Vol. 310
No. 7

Wednesday,
21 January
2026

DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TUAIRISC OIFIGIÚIL—Neamhcheartaithe
(OFFICIAL REPORT—Unrevised)

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SEANAD ÉIREANN

Dé Céadaoin, 21 Eanáir 2026

Wednesday, 21 January 2026

Chuaigh an Leas-Chathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.

Prayer and Reflection.

Gnó an tSeanaid - Business of Seanad

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

Senator Teresa Costello - The need for the Minister for Justice, Home Affairs and Migration to provide an update on the review of the enforcement of child maintenance orders.

Senator Garret Ahearn - The need for the Minister for Defence to make a statement on the inclusion of a local participation framework in the defence procurement process.

Senator Nicole Ryan - The need for the Minister for Transport to make a statement on funding for the improvement of train services and fare access for students travelling from north Cork to Cork city.

Senator Nessa Cosgrove - The need for the Minister for Transport to make a statement on the future use of the part of the western rail corridor between Collooney, County Sligo, and Claremorris, County Mayo.

Senator Linda Nelson Murray - The need for the Minister for Health to make a statement on the completion of the assessment by the HSE of the physician assistant role.

Senator Aubrey McCarthy - The need for the Minister for Health to provide an update on the reimbursement application for the Duchenne muscular dystrophy treatment, givinostat.

Senator Victor Boyhan - The need for the Minister for Housing, Local Government and Heritage to provide an update on the full roll-out of the Plean-IT project, upgrading the IT system operated by An Bord Pleanála.

Senator Eileen Lynch - The need for the Minister for Enterprise, Tourism and Employment to make a statement on the potential impact on Ireland of the EU proposals to restrict lead ammunition.

The matters raised by the Senators are suitable for discussion. I have selected those raised by Senators Teresa Costello, Garret Ahearn, Nicole Ryan and Nessa Cosgrove, 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

Court Orders

An Leas-Chathaoirleach: I welcome the Minister for Justice, Home Affairs and Migration, Deputy Jim O'Callaghan, to the House.

Senator Teresa Costello: I thank the Minister for being here today. In 2024, the previous Minister published the review of the enforcement of child maintenance orders. There were 26 recommendations grouped under three approaches, a consensus-based approach, a compliance-based approach and a deterrence-based approach. I acknowledge the Minister's work on the matter of child maintenance and efforts on the implementation of these guidelines.

Every day, in every room we sit in, chances are we are in the company of a parent raising children or a child without any form of maintenance being paid to them by the other parent. That is a disgrace. It is indefensible for someone not to be willing to step up and own their responsibility by financially providing for a child they have brought into this world is indefensible. Child maintenance is not a bonus or a luxury used to get your hair done, go on holiday or buy a car. It is not optional. It is a legal and moral responsibility to ensure that children that you have brought into this world have their needs met and are provided for. Anyone raising children knows it costs money to meet their needs. Children do not survive on fresh air.

If a parent does not pay maintenance, what happens? The answer is often "very little." The parent who should be receiving the payment must go back to court repeatedly, at their own expense, taking time off work, arranging childcare and reliving conflict, all while the child, who, I repeat, was brought into the world by two parents, continues to go without. Compare this with how we collect taxes, fines or social welfare overpayments. Those systems work efficiently, with money tracked, payments enforced and consequences that are real. When it comes to child maintenance, however, which is money that directly affects children's well-being, there is no automatic follow-up and no assumption that a missed payment is urgent.

To recover arrears through the District Court, a parent must complete detailed applications, file multiple copies, arrange personal service of documents, swear statutory declarations, meet strict deadlines and attend court hearings, often repeatedly. Any small mistake can delay the case or cause it to be struck out entirely, forcing the parent to start again from the beginning.

If the paying parent is employed, an attachment of earnings order may be sought. If that parent is self-employed, unemployed or evasive, enforcement becomes even more difficult. Even when non-payment is proven, outcomes can include adjournments, variations of the order or further delays, while arrears continue to grow and children continue to go without. Other countries that have centralised child maintenance service agencies that calculate payments

collect them and enforce them automatically. These systems reduce conflict, ensure consistency and, most importantly, put children first.

We need a system that recognises child maintenance as essential rather than optional, one that enforces responsibility fairly and consistently, and stops forcing parents to fight the same battle repeatedly just to secure what their children are entitled to. This is the heart of the problem. The system relies on persistence rather than protection. It rewards delay, avoidance and non-compliance, while exhausting the parent who is already carrying the financial and emotional load.

Child maintenance should not depend on how resilient or legally confident a parent is. It should be enforced consistently, efficiently and automatically. Child maintenance is about dignity, stability and fairness. Our children deserve a better system than one that looks the other way. It is time we fixed it.

Minister for Justice, Home Affairs and Migration (Deputy Jim O'Callaghan): Gabhaim buíochas leis an Seanadóir Costello as an gceist a chur. Is ceist fíorthábhachtach í do na tuismitheoirí, go háirithe tuismitheoirí os comhair ár gcúirteanna.

I thank Senator Costello for raising this important issue. The issues the Senator has identified clearly reflect the importance of child maintenance and of receiving child maintenance and the significance attached to being a parent. As she indicated, my Department carried out a review of enforcement of child maintenance orders. The review, which was completed two years ago, on 8 January 2024, made 26 recommendations.

The key recommendations required the development of a set of child maintenance guidelines, the introduction of mandatory mediation information sessions for child maintenance applications, the strengthening of attachment of earnings orders and exploring the possibility of attaching an order to a personal public services, PPS, number rather employing entities. Also, there was the proposal to introduce a single enforcement procedure when the receiving parent makes an enforcement application. This would allow the judge to choose the most appropriate enforcement option. It was also recommended that there be simplification of the bench warrant process and that the onus be placed on paying parents to pay costs associated with enforcement proceedings. Finally, it was recommended that there be a provision put in place for deductions from social welfare, the paying parent's bank accounts and Government grants and subsidies, and allowing for the recovery of arrears from tax refunds.

An interdepartmental group was then established in February 2024. It was tasked with the responsibility of setting a series of child maintenance guidelines for use by all parties on a voluntary basis and with the development of an online calculator to help determine fair child maintenance payments.

The objectives of the child maintenance guidelines include: establishing consistent, fair and predictable amounts of maintenance for children whose parents are not together; increasing transparency; reducing conflict and tension between parents since they will know what the appropriate payment should be; and reducing the number of child maintenance applications made to the courts in order to ensure consistent treatment of parents and children in similar circumstances.

In April 2025, the child maintenance guidelines committee conducted a survey-based consultation to get the views of the public. I am pleased to inform the Cathaoirleach and Senator Costello that on Monday last, I published Ireland's first set of child maintenance guidelines along with the report relating to the public consultation. The aim behind the published guidelines is to improve fairness, consistency and transparency and reduce conflict when parents are making child maintenance arrangements. The guidelines will be voluntary for parents and can also be used voluntarily by the courts. The courts will find them of great assistance.

I will shortly launch the innovative new online child maintenance calculator, which will help parents to make private arrangements directly where possible and appropriate. In line with another recommendation in the review, my Department undertook a social media campaign in October 2025 to reinforce the importance of paying child maintenance orders. As a number of recommendations in the review will require legislative changes, work on examining those changes is taking place within my Department. Officials in the Department are liaising with other organisations and bodies to implement the other recommendations in the review, which I outlined and which, I know, Senator Costello wants to see implemented. As a large proportion of civil justice proceedings relate to family law, it is important that we have a consistent and transparent method of making child maintenance calculations in order that people will not have to go through the process of very complicated applications in court and will know that there is a procedure available for them to be objectively and fairly calculated.

Senator Teresa Costello: I thank the Minister for his response. When he took up this role, I knew that there would be movement in this area because I had spoken to him about it previously. He understood at that time how important it was, and it was something he had worked on prior to taking up his current role. In that context, I am happy with today's response. I am happy that he took the 26 recommendations seriously and that he has made certain moves, particularly as this was a priority for him previously. Prior to his being in this role, I had asked the question and there had not been as much movement. What he listed out today is really positive. Conflict resolution and the avoidance of conflict between parents is important. The Minister is making really good strides in achieving that, so I thank him.

Deputy Jim O'Callaghan: Family law is the aspect of law that affects the majority of people in the country. Fortunately, most people do not end up before the courts. If, unfortunately, you find yourself in a family dispute and there are children involved, you probably do need to go before the courts. It is important that we, as legislators, ensure that the system for family law in place is fair, efficient and helpful to people who come before the family courts. Our sole objective should be trying to facilitate the individuals before the courts. It is not about lawyers or judges; it about the litigants.

The calculator for the maintenance guidelines will be coming in shortly. I urge Senators to have a look at the maintenance guidelines that were published. A huge amount of work went into them. The calculator sets out a very mathematical and logical basis for people to calculate how much maintenance should be paid. It is based on the financial capacity of the parents and the amount of time they devote to the children. Other resources are also taken into account. It is a very useful tool. I urge all Senators to have a look at it.

Acting Chairperson (Senator Victor Boyhan): I thank the Minister for coming to the House this morning. It is it is greatly appreciated by Members.

Departmental Policies

Acting Chairperson (Senator Victor Boyhan): I thank the Minister of State, Deputy Dooley, for coming to the House to take this matter, which relates to the participation framework in the defence procurement process. Senator Ahearn has four minutes to set out his stall.

Senator Garret Ahearn: I welcome the Minister of State. I also welcome the opportunity to raise the issue of defence and security procurement, in particular the importance of ensuring meaningful local participation as Ireland increases its investment in this area. It is clear that public understanding of Ireland's defence and security environment is evolving. There is growing awareness of our vulnerabilities, our responsibilities within the European Union and the reality that decades of underinvestment in defence capability must now be addressed. As this expenditure increases, it must be seen as an opportunity not only to strengthen sovereign capability but to deliver tangible economic and regional benefits across the State.

Ireland already has a growing number of indigenous SMEs operating in these areas. There is a clear need to strengthen local participation within defence procurement policy in a manner fully consistent with EU procurement rules. We must ensure Irish firms are engaged early in capability planning and delivery whether through maintenance, training, logistics, research and development, systems integration or long-term life cycle support. Early engagement with domestic industry delivers three clear benefits. First, it strengthens national resilience by ensuring critical knowledge, skills and support capacity exist within the State. Second, it delivers better long-term value for the taxpayer by reducing life cycle costs and dependency risks. Third, it de-risks the delivery of major programmes at a time when the Defence Forces increasingly require private sector expertise to support complex systems. As these negotiations progress, there must be clarity on how industrial participation measures are being embedded and how Irish SMEs and third level institutions can play a meaningful role in these programmes. This approach is also fully aligned with Ireland's obligation to contribute to the European defence technology and industrial base. Bringing non-traditional dual-use Irish companies into European defence supply chains strengthens not only Ireland's position but Europe's collective security and resilience.

There is a strong case for ensuring that Enterprise Ireland supports are aligned with the specific needs of defence and security-related innovation, including support for research and development collaboration with the Defence Forces and European partners. With the right alignment, Irish firms can scale, develop, export potential and contribute more effectively to national security objectives. We are increasing defence spending. We are already committed to buying major capabilities. The question is why would we not ensure Irish companies and our research and innovation sector benefit from that investment. We should be making absolutely sure that a proportion of this expenditure remains within the Irish economy, supporting Irish businesses, skills and local communities. That can only be achieved through a clear and dedicated local participation policy framework.

We have heard positive statements from the Government on the floor of the Dáil and in the media. The Tánaiste stated:

> While Ireland does not have a traditional defence industry ... we do have industry that could have a defence application ... Irish industry should be in a position to take advantage of the significant growth opportunities in this sector.

I strongly encourage the Minister of State and the Government to do two things. First, formally introduce local participation requirements in defence procurement - make it a requirement that Irish SMEs must be involved. Second, publish a clear policy framework setting out how this will be delivered. Doing so will strengthen our Defence Forces, support Irish enterprises, deliver better value for the taxpayer and ensure that increased defence investment builds lasting national resilience.

Minister of State at the Department of Climate, Energy and the Environment (Deputy Timmy Dooley): I am responding on behalf of the Minister for Defence who unfortunately cannot be present today. She sends her apologies.

On the Minister's behalf, I welcome the opportunity to respond to Senator Ahearn and thank him for raising this important matter. I know of his interest generally in such affairs. He has taken a great interest in and support for Ukraine after the Russian invasion. If I am not mistaken, I think he was in Kyiv and showed a great understanding of that particular matter. It does not surprise me that he is raising a matter like this. The importance of ensuring a strong local participation framework within Ireland's defence procurement process is timely. As the Senator is well aware of, the programme for Government committed to strengthening Ireland's defence by increasing investment in our capabilities and thereby safeguarding our citizens.

The 2026 budget demonstrated that commitment in the most practical manner by allocating €1.49 billion to defence expenditure. In addition, the national development plan sets out a longer term capital investment in defence totalling €1.7 billion from 2026 to 2030. This significant funding increase reflects the Government's commitment to continue to increase investment in our Defence Forces. It will enable targeted progression on key elements of Government commitments from the report of the Commission on the Defence Forces. As recently outlined by the Minister, Deputy McEntee, the report aims to speed up the modernisation of the Defence Forces and improve defence capabilities across land, air, maritime and cyber domains.

The potential for increased local participation in Ireland's defence procurement process is a timely issue, particularly in the context of a changing security environment, the increased investment in defence capability and the continuing need to ensure value for money for the State. With that in mind, it is important to emphasise that defence procurement is not simply about the acquisition of equipment. It is about the delivery of long term, sustainable capabilities for the Defence Forces. For this reason, the Department has adopted a whole-of-life cycle approach to procurement, encompassing design, acquisition, maintenance and upgrade. Local participation has the potential to play a significant role across each of these phases.

As an island nation, Ireland must also consider the practical and strategic implications of overseas dependencies. Transporting platforms or systems for critical components across the

Continent for routine maintenance, repair or upgrades can introduce unnecessary costs, extended downtime and operational risks. This is particularly relevant for naval and air assets where availability and responsiveness are critically essential. Where it is feasible, the component with EU and international procurement obligations, local or regional maintenance and support arrangements can specifically reduce turnaround times and improve operational resilience.

A sustainable procurement model also supports the development of indigenous skills, expertise and industrial capacity. By embedding local participation requirements such as in-country maintenance, training, technical support or supply chain involvement, the State can help foster specialist eco-systems around key defence assets. Over time, this builds institutional knowledge, reduces reliance on external providers and enhances sovereign capability in critical areas.

Furthermore, local participation contributes to broader Government objectives, including regional development, high-value employment and skills retention, particularly in engineering, technology and advance manufacturing. These outcomes align with the whole-of-government approach to resilience and economic sustainability, while remaining consistent with our policy of military neutrality.

The Minister, Deputy McEntee, is conscious that any such framework must be proportionate, legally robust and deliver clear value for money. It must also balance openness and competition with long-term strategic benefit. Work is ongoing to ensure that future defence procurement fully considers life-cycle costs, sustainability and opportunities for meaningful local participation.

In light of ongoing geographical tensions and the lessons learned from Covid-19, supply chain resilience and security of supply have become increasingly important in the context of national security. With that in mind, the Minister will look to ensure an appropriate amount of diversification among suppliers to ensure a resilient, efficient and secure supply chain.

A well-designed local participation framework is both pragmatic and beneficial. It strengthens defence capabilities, improves availability, supports resilience and ensures the investment in defence delivers lasting benefits for the State and Irish society as a whole.

Senator Garret Ahearn: I thank the Minister of State, Deputy Dooley, for his comments. Like me, he has visited Ukraine many times and has a keen interest in the country. I welcome the line from the Minister, Deputy McEntee, that a well-designed local participation framework is both pragmatic and beneficial to Ireland and Irish companies.

This is common practice in other EU states. Spain requires significant industrial participation in defence contracts. Finland mandates industrial co-operation for large procurements. Denmark links industrial co-operation obligations to contract value. Germany embeds domestic industry involvement in major programmes. This happens right across the European Union. We would not be an outlier. What we are essentially saying is that the increased investment in defence should remain in Ireland.

Here is a simple analogy that the Minister of State will understand well. There are sports capital grants coming out some time this year. I hope some Tipperary applicants will be successful, including my local GAA club and the Minister of State's in Clare. If they are

successful, we want local builders to get the jobs so the money stays local. It is no different in defence spending. If money is being spent, it should be spent in Ireland.

Deputy Timmy Dooley: The Senator has rightly identified the positive that can come from this. The Minister outlined previously that her priority is to ensure that the operational capability of the Defence Forces is maintained and developed. This will enable the Defence Forces to carry out its roles as assigned by Government. In addition, the Government is going to provide for the development of a full spectrum of defence capabilities that will bring Ireland in line with similar sized European countries, as the Senator has identified.

Over the coming years, substantial expenditure will be directed towards infrastructure development, capability enhancement and technological innovation. While these investments will enhance Defence Forces capabilities, they will also have the potential to unlock opportunities for Irish industry and create pathways for SMEs operating in the dual use area to grow. As the Senator is aware, Ireland has a strong and highly innovative SME base, no more so than in light engineering, which is very much part of the local economy in the Senator's county, Tipperary, with many firms active in advance technologies relevant to defence and security.

The continued structured engagement with these enterprises will broaden co-operation, support innovation and strengthen the domestic contribution to Ireland's defence capabilities. By fostering that collaboration with the Defences Forces, industry and our European partners, the State can ensure that the increased investment in defence delivers lasting benefits, both in terms of operational readiness and, importantly, as the Senator keeps emphasising, the wider economic resilience of those communities.

Acting Chairperson (Senator Victor Boyhan): I propose that we suspend as the Minister of State, Deputy Buttimer, is in the Dáil. Is that agreed? Agreed.

Cuireadh an Seanad ar fionraí ar 10.59 a.m. agus cuireadh tús leis arís ar 11.04 a.m.

Sitting suspended at 10.59 a.m. and resumed at 11.04 a.m.

11 o'clock

Public Transport

Acting Chairperson (Senator Victor Boyhan): I thank the Minister of State, who will be here for the next two Commencement matters.

Senator Nicole Ryan: I thank the Minister of State for being here. At the outset, I will say he has taken this Commencement matter from me before. He is not the Minister who I had hoped would be here this morning, unfortunately, although that is nothing against him. I am back with this Commencement matter for the third time. The responses I have received to date have been wholly inadequate. Each time, I raise this on behalf of real people who have issues trying to use a service to get to college. Each time, instead of getting straight answers, I receive vague replies about Midleton, Cobh and investments in parts of Cork that I do not have anything to do with and that do not matter to my constituents.

Today I had hoped to ask the Minister two specific questions. The first relates to the lack of a Monday morning train from Banteer to Cork. As I outlined previously, there is no early-morning train from Banteer to Cork on Mondays. There is a 5.32 a.m. train from Millstreet which does not stop in Banteer and arrives in Cork far too early. The next one is at 8.15 a.m. and it arrives at 9.15 a.m., which is too late. That is not acceptable when there are students who are trying to attend college and cannot live in the city due to the housing crisis. That means people are forced into cars, there are longer journeys and there is more expense. It completely undermines the claim that the Government is serious about climate change when it expects people in rural Ireland to drive cars to wherever they need to go. We talk endlessly in this House about encouraging public transport use. We cannot expect people to use a service that simply does not exist when they need it most. When will an early morning Monday train from Banteer to Cork be restored?

My second is on the Leap card from Millstreet. The Leap card is supposed to be the backbone of the public transport system of this country. It is supposed to ease travel, make it cheaper and more accessible but, once again, rural towns are left behind. In the reply to my last Commencement matter I was told the Leap card was not the responsibility of the Department of Transport. With respect to the Minister, Deputy O'Brien, that is simply not credible. Either he is the Minister for Transport or he is not and either integrated ticketing falls under his remit or it does not. Right now people in Millstreet are being told no one is responsible. When will the Leap card be extended to Millstreet rail services? I do not want to hear that there is a travel card. People know that. We know Leap cards exist.

It was the Minister of State who asked me how many people this affected. I did a survey in the constituency and received 79 responses. I can share the issues people raised. These are college students who use public transport. One student said they stay with a friend in Cork city on Sunday night just so they can get to college on Monday morning. That is ridiculous.

My two questions are simple. When will the Monday morning service from Banteer to Cork be restored? When will the Leap card be extended to Millstreet? If the Minister cannot do that, he should just say it cannot be done. I ask the Minister of State not to give me waffle and say it cannot be done and that he commit to coming back to give an update on when it will be done.

Acting Chairperson (Senator Victor Boyhan): I thank Senator Ryan and call Senator Buttimer. Sorry, I call the Minister of State, Deputy Buttimer.

Deputy Jerry Buttimer: Former Senator.

Acting Chairperson (Senator Victor Boyhan): Former Senator, and he will always be welcome back.

Minister of State at the Department of Transport (Deputy Jerry Buttimer): I thank the Acting Chair. I apologise to the House for being late. I was in the Dáil and could not get over here fast enough. l thank Senator Ryan for raising this important matter. I would like to clarify for Senator Ryan that the Minister for Transport, on whose behalf I am taking this matter, has responsibility for policy and overall funding in relation to public transport but neither the

Minister nor his officials are involved in the day-to-day operation of public transport services. That is an important point to make. The statutory responsibility for securing the provision of public passenger transport services nationally rests with the National Transport Authority, NTA, as the Senator knows quite well.

I reassure the Senator that the Government is strongly committed to providing all citizens with reliable and realistic sustainable mobility options and public transport plays a key role in the delivery of this goal. In our own county of Cork we have seen significant investment in the Cork area commuter rail programme. To support this objective, in budget 2026, the Department of Transport secured €940 million of funding for PSO and TFI Local Link services, providing a significant 43% uplift, an increase from €658.4 million in 2025. The allocation further supports subsidised bus and rail services across Ireland, including in Cork, as well as maintaining targeted fares initiatives such as the recently introduced free travel for all children up to the age of nine and the young adult card, as part of the NTA's national fares strategy.

Senator Ryan raised extending the Cork city Leap boundary to Millstreet station. The NTA has advised that it has no current plans to extend the boundary. However, I would like to remind Senators that there are currently two Leap card options available which offer 50% discounted travel for young people and students.

The young adult card is available to all young adults aged 19 to 25 and the student Leap card is available to full-time students aged 16 to 18 and those aged 26 and over. Qualification is based on students being in full-time education or training for at least 16 hours per week. Any student who meets the eligibility criteria, supported by a valid student ID, can have a student Leap card. The NTA encourages all customers to use the TFI Leap card to ensure they receive the best possible value on fares. Leap card users can save up to 30% compared to paying with cash, making it a more cost-effective option for regular travel.

In relation to train services, there are two trains, as Senator Ryan knows, which commence from Tralee on a Tuesday-to-Friday basis and which serve Banteer and Millstreet. The first operates at 5.45 a.m. and goes from Tralee to Cork, and the second train is the direct 7.05 a.m. Tralee-Heuston service from Monday to Saturday.

On Mondays, there is a specific and consistently strong demand for an early connection to Dublin. To meet this requirement, the first train is deployed to operate the 4.30 a.m. Tralee-Mallow service, which connects into the 5.40 a.m. Cork-Heuston train, facilitating an arrival into Dublin at 8.17 a.m. This ensures early morning Dublin-bound customers have a workable connection at the start of the working week.

larnród Éireann recognise this results in the absence of the 5.45 a.m. Tralee-Cork service for customers travelling on Monday, including those from Banteer and Millstreet, who benefit from the service from Tuesday to Friday. At present, the fleet is fully deployed across the network and there is no train set available to operate this service on Mondays without displacing the early Dublin connection. There are, however, alternative bus services available on a Monday morning, operating on the Expressway service and commencing at 6.15 a.m. I understand the NTA is in discussions with larnród Éireann on the scope or otherwise to introduce an early Monday morning Banteer to Cork rail service. The new DART+ fleet begins entering service from 2027, at which time we can review deployment of intercity and commuter

trains which become available as a result. Their deployment will be subject to the approval of the NTA.

I assure the Senator I have been in discussion with the NTA and will meet its representatives again. I am from Cork and am very familiar with Banteer and Millstreet. Senator Lynch has also raised it with me and I know of the issue from talking to family members living in the area. I look forward to working with Senator Ryan and others to ensure the best outcome for commuters.

Senator Nicole Ryan: I am grateful that I got some answers today but disappointed it took three attempts to get here. The answer is that the Leap card is not being extended yet to Millstreet and the Minister of State is looking at potentially putting on an early-morning train, hopefully in the near future, and is meeting with the NTA. It is great the Minister of State is willing to work with me, Senator Lynch and everybody else. He will know at first hand how it impacts people across the rural constituency I am in. I thank the Minister of State for taking this and giving me the appropriate answers. I really appreciate it.

Deputy Jerry Buttimer: I thank the Senator for raising the matter. I apologise for it taking three attempts. She should not have to raise the matter three times to get the answer from the Department. As a Minister of State and formerly a Member of this House for 19 years, it is about representing constituencies and commuters in the Banteer-Mallow area. It is an important issue.

As Minister of State with responsibility for rural transport, I am aware of the pertinence of the Cork area commuter rail programme to people's lives. It is progressing well. I will not read out all the different things because the other areas are not important to her. What is important to her is that passengers and commuters get access to services. I will work with the NTA, Iarnród Éireann and the Senator. Iarnród Éireann expresses its thanks to passengers and local communities for their patience and support while it looks to deliver rail projects across Cork and, hopefully, build capacity and greater frequency. I will work with the Senator to ensure the outcome we both desire.

Rail Network

Senator Nessa Cosgrove: Cuirim fáilte roimh an Aire Stáit. I return to the matter of the full reinstatement of the western rail corridor, specifically the 73.5 km stretch between Claremorris and Collooney. I have been left with no alternative but to raise this as a Commencement matter due to the inconsistent and unclear messaging from the Government.

I will give a little bit of background. As a previous speaker said, rail use in Ireland has changed and we, as a population, make more frequent use of rail and demand more services in the rail infrastructure. While the 1980s and 1990s saw prioritisation of road over rail for passengers and freight, attitudes, times and values have changed. In 2016, for example, *The Sligo Champion* reported that the Sligo-Dublin line was at risk of closing. Just 1.3 million passengers had used the route in 2015. These figures have steadily climbed, especially following the pandemic, and Irish Rail has seen significant passenger growth year on year. Passenger numbers grew from 17.8 million across the network in 2020 to 50.7 million in 2024.

Irish Rail expects those numbers to have grown by 5 million in 2025. Freight rail has experienced a similar renaissance.

Times and contexts have changed since the decision was made to close the Claremorris to Collooney rail line. Rail is again recognised as an effective and efficient method of passenger and freight transit. We recognise the environmental benefits of rail and Iarnród Éireann has declared its goal is to be the backbone of Ireland's sustainable transport network.

All other phases of the western rail corridor have either been opened or approved for opening. To exclude Claremorris to Collooney not only denies the people and enterprises of Sligo a vital link to Mayo, Galway and beyond, but it jeopardises the integrity and logic of the entire corridor. Sligo has to connect to it in order for the corridor to achieve its potential. Without the Sligo connection, we risk condemning the corridor to disuse.

This rail corridor is a 73.5 km strip of land. In 2023, it was valued at €957 million. Its untapped value is the final piece of the jigsaw of reopening the western rail corridor. Comments from a number of Government politicians in recent weeks indicated they would like to see a greenway and that there are plans to install a greenway on the existing rail corridor. Will the Minister of State give a commitment that the existing stretch of rail line will be retained for rail use only, as has been indicated by Irish Rail, and that no other structure, including anything described as a temporary structure, should be permitted on it? The narrative we hear is a temporary greenway will be placed on the track to keep it in public ownership. That does not add up because it is already in public ownership. In this day and age, can we honestly see the waste of taxpayers' money involved in creating a temporary structure that will cost millions and then be ripped up to put in a rail line in the future? It makes no sense and is inconsistent with Government policy regarding the western rail corridor. Please, can we get a straight answer and put to bed the idea of a temporary greenway along the existing track?

Deputy Jerry Buttimer: I thank the Senator for raising this important matter and again apologise for being late. I am taking the matter on behalf of the Minister of State, Deputy Canney, who is genuinely apologetic he cannot be here.

The Department of Transport, together with the Department for Infrastructure in Northern Ireland, published the rail project prioritisation strategy last year. This strategy outlines how to best sequence and optimise the recommendations of the all-island strategic rail review, which was published in July 2024. The strategy specifies short-term rail infrastructure investments, referred to as early interventions, to be delivered by 2030, including new track, passing loops and platforms to boost the rail network's resilience and capacity, which are funded under the NDP sectoral investment plan for transport published by the Department in November 2025. The strategy also identifies major projects to be progressed in the longer run, involving intercity electrification and significant capacity upgrades on the rail network. This includes the reinstatement of the western rail corridor between Claremorris and Athenry. The NDP sectoral investment plan also provides funding to help commence this reinstatement project.

Modelling undertaken as part of the rail review published in 2024 found that investments on the disused line between Claremorris and Sligo and onwards to Donegal would result in very low demand for passenger rail services and that building a railway would have a significant adverse impact on the environment. For these reasons, the project was not included

in the recommendations of the rail review; hence it was not identified as a major project to be progressed in the rail project prioritisation strategy.

However, the rail review will be reviewed and updated once a decade. This review will provide the opportunity to reconsider a potential extension of the western rail corridor further north, taking account of the latest policies and developments, for example, if there is an increased passenger demand as a result of the reinstatement of the line between Claremorris and Athenry.

In relation to the proposed greenway between Claremorris and Collooney, the section of the disused railway from Claremorris to Bellaghy has never been included as a scheme within the greenways programme, which is funded by the Department of Transport through Transport Infrastructure Ireland, TII. Sponsoring authorities, generally local authorities, may submit a case for annual funding to TII for consideration in relation to the greenway schemes. Separately, on the section of the disused railway line in County Mayo, to date, no submission has been received by TII from Mayo County Council in relation to progressing a greenway route between Claremorris and Charlestown. A feasibility study cannot be completed on a greenway scheme that has not been submitted for consideration of funding by the relevant sponsoring authority for review by TII.

The section of the disused railway from Bellaghy to Sligo was an active scheme within the greenways programme until the end of last year. As part the development of this scheme, a third public consultation was held in November of 2024 regarding the emerging preferred corridor. The emerging preferred corridor was centred on the disused railway line, which remains in the ownership of Irish Rail, or Iarnród Éireann. Iarnród Éireann communicated in December 2024 that it was no longer able to support the greenway on the existing alignment at this time. Accordingly, Sligo County Council initiated a review in mid-2025 to ascertain if it is feasible to accommodate a greenway and a railway on the railway corridor. This review took account of the available width of the corridor as well as parameters maintained by Iarnród Éireann in relation to the offset distances required between a railway line and a greenway corridor.

This review concluded that it was not possible to accommodate both modes within the railway corridor. The report also reviewed the potential to develop an alongside option that would be guided by the principle of aligning the greenway parallel to the disused railway line. It concluded that this was not feasible due to a range of factors including increased cost, the potential impact on special areas of conservation and land acquisition, as well as various engineering challenges. On this basis, Sligo County Council opted to suspend work on the greenway scheme in late 2025 as the alongside option was not a viable option. I hope that this helps clarify the matter for Senator Cosgrove.

Senator Nessa Cosgrove: It was my understanding, and the Minister of State has cleared it up, that there is going to be no greenway on this rail structure, which is wonderful. Unfortunately, our local representatives in Sligo are continuing to press, saying that there is an option to have a greenway developed here, whereas in Mayo and Galway all the politicians from Opposition parties and all parties have come together and this is why they have made a very firm case, and they have seen it. In fairness to the Minister of State, Deputy Canney, he

has done Trojan work on this because he is passionate about having balanced development and opening up the western rail corridor.

Am I right in saying that there is going to be nothing except rail infrastructure on the existing line? My reading from the Minister of State's response is that there is going to be no greenway on the existing railway.

Deputy Jerry Buttimer: As previously mentioned, there are no active schemes within the greenways programme planned for any section of the disused western rail corridor between Claremorris and Collooney. The all-Ireland strategic rail review sets out 32 strategic recommendations to enhance and expand the rail system in Ireland and Northern Ireland on a phased basis up to 2050. Included in these recommendations is the reinstatement of the western rail corridor between Claremorris and Athenry. This project was also identified as a major project to be progressed under the rail project prioritisation strategy published in December of last year. The NDP sectoral investment plan published by my Department in November also includes funding to help commence this reinstatement project. The section between Claremorris and Collooney is not included in the recommendations of the rail review strategy. The rail review will again be reviewed and updated once a decade, taking into account, as I said, the latest policies and developments, which point to potential extension of the western rail corridor further north to Collooney, and can be then reconsidered. I will ask the office of the Minister of State, Deputy Canney, to liaise with the Senator if she has any further questions.

Acting Chairperson (Senator Victor Boyhan): I thank the Minister of State very much for his time this morning. I thank Senators for their engagement on the Commencement matters.

Cuireadh an Seanad ar fionraí ar 11.25 a.m. agus cuireadh tús leis arís ar 11.33 a.m.

Sitting suspended at 11.25 a.m. and resumed at 11.33 a.m.

An tOrd Gnó - Order of Business

Senator Seán Kyne: The Order of Business is No. 1, motion regarding appointment of the chairperson of the Standards in Public Office Commission, to be taken at the conclusion of the Order of Business, without debate; No. 55(2), Private Members' motion in the name of Fianna Fáil Senators regarding the Defence Forces, to be taken at 1 p.m. and with the time allocated for the debate not to exceed two hours; No. 2, Defamation (Amendment) Bill 2024 – Report and Final Stages, to be taken at 3.30 p.m. and to adjourn at 6.30 p.m., if not previously concluded; and No. 3, Credit Review Bill 2024 – Second Stage, to be taken at 6.30 p.m., with the time allocated for the opening remarks of the Minister not to exceed ten minutes, group spokespersons not to exceed eight minutes and all other Senators not to exceed five minutes, time may be shared, and the Minister to be given no less than ten minutes to reply to the debate.

An Leas-Chathaoirleach: Before I call Senator O'Loughlin, I welcome to the Visitors Gallery the members of the Social Democrats from Cork South-West. They are guests of Deputy Holly Cairns. I also acknowledge the presence in the Gallery of Councillor Peter Feeney and his guest. I hope they enjoy their visit here.

Senator Fiona O'Loughlin: Our guests are most welcome. I hope they have an enjoyable day.

Today sees the start of TradFest in Dublin. It is the largest folk and traditional music festival. It is really important in celebrating Irish cultural identity and I recommend that people get to many of the events. One of the things that is really notable about TradFest is that it partners with AbleFest, which is the largest inclusive musical festival and which will be run over two days at the National Stadium. It provides a place for neurodiverse children and adults, with their friends and families, to enjoy music in the way many others can. Well done to TradFest for organising that. I wish those concerned the very best of success over the next few days.

I extend sympathy, on behalf of the Fianna Fáil grouping, to the family, friends and co-campaigners of Ziva Cussen, who was a very powerful campaigner for breast cancer awareness. She worked tirelessly through an advocacy group that she set up, Too Young To Be Heard, to amplify the voices of breast cancer patients. Despite her own illness, she remained very focused, right to the end, on helping others.

Targeted cancer prevention and early diagnosis are essential in helping and supporting those who unfortunately have a predisposition towards cancer or indeed a diagnosis of it. OECD data show cancer mortality rates in Ireland are falling faster than the EU 27 average rate and than those of our economic peers. That is really important. My county, Kildare, has the second-highest positive rate of having come through cancer. That is also important. However, there is a particular element I want to highlight. It concerns those who have to undergo mastectomies and who, for a myriad of different reasons, cannot go through reconstruction at the time. When there is a delay, there should be a system in place to ensure treatment for the patient does not end until reconstruction has taken place. I am dealing with somebody who has been waiting for five years. She has been moved from one hospital to another. The process started again only 18 months ago. Most definitely, we need to have a system in place. I would like to see a debate on this issue in which delayed reconstruction is seen as as part of the whole treatment process.

Senator P. J. Murphy: It is with very great concern indeed that I stand here today to draw attention to the shocking increases in drug-related crime, drug use and drug-related intimidation in my area, south Galway. More and more, we see decent local families go into debt to pay off the drug-related debts accrued by their sons and daughters, with great fear of repercussions for them and their children if they do not do so. In recent weeks, we have heard of threats to burn houses, the burning of cars and vehicles, extreme vandalism, burnings in farmyards and threats against people themselves. I am worried that it is only a matter of time before we see in my area, south Galway, a repeat of what happened in Edenderry. Therefore, I call for a special drug unit of An Garda Síochána to be deployed in the south Galway area, including Gort, to make an example of the few despicable and unscrupulous characters who are bringing so much turmoil to it, so that they will feel the heavy hand of Irish justice coming down upon them as a matter of urgency.

Senator Sharon Keogan: I rise this morning because the State's protection of vulnerable children is once again failing in ways that should be deeply troubling to this House. In recent weeks, the courts have heard evidence of children placed in State care who were left without

proper supervision and without allocated social workers, and who were exposed to serious exploitation.

One teenage girl already under an interim care order went missing repeatedly while in care and was allegedly sexually abused by adult men across the city. The agencies responsible for her did not account for her movements and objectively failed to keep her safe. In circumstances where a child is repeatedly reported missing, where serious criminal abuse is alleged and where sexual exploitation is openly discussed in court, it is reasonable to ask where was the Garda and whether every appropriate safeguarding and investigative measure activated in time.

In another series of cases, despite direct court orders, children were left for months without allocated social workers. In one case, official records show a child having annual contact with a father who was long deceased. That is not a minor error; it is evidence of a system that has lost command of basic oversight. These failures are not isolated. They mirror what the Child Law Project has consistently documented. Interim care orders are extended indefinitely and unregulated emergency arrangements become the default. Judges are forced to repeatedly recall cases just to maintain accountability.

What is especially troubling is the moral confusion that surrounds these failures. While many Irish politicians are quick, and rightly so, to condemn the creation of harmful artificial images involving children, they have been far quieter when confronted with documented cases of the actual sexual abuse of minors occurring within State-managed systems. This imbalance discredits public debate and those involved and suggests a troubling preference for performative outrage over confronting reality. Children do not consent to chaos. They do not consent to drifting between placements or protection that exists only on paper.

I ask that this House schedule an urgent debate on compliance with child protection orders, the continued use of unregulated emergency places, the role of inter-agency safeguarding - including an Garda Síochána - and persistent failures to allocate social workers to children already in care before yet another judge is left to ask how the obvious was allowed to happen.

An Leas-Chathaoirleach: I welcome Jim McMahon and the class of 1975 from St. Flannan's College in Ennis. They are in the Visitors' Gallery as guests of Senator Martin Conway. They have been friends for the past 50 years and have come together to mark that friendship. As is customary here in the House, there is no homework for them for the rest of the day. They are very welcome. I also acknowledge the presence of Annie Nealon, who is an intern with Senator Mark Duffy. She is very welcome. I hope she enjoys her experience here in Leinster House.

Senator Pauline Tully: RTÉ reported this morning that nearly 1,000 early year childcare services have closed since 2019. I know that 579 have opened, but there is still a deficit of 400. There are 40,000 children on waiting lists for childcare places. There is an absolute need for investment in this sector. Providers are saying that their costs are increasing. We know inflation is increasing and that the cost of everything is going up. Yet, Government funding is not going up by anything near what is needed. Staff are receiving improved pay, which I welcome. There was a promise of €10 per child for the cost of childcare in the budget, but this still has not been implemented. I do not want to see costs rising for parents, but providers are actually opting out of receiving core funding in order that they can increase fees. They need to do that to stay in business, but it is putting an additional burden on parents whose finances

already stretched and who are reporting that if they have two or three children, they are spending one entire wage on childcare alone.

In recent days, approval was granted for a State-led early learning and childcare investment programme by means of which the State will acquire vacant buildings. That is to be welcomed, but who is going to run these facilities? We need to put resources into them. Many private childcare operators are not interested in this sector. We need to see more investment in community facilities and we need to ensure that they are run as community childcare and early learning facilities.

One parent was in touch with me recently. Her daughter has been 19 months on a waiting list to get a place in a crèche. Other children are jumping the queue because they already having siblings in the crèche in question. That obviously makes sense because you want to keep siblings together. It still does not help the parent to whom I refer, whose child has been waiting 19 months for a place and for whom there is no end in sight. She is dropping down the list rather than climbing it due to siblings jumping the queue. I would really like another debate on childcare, on how this new scheme is actually going to work and on the projected increase in the number of childcare places.

An Leas-Chathaoirleach: I acknowledge the presence in the Gallery of Eric Ryan, the son of Councillor Siobhán McHugh from Tuam in County Galway. He is a guest of the Leader and is very welcome.

Senator Alison Comyn: Like my colleague Senator O'Loughlin, I take a moment to pay tribute to a truly remarkable young woman from my community in Drogheda, County Louth. I refer to Ziva Lily Sheehy Cussen who, at 24 years of age, was taken far too young by breast cancer. Ziva's courage, kindness and strength touched hearts right across Drogheda and far beyond. Her loss has left a deep sense of sadness in so many homes. I send my deepest sympathies to her heartbroken family, namely her adoring parents Jim and Marcelle, and her beloved sister, Lainey, on the devastating loss of their beautiful daughter and sister. Ziva passed away on Saturday surrounded by her loving family and under the wonderful care of St. Vincent's Hospital in Dublin. Her death has deeply affected our town and the wider community. There is a profound sense of loss. She was someone who brought so much light, warmth and compassion into the world. She was diagnosed with stage 4 breast cancer at just 21. She chose to use her voice to help others. She became a really powerful advocate for young women affected by breast cancer, speaking openly about her experience and campaigning for greater awareness, early diagnosis and age-appropriate care through her organisation, Too Young to be Heard.

Ziva shone a light on the reality that breast cancer can affect young women and people of all ages and on the devastating consequences of delayed diagnosis and not being taken seriously because of your age. Even while living with advanced illness, Ziva remained focused on helping others. Breast Cancer Ireland described her as a much-loved patient supporter whose bravery and selflessness left a lasting impact. Her honesty and compassion helped to change conversations and helped other patients.

I also acknowledge my other colleague Senator Teresa Costello who stood with Ziva and supported her campaign, helping to amplify her voice and the vital message she was sharing

with the country. Those who knew Ziva often described her as a ray of sunshine. It is deeply moving and appropriate that, at her request, mourners are being asked to wear a pop of sunset colour at her funeral tomorrow. That is a beautiful reflection of the warmth and light she brought into the lives of others. I again extend my sympathies to her family. If there is any slight hint of comfort, it is in the extraordinary impact she made in such a short life. May Ziva rest in eternal peace.

Senator Manus Boyle: I attended a corporate policy group meeting in the County House in Lifford with other Oireachtas members and councillors on Monday last. One of the major issues raised was the lack of access to the N56. I have raised this issue in the Chamber before. It was raised by a number of TDs raised in the Dáil last week. It is the planning regulations that have resulted in people's lack of access to the N56. This remains a serious issue. Since I became a Senator, 41 people have indicated their willingness to build on their own farm land but they cannot get access to the road. One couple whose parents' house is located on a lane that they could also use cannot get planning permission. That is totally wrong. This couple were coming home to look after their elderly parents and wanted to live beside them.

The rule that is in place is simply not working for rural communities in Donegal. We have to get the Minister in here to address the matter. On a cross-party basis, councillors, TDs and Senators are all of the same opinion. This rule is not working for Donegal. It is disadvantaging young people who want to come back from Australia. Their mothers and fathers have been living on land in Donegal for centuries. What is happening is totally wrong. Is there any chance we could get the Minister to come to the House for a debate on the matter? I am aware that Deputies are also calling for such a debate in the Dáil. Having a debate is a way to try to see if we can sort this out once and for all. This has been going on for I do not know how many years. People really need to be allowed to build on their own land in order to secure the future of rural communities in Donegal.

Senator Gerard P. Craughwell: Yesterday, Mark Carney, the Prime Minister of Canada, spoke at Davos. What a speech and what a strong international world leader. Mr. Carney has finally stood up to the man who is the President of the United States and the greatest bully this world has ever known. Trump moves from one extreme to the other. In 12 months, he has thrown the world, including the world economy, into turmoil. He plays with countries and people. What are we hearing today? We are hearing that world leaders in Davos are waiting to hear what Trump has to say. They will sit there like little boys and wait to hear what the great Trump has to say. A politician from the United States said those attending from Europe should bring kneepads with them, and kneel down and pay homage to this bully.

It is time that we stood up and stopped allowing this man to kick us all around the place. I know the arguments that will be made, such that our economy depends on being nice to the United States and we have to be careful because the United States is the world power. The world has changed. Donald Trump has changed it forever. I experienced bullying in the workplace many years ago, seven years of it. In the end, one night I woke up and said, "I have to stop this". I found out the only way to tackle a bully is head on. Trump must be tackled.

It is not about Greenland because if he gets Greenland, he will want something else. If he gets something else, he will want something more. It is about calling a bully out for what he is. If it destabilises the world economy, it cannot do more than he has already done. Let him

bring on the threat of tariffs. We need to start looking east, like other countries, and build relationships with India and Pakistan. Trump cannot hold us to threats any longer.

Senator Mark Duffy: As a member of the Committee on Transport, I would like to highlight a matter. Yesterday, I travelled to Leinster House and listened to "The Tommy Marren Show" on Midwest Radio when Darren Forde phoned in. He was recognised as Mayo person of the year and is a brilliant community activist from Hollymount. He has led the Hollymount community first responders and is a very entrepreneurial man. We are all very proud of him. He pioneered eco-powered defibrillators.

Mr. Forde highlighted an accident where a car left the side of the road. Many good Samaritans stopped along the way to make sure there was no one in it. Thankfully, the accident was resolved, but the car was still on the side of the road. We have seen this happen many times due to black ice and the inclement weather over the past number of weeks. Mr. Forde made a very good point and I will use this opportunity to highlight it. He spoke about the importance of having hazard tape in the car. This can be wrapped around the vehicle to advise people that an accident has been addressed or resolved. He also used the opportunity to raise a point, which I am amplifying, about the need for drivers and motorists to have safety equipment in their cars.

A few small things can save a life. He suggested motorists carry two high-viz vests, a headlamp so people can use their hands in the dead of night, a windscreen hammer to open a window or windscreen and hazard tape. Small packs like this in every car could save a life. It is something I wanted to share in the House. We should highlight it to the Minister for Transport and perhaps have an awareness campaign with the Road Safety Authority. At this time of year, vulnerable road users can be negatively impacted at a moment's notice and people should be prepared for that.

An Leas-Chathaoirleach: I welcome Deputy Tony McCormack and his guest to the Gallery. I hope you enjoy your visit to Leinster House.

Senator Joanne Collins: Today is a critical day in the fight against the EU-Mercosur trade agreement, when the European Parliament will vote on whether the deal should be referred to the European Court of Justice. That referral is essential. It is about ensuring that the trade agreement is legally compliant with the European Union's obligations on climate action, sustainability, human rights and the Paris climate agreement.

These are not abstract concerns. The Mercosur agreement raises serious questions about deforestation, environmental destruction, food safety standards and human rights protections. If the deal is incompatible with EU law, then there is no place for it to move forward. That is precisely what the European Court of Justice must be allowed to assess. Many Irish MEPs have publicly stated their opposition to the Mercosur deal and today is the moment when words must be matched with action. If MEPs are genuinely opposed to this deal, they must vote in favour of referring it to the court.

This referral does not delay justice; it seeks it. It ensures proper legal scrutiny before irreversible damage is done to Irish farmers, our environment and public trust in European decision-making. The Mercosur deal would undermine the livelihoods of Irish farmers by

allowing in products produced to lower standards than those in place here. It would weaken environmental protections at a time when we should be strengthening them and send a message that trade trumps climate and human rights obligations. It is not too late to stop this deal.

I urge the Government to actively support the referral. I urge all Irish MEPs to vote in favour of it today. The public, farmers and rural communities are watching closely. The House should be absolutely clear that the Mercosur deal must be stopped and every available legal avenue must be used to do so.

Senator Linda Nelson Murray: On Monday, we learned that €360 million was allocated for active travel and greenways across Ireland for 2026, which is incredible. This investment is dedicated to the development of walking and cycling projects that offer safe, sustainable and healthy transport options to communities around the country. The investment also delivers safer connections for pedestrians and cyclists. It means more of us can choose active and sustainable travel for everyday journeys. Thanks to the Department of Transport, the continued high level of funding for active travel will have a real impact on our communities, cities, towns and villages.

Meath secured €10 million in funding for projects like the cycle and walking route along the Dublin Road, linking the Circular Road with Martha's Bridge. More money was allocated for the Trim Road to the Borallion. I might use my time on a future date to speak about how unbelievably dangerous the Borallion is and how much we need it to be updated as soon as possible. I had a major car crash there, which was horrendous. Other projects include the Flowerhill pedestrian and cycle scheme and funding for the safe routes to school scheme for St. Stephen's National School in Navan and Beaufort.

Some €500,000 was provided for bus enhancements, which is really good. I thank the Minister of State, Deputy Buttimer, and the Minister, Deputy O'Brien, for this. However, I want to focus on the bus enhancement scheme and bus stops. Meath is the only county where most workers commute out of it for work, predominantly to Dublin. As the county town, Navan is a major driver of this trend, with many residents commuting to Dublin despite its lack of rail access. This heavy daily influx to Dublin causes significant traffic, with Meath residents experiencing some of Ireland's longest commutes. This morning, there was another crash on the M3 and I had to divert around the country to get here to work.

How is it even remotely fair that Navan and Meath get €500,000 for bus enhancements when, with no disrespect to any other county in Ireland, counties like Longford or Laois get the exact same? We need an increase. The National Transport Authority gets a certain allocation - I understand it is around €13.5 million per year - for bus stops. We get the same as every other county, which makes no sense. We are the county with the highest rate of commuting, in particular, from the town of Navan to Dublin. Commuters leave for work every day. We need more bus stops and more than €500,000 in funding. The NTA needs to look at us separately from other counties.

An Leas-Chathaoirleach: I welcome Benjamin Moloney from the University of Limerick who is interning with Senator Joe O'Reilly. You are very welcome. I hope you enjoy the experience.

Senator Rónán Mullen: Last week, I spotted something in *The Irish Times* relating to a guide produced by the Irish Council for Civil Liberties, ICCL, with support from the State's human rights watchdog, the Irish Human Rights and Equality Commission, IHREC. Basically, it stated that schools must use the preferred name and pronouns of transgender students who should also be allowed to use the bathroom of their preferred gender.

12 o'clock

This is all in this guide on the rights of trans people. We all agree that, when it comes to schools, there should be an approach of compassion, gentleness and awareness of the many challenges that children who are confused about their gender face. What concerns me, however, is that two legal advocacy bodies, one of which I understand receives quite a lot of money from foreign sources and the other of which receives a considerable amount of money from the taxpayer, are basically pushing an idea that certain approaches on schools are somehow legally mandated. Their narrative on this is cloaked in the language of legality. In the guide, it states, "your school must make every effort to update your name and pronoun in relevant systems and documents". A layperson reading this would think that the laws in this area are clear, have been passed and that things have changed and everything in the guide is mandated. This is pure dishonesty on the part of the Irish Council for Civil Liberties and IHREC to the extent that they stand behind such an approach. They are trying to pretend that the law is clear in this area when in fact our courts have not determined meanings around gender in the way they are leading us all to think. At most, occasional equality officers or minor tribunals have made decisions in particular cases that they may be attempting to point to. I am raising today my objection at the dishonesty of these organisations that are cloaking their advocacy in legal language and pretending the laws of this State require schools or other institutions to act in a particular way. Many of these approaches are highly controversial and not evidence based. The law is certainly not clear in this regard. The courts have not pronounced. Legislation around equal status, for example, was passed long before the whole current gender identity debate started. This is a call for honesty from these State-funded and so-called public interest NGOs. It is also a call for a debate so that we can hear from the relevant Minister about what the law says.

Senator Sharon Keogan: Hear hear.

Senator Rónán Mullen: Everyone is talking about Enoch Burke - there is a lot to criticise about the way he has gone about what he has done - but let us find out what is the law in this area and what kind of law and policy we want to have guiding schools when it comes to dealing with the problems of children with gender dysphoria and, indeed, the needs of their parents and families.

An Leas-Chathaoirleach: Before I call Seanadóir Scahill, I welcome guests from the Military College of the Defence Forces in the Curragh. They are guests of Fiona Cashin, who works here in the Seanad. They are very welcome here today.

Senator Gareth Scahill: I also welcome the measures this week announced for active travel. A total of €360 million will be available for schemes like the safe routes to schools, SRTS, programme which is an area on which I worked closely with a lot of councillors in County

Roscommon, including councillors in north Roscommon such as Councillor Liam Callaghan and councillors in south Roscommon such as Councillor Valerie Duffy. Thankfully, their advocacy for schemes for particular schools that were quite dangerous have been accepted. I cannot wait to see the works taking place around the schools around Roscommon.

I also welcome the significant investment in greenways. Greenways and national trails are something for which I have been advocate for a number of years, long before I was ever in this House. I welcome my guest, Mr. Jeremy Schewe, who has participated in the Irish Camino, or the Ireland West Camino, for a number of years. Some people know it as the way of St. Patrick, as it goes from Downpatrick to Croagh Patrick. We were lucky to meet a number of Senators and TDs this morning to discuss that particular project. I want to take this moment to highlight that "Ireland West Camino: A Pilgrimage Reborn" is a documentary that Mr. Schewe has commissioned. It will be premiering in the Mayo Movie World, Castlebar, on Thursday – tomorrow - at 6 p.m. It will also be shown in the Rathcroghan Visitor Centre on Saturday at 2 p.m.; Knock House Hotel, Knock, on Sunday at 6 p.m.; and Ballintubber Abbey, County Mayo, on Monday at 6 p.m. The beauty of it is that it is highlighting a number of areas in rural Ireland where significant investment is not needed to bring in tourism. It is untapped tourism. Walking tourism is our fastest growing tourism sector in the country at the moment and we need to get out and support initiatives, such as Mr. Schewe's initiative, and the voluntary community in promoting the meitheal that we have in Ireland. We should promote communities coming together and emphasising and highlighting what they have. I look forward to welcoming anyone who wants to see the "Irish West Camino: A Pilgrimage Reborn" in any one of the showings over the weekend.

Senator Joe O'Reilly: In any public forum that I have had the privilege of being in or elected to over the years, I have always promoted and supported the role of carers. They give people the privilege of living in their own homes where they are happiest in general. In purely clinical and cold economic terms, they save the State phenomenal money in terms of the cost of institutionalisation. It is for that reason that I wish to suggest strongly, in light of recent discussions around the Revenue Commissioners' flagging of the carer's allowance into the future, that the carer's allowance should be exempt from taxation. It should be exempt. The actual quantum of money would be small but irrespective of that, that stress and extraction of money should not be the case because if it is a source of taxation, it is minimising the benefit for the carer. A lot of people leave potentially lucrative situations and make difficult personal decisions to become full-time carers. It is a very honourable and wonderful thing to do. It is transformative for the lives of the people for whom they care. Through my family and my wife's work, I have an intimate knowledge of this whole area. I am asking the Leader to convey strongly to the Minister for Finance, Deputy Harris, and the Cabinet the view that we should not be taxing carers on their allowance. In fact, we should be celebrating them and looking for every budgetary opportunity to increase their allowance.

Senator Seán Kyne: I thank all Senators for their contribution this morning. I will start with Senator O'Loughlin who acknowledged TradFest and, indeed, AbleFest, which is an inclusive music repertoire for neurodiverse children and adults. I certainly concur with that and wish them well in their initiative. Certainly, it is very inclusive and welcome. She also, along with Senator Comyn, raised the passing of Ziva Cussen, who was an initiator of the charity, Too Young to be Heard, which amplifies the voice of victims of breast cancer, particularly young

victims. While the Senator has said that cancer mortality rates are falling here, there are issues in terms of mastectomies and reconstruction and delays in the system. She also said construction should be part of the whole treatment. I certainly concur with that. Perhaps if the Senator puts down a Commencement matter she may get a more direct response from the Minister.

Senator P.J. Murphy raised the issue of drug use and related crime and intimidation in the south Galway area, including the issues that have taken place recently such as threats to burn houses, the burning of cars and intimidation. He has called for a special drug unit to visit south Galway on this matter. Drug use is something that is becoming more prevalent. Those who socially use drugs, perhaps, are not aware of where they come from and the issues at stake for people. For those who become addicted, that has an impact on, first, themselves and their health but also on their family. Certainly, the Senator is right to raise the issue of intimidation and the corrosive impact that there can be on families and parents, particularly elderly parents where there are drug debts that have to be repaid. People are put under huge pressure and stress. Sometimes, intimidation and violence are used. Certainly, I acknowledge that. The Senator may wish to raise that directly with the local gardaí in the district, which I am sure he has.

Senator Keogan raised the issue of children in State care.

She made the point that certain agencies are not accounting for the movement of vulnerable children who may be trafficked or abused. In some cases, records are clearly incorrect. The Senator talked of the need for a debate. I will certainly request a debate with the Minister for children on this matter.

Senator Tully raised the issue of childcare waiting lists. Clearly, there are issues with these lists. The Government's focus for the last number of budgets has been on reducing the cost of childcare for parents - those who were lucky enough to find a place. Clearly, there is now a need. We saw a recent announcement in relation to the ramping up of places, in particular, public places. With those providers that are outside of the core funding model, the parents are not benefiting from the reductions in fees that we have put in place in recent years. We need to increase the public provision of places where there are gaps or where communities have insufficient capacity. We do not want to remove the private providers, but to supplement them to ensure there is the addition of public places. We have also seen the changes that have taken place with regard to the pay of those in the early childcare sector, which is to be welcomed. It was an issue that was raised by SIPTU and other organisations, certainly in Galway.

Senator Boyle raised the issue of rural planning permission, particularly on the N56 in Donegal. He has requested a debate with the Minister. There is an ongoing issue with planning everywhere, but in particular with regard to traffic coming out onto primary, national and secondary routes. Transport Infrastructure Ireland in general puts in submissions or objections to pretty much every application on a national road, and asks the local authorities to take cognisance of national guidelines in this area. I will certainly request a debate with the Minister in relation to rural planning.

Senator Craughwell commended the Canadian Prime Minister, Mr. Carney, on his speech at Davos, and said that Trump must be tackled. Obviously, President Trump is the democratically elected President of the United States. The best way that the citizens of the United States can

lessen the powers of a President they are not happy with is through the mid-term elections in November. It will be a decision for voters in the United States as to how they wish to vote in those elections. Clearly, threats against sovereign states, parts of the European Union and the membership of NATO have to have consequences for those organisations. I certainly hope that the powers that be across the European Union and NATO strongly react to those threats.

Senator Duffy commended the Mayo person of the year, Darren Forde. He also raised an issue that I have come across myself, that is, cars that are abandoned at the side of the road, whether they slid off due to black ice or following an accident. Your inclination is to stop and check if anyone is in there, as I have done myself, but you could be causing a hazard by pulling in, or causing a further accident. Senator Duffy talked about the need for safety equipment, including tape that can be put around the car to show that it has been checked and there is no one in it. Perhaps that would be a nice package or gift for somebody who passes a driving test, for example, and is something the Senator may wish to pursue. I agree it is a good idea.

Senator Collins raised the EU-Mercosur trade agreement, its referral to the European Court of Justice and the decision of MEPs. Obviously, MEPs will have a vote on that today. I am sure they are very conscious of the concerns within the different political party groupings and of their memberships, Oireachtas colleagues, councillors and citizens of the country. I know a number of MEPs have clearly stated they are opposing Mercosur and some are in favour. I would like to think that anyone who does so has balanced all of the issues at stake. We have certainly discussed it within our own political party, and I am sure others have done that as well.

Senator Nelson Murray welcomed the commitments on active travel, as did Senator Scahill with regard to active travel, greenways and safe routes to school. It is all very important funding that is very much needed and very popular among local communities. The volunteers who raise issues can now see that there is a funding stream and a methodology through the local authorities, different bodies and Departments to provide and allocate funding for greenways and active travel. Bus shelters are very beneficial. Some people have to use public transport, and some wish to do so, but standing out in the rain is not something that makes that journey attractive. We will do what we can to improve the number of bus shelters. There are sometimes issues in terms of getting land or the location of bus stops, which can take some time, but where they work out, they are of huge benefit. I certainly agree with Senator Nelson Murray regarding the needs of the commuter belt, including Meath. I hope her advocacy works for those areas that need additional bus shelters.

Senator Scahill spoke about the Ireland West Camino. Walking, trail walking and hiking are hugely beneficial for one's health, both physical health and mental health. As he rightly said, they are becoming increasingly popular. I again acknowledge the investment from the Minister, Deputy O'Brien, and the Minister of State, Deputy Buttimer, in that whole area.

Senator Mullen referred to leaflets from a number of NGOs in relation to preferred pronouns and the use of preferred gender toilets in our schools, and to the laws and policies in this area. Policies come from the Department of education and from boards of management, not from NGOs. That is where these policies should emanate from, not from NGOs. If the Senator wishes to put down a Commencement matter on the particular issue to the Department of education, he might get a response on that.

Senator O'Reilly raised the issue of carers. I know he is a strong advocate for those involved in caring - I will not say it is a profession because it is caring and looking after loved ones. As the Senator rightly said, they save the State so much money. As the Senator knows, there has been some discussion on it this week. Carer's benefit and carer's allowance are and always have been subject to income tax, but carers were required to submit annual returns, so that has changed. The point he is making is whether it is fair and just to have carer's allowance and carer's benefit taxable. Perhaps the Senator will put down a Commencement matter to the Department of Finance, or we will raise it directly with the Minister for Finance as we engage in the process of preparations for budget 2027.

An Leas-Chathaoirleach: I acknowledge that the members of Hawkfield Active Retirement Association from Newbridge were in the Chamber for the debate.

Order of Business agreed to.

Standards in Public Office Commission: Motion

Senator Seán Kyne: I move:

That, pursuant to subsection (2A) (inserted by section 2 of the Standards in Public Office Act 2001 (No. 31 of 2001)), of section 21 of the Ethics in Public Office Act 1995 (No. 22 of 1995), Seanad Éireann recommends the appointment of Ms. Justice Elizabeth Dunne, currently a Judge of the Supreme Court, by the President on the advice of the Government to be the Chairperson of the Standards in Public Office Commission.

Question put and agreed to.

Cuireadh an Seanad ar fionraí ar 12.18 p.m. agus cuireadh tús leis arís ar 1.04 p.m.

Sitting suspended at 12.18 p.m. and resumed at 1.04 p.m.

Defence Forces: Motion

Acting Chairperson (Senator Nicole Ryan): I welcome the Minister to the House.

Senator Diarmuid Wilson: I move:

"That Seanad Éireann:

recognises that:

- Irish people take great pride in our Defence Forces and the contribution made by the Permanent Defence Force, the Reserve Defence Force and by Civil Defence;

- the single greatest asset the Defence Forces has is its personnel; and

welcomes:

- significant progress on pay for the Defence Forces with the most recent increase awarded in August 2025;

- payment of recruits on completion of training of €41,880 in Year 1, a 51 per cent increase since 2019;

- payment of a Cadet on commissioning is €45,795, a 48 per cent increase from 2019;

- payment for a graduate entrant on commissioning beginning at €51,184;

- the extension of private medical care to all ranks in the Defence Forces;

- the extension of the Service Commitment Scheme for Air Corps pilots to Air Traffic Controllers;

- provision of fitness, training and sports facilities across its installations;

- a doubling of the Patrol Duty allowance;

- the extension of the Naval Service tax credit for a further five years;

- the implementation of a payment to Officer Instructors in the Defence Forces;

- the increase in the maximum age of retirement to 62 and the age of recruitment for General Service/Cadets to 39, and to 50 for Direct Entry specialists;

- the commencement of the application of the Working Time Directive across the Defence Forces in January 2025;

- the Joint Induction Training Centre in Gormanston which, when fully operational, will enable training to be provided to 900 recruits per annum;

- the establishment of a Retention Team in the Defence Forces to start building a clear pathway to reduce overall attrition;

- the development of a Defence Forces Strategic Workforce Plan; and

further welcomes:

- the appointment of the first female Minister for Defence;

- the significant increase in the Defence Budget in recent years; and

acknowledges:

- the ongoing staffing challenges in the Defence Forces;

- that, as of 30th November, 2025, total numbers in the Defence Forces stood at 7,715 personnel or 79 per cent of an agreed establishment strength of 9,739;

- the challenge of meeting the Commission on Defence Forces recommended target of 11,500 personnel by 2028; and

calls for:

- an evaluation of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 with regard to its impact on retention in the Defence Forces;

- the disparity in pension entitlements for personnel who enlisted post 1994 and pre 2024 to be addressed;

- the appointment of an adjudicator to the Conciliation and Arbitration Scheme for the Permanent Defence Forces;

- Defence Forces Chaplains and the Director of Military Prosecutions to be allowed to avail of membership of a representative association;

- the commencement of adjustments to pay and allowances as agreed under the local bargaining arrangements of the Public Service Pay Agreement 2024-2026;

- the establishment of a Specialist Pay Review Body, outside of local bargaining provisions, to consider the appropriateness of current rates of technical pay to specialists;

- improvements in initial Cadet pay;

- a review of the current duty pay system;

- implementation of the third strand of the Working Time Directive;

- examination of the introduction of Long Service Increments; and

- the introduction of the rank of Lance Corporal."

I will be sharing time with Senator Gallagher.

Acting Chairperson (Senator Nicole Ryan): Is that agreed? Agreed.

Senator Diarmuid Wilson: I welcome the Minister, Deputy McEntee, to the House. This is the first opportunity I have had to do so in her new capacity as Minister for Foreign Affairs and Trade and Minister for Defence. I wish her well in the years ahead in that position.

I welcome the opportunity to speak on an issue that goes to the very foundation of our sovereignty and security. It is a topic we do not debate sufficiently, but we can be proud in this Chamber that we speak about it more often than most. We do so with the benefit of extensive experience and considerable knowledge from Seanad colleagues who have served in the Defence Forces at various ranks and in one case in more than one defence force.

Defence debates in this place are rational, informed and grounded in the realities of today's world. I have no doubt that this will be the case again today. At its heart, defence is about our responsibility as a nation to safeguard our people, protect our democracy and contribute credibly to peace and security at home and abroad. Let us be clear, Ireland's security environment has changed profoundly. The world we face in 2026 is more complex and unpredictable than at any time since the Cold War. We see it in Russia's continued aggression in eastern Europe, the bloodshed and horrors in Gaza and the West Bank, instability in north Africa, the growth in hybrid warfare, cyber threats and mass disinformation. The recent threats

to Greenland from those in the current US Administration serve to add to a growing and alarming number of challenges to small open democracies like ours.

Defence is integral to national resilience, economic security and, increasingly, the protection of our democratic institutions. In recent years, Ireland has experienced cyberattacks on critical infrastructure and interference with undersea cables that carry the digital lifeblood of our economy. We have seen Irish airspace and waters regularly transited by foreign military activity. We have witnessed how hybrid tactics, economic and informational, are used to test the will of small states like ours.

Against that backdrop, I again acknowledge the work of the Commission on the Defence Forces and the Government's decision to move to level of ambition 2. Many of us in this House would like to see us move further and faster to level of ambition 3. With these caveats, I think we can say we are, for the first time in a decade, on the pathway to credible capability growth. Recruitment, pay reform, modernisation of infrastructure and investment in new maritime, cyber and air assets are not luxuries; they are obligations.

However, we must also be honest with ourselves that the Defence Forces are still under enormous strain. Although there is a willing pool of available talent, recruitment remains below target, retention is fragile and morale has been tested. The good intentions of successive Ministers must be translated into clear measurable improvements. These include better remuneration, structured career paths and tangible respect for service. We must also be careful about how some pay rates are presented, for example, the rates of cadet and recruit pay. While we often hear the figures of €45,000 or €51,000 being bandied about as an impressive rate of pay for cadets, that is only paid after completion of training. The cadet in actual training earns around €25,000 in year one and €28,000 in year two. These are people in their early and mid-20s. They potentially have mortgages and a family, and they definitely have responsibilities. How many of us could commit to two years on that income? The situation is no better among general service recruits.

On retention, we have a major issue with the post-2013 pension terms.

This is across all services, but it has to be addressed urgently.

I could list several other glaring anomalies, from the unevenness of the service commitment scheme, which still does not cover all air traffic controllers, to the outrageous situation where local bargaining payments under the current pay agreement are now six months overdue in some cases. The fact progress is so slow on these and other issues sends the wrong message entirely to serving personnel. We need a lot more action from the Department and this action must be politically driven from across the Cabinet. The men and women of Óglaigh na hÉireann serve with distinction at home and on UN missions abroad. They deserve a 21st century organisation worthy of their commitment. We have done much and that has to be acknowledged, but we have a lot more to do. The motion before us today makes note of this important fact.

An expanded Defence Forces that numbers more than 11,500 personnel deserves the best facilities and accommodation. We must look seriously at expanding our barracks facilities today to accommodate further expansion of the Defence Forces. We should develop new facilities and re-open some closed ones, not least Dún Uí Néill, the former army barracks in Cavan town, which was closed in 2012. Dún Uí Néill was the only purpose-built army barracks

ever built in the history of the State. It was closed in 2012 and that was a desperately short-sighted decision. It should be reopened immediately. I will deal with that in this House at a later date.

A credible defence policy is built not only on personnel, but also on technology. The world of 2026 demands secure communications, resilient data systems and surveillance capacity that matches our maritime responsibilities, which extend over 1 million sq. km of ocean. To put it simply, our approach to our national defence must be rooted in sustainable investment, better governance and a culture of respect from the Cabinet table to operational command. Our generation must ensure Ireland's defence posture matches the realities of our time. It must be grounded in our values, but realistic about the threats we face.

Members of the Defence Forces do their duty daily. They do it without fanfare and with the utmost professionalism and courage. It is our duty as legislators to give them the resources, respect and clarity of vision they deserve.

Senator Robbie Gallagher: I second the motion. Cuirim fáilte roimh an Aire go dtí an Teach seo inniu. Like Senator Wilson, this is the first opportunity I have had to converse with her in the Chamber and I wish her well in her new role.

I take this opportunity to thank the men and women of the Defence Forces for their excellent service to the country at home and abroad. They do us proud every time they put on their uniforms and we are deeply indebted to them and their families for their service to the State.

It is fair to say the Minister has inherited a brief in which there has been chronic underfunding for many years and that has to be taken on board. The recent budget announcement of almost €1.5 billion is a step in the right direction. Until now, the waters, to use a phrase, were calmer in the geopolitical situation. Unfortunately, as we all know too well, that situation has now changed dramatically and what we got away with heretofore will not cut the mustard going forward. Clearly we have a lot of time to make up on what needs to be done not to be classified as the weak link of Europe for our defence situation. If we compare ourselves with such countries as Denmark and Finland, we are a long way behind. Either Denmark or Finland's budget allocation this year was something like €7 billion. That shows that we have a long way to go in that regard.

The recent goings on with Russian submarines shadowing our waters and the recent drone attack during the President of Ukraine's visit to this country highlight that we need to be on our game when it comes to the security of our island and we also have an obligation to our EU colleagues to play our part.

There have been recent changes to the terms and conditions of Defence Forces members, which are to be welcomed. Our ambition is to reach 11,500 by 2028. We have a long way to go in that regard. We are currently at a figure of approximately 7,700 so we have a lot of work to do to catch up. Again, I take this opportunity to thank both representative bodies, Permanent Defence Force Other Ranks Representative Association, PDFORRA, and Representative Association of Commissioned Officers, RACO, for the excellent work they do on behalf of their members. They advocate for them and have made a good job of that. There have been welcome changes in recent times in relation to pay, the working time directive and a number of other issues that have helped the situation.

The recent interest in the recruitment advertising is encouraging and it is important that we, as the Government, recognises the unique role members of the Defence Forces play in their daily duty. Unlike in many other occupations, they put their lives at risk when they go about their duties and that has to be recognised as a special occupation. Therefore, it is important the Government listen to the representative bodies, PDFORRA and RACO, when they advocate on behalf of their members.

I acknowledge the record budget allocation this year of almost €1.5 billion. It is welcome and needed and we look forward to that budget increasing year on year to make up for the periods of underinvestment down through the years. It is all very well recruiting people to the Defence Forces, but when we do, it is important we are able to hold on to them. Retention is an important issue. There are problems that affect the members whom we need to listen to.

One of those problems is the disparity in the pension entitlements for personnel who enlisted after 1994 and before 2024. That needs to be addressed. It is an issue that not only affects members of the Defence Forces but strays onto members of An Garda Síochána and the fire service as well. That is just one of many issues that need to be addressed. It is important to recognise it is a unique occupation and we need to be cognisant of that. When the representative bodies advocate on behalf of their membership, they are making legitimate claims that deserve to be listened to. They have been banging the drum for many years. The members of the Defence Forces have been speaking with their feet because many of them did not find it to be a recognisable, long-term occupation and those who did join found that the terms and conditions were such that, as my colleague Senator Wilson said, they could not see themselves supporting their families for a long number of years on the income they had. There has been some progress. Much more needs to be done, but I know the Minister will grasp that because what brings this all into focus is that we will take up the EU Presidency in July this year. It is a high-risk situation and one we need to be cognisant of.

We will not beef up our defences within the next six months.

That is not credible. It is not going to happen. As we have done in this country for many years, we need to depend on our good neighbours in the UK, who have been and are providing security for this State, the detail of which I do not have. It has been a long-running arrangement. We will need to reach out to them and colleagues in the EU to help us to get through this EU Presidency because it is a high-risk situation that we do not want to be left feeling embarrassed about. I thank the Minister for her attendance, acknowledge the work that has been done and recognise that much more needs to be done for us to have a defence system that the people of this country deserve.

Senator Gerard P. Craughwell: I move amendment No. 1:

After "acknowledges:", to insert the following paragraphs:

"- Ireland's naval defences are very weak, and the Government has not ordered any new naval ships;

- there is a lack of strategic thinking on the part of the Government, and this has reduced our capability;

- many members of the Defence Forces do not get private health care or only receive a few benefits;

- Cadets like many in the Defence Forces are underpaid - during training they only get paid €22,000 and after training they will earn less than €40,000;

- there must be the implementation of a payment to Officer Instructors in the Defence Forces;

- retirement benefits in the Defence Forces have got worse in recent years;

- the Government must invest in the Reserve Defence Force;"

Senator Joe Conway: I second the amendment.

Senator Gerard P. Craughwell: I welcome the Minister to the House. I speak to her as a former member of the Defence Forces and as a nominee of PDFORRA, RACO and the security services in general. The current allowable strength of the Defence Forces is 9,739, all ranks, across all services - Army, Air Corps and Naval Service. The actual strength of the forces on 31 December 2025 was 7,700, which is 2,039 personnel, or 21%, below strength. The net increase in strength from 31 December 2024 to 31 December 2025 was 143 personnel. These facts are alarming against the background of global and European geopolitical insecurity and turmoil. This is not something that political Ireland or the Department of Defence should be proud of.

The 2022 Commission on the Defence Forces recommended a target strength of the Defence Forces of 11,500 by 2028. I believe in a recent briefing from the Department, the Minister was told that, with the slow rate of increase, it would take five years to reach 9,739 and up to ten years to reach 11,500, the targeted strength. This suggests it will be 2035 at the earliest when the target will be achieved. Both suggested dates are fanciful in the extreme. In recent years, in order to drive recruitment, pay rates for initial entrants have been significantly increased for newly commissioned officers and private soldier recruits on finishing initial training. Retention of middle-ranking personnel, commissioned and non-commissioned, is the lifeblood of the organisation. These inflated pay rates for new entrants have substantially narrowed the gap between top pay for private soldiers and the maximum rates for corporals and sergeants, the mid-ranking personnel the forces are most eager to retain.

Similarly, with commissioned officers, front-loading the pay of second lieutenants and lieutenants significantly reduced the pay differential between the captains and commandants and their maximum rate. Middle-ranking captains, commandants, corporals and sergeants, the ones most needed to be retained in service, are now disincentivised due to the sleight of hand in raising the most junior ranks' pay to the disadvantage of ranks immediately above them. The starting salary for an officer cadet is €25,493. When we bear in mind we are trying to attract people, some of whom are married, €25,000 does not exactly do it. The first point on the scale for a commissioned officer is approximately €31,000.

The introduction, as my colleagues pointed out, of the single pension Act in 2013 proves that one size does not fit all. Without going into great detail, the single pension Act is now severely impacting all front-line services, as members of the Defence Forces, An Garda

Síochána, the Prison Service, ambulance service and fire service are all leaving because there is no pension entitlement at the end of the day. Pension entitlement was one of the things that drove retention in the Defence Forces - you served your 21 years and you were well looked after with a decent pension. That is gone, and we are losing people because of it. I ask the Minister to raise this with the Minister for Finance. Political Ireland has to take control and stop letting the civil servants tell us what to do.

On 29 January, the Government, upon the nomination of the Taoiseach, formally appointed Ministers of State. This is a matter causing some concern in the wider public. There is a Minister of State in the Department of the Taoiseach, the Department of foreign affairs with special responsibility for European affairs and, it states, at the Department of Defence. Will the Minister advise what statutory status the Minister of State has with respect to defence? Anybody I speak to is unsure. The Minister of State makes lots of statements and speeches but what statutory role does the junior Minister have?

All Irish Ministers, senior and junior, make pronouncements, verbal and written, and state simultaneously that Ireland is not politically neutral but militarily neutral. In customary international law, where the rules and obligations of neutrality are codified, there is no such subdivision of neutrality. Either a state is neutral or non-aligned or it is part of an alliance. Where in customary international law is such a subdivision of neutrality, as articulated by Ireland's senior and junior Ministers, specifically codified or cited? It is confusing to hear people talking about political neutrality and military neutrality. There is no such thing. You are either neutral or you are not.

Government Ministers repeatedly talk about the €1.7 billion in the defence budget. Vote 35 deals with pensions and Vote 36 is the normal pay and other running costs of the Defence Forces. Some 73% of Vote 36 is to be expended on pay and allowances, traditionally. The cost of recurring expenditure on maintenance of lands, utilities, fuel, spare parts, is borne by the remaining 27%, along with the cost of attaining and maintaining operational capability, the core business of the Defence Forces. What portion of this paltry 27% of Vote 36 is actually allocated in 2026 for the said operational capability such as the purchase of primary radar, anti-drone equipment, maritime sonar, arms and ammunition, armoured and specialised vehicles and allied and associated drivers?

We are talking about buying primary radar. If we bought it today, it would not be operational until 2028 and we have nobody able to use it. If we see something in our sky, what will we do? Will we send a strongly worded letter on headed paper up to the pilot who is in our airspace and say "Please leave us"? This is outrageous. Similarly with sonar, we do not have people who can use or interpret sonar. How long will it take to train them if and when we buy it? I have concerns about that.

We heard lots of talk in recent times about the multi-role vessel, MRV, the Naval Service was to buy. Where is it? Is buying it still on the cards? I am also deeply concerned about our procurement from one state alone. I will have something to say about that in the near future. It is most peculiar that all procurement in defence is coming from one source only.

Acting Chairperson (Senator Nicole Ryan): Senator, your time is up. I will have to ask you wrap up.

Senator Gerard P. Craughwell: It is irresponsible. There is much I would like to say but, unlike my colleagues, I do not have 15 minutes.

Acting Chairperson (Senator Nicole Ryan): Before I call the next speaker, I welcome guests in the Gallery from the Ballincollig Business Association who are guests of Senator Kelleher. You are most welcome. We all hope you enjoy your day. I call Senator Kyne.

Senator Seán Kyne: I welcome the Minister to the Chamber and congratulate her on her appointment. We have had nearly 50 Ministers for Defence and Deputy McEntee is the first female Minister for Defence. I congratulate her personally and politically on that. I thank my colleagues in Fianna Fáil for tabling this motion. I am sure Senator Craughwell knows that if his group tabled a motion, its members would also have 16 minutes on this or any other topic they wished to pursue.

Senator Wilson spoke about today's world. It is safe to say today's world has gone a bit mad. There were always incidents but, for the first time in a long time, it has become politically unstable in areas close to us in the Continent of Europe. One often hears pub talk and people asking why we need an Army. If anything happened in this country, these people would be the first on social media to say we do not have the capabilities or we should have done more and invested more. We have to take seriously the changed political circumstances across the world.

I welcome, first of all, the commissioning of the policy in relation to the renewal of the Defence Forces and now the level of ambition 2 and the movement, we hope, to level of ambition 3 with continued investment over the coming years.

We had an interesting visit to Gormanston Camp, County Meath, a number of months ago as members of the defence and national security committee. It is great to see the level of investment because recruits and trainees deserve the very best of facilities. It is good to see the investment visible on the ground. It will be impressive. It is, I suppose, halfway through or whatever. There is more planned work needed but it is certainly something that will be fitting for our new recruits there.

We heard from officers and we have seen that the numbers are increasing, and that is to be welcomed. According to the official figures, we are below the establishment strength but the numbers of discharges have reduced somewhat since 2022. That is to be welcomed. If you look at the number of recruits serving in 2020 after 24 months, we had 170 in the Army, 36 in the Naval Service and none in the Air Corps, making a total of 206. In 2023, the comparable figures were 244 in the Army, 57 in the Naval Service, ten in the Air Corps and a total of 311. In 2024, after 24 months, the figures were 142 in the Army, 45 in the Naval Service, seven in the Air Corps and a total of 194. We would expect to see those figures increasing with the number of recruits that have come in. Certainly, it is welcome that there is that level of interest. That level of interest does not happen by accident because there have been, following decisions by the Government, increasing budgets for the Department of Defence.

During the downturn, defence was treated like every other Department whereby Ministers' first decision was to cut their budgets. That was the requirement - to cut budgets and to cut expenditure. Over the years we have seen the level of expenditure across all Departments increase, and so too for the Department of Defence. That is certainly very welcome indeed.

Attrition rates and the numbers that have to buy themselves out of the Army was something that has been brought up. That has been somewhat stabilised and we have seen overall staffing levels in the Defence Forces increased. As I said, it is not by accident. There has been progress on pay, as well as the extension of the existing service commitment scheme for Air Corps pilots to air traffic controllers personnel, an increase in the mandatory retirement age to 62, the extension of private healthcare, the provision of fitness training and sports facilities, as we have seen in Gormanston and elsewhere, and progress on the Defence Forces infrastructure development plan with the highest level of financial resources in the State's history. All of that is welcome in leading to a more positive atmosphere for recruits.

We have a long-standing tradition of overseas deployment. From talking to people, both in these Houses and elsewhere, it is a huge honour and something that attracts recruits to the Irish Defence Forces. We have that proud record, notwithstanding the decisions in relation to UNIFIL as well.

I was watching online a former UK Secretary of Defence talk of the hollowing out of defence forces over 20 or 30 years, even in the UK, . It is something that perhaps Europe was never, or certainly since the end of the Cold War was not, investing sufficient in our defence and that level of co-operation which is absolutely needed. We have seen the threats that are going on which very few countries on their own in Europe would be able to withstand without the support of others as well.

We have to be able to stand on our own two feet or be seen to do it. I welcome the level of investment but there is a lot more that needs to be done. The Minister has the ambition and the Government, through the commission on renewal, has the blueprint in relation to that and the budget to go with it.

Senator Pauline Tully: I welcome today's motion regarding our Defence Forces, which has been proposed by Senators Wilson and Gallagher, my two constituency colleagues, and I recognise the urgent need for investment and reform to improve the quality of life of personnel and the overall strength and readiness of our Defence Forces.

A crisis has been allowed to develop within the Defence Forces due to long-standing neglect by a series of Governments. The State has completely failed to plan for the future and to ensure that Ireland has a defence force that is fit for purpose.

Our Defence Forces are effectively at rock bottom in terms of morale and are seriously struggling to manage recruitment and retention. For a military as comparatively small as ours, it is a shambolic failing that we are not able to ensure that our basic staffing and equipment needs are being met.

We currently have fewer than 8,000 personnel in the Permanent Defence Force, well below the established strength, never mind the 11,000 personnel recommended under stage 2 of the Commission on Future of Defence Forces. We have had the embarrassing situation where ships have been put to sea with no functioning main gun because of a lack of specialist staff to operate it or have been unable to be put to sea at all due to lack of crew.

I welcome the intention of this motion, but we now need to see real and meaningful follow-through from the Government parties. The men and women of the Defence Forces deserve better than what they have seen from the previous Government.

It is worth remembering that when Micheál Martin was Minister for Defence, he repeatedly returned defence money to the Exchequer unspent – €30 million in 2024, €70 million in 2023 and €70 million in 2022. What this results in is the systematic decline of our Defence Forces.

In the past five years, we have had more people leave than join, resulting in a clear drain of our experience and expertise. We have also seen how more than 900 people recruited to the Defence Forces since 2020 left within five years.

Unfortunately, we are now in a situation where the lack of personnel and capabilities in our Defence Forces is a threat to our national security. We have seen it most recently during the visit of President Zelenskyy to Ireland, in which we were left vulnerable to drone attacks. There are also the very real vulnerabilities to our offshore cables and our inability to surveil our own airspace.

The reality is that our Defence Forces are in a very precarious position as a result of Government underfunding and despite a series of promises and commitments, we have seen very little practical change. It is long past time for the Government to cease the neglect of the Defence Forces and ensure that Ireland has a defence force that is fit for purpose.

Sinn Féin believes Ireland must be both strong on defence and equally strong on protecting our neutrality. That means ensuring that we have Defence Forces that are able to ensure the security of the State and that enable us to participate and contribute in UN peacekeeping missions to the best of their abilities.

The focus of this Government should be on rebuilding the Defence Forces, ensuring that it has the personnel and equipment that it needs, while protecting our core value of neutrality. Our neutrality has been our greatest protection since the founding of the State and it is needed more now than ever. We are in a very difficult and volatile period of history, with the possibility of war becoming more real every day. It is vitally important that the Government is clear-sighted in ensuring the readiness of our Defence Forces and does not make rash moves such as scrapping the triple-lock neutrality protection.

The amendment I intend to propose has been put forward by Sinn Féin Senators. The amendment calls for:

> the creation of a health outcomes assessment for Air Corps Medical Personnel similar to the Study of Health Outcomes in Aircraft Maintenance Personnel process in Australia, in order to identify potential adverse health outcomes for said personnel, and to ensure that Air Corps Maintenance personnel are supported with healthcare costs for such potential outcomes using an appropriate mechanism;...

To explain, there have been multiple cases of long-term medical conditions that former Air Corps personnel believe to be connected to exposure to hazardous chemicals. The urgent priority now must be ensuring that medical needs of the former personnel are addressed but there is also a need for answers.

What they deserve, most urgently of all, is to have their medical care addressed. We call for an immediate medical assessment of former Air Corps personnel to see whether they are affected by exposure to chemicals. The Government also needs to engage with the personnel in question to ensure that a mechanism is found to ensure the personnel and their families are supported with medical care as they deserve answers.

Acting Chairperson (Senator Nicole Ryan): Before I call the Minister, I welcome our visitors in the Gallery, the female Ógra from Fianna Fáil who are guests of Senator O'Loughlin. They are most welcome to the Gallery and I hope they enjoy their day.

Minister for Defence (Deputy Helen McEntee): I welcome our guests as well. I hope they have an enjoyable day.

I thank the Senators for tabling this motion. I am really pleased to have an opportunity to engage with Senators for the first time in taking on this role.

I look forward to working with many colleagues in relation to our Defence Forces in view of the significant change in geopolitical environment in which we find ourselves.

We are discussing this matter at a time of huge volatility and uncertainty regarding our security and the security environment in general that we are operating in, from Ukraine to Gaza and from the continent of Africa to things that are happening much closer to home. Right now, defence and security issues rightly command greater public attention than they did even two or three years ago. As a result, it is right that we are here discussing this matter today. We are not on our own in this regard. Where colleagues make reference to Ireland perhaps being a weak link or a weak chain, particularly in the context of the recent visit of President Zelenskyy, I remind them that the visit went off extremely well. When I sit at the table and talk to other defence colleagues across Europe, I hear from them about issues with drones, instances where they have had to close airspace and where bombs have exploded on railway lines. It is very clear to me that we are all living in this shared challenging environment and we need to make sure we are all focused on the one thing, which is supporting our members of the Defence Forces. I can assure Senators that this is my priority.

I acknowledge the work that has been done to date in respect of the Report of the Commission on the Defence Forces. We need to be ambitious and work together to make sure that we can achieve the overall ambitious targets the report contains. As Minister, my priority is not just overseeing the implementation of the report but also ensuring that we support the men and women of Óglaigh na hÉireann to do what they do best, namely engaging in peacekeeping missions right across the world. The latter is something of which we have been so proud for many decades. My priority is also to support them in their work in protecting our citizens, our national security and our democracy, be that through legislative means, our overall investment by means of capital and current spending or through our partnerships with other countries. It is really important in the world in which we live that we are working and engaging not just with our nearest neighbours but also with our international partners. Given what is happening, that has never been more important. I look forward to working with Senators on all of these issues.

Regarding our legislative programme, the first legislation I intend to have before the Seanad in the coming weeks is the Defence (Amendment) Bill. The latter is aimed at changing the basis of how we deploy our Defence Forces personnel overseas, including changing the triple lock. For me and for many people here and other colleagues, it is simply not acceptable, particularly in light of recent global turmoil, that any one of five permanent members of the UN Security Council have an essential veto on Ireland participating in peacekeeping missions overseas. The Bill will address that. I have engaged on the pre-legislative scrutiny that has

taken place with colleagues, and I look forward to working with Senators and engaging with them on the many important proposals they suggested at the committee.

As I have heard already from colleagues, one constant always emerges on any debate on defence and that is the deep respect, admiration and pride we all feel for the women and men of Óglaigh na hÉireann. They are, without question, the Defence Forces' greatest strength. The Government is committed to ensuring that the Defence Forces have the equipment, resources and capabilities required to fulfil the roles assigned to them. I, too, acknowledge the Members of this House and the Dáil who have served and who are serving members. At the heart of the Government's commitment is a clear focus on people. Our personnel are our greatest asset, and supporting them in their careers, their well-being and their development remains my central priority.

The motion before the House rightly acknowledges the substantial progress made in recent years. Meaningful improvements have been delivered in pay, medical care, retirement and in recruitment age and working conditions, including the commencement and the application of the working time directive across the Defence Forces in January 2025. There is real and tangible progress under way. Again, last year saw an increase of almost 200 personnel in strength. While I appreciate that is not the number we want to get to and is a modest step, it is to be welcomed nonetheless. It reflects a positive trajectory which we need to continue. The motion before the House also recognises the enormous strides that have been made in recent years, whether that is, as I have said, in relation to progress on pay, the extension of private medical care to all ranks, and the maximum retirement age and the recruitment age, or the commencement of the working time directive. That said, it should be acknowledged in the context of almost full employment in our economy, that these are challenges that are not just unique to the Defence Forces. They are challenges being faced by all armed forces right across Europe.

What is becoming increasingly clear is that the reforms that are being introduced and have taken time are making that difference, although I appreciate there is more to do. Last year, 16,510 applications from people seeking to join the Defence Forces were received. The next step is making sure we take progress those applications. The strategic workforce plan on which I am working with my Department and the Defence Forces will set out a very clear and evidence-based pathway to achieving that overall strength of 11,500 personnel aligned with our future capability needs. Just this week, I met with members of the Defence Forces and staff of my Department to discuss the work they are doing to set out the strategic workforce plan that needs to include members of the Defence Forces and an increased focus on civilianisation, an area in which there is so much work that can be done.

We will also make sure to continue to increase the number of Reserve members. I met with their representative association yesterday, and huge strides are in progress. To use the association's words, there is huge "untapped potential" that we can work with and that can support the overall work of our Defence Forces. Sustaining the progress made in 2025 is a priority and is essential, which is why the Defence Forces are targeting the recruitment of more than 850 personnel this year. It was just under 800 last year. We are increasing our target and will do everything do try to exceed that as well.

As today's motion recalls most of the positive measures introduced in recent years, I will not dwell on them. However, I would like to say a few words about some of the progress made

on pay. Pay and conditions, while they are not everything - and from speaking to members, I understand that absolutely - they are an important part of ensuring the Defence Forces can recruit and retain the people they need. Good progress has been made in this area. While progress made in this regard stands to be further enhanced with the additional pay awards due later on in February under the terms of the current public sector pay agreement. I know there is much more we need to do and that is something we need to work across government in progressing.

As Senators will be aware, we recently launched the Defence Sectoral National Development Plan 2026-2030, which sets out a very clear and ambitious vision for the future of our Defence Forces, again aligning with the overall objectives of the Commission on the Defence Forces. I am absolutely committed to ensuring that there is continuing ongoing transformation of our Defence Forces. Capital funding of €1.7 billion has been allocated. This is an increase of €600 million, or a 55% increase, on the previous baseline figure of €1.1 billion. This is about modernising and transforming the capabilities of the Defence Forces across a number of different domains, and ensuring Ireland continues to meet its national and international security responsibilities.

I am particularly conscious of the fact that our EU Presidency will start later this year and of the need to ensure that everything that can be done is done as soon as possible to make sure we have the right structures and the infrastructure in place. Key elements include record multi-annual investment, rising from €300 million in 2026 to €360 million in 2029, with major capability upgrades across land, air, maritime and cyber domains. This will include full delivery of the military radar programme by 2028. This is something that I have asked be moved forward to make sure we have that capability in place and that we start that process this year in the context of our Presidency. This is an essential step in the Government's plan to enhance our national security and the need to continuously strengthen our defence capabilities.

The defence sectoral plan also provides for Air Corps modernisation and other key equipment investments, including procurement of subsea domain awareness capability for the Defence Forces. I recognise that training will be required in this regard. This is a key priority in order to ensure that when we have the requisite equipment in place, we will also have personnel capable of using it.

I am pleased to report that there has been a significant investment in defence infrastructure. At the end of 2025, over €270 million worth of capital projects were at various different stages of the procurement pipeline, from design, planning and construction to substantial completion. Notable projects for this year include: the military medical facility in Baldonnel, at a cost of €16.2 million; the block 1 accommodation complex in Collins Barracks, Cork, at a cost of €4.9 million; and the new dining hall in Aiken Barracks, Dundalk, at a cost of €5.5 million. The total allocation for infrastructure capital works this year stands at just under €70 million, with €13.5 million set aside for the Defence Forces in respect of the maintenance of existing infrastructure.

I recently visited Gormanston in my constituency to see how the various buildings are progressing. We need to ensure that we invest in the infrastructure in which the men and women are staying, sleeping, eating and going to the gym, because that is a sign that we recognise and fully support the work they do. In addition, a significant portion of funding

through the NDP will be used to invest in new uniforms for the men and women of Óglaigh na hÉireann and in the new equipment they require.

In the context of our capital budget, this year a record allocation of €1.49 billion for the defence sector is being provided. Again, this is an increase of €145 million on 2025.

As Minister, I will do everything I can to continue to increase the current budget.

Turning to a number of points made specifically in the motion, I assure the House that I am committed to ensuring a fully functioning conciliation and arbitration system for the Defence Forces; one that operates effectively, transparently and with the confidence of all parties involved. The conciliation and arbitration, C and A, scheme for members of the PDF provides a formal mechanism for the military representative associations, RACO and PDFORRA. I will meet officials from both organisations tomorrow to engage on matters that come within the scope of the overall scheme. In the event of disagreements, one or other of the parties can seek adjudication or arbitration on the matter. It is important that we have this in place. I appreciate that we currently do not have the adjudicator in place for the Defences Forces and for the scheme, but I know there is a lot of work happening on both sides to make sure that it is in place as soon as possible. In relation to the arbitration board, I am pleased to say that yesterday the Government approved the appointment and reappointment of members to the arbitration board. The new term will run until 7 November 2026.

I will briefly touch on issues relating to pensions, including those affecting single scheme entrants since 2013. This is something that continues to be raised by the representative bodies, but, as all Members know, this is an issue that arises from public service-wide legislation and is something that will be discussed with other Departments and other sectors as well. I am conscious of this issue and that it is a concern. It is certainly something I will engage with the unions on.

In recognition of the need to retain experienced and skilled personnel and to enable personnel to extend their careers in the Defence Forces, the mandatory retirement age for members was extended to 62 years of age with effect from 19 August 2024. This was at the same time the mandatory retirement age for members of An Garda Síochána was also extended. That was something I worked closely on at the time. The move very much aims to address in part the provision of extended career opportunities for members, if they so wish. From my understanding of the figures and looking at them to date, we are starting to see that having a positive impact, but we hope to see greater impact in the time ahead.

A number of matters set out in the motion are currently being considered through the C and A process, which remains the most appropriate and effective in terms of their overall resolution.

I will very briefly comment on our chaplains as it is a matter that has come up and been raised with me a number of times. It is also something I will speak to the unions about. My officials are examining the status of the chaplains going forward and the potential legislative underpinning needed to provide for changes to status. This is something I am working with my officials on and will speak to the representative associations about tomorrow. I think it is accepted that the proposals will necessitate amendments to primary legislation and, if that is the case, I am happy to bring that forward as well.

Another issue that has come to the fore in recent years is the overall environment for members of the Defence Forces - not just female members, but all members. I was pleased to last week publish the first Value Our People survey. This was undertaken over the past year by the Defence Forces. Over 60% of members engaged in the process which is the highest feedback they have received. This touched on quite a number of different issues. It was not just pay. It looked at the conditions in which members work, the equipment they have, as well as looking at the overall work environment. It touched on some really difficult issues around sexual harassment and other issues that have really come to the fore in recent years. I am pleased to have engaged with not just the Defence Forces but also the body that has been put in place and is chaired by Patricia King. It has done a huge amount of work both before and since the survey was undertaken. It continues to respond to the many concerns raised, not just around sexual harassment or issues that came to the fore through the Women of Honour group, but also the many other issues raised at all levels through the Naval Service, Air Corps and the Permanent Defence Force. It is important we keep that focus and continue working with the Defence Forces on these issues to bring about the types of organisational changes that perhaps had not come to the fore in recent times.

At the outset, I mentioned one of the very significant changes that have been made, which is the introduction of the Organisation of Working Time Act in January 2025. This work, which is known as strand 3, is under way. I appreciate it is a complex piece of work that impacts across a range of areas, but I look forward to it being brought to a conclusion very soon.

There is so much that we could discuss and so much happening, but, for me, it is very much about us being on the same page. I want to work with the Members to ensure our Defence Forces, the men and women who literally keep us and so many others safe, as they have done for many years right across the globe, have the support they need and know they have our support and that, as the only Defence Forces, in this country their members have the equipment, technology, infrastructure and capabilities they need to be able to do their jobs as effectively as possible in the extremely challenging and worrying environment we are living in at the moment. I look forward to working with colleagues on this issue in the time ahead.

Acting Chairperson (Senator Nicole Ryan): The next speaker is Senator Stephenson from the Cross-Party Group. Does the Senator wish to share time?

Senator Patricia Stephenson: Yes, with my colleagues Senators Harmon and Higgins.

Acting Chairperson (Senator Nicole Ryan): Is that agreed? Agreed.

Senator Patricia Stephenson: I welcome the Minister, Deputy McEntee, in her new role. It is historic to have a woman in this position for the first time and I congratulate her on that. I welcome this motion and that successive Fianna Fáil and Fine Gael Governments have finally seen fit to fix their absolute bungling of Defence Forces funding, recruitment and retention of personnel and infrastructure. They have stood over the atrophy of the Irish Defence Forces for the past 20 years, to the point that the ability of our Defence Forces to man ships, monitor our skies and do their jobs safely has been placed under serious threat.

The stance of the Social Democrats has been clear: we need urgent investment in the Defence Forces. We need ships in the water, we need recruits being trained and we need to put an end to the decades of underinvestment by Fine Gael and Fianna Fáil that has left the people who risk everything for this country on the breadline with their families. We are faced with a recruitment crisis at a time when we need our Defence Forces to provide national-level defence and to support humanitarian missions.

We had the longest unbroken peacekeeping record in the world, yet we pulled out of the Golan Heights - not due to a lack of a UN mandate or because of neutrality, but because we simply did not have the numbers and we chose to prioritise an EU battle group instead. That humanitarian peacekeeping is the beating heart of our Defence Forces. It is what we do best and it drives recruitment. When the Irish Naval Service engaged in humanitarian missions in the Mediterranean and was saving lives daily, applications to the Defence Forces increased. When we decided to pivot away from search and rescue, many decided their time in our Naval Service was done.

Issues around pay and conditions, the gutting of the Defence Forces pension and cultural issues meant that good women and men chose not to stick around past their obligatory period of duty. This trend, which was caused by problems we have seen fester over decades, means we all lose out as a nation. The pay and conditions afforded to members up to this point show a complete underappreciation of the role the Defence Forces played for Ireland, both internationally and at home.

I particularly welcome Senator Clonan's amendment calling for an end to the sexual violence and bullying that has persisted in the Defence Forces. Sexual violence must be stamped out in all spaces and women and men who choose to serve must have dignity and safety within the workplace.

Across Ireland, people rightly take pride in the Defence Forces. We are proud of the international reputation we have as peacekeepers, with men and women in the Defence Forces acting with honour, bravery and integrity to protect others. However, the simple fact is that the underinvestment and underfunding of the Defence Forces which we have seen for decades has left them on their knees. It really should not be like this any more. That is why I welcome the Fianna Fáil Senators bringing this motion forward.

Senator Laura Harmon: It is important and timely that we are having this debate here today. It is imperative that we invest in our Defence Forces and particularly in our defence personnel. This a matter of national security. The Labour Party has supported reaching level of ambition 2 for the Defence Forces.

We need to know what is happening in our territorial waters. We need to know what is happening in our airspace, particularly in the current geopolitical environment. This includes drones and undersea cables. However, we can invest in all the equipment that we want, but if we are not looking after the personnel in our Defence Forces then we will not have people to operate that equipment.

I am going to talk about the navy for a little bit. Cork plays a key role in our security, particularly with our upcoming Presidency of the EU this year. The navy's numbers have increased in the past year but they are still far short of the strength required to patrol Ireland's

waters. Figures from October 2025 indicate that the Naval Service had 784 personnel out of a required strength of 1,094. We are back at 2022 levels in terms of strength. We need to increase naval patrol duty allowance further. The Naval Service tax credit, which was increased in 2021, has not kept pace with inflation.

Investment in living quarters for our Defence Forces personnel at barracks and naval bases is crucial. We need to invest more in housing and childcare facilities for members of our Defence Forces based in Collins Barracks and Haulbowline Naval Base in Cork. Ensuring a work-life balance is essential for recruitment and retention of the women and men in our Defence Forces.

2 o'clock

The lack of powers of the Oireachtas Joint Committee on Defence and National Security is also notable. "National Security" was added to the title of that committee. At times, this seems tokenistic to me, if I may say so. The Government added this title but added very few new powers. The Garda special detective unit and the Department of the Taoiseach have declined invitations in the past to address the committee and provide national security updates. Our party leader, Deputy Ivana Bacik, has long called for briefings for Opposition leaders on national security, as provided in many other countries. Where is our long-term strategy for national security? The National Security Analysis Centre was established in 2019 and taoisigh and Ministers for Defence have been promising a comprehensive national security strategy for the last five years now.

Investment in our Defence Forces is essential. We are under-investing at the minute. We need to look after the women and men who are working in our Defence Forces. I express my thanks and appreciation for the work they do. Ultimately, pay and conditions, recruitment and retention, and work-life balance are essential. Dignity, respect and a zero-tolerance policy on sexual violence and bullying in the Defence Forces need to be upheld.

Senator Alice-Mary Higgins: It is good, now that this issue has been raised for years, that some progress is beginning to be made on pay and conditions for our Defence Forces. The motion addresses the specifics of pay and conditions. I welcome that it also raises the crucial question of representation, calls for Defence Force chaplains to be allowed to have membership of representative associations and calls for proper measures around the working time directive and on making decent employment available and accessible to members of the Defence Forces. Those are positive components of the motion, which I support.

I very much echo the support expressed by previous speakers for the amendment on bullying and sexual harassment. We know these have been issues within the Defence Forces and they need to be seriously addressed. I commend Senator Tom Clonan in particular on his work on the amendment.

Speaking about the pay, conditions and support for our Defence Forces is crucial but it needs to be teased out from the massive shift we are seeing on a wider level towards huge expenditure on military and defence. This expenditure is largely not going to the Defence Forces and pay and conditions. It is going to some of the industries that are profiting extraordinarily from a climate in which military expenditure is being ramped up.

The finance committee did a report, which was published in December, examining the €800 billion being pushed as EU expenditure. Much of that money is being routed away from social cohesion funding, which we know in Ireland is what builds peace between communities. I have just come from a meeting of the environment committee where we heard about the proposal to move LIFE funding, which funds projects on the ground in Mayo, Clare, Roscommon and across the country, and in the Natura communities. These projects are exactly what we are always calling for in the environmental area. They actually pay landowners and local communities for doing work on biodiversity and climate. That funding could potentially be rerouted into security and defence as well. These are the things that are part of the peaceful world we all want to work for. They are part of our collective security and environmental security.

The motion focuses on the right areas, which need support. While I agree that we need ships, it is in a context of a defence spending narrative which is risking our collective security and integrity within the European Union.

I am signalling the report from the joint committee on finance because it is very relevant. We specifically called for fair and equitable pay and conditions and increased resourcing for recruitment, retention and the well-being of members of the Defence Forces. We also highlighted the dangers arising from a €150 billion loan programme that Ireland has been asked to underwrite. We have the resources and there is nothing that has stopped the State from delivering pay and conditions for many years. We are not dependent on Europe in that regard but we are contributing potentially to a €150 billion loan programme, which will give €16 billion to Hungary, a state teetering on the brink of authoritarianism. It was directly confirmed by the Commission, when its officials met the committee, that this money will be given over to the manufacture and purchase of cluster munitions and landmines.

Let us have the discussions and support our Defence Forces through the kinds of measures sought in the motion. We can do that, while also having a critical voice on areas of defence spending that are risking our collective security and our future when we look to the impact military expenditure can have on our environment. There are also moral issues such as the use of cluster bombs. I am hoping we can get that balance. I say this too because that is also a small part of the recruitment and retention issues. I say this having spoken to people who have been in the Naval Service. People have spoken. We all remember the powerful testimonies of those on the naval ships who saved lives in the Mediterranean Sea. At one point, Ireland was saving 8,000 lives a year in the Mediterranean, but we moved on from that. I remember the moment. The then Minister of State, Paul Kehoe, said that we were moving from a primarily humanitarian function to a primarily security function with Operation Sophia, and then we stopped saving lives. The number of lives saved went down to 2,000 before Operation Sophia abandoned search and rescue altogether. I know naval officers who left the service. I know members of the Army who put up with disgraceful pay and conditions because they are proud, knowing that they are in an Army that serves a neutral country, that is always about principles and serving humanity rather than interests, that works under the UN and that has a record they can be very proud of. That is also something we need to address so that people can continue to be confident in what the future will be for them if they join the Irish armed forces. That is a linking piece, along with pay and conditions, which I hope we can also address.

Senator Fiona O'Loughlin: I thank the Minister of State, Deputy Dooley, for being here for a very important motion from the Fianna Fáil grouping. We have seen significant progress in recruitment and retention over the last number of years. Year on year, for the past three years, we have seen recruitment increase, which is important. It is also important to acknowledge the ongoing innovation by senior military management and the Department of Defence in relation to structures and methodology on recruitment and retention. It is a job worth doing. Our gratitude, thanks and respect must go to the men and women who serve in the Defence Forces at home and abroad. We are increasingly proud of them.

Senators across the Chamber want to see the Government investing in the people in our Defence Forces and in our infrastructure, equipment and command and control structures to create Defence Forces that are ready to face the challenges we face in the strange geopolitical world we are in at the moment. We would be wrong not to note that there are challenges. There are well documented challenges right across the service. It has to be a priority to address those and show the men and women serving in Óglaigh na hÉireann that we respect them and want to make sure they have proper pay and conditions.

In a competitive labour market with full employment, there are always going to be challenges. We are bound to see people leaving different types of employment in order to take up other opportunities. The reason my colleagues and I brought this motion forward was to highlight some areas the Minister and the Government could focus on to help meet those challenges. Up to November last, a total of 15,781 applications were received. This shows that there is interest in joining the Defence Forces. The challenge is to convert those applications into inductions. In that context, the Minister has spoken about the workforce plan, which we await with anticipation. We certainly hope it is going to help.

As for the specifics of the motion, we are looking for an evaluation of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 in the context of its impact on retention of personnel in the Defence Forces. Of course, this matter does not just relate to the Defence Forces because gardaí and firefighters have spoken about it as well. It is important to state that we consulted RACO and PDFORRA on all the recommendations we have included in the motion.

The second recommendation in the motion is that the disparity in pension entitlements for personnel who enlisted after 1994 and before 2024 has to be addressed. There is a particular adverse circumstance for personnel who enlisted during that period in that they do not receive the entitlement to 13 weeks' of pre-retirement leave or the 78 weeks' worth of gratuity awarded to personnel on newer pension schemes. This has to be addressed.

The third recommendation concerns the appointment of an adjudicator to the conciliation and arbitration scheme for the Permanent Defence Force. The Minister referenced that, and it is important. It is time to act on this matter. There is a recommendation in this regard. The position of adjudicator has been vacant four times in the past six years.

The fourth recommendation relates to the Defence Forces chaplain. We all remember the heinous attack on Fr. Paul Murphy, which underscored the vulnerability of those who are serving in this role. We and the representative organisations want to see this addressed, as it needs to be.

The fifth recommendation is on the commencement of adjustments to pay and allowances as agreed under the local bargaining arrangements of the Public Service Agreement 2024-2026. This is simply overdue, and we owe it to the Defence Forces to get on with it.

The sixth recommendation relates to the establishment of a specialist pay review body outside local bargaining provisions to consider the appropriateness of current rates of technical pay for specialists. The Commission on the Defence Forces recommended the introduction of a mechanism in this regard. It is really important, and I urge the Minister to ensure that this happens.

Improvements in initial cadet pay is our seventh recommendation. It remains the lowest in the Defence Forces at just €493 per week compared with €540 for a recruit and €617 for a two-star trainee. We also call for a review of the current duty pay system. From our engagement with PDFORRA in particular, we know this is a key issue. We need to have that and the implementation of the third strand of the working time directive dealt with. I add to that the need for an examination of the introduction of long service increments and the rank of lance corporal.

I will use the remaining 30 seconds to address two issues pertaining to Kildare. As Senators know, Kildare is the home and the heart of the Defence Forces. There is a small issue there which would mean an awful lot if it was addressed, namely the opening of the Curragh swimming pool to current and former personnel and their families and to local schools. When Micheál Martin was Minister for Defence, it was agreed that if an investment of €250,000 was made in respect of the swimming pool, it would be reopened to these groups. Two and a half years later, this has not happened. We need it to happen, and we also need action in respect of the Curragh plains. The Department of Defence is currently responsible for managing the plains, but an agreement has been made to the effect that this responsibility should move elsewhere. We need action in respect of that matter.

Senator Joe O'Reilly: I welcome the Minister of State with responsibility for the marine, Deputy Dooley. It is good to have him here for this important debate. It was also good to have the Minister, Deputy McEntee, here earlier. She is clearly very hands on and proactive in her approach. Her visibility as Minister for Defence should prove an incentive to young women and women in general to join the Defence Forces. That would be a major development. It could, among other things, be a good byproduct of her Ministry.

I support the motion, which was very competently proposed by Senators Wilson and Gallagher on behalf of the Fianna Fáil group. I agree with the broad thrust of it.

I will be alluding more to this later, but I take this opportunity congratulate a very good friend of mine Commandant Mark Kiernan of the Reserve Defence Force. He is officer in command of C Company, 27th Infantry Division. It is a huge personal achievement for him and a recognition of his leadership skills, etc., but it is also important for the Reserve in our region and the region Senator Wilson and I, and, of course, Senator Tully, serve. As a consequence of Commandant Kiernan's leadership, there will be even more recruitment in that district to the Reserve Defence Force.

In the context of the motion, recruitment is currently positive due to an increase in pay and allowances, as well as improvements in respect of medical insurance. That is to be welcomed.

As the motion states, part of the reason for that is pay for recruits on completion of training being €41,880 in year one. There has been a 51% recruitment increase since 2019. The pay of cadets on commissioning is now €45,795. The pay and conditions are a very important element in the more favourable recruitment. The general status of and respect for our armed forces is a factor too. They should be respected as they have served us well through the years at home and abroad. Respect for the Defence Forces and their position in the public consciousness is improving, which is also important. I am happy that these developments have happened.

The motion sees a need for further development. We need to give extra pay and improved conditions to non-commissioned officers and senior non-commissioned officers to achieve retention. A method of doing that could be a signing-on bonus or long service increments, which I understand is a subject of discussion at the moment. I have the privilege, with others in the House - notably Senator Craughwell - of representing the Defence Forces in the Seanad by being their nominee and from talking to them I understand there is tentative progress in this area, but we need to see it happen in a big way. We need to continue to improve pay and conditions. As was alluded by previous speakers, living conditions are important.

The motion establishes that we need to evaluate the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 with regard to impact on retention of the Defence Forces. There is a disparity in pension entitlements for personnel who enlisted post 1994 and pre-2024. That disparity needs addressing and I hope that can be the case.

We need to get the commencement of adjustments to pay and allowances as agreed under the local bargaining arrangement of the Public Service Agreement 2024-2026. We need that enacted and happening. This will all continue to enhance the continued recruitment opportunities.

As I said at the outset, the current recruitment is positive and is due to increases in pay and allowances conditions and medical cover but we need to give extra pay to NCOs and senior NCOs for retention purposes. This could be done by bonuses and long increments. That will happen. We also need to look closer at medical derogations to help keep members and to apply a bit more common sense in that area.

Before I leave, and I did mention the success of our neighbour and friend, Commandant Kiernan, within the Reserve Defence Force but, in conclusion, the Government needs to focus more on the Reserve Defence Force and to invest more in it. Recruitment is improving but more needs to be done there. It is so important for civic spirit and a pathway into the Permanent Defence Force for its members should be more readily available.

It is a great motion and an important discussion, one that we need to keep going. Tragically, it becomes all the more important in the geopolitical context.

Senator Tom Clonan: I thank the Minister of State, Deputy Dooley, for coming along today and I thank Senators Wilson and Gallagher for bringing forward this Private Members' motion. It gives us an opportunity to talk about defence and security at a time of near unprecedented flux and turbulence in the geopolitical security environment. That is one lens through which we need to look at our security and defence but another, probably more important one - if you can imagine that at this time - is what is on the political horizon, which is an all-island entity of some form.

At present, we have six counties in NATO. I do not know if they will remain in NATO but whether they do or not, the future of our Defence Forces has to be interoperable and up to the same standard as NATO. If we are going to get acceptance from all communities on this island for the future of our Defence Forces, the expectations of security guarantees will be very high. They will at least be at the level NATO provides them at present.

I said to the Minister, Deputy McEntee, before she came in here that, as we speak, President Trump is going to make a speech at Davos. I do not know what impact that will have on the transatlantic relationship in the context of Greenland, but I do know it is part of the Gerasimov Doctrine and an aim of the Kremlin to dismantle the current security architecture in Europe and to drive a wedge between Europe and the United States to break that transatlantic relationship. You could almost say the report of the Commission on the Defence Forces on their future, which did great work, already is out of date. I agree with the calls of our colleagues across the floor to move to level of ambition 3, the most ambitious level, as soon as we possibly can.

I put in two amendments to the Private Members' motion, one of which relates to calling for an end to the systemic sexual violence, bullying, harassment and reprisal within the Defence Forces. This has been established without a shadow of a doubt and it is a phenomenon you find in the military internationally. What makes us different from the international military and from other areas of Irish society where you have bullying and sexual harassment, is our Defence Forces have been very slow to acknowledge the fact. Now that they have, I welcome that and they are moving on.

However, I brought this to the fore as a serving officer in 1996 to 2000, when I did my doctoral research, which revealed this endemic and systemic sexual violence and reprisal within the Defence Forces. I became a target of that reprisal myself. The study review group was an independent Government inquiry set up in 2002 at my behest, by the then Fianna Fáil Minister, Michael Smith, and that study, which was very comprehensive, also vindicated my findings. It found that not only were female personnel subjected to systemic bullying and sexual assault up to and including rape, but also young male personnel, particularly in the overseas environment, were also subjected to grooming, sexual assault and rape. There was a wave of suicide among young male troops associated with that.

This led to the setting up of the Ombudsman for the Defence Forces and the independent monitoring group, which continued its work until 2012. Then, in 2021, the Women of Honour came forward with fresh disclosures of sexual violence. This was reinforced by the findings of a judge-led independent review group, IRG, which sat for a year over 2022 and 2023 and found the Defence Forces in 2023 to be a workplace environment that barely tolerated women. That, in turn, has led to a full sworn judge-led inquiry in Smithfield, which is seeking to address the questions I brought up 25 years ago.

If we are going to attract young men and women into the Defence Forces, culture is central to that. We inherited the cultural infrastructure left behind by the British in 1922 and for some reason in the 1920s, they adopted the cultural infrastructure of the British army of the 1920s. That has to go. I am alarmed to see it is reported the Department of Defence has paid a British army colonel to advise and give talks about workplace culture in the Irish Defence Forces. In the international literature, the peer-reviewed military literature, the British army is considered to be the most socially conservative in NATO. We should not be getting advice there. We

should be getting advice from perhaps the Bundeswehr, where they have this speak-up culture of "*innere führung*". That is where we should be going for advice.

Finally, the situation has changed dramatically. We need to radically expand - I have submitted it as an amendment to the Private Members' motion - the Reserve Defence Force. We need to expand that because the demands of this ever-shifting hybrid grey zone conflict that confronts us, and we are going to be caught up in it, is the digital, cyber, artificial intelligence-enhanced defence measures, electronic counter-countermeasures and all that stuff. We have a population that is exceptionally skilled in those areas. We also have a population who would be more than willing and delighted to have the opportunity to give voluntary services to the State in this regard but they cannot currently because the Reserve Defence Force has been so diminished.

We are a country with a population similar to Finland, which has a reserve defence force of 870,000 men and women. We could definitely expand that in a very cost-effective way to prepare us for all the climate change-related, natural and man-made challenges that are going to confront the State, everything from Storm Éowyn to drones over Dublin Bay. Let us mobilise the people.

I welcome the Private Members' motion. I apologise, I have to go to a meeting with the disability committee with our new Minister of State, Deputy Higgins. I do not know if my amendments will be accepted but I thank the Members for the opportunity to discuss them. I hope the Minister of State will pass on some of those concerns and observations to the Minister.

Deputy Timmy Dooley: I am happy to do so.

Senator Tom Clonan: Thank you.

Senator Joe Conway: I want to formally second Senator Clonan's amendments.

Acting Chairperson (Senator Alison Comyn): Does the Senator wish to speak in general?

Senator Joe Conway: Yes, I have a couple of things to say. They mainly centre around what Senator Clonan was talking about and that is, unfortunately, how we have hollowed out our reserve forces to a great extent, to the current abysmal figure of under 2,000.

Senator Clonan mentioned the Finnish model and the huge amount of reserve talent it has and the forces there in Finland. Equally, another neutral country in Europe, Switzerland, has an active reserve force of 200,000 troops. This military service is obligatory for men and then voluntarily for women, up to the age of 34.

It guarantees a continuous supply of well-trained troops whose skills are up to the minute and who can operate in the militia mode, that is, people who are based all around the country but who are able to respond quickly and can be mobilised at short notice to deal with exigencies as they occur.

People who write books about organisations say there is no organisation on the face of the earth that is perfect. Often, it is evident that the bigger an organisation gets, the less perfect it

becomes. I worked in a number of schools during my teaching career. It is a truism to say that schools are not perfect organisations. That can be multiplied by several factors for regiments, companies and divisions in the Army. They are not perfect organisations, and there are many inherent and conflicting motivations. The one thing that differentiates an army from other organisations is that discipline is both expected and unquestioned. That sometimes leads to a shocking culture of subservience on the part of people in the forces who are being bullied or harassed. This is something we addressed here at some stage earlier and something that we must be very conscious of.

Somebody said to me that we recently saw the extraordinary success - I suppose we can call it that - of the ousting of President Maduro in Venezuela. The conjecture is that about 800 highly trained American troops were able to go in, remove the leader of the country and cause the deaths of people, including some from Cuba who were trying to guard him. In that context, the person in question, who has an Army background, said to me that we are in such a prone state of self-defence that if a highly trained - let us say Russian - regiment of 800 soldiers landed in Shannon Airport, they could completely subvert all the democratic entities of this State, including the Presidency, the Taoiseach and the Government, within a week. We see what was done in Venezuela and we think of bad actors like our friend Mr. Putin, who, incidentally, did us a great service a few weeks ago. If he was responsible for sending those drones up around north Dublin, it really did more than anything else I can remember to heighten the consciousness of the Irish people to the vulnerability that we have to drones and what could have gone wrong if President Zelenskyy's plane had been taken out of the skies, as I believe it could easily have been. When we take those two things into consideration and we think that a well-trained contingent of fewer than 1,000 troops from a bad actor could demolish the democratic system that we in this and the Lower House hold so dear, we are living in a shocking fool's paradise if we are so complacent that we think it is going to survive everything.

The decimation and vandalism that was done to our Defence Forces since the Good Friday Agreement was horrific. Senator Wilson spoke about the barracks in Cavan. Connolly Barracks in Longford was the base for the 4th Motor Squadron. It was a very highly active barracks during the Troubles, but it is now gone. There is talk of building houses there now. This is what we are thinking about in relation to the reserve capability of this country.

We are sleeping at the wheel when it comes to defence. An ambition to increase the Reserve Defence Force to 4,000 is piddling stuff. My children talk about it. They have the computer skills and the ability. They are well educated youngsters. Many Senators would have children in that cohort. They can and want to contribute. They could give massively of their services and build up the Reserve capability, not just in the context of packing a Steyr AUG - any old donkey can do that - but in developing the response to the significant modern-day threat of cyberwarfare that we have in abundance but not in our Reserve. The way things are at the moment is both a major flaw and a disgrace.

Senator Michael McDowell: I endorse what has been said just now and what was said earlier by my colleagues in the Independent Group. I do not want to recriminate, but I want to say this. Over the past 20 years, there has been an absolutely scandalous reduction in the capacity of the Irish Defence Forces. It has been supervised by a Department - I want those in the Department to hear this - that displays an unbelievable insouciance. When I was Tánaiste and Minister for justice, there was a Minister for Defence at the Cabinet table. That is no longer

the case. As Senator Craughwell pointed out, it is not very clear as to who is concerned full-time about the Defence Forces and their issues.

In the 1960s and 1970s, there was a force called the FCA. It was by no means perfect, but it was not Dad's Army. It guarded installations like the Kippure RTÉ transmitter, sewage plants, ESB plants, Dublin Airport, various reservoirs and the like when there was a threat. It carried out that function at weekends in order to provide time-off for small garrisons from the regular Army that protected those locations on a daily basis. We no longer have a cohort of 15,000 to 20,000 people who could come to the aid of the Government if they were asked to do so. Other than members of the Defence Forces and those involved in gangland activity, who can handle weapons ? Who can take orders? Who can conduct searches, as happened when people were kidnapped and so on? Who could do all these things now? The answer is practically nobody.

As Senator Craughwell stated, we are down to something above 7,000 people in the Permanent Defence Force. That is from a nominal strength of 11,000. The Reserve has almost crumbled completely. I heard what was said earlier about increased recruitment. However, reservists in the FCA had a local place. It was either a training hall in the back of the local Garda station or a barracks in the county town which they could get to within 20 minutes or half an hour on a Sunday to attend training parades. We are now in the very sad position whereby I do not know where reservists from County Mayo, for example, would do their training. Perhaps they would do it in Galway. This means that they would need to devote a couple of hours to get to the training parade and a couple of hours to get back.

The idea of the Reserve Defence Force is much more problematic now than it was then. We have sold off barracks after barracks. Senator Wilson referred to Cavan. There was a military base outside Castleblayney, namely Camp Muckno. I was there myself. There were barracks in Wexford, Waterford and Kilkenny. There is still a barracks in Kilkenny.

Right across the country, there were places where a reserve could actually have been organised and trained, but we abandoned that idea completely because we convinced ourselves there was a peace dividend in the wake of the 1998 Belfast Agreement. Things in Northern Ireland could turn quite nasty yet with a Farage government in Britain beating the drum of English nationalism and, perhaps, strident unionism. There is always the possibility that the loyalist paramilitary organisations, which from my reading of northern media are still in existence, could come back with a vengeance. There could be political and community strife in Northern Ireland again, and anybody who says that could never happen is wrong. Nobody predicted what would happen from 1972 to 1998. Everyone thought we were home and dry and that all these things would never happen again.

I believe that we need, in the first instance, a dedicated Minister for Defence. We had Michael Smith and, in the Cabinet I was in, Deputy Willie O'Dea. We had a Department of Defence with a dedicated spokesperson at Cabinet. In those days, the defence budget was taken seriously, but what has happened since has been nothing short of shocking. The membership of the Civil Defence organisation is in ribbons. It has lost half of its members.

When I was a Minister, I was challenged by Opposition parties to have 2,000 reservists. I got the number up to 1,100 and it sank back to 200-plus under successive Governments, which included members of the parties in the present Government. The whole idea of service to the State has evaporated.

I agree completely with the suggestion Senator Conway made, namely, that a small group of determined people with a well-worked-out plan could effectively put this country on its knees by landing at Shannon, Knock or elsewhere in a plane one afternoon. If we cannot guarantee against even that, we are close to the situation that exists in Greenland today, where we cannot defend our sovereign territory. The time has come, I suggest, for us to go to level of ambition 3 as a starting point-----

Senator Joe Conway: Hear, hear.

Senator Michael McDowell: -----to properly equip the Defence Forces, to ensure the appropriate effective strength and to reinstate a voluntary Reserve that in times of national emergency could assist the Government in maintaining order in this country.

Senator Diarmuid Wilson: I welcome my colleague the Minister of State, Deputy Timmy Dooley, to the House, which will be very familiar to him as he started off here. You could call this place the reserve space for Deputy Dooley before he became a permanent Member of the other place.

Senator Gerard P. Craughwell: He would be a good old vote in the future.

Senator Diarmuid Wilson: I started off the debate by saying to the Minister, Deputy McEntee, that defence debates in this place are rational, informed and grounded in the realities of today's world and that I had no doubt but that this would be the case again today. I am glad to report that this has been an excellent debate on defence matters. I thank each and every one of my colleagues who contributed to it.

I acknowledge that we benefit here from the expertise of people who have practical experience of membership of the Defence Forces, at different ranks, and in one case membership of two armies. That is very helpful in this discussion. I acknowledge those who have experience of the Defence Forces through service in the Reserve Defence Force, including Senator McDowell. I understand the Senator was a very rigid and stern member of the military police. I found it hard to believe that he would be that stern. He played a vital role in the military police of the Reserve Defence Force, on which I congratulate him.

Without repeating everything said, there has been a welcome for the progress made on pay and conditions, recruitment and retention. There has been universal acknowledgment of the dedication and commitment of the women and men of our Army, Navy and Air Corps at home and abroad.

We make no secret of the fact that there are challenges ahead. These have been addressed in our motion and mentioned by colleagues today. As members of the Government party, it is our intention to see those concerns addressed as quickly as possible. I agree with Senators McDowell and Craughwell and others that we must get to level of ambition 3 immediately. It is vital to the development of our Defence Forces.

I pay tribute to the members of the Reserve Defence Force. Senator Joe O'Reilly mentioned Commandant Kiernan, who was recently promoted. The commandant, whom Senator Tully

also knows, is a prominent member of the Defence Forces and plays an active role. Very relevant points have been made on the Reserve Defence Force. It is a vital cog in our defence and should be promoted throughout our communities. As has been pointed out here today, it is not just about appearing in uniform and providing cover for the Permanent Defence Force. There are other roles that Reserve Defence Force members can assume. These are crucial, particularly in cybersecurity. This should be considered and progress should be made on it.

On Senator McDowell's remark on having a Minister for Defence, we have a Minister for Defence, and that is Deputy McEntee. We do not have a Minister for Defence who holds that position alone but we have a Minister for Defence. I wished her well. She is newly appointed, as we know, and I wish her well in what we know, given all the comments made on the worldwide challenges that face us as a small democratic island, is a crucial role.

I pay tribute to the women and men of our Defence Forces and the representative organisations that represent them daily and communicate with each Member of the Oireachtas.

Defence is integral to national resilience, economic security and, increasingly, the protection of our democratic institutions. That is worth bearing in mind. I thank everybody for their contributions this afternoon.

Senator Joe Conway: Before we go any further, I want to withdraw a remark I made to the effect that any old donkey could carry a standard Steyr AUG rifle. That was just a flourish in the heat of the moment.

Carrying a Steyr rifle is a highly responsible job. I would not like it to go down-----

Senator Gerard P. Craughwell: Thank you, I was sober.

Acting Chairperson (Senator Alison Comyn): It would be an insult to the members of the Defence Forces and, perhaps, to donkeys as well. Gabhaim buíochas leis an Seanadóir as sin.

Amendment put and declared lost.

Acting Chairperson (Senator Alison Comyn): In the absence of Senator Tom Clonan, I ask Senator Conway to move amendment No. 2.

Senator Joe Conway: I move amendment No. 2:

After "calls for:", to insert the following paragraph:

> "- an end to the culture of systemic bullying and sexual violence that has persisted in the Defence Forces and ensuring that reprisals against those who raise these issues is no longer tolerated;"

Senator Gerard P. Craughwell: I second the amendment.

Amendment agreed to.

Senator Joe Conway: I move amendment No. 3:

After "calls for:", to insert the following paragraph:

"- a dramatic increase in the Reserve Defence Forces in order to mobilise Ireland's considerable human talent in the full spectrum of emerging security and defence requirements from cyber to digital and AI-enhanced defence systems and in order to afford Irish citizens the opportunity to vindicate Ireland's sovereign neutral status by equipping us to deal with emerging natural and man-made threats through voluntary reserve service;"

Senator Gerard P. Craughwell: I second the amendment.

Amendment agreed to.

Senator Gerard P. Craughwell: I move amendment No. 4:

After "calls for:", to insert the following paragraph:

"- a survey on bullying and harassment in other workplaces such as An Garda Síochána, the Prison Service, the HSE, and the Ambulance Service in order to establish a national picture regarding this issue in order to avoid the Defence Forces being singled out;"

Senator Joe Conway: I second the amendment.

Amendment put and declared lost.

Senator Pauline Tully: I move amendment No. 5:

After "calls for:", to insert the following paragraph:

"- the creation of a health outcomes assessment for Air Corps Medical Personnel similar to the Study of Health Outcomes in Aircraft Maintenance Personnel process in Australia, in order to identify potential adverse health outcomes for said personnel, and to ensure that Air Corps Maintenance personnel are supported with healthcare costs for such potential outcomes using an appropriate mechanism;"

Senator Gerard P. Craughwell: I second the amendment.

Amendment put and declared lost.

Motion, as amended, agreed to.

Cuireadh an Seanad ar fionraí ar 2.51 p.m. agus cuireadh tús leis arís ar 3.30 p.m.

Sitting suspended at 2.51 p.m. and resumed at 3.30 p.m.

Defamation (Amendment) Bill 2024: Report and Final Stages

An Leas-Chathaoirleach: I welcome the Minister, Deputy O'Callaghan. Before we commence, I remind Senators that a Senator may speak only once on Report Stage except the

proposer of an amendment, who may reply to the discussion on the amendment. On Report Stage, each amendment must be seconded.

Amendments Nos. 1 and 2 are related; amendment No. 2 is consequential on amendment No. 1; and Nos. 1 and 2 may be discussed together by agreement. Is that agreed? Agreed.

Senator Michael McDowell: I move amendment No. 1:

In page 6, between lines 28 and 29, to insert the following:

"(2) A party to a defamation action in the High Court may apply to the President of the High Court for an order permitting the trial of the action with a jury in any or all of the following circumstances:

(a) that by reason of the exceptional nature of the case or the identity of one or more of the parties in the case, it is preferable that it should be tried with a jury, or

(b) that the claim or counterclaim in the proceedings includes other issues triable in the High Court with a jury and that the interests of justice would be served by the trial of the claim in defamation with a jury.

(3) Where a trial with a jury is ordered under *subsection (2)*, the jury shall not decide the amount of any damages to be awarded for defamation but shall be entitled by its verdict to decide whether aggravated or exemplary damages be awarded.

(4) In any case to which *subsection (3)* applies, the trial judge shall determine the amount of any damages, including any aggravated or exemplary damages, to which a party is found to be entitled by the jury.".

An Leas-Chathaoirleach: Is there someone to second it?

Senator Michael McDowell: I am waiting on Senator Craughwell to appear.

Senator Garret Kelleher: I will second the amendment.

Senator Michael McDowell: This is an amendment to soften the absolute abolition of jury trial and to give to the President of the High Court an overriding jurisdiction where, by reason of the exceptional nature of the case or the identity of one or more of the parties in the case, it is it is preferable that it should be tried with a jury or that the claim or counterclaim in the proceedings includes other issues triable in the High Court with a jury and that the interests of justice would be served by the trial of the claim in defamation with a jury. That is a very narrow proposal to soften the absolute nature of the Minister's proposed reform. To soften it further, subsection (4) provides that in any case to which subsection (3) applies, it is for the trial judge to determine the amount of any damages, including any aggravated or exemplary damages to which the jury has found the plaintiff is entitled.

The amendment speaks for itself. I understand the Minister's position and I do not propose to rehearse all the arguments at length but I do believe – and I saying it now; mark my words

– there will be a time when a defamation case of sufficient public importance comes before the High Court where one side or the other loses on the basis that they are disbelieved by a High Court judge, presumably with a written decision, and it may give rise to very significant political controversy thereafter. That is my worry. I am not talking about the Albert Reynolds decision but I am talking about cases where the public would accept and be happier with a jury determination of the fact of defamation one way or another and the credibility of the parties rather than a single judge. It did occur to me that maybe in such cases the President of the High Court would appoint a divisional court to decide a controversial case of that kind. Maybe that is a way around it to some extent but I do believe there will be a time – it will certainly come – where a highly controversial black-and-white acceptance of whether something was or was not the case of a highly important case from the point of view of the public occurs. Take the Australian case of whether a leading cleric did or did not abuse a mass server. People will look at the outcome and they will ask themselves was it the particular judge's prejudices that affected the matter and was it a case that would have been better determined by 12 uninterested and independent people on a matter of such sensitivity.

Amendment No. 2, which Senator Conway will second, simply deals with the consequences of making amendment No. 1. I will not delay the House any further. We have discussed this issue at length but I think it is an important point. I believe it is wrong to exclude from the judicial system determination of very important facts by a jury especially when the actual outcome of the case could have dramatic political and social consequences. It is for that reason that it is a mistake on a blanket basis to abolish all jury trials in defamation cases.

I make the point that there are cases where defamation is coupled with, say, claims in assault or trespass. In those cases, it seems to me to be artificial that a jury would arrive at one view on the assault to which a plaintiff is entitled, including a sexual assault, but a collateral issue in the same case as to whether there was a defamation related to the other charge would be decided by the judge. It seems to me that if a court sits to determine the outcome of litigation, it should be either all jury or all non-jury. Where there is a mix, which there will be under the Minister's amendment, of issues triable by a jury and triable without a jury it will not serve any useful purpose. Supposing in a sexual assault case the jury finds there was a sexual assault, is the judge going to determine the defamation issue separate from the jury's view, I wonder?

I will leave it at that.

Minister for Justice, Home Affairs and Migration (Deputy Jim O'Callaghan): I thank Senators McDowell and Craughwell for this amendment. It very much reflects one of the amendments that was put down by the Senators on Committee Stage in this House. The objective of it is to try, as Senator McDowell said, to soften the removal of juries from defamation claims by granting a jurisdiction to the High Court to permit a jury action in certain instances.

Notwithstanding having listened very closely to Senator McDowell, I am concerned about the amendment and I cannot support it. I will explain why. Senators McDowell and Craughwell are proposing that a party to a defamation action would be able to make an application to the President of the High Court that the President of the High Court, in accordance with subsection (2)(a), would be able to state and rule that it is preferable that the case should be tried with a jury because of the exceptional nature of the case or the identity of

one or more of the parties in the case. I would be extremely concerned that the President of the High Court, when asked to interpret that, will be asked from whose point of view it is preferable. I could understand why a plaintive in a case may want a jury in a particular High Court action and, no doubt, from the point of view of that plaintive, it would be preferable. However, similarly, the defendant may contend that it is not preferable from his or her point of view for there to be a jury hearing the case. I would be concerned that the language used in paragraph (a), when it uses the term "preferable", would be very difficult for a court to determine and apply. The court will ask itself what the Oireachtas means by stating it is preferable that a case should be tried with a jury. In many instances, that preference has to be based on the preference of one of the parties. It cannot just be whether it is preferable from the point of view of justice.

However, in paragraph (b), in fairness to Senators McDowell and Craughwell, it is said that the claim could be determined to be one to be heard by a jury because "the interests of justice would be served by the trial of the claim in defamation with a jury." Again, the court will be asked to determine whether it is in the interests of justice for a case to be heard with a jury. Every day of the week, judges down in the civil courts hear civil actions on their own, without a jury. These include negligence actions, breach of contract actions and, indeed, defamation actions in the Circuit Court. It is the case that the people and parties to those proceedings are having a fair trial. The administration of justice is working effectively for them.

Senator McDowell predicted that, in the future, there may be a lack of public acceptance about a defamation result. That may be correct. It may be that if somebody loses a defamation action in the future, they will say they are confident that if they had had a jury, they would have won. However, I still think there is very good respect and appreciation for the orders made by the High Court, whether it sits with or without a jury. We have seen some very significant decisions in recent times emanating from the High Court which have involved assessing the truthfulness of witnesses before the court. Judges hearing those cases can be very scathing and definitive in judgments in stating that they do not believe a particular witness or that they do not believe a litigant. That has very significant consequences for the individuals concerned, but that is the administration of justice. Whether it is a jury or a judge reaching that determination, there is a respect for decisions of the High Court when they are made by a High Court judge or by a jury.

One of the other points made by Senator McDowell - and he was correct - was that we could now have the situation where an assault action will continue to be heard by a jury but a defamation action will now be heard without a jury. That situation happens at present quite significantly and quite frequently. The type of causes of action that are generally heard together with defamation are defamation and breach of privacy. A breach of privacy action, as Senator McDowell will know, does not give rise to an entitlement for the case to be heard by a jury. In general, what happens is that the plaintive can opt to have the defamation case and the privacy case heard in front of a judge. That has happened on many occasions in the past. There have been judgments of the High Court finding in favour of a plaintive in defamation actions where there has been no jury and these have been fully respected. Nobody has sought to undermine them because there has not been a jury. What alternatively happens is that the defamation part is heard by the judge and the jury, and then the jury is discharged and the privacy action continues with the judge alone. It might seem unusual but it can operate relatively efficiently.

Senator McDowell will be aware of the policy decision that was made in the programme for Government that we would remove juries from defamation actions. We can have discussions for a long time as to the merits or demerits of that. I have no doubt that people will be able to identify a list of merits and a list of demerits. However, I am absolutely satisfied - and I would not stand over this provision if this was not the case - that any litigant before the court, if this legislation is enacted, will still get access to the administration of justice on a fair, impartial and effective basis whether there is a jury or no jury.

An Leas-Chathaoirleach: I acknowledge representatives of the Ballincollig Business Association who were in the Visitors Gallery up to a few moments ago. They left when the Minister was speaking. They were guests of our colleague, Senator Kelleher, and were also accompanied by Councillor Sarah Kiely.

Senator Michael McDowell: One of the points collateral to the point I made earlier, and I ask the Minister to bear it in mind, is that if the choirboy sues the bishop for sexual abuse, the choirboy is entitled to a jury. However, if a relative of the choirboy, or a newspaper, says the bishop sexually assaulted the choirboy, there is no jury and, effectively, the evidence in both cases would be the same. If we trust a jury to decide in the case of a sexual assault where the truth lies, I cannot see why we say, because the parties are slightly different and it is the parent of the choirboy who made the remark that the bishop assaulted his son sexually in the sacristy, or whatever it is, along the model of the Australian case, or if a newspaper says there is overwhelming evidence that the bishop assaulted the choirboy sexually, these cases should be tried in wholly different manners.

I am not in favour of abolishing juries in cases of assault, trespass to the person and malicious falsehood at all. However, it is very strange that we are reforming the law to say that the same evidence is effectively to be tried, tested and adjudicated on by a jury in one case and, in another, it is to be done by a judge alone.

The Minister will say that we have respect for our Judiciary. I accept that we respect members of the Judiciary and we should not attack them gratuitously. However, there are, and always have been, judges who were soft in personal injuries matters. There are, and always have been, cases, as the Minister well knows, where the amount of a personal injuries offer shoots up when a particular judge is selected to try the case. To say somehow that judges will arrive at the same view as a jury is a little bit detached from the day-to-day realities encountered, particularly by those in the courts.

I say that without any rancour towards the Judiciary or any particular member of the it. Nobody who is a practitioner of law would contradict what I have just said.

I will not spend any more time on this amendment. It is important that there should be capacity to determine - in the context of the exceptional nature of a case, not as a rule - that a jury would be more appropriate and preferable. The Minister cavils with the term "preferable". Maybe one party would prefer a jury, but the reason we selected the President of the High Court in our amendment was that when you are setting down a matter for trial, you would not know what judge you are going to get. It would be a random enough exercise. If, at that stage, you have to ask the president's permission to put a case before a jury due to its exceptional nature, the identity of the parties or the nature of the issues involved, you do not know which judge of

the High Court is going appear some time later when the notice of trial of the case is put into effect and the trial happens. You do not know whether you are selecting judge A or judge B when you go to the President and ask for a jury trial. It is not as if it is forum shopping in order to avoid particular judges. The purpose of it is to allow for exceptional cases.

In my experience, the public accepts jury verdicts unquestioningly. If a jury says that it thinks witness A was untruthful or whatever, that is it. Twelve people, nine out of those 12 or whatever came to that conclusion. The acceptance of jury verdicts in such cases is extremely high. There may have been instances where people thought that juries in defamation cases got the fundamental facts wrong, but I have never seen that. If that process is adjudicated on by a judge, the unhappy media will immediately say "This is the third time that that judge has flung out a case against this particular newspaper or that particular broadcaster." They will personalise it. There will be profiles of the judge published by dissatisfied litigants. That is the point I am making.

It was in order to avoid what the proponents of the abolition of juries spent most of their time arguing, which was that the quantification of damages was erratic and unpredictable, that subsection (4) was inserted to leave it to a judge to determine damages, aggravated damages and exemplary damages in accordance with the finding of the jury. I will not put it any further than that.

Senator Gerard P. Craughwell: In his rebuttal of my colleague's original argument, the Minister seemed to suggest that it would only be plaintiffs who would look for a jury. I can think of many reasons why a defendant in a case might look for a jury trial. I just wanted to put that in for what it is worth.

Senator Rónán Mullen: I wish to signal my strong support for this amendment. In particular, I point to the core wisdom in the proposed subsection (3) within the amendment, which is that if a matter is so serious that were it to be prosecuted by the State, the defendant or accused would be entitled to the protection of a trial by jury. That is what a trial by jury is; it is a form of protection. There is a reason why it is there as a right. If something that the State would seek to prosecute merits that level of protection, it seems that it is eminently reasonable that if somebody seeks to defend their good name against a grave accusation made by any party, they are similarly entitled to the protection of a jury trial.

Amendment put and declared lost.

Amendment No. 2 not moved.

Senator Michael McDowell: I move amendment No. 3:

"In page 7, to delete lines 29 to 32."

Senator Gerard P. Craughwell: I second the amendment.

Senator Michael McDowell: This amendment proposes to delete lines 29 to 32 on page 7. The intention is to remove the rule that "the reputation of a body corporate that trades for profit shall not be considered to be serious harm ... unless it has caused, or is likely to cause, the body

corporate serious financial loss.". I do not like that particular change for the reason that if we take the view that a body corporate - for example, a charity like Trócaire - has a reputation, we are introducing a different standard of treatment for a body which is ostensibly charitable from that which applies to a commercial enterprise. We discussed McDowell Butchers in this regard on Committee Stage. In the context of the entitlement of the Peter McVerry Trust versus that of a company, for example, a restaurant, whose reputation has been seriously affected by an untrue statement made about it, I do not believe the latter should be in a position whereby such a statement has "caused, or is likely to cause, the body corporate serious financial loss." I do not see why it is the case that one such body can sue because it is not trading for profit but the other has to engage in the highly speculative, evidential exercise of establishing that the statement which was made about it either caused or is likely to cause it serious financial loss.

4 o'clock

To seriously defame with malice a company, perhaps a competitor, and to say, "Well, you have not proved it has actually damaged you at all, so you cannot sue," but Trócaire, the Peter McVerry Trust and whatever else can sue in such circumstances is unfair to bodies which are in good faith attempting to defend their reputation from malicious defamation. I do not see why it is necessary to introduce this extra ingredient into the question of serious harm if we are being fair as between bodies corporate.

Senator Gerard P. Craughwell: As the Senator has said, my concern is when we enter litigation, we never know the outcome. The serious damage that may not be envisaged by this legislation may actually occur not immediately after the court case, but some time into the future and it is very hard to imagine where that is so. It would be up to the lawyers on behalf of a corporate body to try to ensure any long-term effect to the institution be taken care of in any litigation which takes place.

That is just my layman's view on it. My colleague, Senator McDowell, and the Minister, Deputy O'Callaghan, are lawyers and would have a better grip on that but that is my view on it as it stands.

Deputy Jim O'Callaghan: I will start by saying to Senator Craughwell that just because I was and Senator McDowell is a lawyer, that does not give us any greater authority to speak on these matters or to play the role of legislator.

With regard to the proposed amendment, it deals with the serious harm test that has been introduced for the corporate claimant in defamation proceedings. The Leas-Chathaoirleach may recall that in England and Wales there is a requirement, whether you are a corporate entity or a personal litigant, that you have to be able to establish serious harm in terms of bringing a defamation action. I did not go down that route in this country. I thought it would be inappropriate to do so and the process would simply prolong the defamation proceedings because we would have many interlocutory hearings after proceedings are issued, to determine whether or not serious harm had been done should the defamation case succeed.

However, it is appropriate that when it comes to a corporate plaintiff, there should be a requirement that the corporate plaintiff would not be able to recover in defamation unless it can establish the defamatory statement caused serious harm to its reputation. Corporate entities are

different from personal litigants. Let us say a person makes a false, damaging and defamatory statement about a very large, well-known airline, suggesting it is dangerous or unreliable. If that airline has not been affected by the defamatory statement, there is a logic then to stating we should not give the airline a cause of action because it has to be able to establish it was damaged by the statement. A person taking an action for defamation has to be able to show they were damaged by the defamatory statement. The way they do that is by calling evidence or, if it is obvious by the defamatory statement if somebody accuses another person of something extremely serious and it is associated with that individual person, of course, the court would then be able to determine that has had a damaging impact on them. In respect of a corporate entity and corporate plaintiff, it should be necessary to show serious harm was caused to them as a result of the defamatory statement.

The part of the section Senator McDowell wishes to remove in this amendment is paragraph (3). It states: "Harm to the reputation of a body corporate that trades for profit shall not be considered to be serious harm ... unless it has cause ... serious financial loss." That section distinguishes the charitable organisation Senator McDowell referred to, such as Trócaire, and the not-for-profit company, from the for-profit company. If you are a not-for-profit company or a charity such as Trócaire, as Senator McDowell referred to, you will not have to show financial loss. However, if you are a corporate, for-profit entity, you will have to establish that you suffered financial loss as a result of the defamatory statement. Otherwise, there is no damage done to you.

Damage to a for-profit company is determined by looking at its accounts to see if there was financial damage caused to the company. Obviously, in that case, one has to be able to link it, on the balance of probabilities, to the publication of the defamatory statement. That is a reasonable approach. Removal of paragraph (3) of what will be the new section 12 of defamation of a body corporate would be against the interests of justice. It is appropriate there is a requirement that if for-profit companies have to be able to show they sustained financial loss in order to succeed in a defamation action.

An Leas-Chathaoirleach: I welcome Deputy Conor D. McGuinness and Meánscoil San Nioclás from An Rinn, i gContae Phort Láirge. They are very welcome and I hope they enjoy their visit to Leinster House.

Senator Rónán Mullen: If I may contribute on this point, I understand that many of the claims made for this legislation were that it was addressing strategic lawsuits against public participation. I suppose there is an underlying desire to prevent the ability of companies to take defamation actions to impinge excessively on people's freedom to communicate ideas. However, is serious financial loss the only serious harm one can do to a body corporate that trades for profit?

If I was a restaurant owner in Salthill and somebody in a local newspaper or wherever said something malicious and false about the restaurant, it might or might not cause me what is called serious financial loss, depending on how well set up I am as a business. It could hurt the reputation of the business around town. It might not cause serious financial loss but it would be deeply unfair and wrong that a person or entity could just go around speaking untruths of a kind, perhaps about the company's financial management practices, industrial relations attitude or the treatment of its staff and so on. It may be a relatively small company that is

successful enough to withstand the financial consequences of malicious and adverse false comment, but there would still be damage. There would be damage to the company's identity, its sense of itself, its reputation around town and so on.

Can the Minister conceive of circumstances like that, where it might not be serious financial loss but it is wrong? What protection should there be against people who maliciously make false statements about, for example, a small business in the situation I have described?

Senator Michael McDowell: Briefly, in reply, I have two things to say. I believe the defence of this particular provision put forward by the Minister is very weak. I will give him the following examples. It fails completely to distinguish between the personal proprietor of the restaurant Senator Mullen referred to, and the fact his family business has been incorporated as a shareholding with his wife. It fails completely and arbitrarily to deal with that situation, which I find wrong.

Second, there is no explanation as to where this particular provision came from. If the newspapers and their lobbyists cooked this one up I do not see what point they were trying to make. I will give a topical example. If Elon Musk, as a follow-on from his row with Michael O'Leary - who at least pays tax in Ireland - announced that the safety standards in Ryanair were so low that you would be mad to use their flights – and said that maliciously – does Ryanair have to prove that Musk's accusation of low safety standards is likely to cause it financial loss? How can it prove it? It is out there. We know Mr. Musk accused the man who was devising the method for saving the Thai footballers who were stuck in a cave due to a flood of being a paedophile because he had the bad taste to query whether a submarine that Musk claimed he would invent to rescue them would be effective. Where you have somebody like him making an accusation against Aer Lingus or Ryanair saying their safety standards are such that nobody in their right mind should fly with them, are they free to do that? Are they free to just fling any dirt they like or are commercial competitors who see a company growing fast in a position to fling any untruth that occurs to them into the public domain without consequence because the company to which they are referring is doing very well, thank you? Why should a small company which owns a business with two shareholders in a family be in a different position from a single self-employed person providing the same service across the road if he or she is defamed? I do not see the logic of this. I do not know who the Minister thinks he is doing a favour for by introducing this particular measure. I really cannot see why such a distinction should be made in law. If you defame a business that is owned by a company deliberately, why should that company not make you answerable and ask from where did you get that data that was published that it was three times as dangerous to fly with one airline rather than another? I do not understand it and I do not understand it in the much smaller example that Senator Mullen referred to as a restaurateur in Salthill in Galway being in a wholly different position from a competing restaurant down the road which happens to be run by a business and that a charge can be made against the individual running one company that he is serving unsafe food but not against the other because there has to be immunity from suit in the absence of actual proof of the likelihood of financial loss or the actual fact of financial loss.

If you are a restaurateur and somebody says that you are serving substandard food or you are purloining the tips of your staff with complete impunity based on the proposition that the restaurant in the circumstances has not actually suffered, its reputation is nonetheless extremely compromised by giving a licence to people to say those kinds of things and, as I say, where we

have identical businesses being carried on by natural persons as opposed to bodies corporate to have a different set of remedies for one rather than the other seems to me to be wholly wrong.

The last point I will make is this. The Minister, on Committee Stage, revealed that the Attorney General's office had expressed concerns about the serious harm test applying to individuals. If there is a constitutional issue there - which I think is fanciful, to be charitable to that office - there is a constitutional issue too for the two shareholders in a company who are being told that they must prove serious harm and that it must be financial in nature rather than reputational. I will not push the point any further than that.

Senator Joe Conway: As a tenuous adjunct to the business of serious harm, I suggest that if Elon Musk was recommending that we should not fly with a particular airline that was dodgy from the safety point of view, I would venture to suggest that a great many people in this country would be recommending that airline to Elon Musk.

Amendment put and declared lost.

An Leas-Chathaoirleach: Amendment No. 4 has been ruled out of order.

Senator Michael McDowell: I fully accept the ruling of the Chair on that but I do say it is strange that the report of a parole board in this State carries privilege but one in Northern Ireland or the island of Britain does not carry such protections.

Amendment No. 4 not moved.

Senator Michael McDowell: I move amendment No. 5:

In page 8, line 26, before "an inquiry" to insert "a statement or".

This is an amendment that I genuinely believe the Minister should take on board. The defence being offered on page 8 to shopkeepers by the new section 8, amending section 18 of the principal Act, says the protection offered by that section is restricted to an inquiry as to whether the person who made the statement had paid for the goods or services or obtained services or had in his possession goods, proof of payment for services or a statement that the means of payment proffered by the person with the statement concerned was unable to be or not capable of being accepted and was not published excessively. In the real world, people may not just make a polite inquiry. They may say "That has not been paid for". A shopkeeper may do that.

They are in a different position. They cannot avail of this statutory amendment to the law of qualified privilege. I consider that it should be that the statement consists of a statement as to whether the person whom the statement concerned had paid for goods or services. In the real world, to say "That has not been paid for" is effectively the same as "Have you paid for that?", in front of other customers. Store detectives, staff and the like who see somebody go back to a shelf and substitute goods into a basket or whatever may say, "That has not been paid for." I cannot understand why the Minister has restricted this provision to a situation where only an inquiry is made as to whether the person paid for it. I cannot see any useful purpose of confining it to that because in the real world, people in shops will, in fact, say frequently, "That has not been paid for." I fully accept that they may be entitled to general protection on the

basis that it was qualified privilege on a different front but insofar as the Minister is now saying that he is coming to the aid of beleaguered shopkeepers, to confine the defamatory statement to one which constitutes an inquiry is unnecessarily narrow and the word "inquiry" should be "statement".

Senator Gerard P. Craughwell: I second the amendment.

Deputy Jim O'Callaghan: This is the first time I have done Report Stage amendments in Seanad Éireann and I had not been aware that I am only allowed speak once. I apologise to the Senators for the fact that some very interesting points have been raised in respect of the previous amendment and I did not get an opportunity to respond to them. Without wishing to give officials in my Department a minor heartache, I will briefly refer to one of the points that Senator Mullen referred to on the previous amendment. If there was a restaurant, called "Mullen's Restaurant", in Galway and Senator Mullen was the front-of-house owner, obviously he personally would also have an action in defamation if it was the case that the defamatory statement had been made about the restaurant suggesting that either the food was rotten or there were financial irregularities in respect of the staff there. Just because there is a corporate entity involved does not mean that a personal litigant, who is a director and associated with that company, does not have a cause of action in defamation.

I will now proceed to deal with Senator McDowell's amendment No. 5. This is a proposed amendment in respect of a very strong protection that will now be in the Defamation Bill, if enacted, for the benefit of retailers. I will read out to the House what the section of the principal Act will be at present and then look at it with Senator McDowell's amendment. It will contain, within subsection (1A) of section 18, the following:

> ... it shall be a defence to a defamation action for the defendant to prove that the statement to which the action relates—
>
> (a) consisted of—
>
> (i) an inquiry as to whether the person whom the statement concerned had—
>
> (I) paid for goods or services,

Senator McDowell's proposed amendment is that it should instead read:

> ... it shall be a defence to a defamation action for the defendant to prove that the statement to which the action relates—
>
> (a) consisted of—
>
> (i) a statement or an inquiry as to whether the person whom the statement concerned had ...

My own view is that there is no necessity to shoehorn in at the beginning of subparagraph (i) that extra reference to "a statement".

Senator McDowell is adopting a very strict literal interpretation of the meaning of the word "inquiry". However, when a court comes to interpret this, it will know that there is a statement that was made by the shop owner. The statement is presented and pleaded by the shopper as

being defamatory and they will set out what the defamatory statement is, but whether the statement is "Have you paid for that?" or if it is the statement, as Senator McDowell says, "That has not been paid for", they are both clearly inquiries of the person in respect of whether the goods or services have been paid for and they clearly cover the circumstances where a retailer is entitled to challenge an individual by saying to him or her, "That has not been paid for", "Has it been paid for?", "I do not think you have paid for that". All of those clearly come within the definition of an inquiry as to whether the person whom the statement concerned had paid for the goods. The publication by the retailer is a statement - of that there is no doubt - but it must consist of an inquiry as to whether the person whom the statement concerned had paid for the goods.

It is unnecessary to put in another reference to the word "statement" and the provision, as provided for at present, is broad enough to cover what Senator McDowell refers to as "a statement" as opposed to a question. It would be a bizarre interpretation if a court were to turn around and say that the retailer only had the protection if they asked a question and that their statement had to be interrogative, otherwise it was not protected. That is clearly not the intention of the Oireachtas in putting forward this legislation. What I say here is meaningless when it comes to judicial interpretation but the provision here is clearer the way it is as opposed to putting in what Senator McDowell suggests.

Senator Michael McDowell: The Minister correctly concedes that what he says here is not in any sense looked to by the courts as to what the section actually means but in my view it is not an overly strict interpretation of the word that the statement consists of an inquiry to say that it must be interrogative in nature. We will only find out whether the Minister is right that it is the case that judges will say they will expand the meaning of the term to cover statements and inquiries when a case is actually decided in the Circuit Court one afternoon in Galway. On the ordinary canons of construction, the ordinary and natural meaning of words fall to be interpreted as the intention of the Oireachtas, not what I say here and not what the Minister says here in debating this particular amendment. I believe that it would be a more reasonable proposition to say that the statement must consist of a statement or an inquiry, because an inquiry is not a statement. If you say, "Did you pay for this?", that is not a statement. If I say, "Did you pay for something?", it is not a statement.

Deputy Jim O'Callaghan: It is a statement.

Senator Michael McDowell: It is not a proposition of fact; it is a question. It is wrong to confine the protection to shopkeepers to inquiries when it could be so simply changed to accede to the amendment proposed by me and Senator Craughwell.

Amendment put and declared lost.

An Leas-Chathaoirleach: Amendment No. 6 is a Government amendment.

Deputy Jim O'Callaghan: I thank the Leas-Chathaoirleach. Obviously I listened very carefully to what Senators said on the last occasion. I am aware we are very much focused on certain legislative provisions within the amending Bill but if it is enacted by the Houses and promulgated by the President, there will be two parts of it that will stand out as being changes

of significance, or maybe three. The first will be the Norwich Pharmacal provision being put on a statutory basis, which is a very significant development. Second, I have to concede that the removal of juries from High Court actions is a significant part. The third such part is the amendment of what is section 26 of the Defamation Act, which will be seen as a very significant change to the legislation. Section 26 has been a problematic provision, in that I am unaware of any occasion it has been operated or successfully invoked. If that is the case and it has been in place for 15 to 16 years, that must raise a question of why it has not been.

My amendments are based on the amendments put forward by Senator McDowell, predominantly, and others on Committee Stage. It is a notable change that the reference to "fair publication" on a matter of public interest was not included in the Bill I got through the Dáil and brought here. In light of that I am proposing three amendments, namely, amendments Nos. 6 to 8, inclusive. The first proposed change is to the subheading of section 26. I had in the original Bill that the heading would be "Publication on matter of public interest". I agree with the Senators who suggested the word "fair" should be included, so if this amendment is agreed it will now refer to "Fair publication on matter of public interest". Should amendment No. 7 be agreed, the first line of subsection (1) of section 26 will read "It shall be a defence (to be known as the 'defence of fair publication on a matter of public interest')". Should amendment No. 8 be agreed then later in that subsection the Bill will provide:

> It shall be a defence ... to a defamation action for the defendant to prove that the publication was fair in all the circumstances of the case—
>
> > (a) the statement in respect of which the action was brought was on a matter of public interest,

My experience of statutes being interpreted by the courts is the court will pay very close attention to what the general objective of the Oireachtas is as is evident from the words used in the statutory provision. That is the test set down by the Supreme Court in Heather Hill. The court will look at the words. The words are the best example when trying to decipher what the intention of the Oireachtas is. By including the words "fair publication" in section 26, in light of what Senators suggested, I think we will convey to a court interpreting that section the publication has to be fair in all the circumstances of the case. I was concerned, having listened to Senators on the last occasion, that the removal of the word "fair" could convey a meaning to a court interpreting the matter that fairness was not really a central issue when it came to the defence of fair publication on a matter of public interest. There has to be fairness at the heart of it. That fairness has to be to the plaintiff as well as to the defendant and the amendments I am proposing will give that general, broad interpretation and the courts will apply an interpretation that recognises there has to be fairness in this publication. In general, when a court is interpreting a provision like this it adopts a broad approach to what the intention was here and the inclusion of the word "fair" I propose in these amendments will convey to a court this defence cannot succeed unless there is a fairness in what was done. If something was done in an underhand or unfair way that damaged the interests of a plaintiff then in those circumstances, I do not think the court will permit a section 26 to apply.

An Leas-Chathaoirleach: I never got the agreement of the House that amendments Nos. 6 to 8, inclusive, which are related may be discussed together. Is that agreed? Agreed.

Senator Michael McDowell: I also want to move that the section be recommitted. This is not to delay proceedings but there are some questions I want to put to the Minister and I ask under Standing Orders that the section be recommitted. It will not lengthen the proceedings.

An Leas-Chathaoirleach: In accordance with Standing Order 168, I invite Senator McDowell to move the motion.

Senator Michael McDowell: I move: "That the Bill be recommitted in respect of section 11."

Senator Robbie Gallagher: It is not agreed.

Senator Michael McDowell: We will have a vote on that then, which is a waste of time. I am being asked to group these amendments together and usually a speaker, under Standing Orders, is given the opportunity to say why it is necessary to do so and anybody else who says they disagree is given the opportunity to say why it should not be done, so I do not think it can simply be done in the matter Senator Gallagher has done. If he wants to say why I should not ask some questions about the meaning of this section that is proposed to be changed, he has to justify his case according to the Standing Orders. All I am trying to do is put questions to the Minister. It will all be over in a quarter of an hour one way or the other.

Senator Robbie Gallagher: A Leas-Chathaoirleach, I am happy to withdraw.

An Leas-Chathaoirleach: Okay. Senator McDowell may go ahead.

Question put and agreed to.

Bill recommitted in respect of section 11.

SECTION 11

Government amendment No. 6:

In page 10, line 4, to delete "**Publication**" and substitute "**Fair publication**".

Senator Michael McDowell: I welcome that the Minister has moved in relation to this issue and that the somewhat sterile language this Bill arrived in the House with has been tempered by a wise decision by him to introduce an overall requirement of fairness in respect of publications on matters of public interest. I am grateful to the Minister for doing that and will support his amendment to retitle the section and insert the words he wishes to. Amendments Nos. 9 to 11, inclusive, in the names of Senators Craughwell and I are intended to-----

An Leas-Chathaoirleach: I am sorry, Senator McDowell, but we are dealing with amendments Nos. 6 to 8, inclusive, if that is okay.

Senator Michael McDowell: If we are only stuck on that then I am happy. The amendments should be made.

Amendment agreed to.

Government amendment No. 7:

In page 10, line 5, after "of" to insert "fair".

Amendment agreed to.

Government amendment No. 8:

In page 10, line 7, to delete "that, in all the circumstances of the case" and substitute "that the publication was fair in all the circumstances of the case, in that".

Amendment agreed to.

Senator Michael McDowell: I move amendment No. 9:

In page 10, to delete lines 10 to 12 and substitute the following:

"(b) the defendant reasonably believed that publishing the statement was in the public interest,

(c) the statement was published in good faith, and

(d) the publication of the statement was fair having regard to the rights of the plaintiff including the right to his or her good name.".

Senator Gerard P. Craughwell: I second the amendment.

Senator Michael McDowell: Amendment No. 9 gives the court guidance, in paragraph (d), as to what we mean by "fair" - that it is "fair having regard to the plaintiff including the right to his or her good name." That is an important provision to remind the court that, in this context, the plaintiff's good name has to be protected and the concept of fairness is qualified, not merely by the overall meaning of the term "fair" but by the right of the plaintiff to his or her good name, which every plaintiff starts with in a defamation action.

Amendment No. 10 is to facilitate amendment No. 9.

In relation to amendment No. 11, I remind the Minister of the following. Although he may not love the original section 26, it is not sufficient to say it was not successfully invoked in reported case law. Undoubtedly, it would have had an effect on opinions received by the media, in particular, as to whether they could or could not publish certain matters. It was guidance to the media as to what tests they had to abide by to avail of the original section 26 defence. Amendment No. 11 states, and I passionately believe, that:

Failure or refusal by a plaintiff to respond to any attempt by the defendant to elicit a response to a statement proposed to be published by or with the involvement of the defendant shall not—

(a) constitute or imply consent to the publication of the statement, or

(b) entitle a court to draw any inference therefrom adverse to the plaintiff.

The reason we tabled the amendment is to make the point clearly that when considering fairness, there is a notion a reporter can ring you up on a Friday and say, "In our Sunday edition, we propose saying X about you." That transaction should not in any way prejudice somebody told by his own solicitor not to respond to it under any circumstances. These things happen in emails. A reporter will write: "We propose to write the following about you on Sunday; your response would be appreciated." The problem with all of that is that if you respond and say it is untrue, the newspaper can then say, "Senator Craughwell denied the allegation which was made against him". That is one headline - "Craughwell Denies Story". If someone is advised by a solicitor, a close relative or whoever it may be that, under no circumstances, should they give life to that story and they should say absolutely nothing and let them publish and be damned, there should be no adverse implication for somebody who takes that advice. If that happens to you, you should be entitled simply not to reply to the email.

The newspaper may be free to say an allegation has been made against Senator Craughwell but it has to show it was fair to publish that in the circumstance. Saying it gave the Senator a chance to deny it and have "Craughwell denies" X allegation or Y allegation is no defence of his good name. He is on the front page of a newspaper, whereas if he keeps shtum, says nothing and the newspaper publishes, naming him in the manner proposed in the email it sent him, it knows full well that it will have caused people in the community to think the worse of the Senator because of the defamatory nature of the allegation it carries.

It is essential that this provision, which was mirrored in section 26 of the existing law, should be repeated now in the context of what is or is not fair. First, it does not imply consent to the publication of the defamatory statement. Second, a court, that is, a judge, confronted with the fact that the plaintiff refused to answer the question put in an email on the Friday afternoon, may not draw any inference adverse to the plaintiff from that refusal. I know from experience as a barrister and politician that there are many occasions when you simply say nothing to a journalist, who is then confronted with the question of whether to run the allegation with no response and whether that would be fair. The journalist cannot rely on the fact they gave you an opportunity to respond and you, for one reason or another, failed to avail of that opportunity.

Then we come to lines 17 to 23 on page 10. I want to ask the Minister about this. I cannot understand what subsection (3) actually means. It 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.

When you consider it, that is an extremely far-reaching proposition. Somebody tells a newspaper "Public figure A raped me". The public figure obviously denies they have raped this person and states that they are innocent. This subsection means that where there is a dispute and the court becomes aware, for instance, that a solicitor's letter was exchanged between those two people, "in determining whether it was reasonable for the defendant to believe that publishing the statement was in the public interest, [the court shall] disregard any omission of the defendant to take steps to verify the truth of the imputation conveyed by it."

What are we doing here? This is what I want the Minister to explain. Why should the court disregard any omission on the part of the defendant to take steps to verify the truth of the imputation conveyed by a defamation? Why should we make that part of our law? Where did this come from? I take it that the newspapers cooked this little lad up. It is quite extraordinary and this is the point that I really want the Minister to explain. To what kinds of dispute does this subsection apply? "You raped me". "I did not". Is that a dispute? In an impartial account that Ms So-and-So alleges that Mr. So-and-So raped her, there is a dispute between them because he does not accept that. In those circumstances, is the defendant - the newspaper - under no obligation to take steps to verify the truth of the allegation? That is a pretty shocking proposition. That is why I wanted to recommit this section. Precisely what kind of dispute does the Minister think he is dealing with? Is it like a dispute between Ryanair and Elon Musk, a public thing, or is it any dispute of any kind whatsoever? Can a private accusation of rape, sexual assault, theft or anything else like that be put on the front page and as long as the newspaper is satisfied that the proposed plaintiff denies the matter and has disputed the allegation, the newspaper is entitled to put on its front page the fact that there is a dispute as to whether So-and-So is a thief, a rapist or whatever, with her saying he did do it and him saying he did not? In those circumstances, we go one stage further and say that the newspaper is under no obligation whatsoever to work out if the accusation is true or false. How can we possibly enact that as our law? The Minister has never come to this House and outlined the category of disputes he has in mind, or has said this particular situation is restricted to newspapers talking about particular forms of accusation that are in dispute. It is a charter to any newspaper to say it does not have to take any steps to verify the truth of a defamatory accusation as long as there is a dispute involved. The Minister owes this House and the Irish public an explanation as to what this is all about, because as far as I am concerned, it is grossly unfair and arguably unconstitutional. I am making the point seriously that it is unconstitutional to say that a newspaper that is publishing a clearly defamatory allegation, because there is a dispute as to its truth, is free to publish it on a he says this, she says that basis and is under no obligation to take any steps to investigate whether the fundamental accusation being made against the plaintiff is truthful. I think this is a catastrophic mistake to put into our law.

I strongly urge the Minister to take out subsection (3). It does not add anything. Its parameters are vague as to what a dispute is. Is it a public dispute or a private dispute? If a public figure is accused of a private wrong, such as sexual impropriety, is it seriously to be the case that because people know he disputes it that they can publish her accusation and his denial without taking any step at all to determine where the truth lies? That is unconstitutional, because that is designed to subvert the good name of a plaintiff. A newspaper might say Miss So-and-So says that politician A raped her and he denies it, here is an objective account of her claim and his denial. The newspaper is under no obligation whatsoever, in respect of such a dispute between them, to take any step to inquire as to where the truth lies and to verify the truth of the imputation conveyed by the statement. To me, this is fundamentally important, and that is why I moved the recommittal of this section. We are being asked to enact unconstitutional law because the mere fact that one person says X, the other says Y and they are in dispute over it cannot allow a newspaper to make that public without any obligation to assess whether the defamatory imputation of the accusation that is in dispute is true.

Acting Chairperson (Senator Garret Ahearn): Thank you, Senator. Before I call Senator Craughwell, I remind Senators that we are on amendments Nos. 9 to 11 inclusive, with

amendment No. 10 consequential to amendment No. 9. There was a bit of confusion before I took the Chair. For clarity and the information of Members, please note that the House, by agreeing to motions to recommit, allows Committee Stage-style of discussion on section 11. That means Members may speak more than once on section 11 and the amendments do not need to be seconded. Essentially, from amendment No. 9, which we are on at the moment, up until amendment No. 14, it is Committee Stage and there is no need for a seconder, and Members can speak numerous times as opposed to just once.

Senator Gerard P. Craughwell: I am just a little concerned. Frequently, we hear orders from the courts with respect to reporting and there are restrictions placed on using names, etc. Let us consider the following. A story goes to a journalist and on Friday afternoon they send an email to a Member of this House saying they will publish the Member's name in the Sunday newspaper in a story that says the Member was involved in an inappropriate act with a minor. Can the minor and the politician be named under this subsection (3)? Is it fair to actually put names in the newspaper in an allegation even if it is not a minor and the person has reached majority? Is it fair to name two people where there may be circumstances when the judge who gets the case in the first instance believes that there should be restrictions on reporting? Have we usurped the right of a judge with this subsection (3) to place restrictions on reporting, given that it has been reported before it gets into the court? I would just like a bit of clarification on that.

Deputy Jim O'Callaghan: I am conscious that Senator Gallagher agreed to the recommittal of section 11 but it was on the basis that Senator McDowell had indicated he just wanted to raise questions and to get a response from me on them. I intend to do that but I hope it will not extend things too much. To be frank, I hope we can finish this today. That was the basis upon which I agreed to go along with it, or Senator Gallagher-----

Senator Rónán Mullen: I thought it was the Minister's commitment to have a full and free debate on this.

Deputy Jim O'Callaghan: I certainly have not blocked full and free debate here.

Senator Robbie Gallagher: Hear, hear.

Deputy Jim O'Callaghan: In terms of the amendments that are put forward here, amendment No. 9 in the name of Senators McDowell and Craughwell wants me to put in a further paragraph at the end of subsection (1) that will say, "the publication of the statement was fair having regard to the rights of the plaintiff including the right to his or her good name."

5 o'clock

I believe amendments Nos. 6, 7 and 8 which I have tabled achieve that objective because they have put back in, front and centre, the requirement that the publication be fair on the matter of public interest, and that the defendant is required to prove the publication was fair in all the circumstances of the case. I do not think it is necessary to put in an extra paragraph (d) that states, "the publication of the statement was fair having regard to the rights of the plaintiff

including the right to his or her good name". I would have thought fairness applies to everyone, and it cannot just be fairness applying to one litigant before the courts. Obviously, when it comes to section 26 on fair publication, the court is going to look at whether or not the publication was fair, primarily from the point of view of the plaintiff. I do not think what is proposed in amendment No. 9 is necessary and I cannot accept it. Amendment No. 10 is consequential on that. Since I am not supportive of the inclusion of the extra paragraph (d) in amendment No. 9, there will be no need for me to agree to the amendment in section 10, which asks for that paragraph (d) to be included subsequently.

I turn to amendment No. 11. Senators McDowell and Craughwell propose that I would insert after subsection (2) of the new section 26 the following:

> Failure or refusal by a plaintiff to respond to any attempt by the defendant to elicit a response to a statement proposed to be published by or with the involvement of the defendant shall not -
>
> (a) constitute or imply consent to the publication of the statement, or
>
> (b) entitle a court to draw any inference therefrom...

As I said on the most recent occasion, the purpose of section 26 is to provide protection to a publisher in circumstances where the publication they made was false. There are a lot of protections within the defamation law in Ireland that provide protection. Obviously, for a publisher that publishes something that is true, we have the defence of truth. However, there are also many defences that operate to provide a defence when something is stated that is false. For instance, if I say something in this House that is completely defamatory of another person and is completely false, I still have a defence, because we have decided as an Oireachtas that we will defend publications in the Houses of the Oireachtas with the defence of absolute privilege. Similarly, we have decided in the legislation provision dealing with retail protection that if a shopkeeper stops somebody to say they have not paid for something or wants to know if they have paid, the implication there is that the person has stolen it. We are providing a defence to the retailer by stating this will be recognised as an interaction deserving of protection and, even though what was said is false, we are still going to provide protection to them. That is what qualified privilege is in general. There is a separate statutory defence for the retailer. If you look at the traditional qualified privilege, there is the letter from the former employer to the prospective employer of a person, where they set out something in a reference, without malice, that is false. Even though it is false, we have decided as an Oireachtas that it is still an occasion deserving of protection because we want to protect that communication between a former employer and a prospective new employer in respect of an employee. We have also decided that a letter from a doctor to a consultant should be protected, but if the doctor writes something in it about the patient, which is defamatory and false, but not malicious, we still provide protection. I know everyone in this House understands this, but sometimes the public does not appreciate that the law of defamation does provide a number of defences for when a publication is made which is false.

Similarly, section 26 is designed to provide protection, to be frank, in respect of responsible journalism, to publishers who have published something that has turned out to be false. I know instinctively the response of some people will be that if it is false you have to be liable for it and there should be no further steps. That is not how our common law has developed. That is

not how section 26 was intended. It was introduced by Senator McDowell when he held my office may years ago. It was intended to provide protection for a responsible journalist or broadcaster who carefully investigated a matter, took steps to ensure it was true and then published it. The issue we are looking at here is the extent to which they tried to get a response or answer from the person about whom the story was being written as to whether or not the story is true. Senator McDowell said there is a lot to be said for somebody just saying nothing, but there is another side to this. I disagree with Senator McDowell when he states that we just need to look at it from the point of view that a person should be entitled to just state nothing. With the greatest respect that is like the Homer Simpson defence, where in one of his shows he is accused of something and says, "Prove it." If there is a serious investigation into me and people believe they have information suggesting I have been engaged in wrongdoing, and a journalist sends me an email saying they have received information that I have done something, and sets out in detail what it is, and I decide to say I will not answer that, that is a decision I make. However, the fact that I do not answer it is something that a court is entitled to take into account if I subsequently issue defamation proceedings against the broadcaster or the publication. They may say they published this story about the Minister. They had information they got from credible sources. They contacted him and he did not bother to get back to them, and never said a word to them. They contacted him again and gave him a week, ten days and two weeks and got no response. That is a factor the court is entitled to take into account in determining whether or not the publication was a fair publication on a matter of public interest. It is a public interest issue, so to a large extent we are talking about people such as us or people in the public sphere who are involved in issues which may give rise to a matter of public interest. I think we, and others, have a responsibility to respond. If a person do not respond it does not necessarily mean that he should be criticised for that, but it means the publisher is entitled to say at the hearing of the action that they wrote to him and asked him repeatedly, and he never even bothered to respond to them. If Senator McDowell were representing the publisher in court and I were giving evidence he would say to me that I received emails on three occasions asking me whether or not I was involved in this wrongdoing and that I never responded, and it was unreasonable of me not to respond. I think it would have been unreasonable for somebody in my position not to respond to something like that.

I know it is moving on to another amendment, but Senator McDowell also raised the issue about subsection (3) of section 26. The purpose of this is to try to deal with a situation where a publisher is reporting on a dispute between two parties. There is a dispute that has obviously got public recognition. It does not have to have gone to court, but there is a dispute. It could be a political dispute between two individuals, like two Cabinet Ministers having a row about what was agreed or about the carrying out of their functions. There is a dispute that will necessarily involve allegations or coverage that will be defamatory of one of the Ministers. In that instance, as it is on a matter of public interest, and we need to remember this, the section simply seeks to ensure that the publisher is entitled to report accurately and impartially the dispute ongoing between the two Ministers. They do not then have to investigate by contacting me or my predecessor Deputy McEntee to try to identify which of us is telling the truth. It is in the public interest for them to say the dispute is ongoing and what it involves. Again, I provide assurance to Senator McDowell and other Senators that the purpose and benefit of having the word "fair" back in it is that a court will look at all the circumstances of the case like how this story was prepared, whether the person was given an opportunity to respond,

whether the highlighting of this dispute in the newspaper was in the public interest and whether it was impartially and accurately reported.

Disputes happen between people. There was a dispute between President Trump and the aforementioned Mr. Musk that went on for quite a period of time. Terrible things were said about each other. I think President Trump made allegations of drug use against Mr. Musk. Are we to say that a newspaper cannot publish details of that dispute without trying to verify whether the things said by President Trump about Mr. Musk were correct? That puts too much of a burden on a publisher.

Senator Craughwell asked a number of specific questions about whether a person or victim can be named. They are all separate issues. When it comes to a court considering a publication and trying to determine whether the publication is defamatory and, in this context, whether a publisher is entitled to the defence under section 26 of the principal Act, the court will look at it in the round. This section is designed to protect responsible and fair publications that have made efforts to identify and get feedback from the person who is the subject matter of the article. If it is not fair, it will not get the protection. If the individual who is the subject matter of the article decides not to engage with that, it does not mean there is no cause of action against the publisher. Rather, it means the publisher is entitled to present these as factors that should give it a defence.

Senator Rónán Mullen: I appreciate the comprehensive and fluent nature of the Minister's response. Everyone here understands that the meaning of something being in the public interest is not the same thing at all as something being of interest to the public. Do we rely on the courts? How can we be sure about the threshold that has to be met for something to be deemed to be in the public interest? We live in times where there is so much said in so many forums about all sorts of issues. Often, disproportionate time and attention are given to issues that are not necessarily that important. What assurances can the Minister give us about how the question of whether something is in the public interest is determined?

I wish to go back to the question of whether a person is entitled to withhold comment. For example, I am a person and I have something put to me that I know is false. We are all aware of that old line from whichever university president who said, "Let's make the [b--] deny it." I refer to an allegation that everyone knows to be false. In the criminal context, a person has the right to silence. There can be good reasons someone does not want to dignify a false allegation and participate in the process of falsifying it. Even to falsify something or state that it is false can, in the view of someone about whom something false is being said, contribute to the possibility of it being published and so on. Where does that concern stand in the light of the Minister's response to the proposed amendment?

Acting Chairperson (Senator Garret Ahearn): I remind the Senator that we are speaking on amendment Nos. 9 to 11, inclusive, rather than amendment No. 12. Before I bring in Senator Craughwell------

Senator Rónán Mullen: I am talking about amendment No. 11, I think.

Acting Chairperson (Senator Garret Ahearn): Amendment No. 12 is also in the name of Senator Mullen-----

Senator Rónán Mullen: Yes. I will get to that.

Acting Chairperson (Senator Garret Ahearn): -----but we are not on that. We are on amendment Nos. 9 to 11, inclusive.

Senator Rónán Mullen: I was referring to amendment No. 11.

Acting Chairperson (Senator Garret Ahearn): I understand. I am just reminding the Senator that amendment No. 12 is on the way.

Before I bring in Senator Craughwell, I welcome to the Public Gallery guests of Deputies Malcolm Byrne and Roderic O'Gorman and the Minister, Deputy Hildegarde Naughton. They are very welcome to the Chamber today. I hope they are enjoying their visit to Leinster House.

Senator Gerard P. Craughwell: I know the Minister wants to get this Bill finished this evening and I do not intend to delay it. I wish to mention the issue of subsection (3) and the right of the courts to order a restriction on reporting. In the likelihood that this passes, is it likely that, in a particular case, names will be reported before the judge gets the opportunity to implement restrictions on reporting? I am a little confused on that one still.

Deputy Jim O'Callaghan: In respect of Senator Mullen's question about the public interest, the Constitution delegates the administration of justice to the courts. As the Senator knows, they are not remote entities. The courts have to assess what is in the public interest quite frequently in terms of rulings that come before them and judgments they have to give. They have to do it in the context of privacy and defamation as well. In the case of Nolan *v*. Sunday Newspapers Limited, it was suggested by the defendant that it was in the public interest to reveal something about a retired former intercounty GAA player, who had not played in about ten years, that was actually defamatory about him and a breach of privacy. The courts did not accept that because it was not a public interest issue.

It is difficult, as the Senator will appreciate, for the Legislature to set out what is in the public interest. We cannot formulate an endless list of matters that are in the public interest. We have to defer. We can all state in here what is in the public interest but when it gets to court and the interpretation of a statute, it is for the court to assess what is in the public interest. However, I have to say that the assessment of the court will be very much the same as ours.

When it comes to the point about a false statement being made and the right to silence, I may have a different view to the Senators who have spoken in this regard. To use my earlier example, if a reputable broadcaster or publication informs me that it has serious allegations against me and sets them out before me, if they are false, I will rush to say that they are completely wrong. If it goes ahead and publishes it, then it will certainly not be able to get much benefit out of section 26 if I have put forward a coherent response as to why it should not publish it.

The advantage to the publisher in court in invoking section 26 is that it can say it went to the person and asked them for an answer but they did not give an answer and never got back to the publisher at all, or that they gave an answer that was demonstrably false. If I go back and give the publisher an answer stating that the story is completely false - I do not have to prove it, but coherently state that to the publisher - then it will be extremely careful about publishing it. The publisher will have difficulty invoking section 26 in that context.

With regard to what Senator Craughwell said about people being named, the media can take chances. Sometimes, they are too cautious and nervous. Justice is administered in public. People should be named. There are some occasions when names are not provided, however. There are statutory provisions that say that if the media is going to reveal someone's medical condition, they will not be named. Obviously, people are not named in family law proceedings. If someone takes a defamation action, one of the consequences of it is that the person has to be named. That can be understood because the individual is saying their reputation is being damaged in the public domain, so of course they should identify themselves.

In respect of other persons whose names may come up, one of the consequences of justice is that people are required to be identified unless there are children involved. Obviously, the criminal sphere is different, as the Senator will know. We saw recently some horrific cases on which reporting restrictions were put. We also need to take into account that the High Court has full original jurisdiction. It can decide how its procedures should operate subject, of course, to the constitutional requirement that justice should be administered in public.

Amendment put and declared lost.

Amendment No. 10 not moved.

Senator Michael McDowell: I move amendment No. 11:

In page 10, between lines 16 and 17, to insert the following:

"(3) Failure or refusal by a plaintiff to respond to any attempt by the defendant to elicit a response to a statement proposed to be published by or with the involvement of the defendant shall not—

(a) constitute or imply consent to the publication of the statement, or

(b) entitle a court to draw any inference therefrom adverse to the plaintiff.".

Senator Gerard P. Craughwell: I second the amendment.

Amendment put and declared lost.

Acting Chairperson (Senator Garret Ahearn): Amendments Nos. 12 to 14, inclusive, are related. Amendment No. 13 is a physical alternative to amendment No. 12. Amendments Nos. 12 to 14, inclusive, may be discussed together by agreement. Is that agreed? Agreed.

Senator Rónán Mullen: I move amendment No. 12:

In page 10, to delete lines 17 to 23.

This amendment simply proposes the removal of subsection (3) of the proposed section 26, which proposes that where we are talking about an accurate and impartial account of a dispute to which the plaintiff in the defamation action is a party, the court shall, in determining whether it was reasonable 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. We are talking about a decision that has been taken by a publisher that something is in the public interest. We are talking about a false statement having been made and a defamation action taken. We have just heard the Minister speak about the right of a court to draw an inference from the non-co-operation of a person against whom an accusation is being made when that person is contacted by the media. Here we have a situation where, because the publisher can say that this is some kind of dispute - undefined, I think, in the legislation - that somehow it does not matter in terms of the decision about whether it is in the public interest to publish or whether steps were taken to verify the truth of the imputation conveyed.

I queried this previously on Committee Stage. What kind of scenario can the Minister present that makes it a matter of no importance whether the defendant in a case, a publisher, has made any effort whatsoever to verify the truth of what they propose to publish? What chilling effect on good judgment would it have to require that a person will always take steps to verify the truth of something serious that they are about to publish, whether by way of inquiring with the person who is the subject of the potentially defamatory statement or third parties who may be in a position to confirm or contradict what it is proposed to allege?

I tried to understand the rationale for this in terms of some kind of a dispute between two public persons, but there is nothing here which indicates that have to be two public persons. It could be a student making an allegation against a teacher but doing so in a very public way or where a dispute is known about where there are some kind of disciplinary proceedings going on, in the context of a school, for example, where A has made an allegation against B and where there is some talk about it in the privileged context of a school perhaps having to go through its investigative and disciplinary procedures. What difference does the fact of it being a dispute between two parties as opposed to it being a claim by a whistleblower that somebody had their hand in the till make regarding the fact that it is no longer of any importance whether the defendant has taken steps to find out if what they are proposing to publish is true or false?

Deputy Jim O'Callaghan: I will start by stating that in order for this section 26 defence to succeed, there is a requirement that the statement in respect of which an action is brought must relate to a matter of public interest. There is also a requirement that the defendant reasonably believes that publishing the statement is in the public interest and that this is done in good faith. These are all necessary requirements before we even get to consideration of subsection (3), which the Senators' amendment seeks to remove.

Senator Mullen asked me to set out an example of how subsection (3) will apply. I gave the example earlier. I do not want to use too many domestic examples, but in terms of the dispute between President Trump and Mr. Musk, whom I use as an example because they are not listening and everyone will feel comfortable with me doing so, that was a serious dispute between two individuals. Obviously, that dispute was in the public interest, I would have thought, even though it was an international issue. I am using it as an example. Obviously, there are all sorts of jurisdictional issues as to whether the Irish courts would have jurisdiction, but that is an example of a dispute between two public figures where it is in the public interest

for it to be reported upon. Very serious allegations were made by one of them that the other was taking serious drugs. In that circumstance, one would have thought that a publisher should be entitled to impartially and accurately publish the details of that the, because it is in the public domain, without having to find out the nature of the allegation President Trump made about Mr. Musk, correct or not, or contact Mr. Musk to get his side of the story before publishing details of the dispute. What is in the public interest is the dispute itself. There are certain times when it is in the public interest to publish details of a dispute between public figures in the newspapers or in broadcast media without a newspaper or a broadcaster having to verify whether the details are true or not.

This was recommended in the review of the 2009 Act. I think I also dealt with that on Committee Stage. However, the important part of the provision is that the defence will only apply where there is an accurate and impartial account of a dispute. Unfortunately, I cannot accept the amendment.

It is difficult to predict the type of scenario that will arise when this provision will be invoked. I could, but will not, give domestic examples of public disputes that could be reported on, but they also exist.

Senator Rónán Mullen: I appreciate the fact that the Minister met the first test by coming up with some kind of example. One could argue, however, that even President Trump and Elon Musk are entitled to some measure of due diligence on the part of any media organisation proposing to publish something that is false and damaging.

If the Minister does not accept that line of argument, I point out to him that he makes an extreme case to defend a clause which does not say that the court may disregard an omission to take steps. Rather, it states that the court shall do so. If the aim of this subclause is to state that there may be cases where it really is not reasonable to expect a putative publisher to try to find out whether what they are about to publish is true or not - and that it is not necessary for them to do so in order for them to believe that it is in the public interest to take steps to verify whether it is true or not - one would have to say that such circumstances, if they exist, would be exceptional. I say this because it stands to reason that if you are in the business of publishing statements which, if false, will be very damaging to an individual, however unsympathetic the individual may be in the public mind, however famous and well resourced the individual may be and however unreachable by your barbs that individual may be, the fact remains that there is a considerable onus on publishers to take steps as a matter of common sense and on the basis of people's general expectation.

If you are leading with an allegation or claim, it must nearly always be the case that you should take steps to verify the truth of what you are saying, if it is capable of being defamatory. The Minister wishes to create an exception to address cases, such as that he has described, without requiring a newspaper or broadcaster to contact the Musk organisation or the Trump organisation, or whatever. I would imagine that is not a particularly onerous responsibility but let us assume there are cases where that would not be expected of a proposed publisher. Surely the language here should imply exceptionality. It should state that the court may disregard such omissions. It should be remembered that the Minister has just said that we have to depend on the courts. That is quite right and quite reasonable. We have to leave it to the courts to assess the public interest issue from case to case, according to standards with which we would all

sympathise and agree. However, precisely because that concept of public interest is being left to the courts to adjudicate and we are not attempting to define it in legislation, surely we should not be so prescriptive as to say that the courts shall disregard any omission of the defendant to take steps to verify the truth.

This is about a dispute between parties. There are all sorts of disputes between parties where it would be essential. I tried to give an example, although it may not have been a very clear one. I can imagine all sorts of situations where there would be a dispute between parties. The mere fact of there being a dispute between parties cannot mean that the court must henceforth disregard any omission to take steps to find out whether something is true or false in its determination of whether a person reasonably believed something was in the public interest. I get what the Minister is saying about prior requirements and the need for publication to be in the public interest. I am not talking about potential disputes in respect of things that are not in the public interest. It could be a dispute about a very serious allegation made by one person against another, not for the purposes of public grandstanding but for the purpose of doing real damage. It may be the person's mistaken belief that what they claim is true but the fact remains that it is a seriously damaging claim arising in the context of a dispute. Why is the Minister not saying that the court may disregard an omission to take steps to verify the truth? Why is he making it an all-embracing provision and mandating the courts to disregard any omission to take steps to verify an allegation?

Senator Michael McDowell: I do not want to delay things too much but this section was effectively an effort to recreate in Irish law section 13 of the UK Defamation Act 2013. As far as I am concerned, to make it obligatory to disregard any omission is, as Senator Mullen has said, a very far-reaching proposition. Although we have not reached it yet, amendment No. 13, which is in my name and that of Senator Craughwell, proposes to insert the word "reasonable" before "omission". If *The Irish Times* has to report on a row between Musk and Trump, a court is not going to say it better send a reporter to find out whether Mr. Musk's accusations are true or false, whereas the thing would be quite different in other circumstances.

This new section 26 does not just apply to newspapers and broadcasters. It applies to anybody who runs a podcast or who uses social media who then makes a defamatory statement. The assumption in this debate has always been that we are talking about responsible media doing A, B and C. We are not. We are talking about opening defences to people who are not, by definition, responsible. We are talking about people who are using social media, day in, day out, to propagate particular causes or to damage particular enemies. It is in that context that a later amendment in our name talks about publication to the public at large. That is one proposition. I wonder about disputes of a fairly private kind about matters which have a public dimension to them, for instance, a dispute as to whether a public figure has behaved honourably as a landlord. We have had some of those. If somebody starts putting stuff up on social media giving a fair and accurate or impartial account of an accusation made against a public figure by a tenant, or whoever it is, this section will apply. I am just making those points.

The assumption has been that we are talking about RTÉ, other independent TV channels, newspapers and formalised publications such as magazines, but we are not. We are talking about anything. That is the point I find slightly worrying about this. We are handing this defence to people putting up on social media that there is a dispute between politician A and Ms B about what happened in a particular case at night-time. The same test applies to that as

to a responsible newspaper. Publication on social media is hugely wide. I know the Act proposes to get rid of the Reynolds defence but the Reynolds defence was supposed to deal with responsible journalism. We are not talking about journalism in the conventional sense at all. If I put something up on social media that I, bona fide, consider to be in the public interest and make an accusation in good faith, should I, as a poster on X or whatever platform, be entitled to the immunity conferred by this amendment? I am not happy that it does not extend to cases such as that.

Amendment put and declared lost.

Senator Michael McDowell: I move amendment No. 13:

In page 10, line 21, after "any" to insert "reasonable".

Amendment put and declared lost.

Senator Michael McDowell: I move amendment No. 14:

In page 10, between lines 23 and 24, to insert the following:

"(4) In deciding whether publication of a statement to the public at large or any section thereof was fair a court may have regard to—

(a) the extent to which the statement concerned refers to the performance by the person of his or her public functions,

(b) the seriousness of any allegations made in the statement,

(c) the context and content (including the language used) of the statement,

(d) the extent to which the statement drew a distinction between suspicions, allegations and facts, and

(e) the extent to which there were particular circumstances justifying the publication of the statement at the time of publication.".

Amendment put and declared lost.

Section 11, as amended, agreed to.

Bill reported with amendments.

An Leas-Chathaoirleach: The debate now returns to Report Stage. Before we commence, I remind Senators that they can only speak once on Report Stage except for the proposer of the amendment who may reply to the discussion on the amendment. Each amendment must also be seconded on Report Stage.

Amendments Nos. 15 to 17, inclusive, are related. Amendment No. 17 is consequential on No. 16. Amendments Nos. 15 to 17, inclusive, may be discussed together by agreement. Is that agreed? Agreed.

Senator Rónán Mullen: I move amendment No. 15:

In page 11, after line 42, to insert the following:

"(f) whether, any statement having been made which a reasonable or prudent person would conclude was capable of being defamatory, the presenter took prompt steps to—

(i) challenge the person making the statement,

(ii) alert viewers or listeners to the problem of possible defamation, the right of the subject of the statement to defend his or her good name and to initiate an action where appropriate against the publisher of defamatory material, and

(iii) where the person the subject of the statement, or his or her representative, was actually present, to give the person or the representative an immediate opportunity to challenge the published statement.".

Senator Sharon Keogan: I second the amendment.

Senator Rónán Mullen: We discussed this on Committee Stage. We are into the section dealing with the proposed live broadcast defence. We can all imagine the scenario where somebody pops up in the audience or maybe somebody on a panel delivers the shocker of the year of a kind that would have any defamation lawyer twitching either in anticipation or any client twitching in terror. We all understand the value of live broadcast. We can understand that there will be television moments that will involve a live audience where the risk is perhaps even greater potentially that something defamatory could be said.

The Minister set out the context in which the courts may uphold a defence where something false and otherwise defamatory or a defamatory statement is made during a live programme. I recall saying to the Minister on Committee Stage a point about putting myself in the position where I am sitting at home watching TV and something is said about me by either an audience member or panellist. I would expect a presenter to have the same concern for my reputation and rights as he or she would have if the statement was made about themselves. That the test we have to apply here. What would the presenter do if something defamatory was said about him or her by somebody on the programme? We know what would happen. They would immediately falsify it. For all intents and purposes, they effectively would take the mic away from that person. There would be consequences.

The same sense of justice to a person who is, first of all not present, or may be present but is not controlling the debate and discussion, is not achieved simply in the subclause 2(e) that is currently there at line 40 onwards of page 11, where it talks about "the overall management in practice of the live programme concerned, and of its participants, by the broadcaster and in particular by the presenter". What does "overall management" mean? Does it mean that at some point in the course of the programme that they say something conciliatory or cautionary? That would have to be determined by the courts as to whether whatever is meant by "overall management" was satisfactory in all the circumstances.

There are all sorts of other measures that will inform the court's determination about whether reasonable and prudent precautions were taken, including the effective control over the relevant person or the level of it was reasonable to expect, the nature of the live programme, whether the person was a contributor or the overall measures employed by the broadcaster to ensure the

taking of reasonable and prudent precautions and the extent to which the broadcaster carries out an appropriate risk assessment. That all strikes me as RTÉ guidelines kind of stuff. If I am the subject of a defamatory comment or statement, what I want to happen in that moment is immediate and prompt action. The promptness of action must surely be a factor that would need to be considered.

I remember being in a difficult TV debate once. I said something and somebody jumped in and said something very critical of what I had just said. The audience clapped which is not a nice experience. I remember in that moment acting instinctively by grabbing the elbow of the person beside me and saying to them *sotto voce,* "Please, let me in here." Maybe because of the pain they were feeling on their elbow they stopped, and I was in again with my comment, which did not entirely ameliorate the situation. However, the point was that I was still on my feet and seen to be on my feet as it were. If the discussion had moved on and I only got in three or four minutes later, it would have been a very different kind of impression that was left with the public. In live broadcasting, time matters and sequence matters. If something potentially defamatory is said about somebody, it is vital for fairness that there is an immediate intervention. The presenter of the programme may not be in a position to say, "That is false. You can't say that. Everybody listen up. That is not true." I get that. They are not in a position to prove or disprove what has just been said. However, they are in a position to operate on the presumption that it is not true or on the understanding that there is a reasonable possibility that it is not true. If that is the mindset from which they are operating, then they would act immediately. That would be the reasonable approach to expect.

Therefore, that is why I am proposing that what would have to be considered before such a defence could succeed would, among the reasonable and prudent precautions, be that where a statement was made which a reasonable or prudent person would conclude was capable of being defamatory, that prompt steps were taken to challenge the statement, to alert viewers or listeners to the problem of possible defamation, the right of the subject to defend his or her good name and to initiate an action ,where appropriate, against the publisher of defamatory material, and, where the person the subject of the statement, or his or her representative, was actually present, to give the person or the representative an immediate opportunity to challenge the published statement.

Only that gives the person against whom an accusation is made the kind of equality of arms they deserve.

In the context of a live broadcast, a presenter has an enormous responsibility to seek to ensure fair play. They are not acting *in loco parentis*, but they are the person with responsibility in that moment in the context of the right of a person not to be defamed. That is why I proposed this amendment, which requires that a court must consider whether prompt action was taken to make the necessary challenge and to give the opportunity, if the person is present, to falsify the statement immediately. The purpose of what I am seeking to achieve in the public interest is to put the issue of defamation into the public mind in order that it is not seen to be some kind of closed issue that must be true because it has just been stated on television but, rather, that it be seen as something which is contentious.

Deputy Jim O'Callaghan: The purpose of the live broadcast defence, which is dealt with in section 13, is to try to protect live broadcasting. Everyone involved in politics will know that

there is a great advantage to the public at large in there being live broadcasting. It is vital during elections and it is vital during other issues of great public concern. I want to try to ensure that we have a provision within the legislation that facilitates the continuation of live broadcasting.

The section that has been drafted and that was approved on Committee Stage is sufficient to deal with the concerns that Senator Mullen outlined. The first and foremost requirement in respect of this defence being effective is that in advance of and during a broadcast, the broadcaster must have taken reasonable and prudent precautions to prevent the publication by a relevant person of a defamatory statement during the programme. This is something that is going to be looked at in advance of and during the broadcast. Subsection (2) sets out a variety of factors that the court can consider for the purposes of determining whether or not these prudent and reasonable precautions were taken, and they are very detailed, fair and balanced. I have to be fair, not just to the interests of the person who may be defamed but also to the publisher, in this instance the broadcast publisher, who, in fairness, does not have a complete responsibility or control over an individual during a live broadcast. It is certainly the case that if somebody on a live broadcast says something defamatory about another person, then that individual is liable in the context of defamation. What we are trying to do here is to ensure that the broadcaster will have a protection.

The Senator's amendments are too specific and restrictive and would mean it would be very difficult for the defence ever to succeed. When we look at subsection (2), I think that what the Senator is seeking to ensure is considered is already dealt with by way of subsection (2)(e), which states that the court should consider "the overall management in practice of the live programme concerned, and of its participants, by the broadcaster and in particular by the presenter of the live programme". These are very much the issues the Senator has identified, namely whether the presenter challenged the person concerned, has identified that the person about whom the statement was made would completely dispute it and said that that person will have an opportunity to defend themselves. We see this happen frequently on broadcasts that occur when somebody is not represented in the studio. In fairness to our broadcasters, in general they go out of their way to that someone is not there to defend themselves against a charge. This is a difficult area for broadcasters. I have put it in for their protection. I cannot just be thinking about the individual who may have been defamed. I also have to think about fairness for defendants who can end up being sued as well. Unfortunately, I cannot accept the amendments.

I am have brought forward an amendment in this area in light of what was said by Senators on Committee Stage. I refer to amendment No. 16, which will be moved presently.

Senator Rónán Mullen: I thank the Minister for his reply. Promptness matters and sequence matters. Again, as I explained, there is no mention of promptness in paragraph (e). The phrase "overall management" could be interpreted as almost allowing a broadcaster to give some kind of a nod to the question of the right of the person to their good name. However, the urgency of the problem is in no way addressed in the section as it stands. While I appreciate the Minister saying that he cannot always be thinking of the person against whom a defamatory statement might be made - and I hope I have not inaccurately paraphrased what he just said - and that he wants to give some comfort to those who produce live broadcasts, I get that, my proposed amendment does not negative the live broadcast defence. What I am saying is that I believe he

has got the balance wrong. He is going a great distance in order to protect live broadcasts. Fair enough, they have their public value; but so also does a person's right to their good name. What I am urging upon the Minister - unsuccessfully, because he is the person with the votes behind him - that it should not be a fault of my amendment that it is specific. It is universally valid to say that if something potentially defamatory is said, the presenter of a programme should immediately intervene. That is fairness 101. There is nothing about promptness in the text of the section, and I think that is a real flaw.

It is one thing to give comfort in respect of live broadcasts - and, fair enough, I am all for that - but I think we are forgetting just how serious it is when an allegation is made in a live context. We know what it did to a presidential aspirant somewhat more than a decade ago. What can be said in a live broadcast situation can have serious consequences for a person's life. I am not saying that the Minister is not putting in any requirements in respect of broadcasters, clearly he is doing so, and the phrase "reasonable and prudent precautions" is used in this regard. It seems, however, that he is leaving out one of the most essential features. It could be argued, in the context of the wording of my amendment, that the requirement that a particular action take place once a defamatory comment has been made cannot really be described as a precaution because, to some degree, it is after the fact. I am of the view, however, that if there was a will, there would be a way to overlook that flaw in my drafting. The absence of a direct recognition of the importance of promptness and the duty of a presenter - with a producer making an intervention via that presenter's earpiece - to have a sense of duty of fairness in a particular moment is a serious omission from this otherwise very reasonable departure in law.

Amendment put and declared lost.

Government amendment No. 16:

In page 11, after line 42, to insert the following:

"(3) For the avoidance of doubt, the live broadcast defence shall not fail by reason only of the live programme concerned having been broadcast with a minimal delay.".

Amendment agreed to.

Government amendment No. 17:

In page 12, to delete line 1 and substitute the following:

"(4) In this section—".

Amendment agreed to.

6 o'clock

Senator Michael McDowell: I move amendment No. 18:

In page 21, to delete lines 30 to 32 and substitute the following:

" "45. (1) The Circuit Court and the High Court (in this section referred to as the 'court') shall each have concurrent jurisdiction to hear and determine an application in accordance with this section.".

Senator Gerard P. Craughwell: I second the amendment.

Senator Michael McDowell: The amendment seeks to give the High Court an identical jurisdiction to the Circuit Court in respect of identification orders. It may well be that the Circuit Court is cheaper. I sometimes wonder about that. It certainly is a lot more inconvenient in certain circumstances.

The other point is that the Circuit Court is a court of local and limited jurisdiction. So is it where the defendant resides or where the defamation took place? Is that to determine which circuit is to exercise the jurisdiction?

Deputy Jim O'Callaghan: I thank the Senator for his amendment, which we also discussed on Committee Stage.

I want to provide a statutory mechanism for people to apply in the Circuit Court. I think the Circuit Court is cheaper and it is an appropriate mechanism for the purpose of granting an identification order.

I have to say to the Senator that nothing that I do in this statute is going to interfere with the jurisdiction of the High Court. The existing powers of the High Court will not be affected by this section in the Bill. For that reason, I am not accepting the amendment.

Amendment put and declared lost.

An Leas-Chathaoirleach: Amendment No. 19 is in the names of Senators McDowell and Craughwell and arises out of committee proceedings.

Senator Michael McDowell: I move amendment No. 19:

In page 22, to delete lines 38 to 42 and substitute the following:

> "(5) The provisions of section 169 of the Legal Services Regulation Act 2015, shall apply in relation to the costs of any application for an identification order.".

Senator Gerard P. Craughwell: I formally second the amendment.

Senator Michael McDowell: The amendment simply says that the ordinary rule as to costs following the event subject to the certain exceptions, which are set out in section 169 of the Legal Services Regulation Act 2015, will "apply in relation to the costs of any application for an identification order." I do not accept the proposition that X should ever be entitled to its costs. If somebody comes to court and goes through all the hoops of saying, "I have been defamed. The Defamation Act will probably succeed. I do not know and cannot find out who the anonymous poster was." Still, after that, X comes into court and says, "I want my costs against the plaintiff." I think that is an unjustifiable obstacle to throw in the path of a plaintiff who simply wants to know who took to social media to defame him or her and section 169 of the Legal Services Regulation Act affords flexibility in this matter.

The notion that a body like X can come to court and say it wants its costs for identifying the anonymous defamer is, in my view, unfair and an unwarranted obstacle to put in the path of somebody whose lawful rights to their reputation have been, on the face of it, violated.

Deputy Jim O'Callaghan: I thank Senator McDowell for the amendment and his contribution. We had an extensive discussion about this on Committee Stage.

In terms of costs following the event, what the means is that generally the winner of a court dispute is granted their costs on a party and party basis. However, that is a difficult rule to apply in circumstances where there is an application which is not an *inter partes* application. In fact, it is a non-party application. I used the example previously of where there could be two parties in a dispute - an individual against another individual. Then, for the purpose of resolving that dispute, there is a requirement to get a discovery from, say, another third entity who is not involved in the dispute at all, and that third entity is sometimes required to make a disclosure of documents for the purpose of facilitating this dispute. It is never the case that that third non-party is required to pay the costs. It is always the case that the non-party will have their costs paid.

I think Senator McDowell's concerns are met by the fact that we all know that costs are always going to be at the discretion of the court, no matter what the statutory provision, and the statutory provision that is contained here, and which he seeks to amend, simply says that the court may "order that an applicant pay any or all of the costs of the relevant intermediary service provider". So it is not a mandatory requirement. It is a discretionary order.

Senator McDowell refers to a well known Internet service provider - a social media company. Again, when I am dealing with creating new law and putting forward new law for the Oireachtas to make, I have to look at it objectively and not try to identify any entity. If a non-party is playing a role in *inter partes* litigation, in general, at some stage in the proceedings, that non-party is recompensed for facilitating the resolution of the dispute by providing information or documents so I cannot accept the amendment.

Senator Michael McDowell: I have to express my disappointment in relation to the Minister's continued opposition to normalising the provisions of the proposed identification order procedure in respect of costs and I do make the point, who is facilitating anonymous defamation? Who actually is doing it? I mean I cannot defame somebody that easily, anonymously, except through an Internet service provider. They are the people who are profiting from and disseminating the defamation against me. As I said on the last occasion, it is not like An Post or a telephone company being found liable for a conversation. It is very different. The other provisions of the section make it very clear that what has happened is defamation. It seems to me that the very least that an Internet service provider could do is to say at the outset, "We will consent to an order being made and will not be represented", and if that happens then it seems to me that in those circumstances the discretion that the Minister refers to is fine but if they come in and start defending the privacy of some defamer then, in my view, they are taking sides in the issue.

Amendment put and declared lost.

An Leas-Chathaoirleach: Amendments Nos. 20 and 21 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Michael McDowell: I move amendment No. 20:

In page 22, after line 42, to insert the following:

> "(6) Where an identification order has been made under this section, a court may at any time thereafter vary any condition to which the order may have been made in accordance with subsections (4) and (6).".

Senator Gerard P. Craughwell: I second the amendment.

Senator Michael McDowell: The amendment simply provides that where a condition has been attached to the making of an identification order, the court will retain the right to vary any condition thereafter. What I am saying is, supposing the Circuit Court says that the identification order will be used solely for the purpose of a defamation case and not for any other purpose. There may well be circumstances in which there are very good reasons somebody who is in possession of an identification order may want to use that information in a collateral way. What I am saying here is, that where that is just that they should be able to use it for a different purpose. Then, in those circumstances, the court should have jurisdiction to relax the conditions which were applied to the making of the identification order at the time it was made.

I cannot see any problem with that amendment.

Deputy Jim O'Callaghan: I thank Senators McDowell and Craughwell for their amendment. In respect of the point raised by Senator McDowell, if I can refer to the example I referred to in the previous amendment about discovery, sometimes individuals get discovery of documents in proceedings because they are necessary and relevant to the proceedings. The individual can only use those discovered documents, whether they are from another party or a non-party, for the purpose of the litigation. There is an implicit undertaking given by an individual who is granted discovery of documentation that it will only be used for the purpose of the litigation. It cannot be used for a collateral purpose.

I note what Senator McDowell says, but in the context of the Defamation Act and defamation Bill, the only reason a court will grant an identification order is for the purpose of facilitating a defamation action. I cannot provide a mechanism outside of the defamation Bill for somebody to find out this information out of curiosity. If I am going to put it in the defamation Bill, it has to be for the context and in the context of the individual bringing the application because they want to initiate proceedings against the defamer.

Amendment No. 21 refers to being able to go back to the court in respect of the identification order. In subsection (4)(b), when the court is making the order, it can make it subject to such conditions as it considers appropriate, which may include the issues I set out in rules subparagraphs (1) and (2). The court will always have control of its jurisdiction. It can apply whatever conditions it wishes. All we can do is provide the statutory architecture for the court to provide these identification orders. I do not believe it is necessary, or would be appropriate,

for us to allow for an identification order to be made for purposes other than the defamation action.

Senator Michael McDowell: In relation to the second of the two amendments we are discussing, the Minister has resolutely taken the position that where an identification order is made, the fact that it has been made and has identified a particular person cannot be used by the victim of the defamation as evidence that the person identified was the poster online of the defamation. It cannot be used directly as evidence because it is hearsay. The Minister, for some reason, is digging his heels in to stop the use of an identification order as evidence. After Committee Stage, we redrafted our amendment to state:

> Where an identification order has been made in accordance with this section, and where an anonymous publisher has been identified thereunder by an intermediary service provider, the said identification as relevant information shall, subject to the right of any party to contradict or disprove that he or she is or was the anonymous publisher, be admissible in evidence in any defamation proceeding where the court hearing such proceeding so directs.

I am not saying that it is always admissible. I am saying that a court will state that the Internet service provider has identified Michael McDowell as the person who posted this. How does somebody whom I have defamed prove that, except by calling witnesses from the Internet service provider and producing records from the Internet service provider? It seems to me that, where a court has gone to the trouble of saying that it is necessary for the prosecution of the defamation case that the anonymous publisher be identified by way of an identification order, no injustice is done by saying to the person who sought and obtained that order that they can produce that in court. Where somebody wants to say that is wrong and it was their son, not them, who used the computer and put that up, or it was the cat who usurped their access to the website and put that up and that they never did anything of the sort, they can do that. In those circumstances, where someone wants to contradict or disprove that, a court can say that, at the very least, given the fact that an identification order has been made, it seems fair to the court that the substance of the relevant information, namely, who was the poster of the anonymous defamation, should be admissible in evidence - not admissible to prove beyond contradiction and not against the capacity of any party to say, "It was not me, as a matter of fact", but that at least it should be admissible.

The Minister must realise that an identification order just slapped down like that is of no use to someone if they have to prove that Joe Bloggs posted this. How do they actually prove it? He has been identified in court, under an order, as the anonymous publisher of a defamation, but how does my country solicitor in the Circuit Court actually prove the identity of the poster? Do they summon somebody?

Deputy Jim O'Callaghan: A solicitor can say they got an identification order from the Supreme Court. They could say, "This is the document that was produced from X on foot of the identification order". That is sufficient proof of the identification order.

Senator Michael McDowell: Is it admissible?

Deputy Jim O'Callaghan: I would have thought so.

Senator Michael McDowell: All I am saying is that it should be admissible, subject to contradiction or denial. It should at least be enough that the plaintiff in the defamation proceedings says they got an identification order naming Joe Bloggs as the poster. That should be enough for the court to be going on with, unless Joe Bloggs is named as the defendant. If Joe Bloggs is then in the situation that he wants to come in and contradict it, under our amendment, he is fully free to do so under our amendment. At least he cannot have a smart-ass barrister stand up and say the Minister refused point-blank to make this admissible in the Act, and that is it. I believe, therefore, that this is a reasonable amendment.

Amendment put and declared lost.

Senator Michael McDowell: I move amendment No. 21:

In page 22, after line 42, to insert the following:

"(6) Where an identification order has been made in accordance with this section, and where an anonymous publisher has been identified thereunder by an intermediary service provider, the said identification as relevant information shall, subject to the right of any party to contradict or disprove that he or she is or was the anonymous publisher, be admissible in evidence in any defamation proceeding where the court hearing such proceeding so directs.".

Senator Gerard P. Craughwell: I second the amendment.

Amendment put and declared lost.

Question, "That the Bill, as amended, be received for final consideration", put and agreed to.

An Leas-Chathaoirleach: When is it proposed to take the next Stage?

Senator Diarmuid Wilson: Now.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Question, "That the Bill do now pass", put and agreed to.

Cuireadh an Seanad ar fionraí ar 6.20 p.m. agus cuireadh tús leis arís ar 6.31 p.m.

Sitting suspended at 6.20 p.m. and resumed at 6.31 p.m.

Credit Review Bill 2024: Second Stage

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

Minister of State at the Department of Finance (Deputy Robert Troy): The purpose of the Credit Review Bill is to establish a new statutory body, the credit review service, in place of the existing Credit Review Office. Credit Review is a body under the aegis of the Department of Finance and was established by the Minister for Finance in 2010 under section

210 of the National Asset Management Agency Act 2009 with the objective of facilitating access to bank credit for viable businesses. It provides a valuable service to SMEs and farm businesses that are having difficulty obtaining bank credit. It offers an independent review of a credit decision where a loan application is declined or where an existing credit facility is reduced or withdrawn.

In the years since it was established, the Credit Review Office has proved to be an invaluable source of support and information for Irish SMEs. In addition to its primary task of providing an appeals service for SMEs that have had their applications for credit - up to €3 million - turned down by Irish banks, it publishes information notes for SMEs on topical credit-related issues and regularly gives expert advice on SME lending to the Department of Finance and other stakeholders. The Credit Review Office's small team includes a panel of expert professionals with front-line SME and farming enterprise finance expertise. It performs its functions with an annual budget in the region of €500,000.

From its establishment in 2010 until the end of December 2025, the credit review service received 1,468 formal applications. Of these, 1,038 have reached a final conclusion, with the office upholding appeals in favour of 608 borrowers. The upheld appeals resulted in banks agreeing to make €86.35 million in credit available to SMEs and farm businesses over those years.

In addition to these many specific cases, Credit Review's interventions have led to improvements in practices within the participating banks, particularly in ensuring that banks provide reasons for rejecting credit applications. Credit Review's work also provides valuable insights into SME performance and the market for lending to SMEs, which support the work of the Department of Finance and other bodies in this area.

It is clear to the Government that Credit Eeview provides an important service to SMEs and farms throughout Ireland in supporting them in the process of securing credit from banks. As I mentioned, credit review was set up under the NAMA Act 2009. Since that Act is under review with a view to winding down NAMA, the Government has decided it is appropriate to create a stand-alone legal basis for Credit Review and ensure that it continues its important work into the future. That is the purpose of the Credit Review Bill, which I am here to present.

The Bill establishes the body to be known as the credit review service on its own stand-alone legislative footing rather than the existing legal basis of the 2009 Act; replicates matters currently set out in guidelines issued under section 210 of the NAMA Act and SI 127/2010; codifies procedures that have developed as practice over time; and provides a means to extend the functions currently performed by Credit Review to other regulated financial service providers, if the Minister for Finance considers it necessary in the future, to take account of the service's changing operating environment.

The Bill follows an impact assessment carried out by the Department of Finance that recognised the value that Credit Review provides to SME and farm borrowers and the wider lending environment. The Bill has been subject to consultations with a wide range of stakeholders, including the Central Bank of Ireland, the Department of Enterprise, Tourism and Employment, the Department of Public Expenditure, Infrastructure, Public Service Reform and Digitalisation, Enterprise Ireland, the Competition and Consumer Protection Commission, industry representative bodies in the banking and SME space, and Credit Review itself. The

feedback on the proposed continuation of the services provided by Credit Review was positive from all stakeholders.

As far as possible, and following on from the impact assessment and stakeholder consultations, this Bill seeks to maintain the current practices of Credit Review when it becomes the credit review service. I will outline these practices now before turning to the specific provisions of the Bill.

The key role of the Credit Review service is to help SME and farm borrowers who have had an application for credit of up to €3 million declined or reduced by participating banks where these borrowers believe they have a viable business proposition. The service also looks at cases where borrowers consider that the terms and conditions of an existing loan or new loan offer are unfairly onerous or have been unreasonably changed to their detriment. The Credit Review service acts as a mediator between those businesses and banks in a process ending with the service making non-binding recommendations to the bank. While the lender is not obliged to accept the recommendations, it must explain if it does not accept them.

It is planned to maintain the *status quo* where credit institutions lending to SMEs under Irish law, currently AIB, Bank of Ireland and Permanent TSB, participate in Credit Review service appeals. The Bill provides, however, that the Minister for Finance can include other regulated financial institutions in scope if they are of sufficient significance in the Irish SME lending environment. Credit Review is fully financed by the participating banks and by nominal fees from applicants for reviews. This funding model is intended to continue.

The Credit Review service maintains a helpline for SMEs that offers expert guidance and can assist in resolving disputes prior to escalating to a formal appeal. Up to the end of last year, the helpline had provided assistance to 5,695 callers.

Credit Review service officials report to the Department of Finance on their insights on trends in lending to SMEs and agricultural enterprises, which in turn supports policy formation by the Department and others. They also meet frequently with participating banks and trade organisations for SMEs and agriculture as well as other State entities to discuss these insights. This important role will be maintained.

I will now outline the sections of the Bill.

Credit Review is to be established as the credit review service - in Irish, an tseirbhís um athbhreithniú creidmheasa.

Sections 1 to 4 provide for the Short Title, the commencement, definitions that pertain to the Bill, the prescribed amount of a loan that may be subject to review and the making of regulations. Currently, SMEs and farm borrowers can appeal to the Credit Review service when they are turned down for a loan of between €1,000 and €3 million. It is planned to maintain these thresholds. However, the Bill foresees the possibility of raising the upper limit to €5 million in the future if it is justified by the SME lending environment.

Sections 5 to 7 contain provisions in relation to service of notices and other documents and include a standard section on expenses, repeals and revocations.

Sections 8 to 17 outline the functions of the service, define the roles and responsibilities of the credit reviewer and the service staff, outline procedures for his or her resignation,

superannuation and removal from office, and address matters related to the engagement of consultants and advisers.

Sections 18 to 24 cover accounts and audit, the credit reviewer's appearance before the Committee of Public Accounts and accountability to other Oireachtas committees. It sets out the obligation on the service to prepare an annual report as well as *ad hoc* reports related to the functions of the service and a three-yearly strategy statement.

Furthermore, it addresses the liability of the service and the credit reviewer in handling confidential information.

Sections 25 to 27, inclusive, contain provisions in relation to the review of credit decisions, lending practices and activities of the bank. Sections 28 and 29 set out how the credit review service will be financed. Here, the Minister for Finance is empowered to create regulations to permit the service to levy fees on SMEs that apply for reviews, and on the banks whose credit decisions are reviewed. This will permit the current arrangements to continue. These fees and levies will ensure the credit review service is fully self-financing.

The SME fees will be nominal. Currently they are linked to the value of the borrower's credit request, capped at €250. Banks within the scope of the Bill will pay the remainder of the credit review service's running costs, which are expected to remain modest given the nature of the functions under the Bill. Enterprise Ireland provides services with advances, office space, human resources, information technology service and seconded personnel for which it is to be reimbursed, as outlined in the memorandum of understanding.

Section 30 provides for the service, upon request from the Minister for Finance, to conduct a review of the provision of credit facilities to borrowers by in-scope banks, and the effect of this on the availability of credit. In-scope banks shall be required to provide relevant documents, aggregated data, and commentary for the purposes of the review. Any information and documents provided by the banks for this purpose are to be shared with the Minister for Finance. Furthermore, the service may request representatives of the banks and officers of the Minister to attend a meeting to discuss the information and documents provided. In addition to its primary purpose, the Bill proposes that the service will continue to provide advice to borrowers and to the Minister and officials on SME lending matters.

Sections 31 to 39, inclusive, outline transitional provisions and contain consequential amendments to other enactments.

This Bill is a largely technical endeavour to create a stand-alone legislative basis for the credit review service, a body that has been in operation since 2010, providing valuable service to SMEs and farm borrowers. A number of amendments were made in the Lower House, largely of a technical nature, to ensure the legislation will operate as intended. This Bill seeks to maintain, as far as possible, the *status quo* on how the credit review service works. This will provide important stability to the users of the service, with the overall aim of supporting viable SMEs to access bank credit.

The Government recognises the importance of SMEs to the Irish economy. SMEs provide the majority of jobs in the State and are a critical source of regional employment in towns and villages across the country. A key strategic priority for the Minister for Finance is a well-regulated and sustainable banking sector. This includes promoting access to credit for viable

SMEs. The credit review service is an important contributor to this priority and an enabler of success.

I look forward to answering any questions and clarifying any matters relating to this Bill. I commend the Bill to the House.

Acting Chairperson (Senator Shane Curley): Gabhaim buíochas leis an Aire Stáit. Glaoim ar an gcéad cainteoir, an Seanadóir Casey.

Senator Pat Casey: I welcome the Minister of State to the House. Fianna Fáil will be fully supportive of this Bill.

We have to think back in time to when this service was first introduced. At that time, the banking industry itself was beginning to change. As a business person myself, I know the whole attitude of the bank had shifted away from a one-to-one situation whereby a person walked in to meet their bank manager, who understood them and their business and was there to assist. It moved to a more regional level where there was a gap between the customer and the bank manager or the people making decisions on whether to lend the money. While that was happening, we had the world financial crisis on top of that. It is hard to understand and express how the attitude in the banking industry changed almost overnight. I remember sitting with our bank the year before the crash happened, and it threw millions of euro on the table. One year later, we tried to establish an overdraft facility which, because we are a seasonal business, had been in place every winter for the previous hundred-and-something years, and it was no longer there. That is how bad the attitude within the banking sector became during that whole process. It did untold damage to small businesses, family businesses and farms. That is why the advent of the Credit Review Office was very much welcomed. At that time, we ourselves were 48 hours from picking up the phone and going through that process, but we eventually solved the problem. It is important to have that facility for small businesses or farms which do not have the expertise or the professionalism to take on the banking industry. For them to be able to go to an organisation that can make the case for them has been critically important. I am delighted to see that has been maintained because it is a great support to the industry.

The Minister of State pointed out there were 1,400 reviews in total up to 2023. Some 930 of them were successful, so there was a 60% success rate. Some €83 million was put back into the economy. That saved family businesses and farms, More important, it saved jobs and helped the economy to move forward.

Again, I welcome this legislation. It is critical. As the Minister of State pointed out, it is technical in its nature. The office was originally set up under the NAMA legislation, which we all know has wound down. This gives the service its own legislation. The Minister of State mentioned the limits that are in place. They can be amended by the Minister. I would love to see it promoted more to the sectors that this facility is there for them and they can use it when they do not have their own expertise. I would like to see that promoted more from a Government point of view.

Senator Joe O'Reilly: At the outset, I join in welcoming the Minister of State, Deputy Troy, to the House. From the conversations we have had, I know he is passionate about small businesses and their success. Farming is also critical in this context.

We, too, will be supporting the Bill. The purpose or premise of the Bill is to put the Credit Review Office on a statutory footing and to change its legal standing. That is a necessary and recommended exercise and it was explained earlier. It is to give it proper statutory footing into the future and, hopefully, with that, adaptability and strength as it moves forward. It is an interesting point that the Credit Review Office can make non-binding recommendations. That is important in the sense that it can look at local trends and the state of small businesses and agriculture and see developments therein, such as in the context of international developments affecting agriculture or in the context of whatever restrictions might be coming in the future. It allows the office to make recommendations on potential lending policies and more flexibility in a given area to accommodate farmers or small businesses to adapt to given situations. If I understood Senator Casey, who has a particular knowledge of this sphere from life experience - I have a little myself but nothing on the scale that he has - correctly, the Government element must not be taken out of this either. It is not a stand-alone operation. The Minister and the Government would obviously take cognisance of trends and developments and interfacing and interacting with the financial institutions. The Credit Review Office will monitor the credit market and provide guidance notes, etc.

Since its establishment in 2010, approximately 1,400 individual applications of appeal were made and in the region of 1,000 of these reached a final conclusion. That is a very good and important outcome. I know anecdotally from my own constituency work and office of a number of these that have gone through this process successfully, and that is good. The very existence of such a process may in itself have an effect on the banks and financial institutions. The realisation ensures they do due diligence. If they know their decisions could well be the subject of appeal, etc., they will have to do due diligence on them. They can make some arbitrary decisions. Even though, obviously, their policy is to lend money, they do not necessarily have to do so.

I will come to the point about the removal in a minute.

It is important that there be the threat of a supervisory body so that there is fear within financial institutions about every decision they make stacking up.

I would like the Minister of State to be particularly cognisant of a matter. I have come across a lot of evidence through my own work and from just chatting to people of banks arbitrarily selling loans to bodies. I know the bodies they sell them to are subject to regulation in theory. I will not go into individual cases but I have seen evidence and could brief the Minister of State on exact files, with redacted names, involving people whose loans were sold on to other lending institutions. Very arbitrary practices have ensued in those institutions in an attempt to basically extract multiple moneys out of the product they bought at a very cheap price. I would ask the Minister of State to comment on the matter. This is a Second Stage speech, so there is a certain latitude in raising points and this is one I would like the Minister of State to take a look at. It is important to regulate. In theory, all financial institutions are subject to the same rules and regulations. The Minister of State has active constituency offices, so he does not need to be told this, but I will bring him examples with redacted names. It is a reality.

I echo a point made by Senator Casey. I had it in my notes. When I was a youngster, and that is a little while ago, there was a very different atmosphere and lending environment, in that the local bank manager had an intimate relationship with the entire community. The bank manager knew the community and knew people who would starve themselves to pay back a loan. Even if the project failed, that money was safe for the institution. The bank manager also knew the ones who were more like chancers but might have a good business case. The bank manager knew-----

(Interruptions)

Senator Joe O'Reilly: I will not comment publicly on that. The bank manager knew the ones who might be chancers and that, while they might present a very good theoretical framework, it might not be good in reality. The bank manager knew all of that stuff. In latter times - I get this a lot from businesses, farmers and individuals, and we are not talking about personal borrowing - people resent that when they make a proposition to the local institution, the decision might almost be made with a computer programme. It is made in an office in Dublin using a desktop analysis that does not take local considerations and family expertise, tradition, knowledge, integrity and capacity to be flexible and adaptive to different situations into account. Consequently, the Credit Review Office is very important. Any way we can bring those original values into the lending process so that everything is not down to desktop analysis is important.

By and large, the Bill only seeks to regularise what exists by placing it on a statutory basis to give it more strength and flexibility. That is important and I support it. We have to support our small businesses and farmers. I will raise a case from years ago, although I will not go into names. Hotel Kilmore in Cavan was built by a particular local family. The bank would not keep confidence in the hotel at that time. It said the family was overborrowed. Some young genius who had come out of university and done accountancy examinations decided that, after looking at the matter at face value, the family could not go on. The bank put the hotel into receivership or liquidation. That person could not have been more wrong. That family had an enormous tradition and was locally based and, under new management, the hotel went on to thrive and be a phenomenal success. Had there been some sort of body at that time to supervise that exercise and prevent that decision, that family would today be running Hotel Kilmore. It is irrelevant, as the family has done well otherwise and life is fine, but the point I am making is that arbitrary decisions like that cannot be allowed go unchecked.

Senator Conor Murphy: I welcome the fact that the Government has restored the Bill to the Order Paper for the current Oireachtas session as it committed to do at the end of the previous Oireachtas.

I understand the legislation is required due to the ongoing wind-up of NAMA, which means that the functions of the Credit Review Office need to be put on a legislative footing. Sinn Féin will be supporting the Bill, as the Government has confirmed that it will help guarantee the continuity of the industry funding model, formalise the governance structures of the service and support the enhancement of service's responsibility.

I have spoken to colleagues and they have confirmed that they have used Credit Review and signposted constituents to its services. In some cases, there have been very positive outcomes

for small businesses, including farmers. However, one of the potential weaknesses of the Bill is that any recommendation made by the credit reviewer to a bank in favour of a small business seeking credit is non-binding. Some constituents who have been signposted to the service and secured a recommendation that a bank should lend to them have still been refused by the bank. This is something that we will be closely monitoring in terms of banks' compliance with recommendations to reconsider loan applications that have been rejected. It would be a useful proposition for the Credit Review Office to monitor and perhaps publish information on the rate of bank reversals of decisions not to lend based on a recommendation by the service.

I note that the service currently only works with AIB, Bank of Ireland and PTSB and previously worked with Ulster Bank. We now have a range of other lenders in the market. Does the Minister of State have any plan to bring them within the scope of the credit review service?

With regard to Ulster Bank, there is a wider issue with Credit Review. Banks in this State currently lend to businesses across the island, so it would be worth examining the extension of the service to businesses in the North of Ireland that have borrowed from banks in this part of the island. I hope the Minister of State would reconsider whether this could be done in the future as a further protection for Irish businesses and the all-Ireland economy.

I concur with some of Senator Joe O'Reilly's points about the passing on of loans to other organisations and people's very different experiences. One of these issues was raised at the finance committee through correspondence and I have asked the committee to look into it. How these outstanding loans are dealt with by banks passing them on to other organisations is an issue that is coming before us.

Sinn Féin will not be opposing this legislation. The service provided by Credit Review is required and has benefited many small enterprises and farmers across the State.

Minister of State at the Department of Finance (Deputy Robert Troy): I thank Senators for contributing to the debate this evening. I thank Senator Casey for sharing his personal experience in terms of the challenges businesses face, particularly during that difficult economic period for the country. I am delighted to see that his well-established and well-performing hotel in Glendalough, which I have visited many times, continues to thrive.

Senator Pat Casey: There is a free drink for the Minister of State.

Deputy Robert Troy: I did not get it the last time I was there, but he was not a Senator at the time, so he did not require the vote.

In all seriousness, this is somebody who is creating jobs in a rural location. That is really what this Bill is about. It is about protecting jobs and businesses. It is not an insignificant amount of money that the office has ensured stayed in the economy.

7 o'clock

It is €85.35 million that perhaps would not have been in the economy were it not for the establishment of this office. That means keeping businesses afloat and supporting jobs, so it is very important.

I thank all Senators for their support of the Bill. As Senator O'Reilly said, it is not only the €85 million that has been continued. It is the very threat of the office that has kept the banks focused on ensuring that due diligence is taking place and that they are taking the correct decisions when they are assessing loans. They know that if the decision taken is not right, the threat of referring it to the Credit Review Office is there. That also helps.

In relation to the transfer of loans from commercial banks or high street banks to funds, if those funds do not adhere to the terms and conditions set out in the original loan application, the funds are then acting against legislation. Legislation is there to ensure the terms and conditions for loans that are transferred are honoured.

Senator Joe O'Reilly: What recourse do they have? Should that be clearer?

Deputy Robert Troy: The recourse is through the office of the financial ombudsman. The office of the financial ombudsman is always there when anybody feels any financial institution or pension institution is not acting in an appropriate manner. In the most recent budget, that office received a substantial increase in funding from the State to ensure it could hire more people so that cases could be dealt with in a much more efficient way.

Senator Murphy talked about the number of cases where the Credit Review Office had recommended approval and the banks did not take that recommendation. A total of 78% of recommendations were accepted, with 608 positive cases, which means 22% were rejected. Ultimately, it is a commercial decision for the bank. We cannot force banks against their will, but it has been shown to be hugely positive when there are 78% in the positive.

On the opportunity to extend further, there are provisions within the Bill to allow the Minister for Finance to increase the amount that can be reviewed, from €3 million to €5 million, taking account of how SME business lending evolves into the future. There is also an opportunity to extend it, for argument, to the credit unions. We amended the credit union legislation earlier this year, which allows credit unions lend more to SMEs and non-bank lenders. There is provision within the Bill to look at that into the future, but it was felt that, at the moment, the predominance of cases are going through high street banks. We did not want to put an administrative burden on new non-bank lenders at this stage, but it can be kept under review. Part of the remit of the Credit Review Office is to inform the Minister for Finance of trends, relevant data and whether any particular change is needed.

I welcome the fact that we have broad support across the Seanad and in the Dáil. That is a realisation that all of us in public life are here to support enterprise, SMEs, farmers and, ultimately, jobs. It is good to see that we can work collaboratively on occasions like this.

Question put and agreed to.

Acting Chairperson (Senator Shane Curley): When is it proposed to take Committee Stage?

Senator Pat Casey: Next Tuesday.

Committee Stage ordered for Tuesday, 27 January 2026.

Acting Chairperson (Senator Shane Curley): When is it proposed to sit again?

Senator Pat Casey: Tomorrow morning at 9.30 a.m.

Cuireadh an Seanad ar athló ar 7.04 p.m. go dtí 9.30 a.m., Déardaoin, an 21 Eanáir 2026.

The Seanad adjourned at 7.04 p.m. until 9.30 a.m. on Thursday, 22 January 2026.