is 65. Perhaps we should look at the older age category as well. I was talking to the Irish Blood Transfusion Service and, as of yesterday, it had up to 5.8 days' supply. That is all. It does not have weeks' worth. We really need it. The service likes to have seven days' supply but it only had 5.8. The service is appealing for more people, particularly people from different communities and ethnicities, to donate blood. That is where education really comes in. I will now provide a staggering figure. Only 3% of the population donate blood. That is

crazy. We really need to get more people on board with doing it. I will read out a little message I got when I donated blood. It says:

Linda, thanks for donating. Your donation has just made its way to Tallaght Hospital.

The message before that said that the donation had just made its way to Clonmel Hospital, while the previous one said Tallaght Hospital. You get a lovely little message like that. I really believe that it is lovelier to give a present than to receive one. It is amazing to give blood. That is my thing for today. If anyone here or anyone listening can sign up to donate blood, they will be saving a life.

**Senator Sharon Keogan:** I will address the presidential election and the growing campaign calling for people to spoil their votes. Some have said that spoiling your vote subverts our democracy. I ask such people to look around the Houses they find themselves in today and to look at the portraits on these walls. Was it a subversion of democracy when 73 Irish MPs refused their seats in the British-approved Parliament to become the first Dáil? Was it a subversion of democracy for Parnell to obstruct proceedings at Westminster or when Daniel O'Connell stood for election knowing he could not take his seat? No. Such people are not speaking about democracy but about bureaucratic proceduralism. While they fret over rules and mean language, what do we see on our streets? We see a nation reaching a dangerous boiling point, while politicians take selfies at campaign concerts. For the first time in decades, we have a campaign with only two candidates. Political parties ordered their members to obstruct candidates of all view and backgrounds that are not their own. We have an election that, for many people who are struggling to live and to be heard, seems to be happening in some parallel fantasy version of Ireland. I commend all Irish people who will exercise their democratic right on Friday and vote, as they are legally entitled to do, in the privacy of the ballot box, for whomever they like or however they like. They can even vote for Jim Gavin, if they want to. However, I ask all those who do not see anyone on the ballot paper whom they believe in not to sit at home. They can still make their voices heard. If they want to, they should go out and spoil their votes. It may be dissident, but it is peaceful. It may be controversial, but it will ultimately be constructive. It is their right and it is democracy.

I also thank Senator Nelson Murray for highlighting people who give blood because I benefit from that blood three times a year. I also benefit from people giving iron. I thank the Senator for highlighting those people because they are keeping me alive.

**Senator Gareth Scahill:** A few weeks ago, I called for additional support in the telephone allowance for older people. I called for it to cover broadband and to potentially become a communications allowance. Following recent storms, a number of households all over the country have been without electricity or water. At the same time, our providers are still applying standing charges to these people's bills. I do not know any other sector in which you still have to pay for a service that is not provided. I am particularly defending and standing up for our older community. Could we have a debate in this House on older people, the supports available to them and how we can better provide supports to serve those people?

I also welcome and acknowledge the delegation from Finland that was here. Our international relationships are very important and we rely on them very much. In the coming months, when our country is going to be looking for support from our European partners in



respect of CAP negotiations and our derogation, those relationships with our European partners are going to be very important. People's opinions on these countries and what they say about them matter. People need to be very cognisant of that. I call on people to think about that before they vote on Friday.

In addition to that, some previous speakers have spoken about spoiling votes. The only thing a spoiled vote does is remove someone's opportunity to have a say in who is elected. I would like to acknowledge that as well.

**Senator Paraic Brady:** I wish to set the record straight regarding rural pursuits and fox hunting. I have watched a number of debates over the last number of weeks and I have listened to media reports of foxes in fields being torn apart. We have listened to all this negativity in the media regarding fox hunting, which is described as a sport.

It is not a sport and it is not done as a sport. The media has portrayed it as a sport. It is not just for the gentry. I hunt. I shoot. I am not gentry. I am a farmer. Foxes can get out of control and there is no predator for foxes other than humans and the odd car going down the road. When foxes are out of control in this country and the numbers are high, we see the loss of lambs, fowl and livestock. When you have loss of fowl, lambs and livestock, you have loss of profits. Farmers are indebted to our gun clubs that control vermin, which includes foxes. They are not pets. They are vermin. They hunt for their young. People say it is a part of nature. It is, of course, but nature is unbalanced and the number of foxes is out of control. We will see it in this urban area shortly as fox numbers increase in the urban area of Dublin. Only then, when perhaps a child is taken out of a pram or a child is injured, will people understand what this is. This is not a sport. This is farmers protecting their livelihoods and what is theirs. We are not gentry and I do not like to be portrayed as gentry. It is not done as a sport. It is done to control a predator that affects our living. That is the message that needs to be sold. I do not like the portrayal of the people of the country as gentry. That is far from what we are.

**Senator Chris Andrews:** I extend my condolences to the family of former Senator Michael Calnan and to the Labour Party.

Breaches under the Animal Health and Welfare Act area beyond disappointing. They are absolutely shocking. They are not a deterrent at all. Recent cases highlight how ineffective and lenient the courts and legislation are on animal abusers. Dog Law Ireland, a group of solicitors who are dog and animal welfare advocates, has made recommendations to address the leniency in sentencing for animal abusers. The first is that lifetime bans should be imposed by default unless the judge sees good reason not to do so. It also proposes the introduction of a specific ban on abusers keeping pets at their properties to prevent them saying that those pets belonged to family members. Some judges already do this but it is at their discretion and not set out in law. Dog Law Ireland believes, and I agree, that this needs to be changed. Another of the recommendations is that judges need to get some training in animal welfare issues to become familiar with the crisis and with dog, horse and pet welfare in general. Abusers of dogs and other pets should be given a lifetime ban from owning a pet.

Puppy farms are, in effect, a form of fast fashion. People pick out their designer puppies and go home happy. The devastation they come from is unseen to the buyer. It is horrendous and wide open for abuse. Puppy farms are a lucrative business for those who operate them. A

journalist, John Mooney, indicated that at one stage puppy farms and puppy breeding were more lucrative than drug dealing and transporting drugs. As we get closer to Christmas, we must ask people to rescue a dog. If you look among the huge number of rescues, you will definitely find a dog that is perfect for you. I visited a number of pounds recently and have absolutely no doubt that there is a dog out there for every family. Whatever you do, do not support puppy farms that are abusing breeding dogs and puppies this Christmas.

**Senator Mike Kennelly:** I call for a debate on a matter that goes to the very heart of child protection in our schools: the recognition of special needs assistants, SNAs, as mandated persons under the Children First Act. There is mandatory reporting for certain professions, including doctors, nurses, social workers and teachers. Every day, SNAs across Ireland work on the front line of care. They are the constant support for our most vulnerable children, those with additional and complex needs. They see what teachers or principals may not always see - the quiet withdrawal, the unexplained bruises, the sudden change in mood - and they are trusted by the children and, crucially, by their parents. Despite this central role, SNAs are not listed as mandated persons in the legislation that governs child protection reporting. This is an unacceptable gap in our system. It leaves dedicated professionals uncertain about their legal responsibilities and risks delays in identifying and reporting abuse or neglect. If we are serious about a culture of vigilance and care, every adult who has direct and sustained contact with children, especially those in intimate care roles, must be empowered and required to act. To leave SNAs outside the mandated framework is to underestimate their importance in the life of a child. I call on the Minister to come forward for a full debate in this House and to update the relevant Schedules to the Children First Act to ensure that special needs assistants are formally recognised as mandated persons.

**Senator Paul Daly:** We had statements on higher education yesterday evening. We have a lot of debate here. The franchise for the presidential election and allowing people in Northern Ireland to vote was mentioned this morning. We have heard a lot of talk of the shared island and unity polls down the line. What went somewhat under the radar, even during yesterday evening's discussions, was the announcement by the Irish and Northern Irish Governments of a joint, North-South, all-Ireland apprenticeship programme for the first time. When we have issues or problems in society, education can often be blamed as the root cause. However, it is certainly always rolled out as a solution to the problem. The argument is that education will eventually solve all problems. This is a major move that needs to be recognised and acknowledged. Both Governments need to be complimented. It is the way forward. Education will play a major role in the unification of our island. I formally welcome the announcement.

**Senator Rónán Mullen:** We could do with some nuanced thinking about the whole question of spoiling one's vote. To be clear, if one can make a clear choice between candidates and express a clear preference, it is entirely reasonable to express that. If on the other hand you are unhappy that you have been left with a bad choice and if your feeling of indignation is so strong that you choose, American style, to write in the name of somebody you would like to see on the ballot paper, that is a reasonable thing to do, too. The voter is sovereign. The only thing I would ever discourage is resorting to obscenity or otherwise. We must respect the voter and what he or she decides to do. Some will decide to vote because they have a clear preference. Some are annoyed, perhaps justly, about the way that the parties, in particular, have acted, even

in the nomination of their own candidates. They may choose to express that. If we are democrats, we will respect that and will not try to denigrate other people's choices in that matter.

I commend Senator Nelson Murray on what she said about blood donation. I am a recent addition to the pool of people who donate blood because a loved one needed blood transfusions and found herself no longer in a position to donate blood herself as a result. That was a reminder to me to start doing what I should have started to do long ago. We can and should use our positions and contacts to encourage people who are in a position to do so to give blood. It reminds me of a strange event that occurred once upon a time when a priest, an imam and a rabbit went in to donate blood. The rabbit commented, "I think I must be a typo."

**Senator Sarah O'Reilly:** I raise the issue of home reposessions, which has re-entered public debate recently. For a huge number of families, the issue has never gone away. I have been contacted by constituents who have had their mortgages sold out from under them to vulture funds. One woman in her 70s, who was a founding co-ordinator of the Money Advice and Budgeting Service, MABS, and a lifelong community worker, has spent 12 years fighting to save her home. Her mortgage was sold without her consent and she has since lived in constant fear of eviction while the financial institutions act with impunity.

She did everything right. She worked hard, paid her taxes and helped others to save their own homes. Sadly, her story is not unique. Thousands of people are still caught in the same nightmare. Families are being financially crushed by interest rates of between 6% and 8.5%, even as the European Central Bank's lending rate has fallen to 2.15%.

In a response to a parliamentary question submitted by Aontú, the Minister for Finance dismissed this as a commercial matter between two parties. The response shows a shocking lack of empathy and a complete disconnect from the real cost-of-living crisis and the real lived experiences of our citizens. We must not forget that these vulture funds were invited into the country by members of the Government. The Minister also claimed that vulture funds cannot stand in a better position than the original lender. While they cannot rewrite the loan terms, however, many contracts already give the lender the power to change the interest rate. When a vulture fund takes over, it inherits that power and uses it to drag rates far higher than the banks would ever do. Vulture funds would not exist only for this. The Government needs to intervene in the sale of mortgages without consent to these predatory vulture funds. We need real protections for mortgage holders and families and fair access to switching and refinancing.

**Senator Martin Conway:** Will the Leader use his good offices to write to the Minister for Transport to ask him if he could ensure the long-awaited funding for the N85 realignment project between Ennis and Inagh in County Clare is included in the 2026 funding programme? This stretch of road has been on the agenda for a long time - many years. Clare County Council recently passed a motion calling for this funding to be made available, bearing in mind that thousands of cars use the road every day. It is the main access point to the Cliffs of Moher, which is the second busiest tourist attraction in the country. This stretch of road has needed an upgrade for a long time to deal with the level of traffic using it.

Also, will the Leader establish exactly what the situation is with the long-awaited project at Blake's Corner in Ennistymon? This is an inner relief road that requires a new bridge and the

demolition of some buildings. Again, this is part of the N85 main thoroughfare and the access point for the Cliffs of Moher Visitor Experience, Lahinch, all of north County Clare and the Wild Atlantic Way. This summer, there were again huge traffic delays in the Ennistymon and Lahinch area because of the hundreds of buses every week trying to negotiate a bridge that was built decades ago and that clearly is unable to deal with the volume of traffic. The adjoining properties and the current access point are being regularly damaged and businesses in that immediate area are suffering greatly because of the amount of traffic. While Ennistymon as a town is doing exceptionally well in spite of all of this, were this project to be concluded, Ennistymon as a town and all of north County Clare would benefit enormously.

**Senator Gerard P. Craughwell:** I had intended to speak on housing, but I will defer that until 4 November because of two things. First, I congratulate the Garda Commissioner, Justin Kelly, for turning up at Citywest last night and supporting his people on the ground. What we saw was a despicable act of thuggery, the likes of which I thought we would never see in this country again. People were firing rockets at members of the Garda, setting Garda vehicles on fire, etc.

In speaking about that, though, I must also speak about what takes place in this House and the other House. Comments made, for whatever purpose, are frequently misused and interpreted on social media to drive the sort of thing we saw last night. Today, we heard about the spoil the vote campaign. We heard a democrat in this House speaking about spoiling your vote and writing whatever you want on the bottom of the ballot paper, which is the American style of things. Anybody who has been at an election count will tell you nobody is going to read what is written on the bottom of the ballot paper. It either has a one, two or three marked on it or it has nothing. They will all be thrown into the same pile of rubbish and nothing will be achieved by it.

People like me were accused of not supporting a candidate. I gave Declan Ganley my assurance that I would support him, because he asked me in plenty of time. He chose not to run, and that is his problem. To say we would not support people, though, is a factual lie. He had to admit on Virgin Media and Newstalk that in fact he had an undertaking from me. Now, for democrats to come in here and advocate for people to spoil their votes is, for me, an affront to the democracy I live in. Everyone in this House knows how difficult it is to go out on the hustings and get votes. To be advocating that we would spoil votes is, for me, anti-democratic and totally and utterly irresponsible.

**An Cathaoirleach:** Anois, before I call the Leader, I welcome the ambassador of Georgia to the House. He is a guest of Senator Joe Conway and Senator Aubrey McCarthy. We also welcome the ambassador of Barbados, who is a friend of Senator Joe Flaherty. They are both welcome to Seanad Éireann. I thank them for being here. I call the Leader to respond on the Order of Business.

**Senator Seán Kyne:** Go raibh maith agat. I also welcome the ambassadors to the Distinguished Visitors Gallery.

I thank all the Senators for their contributions this morning. Senator O'Loughlin acknowledged the new role for Séamus Boland of Irish Rural Link and Macra na Feirme. We

wish him well in his new role with the European Economic and Social Committee. I have no doubt that he will do a tremendous job. She also welcomed the advocacy of and progress made by Jason Poole and his sister regarding Jennie's Law. I wish that undertaking well too. The Senator called for a debate about local government staffing, which I request from the Minister for Housing, Local Government and Heritage. The Senator called for additional staff for County Kildare. I have no doubt that many other local authorities have needs as well.

Senator Ahearn acknowledged the inclusion of County Tipperary in Lonely Planet's annual review of 25 top destinations. We obviously know of the beauty of County Tipperary. Food producers were a key issue raised. The Senator spoke about the increasing number of tourists in Cahir and Cashel, where we have the Rock of Cashel, of course, which is phenomenal. When tourists fly into Shannon Airport and Ireland Airport West Knock on the way to Galway, we can send them on to County Tipperary after they leave.

Senator McCarthy, supported by Senator Craughwell, raised the issue of what took place at Citywest and the protest that happened after a man appeared in court after being charged with the sexual assault of a girl. Our sympathies go to her and her family on what she has gone through. I understand that the Garda public order unit in full riot gear, the mounted police unit, the dog unit, the air support unit and water cannon were deployed at those events yesterday and that the Garda had intelligence that violence was being planned. A call had issued to a number of divisions outside Dublin, and members of the force from Kildare, Laois and Waterford responded and travelled to Dublin to support the policing operations. There has been a call for a debate on this matter and I will request it from the Minister for justice. Senator McCarthy also raised the issue of cybersecurity and called for a debate on this matter. I will request that as well.

Senator Collins raised the issue of wind farms and two action groups in her area. This topic has come up on a number of occasions. There is no easy answer to it. As I said before, pretty much every political party in their manifestos for the last decade and more has referred to the need to increase renewable energy generation in this country. Whether this involves wind farms or solar arrays, there are certainly issues in terms of local communities, and this is understandable. The Senator has called for a possible offshore wind installation at Foynes. There is nothing to suggest that such turbines would not also be objected to, as they have been in my area of Connemara. These are tricky issues, but I will again request a debate on the whole area of renewables with the Minister, Deputy O'Brien. Senator Collins also called for the publication of the new guidelines on wind farms. Again, these have been knocking about for quite a while, so I will again request them from the Minister for Housing, Local Government and Heritage.

Senator Harmon expressed sympathies to the family of Michael Calnan, may he rest in peace. She also called for an extension of presidential voting rights to Irish citizens abroad. This would obviously require Government decisions, debate and a referendum for it to happen. It does raise the question, of course, of the numbers of voters who would be involved, how far we would extend such a right and if we would have more people outside the island with a vote than on the island in certain elections.

That would have to be considered.

Senator Nelson Murray, supported by Senator Mullen, encouraged people to donate blood. Some 3% of Irish people donate blood and there currently is only about 5.8 days' supply at the moment. We would like to get the supply to seven days' worth. I acknowledge both Senators for their donations. It does save lives. That is food for thought for everybody here.

Senators Keogan, Mullan and Craughwell discussed the issues of presidential elections and expressed differing views on the rights and wrongs of spoiling one's ballot. There are spoiled ballots in every election. Some people do not know they are spoiling their vote because with our single transferable vote system they may be doing things wrong. There are also people who spoil their ballots deliberately. There are also things written on ballot papers such as "None of the above" or whatever. People sometimes use the opportunity to make a statement or to write something funny that, and I disagree with Senator Craughwell, often can get reported in the media, with a photo taken and put up. That is everyone's choice but I would encourage people to come out and vote. I will request a debate on this matter in the future. I know there was a motion in the other House about franchise and the future so I will request a debate on this as well.

Senator Scahill raised the matter of the telephone and broadband allowance and called for a debate in regard to older persons and their supports, and I will request that. We are always very conscious in every budget of ensuring our older citizens are looked after, whether it be through increases in pensions or different allowances, the reduction in the VAT on gas and electricity or the changes to the means test for carers, which is hugely important as well. The Senator also welcomed the Finnish delegation. I acknowledge the presence of the Finnish delegation earlier, which included the speaker of the house and a number of MPs, whom I had the pleasure of meeting in Galway on Monday along with the Minister of State, Deputy Grealish.

Senator Brady raised the matter of fox hunting and quite rightly stated it is not a sport. We are a long time from "The Irish R.M.", which was set during the time of the gentry. We are long gone from that. Fox hunting is necessary to control foxes. On many farms, foxes take hens and lambs and I think they have even taken kittens. They are a problem. Senator Brady will join with me in not wanting to see the cruelty that sometimes is displayed in illegal activities. No one would condone that. However, fox hunting is a necessary part of the control of foxes, which can cause damage and a loss of earnings to farmers.

Senator Andrews spoke about the issues of animal welfare legislation in relation to puppies and dog ownership and called for specific bans for those who are acknowledged to have abused their pets. I will request a debate on the issue of animal cruelty and welfare legislation in that regard as well.

Senator Kennelly has called for specific recognition of SNAs as mandated persons and called for an update to the schedules. If he tables a Commencement matter, he might get a direct response to that. It is a very worthy and important issue to raise.

Senator Paul Daly raised the first North-South apprenticeships and commended the Government. I agree with that. I know there are statements on apprenticeships with the Minister of State, Deputy Harkin, in the week after the recess and he will have an opportunity to raise that matter further as well.

Senator Sarah O'Reilly raised the issue of home repossession and the selling-on of loans. We appreciate the human toll that home repossession takes. As to what can be done legally, or

the legal issues here, perhaps a specific Commencement debate on this matter would be most appropriate.

Senator Martin Conway raised the issue of Blake's Corner and his time on the road to Lahinch. I agree it is not fit for purpose in this day and age. He also called for an update on the realignment of the N85 between Ennis and Inagh. Again, it is a very specific issue so he might put it down for a debate with the Minister of State at the Department of Transport, Deputy Canney, who might be able to come to the House to discuss that very important issue.

Order of Business agreed to.

### **Death of Former Member: Motion**

**Senator Seán Kyne:** I move:

That Seanad Éireann –

- expresses its deep sadness on the death of Michael Calnan;
- conveys its sincere condolences to his family; and
- expresses its gratitude for his notable contribution, as a member of Seanad Éireann, to Irish public life and for his dedicated service to the people of Ireland.

Question put and agreed to.

**An Cathaoirleach:** A copy of the resolution of Seanad Éireann will be sent to the family of the late Senator Calnan.

### **Seanad Public Consultation Committee: Motion**

**Senator Seán Kyne:** I move:

That, in accordance with the recommendation of the Committee on Parliamentary Privileges and Oversight pursuant to Standing Order 110 –

- (1) A Select Committee, which shall be called the Seanad Public Consultation Committee (“the Committee”), shall be appointed to facilitate direct engagement and consultation between members of the public and Seanad Éireann on specific issues related to the legislative powers of the Seanad or an issue of public policy.
- (2) The Committee shall consist of twelve members including the Leas-Chathaoirleach, who, *ex officio*, shall be Chairperson of the Committee, and the quorum of the Committee shall be five.
- (3) The Committee –
  - (a) shall identify for examination specific issues related to the legislative powers of the Seanad or an issue of public policy;

(b) shall, for the purposes of sub-paragraph (a), have the power defined in Standing Order 80(1);

(c) shall, in respect of any issue it identifies for examination in accordance with sub-paragraph (a), exercise its power under Standing Order 80(1) by public notice which shall specify the issue on which written evidence in the form of submissions is invited and the date by which it must be received by the Committee: provided that the Committee may also invite written submissions directly from interested persons or bodies;

(d) shall review submissions received by it, determine whether or not such submissions are admissible in accordance with the criteria set out in paragraph (8) of this Order, reject any submissions which it rules to be inadmissible and consider what action, if any, to take in relation to submissions which it judges to be admissible; and

(e) shall, for the purposes of sub-paragraphs (a) and (d) of this paragraph, meet in private.

(4) The Committee may meet in public in the Seanad Chamber for the purpose of taking oral evidence.

(5) Paragraphs (2) to (6), inclusive, of Standing Order 86 shall not apply to the Committee.

(6) In addition to its obligation under Standing Order 86(1) to lay every report made by it before the Seanad, the Committee may refer any report made by it to the relevant Joint Committee.

(7) Written submissions to the Committee shall clearly indicate the name of the person or body making the submission and a postal or email address.

(8) A submission is admissible unless it –

(a) requests the Seanad to do anything other than the Seanad has power to do;

(b) does not comply with Standing Orders or is otherwise not in proper form;

(c) contains any matter which is *sub judice* within the meaning of Standing Order 49;

(d) comments on, criticises or makes charges against a person outside the House or an official, in a manner which is not consistent with the Standing Orders and practices of the Seanad;

(e) contains language which is offensive or defamatory;

(f) is the same as, or in substantially similar terms to, a submission made by or on behalf of the same person or body during the lifetime of the Committee.

Question put and agreed to.

*Cuireadh an Seanad ar fionraí ar 12.56 p.m. agus cuireadh tús leis arís ar 1.15 p.m.*

*Sitting suspended at 12.56 p.m. and resumed at 1.15 p.m.*



### **Election of Acting Chairperson**

**Clerk of the Seanad:** I must inform the House, pursuant to Standing Order 14, that both the Cathaoirleach and Leas-Chathaoirleach are absent from this meeting of the Seanad. It will be necessary, therefore, to elect a Member to perform the duties devolving upon, and exercise the authority conferred upon, the Cathaoirleach by Standing Orders for the period of absence of both. I will take proposals for the position of Acting Chairperson.

**Senator Imelda Goldsboro:** I propose Senator Pat Casey.

**Senator Fiona O'Loughlin:** I second that proposal.

**Clerk of the Seanad:** Is it agreed that Senator Casey be elected as Acting Chairperson? Agreed. I call Senator Casey to take the Chair.

**Acting Chairperson (Senator Pat Casey):** I thank my proposer and seconder for giving me this honour today. I have done my best to follow protocol and I found a suitable green tie to match the attire of the Cathaoirleach. I welcome the guests of Deputy Richard O'Donoghue from Greybridge Classic Club, County Limerick, to the Gallery. I hope they are all behaving themselves on the roads with their vintage vehicles. I thank them for coming in today. I hope Deputy O'Donoghue looks after them well. They should not forget to get him to take them into the restaurant for something to eat while they are here.

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

#### **SECTION 11**

Question again proposed: "That section 11 stand part of the Bill."

**Acting Chairperson (Senator Pat Casey):** I welcome the Minister to the House. We resume our deliberation on Committee Stage of the Defamation (Amendment) Bill 2024. Senator Rónán Mullen is in possession.

**Senator Rónán Mullen:** Gabhaim buíochas leis an gCathaoirleach Gníomhach agus cuirim fáilte ar ais roimh an Aire. On the last occasion, I had just begun to speak when we had to report progress. I expressed my wonderment at how this section had got through the Dáil, considering how far-reaching it is in how it changes the situation with regard to the protection of people and their right to a good name and reputation. Both the Minister and Senator McDowell beside me are senior counsel and they know a lot more about defamation than I do. I only spent a short period at the Bar before escaping to the relative security of politics. One starts at the provision in Article 40 of the Constitution which states:

The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen [and] ... in particular, by its laws protect, as best it may, from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen.

It is not just the life, person and property rights of every citizen, but the good name of every citizen.

It is in that light and in the light of whatever jurisprudence has occurred over the years giving effect to the recognition not just of the right people have but of that duty of the State towards them that we must consider any change such as that proposed here today in our law on defamation.

It is interesting to consider that, alongside this defence of publication on a matter of public interest, we have the abolition of the so-called Reynolds defence. I had recourse to an AI overview to get a simple characterisation of the Reynolds defence for the purposes of helping us to consider this matter here today. It talks about its being a common law qualified privilege in defamation law that protects journalists who publish material in the public interest. The phrase it uses is interesting whereby the defence allows a publisher to avoid liability for defamation if they can show that they engaged in responsible journalism. I admit that that is a summary of what the Reynolds defence is about, but it is useful to consider that. If we are taking out something that subjects a journalistic defence to the requirement that they have engaged in responsible journalism, the question we must ask ourselves is what we are replacing it with. Does the replacement that we propose to insert uphold responsible journalism and require responsible journalism? To recall what is here in black and white, the defence on a matter of public interest first subjects the defence to the requirement that the statement was on a matter of public interest. It seems to me that any statement that could be regarded as libellous is mostly a statement that is in the matter of public interest because if it were true, it might well be very much in the public interest to publish such a statement. The reasonable belief that publishing the statement is in the public interest is, of course, where the rubber hits the road. We have to wonder what would constitute reasonable belief for that defence. How demanding would the courts be in requiring reasonable belief before the defence can be permitted? As regards the statement being published in good faith, that reminds me that qualified privilege, such as that enjoyed by people when they make a complaint to the Garda that involves saying something about a person that if untrue would be libellous, is only to be enjoyed where a person is communicating such a statement in good faith, and certainly malice would defeat it.

We have to consider not the situation where a publication online or printed, or by a broadcaster, would be malicious - let us assume good faith - but where they put themselves in the hands of a source of information who may or may not be malicious in what they claim, or who may just be wrong, or who may have imagined a version of the facts that is wrong but which nonetheless the publication, acting in good faith, goes ahead and brings that statement to public attention by publishing it. Is it about reasonably believing according to their own lights or would an objective test have to satisfy the court? Am I correct in thinking that this would allow in certain circumstances journalists citing unnamed sources to simply repeat allegations of one side of a dispute and that as long as they accurately repeat that allegation as they come to discover it, they could be considered to be acting in good faith, and that as long as the story appeared plausible to them, they could be considered to have reasonably believed that it was in the public interest to publish it?

As politicians, we naturally think it is ourselves in the firing line, and it might well be that politicians would be among the most obvious victims of such a change in the law. If an aggrieved parent, however, tells a plausible-sounding story alleging, for example, abuse against

a teacher in a school or against the principal of a school, what recourse does that teacher or principal have to prevent publication? Or, in the case of a false and possibly malicious claim having been made, what recourse do they have to get redress? The question arises, as was discussed by Senator McDowell last week, as to whether we are talking about unnamed sources. If, for example, there is a straw-man figure, a person without significant resources, somebody who in the legal jargon is not a mark for compensation, but if such a person was willing to put himself or herself out as an accuser, is a newspaper, a broadcaster or an online publication then home free to carry what would previously be classified as a libel?

Those are among the legitimate concerns there must be on a plain reading of this section. I could be wrong on this but I understand this section came up for discussion in the Dáil relatively late in the day and was not discussed over and back in the way that something so far-reaching might be expected to be discussed.

Last week, I began to mention what the Ceann Comhairle had to say in a related context recently. On the first day of the new Dáil term, she called for action, saying that more must be done to combat the threats and abuse of politicians. Whatever about threats, it is reasonable to consider that a defamatory statement about somebody is an example of abuse. It is therefore interesting that at a time in our public, political and social life when there is huge concern about the way people are being targeted online with statements that are at the mild end untrue or uncharitable, and at the extreme end horrible and defamatory, where it sometimes seems that parts of the online world are the wild west, I think everybody understood that the Ceann Comhairle was speaking for all reasonable people by saying that elected representatives need to be able to carry out their duties and stand up for different ideas, values or political proposals without being excessively prone to being victimised online and otherwise. In her own words, she warned against a culture of fear and intimidation taking root. She said we risk losing the very essence of democratic representation and that it is incumbent upon us all to collectively defend the integrity of political debate and cultivate an environment that encourages participation without fear.

I am asking the Minister to consider whether a section like this weakens our ability to protect people in public life in the way the Ceann Comhairle was describing. If this makes it easier to put out statements that could destroy people's reputations without necessarily being true, is the Minister not creating a more dangerous and toxic environment, not just for politicians but in particular for politicians? Is what the Ceann Comhairle had to say not something that should give us pause and something that should inform our consideration of this proposed change?

The other matter I recall is the incitement to violence or hatred and hate offences Bill of last year.

Again, it is an example of the Seanad doing what the Dáil failed to do, which was to bring tough scrutiny to a proposal that had the potential to curb the free exchange of political ideas in a dangerous and unhelpful way for society. Along with Senators McDowell, Keogan, Craughwell and Clonan, and others, I was involved in bringing a measure of scrutiny to that legislation which gave the Minister's predecessor pause. A truncated form of that Bill was eventually put through. I understand it is not the Minister's intention to proceed, for the moment anyway, with legislation - pardon me if I am wrong - that will change the situation, although there is a case to be made for an adjustment to legislation and an updating of the 1989 legislation.

My point is that the momentum from the previous Government was, at that point, to dangerously close down free speech or to recklessly expose people to the risk of being targeted and ultimately prosecuted for the legitimate expression of political ideas, for example because hatred was not defined in the legislation, or because new definitions of "gender" were being imported into that legislation. We rightly opposed that in this House because the threat was to the free exchange of political ideas, which is so important for our democracy. What I find strange is that this proposal appears to be going exactly in the opposite direction and to the other extreme *vis-à-vis* the supposed concern of the previous Government. I worry that this proposal pulls the rug out from under the protection of people's rights to their reputation in a way that is careless and risky, to say the least. Like T.S. Eliot, I will end up where I began, by asking whether this could be an unconstitutional move given the risk to people's reputations, to which I think people are going to be unfairly exposed.

**Minister for Justice, Home Affairs and Migration (Deputy Jim O'Callaghan):** I thank and commend Senators on their contributions today and on the previous occasion. I said previously that one of the functions of the Oireachtas when it comes to any defamation Bill is to balance the constitutional right to one's good name with the constitutional right to freedom of expression. I said previously as well that sometimes the general emphasis is on protecting freedom of expression. I commend Senators on emphasising in this particular section and amendment the constitutional right to one's good name. It is important, from the perspective of the Oireachtas, that this is identified, referenced and debated. The other factor that has to be taken into account in terms of what we are proposing here is that ultimately the proposal is to amend section 26. That is what section 11 of the Bill before the House is seeking to do. I note that there are not any amendments in respect of section 11 and the amendment of section 26, but I hear from what Senators have said, certainly those who have contributed, that there is an intention to oppose section 11.

There is a request to give consideration to my proposed amendment to section 26. I will certainly do that. I will give consideration to what I have heard here today. However, it is also important that I set out the reason this proposal is being made, the reason section 11 is included in the Bill and the intention behind the proposed new wording for section 26 of the Defamation Act. It did not come out of thin air. I did not invent it in the office since I have come in there. When I go into it in a bit more detail, Senators will see that this was one of the factors that was considered by the Oireachtas committee when it was considering reform of the defamation Bill. It was an issue that was considered in terms of the report and the review within my Department of it.

Senator McDowell started by talking about how he introduced the original section 26. He did do so. Very many of the reasons he did so are relevant to this debate. Senator McDowell also mentioned that when he was introducing section 26 as Minister in 2006, he came in here and was traduced by the then Senator Norris. In fact, in order to inform myself, I went back and read the debate from that time. Senator McDowell did get a hard time from Senator Norris.

**Senator Rónán Mullen:** It would not make him unique.

**Deputy Jim O'Callaghan:** Senator Norris started his contribution by stating that then Minister, now Senator McDowell, had a reputation for being a rottweiler, but Senator Norris

was concerned that he seemed to have turned into a chihuahua. The basis for this charge being made by Senator Norris was that he thought then Minister, now Senator McDowell, had completely caved to the interests of newspapers and media owners by the section 26 defence he was bringing forward nearly 20 years ago.

It is important to understand the purpose behind the original section 26 before we start to look at the reasons I am seeking to amend it. To do that, I have to go down a little bit of a tangent. It is always important, when we are discussing reform of the defamation Bill and defamation law, that we look to see what are the broad range of defences that are available. There is an assumption in defamation law that it is either true or false and that is it. As Members of this House will know, the defences available under the Act are much more complicated and extensive than that. We all know what a defamatory statement is in terms of lowering a person's reputation in the eyes of reasonably minded persons in society, but there is a variety of defences to that. The primary defence is the defence of truth. I was conscious about some of the arguments and submissions that were being made on the last occasion, such as whether a newspaper could report that a politician or a person in public life had been arrested and was being questioned by An Garda Síochána. The truth of the matter is, under the law at present, they are entitled to do that.

I think it was Senator Joe Conway who referred to the Cliff Richard case. The Cliff Richard case was a very interesting case, but that was a case in terms of breach of privacy. The claim being brought against the BBC and the West Yorkshire or Midlands Police was to the effect that the privacy of Cliff Richard had been breached because information about this investigation had been disclosed to the BBC and other media organisations. If there is an allegation against a person and the Garda is investigating that person, a newspaper can publish it, subject to the fact that they may be exposing themselves to other claims such as breach of privacy or they may have a claim under the statutory provision that Senator McDowell sensibly introduced back in 2005 making it a criminal offence for the gardaí to leak information to a journalist.

The first port of call is the defence of truth. As defamation law developed, however, there was a recognition that we need to give further protections other than simply the defence of truth. For instance, if somebody stands up in the House and accuses me of being a murderer and I instituted proceedings against them, they could not rely on the defence of truth, but they could go to another provision in the legislation and say they have the defence of absolute privilege. That would completely block me from succeeding in that claim. Truth is not the only defence that is available in response to a defamatory statement. Absolute privilege is one.

Qualified privilege is another defence that is available in circumstances where the substance of the defamatory statement is not true. We have decided in our law, and in the common law before that, that there are certain types of communications that should be protected and sort of inoculated from the defamation claim. Those types of communications are, for instance, the communication between a former employer and a future employer by way of a reference. We have decided that if somebody is writing a reference for somebody who is about to be employed in another job, we will protect that communication, even though there may be a statement in it that is false. The reason we do that is we think it is in the public good that this type of communication is protected by way of qualified privilege. If a former employer writes to a future employer and makes a statement about an employee which is false, wrong and

defamatory, there will still be protection for the publisher of that reference, provided he or she has not acted maliciously or disproportionately.

The reason we have that is because that is the type of communication we believe should be fully protected. Similarly, a doctor writing to a consultant may make an allegation about the patient's spouse being involved in some sort of wrongful activity or criminal assault. That will also be protected provided the communication was not made maliciously or disproportionately. There are a whole series of defences that are available to publishers in circumstances where the statement that the publisher has made is false. That is part of the reason I am introducing this retail defence. People have not met it with huge support or endorsement but it is a very significant change in our law. If a shop owner says to an individual they believe that person has something stolen in their bag and the owner wants to check the bag, if that turns out to be false, the shop owner will still have a defence because we, the Houses of the Oireachtas, have decided that it is the type of communication that should be protected because it is for the common good. They are examples of where statements are made that are false but yet the legal process and our statutory scheme provides a defence to it.

Another area where, historically, under the common law there was a protection was in the area Senator McDowell loosely referred to as public interest journalism or communications about issues of public interest. If you look at the Schedule to the Defamation Act, there are a whole series of things that have protections under it. For instance, the fair and accurate report of court proceedings is one. A fair and accurate report of the Houses of the Oireachtas is another. Whatever about one of us saying something here, because we have an absolute privilege, somebody's fair and accurate report of something that happened here will also attract qualified privilege, as it is known. That developed over the years in the common law so that, in certain instances, journalists would be protected in their publications even if it was the case that what they said was false but, notwithstanding the falsity, the broad thrust of the publication was in the public interest, was properly researched and the journalist engaged in inquiries in advance of it.

That was the whole common law development of what we now call public interest journalism. As Senator Mullen said, we then had the development of the Reynolds case. It is noteworthy that the former Taoiseach was involved in a case that led to one of the biggest developments of the law of qualified privilege in that area within England and Wales. It said that there would be a form of qualified privilege defence for what is referred to as public interest journalism in circumstances where the publication had got aspects of the story wrong but in general it was in the public interest.

I am conscious of what Senators said on the last occasion. I did not come up with this in the office. It is not as though I have decided that we should change the law completely so that, if someone says something that is false, we should now protect them. That has always been the case since the development of the common law and with the establishment of the Reynolds case. We know in Ireland that in the early part of this century and the end of the last, there were decisions of the superior courts which said that Reynolds-type defence does exist in Irish law. When Senator McDowell was Minister for justice, he recognised that rather than having a vague common law rule about Reynolds where we have to go back and look at judgements from the House of Lords and other subsequent judgements such as Jameel, it was much preferable if we, as an Oireachtas, set out in statute what we believe is the appropriate

statutory defence for what was called fair and reasonable publication on a matter of public interest. I believe it was his intention and the effect of the Houses' enactment of section 26 that the Reynolds defence was abolished. However, there is some doubt about that if you look at some of the authorities from the Supreme Court. Mr. Justice Collins, when he was on, I think, the Court of Appeal, gave a decision in Desmond against *The Irish Times* where he said there is doubt as to whether Reynolds has been completely replaced by section 26. In truth, and I think for purposes of efficiencies, we are better off trying to codify the Reynolds defence in our own statutory section. I believe Senator McDowell did that with his section 26 introduced many years ago and enacted.

That is the background of where we are in section 26. It has existed for 16 years. I cannot think of any case - perhaps Senator McDowell can - where it has been successfully invoked. That is a reason we, as an Oireachtas, and I, as a Minister, should give consideration to trying to change it so that at some stage it can be invoked successfully.

The purpose of section 11 and the new section 26 is to try and make it more manageable. One of the difficulties with the old section 26 was that, similar to this section 26, it was set out in two subsections. It set out that the statement had to be published in good faith, was for the discussion of a subject of public interest, that in all circumstances the manner and extent of the publication was sufficient and that it was fair and reasonable to publish. It then went on and, for the purpose of determining that, set out a whole series of factors that had and should be taken into account when determining whether the publication was fair and reasonable. What was actually happening in practice was that people were going through each of these 11 or so characteristics in paragraph 2 of section 26 and stating that they did not comply with it, so that meant they could not avail of it.

Because of that, it was unquestionably the case that section 26 did not succeed in defamation actions. It may have been invoked in many, but I cannot recall anywhere section 26 succeeded. There was work done in respect of it. There were views sought during the review and there was a committee review in respect of it as well. A number of individuals made submissions stating that section 26 should be amended. Perhaps I can go through some of them in a bit of detail. By the way, it is the people in this House and the other House who make the law. Just because stakeholders have made submissions in respect of it, it does not mean that I, as Minister, or the Members, as legislators, are required to comply with it. Nonetheless, they should inform our discussion in respect of it. For instance the Bar Council of Ireland, the Business Journalists Association of Ireland, *The Irish Times*, Newsbrands, the National Union of Journalists, RTÉ, McCann FitzGerald, and Ronan Daly Jermyn, along with academics such as Professor O'Dell made submissions to the review of the Defamation Act 2009 indicating that the existing defence in section 26 was overly complex, lacked clarity and set too high a hurdle for the defence to be successfully pleaded.

The Irish Council for Civil Liberties shared this view and indicated that it considered that the existing defence might not meet the standard required by Article 10 of the European Convention on Human Rights, ECHR. It recommended removing the requirement to demonstrate that a publication was fair and reasonable in all of the circumstances and the adoption of an approach similar to that in section 4 of the Act in England and Wales, which requires a defendant to provide that the statement was or formed part of a statement in the public interest and that the defendant reasonably believed that publishing the statement was in

the public interest. McCann FitzGerald and MGM submitted that a judge should be required to consider whether the defence was made out and direct the jury accordingly given the complexity of the defence.

Part of the reason section 26 may not have succeeded in many cases in the past was because it is a very difficult statutory provision to involve a jury in. It is extremely complicated and difficult to set out in questions to a jury in an issue paper at the end of a case how they should apply section 26. One of the consequences of cases no longer being determined by juries - if that is enacted by the Houses of Oireachtas - is that we will see more invocation and use of section 26 by judges sitting alone and making decisions.

There were a series of concerns in respect of it.

When I look at a statutory provision, I have to consider to what extent it has been effective. I can look at the qualified privilege section. Another defence I have not referred to is the defence of honest opinion. I can look at that and cite examples of where that has succeeded. However, as Minister, if I am presiding over a piece of legislation and I cannot identify one case where section 26 has succeeded - it may have been invoked a couple of times but I have no clear example of it ever being successfully invoked - that must raise a question mark in respect of it.

As mentioned on the last occasion, traditionally this was a defence for responsible journalism. Given the way the communication world has progressed, I think we should extend it beyond people who are technically referred to as journalists. There was much reference on the last occasion to the *McLibel* case. Individuals who were the defendants in that case were individuals who were not journalists but who sought to say they were putting forward a publication that was in the public interest, so there is a benefit in trying to extend it beyond journalists. I know everyone in this House agrees that although some of the cases in this area involve high-profile individuals, defamation law in many respects is not simply about high-profile individuals. It is about the individual who can find themselves subject to a very serious article which is defamatory of them even though they have no public role. That can happen frequently.

The reason the amendment to section 26 is being introduced is that the consensus among the majority of stakeholders who made the review to the 2009 Act on section 26 was that the defence of fair and reasonable publication is overly complex, lacks clarity and sets too high a hurdle for it to be successfully pleaded. Those stakeholders were not just media organisations, as I say, but also included, as I mentioned some moments ago, the Bar Council and the Irish Council for Civil Liberties. Senator McDowell correctly notes that an amendment to section 26 was not included in the Bill as published. However, it was included in the general scheme as published in March 2023 and the intention to include it in the Bill by way of amendment was flagged when the Bill was introduced in Dáil Éireann. Head 16 of the general scheme of this Bill proposed an amended defence which required a defendant to prove: that the statement was in the public interest; that the defendant reasonably believed publishing the statement to be in the public interest; and that the defendant complied with the standards of responsible journalism when verifying and publishing the statement. It also provided that, where the statement was published by a journalist, the third obligation should be modified to a requirement to act reasonably.



At pre-legislative scrutiny the justice committee recommended that the defence set out in the general scheme be further simplified. Again, the feedback from witnesses to the committee was that the inclusion of too many stages and criteria in the existing section 26 has meant it is difficult to reach the threshold for the defence, resulting in greater uncertainty, an increase in the amount of litigation and higher costs overall as well as the underutilisation of the defence. The feedback from witnesses to the justice committee in relation to head 16 of the general scheme was that the requirement to comply with standards of responsible journalism should be re-evaluated as the proposed wording might restrict use of the defence to journalists, to the exclusion of other relevant groups - this is a point I mentioned a few moments ago - such as academics or whistleblowers, whose work would fall within the sphere of public interest and who might be targeted with defamation claims. Those witnesses included the Bar Council, academics, the Anti-SLAAPs Network and, as I said, the ICCL. Taking on board that feedback, the updated defence requires a defendant to establish three things in order to avail of the defence: first, that the statement was on a matter of public interest; second, that the defendant reasonably believed that publishing the statement was in the public interest; and third, that the statement was published in good faith.

When it comes to determining whether the defendant reasonably believed that publishing the statement was in the public interest, subsection (2) provides that the court shall have regard to whether the "belief was arrived at after the making of such enquiries and checks as it was reasonable to expect of the defendant". It is certainly going to be the case that, to use Senator Mullen's example, if a source has come forward and made a statement about an individual that is defamatory, a publisher could not just decide that they have a source who said it and they will just publish that. That would not fit within the statutory test.

Senator McDowell remarked during the debate that the question of whether an attempt was made to verify a story would be swept aside with the introduction of this defence. However, I find it difficult to see how a journalist who had not taken steps to verify a story could persuade a court that he or she had carried out such inquiries and checks as was reasonable to expect of him or her. There is also case law from our own courts, the English courts and the European Court of Human Rights which makes it clear that a statement can only be considered to be in the public interest if it is on a topic which has the capacity to impact the rights and interests of the public and where the information in question is reliable, properly researched and presented and published in an objective and unbiased manner. That body of law which has been established by the Irish superior courts is not going to be swept away with the enactment of this new section 26, if it is enacted, because the issue of public interest has already been considered by our courts and there is no difference between the public interest that exists at present and the public interest that would be introduced if this new provision was enacted. Material which is salacious or improperly researched or verified will not be considered to be in the public interest.

Senator McDowell is correct that the reference to fairness is being removed from the section. I will reflect upon that when it comes to Report Stage. It used to be the defence of fair and reasonable publication on a matter of public interest. Now the test, as provided for in the new section 26, is that it is just reasonable. At this stage I do not believe the removal of the reference to "fair" in itself impacts on the standard of protection. This might be best illustrated by looking at subsection (2) of the existing section 26. The factors listed under the existing section 26(2) either go to whether something was a matter of public interest or whether the

defendant reasonably believed that publishing was in the public interest having made such inquiries and checks as was reasonable to expect of that defendant. It is difficult to envisage how a statement could pass the test set out in the proposed section 11 which requires that it be in the public interest, that there be a reasonable belief based on conducting reasonable checks and inquiries that it is in the public interest and that it be made in good faith and not be regarded as fair.

Senator Mullen referred to the abuse of politicians and public figures, which should not be countenanced. I echo the concern both he and the Ceann Comhairle have expressed in respect of that. However, I do not see how it could be countenanced by the defence available in the proposed updated defence. This is not a charter for the abuse of any figures, whether they are political figures or other individuals in the public eye. Section 26 as amended by section 11 contains an explicit requirement to act in good faith and also requires a defendant to conduct reasonable inquiries as to the veracity of the statement in question. It is the case that subsection (3) of the proposed new defence provides that a defendant should not be required to take steps to verify the truth of an accurate and impartial account of a dispute. The purpose of that subsection is to allow for a neutral reportage on issues so that the media can carry out what has been termed a watchdog function. In other words, as well as being in the position to investigate and report on stories in the public interest, it will be possible for journalists and those reporting on matters in the public interest to neutrally report what is being said by two parties to a dispute without needing to investigate the facts of the allegations where there is a public interest in awareness of the existence of the dispute and the allegations as distinct from the substance of the allegations themselves. This is in accordance with the case law of the European Court of Human Rights, which has found that punishment of a journalist for assisting in the dissemination of statements made by another person would seriously hamper the contribution of the press to the discussion of matters of public interest and should not be envisaged unless there are particularly strong reasons for doing so.

This House will be acutely aware of issues that can arise in the public domain where there is a dispute in a statutory body or, indeed, within government whereby the newspapers should be entitled to report on the fact that allegations are being made by one element within a statutory agency against another or, indeed, you could have a situation where Ministers could find themselves in dispute. There is a public interest in the public being apprised of that dispute and it being properly reported in the media.

2 o'clock

By the way, I fully accept - I know people in this House are not just talking about politicians - that public figures and indeed private figures are entitled to their good name and should not be subject to scurrilous, abusive or vindictive statements. However, we need to be conscious that sometimes a person can find themselves unfairly in the public glare if a false allegation is made against them to An Garda Síochána and the gardaí are required to investigate it. If the person being investigated is completely innocent, but the gardaí have to investigate because of the complaint, it is truthful to say that the gardaí are investigating somebody because of a complaint that has been made. The reason newspapers do not generally publish stories like that is because they have a legitimate and understandable concern, and this will continue after this legislation if it is amended, that by reporting that, for example, Jim O'Callaghan is being investigated for corruption, the meaning of the article could be assessed by a court in a certain

way. It could be decided that it was stating that I am involved in corruption, as opposed to being investigated for it with no substance to it.

Newspapers are cautious and careful when it comes to publishing statements such as that. We need to recognise there is an entitlement to publish stories which are true. Publishing a story which is true is not necessarily the same as saying there is substance to the fact that an allegation was made against somebody. If an allegation is made against somebody, it may be false, but it is true to say it has been made. It is a difficult area.

I know Senator Craughwell mentioned on the last occasion issues about information being provided by An Garda Síochána to newspapers, which is something that, if it is done illicitly and in breach of the statutory rule, would constitute a criminal offence. It is reprehensible. However, there is a remedy available to a person who has had a story about them leaked by An Garda Síochána to a newspaper. Their claim is of a breach of duty by An Garda Síochána in providing the information. I know it is an extremely hard case to succeed in because you have to have evidence that it was actually done, but in terms of the newspaper publishing it, the correct way to deal with it is to ensure the law is complied with in the first instance.

As public figures in a democratic society, we must be prepared to accept a level of scrutiny. Most Members of this House and the other House, and most people in government, expect and tolerate a level of scrutiny. Obviously, the public must be entitled to engage in discussion and debate in relation to our actions insofar as those actions relate to matters of public interest. No one here will disagree with that. I consider that section 11 will provide for an appropriate balance between those competing rights and will provide a workable defence in appropriate cases. For that reason – I am conscious it is going to be opposed in the House – I will proceed with pushing for the adoption of section 11. Nonetheless, I will reflect on the matter, particularly the point about there being no reference to the term or adverb "fairly" or to the word "fair". As I said with regard to many of the issues that were identified here on the last occasion, there are other protections in place for individuals when it comes to privacy rights and the statutory protection available under the type of legislation I mentioned, such as the Garda Síochána Act.

I wish to see if I have left out any of the other points that were made on the last occasion. The biggest problem we have with defamation at present is with people being defamed by anonymous people on social media. The really important part of this legislation is to ensure we provide a mechanism whereby people can apply promptly to court to get information about the individuals and identification of the individuals who are defaming them. I believe the section 26 I am proposing – the amended version – is not going to result in the realisation of the fears expressed by many Members of the House today and on the previous occasion. I think it will simply provide a more effective and efficient mechanism for defendants to be able to say they acted fairly, in good faith and in the public interest. They will be able to say that even though factually it was not correct, notwithstanding that they should be given protection. That is a line of defence that was not invented by me; it has been in common law for many years. Senator McDowell, as Minister, gave it statutory effect in section 26 of the 2009 Act. I do not think this is going to pose a significant change to it. I think it will improve it.

Finally, Senator Mullen spoke about section 12 and the abolition of the Reynolds defence. That has been included for the purpose of removing any ambiguity. The Reynolds defence seeks to give effect to the public interest defence of fair and reasonable publication. We do not

need both of them. We do not need lawyers to be able to go to the court and argue about relying on section 26 but also on the Reynolds defence, which is more vague. We as the Houses of the Oireachtas in Ireland should be able to formulate our own defence. We are better off doing that rather than adopting a defence from the House of Lords in the UK, notwithstanding that the plaintiff was a former leader of my party.

**Acting Chairperson (Senator Pat Casey):** I thank the Minister. Before I go to Senator Lynn Ruane, I welcome Deputy Farrelly and his guests to the Public Gallery.

**Senator Lynn Ruane:** I did not initially have any questions but I had similar concerns as others that were previously raised. I did not have any additional questions until the Minister's contribution. My questions can probably be answered quite easily without me having to look at submitting future amendments on Report Stage. This may seem like a side point compared to the conversation here today, but I ask the Minister to bear with me.

The Minister mentioned references as an example of something that may be protected; for example, if an employer gives a reference for somebody. For me, that brought up a concern around the use of non-disparagement clauses, which are being written into contracts before someone takes up employment. This is being done in order to future-proof any hypothetical situations that may occur between an employer and an employee in a certain profession or whatever. The reason I bring this up is specifically in relation to non-disclosure agreements. Currently, the non-disclosure agreement legislation - I introduced the initial Bill before the Government passed its own version last year - does not address retrospective non-disclosure agreements. What is the role of this legislation in relation to employment references? I ask that question in the context of circumstances in which somebody in employment - there may not have been a criminal case - may have a record of harassment, bullying or other particular behaviours. What I am hearing is that an employer would be protected in what they say about that person in a reference. The problem is that people may be giving references for problematic employees in order to move them on to other vulnerable places of work. This is especially important if that person has harassed women within the role. I say all of this from experience. It is where the initial non-disclosure agreements Bill came from.

A non-disclosure agreement may mean that a manager who is providing a reference, having been asked to do so by his or her senior, has to collude in giving a false reference for an employee in an attempt to pass the trash, which is what it is called internationally. This means that the employee in question is basically protected within the reference by the non-disclosure agreement. The employer gives a false statement about the employee purely to move them on because they are so problematic within that workforce. When the Minister spoke about how references will be protected, I wondered how that fits with the new non-disclosure agreement legislation, which provides that such agreements are no longer legal. How we can retrospectively protect people by ensuring false statements are not given in references, which to me seems completely and wholly wrong?

We must also look at the use of non-disparagement clauses.

Currently under non-disparagement clauses an employer has the potential to take someone to court if, perhaps, they called out the employer. I will use a random example of a deli that is supposed to freeze a certain food after a certain amount of days and they do not do so. Perhaps

an employee takes umbrage with this and goes out on social media and speaks about the practices there are blah blah blah. It may be, however, that it is actually written into the contract that you cannot disparage your employer in any way, shape or form. How do non-disparagement clauses, which also I feel are wrong, intersect with the defamation legislation, section 11 specifically?

I suppose Members are all very focused on how the media may represent us or other people in the public eye, but there are people who are a lot more vulnerable who are commented on in public and in the media a lot. It is often not a cohort whom people want to protect from further reputational damage because I think there is a feeling that this cohort's reputation is already damaged and they do not deserve to reassume a good name. Consider, for example, people currently serving prison sentences. The red-top media in particular will often say "a source has told us" or "a source has said". Even if this is proven wrong, the person was never taken to court or the situation was not actually as it was, these people are so vulnerable and so on the margins that they will never be in a position to actually take a case against those newspapers. This relates also to the language of hyperbole that some of the red-top newspapers use. They may say things that are quite fictional like "psychotic" or "doesn't show any remorse", a view that may be given by a secret contact, which is usually a prison officer who has no contact in a therapeutic way with the individual.

What do we believe to be a good name? On a very philosophical level, does someone have such a right? Reputational damage has already happened to them, potentially from being involved in criminality, they engage in psychology and rehabilitation, get their degree through the Open University or in college, they start volunteering, they have a job on the land and they are working their way out, and then we allow the newspapers to write anything about them because it is like once you have a good name, you only have it as long as you have that forever. Does a person have an opportunity to develop and reassume a good name, good character and good reputation? If we do not have an opportunity to develop our reputation and our name and to right the wrongs we may have done in the past, that is really problematic because we do not give anyone a chance to re-engage in society and to be able to become trustworthy citizens who want to contribute to society in a much better way and do no more harm. How do we ensure that people who are much further away from systems and with no platforms are also protected, whether it is through the original section 26 in the original Act or through this legislation? What do we actually understand to be a good name and do we allow people to reassume their good name because they may have got into particular situations due to particular circumstances?

On the right to reply, with politicians and other people, if something is in the media, in most cases people are offered the right of reply. When people are in much more marginalised situations, especially if they are serving a sentence, nobody is given the right of reply. Does that mean that, even though your liberty is removed and certain rights are removed due to imprisonment, defamation law does not apply to people in prison? Do they not have those same rights of right of reply, which do not currently happen?

The other question relates to public interest and public benefit and the difference between the two. The original defamation legislation referred to "public interest" and qualified that with "public benefit". In this new section, it only says "public interest". What is the difference between those two thresholds? I would imagine that public interest can be a much wider thing

and that public benefit would be where you have to show that it actually benefits the public, which obviously feels like a different bar from just public interest. Will the Minister give me insight into what the difference is between public interest and public benefit?

**Senator Rónán Mullen:** I have some sympathy there and Senator Ruane has raised some very interesting points on the right to recover a reputation. It reminds me of that idea of the right to be forgotten as well. Some of us have been reflecting on that in recent days with the question of whether a person who had a conviction for firearms could be employed in the precincts of the Oireachtas. I remember thinking that they should certainly have to go through the scanner for a few years anyway but there should certainly be a focus on allowing and enabling the rehabilitation of a person over time. I do sympathize to some degree with what Senator Ruane has raised in that regard.

On the Minister's reply to the concerns I raised, it does seem that the media, and not just the media but others the Minister mentioned - academics, etc. - are having extended to them here a form of qualified privilege, which I would say at best is only mildly qualified. As I have heard Senator McDowell say, there is a case for adjusting what is there already in section 26. The question is whether the Minister is going too far here, and I think he is. The Minister has made the point that he is concerned the section 26 defence has never to his knowledge been successfully invoked. I heard a form of that argument here last year when we were discussing the hate speech legislation, when it was said we were not managing to get convictions or, as I believe it was then Taoiseach, Deputy Simon Harris, who said, one of the reasons for changing the legislation was to make it more possible to get convictions. I find that a troubling line of argument. Surely there is every possibility that the reason section 26 has not been successfully invoked is that it is acting in the preventative way the law should, which is to prevent false or defamatory statements from being made. Is it not the correct question for Minister to ask himself and to address here what type of stories or things we are now aware of that should and could have been reported in the past but for the fact that there was not a strong enough public interest defence for publication? Are we talking about situations in the past whereby if journalists had a stronger public interest defence, they could have reported more freely on allegations that politicians were taking money from donors, illegally or otherwise? Even at that, I cannot understand how it can ever be right to say that there are circumstances where the court is not interested in whether the defendant took steps to verify the truth of an imputation that it conveys, which is the subsection (3) exception: "Where the statement in respect of which the defamation action was brought was an accurate and impartial account of a dispute", and that the court can disregard the defendant's failure to even take steps to verify the truth of the imputation conveyed by it. In what world and in what circumstances is that get-out fair? Surely as a matter of precaution it should always be the case that there should be an absolute obligation to try to verify. They might not succeed in verifying or satisfying themselves one way or the other to a court level of certainty, but that it might not be to their disadvantage that they did not even try is a concern.

The defence the Minister gave for that, and I do not want to put words in his mouth, was that he wanted to protect neutral reportage of issues and to protect the media watchdog function. We all know that media, various media and some media, are capable of selective watchdoggery.

The Minister must have in mind the possibility that the media might be interested in particular potential villains and less so in others. I remind him of what happened with RTÉ and Fr. Kevin

Reynolds, for example. There was a widespread discussion at the time that one of the reasons for the failure to check facts was that there was at the time a certain odium around church people, particularly in the context of abuse cases. The media dropped its guard and as a result an innocent person was libelled. But for the particular circumstances of the libel, that person might not have had the recourse they were eventually able to get.

We are operating in a climate where the media does not always have clean hands, is not always scrupulously impartial and does not always subject everybody to the same test when it comes to hearing about, investigating and reporting wrongdoing. I do not see how we subtract from the ability of good bona fide media or journalists, in particular - I know the Minister is not exclusively talking about journalists - to do their jobs by not giving this get-out that they do not, in certain circumstances, have to take steps to verify the truth of the imputation they convey. I cannot think of a single example where that get-out for journalists could be shown to be necessary. How is it ever not strictly required that you try to verify?

The Minister is allowing this exception in circumstances where an accurate and impartial account of a dispute is brought forward. Senator McDowell has already asked what exactly is meant by "dispute". If we were talking about court cases, we could all understand. As the Minister rightly says, it is not just possible and permitted but necessarily possible and permitted to report proceedings in court cases even where the facts of what is reported to be alleged have not necessarily been established.

The Minister, however, is not talking about court cases; he is talking about an accurate and impartial account of a dispute. Let us suppose that somebody makes a horrible accusation about the Minister, and that the Minister chooses not to dignify that allegation with a response. Can someone then give an accurate and impartial account of the dispute? They could claim it is a matter of public interest because the Minister is a public person against whom X has made a horrible accusation. They could claim that they gave the Minister the opportunity to respond and he said he would not dignify the accusation and would see the person reporting in court if they publish. If that person publishes, he or she is entitled to ask the court to disregard the fact that no steps to verify the story were taken, other than asking the Minister if it was true. Is that what is meant by taking "steps to verify"? Is that all you have to do? Do you even have to do that? I do not understand how it is possible to give anybody a get-out on the requirement to take steps to verify the truth of something that they choose to put in the public domain.

I completely get the Minister's distinction between the fact of an allegation and the facts or otherwise contained within an allegation. However, the person who takes on the responsibility to publish is the initiator of the problem. If they do not, in certain circumstances, even have to take steps to verify the truth of what they are saying, it is a serious problem.

The Minister rightly talked about the problem that exists now on social media with people being constantly defamed and subjected to abuse of various kinds, including defamation. I worry that what is going on here is that he is bringing everybody down to a lower standard of behaviour and not addressing the problem. I do not deny that the Minister is attempting to address the problem and that he intends to address it, but what is contained here facilitates less, and not more, responsible behaviour at a time when attention to standards in the publication of information, claims and allegations has never been more important. While I note what the Minister has said about considering whether the concept of fairness should be brought back, much more careful consideration needs to be given to this get-out in regard to the obligation to

take steps to verify the truth. That needs serious consideration. It is dangerously problematic as it is set out at present.

**Senator Michael McDowell:** I was interested by the Minister's evocation of the debate that occurred here when I introduced the Bill for what became the 2009 Act. He referred to the then Senator Norris's response and remarks. There was a vogue at the time to describe me in the media as a rottweiler. I have some very interesting cartoons over my mantelpiece at home showing me doing various things to other people's legs. I also remember that on one occasion, I think in Dáil Éireann, a spokesperson or Deputy from the other side of the House referred to me as a rottweiler. Somebody else described me as more like a labrador than a rottweiler, and asked the person on the other side of the House "What does that make you?", or "What dog are you?". In a nasal voice, the then Deputy Des O'Malley said, "Maybe I should suggest the word 'shih tzu'." Thank God I have escaped from the canine pound and am here.

There are a number of things I wish to say. I want to go back over the genesis of section 26 because the Minister has spoken about it. A divergence had arisen between England and Ireland after the House of Lords decided on a journalist-based defence, which it made as a kind of common law judicial development of the law of libel in Britain to provide a defence for responsible journalism. The decision of the House of Lords set out criteria by which that could be evaluated. That followed a jury decision in respect of a claim brought in London by the former Taoiseach, Albert Reynolds, against an English publication. We must remind ourselves that there was doubt in Ireland about whether there was an equivalent defence here. I do not know if it was Mr. Justice Charleton or Mr. Justice Ó Caoimh, but somebody handed down a High Court judgment that appeared to state that it was the law in Ireland to follow-----

**Deputy Jim O'Callaghan:** It was the Louis Blom-Cooper case.

**Senator Michael McDowell:** Yes. I cannot remember who the judge was.

**Deputy Jim O'Callaghan:** It was Mr. Justice Ó Caoimh.

**Senator Michael McDowell:** That left the law in that condition. There were people who said this was a correct decision of Mr. Justice Ó Caoimh, and others who said it should be done by the Legislature and not by a High Court judge. There were suggestions that we were not to slavishly follow decisions of the House of Lords in England, whether we agreed with them or not, where they changed the substantive law of defamation to provide a new form of defence.

Without wishing to delay the proceedings in the House on this Bill, it should be noted that it was in that context that the Defamation Act 2009 had to deal, in section 26, with setting out what was or was not to be the law as regards the freedom of newspapers to publish what is *prima facie* defamatory matter but done in good faith and for the purpose of discussion that was for the public benefit. That was the context in which section 26 in its present form came into existence. As I said on the previous occasion, there was very considerable worry at a political level at the time that in attempting to formulate a statutory version of a defence of this kind, the floodgates would be opened in a manner the former Senator Norris so graphically described in his contributions in this House. His view was that the pre-existing law was perfectly good and should be maintained.



It is true, as the Minister said, that lawyers who appeared in defamation cases found it very hard to predict how a jury confronted with the statutory hurdles and criteria set out in section 26 would come to implement them. However, given the Government is now determined to abolish jury trial, we have to say there is no difficulty in asking a High Court or Circuit Court judge to interpret criteria laid out in a section, even if they are extensive. What the Minister is achieving - in inverted commas - by abolishing jury trial robs of their weight a lot of the doubts and criticisms that were levelled at section 26 because a judge confronted with that section could easily understand each and every part of it. I am of the view, as I have stated in the course of the debate on this Bill, that section 26 should be simplified. I support the Minister in that respect but I was doing it also in the context of my opposition to the abolition of juries.

Nonetheless, I still think it could be justified by the removal of the third condition in section 26(1), which states, "in all of the circumstances of the case, it was fair and reasonable to publish the statement". I understand that particular clause was the subject of a question given recently to the jury in the *Gerry Adams v. BBC* case, in which I appeared on a different issue to do with reputation, as to whether it was fair and reasonable to publish the statement. From memory, the jury thought it was not fair, that the programme, in effect, was not fair and, therefore, did not go along with the section 26 defence mounted by the BBC. The kind of catch-all provision that "in all of the circumstances of the case, it was fair and reasonable to publish the statement" has perhaps, particularly with a jury, given an out. The jury members could say, "Yes, we have listened to all the arguments but, in the end, that was not fair and we are holding for the plaintiff and against the broadcaster." That is the first point I want to make. Section 26(1)(c) is probably too vague a provision even if the matter is to be determined by a judge. In the end, it is highly subjective as to whether something was fair and reasonable if all the other criteria were satisfied.

The Minister mentioned stakeholders. That is a word I find slightly alarming. Who are the stakeholders? Are they newspapers, the NUJ and lawyers who appear habitually for or against plaintiffs in defamation proceedings? Is McCann FitzGerald, traditionally the solicitors acting for Independent News & Media up to a point, a stakeholder in any real sense? Looking to the other Reynolds case, Fr. Kevin Reynolds was represented by a single-man firm in Robert Dore & Company. Is Robert Dore a stakeholder who should be considered in matters of this kind? The smaller firms probably do not have departments that can deal with every aspect of public discourse. Of course, every solicitor firm that litigates is its own litigation department.

It would be sensible to look at section 26(1)(c) and perhaps to excise the phrase "in all of the circumstances of the case, it was fair and reasonable to publish the statement". I am going to ask the Minister to answer particular questions. The Reynolds defence was to do with journalism and, as we know now, journalism is not the entirety of the problem if we understand it as printed newspapers or licensed broadcasters. We now have satellite television channels and we do not know who owns every channel we see. We have online publications, which cannot be bought in a newsagent, such as *The Ditch* and *gript.ie*. Then we have the whole concept of people being entitled to start their own news channel, commentary channel or online magazine or publication, be it periodical or not. At the time of the Reynolds decision, people knew what journalism was. It was participation in the coverage of current and historical events in particular forms of publications. Now we have a very different world.

The funny thing about the Minister's new section is that it proposes, in effect, the same test for everything when it comes to the defence of publication on a matter of public interest. Is a loner sitting in a bedsit in front of his or her computer and about to upload a comment onto social media entitled in the end to the benefit of the Minister's new section?

Is that person entitled in the end to the benefit of what is provided for in the Minister's new section? I believe they are. I do not believe there is any distinction to be made regarding the kind of publication we are dealing with. An individual may decide now to publish something in the public interest in good faith, reasonably believing that publishing it is in the public interest. Somebody sitting alone in a room can come to that conclusion and can, if later sued, invoke the defence the Minister is offering. Therefore, we are not now dealing with the media in the same sense as the House of Lords was at the time of the *Albert Reynolds* decision; rather, we are dealing with somebody who becomes convinced that he or she is in possession of facts that should be brought to the public's attention via posts on social media. We are saying that instead of having the media-oriented provisions of section 26 as eventually passed by the Dáil in 2009, we should have a new, simplified defence that covers all publications of any kind whatsoever.

Section 26(2) of the Minister's proposed section states:

Subject to subsection (3), a court shall, for the purposes of determining whether subsection (1)(b) [which refers to a defendant reasonably believing that publishing the statement is in the public interest] is proved, have regard to whether the belief was arrived at after the making of such inquiries and checks as it was reasonable to expect of the defendant.

What are the reasonable checks expected from a man or woman sitting in a bedsit about to upload something onto social media? Do they involve the individual having seen relevant information in a newspaper, on television or in a foreign periodical? Before an individual says something defamatory, must they knock on the door of the person about whom they are writing and ask whether it is true that they did A, B or C? I wonder how that would really work.

Senator Mullen raised and developed a point that I mentioned. The proposed section 26(3) states:

Where the statement in respect of which the defamation action was brought was an accurate and impartial account of a dispute to which the plaintiff in the defamation action was a party, the court shall, in determining whether it was reasonable for the defendant to believe that publishing the statement was in the public interest, disregard any omission of the defendant to take steps to verify the truth of the imputation conveyed by it.

What kind of dispute are we talking about? If two teachers in a secondary school are in dispute as to whether one of them is a child abuser in the school, does that qualify as a dispute that can be impartially and accurately brought to the public's attention? Teacher A may say teacher B is a child abuser and teacher B may hotly deny it, saying teacher A is malicious and has no grounds for making the accusation. Is that a dispute? If, say, the dispute goes to the board of governors of the school and the governors are divided 50:50, is it a dispute that can be fairly described impartially by stating the following six governors think X and the following eight think Y and that the substance of the issue is that a party to the dispute had been defamed and it was in the public interest that the public should know about it?

The media and public-personages aspect of the existing law is reflected in the proposition, in section 26, that one of the criteria the court have to consider is “the extent to which the statement concerned refers to the performance by the person of his or her public functions”. That was to reflect the Reynolds decision, implying there are people and things already in the public domain that may be treated differently. That criterion is to be scrapped.

What is a matter of public interest? Is it a matter of public interest that the lollipop man outside a certain school has been accused of child abuse? Arguably it is because children will be crossing the road every day under his control and interacting with him in doing so. He is not a person you would normally think of, such as a politician or officeholder, as attracting the Minister's defence; however, there is no criterion set out in the Minister's proposed section that distinguishes whether the man is fair game for a publication about whether he is a child abuser and whether parents should be informed of serious allegations to that effect if they surrender their children to his temporary control every day on the way to school. There is nothing in the Minister's section that differentiates between his activity and a member of the Oireachtas taking bribes, and that worries me considerably.

The second point that has to be borne in mind, and which was mentioned by Senator Mullen, is that you can have people who consider themselves to be watchdogs in the public interest and who post online for consumption by the public but who are highly selective. I do not have to remind this House this week that there are very many people who put up on social media items to do with crimes alleged to have been committed by asylum seekers and migrants. The same people, some of whom actually use online magazines, do not seem to be interested in whether an Irish person perpetrates the exact same crime. We had a case the other day, publicly dealt with, in which apparently an Irishman brutally stabbed an Irishwoman with whom he had had a relationship, because she was ending it.

She suffered grievous injuries. I noted that none of the online publications that would have been the first to point out if he was a migrant did not bother with that story. They were not interested in that case. If there had been a minor stabbing involving a migrant, it would get top billing in certain online publications. What Senator Mullen said about being a selective watchdog is very true. We think and we hope that, let us say, RTE is not selective in that way and that it does not just look at foreigners committing crimes in Ireland, but looks at everybody who commits crimes in Ireland and reports fairly on all of those news stories. There is no obligation at all to be fair in that kind of way, cast by the Minister in the proposed section. One view of the public interest apparently can be that particular crimes are committed by immigrants, migrants, asylum seekers, or people who are here illegally. That is newsworthy, but the others are not.

If section 26(1)(c) were excised, that would leave the other criteria in section 26(2) of the existing statute to be considered. The first one is the extent to which the statement concerned refers to the performance by the person of his or her public functions. Let us take the case of an entirely private dispute about whether somebody sexually abused his or her own daughter or whatever the case may be. Is it in the public interest that the person be exposed or is it only in the public interest for the person to be exposed if he or she is a public figure in any event or carrying out some kind of public function? The Minister's section just does not deal with that issue at all. The second point is the seriousness of any allegations made in the statement. The court is to look at the context and content of the language used in the defamatory statement.

The extent to which the statement draws a distinction between suspicions, allegations and facts is very important. I have seen in my own lifetime people who are, let us say, dissatisfied with the outcome of investigations, going to the media and saying the DPP would not prosecute or the chief superintendent would not send forward this file or whatever, but here it is and it makes a very serious allegation against a person in public life. In those circumstances, outside of the criminal law, are we to have situations where there can be discussions about people tending to suggest that there is an allegation or a suspicion that they have engaged in criminality, based on good sources?

The funny thing about the recent Gerry Adams case before the jury was that the producer of the programme, as I understand it - I was not there for most of the case; I only saw the bit when I was there as a witness - said that she had very good anonymous sources for the accusations that were made against him. Is it legitimate for someone to say that they have very good anonymous sources, that people are trustworthy and that they tested them out and what they were telling seemed correct? Is that to be a criterion by which, once satisfied, defamatory matter can be published about somebody, as in that case where there was an untrue allegation that Gerry Adams had been party to the decision to kill Denis Donaldson? Is it legitimate at all to put forward a programme of that kind if you are entirely dependent on off-stage actors who either are disguised and appear in profile and shadow, or who are just sources who are dependable and who you have checked out carefully? I wonder if any of us were the subject of an accusation of very serious criminality, whether we would be content for a broadcaster, online newspaper, a newspaper or an online poster from a bedsit to be able to say: "Well, I believed very much that the source, which I'm not going to reveal to you, was true. I was told that in total confidence by somebody who is absolutely trustworthy." Are we going to accept that kind of publication and say that it is a good defence for any of that spectrum of publishers to say that they acted in good faith in publishing it?

In paragraphs (f) and (g) of subsection 2, the whole idea of the Press Council was brought in. I just want to remind the House about what the background to that was. There had been a proposal in the programme for Government for the establishment of statutory press council. A report was done and submitted to me as Minister, which effectively recommended that there should be a press council. Members will be glad to hear that I was to appoint most of the members of it. I said to myself that this is absolutely unacceptable. Any press council that gets statutory recognition, as this gave it, would have to be entirely independent of the State. That is what happened. The provisions of the Defamation Act 2009 made it clear that if the media in Ireland established a press council, it could be recognised for the purpose of that section, but not otherwise. I disregarded the report recommending a ministerially appointed press council.

Another issue is the extent to which the plaintiff's version of events was represented in the publication concerned and given the same or similar prominence as was given to the statement concerned. As in the Gerry Adams case, is it fair if at the end or at the beginning for someone to say that Gerry Adams denies the following and then have 20 minutes of anonymous allegations made? Where does the Minister's proposed revision of this section deal with that? He does bring it in respect of disputes because it has to be an impartial and accurate account but that issue does not seem to have any weight at all for other defamations.

3 o'clock

The 2009 Act states, "if the plaintiff's version of events was not so represented, the extent to which a reasonable attempt was made by the publisher to obtain a response from that person; and ... attempts made, and the means used, by the defendant to verify the assertions and allegations concerning the plaintiff in this statement". Then you go to the Minister's subsection (3). Effectively, it is predicated on there being a dispute. It does not say a public dispute, but a dispute between the plaintiff in the action and somebody else. In those circumstances, if you are impartially and accurately describing the dispute, you do not, if you are the publisher, have any duty to take any steps to verify the truth of the imputation conveyed by the publication. I think that is wrong. That is not a simplification of the law. That is the introduction of an entirely new species of reporting. There is a dispute. A says B is a child abuser. B says he is not. This dispute exists between them. I am going to fairly, impartially and accurately print the fact that this dispute exists. It is a defence to the imputation against the person accused of child abuse. It is a defence that it was in the public interest to publish it about him. No duty is cast on the publisher to ask if it is true or whether it rings true. You might say it was done in good faith. That suggests, somehow, that you could not publish something that you believe is a wildly incredible allegation, and I go along with such a view. If, however, two people are standing up in public and accusing each other of bribery, theft, corruption, sex abuse or whatever, you name it, and I say here is a dispute, I will tell you all about the dispute impartially and accurately, and I have no obligation to check out whether the fundamental allegation in that dispute is true, I cannot understand how the Minister proposes to bring that into law.

The Minister gave the background to how section 26 came to be in the Bill, and I accept what he said about that. When I checked the Dáil record and looked at the interaction between him and Deputy Matt Carthy of Sinn Féin, none of these matters were considered at all. Nobody really looked at it at all. It was just nodded through. As Senator Mullen says, the same happened with the hate speech legislation. It was just plonked into this House, largely unconsidered as to what exactly it would mean. It was when it was put under the spotlight that people began to have questions about whether it should or should not be passed.

I am glad the Minister says that he is prepared to entertain proposals for changes to section 26. Apart from opposing his version in its entirety, it is difficult to ask this House to come up with an entirely different piece of law where we have not had any consideration of it by the Dáil. The Minister mentioned the word "stakeholders". Everybody is a stakeholder in this. Every single citizen is a stakeholder in this. Just because you run a newspaper, an online magazine or because you call yourself the Irish Council for Civil Liberties, ICCL, a body which I greatly admire, it does not mean that you have some special function, especially when the ICCL approached it, and rightly so, from the point of view of freedom of speech. That was its particular perspective. Politicians, by the way, are stakeholders in this. They will find out if it is passed in its present form just how much they were stakeholders and ignored their own self-interest. Every single citizen is a stakeholder in this because every single citizen has an interest in protecting their good name or the good name of members of their family. It is not just politicians; it is politicians' spouses and families. To see somebody defamed with immunity and impunity because the newspaper thought it was in the public interest that it should be made public, the devastation that can cause to the child of a public figure, to see their parent plastered all over the front of a newspaper, the subject of an in-depth RTÉ investigative report, attacked mercilessly by one of the online magazines or just simply under siege from a constant barrage or anonymous online postings, is huge. Everybody is a stakeholder here.

That is something that it is very easy in our new society to forget. You set up an NGO such as the Irish Council for Civil Liberties, voluntarily or by the State, it does not matter, or you listen to McCann FitzGerald, which is a very substantial legal firm that specialise in defending newspapers and perhaps broadcasters. You then say that the Bar Council is a stakeholder. I wonder are they really stakeholders who should be listened to more than the interests of the public and the individual citizen represented by TDs and Senators. That is what was so disappointing about the debate on section 26 in the Dáil. It never even looked at what the difference actually was between the new section 26 and the old one, what would and would not be permitted and what defences would or would not be put in place. The debate in Dáil Éireann never really examined the change that was being made. When the Minister says that he is prepared to consider looking at his proposed section 26, that is good. I presume he will do it with an open mind and pay attention to what has been said in this House, at the very least, in relation to it.

It is extraordinary. Not one word of the debates in this House has been published by the stakeholders. You can search RTÉ or every newspaper, but not one comma of this debate has been published. That is because they hope it will go through unscrutinised and unchallenged. That is what is going on. You might think that they are interested in this. I think Professor Eoin O'Dell, an academic, is the only person who has said a word about it.

Not one word about the issues we have been debating here for the last two days has been put in the public domain by the so-called mainstream media, the non-mainstream media, all of the online commentators or even the academics. Why is that? It is because the stakeholders stand to benefit from the Minister's amendment. They want to wave it through unchanged. It suits them very well, thank you very much. They talk about the importance of the legislative process and holding Members of the Oireachtas to high standards but when their own interests are concerned, there is not a peep out of them. It is depressing. That is all I will say.

If this Bill goes to Report Stage, and I have no doubt that it will, there is provision in the rules of this House to remit the consideration of whatever section is put forward or any amendments that are put forward to Committee Stage, in other words, to reopen the matter at Committee Stage so that a genuine discussion can be held rather than what happens on Report Stage, which is that Members may make one speech and that is it. That does not really work in this context so I am glad that the rules of the House so provide. At this stage, I am entitled to ask the Minister whether he believes in the existing section 26(3), which states:

The failure or refusal of a plaintiff to respond to attempts by or on behalf of the defendant, to elicit the plaintiff's version of events, shall not—

- (a) constitute or imply consent to the publication of the statement, or
- (b) entitle the court to draw any inference therefrom.

Does he believe in that? Are we changing that law? Are we saying courts can draw an inference from the fact of a person saying nothing or that one's solicitor says "publish and be damned"? Does the Minister agree with section 26(3) of the existing law? It is hugely important. If that subsection is deliberately being taken away by this House, the courts will notice that it used to be law that no adverse inference could be drawn but that it is no longer the law. They will say that Seanad Éireann and Dáil Éireann deliberately swept that safeguard

aside. Is the Minister content to get rid of that safeguard? I will finish now but it is very easy to write a story and say that you contacted Senator Conway, who failed to respond-----

**Senator Joe Conway:** On three occasions.

**Senator Michael McDowell:** -----on three occasions. In future, is that to be material in determining whether the story as published should have a defence under the revised section 26? If it is to cease to be material, that is fine, but let us tell the people that. We should let the people of Ireland know that, in the future, adverse inferences can be drawn if you say nothing. Let us tell the people that is the change we are proposing. I am putting my trust in the Minister that he is willing to take another look at section 26 because it is not just me but also other Members of this House who are worried about this. The Irish political system is only one potential casualty. As the Minister has said, this applies to all publications in all forms, including social media. On the face of it, it seems to apply to anybody whose behavioural standards or the like comprise a matter of public interest. You do not even have to show that the publication was for the public benefit. That is going to be got rid of. I will leave it at that.

**Senator Gerard P. Craughwell:** I know it has been a long afternoon for the Minister. His remarks that he is willing to have a look to see what changes he might make were promising and encouraging. Senator McDowell referred to the impact on families. In his response a little while ago, the Minister made the point that, where a Garda investigation is taking place into an individual, it is in the public interest for that information to get into the public domain. Is it? Is it really right that, when somebody is being investigated, for whatever reason, that information should go into the public domain? First and foremost, let us think of what happens to the immediate family of the person who is the subject of the allegation. Let us say it is a child abuse issue. The immediate family have to cope with that but then the extended family have to cope with it, followed by the community and that person's employers. It becomes a massive issue because somebody indiscriminately passed on information that should never have got into the public domain. I would be rather shocked if we were to say that it is not defamation to print or publish something that says an individual is under investigation.

I will go back to the story I opened with last week, the *Irish Independent* article about a senior politician being involved in a charitable event. Of course, the politician could not be named for legal reasons but the story had originated with An Garda Síochána. First and foremost, that brings An Garda Síochána into disrepute. As the Minister pointed out, there is a criminal case ongoing as the result of a garda leaking information. I believe there is only one such case.

**Senator Michael McDowell:** There have been a few.

**Senator Gerard P. Craughwell:** It is a criminal offence and yet we see the term "Garda sources" in the media constantly. In that particular story, three or four Garda sources were quoted without naming any. Of course, if you were to take a criminal case against that particular publication, it would claim journalistic privilege. The journalist would say that he or she is not releasing his or her sources but that he or she got the information from a garda and believes it to be true. That journalist might never have got that information from a garda. The

Garda might know nothing about it. That story was printed on that Monday deliberately to impact the election prospects of a candidate in the current presidential election. It has to be a criminal offence to try to influence the outcome of an election by printing a story that had no basis. Of course, the candidate in question had to make a statement the following day. It is rather sad that is the way it went.

Moving on to social media, some of the stuff being said on social media about another candidate in the presidential election is absolutely outrageous. The claims that are being made as factual are absolutely outrageous but those making these claims are anonymous. As Senator McDowell referred to, it is people sitting in their box rooms or wherever publishing blogs they believe to be 100% accurate and 100% true and believing that people have a right to know and that they are saying what they are saying in good faith. Under section 26 of the 2009 Act, you have some cover. It is very little. You have to jump over a number of hurdles before you can go anywhere with the thing.

I have heard in this House statements, particularly when we talk about migration issues, that lead to misinterpretation in social media and all sorts of allegations, and we finish up with something like we had last night in Citywest. Again, a statement made here might refer to one or two things and it is taken out of context on social media.

Last week, I spoke about a teacher accused of interfering with a child where some years later it turned out there had been no interference with the child. The teacher in question looked for a timetable and the school was somewhat reluctant, based on there being no smoke without fire and there having to be something, even though the investigation showed nothing. I discussed this at the weekend with some friends and I said it was outrageous that the teacher was not immediately handed a timetable and reinstated on the staff. The answer I got back was to hang on a minute because that school probably had 300 or 400 parents who were concerned, and the concerns of the parents had to be taken into account before the teacher would be reinstated. My uncle had a saying that the sped arrow and the spoken word can never be retrieved. I believe the same applies when it comes to the written word.

The Minister rightly points out that we all have recourse to the courts to find out who on social media has just made some outrageous comment about one or other of us in the House or about a member of the public. Not everybody can afford to go to the courts. Going to the courts is not for the faint-hearted. Why should we have to go to the courts to find out who is making statements about us? People using social media can use any ridiculous name they want but why is it not mandatory that their full details be available in the event of a statement being made? Anybody in the House could then go to the Garda and say the person using this particular handle on social media was making outrageous claims about them and could ask the Garda to go and do something about it. Are we afraid of the social media companies? They are the ones with the money. They are the ones who should be held liable for what is published on their platforms and I do not know why they are not.

I know the Minister has sat through quite a lot this afternoon so I will make just one more comment. We all in this House get emails now almost daily. There are some people who write to me, and because I look at the email address I can see they are writing to everybody in the House, and they are making outrageous claims about Ministers, the President, the European Union and all sorts of things. Is this publishing? Once it is sent to more than one person, it is not an email to me but to the entire Houses of the Oireachtas. Is this regarded as publishing?



If it is, what recourse does the President of Ireland or the Commissioner in Europe have against the person? They are fortunate insofar as they can afford to take them on. What is the point of taking on somebody who has nothing? I do not know whether the Minister remembers a Senator here who was subjected to horrendous interference and trolling on the Internet. She eventually got the case to court and they eventually identified the individual. He was brought to court on criminal charges. When that Senator came to defending her name, the same guy did not have two red cents to rub together. Defamation is for the brave and for anybody who wants to take it on but we should set the bar high for those who publish. The dúirt bean liom go ndúirt bean léi type of defence is simply not good enough, in my belief.

**Deputy Jim O'Callaghan:** I thank Members for their contributions, to which I have listened very carefully. I will begin with Senator Ruane, who made a number of interesting points. Her first point was on non-disparagement clauses and she inquired as to the interlink between non-disparagement clauses and the defamation laws that operate at present. My view is there is no link between the two. If somebody has signed a non-disparagement clause, say with a former employer, this does not restrict them from making comments about the employer in defamation. However, it does restrict them in terms of the provision that exists in contract. Senator Ruane gave the example of a former employer at a delicatessen with foods that were completely inedible and in breach of safety regulations. If somebody worked there and had signed a non-disparagement clause, there is nothing in the law of defamation that precludes them from making comments accurately about the condition of the deli, stating the food is in breach of food safety laws. However, they would probably find themselves subject to a claim for breach of contract, or even an injunction to stop them, because they are not complying with the non-disparagement clause to which they had agreed. I suppose if people agree to them, it can have consequences in terms of restricting their freedom of expression but the defamation laws are not the laws that interfere with that freedom of expression.

Senator Ruane also asked about non-disclosure agreements and their use in references. If somebody is writing a reference in respect of a former employee who they believe had harassed or bullied colleagues, they are perfectly entitled to say this in the reference. If it is true it is true, and they are perfectly entitled to say it under the defence of truth but, as I said earlier, generally anything contained in a reference, provided that reference is not malicious or disproportionate, is protected by law of qualified privilege. Senator Ruane also gave the example of somebody giving a false reference. If an employer knows in fact that the employee was involved in bullying or harassment but decides in order to get them off the books to give them a good reference, the only liability that arises there is that the new employer may have an action in negligence against the old employer who gave what was an inaccurate and dishonest reference.

Senator Ruane also asked about more vulnerable people. My experience is that very many people who fit within the description of vulnerable people have taken defamation actions and have succeeded in them. Certainly I am aware of very many people with criminal convictions who have taken defamation claims and have succeeded in those defamation claims. There is also a reported judgment, to which I am entitled to refer as a result of this, in *Hill v. Cork Examiner Publications Limited*. A man who was a prisoner in Cork Prison with a conviction for serious assault was identified in a newspaper as being in a section of the prison that accommodated persons who were guilty of sexual assault. He took an action in defamation

and he succeeded and was awarded significant damages. It is certainly the case in my opinion and my experience that people who have convictions and people who were or are prisoners are just as entitled to take defamation claims as anyone else. Obviously, their reputation is damaged as result of getting a criminal conviction but this does not mean they have lost their reputation completely. There are different gradations in terms of damage to reputation.

Senator Ruane also asked about the right of reply. Obviously, if somebody does not issue a defamation claim but decides to go down the route of the Press Council, the Press Council can require the publisher to issue a right of reply. There is also a provision in the Defamation Act that is not affected by this Bill, which refers to the right to make amends, whereby a defendant can say they have made amends to the person who was defamed.

Senator Ruane asked about the public interest and how the legislation discusses whether something is for the public benefit or in the public interest. The new provision simply limits this to the public interest. We are better off not having different types of standards such as public benefit and public interest. I am trying to simplify the section 26 defence. This is part of the reason we have removed the section regarding publication being of public benefit also.

I will now deal with what Senator Mullen stated in his contribution.

Senator Mullen spoke about section 26 operating in a preventative way and that he wished to ensure it continues to operate in that preventative way. That is not the intention of the section, however. It is not there to prevent stories being published. There are other aspects of defamation law to deal with that. We have the provision dealing with a defamatory statement where something is said that lowers a person's reputation and the right of reasonable members of society. The rest of the Act sets out the protections for the right to one's good name. Section 26 is not supposed to be there to prevent people publishing stories. As I said at the outset, it is there to ensure that some level of protection is given to articles published in the public interest in respect of which the publisher has gone to lengths to ensure they have checked their sources and verified the story.

Senator Mullen asked me to provide an example of where this section would apply. As Senator McDowell mentioned, section 26 was invoked unsuccessfully in the case involving Mr. Gerry Adams. You could certainly think of situations where a broadcaster or a newspaper has carried out a thorough investigation into something that is clearly in the public interest. For example, by looking at the performance of functions of a statutory agency, a newspaper or broadcaster might have been able to establish there were deficiencies in what a statutory agency was doing, it was not fulfilling its statutory role and that was having a significant negative impact on the public. Clearly, that is a story that is in the public interest. However, within the story, they may have stated something that was not correct in respect of, say, an official at senior management level within the statutory agency or someone on the board of the statutory agency. That may be troubling for that individual who could say they were not responsible for any of that. The purpose behind this, however, is to provide some broader protection where the substance of the story is true but one part of it is wrong in circumstances where the publisher has gone to significant lengths to ensure the story is properly inquired into and investigated.

Senator Mullen also spoke about section 26(3) and expressed concern about the fact that, "the court shall, in determining whether it was reasonable for the defendant to believe that publishing the statement was in the public interest, disregard any omission of the defendant to

take steps to verify the truth of the imputation conveyed by it.” This is in respect of defamation action brought where there was an accurate and impartial account of a dispute. In the first instance, it has to be an accurate and impartial account of a dispute.

Indeed, Senator McDowell asked what we are talking about with this subsection. We are trying to provide some form of statutory protection to the reporting of a circumstance such as the following example. I will use the example of a dispute in the Government between two Ministers, where one Minister says he believes the other Minister met a specific individual while fulfilling a part of his ministerial functions, while the other Minister denies this. There is a significant dispute between these two Ministers in respect of this matter. From a newspaper’s point of view, it is in the public interest that it be able to report the fact that there is an ongoing dispute between two Ministers. It could alternatively be between two senior officials in a statutory body. The newspaper’s ability to report on the matter is in the public interest. What we are seeking to do here is to say that they do not have to identify which one of the disputing Ministers or officers in the statutory body is correct. It does not have to be checked whether the publisher is making efforts to figure out the truth of it. The story and the fact that there is this dispute is in itself in the public interest. It should be reported without the necessity, as is generally the case, of verifying the truth of the imputation conveyed by it. Obviously, the truth of the imputation by the Minister in my example is that the other Minister had been involved in wrongdoing by seeking to meet this other person whom the other Minister denies meeting. The purpose behind the drafting of this provision can, therefore, be seen. It is designed to deal with disputes that clearly have to be in the public interest.

Senator Mullen also mentioned “watchdogery”, and he referred to “selective watchdogery”. It is unquestionably the case that newspapers in Ireland do not have to be impartial or objective. There is no requirement on any newspaper to be impartial or objective. They can be as completely biased as they want to be. That obviously applies to online publications as well. The only time the State imposes an obligation on a publisher or broadcaster to be impartial and objective is when it is providing them with a licence. The Broadcasting Act imposes obligations on broadcasters to ensure impartiality and fairness in the treatment and broadcast of current affairs. We have to recognise that newspaper can have a political agenda that suits them. They do not have to be fair or unbiased. They are entitled to put forward opinions that other people disagree with.

Senator Mullen mentioned the case of Fr. Kevin Reynolds. That is an example of someone who was the subject of a significant, damaging and defamatory story, who did not have much wealth or influence, but was able to vindicate his good name because of the defamation laws. That will not change under the current legislation.

Senator McDowell came in and he started by mentioning a third form of canine that has been mentioned today, although I will not get into that. He probably makes a valid point in stating that, with juries gone, section 26 will probably become more navigable. The judge hearing the case will be able to apply and operate the difficult statutory scheme in a more navigable way than would be the case with a jury.

Senator McDowell recommended the removal of section 26(1)(c) of the Defamation Act 2009. I know he is just putting this forward as a recommendation and I will consider it. Section 26(1)(c) imposes the requirement on the publication that, “in all the circumstances of the case, it was fair and reasonable to publish the statement.” I wish the Senator to note, however, if that

is removed, my understanding is that all of section 26(2) would be removed because it states: “For the purposes of this section, the court shall, in determining whether it was fair and reasonable to publish the statement concerned, take into account such matters as the court considers relevant including any or all of the following-----

**Senator Michael McDowell:** That is a good point.

**Deputy Jim O’Callaghan:** Yes. I will go back and reflect on it. I like the idea of having a provision that is just reflective of section 26(1). Section 26(2) makes it a complicated and difficult statutory defence to operate.

I hear what the Senator said in respect of section 26(3). My assessment in that regard is that it will not mean that if someone does not reply, it is an inference that they are happy with it. That is not the case. If the Senator looks at the provision that will be inserted in section 26, it states that where “such enquiries and checks as it was reasonable to expect of the defendant.” That means something. Reasonable inquiries and checks must be made by the defendant seeking to verify the truth of the story.

I agree with the Senator in respect of his comments about Mr. Robert Dore. He is one of the finest defamation solicitors we have in the country. I also recognise what he said in respect of stakeholders. It is a term I use and it is probably one of these words you find yourself having to use when you become Minister. When it comes to any legislation, however, the real stakeholders are the citizens of Ireland, whose representatives are in this House and the Lower House. The primary stakeholders and the people who determine law are the elected representatives. It is nonetheless the case, however, that many individuals will have an involvement in particular aspects of legislation. It is unquestionably the case that newspapers, the NUJ and lawyers, in their capacity as representatives of litigants, will have an ongoing interest and involvement in this matter.

I do not think there is any downside to hearing feedback from practitioners. I am well aware, as is everyone else in this House, that when you get a communication or representation from an entity - as Members of the Oireachtas, we all get a lot of them - they all come with their own agenda. I am fully aware that newspapers have an agenda and it is to ensure they can have greater flexibility to publish and they want greater defences when it comes to defamation claims. Just because they have an agenda does not mean I cannot agree with part of it. I have to try to balance the right to protect one's good name and the right to freedom of expression. I will not allow myself to be planted into one group exclusively or the other. Newspapers should also recognise that there is an obligation on this House to respect and vindicate the good names of individuals. In general, we have a responsible media. I am not including social media. We do not see the type of wild stories sometimes referred to in the debate here or elsewhere such as X is a child abuser. That does not happen in media in Ireland.

**Senator Gerard P. Craughwell:** It did last week.

**Deputy Jim O’Callaghan:** We will come back to that. Part of the reason the media in Ireland are responsible and careful is the defamation laws, which have had a positive impact on Irish journalism and media. You know if you read something in a respected Irish newspaper that it

is, to a large extent, true and if they get it wrong, that will be established fairly promptly. I note Senator McDowell's point about the Press Council. It is preferable if the new section 26 is not just limited to people who decide to become part of the Press Council. We need to ensure that if there is a statutory defence available, it should be broadly available to anyone who comes within the parameters of the defence. It is important we do not limit this defence to journalists. We all know the world is extending; there are activists and people involved in academia. We talked about the person in the room on his own with his computer. If he complies with the test, prepares a well-researched publication, makes the necessary inquiries and checks that are reasonable to expect of the defendant and what he is publishing is on a matter of public interest, if he reasonably believed publishing the statement was in the public interest and if the statement was published in good faith, notwithstanding the fact that he is up in an attic, he will get the benefit of that defence. He should be entitled to that defence in the same way as an editor of a newspaper sitting in a larger office will be entitled to the benefit of the defence as well. We cannot assume that just because someone is a solitary sole operator, their intentions will be malign. The test should apply across the board.

It is hard to give examples of the type of defence that would operate or how it would successfully operate. I do not like referring to cases particularly as Minister for justice but as I said earlier, the BBC did not succeed in its defence in the case brought against it by Gerry Adams. There have to be some cases out there that will get the benefit of section 26. It has not happened to date. If it has been there for 14 or 15 years, it is surprising that there has not been a successful vindication of that defence to date. I note what Senator Mullen said in respect of that. It is not the same as saying there has not been a prosecution and it is not working. While there have been many defamation claims and many examples of where section 26 has been pleaded and relied upon, it is surprising we are not able to identify one example of where it succeeded. It is important to note the justice committee made a recommendation in its report that section 26 be simplified. I know what Senator McDowell said about the Dáil being quiet about it but it had an opportunity - in pre-legislative scrutiny or in the review of the Oireachtas committee's report - to look at this.

I will compare section 26(1) as it exists at present with the new section 26. The substance of the current law is set out in section 26(1). Section 26(2) just provides examples the court should take into account. Section 26(3), I think, says something that does not necessarily have to be said. The substance of the defence is section 26(1). At present, it says it is a defence to prove that:

(a) the statement in respect of which the action was brought was published

(i) in good faith ...

That is in the new provision as well. In the course of, or for the purpose of, the discussion of a subject of public interest is also in the new provision. The Act continues, "the discussion of which was for the public benefit". That has been removed. I think the reason, as I explained earlier in response to Senator Ruane, is it makes it very complicated to have that addition. The third comparison is, "in all of the circumstances of the case, the manner and extent of publication of the statement did not exceed that which was reasonably sufficient". That is not included in the new one. The last is, "in all of the circumstances of the case, it was fair and reasonable to publish the statement." The new provision states, "the defendant reasonably believed that publishing the statement was in the public interest". I will reflect on that to see

whether it is necessary to include the word "fairly" again. It is also important to note that subsection 2 of the proposed new section 26 says that for the purposes of determining whether or not the defendant reasonably believed publishing the statement was in the public interest, that belief must be "arrived at after the making of such enquiries and checks as it was reasonable to expect of the defendant." It is not a million miles away from what is there at present but it is an effort to make it more manageable.

I note Senator McDowell said not one comment on this debate had been published. That is reflective of the fact that newspapers do not have to be objective or cover debates one may believe are important but they decide, for their own interests, they do not wish to cover.

**Senator Michael McDowell:** What about RTÉ?

**Deputy Jim O'Callaghan:** It shows the usefulness of the Upper House that we are having a very detailed discussion about this. I also note what Senator McDowell said about Report Stage. I did not know that. I am not guaranteeing anything but I will consider whether amendments can be tabled to take into account what Senators said.

I want to clarify for Senator Craughwell that I did not say it was in the public interest that the Garda investigation would get into the public domain. I said the defence of truth allowed it as a defence to say there was a Garda investigation. I recognise that can be a breach of statute and a criminal offence. It can also constitute a breach of a person's privacy. Senator Craughwell spoke about the impact on families. That is certainly the case. It is part of the consequence of defamation that is not really recognised in our statutory scheme. There have been prosecutions for the release of information from An Garda Síochána about investigations. There have also been convictions. The Senator spoke about social media and said there are outrageous publications on social media. That is the case. In many instances, if somebody wants to get information about the publisher on social media, at present they have to go court to get a Norwich Pharmacal order to get the details. Like the Senator said, they can use whatever name they want. Ultimately, people will still have to apply to the social media company to get the details identifying the publisher. Social media companies say that has to be through a court process because they want the protection of a court process.

That, eventually when we get to it, is apparent from the new statutory scheme I am introducing later in this Bill. There was mention of emails coming in making outrageous allegations. Unfortunately, we live in a world where lots of people produce crazy defamatory publications about people. If it is published to one person it is defamatory, but because of the proliferation of defamatory publications a lot of us do not bother doing anything about them. I used to think people believed everything they read but as time goes on, people are becoming more discerning and they recognise not everything they read is true. I will push section 11 to a vote.

**Senator Michael McDowell:** Before we put the matter to a vote, in fairness to Senator Mullen, he was not saying the purpose of this was preventative. He was saying that in many newspapers and out in RTÉ and various other places where publications happen, people would take a look at section 26 as it currently is and ask whether they are satisfying all these steps. That is what they would ask themselves. Is it enough for them to say they asked Senator

McDowell for comment and he refused? They know they will not be able to rely on that in court, so that is not good enough. Senator Mullen was not saying it is designed to prevent people publishing things. On the contrary, he was saying that just because you cannot point out cases where section 26 was successfully invoked by a defendant, you cannot say it did not have an effect on publishers. That is his point and it is an entirely valid one. He is saying it is a checklist a newspaper or broadcaster would go through. They would ask whether they are satisfying the checklist or whether they are hoping that the fact Senator McDowell did not answer their Friday afternoon telephone call means that on Sunday they can publish X, Y and Z and that it will help them in some way in defending any proceedings that are brought. That is important. I agreed with the Minister when he said that if we removed section 26(1)(c), then we would have to change subsection (2) and we would have to have a knock-on effect of some kind if we were going to include the criteria that were not simply the fair and reasonable criterion.

The other thing the Minister says is he wants a single test for everybody. What is the single test for the guy in the boxroom at the top of a building in Rathmines? What is the test in relation to having made reasonable inquiries? Is it the same as that for the media? Is the Minister seriously saying a loner in his bedroom deciding to upload his accusation, or whatever it is, has the same onus on him to stand up the story as there would be on a newspaper? I make that point because it is so possible to defame somebody now by putting something out on the Internet without accountability, without any check and without anything like that happening. We will, as the Minister said, come later to what to do about anonymous publications but if he is actually talking about the loner in the boxroom in the house of flats in Rathmines, what is he asking him or her to do by way of verification before he or she makes an accusation? Is the Minister seriously asking him or her to knock on the doors of people and take witness statements from them, and the like? No, he is not.

Senator Craughwell mentioned the leaking of Garda information. Virtually every week there is a story that the Garda is investigating such and such. It is fine if it says, "Gardaí are investigating a gang of burglars operating in the Carlow region" or something like that, but if it is "Gardaí are investigating Senator Michael McDowell on suspicion of corruption", that is entirely different. It is an entirely different situation. The Minister referred to the prosecutions that have been brought, as they have been, but the only the reason they have been brought is that it became an arrestable offence to release information. Prior to that it was an offence under the Official Secrets Act, there was no power of arrest and there was a culture of impunity for a minority of gardaí who knew they could never be caught if they brazened out the matter. The genesis of the five-year penalty arose from the Commissioner of An Garda Síochána reporting that he could not control the flowing-out of information unless he had a power of arrest. It was not a desire on my part to start introducing a regime of fear in the Garda - on the contrary. If you could not arrest somebody or arrest the journalist to whom they had spoken, you could not prove the source of leaks from An Garda Síochána.

The good name of the citizen is not purely that of the citizen themselves but all of their family. Sometimes the family members deserve protection. When we come to Report Stage, there have to be amendments to this. It is not adequate to leave it in its present state. It has been pared down to the absolute minimum. There are no protections, really, for people who will be plastered all over the front page with a caption stating that so-and-so is under investigation for X. That is a simple statement of fact. The public should know about it, the

journalists will say. They will say they are publishing it in good faith. That will be a full defence and thus it will be all over the Sunday papers that so-and-so is being investigated by the Garda for X or Y.

**Senator Joe Conway:** Or is a person of interest.

**Senator Michael McDowell:** There will be no obligation to come back and say, two weeks later, that by the way the Garda has dropped the investigation. Section 26 as originally proposed may have been a bit nerdy in terms of setting out all the hoops that had to be jumped through, but that was done as a result of very close political pressure – I will use that phrase – to ensure we did not sweep away the rights of persons in public life. It did not come into its present form on the back of a cigarette packet. There was huge discussion to get it into law at all. There was huge interaction between politicians to ensure protections were put in. If a Member of this House, or the other House, or somebody in a public position is being investigated by the Garda for corruption and the Minister's amendment is put through, it can be the front-page story of any newspaper anywhere as long as the editor and the journalist who wrote the story believe in good faith it is in the public interest for the public to know that investigation is taking place.

4 o'clock

A point that I would throw out for the Minister's consideration is that we put protections around people who are accused of rape. Anybody accused of rape who is brought to court cannot be identified for good reason. If what is proposed comes into place, then any accusation of any other kind - be it in respect of a wife beater, a corrupt person, a bribe taker or whomever - in any ongoing investigation will be able to find its way on to the front page of any newspaper. There will be a 100% cast-iron defence given to the newspaper involved to the effect that it is true, that it was informed that it was true by a particular garda and that it saw the file. That story could, therefore, be published. The person against whom the accusation was made would have no access to redress whatsoever under the Minister's proposal. That is the bottom line. There would be no redress whatsoever if a newspaper says that it is in the public interest that the public should know the details of a case and that those details were published in good faith. Once those three criteria are satisfied, there is no point in suing. There is no point in asking why the details were put on the front page of the newspaper. Someone could not ask, "Why did you ring me up and say we are going to publish this unless you deny it?" All of that just goes out the window. A simple test.

I am not going to say that what is proposed is unconstitutional, but it is verging on the unconstitutional to say that that is a full defence for a person who is grossly damaged by a story of that sort appearing on the front page of a newspaper. All of us here know that if a story of that kind is published on the front page of a newspaper to the effect that one of us or a chief superintendent, a bishop or whomever is under investigation by the Garda for doing X, Y or Z, that is fine and there is nothing the person involved can do about it at all. That is what the Minister is proposing. Even if, as in Senator Craughwell's example, it is found that there is nothing to the story, the newspaper, RTÉ or whatever organ published it is not even bound to say a year later, "By the way, when we published that story, it turned out we were wrong, but we have a full defence under the laws of defamation."



**Acting Chairperson (Senator Joe Flaherty):** Before I call Senator Craughwell, I take the opportunity to note that several groups visited the House during the deliberations on this matter. We had groups hosted by Senators Sarah O'Reilly, Imelda Goldsboro and Sharon Keogan. Senator Keogan's guests were Councillor Grainne Maguire, Shane Cleary and Samantha Boden.

**Senator Gerard P. Craughwell:** The Minister said that those on social media would never accuse somebody of being a child abuser. I was accused of being a child abuser.

**Deputy Jim O'Callaghan:** I never said that.

**Senator Gerard P. Craughwell:** I was.

**Deputy Jim O'Callaghan:** Really?

**Senator Gerard P. Craughwell:** In recent weeks, I was also accused of being responsible for the deaths of 50,000 babies, which is why I closed down my Twitter account completely.

**Deputy Jim O'Callaghan:** I said ordinary media.

**Senator Gerard P. Craughwell:** Maybe I misread what the Minister said. In the context of social media, and I know that is coming later, you contact the likes of Twitter, make a complaint and find that the most outrageous things are not against its rules. The bottom line is that I have no interest in Twitter any more.

On the impact that wild statements have on families, yesterday I brought up the issue of migration in this country. Constantly we are hearing, "Oh, they are rapists", or they are this, that or the other. I made the point yesterday that there were 6,683 rapes in ten years in this country. It would be no harm if the Department published the nationality of those who were convicted of rape and maybe put an end of those types of wild stories.

The Minister mentioned the flood of emails. I do not read such emails, and I sincerely hope most of the people in this House no longer read them. If I get an email that begins "Dear Member", I just dump it. I do not read them any more. It is interesting that they can be defamatory.

I have serious issues with good faith and the public interest. How do I prove or disprove that somebody wrote something in good faith? How do I say that something is not in the public interest? I mentioned an article in the *Irish Independent*. That was deliberately written to impact the current presidential election campaign. Allegedly, that story originated from the Garda Síochána. Have we reached a situation where a member of An Garda Síochána can decide, "I don't like Michael McDowell. Therefore, I will publish something and make sure he is never elected to the House again."? Particularly when we are talking about young politicians coming in here in their first term - and I have seen some wonderful work by some of the young politicians who were recently elected - to have an impact on them, all you need is for somebody to print a story based on some innuendo that a garda said something. As Senator McDowell

said, if this Bill passes, it will be possible to name people. In such instances, journalists will say that they are not disclosing their sources. That is the concern I have. I will leave it at that.

**Acting Chairperson (Senator Joe Flaherty):** If no one else wishes to comment, I will put the question.

Question put:

| The Seanad divided: Tá, 23; Níl, 13. |                       |
|--------------------------------------|-----------------------|
| Tá                                   | Níl                   |
| Ahearn, Garret.                      | Collins, Joanne.      |
| Blaney, Niall.                       | Conway, Joe.          |
| Brady, Paraic.                       | Cosgrove, Nessa.      |
| Comyn, Alison.                       | Craughwell, Gerard P. |
| Conway, Martin.                      | Harmon, Laura.        |
| Crowe, Ollie.                        | Keogan, Sharon.       |
| Daly, Paul.                          | McCarthy, Aubrey.     |
| Duffy, Mark.                         | McDowell, Michael.    |
| Fitzpatrick, Mary.                   | Noonan, Malcolm.      |
| Flaherty, Joe.                       | O'Reilly, Sarah.      |
| Gallagher, Robbie.                   | Ruane, Lynn.          |
| Goldsboro, Imelda.                   | Ryan, Nicole.         |
| Kelleher, Garret.                    | Stephenson, Patricia. |
| Kennelly, Mike.                      |                       |
| Kyne, Seán.                          |                       |
| Murphy, P. J.                        |                       |
| Murphy O'Mahony, Margaret.           |                       |
| Nelson Murray, Linda.                |                       |
| Ní Chuilinn, Evanne.                 |                       |
| O'Loughlin, Fiona.                   |                       |
| Ryan, Dee.                           |                       |
| Scahill, Gareth.                     |                       |
| Wilson, Diarmuid.                    |                       |

Tellers: Tá, Senators Garret Ahearn and Paul Daly; Níl, Senators Michael McDowell and Gerard P. Craughwell.

Question declared carried.

**Acting Chairperson (Senator Pat Casey):** I take this opportunity to welcome the group from Galway to the Gallery. Former Minister and Deputy Frank Fahey was in earlier. I also welcome Deputy John Connolly and Councillor Cillian Keane. I hope the people from Galway have a good day. I hope Senator Ollie Crowe and Deputy John Connolly will look after them well for the remainder of their visit. I am sure they will provide free entertainment and free meals. I thank them all for coming.

Progress reported; Committee to sit again.

*Cuireadh an Seanad ar fionraí ar 4.22 p.m. agus cuireadh tús leis arís ar 4.32 p.m.*

*Sitting suspended at 4.22 p.m. and resumed at 4.32 p.m.*

## **Housing Finance Agency (Amendment) Bill 2025: Committee and Remaining Stages**

Section 1 agreed to.

### **NEW SECTIONS**

**Senator Joe Conway:** I move amendment No. 1:

In page 3, between lines 10 and 11, to insert the following:

#### **"Local authorities funding**

**2.** A minimum of 20 per cent of the increased borrowing capacity shall be reserved for local authorities with populations under 150,000. The Housing Finance Agency shall consult with these authorities on a quarterly basis to identify priority housing needs and barriers to accessing finance. The funding shall be reviewed annually and be subject to approval from the Minister."

This is a very short and reasonable amendment. As many of us here in this House who are directly responsive and freagrach do chomhairleoirí, answerable to councillors, know, and the Minister of State and I know from our time on Waterford City and County Council, very often councillors complain that they do not get clearly accessible and readable information on housing matters from central government and the quangos, such as the Housing Finance Agency. In an effort to make this a little bit more accessible to the public, but in particular our local authority members, I propose this first amendment. It ensures transparency and accountability in how public funds are distributed. It allows communities like Waterford to assess whether they are receiving equitable support compared with the other regions and empowers local advocacy if disparities arise. It also aligns with best practices in public finance oversight.

**Minister of State at the Department of Housing, Local Government and Heritage (Deputy John Cummins):** I thank Senator Conway. Unfortunately, I have to oppose the amendment he has tabled as local authorities are subject to an annual borrowing cap of €118 million, which is set by the Department of Housing, Local Government and Heritage, and reserving €300 million, or 20% of the proposed €1.5 billion as is set out for in this legislation, for smaller authorities would exceed this cap and create a misalignment of existing financial controls. Demand from local authorities for HFA lending does not reach the level suggested in 2025 to date, with €39 million being lent to 28 local authorities. This suggests that the proposed reservation would almost certainly go unused, leading to inefficient capital allocation and inadequate availability for approved housing bodies.

The Housing Finance Agency, in and of itself, does not lend to local authorities for social housing as this is grant-funded in full from the Department of Housing, Local Government and Heritage. The HFA engages regularly with local authorities, both individually and through representative bodies to ensure they are aware of financing opportunities where they arise. Additional mandated quarterly consultations would duplicate existing efforts and add administrative burden, potentially diverting focus from core lending and financial operations

requiring annual review and Ministerial approval, introduce additional bureaucracy, which would result in delays to lending, slow down the delivery of homes by other delivery partners, and reduce the HFA's ability to be responsive to urgent housing needs. Consequently, I have to oppose the amendment.

While understanding the thrust of what the Senator trying to achieve, I think he will see from what I have set out, the challenges of the amendment and what it would mean for the HFA in terms of advancing the required capital to approved housing bodies to do the job it is doing, while also adding an administrative burden that we want to try to reduce and streamline from a Government perspective.

**Senator Joe Conway:** In deference to what the Minister of State has said and informed the House of, I withdraw the amendment. It will be likewise with amendment No. 2.

Amendment, by leave, withdrawn.

**Senator Joe Conway:** I move amendment No. 2:

In page 3, between lines 10 and 11, to insert the following:

**"Quarterly report on developments**

**2.** Within three months of the commencement of this Act, the Housing Finance Agency shall be required to publish quarterly reports detailing— (a) the total loan disbursements by county and local authority, (b) project types funded, (c) average loan size repayment terms, and (d) environmental and energy efficiency ratings of funded developments.

Amendment, by leave, withdrawn.

Section 2 agreed to.

Title agreed to.

Bill reported without amendment.

**Acting Chairperson (Senator Pat Casey):** When is it proposed to take the next Stage?

**Senator P. J. Murphy:** Now.

**Acting Chairperson (Senator Pat Casey):** Is that agreed? Agreed.

Bill received for final consideration.

**Acting Chairperson (Senator Pat Casey):** When is it proposed to take the next Stage?

**Senator P. J. Murphy:** Now.

**Acting Chairperson (Senator Pat Casey):** Is that agreed? Agreed.

Question proposed: "That the Bill do now pass."

**Minister of State at the Department of Housing, Local Government and Heritage (Deputy John Cummins):** I thank Senators for their attention to this albeit short but important Bill over the past couple of days to ensure that we have an increase in the statutory borrowing limit from €12 billion to €13.5 billion, which I am advised will facilitate the construction of an additional 5,500 homes by approved housing bodies across the country. It is a very significant albeit short piece of legislation. I thank the House for its consideration.

**Senator Joe Flaherty:** I did speak to the Bill last night, but I thank Senator Conway for working in the spirit of the Bill, and particularly at a time when we face such a crisis in housing. A number of speakers last night drew attention to the issue of regional and technical colleges and their inability to access funding. There were positive soundings last night that there would be a move in relation to that. It is a significant concern for people across the Chamber. The Minister of State's colleague, the Minister of State, Deputy O'Sullivan, did take note of it last night and indeed seemed enthused that something may happen. If the Minister of State could apply similar vigour, it is to be hoped we will see something happen on that because it has been transformative in terms of opening up finance for approved housing bodies, as the Minister of State said himself. A secondary challenge and offshoot of the housing crisis has been student accommodation, and this is one way we can alleviate it.

I thank the Minister of State and his officials for their efforts on this important legislation.

Question put and agreed to.

*Sitting suspended at 4.40 p.m. and resumed at 6.31 p.m.*

### **Domestic Violence (Free Travel Scheme) Bill 2025: Second Stage**

**Acting Chairperson (Senator Malcolm Noonan):** Cuirim fáilte roimh an Aire, an Teachta Calleary.

**Senator Patricia Stephenson:** I move: "That the Bill be now read a Second Time."

I am delighted to speak about the first Bill I have introduced in the Seanad. I welcome to the Gallery colleagues from Dublin Rape Crisis Centre, Safe Ireland and Women's Aid, who have expressed their support for the Bill. It is a modest but vital proposal rooted in one simple idea, namely, that freedom of movement can mean freedom from harm. The Bill will provide survivors of domestic violence and their dependants with three months of free public transport. It is a small, humane intervention for people in crisis, designed to ensure no one is forced to stay with an abuser because he or she cannot afford to leave. It is not radical and it is not expensive but for those trapped by violence, fear and lack of means, it could be transformative. It is the bare minimum we should be doing as a society that claims to have zero tolerance for gender-based violence.

I am deeply disappointed that the Government is proposing a timed amendment to the Bill. It is cynical and it does not bode well for the co-operation and collaboration we aim for across this Chamber. We have seen this practice with several Opposition Bills since the start of this term. The reality is that despite having a zero-tolerance strategy in place, we have seen cases of domestic violence rise year on year. I am not suggesting for one minute that my Bill would

fix that but it would help those who are trapped and cannot afford to escape. When presented with a sensible, straightforward Bill, I wonder why the Government is delaying it. Not even allowing it to go to Committee Stage is a little cynical. The whole purpose of Committee Stage is to tease out the implementation aspects of a Bill but the Government is not allowing that. Delaying the Bill stifles room for debating this critical topic, which affects people throughout the country.

If the Government would allow the Bill to proceed to Committee Stage, we would have space in the Chamber to debate these critical matters. Despite the rhetoric of urgency we often hear, there are timed amendments and delays. I find that attitude and approach a little depressing. It can take many years for a woman to make the decision to leave. Why, then, does the Government want to delay a Bill that is designed to support people fleeing domestic violence and reduce their barriers to leaving? Does the Government not consider it a good Bill? Does it not think the issue it addresses is an urgent problem?

In fact, the scale of this problem is significant and increasing. Domestic violence is not rare; it is pervasive and it cuts across income, geography and background. Women's Aid tells us that one in four women has experienced abuse by a current or former partner. When we talk about women leaving, we sometimes discuss it as though it were some sort of single act, as if a woman simply packs a bag one day and walks out the door. Those of us who have listened to survivors know it is rarely that simple and straightforward. Research shows a woman will endure abuse for years before leaving and will attempt to leave multiple times before she is able to break free. Why is that so? The reason is that leaving is so dangerous. Leaving often escalates the violence and can mean losing one's home, income and sense of self. All too often, the State makes it harder, not easier, to go. Limited refuge spaces and a failed housing policy make it very hard for women to leave because they do not know where they will end up.

Another reason it is hard to leave is that leaving often has a cost. When we talk about poverty in the context of domestic violence, we usually mean financial poverty. That is real and it is crushing. Abusers often control access to money, transport, telephones and work. Survivors are told they will not survive without the abuser. There are also other forms of poverty. There is the poverty of isolation when an abuser cuts a woman off from her friends and family, when she no longer has anyone to call and when she cannot risk a lift from a friend because he might see. There is poverty of opportunity where a woman cannot get to her job, college or her child's school event because she has no car, no fare and no safe way to travel. There is poverty of time when every single hour is spent navigating fear, searching for safe routes and waiting for someone to call back. There is poverty of self-esteem when a woman is told for so long that she is worthless that she begins to believe it. This Bill cannot undo all of that but it can start to chip away at those barriers by giving survivors mobility, connection and a small bit of independence.

Domestic violence rarely affects just one person. Children live it, too. They may not always be hit but they are always harmed. Children who grow up with domestic violence can experience anxiety, depression and difficulties in school. When a mother leaves, she is not just saving herself; she is saving her children's future. That is why the Bill extends the free travel provision to children and dependants. For a child, a train ticket might mean getting to school safely, attending counselling or visiting relatives who can provide comfort and stability.

Throughout history, controlling women's mobility has been a means of controlling women's lives. When a woman cannot move freely and cannot leave her home, town or country, can we say she is free? In rural Ireland, especially, transport poverty is an incredibly gendered issue. Women are more likely to rely on public transport but less likely to have access to frequent or affordable services. If a woman is living in a small village with no car and her abuser controls the money, even getting to the nearest refuge can seem impossible. The Bill recognises that mobility is safety and that a ticket can be a lifeline.

As a social democrat, I believe in a society where public services provide real freedom and the State enables people to live safely and with dignity. This Bill very much embodies that principle. It does not rely on charity or chance. It relies on the State to step up, as it should, to remove one barrier that keeps women trapped. Social democracy means recognising that violence against women is not a private issue but a structural one. Domestic violence thrives when there is inequality. It is our duty to remove every barrier we can to create a more equal society. By creating a clear, accessible pathway of free travel for survivors, we make the State not just a responder to violence but a partner in recovery.

I acknowledge the work being done under the national zero-tolerance policy. The recent progress on co-ordination, the setting up of Cuan, the commitment to data collection and the funding for services are all very important. However, the reality is stark and the numbers continue to rise. Far too often, we see news reports of women murdered by their partners or ex-partners. Refuges are full. Women and children fleeing domestic violence do not have access to sustainable, long-term housing options. Nine counties still do not have dedicated refuge spaces, meaning even longer distances must be travelled and women are placed further away from any supports they may have. There is an additional expense that comes from that.

Given that these services do not exist, why will the Government not allow this very modest Bill to proceed? It is especially important for those families who are in need of support right now, not in 12 or 24 months' time. Women and children fleeing domestic violence are some of the most vulnerable in our society. They are among the worst impacted by the continuing housing emergency. The Government cannot keep repeating the concept of zero tolerance while women are forced to remain in danger because the system moves too slowly or the price of a bus or train ticket stands between them and safety. Zero tolerance must mean zero barriers.

That is what the Bill aims to achieve. Transport should be a lifeline, not a luxury. We have seen how free travel for students, older people and people with disabilities opens doors, creates connection and restores people's dignity. The Bill applies that same logic to survivors of domestic violence. It proposes that for three months, survivors will not have to worry about how to get to where they need to go. They can take the bus to their refuge, to their GP, to their solicitor, to court and to their child's new school. They can rebuild their life.

It is a really short window but it can make the difference between despair and recovery. The cost of this intervention would be fairly minimal to the State. Currently, the average amount allocated to each potential user, specifically the main card holder and the companion on the free travel scheme, is estimated at €55 per person per annum.

This Bill allocates a free travel pass for three months. Given the principle of the Bill, it is likely that people fleeing domestic violence would use this pass more frequently due to the upheaval in their lives, as they try to start a new life free from violence. We conservatively

estimate a €55 cost per person for three months. Women's Aid reported that it made 6,424 refuge and local domestic violence referrals in 2024. The likely cost of the proposal, therefore, would be about €350,000 if every single one of those referrals made use of the three-month pass. It is unlikely that every single person would use it, but even if we were to double that, a cost of €700,000 per year is the upper end of the probable cost of this Bill. That is a very small cost to the State when weighed against the potential to save lives, protect children and help survivors to rebuild.

Leaving is not the end of the story; it is the beginning of a long and often lonely process of recovery. There are practical hurdles such as finding housing, securing income, accessing counselling and rebuilding relationships, but there is a really profound emotional and psychological journey that comes with it too. Survivors must learn to trust again, hope again and believe that they can be safe. Mobility and the ability to move freely and to travel without fear is part of that recovery. It restores people's agency and gives them empowerment. Three months of free travel will not solve every problem by any means or stretch of the imagination, but it does send a powerful message that the State believes them and believes they deserve the empowerment and autonomy to rebuild their life and to live freely.

Sometimes progress is not made through really grand gestures but in small acts of decency that make survival a little bit easier. This Bill is one such act. It costs little but it would mean so much to the people who access it. It is an acknowledgement by the State that leaving is hard and rebuilding is hard but we trust them, we believe in them and we want to support them. It acknowledges that safety is not only about locks and alarms but also about access, connection and opportunity. It recognises that women do not live their lives in isolation and that when we support survivors, families and communities will prosper in the future.

So often in instances of domestic violence a woman will experience coercive control, psychological abuse and financial abuse. She will be isolated from her loved ones, friends and family. This will offer people an opportunity to rebuild those connections and relationships with parents, grandparents, friends and family who they might not have seen or been connected to for many years.

Some people might say that a refuge will pay for a taxi and ask whether that is not a solution. However, if people have to go to a counter or call a phone number every time they need to get to A, B or C, it means they have to ask for permission when they need to do this or that. People who have spent much of their lives being controlled in an coercive, abusive relationship should not have to call up somebody and ask permission for a taxi fare. They should have the power to do that themselves and move freely. That is fundamentally what this Bill is about. It is restoring people's agency and their dignity after it has been stripped away for so long.

None of us can undo the violence that has already happened but we can change the systems that make it harder to escape. This Bill is a small but concrete expression of solidarity. It is the State saying that it will meet them halfway on the road to safety. For too long, that road has been too long, too expensive and too lonely. With this Bill, I ask us to shorten the road and make it free to travel.

**Senator Laura Harmon:** I welcome the Minister. I am proud to be part of the cross-party group with Senators Stephenson, Noonan and Cosgrove. I commend Senator Stephenson's Bill. It is a very simple, progressive Bill. It is extremely disappointing that, again, we are



seeing a pattern from the Government of introducing a timed amendment, effectively kicking the can down the road when it comes to such an important issue and such a simple solution.

More than 65,000 instances of domestic violence were reported to An Garda Síochána last year. That is a shocking statistic. The level of violence is an epidemic. It is simply unacceptable. We know that similar steps taken in Britain and Northern Ireland to provide free rail travel have helped more than 10,000 people to avail of travel to seek refuge since that scheme was introduced in 2020. That is the equivalent of six people per day. We can imagine the effect it would have in Ireland and what that would mean at a time of crisis and trauma for so many. Many of those who are escaping physical or mental violence, or psychological or financial abuse, have no access to funds. If the Government could provide this service it would be transformative. This is something that needs to be supported this evening in this Chamber. By guaranteeing free travel we can help to alleviate the costs survivors face in these situations. Nobody should be forced into poverty as a result of abuse.

We know that 35% of women in Ireland - more than one in three - have experienced abuse from an intimate partner. In 2024 there were 32,144 contacts to Women's Aid. I acknowledge the groups in the Gallery today who are working at the coalface, and also Deputies Rice, Gibney and Cian O'Callaghan, who are here to support their colleague.

I am proud to support the Bill and to share a cross-party group with Senator Stephenson. This is a really progressive piece of legislation. It is simple. It makes sense and it needs to be passed.

**Senator Anne Rabbitte:** I move amendment No. 1:

To delete all words after "That" and substitute the following:

- "Seanad Éireann resolves that the Domestic Violence (Free Travel Scheme) Bill 2025 be read a second time on this day 12 months, to allow for the issue of travel supports for victims of domestic and gender-based violence be tabled for consideration by the Government."

I welcome the opportunity to speak on the Domestic Violence (Free Travel Scheme) Bill 2025. I commend Senators Stephenson, Cosgrove, Noonan and Harmon on bringing it forward. This serious, thoughtful legislation rightfully highlights the role of mobility, something many of us take for granted, in supporting those fleeing domestic violence. At its heart, the Bill recognises something that we all must accept as a society: that escaping domestic violence is not just about courage; it is also about access to support, safety and mobility. For too many survivors the cost of transport remains a real barrier to fleeing abuse or attending court, counselling or refuge.

This debate is a valuable one, but more than that, it is necessary. Everyone in this House shares a common goal to ensure that survivors of domestic and gender-based violence are supported by a system that is compassionate, responsive and effective. Fianna Fáil in government has made it clear that we are committed to doing everything in our power to support survivors of domestic and gender-based violence. The Bill aligns with that commitment and adds to the suite of supports we are putting in place.

I acknowledge the Minister for Social Protection, Deputy Calleary, for engaging with this Bill seriously and respectfully and for proposing a timed amendment that ensures the spirit of

the Bill can be realised through a mechanism that is workable and accountable and can be delivered within the broader social protection framework. The amendment will allow for a review and implementation phase to ensure the free travel extension meets its intended outcomes without unintended consequences and is properly targeted at those most in need.

While legislation is vital, we know that funding and service delivery are just as important. Budget 2026 contains a ring-fenced allocation of €80 million to support Cuan, the new statutory agency tasked with tackling and co-ordinating responses to domestic, sexual and gender-based violence, and to expand the range of services survivors rely on. The investment represents not just numbers on a page but also a meaningful expansion of refuge spaces, outreach workers, counselling services, legal assistance and public awareness campaigns. It is a reflection of our belief that survivors deserve a compassionate wraparound support from the moment they seek help.

I want to highlight the special provisions now in place for survivors to access short-term housing support. Through cross-departmental collaboration, we are ensuring that survivors are not left in limbo when leaving a dangerous situation. Leaving an abusive home often means leaving behind a roof over one's head.

That is not a decision anyone should take lightly. That is why we introduced streamlined access to emergency accommodation alongside local authority discretion for housing allocation in cases of domestic violence. These are targeted, trauma-informed supports designed in collaboration with experts on the ground to ensure survivors are not retraumatised by the very system that is meant to help them.

Let me be clear: Fianna Fáil remains fully committed to the implementation of the third national strategy on domestic, sexual and gender-based violence. This strategy is the most ambitious ever undertaken by an Irish Government because it has to be. It lays out a whole-of-society response, preventing violence, supporting victims, ensuring justice and driving cultural change. From the roll-out of consent educational skills and the increased number of refuge spaces to the enhanced training of gardaí, we are embedding a systemic response that is long overdue. There is more to do and there always will be, but we are moving in the right direction. In closing, I thank the Senators who brought this Bill forward. The free travel scheme extension has merit. With the Minister's amendment, I believe we can move towards a version that is both workable and effective. I again ask the Senators opposite to accept the amendment.

**Acting Chairperson (Senator Malcolm Noonan):** I welcome to the Public Gallery members of the Belgium-Luxembourg Chamber of Commerce in Ireland. They are very welcome. They are here as guests of Deputy Barry Ward. Fáilte romhaibh.

**Senator Gareth Scahill:** The Minister is welcome. I thank him for the opportunity to speak on the Domestic Violence (Free Travel Scheme) Bill 2025. I commend the Senators on bringing this Bill before us. It is a very simple, practical idea that could make a big difference in people's lives, especially to women and children trying to escape violence at home.

I come from County Roscommon, one of the nine counties the Senator referred to that currently do not have a domestic violence refuge. However, work has started on that, and a

multiagency approach is taking place in Roscommon at the moment. None of these things happen overnight. Cuan and Roscommon County Council are putting proposals together and working through them. A memorandum has been done up for this. My constituency colleague Deputy Daly has brought this up with the Minister. We are getting there. We are working through that.

To highlight that, since August 2025, Roscommon Safe Link can now offer two safe-home units to survivors of domestic abuse. We are gradually getting there and, as I said, these things do not happen overnight. However, when I spoke to representatives from Safe Link, they did say that a major barrier for most is safely accessing their service, especially when there is no means of transport. They told me they had situations where clients had been extremely reluctant to leave unsafe situations due to the fear of having no transport to maintain their children's education and no means of even travelling to a refuge or safe home in the first place. With a project as large as a refuge development, they acknowledged that it will take a significant amount of time to progress. That is why they are working with the bodies there that are trying to work with them, which directly results in their organisation having to refer people to refuges outside of County Roscommon. They said that without a means of transport, alternative refuges often result in survivors staying in unsafe situations, as the Minister said himself.

In principle, this is a very good Bill. In principle, there are a lot of the means in there that are going to address issues like people in Roscommon having to travel outside of the county to Galway, Sligo, Longford and elsewhere to find safe refuge. It is addressing an issue for those people. This Bill would give survivors of domestic violence free travel passes for three months with an option to extend it if needed. The Senators have put a great provision in there for Bus Éireann, Dublin Bus, Irish Rail, Luas, Local Links and participating private operators. It would be issued through trusted organisations. I mentioned Cuan already, but also domestic violence services so survivors do not have to tell their story over and over again. I must commend the Senators on that.

The free travel scheme is something that this Government and previous Governments have constantly invested in, and it is very well supported. The estimated expenditure on the scheme in 2025 is €107.6 million, so it is not a small figure that is going into this. What the Minister has always tried to do is ensure that those who need it most are getting that particular service. I acknowledge the compassion and common sense of this Bill. It is about using the systems that are already in place to make life a little bit easier for those at their most vulnerable. Therefore, I support this Bill in principle, but I ask, as my colleague beside me said, that the amendment be accepted by the Government to have the Bill read a Second Time in 12 months to allow for consideration and ensure that the measures are workable, implementable and sustainable.

**Senator Nicole Ryan:** I strongly support the domestic violence Bill 2025, which is compassionate, practical and deeply necessary legislation that will make real and measurable differences in people's lives. At the heart of this Bill, it is about dignity, as Senator Stephenson said. It is about recognising that when a person, most often a woman, makes the decision to flee a violent home, that decision comes with enormous personal, emotional and financial cost. It is about understanding that the journey to safety should not be one more barrier, one more source of fear or one more bill that pushed a survivor into further hardship. The Bill creates

what is being called a safe passage travel scheme. It is a three-month free travel pass. It is three months; it is not 12 years. It is three months to give someone breathing room to try to escape a situation. It is simple, survivor-centred and powerful because sometimes the difference between staying and escaping is something as basic as having the means to go on a bus or train. For many women and children, leaving the home means leaving behind their job, school and community and starting from scratch. Too often, survivors are moved to refuges that are far from their homes and far from the support networks simply because that is where the space is available. Then come the costs of travelling to court hearings, meeting solicitors, going to counselling appointments, bringing children to new schools or simply travelling to work to try to keep a life stable.

Housing supports were mentioned and, yes, emergency housing is well and truly needed for people who are fleeing this, but the emergency housing is for 12 weeks. What can a woman who is fleeing her home do in 12 weeks' time? Nothing. From the women I have been speaking to, I have heard them say they would rather stay in the abuse than face homelessness. That is the reality people are facing on the ground. Therefore, it is well and good to say these supports are here, that it is great and that we are doing it bit by bit, but it is not enough because women are choosing to stay.

I have met with the superintendents in my constituency in Cork North-West. We have the second largest number of domestic incident reports to the Garda. Last year, over 600 incidents were reported, and those are the ones that were reported. The Garda also works with people who do not report incidents and whom it tries to get out of these situations but they are so sensitive and so delicate. Yet, we do not have a refuge. We live in a very rural area. The closest refuge to my constituency is in Cork city. If someone is trying to uproot a family from Charleville to bring them to Cork city, travel is then another barrier because our travel infrastructure in Cork North-West is not great. We do not have great public transport there. It is just ludicrous to think that the Government would push back on something as simple as this.

We know that domestic violence does not just destroy safety. It drives people into poverty. The Bill acknowledges the truth and acts to ease it, providing a lifeline in those fragile first months for someone who has fled violence. What makes the scheme so well designed and thought-out is its emphasis on privacy and trauma-informed access. Survivors will not have to recount their stories again and again to strangers at a ticket desk. The pass will look identical to any other travel pass, and it could be issued discreetly through approved domestic, sexual, and gender-based violence, DSGBV, organisations under Cuan, ensuring that dignity, safety and confidentiality remain at the centre of all of this. That is how policy should be made - empathetically, practically and with respect for people.

I want to take a moment to commend Senator Stephenson and the Cross-Party Group, who brought this forward. Senator Stephenson has been an outstanding advocate for those voices that are too often unheard, survivors from minority groups and all those who live along the shadows of abuse. Her dedication to the domestic violence sector, her sensitivity to the realities faced by the survivors and her ability to bring people together across political lines are to be applauded.

7 o'clock

We need more legislators like her - people who do not just speak about compassion but build it into law.

This Bill represents what politics can be, which is collaborative, people-focused and rooted in lived experiences. I think about the many women in Cork North-West who have spoken to me about the impossible situations they faced. A mother in Macroom told me she could not take a refuge place in Cork city because she had no way to get her two children to the school. She had to stay in an abusive situation. Another woman spent her first week after fleeing home relying on neighbours to drive her to GP and court appointments. It takes courage to walk away. It is not a simple decision and, for many of these women, it is a life-or-death situation. Women are most in danger when they leave.

The Bill is not proposing to change the whole system. It seeks to make a small, practical change such that survivors can leave without having to worry about the cost of travel. I particularly welcome the provision to include mechanisms for review and gathering feedback from referral bodies and transport providers to ensure the scheme will continue to meet survivors' needs. Those of us working in communities, urban and rural alike, see the gaps in provision every single day. We know how much difference one practical support can make. This safe passage scheme is not a grand gesture. It is not grounded in immediate intervention but it can change lives.

I commend the Bill. I am really disappointed the Government is putting forward a timed amendment. As other Opposition speakers have said, all our Bills are being pushed back by 12 months. It takes ages for legislation to get through this House. There is nothing to stop the Government from letting this Bill proceed. Let it go to Committee Stage, where the Government can make its amendments. Some women will not have 12 months to wait. Women will lose their lives because they will not be able to flee. The Government's amendment is really disappointing. I thank Senator Stephenson and the Cross-Party Group for bringing forward the Bill.

**Senator Lynn Ruane:** I get a sense that the general feeling in the Chamber is not one of support for the Government's amendment. Sometimes, listening to Members from the Government parties speak, one can tell there is not an energy behind wanting to delay something. That can be felt in how Members present their contributions on a topic. I can sense that here today. I encourage colleagues opposite not to provide tellers for the vote on the amendment. Beyond the substance of the issue we are discussing, which I will get to, we all, whether representing the Government or the Opposition, should have faith in the job we do here and in our ability, whether as officials, Departments, experts or legislators, to work together to come to arrangements about legislation between Second and Committee Stages. That is what the legislative process is for. It is about working issues out at each Stage.

For some reason, in the ten years I have been here, a brand-new feature of the legislative process has been created over time by the Government. I refer to the putting forward of timed amendments. That started happening two or three years into my term in the House; it did not exist beforehand. Timed amendments were brought in purposely to delay legislation because the Government did not want to be seen to vote against something about which many people within the parties of government cared, because the parties had policies on it or because they

could see the proposal might not align with the intentions of the Government of the day or the relevant Department. This is one of those moments.

As an Independent Senator who has had a lot of my legislation passed in the House, I have always been able to come to arrangements with Departments that I would not table a Bill for Committee Stage until there had been robust engagement on the crux of the proposals and until we had agreement that what the Bill could look like when it came back on Committee Stage, what the operational part would look like and what amendments there might be. I did that with former Ministers Charlie Flanagan and Deputy O'Gorman. All those Bills were passed in this House, having been worked out by way of the normal process. A 12-month delay is not needed. We should have faith in our capabilities and capacity. On my first day in this Chamber, everybody spoke about the need to work collaboratively. Delaying legislation is not working collaboratively. We work collaboratively by recognising legislation on its principles, merits and what it can achieve. The Government might want some changes but that can be worked out between us before Committee Stage. What should not be done is delay the legislation. I ask for some reflection on that in the time we have left. Will the Government allow us to be legislators and have faith that the Department and the Minister will be able to have those discussions between now and Committee Stage without a time delay?

I will not lecture anyone on why this Bill is important. I accept that everybody in the Chamber knows that. I will give some examples of where it comes into play outside of rural areas. Without giving away the locations of refuges, some are in the suburbs of Dublin for people from Dublin Central. One woman I supported refused to go into a refuge because there was no bus route to the suburb of Dublin where it was located. She did not want to disrupt her children's school day because their lives were already disrupted enough. She wanted them still to have one constant in their day, which was the teacher and friends they were used to. She was terrified to take that refuge space because she might not be able to get the children to school. Being unable to get them to school was not just a question of disruption but the worry that Tusla might get involved. All the barriers presented, layer upon layer, and then the panic came and she said she could not go. She needed safety but she was terrified of all the other things that would happen when she sought safety. Sometimes, seeking safety can reduce one's safety.

Those are the types of decisions people are making on a daily basis. I supported a woman years ago when I worked in addiction services who was in a situation where someone had complete financial control of all her payments and access to money. When I asked whether she had access to her children's allowance payment, she said she did not because the State now required a stamp from her child's school to prove the child was still attending school past 15 years of age. There are really vulnerable people who struggle to get their children to school, whether because of additional need or trauma in the household. Over the years, with very little uproar, women's children's allowance payment has been associated with their children still being in school, completely ignoring all the issues a family may face and further pushing vulnerable women into poverty.

There are loads of reasons women do not have the ability to travel, whether to school or appointments. An issue I encountered on many occasions from people trying to leave difficult situations was that when asked why they had not called me or another safe person, they said they did not want to be a burden. They did not want to pull another person in because that

person knew their partner's sister, say, and they were terrified the partner would be contacted. All of a sudden, the web of fear cripples the person and prevents them being able to ask for a lift or money for a bus or taxi. People are terrified to pull others into their situation. When they are safe, they may pull more people in but when the ground is moving beneath them, they are afraid.

What is proposed in this Bill is a very conservative measure. When I read it, I wondered whether Senator Stephenson was for real in providing for only three months of free transport. The provision is extremely modest. I ask everybody to pause for a moment. It is not too late for the Government to take a different approach. The Minister's Department, with the will of the Government, can work with Senator Stephenson to ensure the Bill can be operational, is funded and will do what it says on the tin. We do not need a timed amendment to achieve that.

**Senator Linda Nelson Murray:** I had not initially planned to speak in this debate but I am glad the Acting Chairperson called me. I got Senator Stephenson's email and I am here in the Chamber, as is my colleague Senator Ní Chuilinn, because we support her Bill, everything she has said this evening and what she represents. We have all dealt with people who have suffered domestic violence. We can see this is the right thing to do and we are here to support Senator Stephenson.

**Senator Nessa Cosgrove:** Many speakers, on both the Opposition and Government sides, have spoken passionately about this Bill. I completely agree with Senator Ruane that there is an opportunity for the Government to step back and take out the amendment. As Senator Nicole Ryan said, the proposal is for only three months of free travel. Senator Ruane noted that when she first read the Bill, she thought it would surely pass. When we found out today there would be a timed amendment, none of us could believe it. The Bill proposes a very simple solution that can completely change people's lives.

I am very happy to be part of this very brave and liberal legislative proposal. It offers a thoughtful and practical way to address an issue about which there is so much talk at the moment.

We know the rate. My colleague Senator Harmon said there had been 65,000 calls to An Garda Síochána last year regarding domestic violence. That is 200 people a week. We know the Bill is limited by the three months but it is significant in its ambition and in the financial and psychological impact it will have on survivors and their families. The Government should pause and think. We all should. We can see the support here. It is okay to say that we made a mistake. We do not need to have a timed amendment. Why have it? As a new Senator, I do not understand the idea behind timed amendments. All they do is delay things. We have raised this before. I represent a rural constituency. Sligo and Leitrim are counties where there are no women's refuges. That is being worked on. The availability of Local Link services has transformed rural Ireland. The Minister knows this but providing a three-month pass to someone is a no-brainer. Financial control is a major part of domestic violence and coercive control. Access to money means freedom from that control. This is a very basic measure that, if introduced, could save people's lives, similar to what Senator Dee Ryan said earlier. I hope the Minister will reconsider the amendment he has introduced today.

**Senator Malcolm Noonan:** Cuirim fáilte roimh an Aire. This is the Cross-Party Group's fourth piece of legislation. On every occasion, we have used our Private Members' time to bring forward legislation that I think is progressive. We are trying to bring in progressive legislation. The last Bill we brought in was also subject to a timed amendment. It related to vacancy and dereliction. This Bill is far more urgent. I have seen it from the other side. I have been in government. I saw very good legislation coming from the Opposition only for a timed amendment to be applied. It is unfortunate. I can appreciate the different priorities but the proposal to allow the Bill to progress while fine-tuning it and dealing with those elements the Minister would have to address from a social welfare point of view could be accepted.

I commend Senator Harmon on bringing forward this legislation. We want to use our Private Members' time to bring forward progressive legislation. If you look at other legislatures across Europe, including those across the water in the UK, opposition Bills are routinely accepted by government. That shows progressive politics and collaboration across a house. I welcome the Minister's response but this is urgent. I am fortunate that, in the constituency where I live, there is the Amber Women's Refuge in Kilkenny. We hope that Carlow is about to be served with a refuge as well. The issue here is about a State that cares about women fleeing domestic violence. Every single measure we can bring forward as a State shows that we care and that we take a zero-tolerance approach. This legislation is practical and implementable and would make a meaningful difference to women and families fleeing situations of domestic violence.

**Minister for Social Protection (Deputy Dara Calleary):** Gabhaim buíochas leis na Seanadóirí. Déanaim comhghairdeas leis an Seanadóir Stephenson as an mBille seo. Nílimid i gcoinne an Bhille. Táim an-soiléir faoi sin ach tá a lán obair le déanamh againn. Those who know me will know I am not in the business of putting things on the long finger. I want this to work but I want to make sure it is workable and practical. That is why we have proposed a timed amendment. We have a work plan as part of that. This is not kicking the can down the road and saying that no work will be done for 12 months. I will go through that with the Senators. I commend Senator Stephenson and congratulate her on her first Bill. I welcome her colleagues from the Lower House. I look forward to working with her on a lot of issues. I assure the House that this is a priority for the Government but I want to make sure it is practical and can be implemented meaningfully and rapidly.

We already provide a range of services and supports for victims of domestic violence through a number of Government Departments. The most important thing is that we integrate any new services such as this in an effective manner. Cuan was established as a response to those who looked for a joined-up service. It was established by the Minister, Deputy McEntee, to tackle and reduce domestic and gender-based violence. It has been given the very specific remit of delivering services and supports to victims of domestic violence. Since its establishment, it has been working hard to deliver on that remit. Budget 2026 has allocated over €80 million to Cuan and other services that are supporting victims and survivors of gender-based and domestic violence.

While it may seem simple to add a short-term free travel option for victims of domestic violence onto one of the existing free travel schemes, for example, the scheme for recipients of long-term social welfare payments, it may be more appropriate and speedier and provide a better solution for those victims of domestic violence to offer this option as part of a package of services and supports provided through Cuan. This would mean service users seeking



support with transport costs could do so through the existing service providers supported by Cuan. These providers are experts in the field of domestic violence and are already helping victims with accommodation and other services. That is why I am putting forward a timed amendment. It is not about opposing or delaying the Bill. We want to do this in the best way possible. The timed amendment will allow time to explore options with all of the relevant service providers and stakeholders to ultimately provide the best solution we can.

In putting forward the timed amendment, I note that what is proposed in the Bill is a short-term scheme linked and limited to specific domestic violence offences. The scheme the Senator is proposing is very different from the free travel scheme that is funded and operated by the Department of Social Protection. That scheme is designed to support recipients of long-term social welfare payments and is provided as a service feature on the qualifying persons public services card. It is not time-limited. The entitlement is not separately assessed but is automatically enabled once a person is in receipt of the underlying payment. The free travel functionality is attached to the card and is integrated into the tap-and-pay terminals of most transport operators. What Senator Stephenson is proposing is essentially a short-term travel card option that is not associated with a welfare payment. Entitlement conditions would have to be established and eligibility to access this free travel entitlement would be assessed by a competent provider. It is not clear whether this would be best delivered by the Department of Social Protection rather than a service provider supported by Cuan. As I have said, services for victims of domestic violence are co-ordinated by Cuan and, regardless of where and who we reach through front-line providers, Cuan will be centrally involved in my work on this matter.

Senator Harmon spoke about the scheme in Northern Ireland. I want to look at that scheme and to incorporate elements here to ensure there are no differences between the schemes. We must also look at transport providers. A number of Senators who spoke are from rural constituencies. We know the difficulties there are in accessing rural transport rapidly. Taxis are not necessarily available in rural areas in the way they are in cities. Every other service is timetabled. However, the new TFI Anseo service is being trialled in a number of places. This provides a daily service for much longer. We want to engage with Local Link operators as to how we can provide services that would be needed urgently in these areas.

I assure the Senator of my support for the Bill but I need time to work through the logistics. I assure her it is not being put on the long finger. This is an urgent situation for those seeking to flee. They need support and confidence that the support is there. It is most important that we do not make supports available only for them not to work when a person needs them, often at very short notice. We accept the principle of the Bill but I want to make sure that, when we expand this service, it will work and that, when a woman needs it urgently, she will know it will be there for her. There is no sense in giving the benefit if we cannot provide an accessible service. I want to make sure that happens on the ground. Many Senators have spoken about the lack of refuge services in many areas. We want to make sure that, when somebody makes this incredibly brave and very difficult decision, transport will be there if they need it. That is the kind of work I want to do.

The timed amendment is 12 months but I assure the Senator that we will have a lot of work done quickly on this. We are engaged with senior officials' groups, and we will engage with Cuan and a number of providers as to how we can quickly move this on.

While we do that, my Department continues to support initiatives to help victims of domestic violence. Easier access to the rent supplement scheme is available to victims of domestic violence. A protocol to assist victims of domestic violence in accessing the rent supplement was introduced in August 2020. As part of the protocol, the accommodation needs of victims of domestic violence are met through a joined-up service delivery model provided by Cuan, with the close involvement of the various housing authorities nationwide. In that case, as officers in my Department are not qualified to adjudicate on domestic violence cases, we have established a protocol based on a referral system by Cuan, or by prescribed and State-funded service providers authorised by Cuan. This provides victims of domestic violence with a fast-track approval and screening process, with a simplified means test to get immediate access to rent supplement, so they are not prevented from leaving their home because of financial concerns. In this case, my Department is involved because it funds and provides the rent supplement.

This model may work for a free travel option but, in fact, it may be possible to introduce a simpler approach that does not require multiple handovers, where the service providers themselves can issue a free travel card. I want to take the time to explore this option further, and I had discussions this afternoon with officials as to how that might look and work. It could be done relatively quickly as opposed to establishing a whole new scheme and entitlement. We will engage with Cuan and the Senator on that. I want to make it very clear that my door is always open for engagement pre-legislation and post legislation. Any of our engagements will involve the Senator and the colleagues in her group.

We continue to provide additional needs payments as part of the supplementary welfare allowance. Those payments are available through the community welfare officers. We are moving many of our services online to give people that confidential option of seeking that service online and not having to engage with somebody they may know in their community to seek those supports. Through *mywelfare.ie*, that kind of support will be available to give the person further confidence in this regard. We often use additional needs payments to assist victims of domestic violence. Travel supplements are being paid in exceptional circumstances where a person has a recurring travel expense but does not have sufficient resources. Those supports are available. I will provide a summary of the supports to all Senators so they have access to that information.

I assure the Senator that I am not opposing this Bill in its intent. I want to make it practical. I want to work with the Senator and the providers in this space. I want to work especially with Cuan. We have already tasked a senior officials' group of the Government to look at the Bill and get working on it. I am working with the Minister, Deputy Darragh O'Brien, in the Department of Transport, which has been assigned responsibility for this within the domestic violence strategy.

I have not worked with Senator Stephenson before. The Senators in the House who have worked with me know that I will not tell you I can do it if I cannot do it. If I am saying it is a timed amendment, I am not saying that I am not going to talk to the Senator for 12 months. The work is getting under way as to how we make this happen and action this, but I share the Senator's intent and ambition. However, there is no sense in us passing legislation unless it can actually work on the ground, and unless, when somebody needs that service, the service is available to them at the point at which they need it.

A transport service is essential for many when they make that decision. Senator Ryan spoke about Cork North-West. I want to make sure that when people need it, it is there and it works. That is why I reiterate my intention to engage with Senator Stephenson and, most importantly, with Cuan and the providers in this space, so we can provide a system that works when somebody needs it. If it is not there, if we provide the entitlement and it is not there when somebody needs it, that would be a worse situation.

**Senator Patricia Stephenson:** This is the first time that I and the Minister have spoken. He said that we have not worked together before. I welcome his positive words about the Bill. I understand that he has a commitment and a desire to pass this. However, with all due respect, this is not just about his Department. This is something that has happened across the board with all different types of Bills. Passing this Bill, allowing it to go to Committee Stage and allowing Committee Stage debate would not prevent the Department from strengthening the Bill or the Minister's work with Cuan from happening. It is for that reason that I cannot accept the timed amendment. I would love the Minister to trust me as much as he is asking me to trust him, in the sense that I do not want to ram through bad legislation. If, in the meantime, while we allow the debate to happen and we allow the space to have these important conversations, the Minister came up with a Bill that worked better, I would of course withdraw my Bill. I understand that the Minister has the Department behind him.

I have consulted many providers around this. I did not pull this out of thin air. I recognise that the Minister would definitely need to speak to Cuan as the main lead. I am delighted to hear that the Minister thinks there is a different option of service providers having a pass that they hand out instead of the application process with the photo. All of those things are brilliant. I respect and understand that the Department has given this a lot of thought, and I thank the Minister for that. Again, I feel that this can still happen in the normal legislative process.

I wonder why we have Opposition Bills if the feeling is that once we put in a Bill and spend time, it will just be delayed by 12 months. As a new legislator, it raises questions for me about the purpose and role I play in this House. That is where I am coming from. Senator Ruane made it clear that all of the changes, suggestions and strengthening that the Minister is coming forward with, which I respect, could be done if we moved this to Committee Stage. We would not be passing the Bill tonight anyway, and it would be following through various stages of the legislative process with space to be strengthened.

The Minister will have heard from other Senators that we have had this challenge across the board. We have a good, sensible Bill that clearly has a lot of support. I thank all of the Senators on the Government side for attending and providing that support. I know it means a lot to them, and I know they have may have personal experiences, the experiences of friends and family, and instances in their own constituencies where this comes up. This is a modest Bill. I accept it may not be the most straightforward legislation, and there are components that the Minister's Department and the Department of Transport would need to iron out, perhaps also with the Department of justice. However, I think those things can be done as part of the normal legislative process.

That is why, while I am sorry, I am not in a position to support the 12-month timed amendment. While the Minister says that it does not mean he is putting it on the long finger, it does mean that we cannot debate the Bill again for 12 months in this House. In that sense,

there is a kicking to touch from our perspective. I know it does not mean the Minister would not be working on it behind the scenes, but he could also be working on it behind the scenes if we moved to Committee Stage. It is not like Committee Stage would be next week. That is not the reality, although we would love it to be an option. That is not how it would normally work because so many things are coming through on the agenda.

I thank the Minister for his engagement and that of his team and the Department.

Amendment put:

| The Seanad divided: Tá, 23; Níl, 11. |                       |
|--------------------------------------|-----------------------|
| Tá                                   | Níl                   |
| Ahearn, Garret.                      | Andrews, Chris.       |
| Blaney, Niall.                       | Black, Frances.       |
| Brady, Paraic.                       | Collins, Joanne.      |
| Comyn, Alison.                       | Cosgrove, Nessa.      |
| Conway, Martin.                      | Harmon, Laura.        |
| Curley, Shane.                       | Keogan, Sharon.       |
| Daly, Paul.                          | Noonan, Malcolm.      |
| Duffy, Mark.                         | O'Reilly, Sarah.      |
| Flaherty, Joe.                       | Ruane, Lynn.          |
| Gallagher, Robbie.                   | Ryan, Nicole.         |
| Goldsboro, Imelda.                   | Stephenson, Patricia. |
| Kelleher, Garret.                    |                       |
| Kennelly, Mike.                      |                       |
| Kyne, Seán.                          |                       |
| Lynch, Eileen.                       |                       |
| Murphy, P. J.                        |                       |
| Murphy O'Mahony, Margaret.           |                       |
| Nelson Murray, Linda.                |                       |
| Ní Chuilinn, Evanne.                 |                       |
| Rabbitte, Anne.                      |                       |
| Ryan, Dee.                           |                       |
| Scahill, Gareth.                     |                       |
| Wilson, Diarmuid.                    |                       |

Tellers: Tá, Senators Garret Ahearn and Paul Daly; Níl, Senators Patricia Stephenson and Nessa Cosgrove.

Amendment declared carried.

Motion, as amended, agreed to.

**Acting Chairperson (Senator Pat Casey):** When is it proposed to sit again?

**Senator Seán Kyne:** At 2.30 p.m. on Tuesday, 4 November.

Cuireadh an Seanad ar athló ar 7.44 p.m. go dtí 2.30 p.m., Dé Máirt, an 4 Samhain 2025.

The Seanad adjourned at 7.44 p.m. until 2.30 p.m. on Tuesday, 4 November 2025.

