



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Déardaoin, 06 Nollaig 2012

Thursday, 06 December 2012

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, statements on the report of the expert group on the judgment in the A, B and C v. Ireland case, to be taken at 2 p.m. and adjourn not later than 4.30 p.m., with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes; and No. 2, Civil Registration (Amendment) Bill 2012 - all Stages, to be taken from 5 p.m. and conclude not later than 6 p.m., with the contributions of group spokespersons on Second Stage not to exceed five minutes and those of all other Senators not to exceed three minutes and the Minister to have five minutes to reply. Committee and Remaining Stages will be taken immediately thereafter.

Immediately following the Order of Business there will be tributes to a former colleague, Trevor West.

Senator Darragh O'Brien: Yesterday was an important day. Fianna Fáil disagrees with many items contained in the budget. The Minister of State, Deputy Hayes, was in the House yesterday for statements on the budget. One issue on which there is agreement across the House is the requirement for more time to debate the budget. Many Senators, on all sides, who wished to contribute yesterday were unable to do so.

Senator Maurice Cummins: That is not true.

Senator Darragh O'Brien: It is true. I was here.

An Cathaoirleach: Senator Darragh O'Brien to continue, without interruption.

Senator Darragh O'Brien: The Leader should arrange a meeting with the Fine Gael and Labour Party Senators to discuss the issue. The reason time is required for further debate is that while the budget was announced yesterday, it was only late last night or early today that people came to understand what it really means. I will give an example. The respite care grant has been cut. This is reminiscent of the cut to the disability allowance last year, a decision the Government had to reverse.

I am asking Senators of good conscience to ensure this cut does not proceed in any shape

or form. This 20% cut in the respite care grant will affect more than 70,000 families, 5,000 of whom depend on it solely as the only grant they receive from the State. Nobody can tell me the budget is grounded in fairness, as it should be. I have given only one example but the budget is not fair, in any way, shape or form. In addition, the Government did not reverse the home help cuts of 950,000 hours it brought in last year - it made no mention of them yesterday. Senator Kelly can shake his head all he likes. It is a fact.

There was that cut, the cut to the respite care grant and the cut of €10 to child benefit. There was a Labour Party promise on the last named but I am sick of talking about those promises because they mean nothing.

Senator David Cullinane: They are irrelevant.

Senator Darragh O'Brien: Senator Bacik knows that.

An Cathaoirleach: Is the Senator seeking a debate on this issue?

Senator Darragh O'Brien: Senator Bacik and all her student friends in Labour Youth were among those who stood with the Minister for Education and Skills, when he was simply Deputy Ruairí Quinn, as he signed a pledge that he would not increase registration fees. He has increased them again.

There is something else her Government did, although she may not know it. It raised the income threshold for families seeking student grants

An Cathaoirleach: The Senator should speak through the Chair.

Senator Darragh O'Brien: I am trying to inform Senator Bacik what her party did yesterday.

An Cathaoirleach: Is the Senator seeking a debate? We are on the Order of Business.

Senator Ivana Bacik: The Senator is unduly impassioned.

(Interruptions).

Senator Darragh O'Brien: I reiterate what I said last night. Senator Bacik's party rolled over like the old Labour Party dog it is, and let Fine Gael rub its belly.

(Interruptions).

Senator David Norris: There is so much noise I cannot hear.

A Senator: That is outrageous.

Senator Darragh O'Brien: The Labour Party was not even able to push for a 3% increase in the USC for those earning more than €100,000, which would have brought in €200 million. What did it do instead? It cut child benefit by €10----

Senator Ivana Bacik: What about pensions? What about the measures on capital gains and acquisitions?

An Cathaoirleach: Is Senator Darragh O'Brien seeking a debate?

Senator Darragh O'Brien: That party failed miserably. I am looking for more than a debate. I am proposing an amendment to the Order of Business.

An Cathaoirleach: The Senator is out of time.

Senator Darragh O'Brien: I propose that the Minister for Social Protection - or social deconstruction - Deputy Joan Burton come to the House. The reason is that she hid a supplementary budget yesterday.

An Cathaoirleach: Is the Senator looking for a debate?

Senator Darragh O'Brien: I propose that the Minister come to the House and explain how she, a Labour Party Minister, can stand over the cuts she introduced and also why she found it fit to use budget day to cover up a supplementary budget, an overspend of €670 million. We will deal with the Minister for Justice and Equality, Deputy Alan Shatter, in a couple of minutes because he hid further bad news yesterday.

An Cathaoirleach: Can the amendment be made more specific?

Senator Darragh O'Brien: I propose that the Minister, Deputy Joan Burton, come to this House to explain the rationale for cutting the respite care grant and child benefit, to name but two.

An Cathaoirleach: The Senator is considerably over time.

Senator Darragh O'Brien: I would like her to explain, as all of us would-----

An Cathaoirleach: The Senator can ask for that when the Minister attends the House. I call Senator Bacik.

Senator Darragh O'Brien: I hope Senator Bacik will agree to this amendment because we were promised an open and transparent budgetary process, which we did not get. What did we get? The Minister for Social Protection, who cannot manage her own area, stands over a €10 cut to child benefit and cuts to the respite care grant.

Senator Ivana Bacik: There is an empty vessel across the floor of the House making a lot of noise about this.

Senator Mark Daly: We could say the same of the Labour Party.

Senator Ivana Bacik: As Senator Darragh O'Brien knows well, there are 14 measures in the budget that are specifically targeted to tax wealth, a direct consequence of the position of the Labour Party in government.

Senator Darragh O'Brien: It made Fine Gael do that, did it?

Senator Ivana Bacik: If the Senator-----

Senator Darragh O'Brien: It pushed the party to do that and grasp its wealthy friends.

Senator Ivana Bacik: If the Senator bothered to read the objective commentary made overnight and today about the budget, he will see it is generally acknowledged that this is a budget which targets wealth, as it should.

Senator Darragh O'Brien: Where did the Senator read that?

An Cathaoirleach: Senator Bacik to continue, without interruption.

Senator Ivana Bacik: There is the property tax. For the first time we will see a tax that is squarely focused on taxing wealth and ensuring that those with the most will pay most. It is a property tax, rather than an income tax. The Senator well knows that when his Government was in office, it focused purely on income-----

Senator Darragh O'Brien: Last year we had the most regressive budget ever and it has been followed with another one.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Ivana Bacik: This is a far more progressive approach.

Senator Darragh O'Brien: The Senator should be ashamed of herself.

An Cathaoirleach: Does the Senator have a question for the Leader?

A Senator: We can talk about shame in a minute.

Senator Ivana Bacik: I reiterate that empty vessels make most noise.

A Senator: The Senator would know all about that.

Senator Ivana Bacik: There is no doubt about that.

An Cathaoirleach: Senator Bacik to continue, without interruption.

Senator Ivana Bacik: I welcome that the Minister for Social Protection will attend the House today to deal with the Civil Registration (Amendment) Bill-----

Senator Darragh O'Brien: Brilliant.

Senator Ivana Bacik: -----which will legalise humanist weddings. It was initiated as a Private Members' Bill in this House.

Senator Mark Daly: A burning issue.

Senator Ivana Bacik: It is a burning issue for many people and I am delighted the Bill has cross-party support. I remind Senator Darragh O'Brien that the Minister, Deputy Burton, will attend the House for several days to deal with the Social Welfare Bill and changes to social welfare.

(Interruptions).

An Cathaoirleach: Senator Bacik to continue, without interruption.

Senator Ivana Bacik: There will be plenty of time to debate the issues the Senator wishes to raise.

Senator Darragh O'Brien: She could have come today.

Senator Ivana Bacik: I renew a call to the Leader for a debate on the Middle East and

Gaza, given that today and tomorrow will see the biggest ever international conference ever held in Ireland, with foreign Ministers from all over the world attending the OSCE meeting in the RDS. This is a significant event for Ireland and has brought a great number of people to the country, including the US Secretary of State, Hillary Clinton. It is important to note, in terms of the Middle East, that Ireland took a lead on the recognition of the Palestinian State for observer status at the United Nations. When the vote came up at the UN the majority of EU members agreed with Ireland's original lead on the issue, which sought to ensure that Palestinians would move a very important step in their advance towards statehood. I welcome that. It is an example of what even a small country like Ireland can do as part of an international organisation. It is important that we mark Ireland's position as chair of the OSCE this year.

Senator Sean D. Barrett: Overnight, the Carrickfergus office of Stewart Dickson, MLA, was set on fire by some of his political opponents. That is a very sad event. We all recognise the noble role the Alliance Party has paid in the peace process. Will the Leader express our regrets and sympathy to Mr. Dickson and his party on the setting on fire of the office in Carrickfergus?

Senator David Cullinane: Hear, hear.

Senator Michael Mullins: My good friends across the Chamber have absolutely no credibility.

Senator Paschal Mooney: Stick to something safe. Do not go down that road.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Michael Mullins: Senator Darragh O'Brien mentioned social destruction. There were two elections, in 2002 and 2007, after which Fianna Fáil was responsible for unsustainable spending and giveaways.

Senator Paschal Mooney: What about the Fine Gael manifesto in 2007?

An Cathaoirleach: Senator Mullins to continue, without interruption.

Senator Michael Mullins: There is hardship now because some of that spending has had to be clawed back. In fairness, neither does Sinn Féin have any credibility because it never had to make an economic decision in this country. In the North it did, where it succeeded in raising property tax of approximately £1,500 per house-----

A Senator: That is not the party's fault.

Senator Michael Mullins: -----and has taken some very severe budgetary decisions. This budget is designed to ensure that those who can afford to pay more will pay more. There are many positive features, some of which were welcomed yesterday by small and medium-sized enterprises.

I spoke about the motor industry recently, in respect of the dual registration system which is to be introduced and which, one hopes, will help the industry. Cars registered in the first half of 2013 will be registered as 131; those registered later in the year will be registered as 132.

The €35 million seed capital for retrofitting homes will give stimulus to the building industry. The relief from capital gains on the sales of farmland for restructuring purposes will be welcomed by everybody in the agricultural business.

I was disappointed in one area of the budget. Although an increase in excise duties was introduced, the issue of below-cost selling of alcohol was not addressed. I was told yesterday it was not possible to tackle that in the budget but it must be tacked at other points because of the devastation the abuse and usage of alcohol is having on many people. In addition, the multinationals are manipulating the VAT system in order to boost sales of alcohol and get people into their shops. This issue must be addressed. Will the Leader invite the relevant Minister to the House in order that we can tease out the formalities required to address this issue? Significant revenue could be raised that might enable us to be less harsh in regard to some of the measures that had to be taken yesterday.

Senator Marc MacSharry: I propose an amendment to the Order of Business, namely, that the Minister for Children and Youth Affairs, Deputy Fitzgerald, come before the House in order that we might have the opportunity to impress upon her the need to revisit a number of measures contained in yesterday's budget. As Minister O'Brien indicated-----

Senator Ivana Bacik: The Senator has promoted Senator Darragh O'Brien to Minister.

Senator Marc MacSharry: -----the Minister for Social Protection has not been in a position to listen to her party's backbenchers. We had an opportunity to discuss some matters relating to the budget last evening. As one of my colleagues stated in the Dáil yesterday, the budget is anti-women and anti-children. It is particularly anti-children in the context of the €10 cut in child benefit for the first two children. That cut is simply inhuman, as is the taxing of maternity benefit and the reduction in the back to school allowance. Fine Gael and Labour Party Senators could not have had an input into the budget because I have worked with them all and I am aware that the measures to which I refer have not been thought out. I remind Members that Fianna Fáil's pre-budget submission contained the same €3.5 billion-----

Senator John Gilroy: Is the Senator referring to the fancy pre-budget submission that was not costed? The only ones who costed it were those in Fianna Fáil.

Senator Darragh O'Brien: The Senator should relax.

Senator Marc MacSharry: Our budget submission was costed and it recommends how €3.5 billion-----

Senator John Gilroy: No, it was not costed.

(Interruptions).

Senator Marc MacSharry: It was certainly not costed by those who made the calculations for the Minister for Health, Deputy Reilly, in respect of the €370 million overrun relating to the health service. It was also not costed by the person who made the calculations for the Minister for Social Protection, Deputy Burton, in respect of her Department's €600 million overrun.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Marc MacSharry: Our pre-budget submission contained recommendations on how to achieve the €3.5 billion in savings contained in the budget and produce a higher tax yield. Under those recommendations, child benefit, maternity benefit and the back to school allowance would have been protected. Colleagues will refer to the propaganda engaged in by the Labour Party prior to the general election. I have previously described the Labour Party's behaviour at that time as the biggest single act of political delinquency in the history of the State.

Senator Ivana Bacik: It was a Fianna Fáil Government which introduced the bank guarantee and led us into the troika programme.

Senator Marc MacSharry: I ask that the Minister for Children and Youth Affairs come before the House in order that we might ask her to consider the implications of the budget for the mothers and children of Ireland. The cuts to which I refer can and should be reversed.

Senator Terry Leyden: They will be reversed.

Senator Marc MacSharry: In our costed pre-budget submission, we showed how a 3% increase in the universal social charge would yield €200 million. If our recommendation in this regard were accepted, the Government would not be obliged to destroy families throughout the country.

Senator John Kelly: We all know that the budget had to include some austerity measures in order that we might get back on some kind of track. Privately, Fianna Fáil colleagues inform me that social welfare needed to be cut. However, they have not indicated the elements of social welfare which they believe should be cut. Privately, they also state that the level of social welfare spending is outrageous. We protected baseline rates of social welfare. In order to make savings in respect of social welfare, it was, therefore, necessary to tamper with other aspects. Will Fianna Fáil provide us with an alternative? As Senator Gilroy stated, Fianna Fáil's pre-budget submission was not costed by the Department of Finance. It may have been costed by Senator Leyden and a few others who appear to know everything but it was certainly not costed by the Department of Finance.

Senator Darragh O'Brien: It is well costed.

(Interruptions).

Senator John Kelly: Nor have Fianna Fáil's colleagues-----

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Darragh O'Brien: Senator Kelly is under pressure.

Senator Marc MacSharry: He is feeling the pressure.

Senator Terry Leyden: The budget will cost him a seat in Dáil Éireann on the next occasion.

Senator Marc MacSharry: Senator Kelly should come over to this side of the House.

Senator Terry Leyden: There will be a cost for him and many more in the House.

An Cathaoirleach: Senator Leyden has indicated-----

Senator John Kelly: Senator Leyden should relax.

Senator Terry Leyden: The Senator mentioned my name.

Senator John Kelly: I do not want the Senator to have high blood pressure.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Terry Leyden: The Chair should offer me some protection.

An Cathaoirleach: The Senator has indicated that he wishes to speak and he will have the opportunity to do so.

Senator Terry Leyden: I will take that opportunity. I am just waiting for it to arise.

Senator John Kelly: Nor have Fianna Fáil's colleagues in Sinn Féin-----

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator John Kelly: I will pose it in a moment.

An Cathaoirleach: The Senator's time is almost exhausted.

Senator John Kelly: If I am allowed to speak, I will be able to pose any amount of questions.

An Cathaoirleach: The Senator is almost out of time.

Senator John Kelly: I was walking down the corridor following last evening's Adjournment debate and I met three Sinn Féin Members. I heard them state "The devil must be in the detail".

An Cathaoirleach: That is hearsay. Does the Senator have a question for the Leader?

Senator John Kelly: It is not hearsay. I heard what they said.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator John Kelly: The devil must be in the detail because outside of the reduction to the respite care grant, those opposite are struggling to find a really substantive measure in the budget about which they can criticise the Government.

Senator Darragh O'Brien: The Senator should stop. Why does he not go hiding at weekends?

An Cathaoirleach: Does Senator Kelly have a question for the Leader?

Senator John Kelly: I am coming to it. I welcome the fact that three matters in respect of which I have campaigned continually were all addressed in the budget.

Senator Darragh O'Brien: The Senator got what he was seeking.

Senator John Kelly: The first of these is the rebate for the haulage sector in respect of diesel costs, the second is the jobs initiative scheme. I have continually stated that social welfare payments should be used to get people back to work-----

(Interruptions).

An Cathaoirleach: The Senator is way over time.

Senator John Kelly: The third is that-----

An Cathaoirleach: I call Senator Cullinane.

Senator John Kelly: For every one of the past three weeks, Senator Darragh O'Brien has been raising the issue of home help hours. In the budget----

An Cathaoirleach: The Senator's time is up. He must conclude.

Senator John Kelly: I have no question for the Leader today.

Senator Terry Leyden: We have just witnessed the sting of the dying wasp.

Senator David Cullinane: Neither I nor anyone else in Sinn Féin need inform Labour Party Members with regard to what is bad about the budget. They will be very clearly informed in this regard by their constituents and those who will be affected by this, the second tough, grueling austerity budget to be introduced by Fine Gael and the Labour Party. No one in Sinn Féin, Fianna Fáil or any other party will be obliged to make matters clear to Senator Kelly and his colleagues. That will be done by their families, friends and people from their communities who will point out the savage cuts over which those on the Government side are prepared to stand.

When they were in opposition prior to last year's general election, those in government campaigned against such cuts. They said at that stage that they would not cut child benefit or increase college fees. Now, however, they have gone after those in receipt of the respite care grant and have introduced cuts in the areas of health and education.

Senator John Gilroy: We have not done anything in respect of education.

Senator David Cullinane: The Government has introduced a property tax which does not take account of people's ability to pay. The spokesperson of the liberal wing of the Labour Party, Senator Bacik, almost wears as a badge of honour the fact that the Government has not increased income tax.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator David Cullinane: Senator Bacik has referred to the new property tax as progressive.

Senator Ivana Bacik: On a point of order-----

Senator David Cullinane: This is a most regressive form of taxation.

(Interruptions).

An Cathaoirleach: Senator Bacik should resume her seat. That is not a point of order.

Senator Marc MacSharry: Senator Bacik should address her remarks through the Chair. She should also sit down.

Senator David Cullinane: Senator Bacik is a liberal and she cares nothing for social issues or for families which are going to be hammered by this property tax. It is an unfair tax which is not linked with people's ability to pay.

An Cathaoirleach: The Senator should respect the Chair.

Senator David Cullinane: It is telling that we have-----

An Cathaoirleach: We are not discussing the budget on the Order of Business. If the Sena-

tor has a question for the Leader, he should ask it.

Senator David Cullinane: Does the Leader agree that the property tax is unfair?

Senator Maurice Cummins: No.

Senator David Cullinane: Does he agree that one cannot describe a tax which is not linked with a person's income as fair or progressive?

Senator John Kelly: Is the Senator referring to a tax similar to the one his party introduced in the North?

An Cathaoirleach: Senator Cullinane is way over time.

Senator David Cullinane: In the North people get free education, including free school-books and transport, free health care and-----

An Cathaoirleach: The Senator is over time.

(Interruptions).

Senator David Cullinane: Those in government will pay a hefty price for this, their second gruelling austerity budget.

Senator Terry Leyden: Senator Cullinane will terrify the children who are sitting in the Visitors Gallery. They all look frightened.

Senator Fidelma Healy Eames: We all knew this budget would be tough. Every year it gets harder. I will be honest that I am really angry with Fianna Fáil for its recklessness.

An Cathaoirleach: We are not discussing the budget.

Senator Fidelma Healy Eames: The country and its people are where Fianna Fáil put them. I thank Fianna Fáil. That party should take its responsibility on board and man up. We have been placed in a ridiculous position.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Fidelma Healy Eames: When will the House engage in a debate on the property tax in order that we might figure out ways to make it affordable, to allow people to defer payment, etc.?

Senator Terry Leyden: Is the Senator going to-----

An Cathaoirleach: If the Senator wishes to be called on the Order of Business, he should stop interrupting.

Senator Fidelma Healy Eames: Another important issue with which we must deal is the expert group's report, a debate on which is scheduled to take place later. I appeal to Members to give real consideration to this matter and contribute to the debate to which I refer.

11 o'clock

I appeal to the Leader to give as much time as possible. If the debate needs to run into next

week, please allow that to happen. We have to figure out whether we want to allow abortion on the grounds of suicide, whether we believe terminations are possible in this country-----

An Cathaoirleach: The Senator should sit down.

Senator Fidelma Healy Eames: We must face up to this issue. When does the health of the mother matter? When does the life of the mother matter?

An Cathaoirleach: The Senator can raise these questions during the debate.

Senator Fidelma Healy Eames: All of this matters. I ask the Leader to extend the debate as much as possible because we want a thorough debate. While we are dealing with the issue now, we should not rush.

Senator Terry Leyden: I second amendment No. 1. In regard to the budget, it would be useful if the Minister----

Senator John Kelly: We are not discussing the budget. We are finished with it.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Terry Leyden: I have a suggestion for the Leader. He might invite the Minister for Finance to the House next week to discuss the details of the budget. I was in the Lower House in 1982 when Garrett the Good brought in the tax on children's shoes.

Senator Jim D'Arcy: Who brought in the 1977 budget?

Senator Terry Leyden: I walked through the voting lobbies with the great Jim Kemmy. I hope he is an inspiration to the Labour Party, particularly-----

An Cathaoirleach: Is the Senator proposing an amendment to the Order of Business?

Senator Terry Leyden: I have seconded Senator Darragh O'Brien's amendment. I cannot believe the Government has cut child benefit by €10 after the passage of the children's referendum on 11 November.

An Cathaoirleach: That can be part of the debate the Senator is looking for.

Senator Terry Leyden: I am in shock at what is happening.

Senator Fidelma Healy Eames: On a point of order, does the Senator not realise he has taken thousands of euro from children, not €10?

Senator Terry Leyden: I am speechless.

An Cathaoirleach: The Senator should resume his seat. He is not speechless.

Senator Terry Leyden: I want to underline for Senator Bacik what the Labour Party said. She canvassed in Dún Laoghaire on the back of it.

Senator Ivana Bacik: If the Senator says he is speechless, he should remain so.

Senator Terry Leyden: Will the Leader ask the Minister for Justice and Equality to come to the House next week to discuss the closure of Ballintubber, Ballyforan and Knockcroghery

Garda stations and the amalgamation and rationalisation of the stations in Castlereagh and Boyle? What has he got against Boyle and Ballintubber, the home village of Senator Kelly?

An Cathaoirleach: The Senator is way over time.

Senator Terry Leyden: The people of north Roscommon had great expectations of the Senator. They have been dashed, destroyed and ruined and Fine Gael and the Labour Party will pay the price at the next election. They will be wiped out.

Senator Susan O’Keeffe: If the matter was not so serious, I would ask the Leader to organise for someone from the magic wand factory to come to the House to discuss how to create magic wands, which Fianna Fáil seems to believe we can use to create an immaculate budget that does not affect anybody, despite the mess they clearly left. As others eloquently put it, we are trying to sort out the mess we inherited. It is difficult and many Government Members are not happy about some of the measures in the budget but we understand that we need to keep going and that we need balance in the budget mix.

Many positive, decent and well thought out budgetary adjustments are not being discussed and they will make a difference, particularly in the context of job creation. One issue that is too easily overlooked is the creation of an energy efficiency fund, which we could discuss during the next term. Will the Leader ask the Minister for Communications, Energy and Natural Resources to come to the House to discuss the establishment of such a fund? It would be a new departure but energy efficiency is an important element of job creation in the energy sector.

I refer to the case of Marie Fleming and acknowledge her enormous dignity, fortitude and courage and that of her family, as they face the most extraordinary personal difficulty, which they have taken into the public arena not only on behalf of herself and her fight for the right to die peacefully in the arms of her family but on behalf of other people who face a similar battle and for whom this could make a difference in the future.

Senator Paschal Mooney: I second Senator MacSharry’s amendment. Government Members may think we in Fianna Fáil are stirring everything up for what it is worth but the people are speaking. The *Irish Independent* says it all.

Senator John Gilroy: Is the *Irish Independent* the people now?

Senator Fidelma Healy Eames: Since when does the Senator believe the press?

An Cathaoirleach: Senator Mooney to continue, without interruption, although he should not discuss the budget on the Order of Business.

Senator Paschal Mooney: When they return to their constituencies, they will find out exactly what is the mood of the people. The bell is tolling for the Government parties and there are winds of change. There is no question that they will be swept away.

An Cathaoirleach: The bell is tolling. Does the Senator have a question for Leader?

Senator Fidelma Healy Eames: The Senator knows all about change. The people took care of him and his party.

An Cathaoirleach: Senator Mooney to continue, without interruption.

Senator Paschal Mooney: With regard to deference to and respect for the Chair, who like

many colleagues, has respect and appreciation for the decorum of the House, some elements of Members' contributions do not cast a positive reflection on the House and I do not mean the content. For example, when the Chair stands, it has always been a tradition and a convention that the Member resumes his or her seat. If we allow ourselves to be slipshod about basic conventions such as that, the public will not care much about us. I am not in a lecturing mode but we need sometimes to stop and be aware. That is a Rubicon no Member should cross. When the Chair stands, the Member should sit down. He or she can resume afterwards.

As part of my ongoing campaign coming up to Christmas, which is supported by everyone in the House, to support Irish made goods, Members will be aware the National Dairy Council, NDC, has run advertisements in the national newspapers pointing out that unless the NDC mark is on a litre of milk, it is not produced in Ireland. This was news to me. I naturally assumed all milk sold by retailers was produced in Ireland. Unless it has the NDC mark, it is not produced in Ireland.

A total of 12,000 jobs rely on the production and sale of milk. I am sure the Leader will join me in encouraging people when they go to their local stores - I hope they use their local stores to support local jobs - to stop and take stock of what they are buying. If it says it is Irish on the tin, they should look more closely. As Senator Quinn said some weeks ago, several products people assume are made in Ireland are not. However, as milk prices look like they will reduce again next year, we would be doing our patriotic duty if we ensured the milk we buy is produced in Ireland. I hope between now and Christmas there will be an opportunity for us to continue to promote Irish made goods.

Senator John Gilroy: The Cathaoirleach asked whether Senator Leyden was speechless. Government Members are speechless listening to the drivel and nonsense coming out of Fianna Fáil Members.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator John Gilroy: I have. Fianna Fáil is the republican party but it should probably be renamed the tabloid party.

Senator Diarmuid Wilson: The Senator was a member once.

Senator John Gilroy: I was but I saw the light in 2001 and left.

Senator Mary M. White: That was not the reason the Senator left.

An Cathaoirleach: Senator Gilroy to continue, without interruption. Does he have a question for the Leader?

Senator John Gilroy: The populism of Fianna Fáil, which was well articulated by Senator Darragh O'Brien, makes me think all its members have turned into 'Ming' with a Dublin accent. Senator Leyden and others betrayed their real feelings about the budget when they said the Labour Party, in particular, will be wiped out at the next election. So be it if we are, because the Labour Party does not put party politics ahead of the good of the country, unlike other parties, which are clearly indicating they do.

Throughout my political career, no member of the Labour Party has put his or her career first.

Senator Paschal Mooney: The Senator would not be the first to slip off the high moral ground.

Senator John Gilroy: We want to get the country and the economy back on track. The Diarmuid Mac Murchadas of Fianna Fáil invited the IMF to the country. We will not shirk from the difficult decisions that must be made. If it damages the Labour Party and individual careers, so be it. That is the price we will pay. I do not have a question for the Leader but I thought it necessary to make that point. I agree that one or two items in the budget may need to be re-examined, such as-----

Senator Marc MacSharry: Child benefit.

Senator John Gilroy: I agree with the Senator about child benefit at the lower level, certainly.

(Interruptions).

An Cathaoirleach: Senator Gilroy to continue, without interruption.

Senator John Gilroy: We should take a look at the respite care grant. Those measures seem to be particularly harsh and if anything can be done, the Labour Party will do it.

Senator Brian Ó Domhnaill: The House debated the budget for two hours last night but that was not nearly enough time. I hope there will be an opportunity to have a more comprehensive debate next week on the fallout from the budget when we can deal with some of the negative details. I acknowledge there are positive aspects to the budget but many of its elements can be summarised as regressive. I do not intend to make a political point. We can all throw political points across the floor but the people who will suffer as a result of the budget are the individuals on lower incomes, in particular, lower-income families and mothers. The House will debate the X case and abortion this evening. Unfortunately, the unborn child is affected in this budget because the average maternity benefit will be cut by €800 as a result of a taxation measure introduced in the budget. The unborn child will be paying €800. That is a disgrace. Child benefit will be protected but an unborn child is targeted-----

An Cathaoirleach: Does the Senator have a question?

Senator Brian Ó Domhnaill: Once the child comes into the world he or she will also be targeted. I do not know how any political party can attack both the unborn and the newly born. It is not right.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Brian Ó Domhnaill: Yes, I have. We need to have a debate on some of the issues. I agree with Senator Gilroy that elements of the budget need to be revisited. I hope the Fine Gael and Labour Party backbenchers will stand up for their convictions and challenge their own Ministers to row back on issues such as PRSI, maternity benefit, the respite care grant, child benefit-----

(Interruptions).

An Cathaoirleach: The Senator is over time.

Senator Brian Ó Domhnaill: Those are the facts. I call on the Leader to facilitate a debate

next week with the Minister for Finance. Tuesday would be my preferred date. We need to discuss the fallout from the budget in some detail.

Senator Aideen Hayden: In all of the clamour about the negative aspects of the budgets we have forgotten some of the positive aspects. I welcome that the rate of rent supplement has not been altered. One in every five families is now living in private rented accommodation and the State funds 100,000 families through the rent supplement payment. This measure is very important and is most welcomed by many vulnerable people.

With regard to the property tax, we would not be in this position if the Opposition had grasped the nettle many moons ago when it came to financing local parties and spreading the burden.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator Aideen Hayden: History matters, to be blunt.

Senator Brian Ó Domhnaill: Fine Gael and the Labour Party were opposed to it at the time.

Senator Aideen Hayden: I remind the Senator that history matters. His party abolished rates in 1977 but to be honest, we helped his party in 1973 when the Fine Gael-Labour Party coalition removed a substantial level of rates in urban areas. None of us is without blame.

Senator Marc MacSharry: I was four years of age.

Senator Aideen Hayden: The facts of the matter remain that Fianna Fáil spent longer in government than us and they have had more opportunities to deal with this matter. I ask the Leader that in the new year when we have all had a chance to read and to reflect on the Thornhill report that he would arrange a debate on the future funding of local authorities. Members will be aware that the current provisions allow for individual local government areas to increase or decrease the charge by 50% over time in either direction. I ask for a genuine debate about the future of the funding of local authorities. Some of the Scandinavian countries are interesting because individuals vote for the areas of local authority expenditure. This is a debate we should have once we have passed along from the rhetoric of the budget.

Senator Diarmuid Wilson: At a time when vulnerable communities are worried about crime, the Minister, Deputy Shatter, used the cover of the budget to announce the closure of 100 Garda stations, including three in County Cavan, Bawnboy, Stradone and Redhills. This is a very cynical exercise by the Minister, a man who continues to treat the Garda Síochána and the people with contempt.

Senator Pat O'Neill: Withdraw that remark.

An Cathaoirleach: Does the Senator have a question for the Leader?

Senator John Gilroy: That is a remark uncharacteristic of Senator Wilson. It is ungenerous.

Senator Diarmuid Wilson: At a time when crime is on the increase, the Minister continues to close Garda stations, take Garda cars away from gardaí and lock them up in the Phoenix Park. Gardaí are supposed to police their areas by using CCTV while sitting in Garda stations in the

main towns. It is a hugely cynical exercise by the Minister which I strongly condemn. I have a question for the Leader. Will he invite the Minister for Justice and Equality who is also the Minister with responsibility for more closures to come to the House in order that we can ask him what is he doing about policing? I will not even mention what he is doing to the Department of Defence.

Senator Catherine Noone: Like other speakers, I wish to mention the PRSI changes. I understand the concerns of Senators on the other side of the House with regard to cuts to PRSI. However, the extra €5 charge will serve to bolster their entitlements in certain circumstances. As the Minister said this morning, it is the best value for €5 that a person could obtain. There has been no reduction in social welfare payments and this must have been very difficult to achieve. The PRSI paid by every taxpayer will bolster entitlements and this is a significant point.

Senator Feargal Quinn: As I came into Leinster House this morning, I could hear all the shouting emanating from this Chamber. A group of schoolchildren were in the hall. We are doing ourselves a great deal of harm in this House when we shout and raise objections. I heard Senator Mooney say that when the Cathaoirleach is on his feet, it is expected that the speaker should resume his or her seat. Certain behaviour will damage the future of this House. We have to be careful how we handle that because it is on our own shoulders if we find ourselves doing harm to the future of this House.

I refer to Senator Barrett's contribution about the Alliance Party and the terror that was foisted on its members yesterday in Northern Ireland. We do not recognise the wonderful peace we have enjoyed in recent times. This has been enabled, to a large extent, by organisations like the Alliance Party. We must remember that peace was not achieved easily nor did it come easily to those people who had to take steps which were not always welcome. Senator Mooney also referred to the Buy Irish campaign. I would love to think people would buy Irish products. He mentioned the NDC mark on milk. We should remember that there are six counties in Northern Ireland that are part of this island. When we talk about buying Irish, we should include the whole island and not just part of it. I remember when Irish products were identified in my supermarket. I was asked what to call a product from Antrim or Armagh. It did not dawn on me to regard such products as anything but Irish. We should do our best to purchase Irish goods this Christmas and to include the whole island.

Senator Martin Conway: Last night a major security operation on the Merrion Square side of Leinster House was not because anyone was protesting against the budget but rather it was because a very distinguished guest, Hillary Clinton, was in town. The Clintons are always welcome to this country. Their work on its behalf will go down in history because it has been eminently positive. She is speaking in DCU this afternoon and I wish her well. Every time the Clintons come to Dublin, they bring significant publicity for Ireland throughout America. Anywhere the Clintons go they are followed by the American and international media because they are probably the best example of what politics can achieve. I am disappointed that Bill Clinton will probably not become the US ambassador to Ireland, simply because he wants to remain doing the valuable work he is doing with his foundation which, I believe, will win a Nobel Peace Prize in time to come. I wish the Secretary of State all the best with her trip to Ireland and hope it is as successful as she hopes it will be.

Senator Maurice Cummins: Obviously, the Order of Business-----

An Cathaoirleach: My apologies, I forgot to call Deputy Colm Burke and other Senators.

Senator Colm Burke: I thank the Cathaoirleach and apologise to the Leader. In regard to the budget there are one or two issues we need to look at in respect of the health budget. Some €150 million extra is being put into the health budget which is a huge amount considering that less money is available. In the health care area there is a need to look at efficiencies. For example, 65 million items of medication have been dispensed in a 12 month period and we are consuming 35% more antibiotics than any other EU country. This is about value for money. We can provide the same standard of health care service but there must be efficiencies in that area.

I had a question in to the Joint Committee on Health, the answer to which I received this morning. The number of people not turning up for outpatient appointments in Cork University Hospital alone, between January and August, was 17,000. Whether there is a problem in arranging appointments it is about value for money. If a service is being provided it is important that it is used efficiently. Given the health care budget, we can deliver the same and even an improved quality of service while creating efficiencies in the process. That is one of the things the Minister is doing and the Department and the HSE are working hard to achieve efficiencies. We all have a part to play in ensuring value for money and if we seek services we must avail of them when made available to us.

Senator Mary M. White: There are many aspects of the budget that remind me of the debacle of the budget introduced by the then Minister for Finance, Mr. John Bruton, when he imposed a tax on children's shoes. The cuts to older people in this budget are of the same order. Each one of us is getting older day by day and there is an increasing number of older people in society. As people get older they will have more health needs. The budget changes will leave older people struggling to pay for health care and heat in their homes. Those are the two issues on which I wish to focus. The trebling of the prescription charge from 50c to €1.50 per item on a prescription will hit the poor, the sick and the old the hardest. That increase combined with a €12 increase in the income threshold for the drugs payment scheme to €144 per month means that many more older people will struggle to pay their medicine bills.

An Cathaoirleach: We are not having a debate on the Order of Business.

Senator Tom Sheahan: It is a Second Stage speech.

Senator Mary M. White: The sharp reduction in the income thresholds for the over 70s will cause hardship and further undermine the ability of older people who will lose their medical cards as a result of the immediate health care costs. I ask the Leader to invite the Minister to come to the House. It is a tragedy for older people that the Government did not appoint a dedicated Minister for older people.

Senator Colm Burke: We are putting an extra €150 million into the health budget.

Senator Mary M. White: That is the reason there is nobody to stand up for them. I am aware the Minister of State at the Department of Health, Deputy Kathleen Lynch, is a very good Minister but she has four or five portfolios. When Fianna Fáil is back in government, which will be soon-----

Senator Martin Conway: In 30 years time.

Senator Mary M. White: -----we will appoint a Minister for older people.

Senator John Gilroy: Nobody here will be alive when Fianna Fáil is back in government. They will be long dead.

Senator Tom Sheahan: I ask the Leader to invite the Minister for Arts, Heritage and the Gaeltacht, Deputy Deenihan, to come to the House next week for a debate on the proposal to designate special areas of conservation and the impact on the Porcupine Basin where it is proposed to drill ten wells in the next year to a year and a half.

Senator Maurice Cummins: Obviously, the budget has dominated the Order of Business. I listened to the entire debate on the budget and sat in for the last 45 minutes. There were two more speakers offering at that stage who did not get in. In saying that, we have had pre-budget debates which we have not had in previous years. No less time than ever has been allowed this year on statements on the budget but I am sure we will have ample opportunity to discuss the various aspects of the budget in the next few weeks.

The Leader of the Opposition specifically mentioned the respite care grant being reduced to €13.75. Unfortunately it had to be reduced to the 2006 level in the boom years. However, carer's benefit has not been affected. Carers can have their social welfare payment in addition to half the carer's allowance. There are many areas that have not been affected. Every Government would like to say there would be no cuts. We are not living in the boom years when Fianna Fáil was in office when all the money was squandered.

Senator Martin Conway: Correct.

An Cathaoirleach: The Leader to continue, without interruption, please.

Senator Maurice Cummins: That is why we are forced to have difficult budgets. I am looking at Fianna Fáil's pre-budget announcement. It is as vague as Fianna Fáil was when in government in relation to policies.

Senator Darragh O'Brien: It is a good document and has been costed.

Senator Ivana Bacik: Santa's document.

Senator Maurice Cummins: Let me give two specific examples. Fianna Fáil proposes to save €350 million through non-pay savings under the Croke Park agreement and €200 million through control and activation measures in social protection. There are no details on where the €500 million will come from.

Senator Darragh O'Brien: Obviously, the Senator did not read the full document.

Senator Marc MacSharry: Did he read it?

Senator Maurice Cummins: I presume it is the rising tide lifting all boats and Fianna Fáil sunk them all afterwards. We will leave the budget aside.

Senator Darragh O'Brien: I will give the Leader a copy of the document.

Senator Maurice Cummins: We will have ample opportunity to discuss the many issues Members have raised on the budget. They have asked that the Minister for Social Protection come to the House. The social welfare Bill will probably come before the House next week

when there will be ample time to discuss it.

Senator Bacik raised the issue of Palestine having observer status at the United Nations and the fact that Ireland fully supported that move. That is to be commended and Members will welcome it.

Senators Sean D. Barrett and Feargal Quinn outlined the dreadful situation where the office of Mr. Stewart Dickson of the Alliance Party was set on fire last evening. We all sympathise with Mr. Dickson on that dreadful event and pay tribute to the Alliance Party which has been the voice of reason in the North for many years. As we all empathise with him, I will relay the sentiments of the House to Mr. Dickson.

Senator Michael Mullins drew attention to the below-cost selling of alcohol and expressed disappointment that the issue had not been addressed in the budget. I am sure that matter will be addressed, if it can be addressed, in the near future. We will have debates on it in the new year.

Senator MacSharry called on the Minister for Children and Youth Affairs to come to the House. As I outlined on Tuesday, she will be in the House in early January for more than two and a half hours to debate children's issues. The Finance Bill will not have been passed by then. The Minister will be present. The Senator is hoarse and quiet. I listened to him last night and it was one his best performances.

Senator Marc MacSharry: I thank the Leader.

Senator Maurice Cummins: He would have got another gold medal for his dramatic performance last night. It is no wonder he is so hoarse this morning.

Senator Kelly correctly highlighted the fuel rebate for the haulage sector, which is welcome. I know of no one who has not welcomed this measure in the budget. It is important to the entire transport sector.

I refer to Senator Cullinane's comments. There were cuts in many areas in the budget, which we would not like to make in normal times but these are not normal times and the Government was elected to sort out the fiscal problems of the country. We will do that and go confidently to the people and ask them for a mandate for the future. The Government will be in office for five years. We have done a great deal of the heavy lifting and, in the next few years, will achieve growth in the economy and secure a deal on our debt. This country will prosper, despite the reservations of others, including Opposition Members, who do not want the country to prosper and the Government to succeed.

Senator Darragh O'Brien: We all want the country to prosper.

Senator Maurice Cummins: We will stand by the country and do what is right for it at all times.

Senator Healy Eames requested a debate on the property tax. I am sure we will have a further debate on it in early course. With regard to the expert group on abortion report, if Members read the Order of Business, they will be aware that time will be provided for a debate later. The debate will be resumed if speakers are offering. The Minister will not reply today if we have sufficient speakers but, if not, he will reply and the debate-----

Senator Mary M. White: What about going up to see Hillary Clinton?

An Cathaoirleach: The Leader to continue, without interruption.

Senator Maurice Cummins: If Members wish to go and see Hillary Clinton rather than attend to their duties in the House, they are welcome to do so.

Senator Mary M. White: She is an inspirational leader.

Senator Diarmuid Wilson: What about American-Irish relations?

Senator Maurice Cummins: Members should listen to the Order of Business and they would know the position on the debate.

What can I say in response to Senator Leyden? Fianna Fáil took the shirts off people's backs and bankrupted the country. There is not much more to add.

Senator O'Keeffe asked for a debate on the establishment of an energy efficiency fund. Perhaps we will do so in the new year.

Senator Mooney urged people to support Irish produce, particularly milk. I also note the point made by Senator Quinn on that matter.

I acknowledge Senator Mooney's comments on the issue of respecting the Chair. It is important that Members read Standing Orders and understand their duties. When the Chair stands, Members should sit. I never witnessed this previously. It has only crept in in recent times. No matter how exercised or excited a Member was in the past, he or she sat down and respected the Chair. I hope that will be the practice in the House in the future.

Senator Hayden welcomed the fact that rent supplement was not affected and raised the issue of the funding of local authorities. On Tuesday, I outlined the date on which the Minister for the Environment, Heritage and Local Government would be in the House in January to discuss this issue.

Senator Wilson raised the issue of the policing plan. The Minister for Justice and Equality has been in the House more regularly than any other Minister. He was here last night and will be present again next week. With regard to Garda transport, hundreds of new cars have been ordered, as I outlined a few weeks ago, to replace those that are not up to scratch.

Senator Diarmuid Wilson: There will be nobody to drive them.

Senator Maurice Cummins: I am sure I can arrange a debate with the Minister on the closure of barracks and so on.

Senator Conway referred to the visit of Hillary Clinton, which everyone welcomes. The Clintons have been good friends to Ireland and will continue to be.

Senator Colm Burke raised an issue he mentioned a few months ago about the number of people failing to turn up for outpatient appointments. The position in this regard should be improved to provide for more efficiency in the system. There are 17,000 appointments in one hospital, 18,000 in Waterford Regional Hospital and so on. If the people concerned are preventing others on the waiting lists from securing an appointment, it should be highlighted because it is an important issue.

Senator White commented on the budget provision relating to prescription charges. The

monthly cap will be €19.50 for an individual or family. She also mentioned the Minister of State with responsibility for older people. Perhaps the Senator might succeed her.

Senator Mary M. White: I thank the Leader; I would be delighted.

Senator Maurice Cummins: That will not happen under Fine Gael but it might happen under Fianna Fáil.

Senator Sheahan made an important point about special areas of conversation and the impact of drilling for oil in the Porcupine Basin and other areas. I am sure the Minister for Arts, Heritage and the Gaeltacht will be willing to come to the House for a debate on this issue and I will try to arrange such a debate early in the new year.

Naturally, I do not propose to accept the two amendments proposed to the Order of Business.

An Cathaoirleach: Senator Darragh O'Brien has proposed an amendment to the Order of Business: "That a debate with the Minister for Social Protection on the reductions in the respite care allowance and child benefit contained in the budget be taken today". Is the amendment being pressed?

Senator Darragh O'Brien: Yes.

Amendment put:

The Seanad divided: Tá, 13; Níl, 29.	
Tá	Níl
Cullinane, David.	Bacik, Ivana.
Daly, Mark.	Barrett, Sean D.
MacSharry, Marc.	Bradford, Paul.
Mooney, Paschal.	Brennan, Terry.
Mullen, Rónán.	Burke, Colm.
Ó Domhnaill, Brian.	Clune, Deirdre.
O'Brien, Darragh.	Coghlan, Eamonn.
O'Sullivan, Ned.	Comiskey, Michael.
Quinn, Feargal.	Conway, Martin.
Reilly, Kathryn.	Cummins, Maurice.
Walsh, Jim.	D'Arcy, Jim.
White, Mary M.	D'Arcy, Michael.
Wilson, Diarmuid.	Gilroy, John.
	Hayden, Aideen.
	Healy Eames, Fidelma.
	Higgins, Lorraine.
	Keane, Cáit.
	Kelly, John.
	Landy, Denis.
	Moran, Mary.

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	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O’Keeffe, Susan.
	O’Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.
	Whelan, John.
	Zappone, Katherine.

Tellers: Tá, Senators Paschal Mooney and Diarmuid Wilson; Níl, Senators Terry Brennan and Aideen Hayden.

Amendment declared lost.

An Cathaoirleach: Senator Marc MacSharry has proposed an amendment to the Order of Business: “That a debate with the Minister for Children and Youth Affairs on the impact the cuts proposed in the budget will have on women and children be taken today.” Is the amendment being pressed?

Senator Marc MacSharry: Yes.

Amendment put:

The Seanad divided: Tá, 14; Níl, 29.	
Tá	Níl
Cullinane, David.	Bacik, Ivana.
Daly, Mark.	Barrett, Sean D.
MacSharry, Marc.	Bradford, Paul.
Mooney, Paschal.	Brennan, Terry.
Mullen, Rónán.	Burke, Colm.
Ó Domhnaill, Brian.	Clune, Deirdre.
O’Brien, Darragh.	Coghlan, Eamonn.
O’Sullivan, Ned.	Comiskey, Michael.
Power, Averil.	Conway, Martin.
Quinn, Feargal.	Cummins, Maurice.
Reilly, Kathryn.	D’Arcy, Jim.
Walsh, Jim.	D’Arcy, Michael.
White, Mary M.	Gilroy, John.
Wilson, Diarmuid.	Hayden, Aideen.
	Healy Eames, Fidelma.

	Higgins, Lorraine.
	Keane, Cáit.
	Kelly, John.
	Landy, Denis.
	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O’Keeffe, Susan.
	O’Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.
	Whelan, John.
	Zappone, Katherine.

Tellers: Tá, Senators Ned O’Sullivan and Diarmuid Wilson; Níl, Senators Terry Brennan and Aideen Hayden.

Amendment declared lost.

12 o’clock

Question put: “That the Order of Business be agreed to.”

The Seanad divided: Tá, 31; Níl, 11.

TáBacik, Ivana.Barrett, Sean D.Bradford, Paul.Brennan, Terry.Burke, Colm.Clune, Deirdre.Coghlan, Eamonn.Comiskey, Michael.Conway, Martin.Cummins, Maurice.D’Arcy, Jim.D’Arcy, Michael.Gilroy, John.Hayden, Aideen.Healy Eames, Fidelma.Higgins, Lorraine.Keane, Cáit.Kelly, John.Landy, Denis.Moran, Mary.Mulcahy, Tony.Mullen, Rónán.Mullins, Michael.Noone, Catherine.O’Keeffe, Susan.O’Neill, Pat.Quinn, Feargal.Sheahan, Tom.van Turnhout, Jillian.Whelan, John.Zappone, Katherine. NílCullinane, David.Daly, Mark.MacSharry, Marc.Mooney, Paschal.Ó Domhnaill, Brian.O’Brien, Darragh.O’Sullivan, Ned.Power, Averil.Walsh, Jim.White, Mary M.Wilson, Diarmuid.

Tellers: Tá, Senators Terry Brennan and Aideen Hayden; Níl, Senators Ned O’Sullivan and Diarmuid Wilson.

Question declared carried.

Death of Former Member: Expressions of Sympathy

An Cathaoirleach: We will now pay tribute to former Senator Trevor West who has passed away. I welcome his wife, Maura, and members of his family.

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Senator Maurice Cummins: As Leader of the House, I am honoured to lead the tributes to the late Dr. Trevor West, a former Member of Seanad Éireann and a prestigious academic at Trinity College Dublin, who, sadly, passed away recently. I extend sincere sympathy to his family, especially his wife, Maura, and the other family members who have travelled here today.

Trevor West was an extraordinary person. He served in the 12th, 13th, 14th and 16th Seanad, beginning in 1970 and ending in 1982, accumulating over a decade of public service. Throughout his career in public life, he remained an independent Trinity College Senator and his politics reflected this.

He was not a party political person; he was an achiever and a reformist. He devoted much of his time in Seanad Éireann to successfully initiating and supporting legislation which had not previously been considered by a predominantly Catholic body. He joined his then Seanad colleague, and later President of Ireland, Mary Robinson, in campaigning on social issues of great importance at the time, including the provision for contraception.

In a warm tribute to Trevor West's life, Ulick O'Connor wrote recently that Trevor had a significant effect in bringing members of the Northern Protestant community forward in relation to the political divide and that he played a significant part in creating a situation where the dominance of the bomb and the bullet has been replaced by a working parliament. As we are all too aware, the journey to a permanent peace on this island has been a long and most challenging one, but Trevor West contributed to it greatly. His contribution to his country went far beyond his time as a university Senator.

Trevor was and will remain one of the country's most respected mathematicians. After being schooled in Midleton, County Cork, he pursued mathematical studies in Trinity College Dublin, before pursuing his PhD at Peterhouse College in Cambridge. On completion of his PhD, he returned to Trinity College Dublin in 1966, where he was appointed as lecturer. Eleven years later he was made associate professor of mathematics. He was very much an intellectual and a beautiful master of the English language. His first book was a biography of Sir Horace Plunkett, a founding president and one of the pioneers of the co-operative movement established in the early 20th century.

Sport also dominated Trevor's life. While at Cambridge, he served as president of the cricket club between 1974 and 1980. His contribution to the Irish cricket scene was immense. Not only was he an outstanding player for TCD's first XI cricket team, he also had a significant part to play in developing an Irish universities' tournament. One of his most notable moments as a Senator was his successful campaign in overturning a proposal by authorities in Trinity College Dublin to replace the rugby pitch with a building. I am sure that is something close to Senator Barrett's heart also.

Senator Sean D. Barrett: Hear, hear.

Senator Maurice Cummins: Trevor's sporting life also extended to soccer and rugby and he played for Munster, Phoenix and Cork County throughout his youth. For 40 years he was chairman of the Dublin University central athletic committee. His vast achievements in sport culminated in a book he later wrote in 1991, *The Bold Collegians - The Development of Sport in Trinity College, Dublin*.

Today, we celebrate the life not just of a former colleague of ours but of a distinguished academic, a sportsman and an intellectual whose extraordinary contribution will be long re-

membered. Ar dheis Dé go raibh a anam dílis.

Senator Paschal Mooney: I am very honoured to have been asked by the Fianna Fáil group in Seanad Éireann to express our deepest sympathy on the loss of a former Member of this House, Professor Trevor West, and to extol his many virtues to which the Leader has referred. I will refer to a number of media comments made in the immediate aftermath of his death, notably by his friend and colleague, Ulick O'Connor. Reference was made to the fact that just some three days before his death, he sat on the steps of Midleton college reminiscing for almost an hour with the principal, Simon Thompson. Through his family and his father he had strong connections with Midleton college. It was said he was in reflective mode and that there was much to remember for a man whose passions covered sport, education, literature, history and politics.

In the context of the remarks of the Leader on Trevor West's early membership of the Seanad and his close association with Mary Robinson, he had been her election agent when she first ran for the Seanad. When he was elected to the Trinity College seat in the by-election caused by the death of Owen Sheehy Skeffington in 1970, he soon established a reputation as one of the few liberal voices in the Seanad. It is rather salutary to remember that when we talk about history and about the 1916-21 period, this is at only one remove from that time with the mention of Owen Sheehy Skeffington.

Former Senator, John Horgan, recalled that when he and Mary Robinson wanted to put forward a Bill on the issue of changing the law banning contraceptives in 1970, they could not get the required third signature from among the entire membership of the Seanad at the time, until Trevor West was elected and supported them. There has been quite a change in culture and attitudes since then. Just consider that if such a vote was to come before the House today, perhaps in the context of the Civil Partnership Bill, how the culture and attitudes have changed in the intervening time.

Another aspect of Trevor West's enormously colourful life full of so many tapestries was his somewhat less well known contribution to the peace process in Northern Ireland, resulting from the strong connections between his family and many of the loyalist leaders in Belfast. It was reported in the media after his death, that following a close association he had with the then UVF leader, Gusty Spence, who announced the loyalist ceasefire in 1994, Senator West was quietly influential in nudging forward the peace process. Almost 30 years before the Belfast agreement was signed, in a letter to the *New York Review of Books*, the then Senator West had cautioned that in order to isolate the extremists from moderate Nationalist support: "It is essential to set up a form of government in Northern Ireland in which both sections of the community have confidence." He then added, presciently, that American pressure on Britain was a crucial factor in the struggle for independence and that after the Easter Rising of 1916 it could well be crucial again. This is quite extraordinary in light of all that has happened since.

Away from the world of politics, Trevor West was a member of the Trinity College Dublin co-ordinating committee for sport, the Dublin University central athletic club for 40 years, serving as chairman for 30 years, and was heavily involved in the campaign to build the new sports hall at Trinity. When it came to lobbying, he could teach us a thing or two, because in that particular campaign, when an attempt was made to turn the TCD rugby pitch into a building area, his response was to send many thousands of letters on Seanad headed paper to former TCD graduates, which shortly put an end to the disgraceful plan. In light of the changes made by the Minister for Public Expenditure and Reform yesterday, he would find envelopes in short

supply if he was to try that today. However, I have no doubt that his commitment and passion for the cause would not have prevented him from doing the same.

For 11 years, Trevor West was honorary secretary of the Irish universities rugby union. He was also a former president of the TCD cricket and soccer clubs and was a stalwart of the rugby club, where he encouraged many international players and household names, including, Dick Spring, Donal Spring, Hugo MacNeill and Philip Orr. He was quite an extraordinary man. Interestingly, Ulick O'Connor said about him that he had a magnetism that was not apparent under his almost boyish appearance and witty conversation. He went on to say that with just a slight move of the head, he would say what he was after and would then usually get his way and that when he failed to get into the Seanad, after eight years, in 1976, one could only feel ashamed of the Trinity electorate. However, following that he recovered favour and was re-elected.

Following the by-election mentioned, Trevor West was elected and was re-elected as an Independent in 1973 and 1977. He lost his seat in 1981, but regained it in the first election of 1982. Like many in that period of the troika of elections, he lost it again in 1983. What a tremendous loss he was to this House, particularly at a period when his voice and influence would have made such a difference. I agree to some extent with Ulick O'Connor, that one could feel somewhat ashamed of the Trinity electorate. However, I am sure they have made up for it since with some of the wonderful people elected by that constituency. On behalf of the Fianna Fáil group in Seanad Éireann, I extend my deepest sympathy to his much loved wife, Maura Lee, and his brothers John and Brian, his sisters in law, Cecily and Lynda, his stepson Ian and his wife Susanna, nephews and nieces, Michael, Christine, Kerry, Katherine, Eoin and Aoife, his wide circle of friends in Trinity, Midleton college and the world of sport. He is a much loved and much missed figure. Ar dheis Dé go raibh a anam dílis.

Senator Ivana Bacik: On behalf of the Labour Party group in the House, as Deputy Leader of Seanad Éireann and as a Trinity College Senator, I am honoured to pay tribute to the late and much missed Trevor West. I welcome his wife, Maura Lee, and his family, including friends of mine, who are in the Visitors Gallery.

I am pleased that we are paying tribute to Trevor West. I knew him personally. When I came to Trinity College Dublin as a student in the late 1980s, he was already a formidable, well known and legendary chair of the Dublin University central athletics committee. As others have said, he served in that role for 30 years. He was immensely well known and well loved on the TCD campus. Others have commented on his sporting prowess and his achievements in cricket and in sport more generally for TCD.

Trevor West's success in saving College Park from development was not only important for Trinity College Dublin and the campus but also for Dublin city centre in the sense that we continue to benefit from a wonderful green space in the middle of Dublin. It is a privilege to have it. Many people from outside the university use it every day in summer for lunches. It is a lovely place to remember Trevor West.

Other speakers have mentioned Trevor West's political career in the Seanad. He was Mary Robinson's election agent. She pays warm tribute to him in her memoir, *Everybody Matters*, and mentions that he was the famous third signatory of the Bill proposing the legalisation of contraceptives that she introduced in the early 1970s. It was also signed by the former Senator John Horgan.

It has been mentioned in the many obituaries and newspaper tributes that have been paid to Trevor that he made a quiet but significant contribution to reconciliation in Northern Ireland. Many of us were not aware of this remarkable achievement when he was alive. His association with Gusty Spence, in particular, allowed him to play an influential role in nudging the peace process forward.

We should also remember Trevor West's academic work. He was a noted mathematician and a popular lecturer in maths at Trinity College Dublin for many years. He remained popular while imposing discipline as junior dean, which was quite an achievement. His mathematical prowess had been noted at Midleton college and at the High School in Dublin, where he attended secondary school. He apparently got 100% in his intermediate certificate maths examination, which was another remarkable achievement.

It is fair to say he was a real Trinity man. He lived on campus. He was actively involved in the university at every level for many years. As students, we all knew of him and of his immense commitment to the college, his support for events like Trinity Week and the Trinity Ball, his real fondness for students and his commitment to working for them. The contribution Trevor West made to the development of sports on the campus was marked at a recent event in the exam hall at which Trinity Olympians were honoured.

I will always treasure my last memory of Trevor West, which was not too long ago. We exchanged a smile and said "Hello" as we walked through New Square in college. It sums up a man who was very much part of Trinity life. I know Senator Barrett will have many more warm memories to share. In his words, Trevor West was a "bold collegian". He was very much a part of Trinity College Dublin to which he made an immense contribution for many years. He contributed to Irish politics through his work in the Seanad, for which we remember him today. I will conclude by extending my sympathy and that of the Labour Party group to his wife, Maura, his family and many friends and associates in Trinity College Dublin and elsewhere.

Senator Sean D. Barrett: Needless to say, I echo everything that has been said by Senator Bacik, by the Leader of the House and by Senator Mooney. We are paying tribute to a remarkable man today. The task endures, the work goes on. Earlier this morning, we sent our condolences to Stewart Dickson, MLA, of the Alliance Party, whose office in Carrickfergus was burnt last night. A representative of the Orange Order addressed this House not long ago. A joint meeting of the North-South Inter-Parliamentary Association took place in the Seanad Chamber some weeks ago. It was jointly chaired by Willie Hay and the Ceann Comhairle. We are working for the Ireland that Trevor worked so hard to achieve.

Trevor West came here over 30 years ago as Mary Robinson's election agent. Decades of service followed. Next Tuesday, we celebrate the 90th anniversary of this House. It arose from a meeting in London the previous month. Those representing the Irish Unionist side sought the establishment of a Senate with Arthur Griffith and President de Valera. They included the provost of Trinity College Dublin, Lord Midleton and Andrew Jameson, the well known distiller. They must have intended that Trevor would be a Senator because he was from Midleton, he was a fellow of Trinity College Dublin and his family was in the malting business supplying the vital ingredients to the Jameson family to make Irish whiskey. He was pre-destined to be a Member of the House that was so well designed by those people 90 years ago. One might say that Trevor was also geographically destined to have such a wonderful career. He came from near Cloyne, which is famous for Bishop Berkeley in an academic sense and for Christy Ring in a sporting sense. It was pre-planned that Trevor would distinguish himself on so many fields

of endeavour.

Trevor's career brought him to Cambridge, UCLA, Glasgow and Trinity College Dublin, where he was most at home, as Senator Bacik said. That is where his heart was. His goal was that the minority communities in this state should play their full role in our political life. He was a wonderful example in that regard. He also believed that those communities should reach out to their separated brethren in Northern Ireland. That was accomplished by going to see Gusty Spence. He even persuaded him to take Irish lessons when he was in Long Kesh. Trevor was always thinking of this country as a united island in people's hearts and minds, rather than in terms of lines on maps. He is remembered here in a photograph of the Oireachtas football team, which took on England on 10 June 1978. Given that he is holding the football in the photograph, it is definite that West was the captain on the day. The other footballers in the photograph include Bertie Ahern and the current Taoiseach, Deputy Enda Kenny. They can be seen rallying around the captain as they prepare to take on the Saxons.

Trevor West's notable work on Horace Plunkett was mentioned by Senator Mooney. Horace Plunkett, who was a Member of the First Seanad, founded the co-operative movement. That got him into trouble with many people in the Irish Parliamentary Party because the co-operative movement took business away from the merchant class which dominated that party. Horace Plunkett's Unionist friends did not like him much either because he participated in many events with Nationalists. Trevor West used to tell the story about someone who told Horace Plunkett that it was time to give it all up, and let sleeping dogs lie, because he was equally disliked by Nationalists and Unionists. Horace Plunkett replied by saying he would not let lying dogs sleep, which was a phrase that Trevor liked to use in his political career.

Trevor West's sporting endeavours were described so well by Senator Mooney that there is no need to add much to what has been said. I remember the great day in 1984 when the former Taoiseach, Jack Lynch, came to College Park to plant an ash tree in commemoration of the centenary of the GAA. We reminded him of famous Trinity hurlers like Edward Carson. They had different political careers but were both dedicated to the clash of the ash. Tony O'Reilly once said that Trevor West's contribution to sport was so great that he was the only man in Ireland to have two rugby stands named after him - the Upper West Stand and the Lower West Stand.

In the words of the hymn chosen by Trevor West's family and friends to commemorate him tomorrow, he was the "captain in the well-fought fight". He displayed his steel in his defence of College Park, which was mentioned by Senator Bacik. Some other bureaucrats - he regarded them as his enemies and called them the "forces of darkness" - wanted to amalgamate certain schools in the Cork area. As I recall it, Bandon Grammar School and Midleton College were to disappear into a large school in Cork. Given that Midleton College is still there, we can take it that Trevor fought the well fought fight in that instance. He maintained an interest in Midleton College right up until September this year, when the Minister, Deputy Quinn, went to see him when a new science and technology wing was being opened.

Trevor West's last visit to this Chamber was on 15 December 2011, when the Cathaoirleach most graciously welcomed him. He came back for a final farewell on 15 June last. He hugely valued this House and all of the people in it. To him, it was a noble place and an enriching experience.

On a further sporting note, an amazing collection of people from Trinity College Dublin seemed almost every year to come back with the Sam Maguire. We would not be famous in that

field but that was the case with Joe Brolly, Pat Gilroy last year, Tommy Drumm, Alan Kerins and Frank Foley. Those were wonderful occasions when Ireland's most famous trophy was brought into the dining hall and everybody enjoyed it so much.

Were he here today, Trevor West would have been helping the Minister of State, Deputy Sean Sherlock, on the reform of mathematics. He took, I believe, a dismissive view of the new maths and attempts to modernise the subject but he certainly would have assisted in that important national endeavour.

The tributes have been paid in a full St. Finbarr's Cathedral in Cork by Bishop Paul Colton, when the President and Taoiseach sent their *aides-de-camp*. The former Tánaiste, Mr. Peter Barry, was probably the most senior Member of the Oireachtas present. Tomorrow, his colleagues will say farewell to him in college chapel. Irish public life, education, sport and North-South relations have gained much from the dedication of a noble man. He has left us a very fine example and enriched the lives of many. He has earned his heavenly reward.

Senator David Cullinane: I am very pleased, proud and privileged on behalf of the Sinn Féin Party to pay tribute today to Trevor. I acknowledge the presence of and welcome his wife, Maura, and all of his family and friends who are here and the many who cannot be. I extend my sympathy to his family and friends at their loss.

I am a young Senator and it is my second year in the House. While I did not know Trevor personally, I am aware of his many achievements, which were very eloquently put by the previous speakers and the Leader of the House in regard to his achievements academically, socially, politically and, as I am sure his family would say, his achievements personally in terms of their own fond memories of Trevor.

I was also very honoured to be present in this Chamber earlier this year when the former President, Ms Mary Robinson, addressed the House. She spoke very fondly but also very honestly about her pioneering work on many social and liberal issues over the course of her lifetime and her work here in this House. She spoke about her relationship with Trevor and people like John Horgan, and the work they did on very important social and liberal issues. Many young people today might struggle to understand how difficult that was at the time. We lived in a different Ireland. Issues like contraception might be seen as uncontentious today but they were contentious at that time. We needed people to stand up and be counted, and Trevor, with Mary Robinson and many others, did exactly that, and they did the State some service in those areas.

I am also aware of the very important work he did in building North-South relationships and building up positive relationships with people like Gusty Spence, who is now deceased. It is very important we continue to build on that work and build those relationships. That work is being done. Senator Mooney eloquently pointed to Trevor's vision of what needed to happen to build a successful peace process and conflict resolution process on the island of Ireland.

I again welcome and acknowledge Trevor's many achievements in life. I am sure he will be missed not only by his family and friends but also by the Members of this House and people who truly understand the work people like him did and the service they gave to the State.

Senator Paul Bradford: I am grateful for the opportunity to say a few words of tribute to the late Trevor West. During my years as a Member of the other House and as Dáil Deputy for the constituency of Cork-East, I had occasional representation from the late Trevor West on the matters of both national and local concern to him. Many of his friends and colleagues in east

Cork would have mentioned to me on numerous occasions the work, the record and the tradition of Trevor West.

These occasions are an opportunity to reflect. When we think back to the Ireland of the early 1970s - the social and economic conditions at the time of his election to Seanad Éireann for the first time - we can see the work and the progress which has occurred since. That is the real tribute to Trevor West and his colleagues at the time, namely, the transformation of our society economically, socially and politically. Mention has been made in the House, and in the many varied and interesting obituaries, of his record as a legislator and his work with the then Senator Mary Robinson. That will certainly be a lasting tribute.

When the public debate increases about the future or lack of a future of this House, and when we will be defending the institution by highlighting how Seanad Éireann has helped transform and modernise Ireland, the name of Trevor West will be high on the list of people we will present as the case for the defence. There are not many people one could associate with Dáil Éireann as having impacted and changed Irish society but, here in this House, with former Senator Mary Robinson and many people stretching back the decades, people such as Trevor West showed clearly how this House can be used as a political institution of change and a political institution for the common good. That is a legacy Trevor West will leave to us, as Members of the Seanad - the absolute proof of the importance of this House and how it can help and change Irish society.

If one were to sum up Trevor West's career and his qualities, in light of the touching tribute from his friend and colleague, Senator Sean Barrett, I think courage and conviction would have to be at the top of the chosen words. Again, the Ireland of the early, mid and even late 1970s was a difficult Ireland in which to argue for major social change but he not only had strong views, he expressed and advocated those views fearlessly and without favour. For that, we owe him a debt of gratitude.

Like most of the substantial and truly important work in regard to the broader peace process, his work on Northern Ireland was done without fanfare, without media, without cameras and without microphones. It was the painstaking work of building and maintaining friendships, of opening doors and of taking the very difficult decision to talk with, work with and travel with people one would possibly disagree with. We can all walk and chat, or wine and dine, with our friends; it is only when one meets, works with and befriends people from a different community and a different perspective that one truly makes progress. His part in the peace process is very much unwritten but is truly substantial. When the history books are written, the Aherns, the Fitzgeralds, the Barrys and the Springs may occupy the first pages, but very substantial paragraphs will have to be written about people such as Trevor West because they made a true difference in getting people together, in building friendships and in building real bridges to peace. That is a great tribute to him.

On a lighter note, Senator Barrett stole my lines in regard to the lovely picture in the Members' Bar. While we all leave this House and move on, people may quickly forget us. However, when Senator West passed away some weeks ago and many of our newer colleagues asked "Who was Trevor West?", they were told that if they went to the Dáil bar, he is there in the picture of the soccer team with Enda Kenny and Bertie Ahern and, suddenly, everybody remembered. However, even in regard to the bringing together of that parliamentary soccer team, which he organised, while in the Ireland of 2012 we would say "So what", in the Ireland of 1977 or 1978, when the picture was taken, it was a slightly more difficult and more sensitive

task. First, that the Oireachtas would have a soccer team and, second, that it would play against a Westminster soccer team. This is but one part of the jigsaw which made up the late Trevor West, and many others like him, who believed in reconciliation, being positively different and taking the extra stride for progress and peace. I extend my deepest sympathy to his wife, family and friends, all of whom can be assured that his substantial record of political, social, economic and, obviously, academic achievement will be long remembered. He was a person of whom we in this House, and all who wish to serve here, can be proud. I am proud that he was a Member of this House.

An Cathaoirleach: Some of the photographs in the Members' Bar often find their way into the national media. I presume the ban was over when the photograph concerned was taken. There are some notable all-Ireland winners in it.

I would like to be associated with the fine tributes to the late Trevor West, who was a Member of this House from 1969 to 1982, representing Trinity College, Dublin. While I did not serve in this House with the former Senator, I have welcomed him here on a number of occasions and met him from time to time. Based on what has been said here today and from what I have heard from colleagues who served with him over the years, he was a thorough gentleman.

The late Trevor West served in this House from 1969 to 1982, which is 13 years. The average length of time which Members serve in both Houses of the Oireachtas is 12 years. As such, he spent more than the average length of time as a Member of the Seanad. While that was not his main business, he was an astute and well respected politician. His main career was as an academic in Trinity College, Dublin, where he was a lecturer and associate professor of mathematics.

I wish to be associated with the expressions of sympathy to his wife, Maura, and extended family, who are in the Visitors Gallery. They are very welcome.

Members rose.

Sitting suspended at 12.45 p.m. and resumed at 2 p.m.

2 o'clock

Report of the Expert Group on the Judgment in the A, B and C v. Ireland Case: Statements

Minister for Health (Deputy James Reilly): I am pleased to have the opportunity to make this statement on the report of the expert group on the judgment of the European Court of Human Rights in A, B and C v. Ireland.

The reason for this debate - more than 20 hours have been set aside for statements to be taken in the Houses of the Oireachtas on this topic - is that the Government is committed to allowing all Members of the Houses the opportunity to make a statement on this issue. Following this discussion and before the Dáil goes into recess, the Government will make a decision on the option to be pursued to implement the judgment in A, B and C v. Ireland. The public hearings to be held by the Joint Committee on Health and Children in the new year will give us a further

opportunity to discuss the option for implementation that the Government will have chosen.

We are conscious that this is a sensitive issue and most of us hold strong personal views on the matter. However, it is important to bear in mind that the Government has consistently stated its commitment to implement this judgment of the European Court of Human Rights.

I must also reiterate that the Government is committed to addressing this issue within the confines of Article 40.3.3° of the Constitution and its interpretation by the Supreme Court in *Attorney General v. X*. As we all know, this case involved a 14 year old girl who became pregnant as a result of rape and was suicidal. The court deemed that, where it was established on the balance of probabilities that there is a real and substantial risk to the life, as distinct from the health, of the mother and that such risk could only be averted by the termination of her pregnancy, such termination is lawful. This included where there was a clear and substantial risk to the life of the woman arising from a risk of suicide.

Recent comments inside and outside this House have addressed other unfortunate situations where pregnancy might arise from traumatic incidents such as rape or incest. At this juncture, these scenarios *per se* do not come within our constitutional and legal provisions unless they give rise to a real and substantial risk to the woman's life. These scenarios, therefore, were not and could not be addressed by the expert group or, indeed, by the Government through the implementation of the judgment of the European Court of Human Rights.

Before I move on to discuss the background to the report and its merits and implications, I wish to record once again my gratitude to the expert group, in particular to the honourable Mr. Justice Seán Ryan, for its commitment and dedication to this work and for the invaluable contribution it has made in bringing clarity to this complex and sensitive issue. While it is true that a number of other bodies have previously addressed the issue of how to provide for the X case, the House would agree that the report of the expert group presents with consistent clarity and lucidity the many complex issues that need to be resolved in order to bring clarity to the provision of medical treatment to pregnant women whose lives are at risk.

In December 2009, the European Court of Human Rights heard a case brought by three women in respect of the alleged breach of their rights under the European Convention on Human Rights in regard to abortion in Ireland. This is known as the A, B and C v. Ireland case. All of the applicants were women who unintentionally became pregnant and who travelled to the UK for abortions.

The European Court of Human Rights accepted that Article 40.3.3° of the Constitution, as interpreted by the Supreme Court, provided that it was lawful to terminate a pregnancy in Ireland if it was established as a matter of probability that there was a real and substantial risk to the life, as distinct from the health, of the mother, which can only be avoided by a termination of the pregnancy. This provision has not been altered by the judgment.

The court found that there had been no violation of their rights under the convention in respect of the first and second applicants, Ms A and Ms B, and it dismissed their applications, and that there had been a violation of the right to private and family life contrary to Article 8 of the convention in the case of the third applicant, Ms C. The court held that there was no accessible and effective procedure to enable her to establish whether she qualified for a lawful termination of pregnancy in accordance with Irish law. The court ruled that "no criteria or procedures have been ... laid down in Irish law ... by which that risk is to be measured or determined, leading to

uncertainty...” and held that further legal clarity was required.

The establishment of the expert group and publication of its report fulfil an important commitment in the programme for Government. The expert group was established in January of this year and its terms of reference were as follows: to examine the *A, B and C v. Ireland* judgment of the European Court of Human Rights; to elucidate the judgment’s implications for the provision of health care services to pregnant women in Ireland; and to recommend a series of options on how to implement the judgment taking into account the constitutional, legal, medical and ethical considerations involved in the formulation of public policy in this area and the overriding need for speedy action.

The group was composed of experts in the fields of obstetrics, psychiatry, general practice, law, professional regulation and public policy. It met nine times from January to October and submitted its report to me on 13 November.

The expert group’s report starts off by clearly indicating that, in order to stay true to its terms of reference, it would not recommend one particular solution for the implementation of the judgment in *A, B and C v. Ireland*, but would suggest a number of options. Sticking closely to its remit, it explicitly stated that it did not see it as its task to consider or recommend changes to abortion law in Ireland. The expert group report gives a clear and concise overview of the current legal provisions governing termination of pregnancy in Ireland and meticulously outlines the historical background to the legal developments that have taken place on abortion in the past 30 years. The report describes the judgment of the European Court of Human Rights in *A, B and C v. Ireland* and its legal implications. It maintains that the State is under an obligation to: (a) provide effective and accessible procedures to establish a woman’s right to an abortion as well as access to such treatment; (b) establish criteria or procedures in legislation or otherwise for measuring or determining the risk; (c) provide precision as to the criteria by which a doctor is to assess that risk; (d) set up an efficient independent review system where a patient disputes her doctor’s refusal to certify that she is entitled to a lawful abortion or where there is a disagreement between doctors as to whether this treatment is necessary; and (e) address sections 58 and 59 of the Offences against the Person Act 1861.

In essence, the expert group indicates that the State is under a legal obligation to put in place and implement a legislative or regulatory regime providing effective and accessible procedures whereby pregnant women can establish whether they are entitled to a lawful abortion in Ireland. Furthermore, it asserts that, “It would obviously be insufficient for the State to interpret the court’s judgment as requiring only a procedure to establish entitlement to termination without also giving access to such necessary treatment.”

The expert group openly and explicitly presents the principles adopted in its deliberations and reflected in the proposals it puts forward for the implementation of the judgment. These are very clear principles and they are fully in line with our constitutional, legal, ethical and medical requirements. They are:

Principle 1. The entitlement to have the right to lawful termination of pregnancy ascertained should be established.

Principle 2. The State’s constitutional obligations under Article 40.3.3° should be reflected in the options proposed to implement this judgment.

Principle 3. Termination of pregnancy should be considered a medical treatment regard-

less of whether the risk to the life of the woman arises on physical or mental health grounds.

Principle 4. It will always be a matter for the patient to decide if she wishes to proceed with a termination following a decision that it is clinically appropriate medical treatment.

Taken together, these principles provide a clear and humane framework on which to base the provision of lawful terminations of pregnancy in Ireland. Moreover, in adopting as one of its principles the constitutional obligation under Article 40.3.3° and reflecting its provisions throughout its report, the expert group has shown that there are ways in which the right to life of the pregnant woman can be protected, while requirements are also put in place to ensure that due regard is given to the right to life of the unborn and that the dignity of the foetus is respected in cases where this can be achieved without compromising the woman's right to life.

Although the report clearly supports the Supreme Court judgment in the *X* case as the correct criteria to assess whether a woman is entitled to a lawful termination of pregnancy, that is to say when there is a real and substantial risk to the life of the mother - and where this risk can only be averted by the termination of her pregnancy - it also explicitly states that, as part of the test, the treating doctors will be obliged to consider whether it is practicable to preserve the life of the unborn in the process of terminating the pregnancy without compromising the right to life of the woman and that evidence of this consideration must be documented. The report also rejects the arguments often put forward that the judgment in *Attorney General v. X* establishes a right to an abortion at any gestational age. The expert group argues that this judgment indicates that where a woman has a pregnancy that places her life at risk and where her foetus is or may be viable, she may have a right to have the pregnancy brought to an end but she does not have a right to insist that the life of her foetus be deliberately ended and that this approach also reflects an obstetrician's medical obligation to care for both of his or her patients, namely, the pregnant woman and the foetus. Therefore, for example, a pregnancy that has reached or is approaching viability could be terminated by early induction with appropriate neonatal care to follow.

The four principles outlined in chapter 5 underpin the detailed procedural options presented in chapter 6. This chapter illuminates possible avenues for the assessment of an entitlement to lawful termination of pregnancy in Ireland and for the delivery of this medical treatment. It discusses the possible qualifications of the doctors involved in the process, the number of doctors who would be responsible for reaching a decision, what their different roles might be and the locations where terminations might take place. It also extrapolates potential exceptions to the process, such as in the case of an emergency or when dealing with conscientious objection. In addition, this chapter provides a lengthy discussion on a formal framework to review the initial clinical decision, which is one of the main requirements emanating from the judgment.

The expert group correctly emphasises that any system that would be put in place should be duly monitored. It indicates that from a clinical perspective there is a need to keep records on the number of women who might seek and be given terminations and the medical reasons that gave rise to such treatment. In addition, statistics are also required to inform policy, as well as to ensure that the legal and constitutional principles and requirements of the system are being upheld.

The final chapter of the report sets out four options for the implementation of the European Court of Human Rights judgment in the *A, B and C v. Ireland* case and these are: guidelines; regulations; primary legislation; and primary legislation coupled with regulations. It is these options that are now being considered and discussed by the Government and the Members of

the Houses of the Oireachtas.

I take the opportunity to restate the Government's firm commitment to implement the judgment of the European Court of Human Rights in the *A, B and C v. Ireland* case and to bring the required legal clarity to the issue of lawful abortion in Ireland. That does not mean abortion on demand. This is doubtless one of the most divisive issues in Irish society, yet we must try to discuss it in an even and calm manner. We must protect the life of the pregnant mother and yet vindicate the right of the unborn child. We must clarify what is available by way of treatment to the women of Ireland and what is legal for the professionals who must provide that care. As a Government, we are elected to act and we will.

Senator Marc MacSharry: I welcome the Minister. I also welcome the opportunity to make some remarks on this most difficult issue which has always caused problems for society in this country.

I was relatively young in 1983 but I recall the debates which took place on this matter at the time. This issue has also been the subject of debate on a number of occasions since. There is no doubt that the debate on it divides society. The position in that regard is no different among the parties, Independent groups, etc., in these Houses. The expert group has done a good job and I thank it for the work it has done in putting forward a number of clear and thorough options. I accept that many of us may differ on what are the correct options.

I do not wish to get political but people often state that no action has been taken in respect of this issue. While the issue may still remain to be dealt with in the context of the *X* case, of *A, B and C v. Ireland* and so forth, much did happen during the past 20 years. All parties in the Oireachtas participated in the process in this regard. That process gave rise to the introduction of the Green Paper, the deliberations of and report issued by the all-party committee - which received tens of thousands of submissions on this matter - the establishment of the Crisis Pregnancy Agency and the introduction of legislation and the holding of a referendum in 2002. Despite all of these developments, problems still remain.

As the Minister indicated, this is a hugely personal issue for most people and we all have our own views on it. I have three children, I am married and was raised in a Catholic environment and attended a Catholic school. My personal position on the question of abortion is that I have always regarded myself as someone who is pro-life and against abortion on demand. However, if there was even a remote threat to the health or life of my wife, daughter or niece or our neighbour, I would want whatever best medical practice could offer. I may not be sufficiently well read on this subject and legal and medical experts can argue against each other without coming to a conclusion or consensus. In my ignorance or in reality, I understood the medical position in Ireland was that if there was a threat to any of the people mentioned - my wife, daughter or niece, or my neighbour - it would and could be dealt with.

The circumstances of the case of Savita Halappanavar appalled all of us, in particular the suggestion she had lost her life as a result of being unable to receive sufficient treatment. This is a very serious issue and two investigations are being carried out by the HSE and the HIQA. We look forward to the outcome of these reports. At this late stage and to follow on from what my party leader said in the other House, I ask if an independent inquiry in the interests of the family and everyone involved could be initiated. None of us knows for sure what happened in the case. Once there is clarification, action will need to be taken. I had presumed that the application of best medical practice would ensure my wife or daughter would be safe. I want

that to continue to be the case. If the obstetricians and gynaecologists request a proper legal framework to facilitate them in their professional work and ensure women are protected during pregnancy, we must provide that framework. This may be a difficult process for the Houses, but that is the burden of the legislative process and the responsibility that comes with being Members of them. I am not a legal or medical expert, but I would like to think existing medical guidelines provide the basis for certainty and clarity in response to the judgment of the European Court of Human Rights.

A recent opinion poll warrants a mention. There is overall agreement that the life and health of the mother must be protected. This view does not divide us. I do not believe two thirds of the population would want abortion on demand in this country. I would not want such a system. My view is based on personal morality that comes from within rather than from the influence of a Catholic upbringing.

Suicide is a very difficult issue. As a nation, we have always taken the wrong approach to it. We have paid lip-service in the provision of resources to combat the issue. Until we adopt the correct structural approach, the blindfold will remain in place. We need one well resourced agency with the power to take the initiative. I use the analogy of the Road Safety Authority. For many of us, suicide is a mystery wrapped in a riddle or an enigma. Society is failing those who regard suicide as the only option if others are not available. However, the threat of suicide as a legitimate reason will create the reality of abortion on demand, which would not serve my viewpoint well. There are very difficult days and there are difficult decisions ahead. However, the health of a mother must come first and if legislative action is required to assist in this regard, let it be done. I run into trouble on the issue of suicide and know that this view differs from that of others, but I hope they will take my sincerity into account in this regard.

Senator David Norris: Will the Minister provide a copy of his speech? I was unable to be present when he spoke. It would be helpful to read his speech.

Acting Chairman (Senator Paul Bradford): We will attempt to resolve the matter for the Senator. Some copies are available. We will supply the Senator with a copy presently.

Senator David Norris: I thank the Minister for his courtesy.

Senator Colm Burke: I welcome the report published by the expert group under the chairmanship of Mr. Justice Seán Ryan. We must introduce legislation together with regulations. This is one of the options set out in the report.

I wish to outline my position as clearly as possible. I might bore some listeners in quoting case law in support of my argument, but this legislation would not introduce abortion on demand. It would provide the clarity that is urgently required in this area. The expert group, as the Minister outlined, consisted of people with expertise in the medical, legal and administrative fields. The European Court of Human Rights in the *A, B and C v. Ireland* case confirmed that Article 40.3.3° of the Constitution is not inconsistent with the European Convention for the Protection of Human Rights and Fundamental Freedoms. The court found that there had been no violation of the rights of Ms A and Ms B under the convention and it dismissed their applications. It found, however, that there had been a violation of applicant C's right to private and family life contrary to Article 8 of the convention. The court held that there was no accessible and effective procedure to enable her to establish whether she qualified for a lawful termination of a pregnancy in accordance with Irish law.

As a result of the judgment the Government established the expert group to advise on how to implement the judgment of the European Court. The expert group was asked to recommend a series of options on how to implement the judgment taking into account the constitutional, legal, medical and ethical considerations involved in the formulation of public policy in this area and the overriding need for expeditious action.

In the case of *Attorney General v. X*, otherwise known as the X case, the Supreme Court held that the Constitution permitted abortion in certain limited and particular circumstances, namely, where there was a real and substantial risk to the life of the woman which could only be removed by terminating the pregnancy. The case in which the judgment was given concerned a girl of 14 years of age and the threat to her life was from suicide. After the judgment in that case, two referendums were held which tried to remove suicide as a ground for abortion and in both of these referendums the proposal was defeated. Therefore, as we stand the X case decision is the law of the State as declared by the Supreme Court. It has been binding on all of the courts for more than 20 years. In that case, the Oireachtas was severely criticised for not putting in place the appropriate legislation. When legislation is not in place, the courts are called upon to interpret the Constitution.

In *McGee v. Attorney General* in 1974, prior to the change to the Constitution in 1983, Mr. Justice Walsh, when referring to the Constitution and the changes that can occur, said:

According to the preamble, the people gave themselves the Constitution to promote the common good with due observance of prudence, justice and charity so that the dignity and freedom of the individual might be assured. The judges must, therefore, as best they can from their training and their experience interpret these rights in accordance with their ideas of prudence, justice and charity. It is but natural that from time to time the prevailing ideas of these virtues may be conditioned by the passage of time; no interpretation of the Constitution is intended to be final for all time. It is given in the light of prevailing ideas and concepts.

In the State (*Healy*) *v.* *Donoghue*, Mr. Justice O’Higgins said:

In my view, this preamble makes it clear that rights given by the Constitution must be considered in accordance with concepts of prudence, justice and charity which may gradually change or develop as society changes and develops, and which fall to be interpreted from time to time in accordance with prevailing ideas. The preamble envisages a Constitution which can absorb or be adapted to such changes. In other words, the Constitution did not seek to impose for all time the ideas prevalent or accepted with regard to these virtues at the time of its enactment.

Many people have the idea that the Constitution is written in stone and that there is a set interpretation from time immemorial in respect of each article and each subsection. These quotes clearly show that the courts have a different view. Therefore, those who are opposed to the introduction of legislation need to understand and study these judgments and the judgments of many other cases down through the years. Article 40.3.3^o includes the words “guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.” When that amendment to the Constitution was adopted in 1983 it imposed an obligation on the Oireachtas to put in place legislation and for more than 30 years that issue has not been faced up to. Twenty years have passed since the X case. In that case Mr. Justice McCarthy set out clearly his criticism of the Oireachtas when he said:

The guarantee to the unborn was qualified by the requirement of due regard to the right to life of the mother and made less than absolute by recognising that the right could only be vindicated as far as practicable. The guarantee was secured by the commitment of the State in its laws to respect and by its laws to defend and vindicate that right.

He went on to say:

I agree with the Chief Justice that the want of legislation pursuant to the amendment does not in any way inhibit the courts from exercising a function to vindicate and defend the right to life of the unborn. I think it reasonable, however, to hold that the People when enacting the Amendment were entitled to believe that legislation would be introduced so as to regulate the manner in which the right to life of the unborn and the right to life of the mother could be reconciled.

In the context of the eight years that have passed since the Amendment was adopted and the two years since *Grogan's* case the failure by the legislature to enact the appropriate legislation is no longer just unfortunate; it is inexcusable.

That was his judgment 20 years ago. He went on to say:

What are pregnant women to do? What are the parents of a pregnant girl under age to do? What are the medical profession to do? They have no guidelines save what may be gleaned from the judgments in this case. What additional considerations are there? Is the victim of rape, statutory or otherwise, or the victim of incest, finding herself pregnant, to be assessed in a manner different from others? The Amendment, born of public disquiet, historically divisive of our people, guaranteeing in its laws to respect and by its laws to defend the right to life of the unborn, remains bare of legislative direction.

Acting Chairman (Senator Paschal Mooney): The Senator's time has expired.

Senator David Norris: Flexibility was allowed by the previous occupant of the Chair.

Acting Chairman (Senator Paschal Mooney): I thank the Senator for his kind intervention, but I was indicating to the Senator that his time had expired, and he can then act accordingly.

Senator David Norris: I sometimes-----

Acting Chairman (Senator Paschal Mooney): As the Senator is excellent at giving guidance, I am sure he will appreciate my feeble attempts.

Senator David Norris: They are even better.

Senator Colm Burke: I thank the Chair for the notification. The Supreme Court's decision 20 years ago set out the view that there was a need for legislation. I believe this is the way forward, but it is not legislation which allows abortion on demand. It is a question of establishing legislation to follow through on the amendment passed in 1983. The way forward is through legislation and regulation and there is a certain timeframe in which to put them in place. We must all make a contribution on both sides of the argument. It is a question of planning. We must not put the issue on the back burner for time immemorial.

Senator Fiach Mac Conghail: I welcome the Minister to the House to discuss the outcome

of the report of the expert group on the judgment in *A, B and C v. Ireland* case. I welcome the fact that the debate has been scheduled so close to the report's publication in order that members can contribute to what is undoubtedly a sensitive, demanding and emotive constitutional issue.

In accepting my nomination by the Taoiseach, I knew there would be days such as today when I would make a public contribution on the floor of the Seanad on a matter of personal interest to women and of national importance to society. The purpose of the Seanad in theory - I hope it is exemplified today in practice - is to have a calm, measured and reasoned debate on a broad range of issues, including this difficult debate on abortion. All of us in the House - I have witnessed this in the past 18 months - have shown an extraordinary and diverse range of expertise and engagement and I trust that today will be no different in the quality of our debate. I have read the report from cover to cover. The expert group was chaired by Mr. Justice Seán Ryan, the same man who published the Ryan report, and he has brought the same clarity of thinking to bear on the report of the expert group. I would recommend to anyone who is listening and interested in this issue to read it, as it conveys in clear language the complex legal issues involved. It reads:

It is 30 years since the 8th Amendment was enacted following a bitter political debate and amid controversy about the meaning and effect of the new constitutional provision. It is 20 years since the Supreme Court came face to face with the issue in the urgent and fraught circumstances of the *X* case. The Supreme Court by a 4-1 majority allowed a child to have an abortion in the rare and extreme circumstances that arose. The Court interpreted the Constitution and specifically the newly inserted Article 40.3.3°. That decision has remained controversial.

That is the clarity the report offers. It is in language that is not from any professional perspective or persuasion, which is welcome. Ultimately, it carefully describes the 20 years of inaction by the Oireachtas and the failure of the Legislature to put in place a formal system of guidelines, regulations or legislation arising from the Supreme Court's decision in the *X* case. The lack of action by the Oireachtas in implementing the decision in the *X* case is a source of disappointment and has created legal uncertainty. No matter what side of the debate we may be on, I am sure that, as Members of the Oireachtas, we can all agree that inaction is bad governance which, in turn, leads to ambiguity and perpetuates the nod and wink culture that has been so pervasive in Irish society.

In chapter 3 the report contextualises the historical legal journey from 1861 to 2009. It includes the Offences Against the Person Act 1861, the eight amendment of the Constitution of 7 October 1983, the *X* Case in March 1992, the 13th and 14th amendments of the Constitution of 23 December 1992, the Constitution review group's report of November 1996, various updated and revised Medical Council guidelines, the Green Paper on abortion in 1999, the all-party Oireachtas committee on the Constitution in 2000, the establishment of the Crisis Pregnancy Agency in 2001 and the 25th amendment of the Constitution of 6 March 2002 on the protection of human life in pregnancy, whereby a threatened suicide would be excluded as a risk to the life of the mother, thus limiting the judgment in the *X* case. This was defeated.

In December 2010 the European Court of Human Rights, after hearing the case which had been brought by three women known to us as *A, B and C*, found that there was a violation of *C*'s right to a private and family life, contrary to Article 8 of the European Convention. The court held that there was no accessible and effective procedure to establish whether *C* qualified for a full termination of pregnancy in accordance with Irish law. The expert group has given

the Government and the Oireachtas advice on how to implement the judgment of the European Court of Human Rights, in other words, “How to give effect to existing constitutional provisions”.

I am mindful of my privileged position in the Seanad, as I am able to offer my view, respond to the legal uncertainty and participate directly in the democratic process. I am also mindful that in a sovereignty, such as we in Ireland enjoy, it is our duty, as legislators, to give effect to the will of the people who have spoken on the issue in three separate referendums, two of which expressly related to the question of suicide. When I read the report over the weekend, I had to clarify my own thoughts as a man, father, partner, Irish citizen and legislator. After careful consideration and with some reluctance which I shall explain, I am in favour of legislating and providing regulations to provide for the lawful termination of pregnancy by providing primary legislation and regulations to enact the X case criteria.

The history of legislative activity which I listed includes the 1861 Act. There seems to be a contradiction between Article 40.3.3° of the Constitution, as interpreted by the Supreme Court in the X case, and sections 58 and 59 of the 1861 Act. The report states that as long as sections 58 and 59 remain in force, with their absolute prohibition on abortion and associated serious criminal offences, there will continue to be a lack of certainty for a woman seeking a lawful abortion in Ireland. In its judgment in December 2010 the European Court of Human Rights stated the Act “would constitute a significant chilling factor for both women and doctors in the medical consultation process, regardless of whether or not prosecutions have in fact been pursued under this Act”. I ask the Minister and as suggested by his ministerial colleague, Deputy Alan Shatter, that in legislating for the X case criteria we repeal the 1861 Act.

Although outside the scope of the report of the expert group, it would be remiss of me not to take the opportunity to make a short comment on the differences between a substantial threat to the life as distinct from the health of a woman. I stand before Members as a feminist and as a feminist, I believe in equality. To me, that means equal access to the highest attainable standard of health care. Whatever decision is taken by the Government on implementing the judgment of the European Court of Human Rights, in its limited scope, it still enshrines an inequality in Irish law. By failing to legislate for abortion in the face of a substantial threat to the health of a woman and in cases of pregnancy resulting from rape and incest, women in Ireland remain second class citizens. Rape and incest are crimes against women. Should a woman become pregnant because of a crime committed against her by a man, I would support giving her a choice, with appropriate and regulated medical advice, to terminate the pregnancy. My conscience dictates that I do not have the right to intervene as a man or a legislator.

I object to some of the terminology I have heard in recent discourse but not in this House on the abortion issue, particularly the idea expressed by some that there are only two camps to fall into - pro-life or pro-abortion. Let me be very clear that I am pro-life. I am pro-family. I am pro-women in being ready, willing and able to have children. I am pro-women and girls not conceiving as a result of rape or incest. I am pro-viable pregnancies without serious chromosomal and fatal foetal abnormalities. I am pro-pregnancies that do not threaten the health and well-being of pregnant women and girls. Where tragically these cases do arise, I am pro women’s right to choose what is in their own best interests. It is the woman who is best placed to make a decision on her own reproductive health and rights, not the legislator. I urge the Minister to adhere to the deadline the Government has set itself and proceed to legislation to fulfil its legal obligations to Irish women.

Senator Ivana Bacik: I welcome the Minister and the opportunity to speak about the expert group's report on the judgment in the A, B and C case. I thank him for his very clear outline of the circumstances behind the report and its content. I share his view that the expert group deserves commendation and praise for its work. I also thank him for clearly stating the Government's commitment to act on the report and setting out a timeline.

Like Senators Colm Burke and Fiach Mac Conghail, I believe legislation and regulations offer the best option. It is the option the Government must choose, in all conscience, before the end of the Dáil term on 20 December. A reading of the expert group's report will lead one to the conclusion that that is the preferable option. As the Minister said, the expert group does not recommend any option, in particular, but it does set out the position that legislation plus regulations would be an implementation option "that would be constitutionally, legally, and procedurally sound". For a number of reasons, primary legislation would be required, not least to deal with the "chilling effect" of the 1861 Act - the criminal provisions on abortion - to which Senator Fiach Mac Conghail referred. As the expert group pointed out, this is a very important consideration. As others said, passing legislation of this nature would not in any way provide for abortion on demand, far from it. It would simply provide legal clarity on the current position under the law under Article 40.3.3° of the Constitution. This means that abortion is legal, where necessary, to save a woman's life. It is a very limited form of abortion. It does not cover the risk to a woman's health, cases of rape, incest or fatal foetal abnormality.

As a feminist, like Senator Fiach Mac Conghail, I would describe myself as being pro women's right to choose and would like to see the law go much further. However, I accept that we must operate within the Constitution under Article 40.3.3°. Given that we must operate within this constraint, it is long overdue for us to pass legislation to bring legal clarity to the issue. As stated by other speakers, we are having this debate at a time when there is enormous public disquiet and outrage at legislative inaction to date on the death of Savita Halappanavar. Her death has highlighted the lack of legal clarity over when a doctor may intervene to terminate a pregnancy which poses a risk to a woman's life. As we have heard since that very tragic case was brought into the public domain, there is a grey area for doctors. Like Senator MacSharry, I am a parent. I am the mother of two daughters. I do not want to see a grey area around the lives of women in this way. It does render women second-class citizens. I am unhappy about this, and also about the fact that we are still operating under provisions from 1861, which has a chilling effect for doctors.

Senator Colm Burke rightly quoted the late Mr. Justice McCarthy in his Supreme Court judgment in the X case. His questions have had particularly poignant resonance since the tragic death of Savita at the end of October. Mr. Justice McCarthy stated that the failure by the Legislature to enact appropriate legislation clarifying the conditions when doctors may intervene is inexcusable. He also asked what are pregnant women in the medical profession to do. Twenty years later, it is long overdue that we move to legislate. The expert group has carefully and comprehensively set out the legal context in which we now have this discussion and the clear blueprint for the necessary legislation. The Minister has pointed out that this does not change the law but clarifies it. The report points out that the State must render effective a right already accorded, and confirmed in two referendums, by Article 43.3 of the Constitution as interpreted by the Supreme Court.

The report deals with a number of contentious issues. The Minister has pointed out that it deals with the issue of time limits, pointing out that a pregnancy may be brought to an end to save a woman's life without necessarily terminating the life of the foetus where it is or may

be viable, which addresses that issue. The report also deals with the second issue of suicide risk, raised by some commentators. It again sets out in a clear and practical way how suicide risk may be provided for through legislation and regulation. Where the risk to life arises from suicidal ideation the report points out that the diagnosis of expressed suicide intent is a routine process for psychiatrists. As such one of the clinical decision makers provided for could be required to be a psychiatrist in such a case.

The X case sets out a clear test. We cannot legislate for just a part of that case. As I have said elsewhere, that would be similar to being a little bit pregnant. It is simply not possible. It is also treating mental health somehow less seriously than physical health if we suggest that risk to life arising from suicidal ideation is somehow less serious. It is also an argument that is profoundly demeaning to women, suggesting that we are so deceitful we will be queuing up pretending to be suicidal in order to get an abortion. It is also undermining of the psychiatric profession who have professional training in assessing suicide risk. It is important to state that it is legally wrong to say that this would open the door to abortion on wider grounds, as some have suggested. The Supreme Court test is set extremely high. There must be real and substantial risk to life arising from risk of suicide. This is far higher than the mental health ground for abortion provided for in, for example, the British 1967 Act.

It is also important to point out that the people have voted twice since the X case, in November 1991 and again in March 2002, to confirm the X case test and to confirm the inclusion of suicide risk, even when it was explicitly put to the people that this could be excluded. Since the X case, there has been a further case in 1997, the C case, in which the High Court heard and accepted psychiatric evidence that a young girl pregnant as a result of rape was suicidal and that the risk of suicide was a real and substantial risk to her life. In recent weeks, seven eminent Irish psychiatrists have reminded us that suicide is associated with unwanted pregnancies in countries where abortion is not available. We are fortunate in Ireland in the sense that there is legal abortion available, albeit across the Irish Sea. To those who say there is no abortion in Ireland, I say while it does not happen in Ireland, in 2011, 4,149 women who gave Irish addresses had abortions in English clinics and that since 1983 approximately 100,000 women resident in Ireland have had abortions elsewhere. It is notable that our rate of abortion rose during the 1980s and 1990s. It is welcome that the statistics in this regard have decreased since the establishment of the Crisis Pregnancy Agency, which indicates that making contraception more accessible can play a large part in reducing the incidence of crisis pregnancy. As I said, we would all welcome greater access to contraception and sex education, thus reducing the incidence of crisis pregnancy.

I will now address the blueprint of the report. As stated by other speakers, chapter 6 sets out in detail the procedure that may be set out in legislation for determining the clear legislative or regulatory regime which the European Court of Human Rights required we should establish. The report suggests that two doctors with relevant training and expertise appropriate to the case would be sufficient to make a clinical decision on the risk to the life of a woman, be it physical or mental, and points out that special provision would need to be made for emergencies and for a review mechanism where a termination of pregnancy had been refused in the first instance. It states that this review panel could be established swiftly, with access only at the request of the woman. The report also points out, in chapter 6, that conscientious objection would be allowed subject to limitations, such as the duty to refer the patient to another doctor or to treat her in circumstances of imminent risk of death.

Chapter 7 of the report has been a major focus. This chapter sets out the options for imple-

mentation. As I stated, of the four options presented in the report the option of legislation plus regulation is clearly the one that carries with it the most advantages. We all realise that legislation is essential, and legislation together with regulations offers us the best approach to implementing the A, B and C v. Ireland judgment and finally fulfilling our legislative obligation to carry out the wishes of the late Mr. Justice Niall McCarthy in the X case.

I regret that the expert group report did not address the issue of fatal foetal abnormality. We have all heard the many harrowing stories from women and their partners who have had experience of this and have had to travel abroad for termination of pregnancy. It would be useful if we could encompass this in any legislation within the terms of the Constitution. Crucially, we must move swiftly. Senator Norris, Deputy Conway and I are hosting a briefing next Tuesday on the expert group report and the need for legislation, which we hope others will attend. It is hoped that a decision to legislate will be made by Government by 20 December and that we will then see legislation and regulations drafted during the first three months of next year. We need to move swiftly. It is key that we ensure no more women die.

Senator Rónán Mullen: I welcome the Minister to the House. I cannot imagine a more important debate taking place in this House. We are discussing one of the most difficult human questions that arises in the Western world today. I am mindful that we are speaking in the wake of a recent children's rights referendum, which happily was passed and resulted in the insertion of the words, "The State shall acknowledge the natural and imprescriptible rights of all children" into the Constitution.

In reflecting on profound questions, we should remember that our laws should always be infused with values of gentleness, love, inclusivity and humanity. The word "humane" featured in the Minister's speech. What is most humane about Ireland's abortion laws, for all our faults as a country - like other countries, we have faults - is that we have preserved, cherished and thrived within a two-patient model, namely, the care and protection of women in pregnancy and their unborn children, about which there is something merciful, just and noble.

Members of the Government may be teetering on the brink of making a tragic mistake. I hope it can be persuaded not to do so. It is unjust to link this important debate with the tragic events that took place in Galway when the details of what happened in that situation are not known. It has been reported in *The Irish Times* that it never suggested that a termination of the pregnancy would have saved that unfortunate woman's life. I am sorrowful at the co-option of that tragedy in recent weeks to advance a different political point.

I welcome the opportunity to discuss the expert group's report. However, I cannot compliment it on the consistent clarity and lucidity with which the Minister credits it. I will give an example. The report presents guidelines as one of its options but suggests that guidelines alone would not be acceptable to the Committee of Ministers of the Council of Europe. The report simply asserts this and does not provide any justification for it, other than that the guidelines are not legally binding. The reality is different. It is well accepted that the Committee of Ministers has in the past accepted administrative measures such as guidelines as discharging a member state's obligations in the wake of a European Court of Human Rights decision. The court stated in the A, B and C v. Ireland case that it does not decide on the means by which judgments are implemented. It is only concerned that accessible and effective procedures be offered in order that an applicant such as C would know what treatment was lawfully available to her.

3 o'clock

By such procedures somebody in applicant C's position could know what treatment was lawfully available to her. The court specifically referred to medical guidelines in its judgment and did not state that such guidelines would fail to address the rights' violation found in the case. In this regard it should be noted that when the court mentions legislative or regulatory mechanisms, it does so as a catch-all phrase intended to include all measures that would satisfy a member states's obligations under the convention.

Guidelines would bring the necessary clarity required and could also provide whatever appeal mechanisms were deemed necessary according to the judgment in the A, B and C case v. Ireland. The European Court noted that it was not calling for the current legal test to be altered. Instead it recognised that what was at issue was to provide accessible and effective procedures for the making of the medical test. Since it is agreed by all that the test in question is inherently medical in nature, it would seem that the best way to clarify it and its attendant appeal mechanisms would be by medical guidelines.

With regard to a referendum, the report fails to include as one of its options a referendum overturning the X case judgment, but there was nothing in the expert group's remit that would have precluded it from examining the possibility of a referendum. The terms of reference clearly state the taking into account of constitutional, legal, medical and ethical consideration. We have the reference to the fact that the only brief the Minister gave this group was to deal with the requirements of the European Court of Human Rights and to advise the Government how to give effect to existing constitutional provisions. Perhaps the Minister can explain how that came about or why and when that brief was given as it seems to put a new meaning on the terms of reference, which do not of themselves admit a construction that the possibility of constitutional change could have been considered. Notably the European Court of Human Rights has consistently affirmed that there is no such thing as a right to abortion. In the A, B and C v. Ireland case it is stated again that Ireland is free to decide on its own abortion laws. Therefore, a referendum was and is a very real option and should have been included in the report. Some activists and activist Ministers have suggested that two similar referenda have failed in the past and, therefore, there is a clear indication that people do not want to overturn the X case judgment. That is simply false. The referenda of 1992 and 2002 were defeated by a coalition of pro-life, pro-choice groups and voters for a variety of conflicting reasons. This is a well established fact of Irish political science because there was an exit poll from the 2002 referendum which showed that a majority of people voted for pro-life intentions. A referendum therefore that focuses solely on overturning the X case judgment would and could garner the support of a majority. That is still borne out by the most recent poll in the *Sunday Business Post* which put it that 63% would favour a limiting of the X case scope to exclude the threat of suicide, which as we know is controversial and unmedical.

Another glaring flaw in the report is that it suggested that any measure short of amending the Offences against the Person Act 1861 would leave this Act on the Statute Book and constitute a chilling effect on doctors performing genuinely legal interventions in pregnancy. This has been seized on already in this debate. Such an assertion can be made by ignoring not only the central role of *mens rea* in our criminal law but also that statute law is operative only to the extent that it is in conformity with the Constitution. The facts are plain, no doctor has been prosecuted let alone convicted for an unlawful abortion since the 1983 referendum. There is simply no chilling effect. In fairness to the judgment in the A, B and C case v. Ireland, it mentions the concept of a chilling effect only in the context of the absence of legal clarity, which it

is proposed to provide. That frankly is a sad red herring.

There is uniformity among all citizens of goodwill that we must always guarantee best medical treatments for women in pregnancy and for physical conditions, including where it is foreseeable that the child will be lost. There is an established tradition in medicine in other situations outside of pregnancy of giving treatment that one knows may carry a potential harm to a patient but because it is not the direct intention, it is nonetheless ethical and lawful. The difficulty is that there is nothing humane about the decision that a threat of suicide could constitute the threat to life. It is a medical myth. We do not have a constitutional principle requiring a Supreme Court judgment to be legislated for. We do not have any reason or principle to give legal effect to what is a medical mythology. One of the advantages of both guidelines and referendum approaches is that they avoid legislating for the X case. Why have seven successive Governments decided against legislating for the X case in spite of a resolutely pro-abortion media? The answer is simple, the X case was a flawed judgment, based on non-existent medical evidence. No psychiatrist was heard. We saw in the C case which Senator Bacik mentioned - the person told her own story

Senator David Norris: On a point of order, I would like direction as to whether it is appropriate for a Member of the Oireachtas to openly challenge a judgment of the Supreme Court, as has just been done?

Acting Chairman (Senator Paschal Mooney): Under the separation of powers, it is not appropriate.

Senator David Norris: It is not appropriate.

Acting Chairman (Senator Paschal Mooney): Let me advise Senator Mullen that he has exceeded his time.

Senator Rónán Mullen: I appreciate the Chair's ruling. It is certainly appropriate. Any citizen may criticise a Supreme Court judgment.

Senator David Norris: I understand the judgment of the Chair is now being challenged as well. That is very worrying in a democratic House.

Acting Chairman (Senator Paschal Mooney): The Chair's ruling is that there are clearly defined roles in the Constitution for the separation of powers and as someone who fell under this particular ruling earlier this week, I must reiterate that Senator Mullen would not be making appropriate comments.

Senator Rónán Mullen: It might be of assistance to the Chair for me to say that I am not attempting to usurp the role of the Supreme Court. I am simply criticising its reasoning, which has been done by many a jurist and people far more eminent than I.

Acting Chairman (Senator Paschal Mooney): The Senator has exceeded his time. I was very liberal in giving Senator Mullen extra time because of Senator Bradford's precedent, but he is over his time.

Senator Rónán Mullen: In light of the spirit that has operated, may I make a few concluding comments? I will be brief.

Acting Chairman (Senator Paschal Mooney): The Senator has had up to ten minutes.

He will be preventing somebody else.

Senator Rónán Mullen: In conclusion, we should not forget the British experience in which approximately 95% of the 190,000 abortions that take place in Britain each year are on mental health grounds. We have heard how difficult it is for psychiatrists to predict that a person is suicidal. We are now expecting them to tell us that not only that a person is suicidal while pregnant but they are suicidal because they are pregnant.

An Cathaoirleach: The Senator is over time.

Senator Rónán Mullen: For that reason I urge the Government not to go the rather ideological route of pretending there is a medical ground that is good for women, when there is not.

An Cathaoirleach: The Senator is way over this time.

Senator Rónán Mullen: It would be fatal for children.

Senator Deirdre Clune: This is a very sensitive issue. I understand that individuals have personal views and experiences. Childbirth and pregnancy are wonderful experiences but they throw up some difficult and tragic situations. Each and everyone knows of incidents that have been highlighted in both Houses.

I am glad that the Minister is clear on the commitment of Government to act on the recommendations of the expert group. I thank the expert group for its clear report. It sets out the background as to why we are in the current situation and the options to move forward. It sets out in paragraph 4.7 the implications of the State's obligations on the judgment in the A, B and C v. Ireland case. We are considering the C case. I quote:

Arising from the judgment, Ireland is under a legal obligation to put in place and implement a legislative or regulatory regime providing effective and accessible procedures whereby pregnant women can establish whether or not they are entitled to a lawful abortion in accordance with Article 40.3.3° of the Constitution as interpreted by the Supreme Court in the *X* case, and, by necessary implication, access to abortion services in the State. It would obviously be insufficient for the State to interpret the Court's judgment as requiring only a procedure to establish entitlement to termination without also giving access to such necessary treatment.

The Court noted that since the *X* case, no criteria or procedures have been subsequently laid down in Irish law, whether in legislation, case law or otherwise by which that risk to a woman's life is to be measured or determined, leading to uncertainty as to its precise application.

We are at that point today. It further states:

The European Convention for the Protection of Human Rights and Fundamental Freedoms is an international agreement which Ireland has signed and ratified and which is consequently legally binding upon Ireland.

We have a legal obligation and a duty to comply with the judgments of the European Court of Human Rights which is an integral part of the convention. We need to examine its recommendations and ensure we comply with them.

Many clear options have been outlined in the report of the expert group and the Government will make a decision shortly on how it will proceed. A combination of legislation and regulations seems to be the way forward if we are to balance the advantages and disadvantages. The report also outlines clear options for implementation, decisions on entitlements and review procedures. It is clearly laid out. It deals with many of the difficult medical and legal decisions that have to be made. Many of us are not equipped to deal with such matters. The capacity and the structures are in place to spell out how we can move forward in this area.

The issue of suicide has been raised and seems to be a difficult one for many. A recent letter in *The Irish Times* which was signed by eight psychiatrists referred to international documented research and findings in this area. It read, "There is no evidence that women post-abortion are at an increased risk of suicide ... but there is evidence that suicide is associated with unwanted pregnancies in countries where abortion is not available". I know we can make arguments on the other side also. While we can have our opinions on the issue of suicide, I do not think any of us is equipped to make decisions or adjudicate. I am very uncomfortable with the language used in this debate. In many ways, women are deemed to be second-class citizens. There is a suggestion women who are pregnant and suicidal are not to be believed. That is not right and I do not want us to attempt to provide for this in legislation. When we attempted to do so in the Constitution on two occasions, the people in their wisdom rejected it.

I am glad that we have reached this point. We have a clear document that shows us how we can move forward and I look forward to the Government's decision. We will have an opportunity to listen to various interest groups on the issue when the Joint Committee on Health and Children holds its hearings early in the new year. When legislation is introduced, Members of both Houses will be able to deal with an issue that has been hanging around for too long. I have spoken to many people who want us to get on with it by legislating and putting structures in place that will allow an abortion to be performed if the mother's life is at risk. Nobody wants to see abortion on demand. I lived in the United Kingdom over 20 years ago and had my first child there. I certainly do not want that country's type of abortion regime to be implemented here. The UK legislation was established on the basis of mental health, rather than the risk of suicide, which is what we are talking about here. The two are completely different and cannot be compared. We have a roadmap that will allow us to move forward in a sensitive manner. If we are to respect women as individuals, we should not assume that those who say they are suicidal are using it as a cover to have an abortion. It is insulting and degrading to women to disbelieve them in such a way.

Senator Averil Power: As an adopted person, I have always been deeply conflicted on the issue of abortion. When people speak about unwanted pregnancies, I cannot help but reflect on the fact that I was the unplanned daughter of a single woman. When she became pregnant in 1978, she did not have the option of keeping me such that I could grow up as part of her family. I am grateful that through adoption I was given a chance to be part of another family and to get to know my birth mother and half-siblings later in life. When some individuals on the pro-choice side speak about abortion as a simple women's rights issue, without a thought for the life of the unborn child, it upsets me greatly. The lack of compassion some of the most extreme pro-life groups extend to women in distress, particularly those who are victims of rape or whose lives are at risk, is just as distressing. My view is that while abortion is never desirable, in some circumstances the consequences of it not being available are worse. We do not yet know if the termination for which Savita is said to have pleaded would have resulted in her life being saved. Perhaps we will never know with absolute certainty, even after the various investigations have

concluded. What is clear, and was clear long before her death, is that the failure to legislate for the judgment in the X case has left doctors in an unacceptable legal limbo and women without the protection they deserved.

Senator Jim Walsh: No doctor is-----

Senator Averil Power: I appreciate that abortion is an emotive and sensitive issue. I understand some Members of this House, including some members of my own party, to which Senator Jim Walsh will attest when he makes his contribution, have deeply held moral or religious objections to abortion in any circumstance. However, as legislators, we have a responsibility to uphold the Constitution and it is clear from the judgment in the case of A, B and C v. Ireland that the Oireachtas has failed to fulfil that responsibility. According to the European Court of Human Rights, the lack of legislation has resulted in “a striking discordance between the theoretical right to a lawful abortion in Ireland on grounds of a relevant risk to a woman’s life and the reality of its practical implementation”. It is clear from the judgment of the European Court of Human Rights that Ireland is required to put in place an effective and accessible procedure to enable women to establish whether they qualify for a termination in the State in accordance with the test set out in the X case criteria. Maintaining the *status quo* is not an option. It is past time for us to legislate for the judgment in the X case. It is past time to give proper and practical recognition to the constitutional rights of pregnant women whose lives are at risk. It is past time to give doctors a clear legal framework in which they can act to protect mothers’ lives without the chilling effect of the 1961 Act hanging over them.

I welcome the expert group’s report which, like Senator Fiach Mac Conghail, I have read in detail. I have considered each of the options put forward in it. My belief is that a combination of legislation and regulations is the most sensible approach. Primary legislation would give us the legal strength we need on this issue, while regulations would mean the legislation would not have to be excessively detailed. The regulations would put the meat on the bones of the legislative position. I hope legislation will be brought before the House as soon as possible after Christmas, as we have already had too much of a delay on the issue.

However, I am also conscious that when we legislate for the judgment in the X case, we will still be leaving some of the most vulnerable women in the country without the support they deserve - victims of rape and women whose babies have fatal foetal abnormalities which the expert group has stated are generally thought to be outside the scope of the X case. I would like to read from an e-mail I received from a woman who has faced such circumstances:

I had always been someone who said I would never have an abortion - unfortunately I didn’t know what lay ahead for me. I was with my husband 10 years when we decided ... to have children. Much to our delight after ten months I finally fell pregnant. I did everything right, I took care of myself [and took] folic acid ... My bump grew and I began to feel my lovely baby kick me and move about. I finally received my appointment for my first scan at 22 weeks ... and here all changed. When I had my scan I was told that my beautiful daughter had a condition called anencephaly [which meant that she] had no hope of surviving and would die without a doubt. If she survived the pregnancy, she would probably die at birth or within a few hours. To say we were heartbroken is an understatement ... How would I cope emotionally? How could I keep growing day by day and feel this baby inside me? How would I deal with the questions from well meaning people - when is your baby due [they would ask me]? How could I watch my perfect baby struggle and die in my arms? After much deliberation, I felt it would be too difficult to continue with the pregnancy knowing

our daughter was going to die and I opted for a termination in the UK ... Because of our laws, I was not allowed receive any help from the hospital here I wanted this baby so much but [I knew] she was going to die - no medical intervention could prevent this. It was the most difficult thing in my life. I had to leave my home, my comfortable surroundings and travel to a strange country [it] was difficult enough without having the added problems of travelling to the UK I could have had all my family around me. I could have had my own comforts. I could have seen my lovely daughter and buried her close to me. Now, I will never know what she looked like and I have no place to visit her.

The lady who sent me that e-mail said she never thought she would have an abortion. However, it is clear from the circumstances she outlined in her e-mail that this is not a black and white issue. My personal experience and the circumstances of my own birth mean I will never support abortion on demand. It just does not sit with me. It is not a choice between two extremes. It is not a choice between no termination in any circumstance and a fully liberalised regime.

It is certainly not a choice between the current Irish system and that in place in the United Kingdom, although Senator Rónán Mullen may have implied that it was. As Senator Deirdre Clune rightly pointed out, that is comparing apples and oranges. Nobody is suggesting we introduce the UK system here. We should legislate for the judgment in the X case, but we should also have a referendum to let the people decide whether abortion should be available to victims of rape and incest and women whose babies cannot survive outside the womb.

Senator Susan O’Keeffe: I thank the Minister for coming to the House. Like others, I welcome Mr. Justice Ryan’s expert group’s report. I also welcome the Minister’s clear observation that the Government will bring legal clarity to the question of legal abortion and that this will be done within an appropriate timeline. After all, there has been a long wait for the legislation.

While I welcome the expert group’s report, we did not need it to tell us what we need to do. As it is only women who can give birth and there is no control over biology or the birth process, it will always be women whose lives will be at risk. It will always be women’s bodies that will be subject to the wear and tear. It will always be women who will go through the trauma and, I hope, the triumph of bringing new life into the world. Therefore, this is about women and their health and how Ireland in the 21st century wants to respond to that need. As others said, this is a complex issue because in giving birth there will always be a risk - a risk to the baby and the mother. Any of us who is lucky to have children knows this in a personal way. Some of us also know the heartbreak of losing a potential life and the grave risk we endured in that process. Giving birth is both fraught and dangerous, even when it goes well, because there is always a risk. How could there not be at such a dramatic moment?

As human beings, our first instinct is to protect. Generally, that is what we all do in everything, but the great challenge in pregnancy is that in the circumstances we are discussing there are two lives in the mix, not one, and one of these lives is entirely dependent on the other. Of course, there are no easy answers, but that is no reason to sidestep trying to answer them and in the process suggest and pretend that women’s lives are not important, especially those at risk of suicide, and that they might, as others said, be faking it. We have debated the issue of suicide frequently and expressed ourselves as being concerned about the growth in the incidence of suicide, but, apparently, when it comes to pregnant women potentially being suicidal, they are somehow fair game. I cannot find words to express my horror at what has happened in the middle of this debate. Senator Rónán Mullen used the term “unmedical”, whatever that might

mean.

Even though we did not need an expert group to tell us, its report does bring welcome clarity to the debate and we must now move into the legislative arena. The Minister and the Government understand strong legislation and coherent guidelines, as suggested in the report, would provide a framework to protect women and give much needed support to the medical profession, the members of which face difficult decisions each time they are called to act in a crisis pregnancy. The report sets out a clear blueprint for such legislation, including the appropriate qualifications of doctors, lawyer involvement, appropriate access to the courts and the nature of a formal review process, among other issues. Legislation will be difficult and take time, but much of the basic work has been done by the expert group in offering a framework, for which we thank it. I, therefore, urge the Government to put the legislation at the top of the drafting list, call together officials in the Departments of Health and Justice and Equality and ensure the drafting process starts immediately. Having waited 20 years since the landmark X case and in truth for much longer because there were many others before the X case who never had a chance to have their voices heard in court, clarity and decency would be brought to the medical profession and women in the first quarter of 2013.

Ireland should be a modern, progressive country that treats all citizens equally. Our 19th century law is a voice from another time. Like others, I find it insulting and demeaning to have to listen to some of the lies and innuendoes which those who profess to be pro-life bring to the debate. I am astounded by some of the misogynistic tones. I am pro-life. I am pro the lives of women and babies, but if a woman in Ireland or anywhere else is ill during pregnancy, physically or mentally, her life must be protected. How could it not be?

I do not want to let the debate end without mentioning Savita Halappanavar. I pay tribute to her husband, Praveen, and his dignity. We are not aware of all the circumstances of the case, but it has certainly contributed to the debate. I urge the Minister and the Government to consider initiating a sworn independent inquiry as the appropriate way to find out what happened. I firmly believe an independent inquiry would be the most appropriate way to respond to this tragedy, not instead of the HSE inquiry which is obligatory but in addition to it. That the HSE appears to have breached its own guidelines in not having a local case review immediately after her death is a separate issue.

Senator Marie-Louise O'Donnell: I thank the Minister for coming to the House. Many Senators are not present as they are attending a lecture on human rights by the Secretary of State, Mrs. Hilary Clinton, at Dublin City University. I was going to ask Senator Averil Power to stay because what I have to say locks directly into what she said. I feel a little like Mrs. Roosevelt. Human rights start in one's own kitchen, which is why most of us are here today. The Government won a 2006 European Court of Human Rights case on the right to terminate a non-viable pregnancy. Where does that leave the sacred and profound nature of the case in Galway and the case the Senator mentioned so poignantly? It involved the D case, where a woman had become pregnant with twins, in which one foetus died at 14 weeks and the other had a life-threatening syndrome, Edwards syndrome, and the woman had travelled to England for an abortion or termination. Ms de Barra did not go through the Irish courts. She took a case to the European Court of Human Rights and her argument was that it was a breach of her rights that the only way in which she could have ended the non-viable pregnancy was to travel to England for treatment and a termination. The case began in 2005 and the court in its judgment ruled in favour of the State on the right to an abortion in Ireland where a foetus had a life-threatening abnormality. Dr. Gerard Hogan, senior counsel, the law agent acting on behalf of the State, argued

that Ms de Barra would have had good prospects of succeeding had she brought an application to the Irish courts for a legal abortion in Ireland and he won the case. He argued that the X case had demonstrated the potential for judicial development in this area and this is the kernel of my argument. According to the judgment of the European Court of Human Rights, the foetus in the X case was viable, whereas in the D case there might have been an issue as to the extent to which the State was required to guarantee the life of a foetus with a lethal genetic abnormality. Dr. Hogan also argued that the courts in Ireland were unlikely to interpret the X case judgment with remorseless logic, particularly where the facts of the case were exceptional. Both he and Donal O'Donnell, senior counsel, also argued on behalf of the State that it had been established that if there was no realistic prospect of the foetus being born live, there was at least a tenable argument that would be seriously considered by the domestic courts to the effect that the foetus was not an unborn for the purposes of Article 40.3.3° or that, even if it was an unborn, the right to life was not actually engaged as it did not have the prospect of life outside the womb. This is extremely important. They argued that a foetus with a life-threatening abnormality might be found not to be eligible for constitutional protection by the Irish courts. He argued that if it was unborn, its right to life was not actually engaged, as it had no prospect of life outside the womb, and he won.

It was also noted by the European Court that there was a feasible argument to be made that the constitutionally enshrined balance between the right to life of the mother and the foetus could have shifted in favour of the mother where the unborn suffered from an abnormal incompatibility with life. Where does that leave the sacred and profound nature of the Galway case? Where does that leave the sacred and profound nature of what Senator Averil Power has spoken about?

As the Irish State won a case in the European Court of Human Rights on the right to terminate a non-viable pregnancy, why was the D case not part of the experts' report? Can I be assured that future legislation and regulation will include it? Why have I heard so little about it? Why does the Government think one thing in this country and argue another in the European Court of Human Rights? Why, why, why? Why is the State now doing what it has almost done already in the European courts? The D case may bring the kind of clarity the Minister mentioned earlier, a different kind of clarity, but perhaps one we need. Why was the D case not included in the experts' report? He won the case.

Senator Aideen Hayden: Any debate on the issue of abortion, irrespective of the context, will be a debate that is fraught in the Irish context. Since I have become involved in political life, whether through my quasi-political involvement during my student union days in UCD or party political involvement, abortion has dominated the scene. I find this astonishing, because in much of that time I worked with disadvantaged people in areas like Crumlin, Darndale and Ballymun. Many of the people I dealt with were lone parents who were facing extreme poverty, yet their needs did not garner the same amount of attention as the 1983 constitutional amendment on abortion or as any of the subsequent constitutional amendments.

I am somewhat cynical and remain cynical about the ongoing debate in Irish society on the issue of abortion. This country has approximately 50,000 live births per annum, but some 14,000 women will have a miscarriage in the same year. A miscarriage is a very emotional and traumatic experience, but for some of the women who have a miscarriage, it will not just be emotional and traumatic but may, in the most extreme circumstances, threaten their lives.

I spoke in this Chamber on the death of Savita Halappanavar which was a very tragic case.

However, the circumstances of that case remain to be proven within the proper legal context and within the context of the proper inquiry. I will not, therefore, engage in discussion of that case. We have the expert group report before us today and it predates anything else that has happened recently in this jurisdiction. The report must be debated on its merits in that context. The report provides a very thoughtful explanation of what has occurred within our society and of the law in regard to this issue. It is a thoughtful and well presented report of the options available to us as legislators for the future. The expert group has made its position very clear as to what it considers the future should be, yet it is conscious and straightforward in saying it is not its function or role to dictate to the legislature.

If I was somebody who ever had a mental health difficulty or who had ever considered suicide or who lived in a family where a member of that family had ever considered suicide, I would be deeply upset about some of the commentary in this country in the past couple of weeks. Presenting the threat of someone taking her own life, as I heard one speaker present it, as though it was something that could be dealt with through a bit of tender loving care and a bit of counselling, completely undermines the serious mental health issues faced by people who consider taking their own lives. The expert group does not leave us in any doubt. The threat of somebody taking her life through suicide is a real threat. As legislators, we must not walk away from that reality. I do not believe the Labour Party will walk away and I hope our partners in government do not either.

I do not believe the issue of abortion will ever go away, nor do I believe it should. This is a debate that should be ongoing and which should be aired more in the future. If nothing else, the expert group report has brought into the open some of the issues we have been hiding for the past number of years. Dare I say it, but this is a class issue. People with money can vote with their feet, and they do. They do so in serious numbers. People without money cannot. They depend on us to put in place a legal system that protects them. Not only are we duty bound to do that, we are also duty bound to put the resources into protecting women in this country.

Senator David Norris: This is an extremely important debate and what has happened here today in this House illustrates that. It is remarkable that every woman who spoke here took a charitable and understanding view of the complex issues. However, not all of the men did so. It was very courageous of Senator Power to put her personal story, with all its complexity, before the House and to illustrate that Fianna Fáil, as a party, has refused to be railroaded for political gain into one particular corner on this debate. I welcome the fact this was demonstrated here today.

I welcome the excellent contributions of Senators Clune and Hayden, but the most important contribution so far was that of Senator Marie-Louise O'Donnell. I urge the Minister to take what she said back to Government, because it is clear there is the capacity to legislate in the area of foetal abnormality. As a mere man, I hope it does. It is barbarous to sentence women who are the victims of rape, incest or whose foetuses have a severe foetal abnormality - a child that would be born without a brain - to bearing those foetuses to full term. We should let it sink in what foetal abnormality means. It means a child without a developed head. We presume to take to ourselves the power to force women to bear these incomplete foetuses to term in order to satisfy some religious scruple of our own. It would be difficult to meet that extraordinary arrogance elsewhere and the majority of people wish there was not that arrogance.

A Senator whom I will not name, as he is not here at the moment, challenged the ability of the Supreme Court, but I am glad to say I managed to have the record corrected. He went on

to impugn the Ryan report. He also impugned the voice of the Irish people as expressed in two referenda and in doing that he also impugned the intelligence of the people by saying they were so stupid they did not actually know what they were doing.

The pro-life movement uses the words “unborn” and “unmedical”. I am very glad the Minister for Justice and Equality, Deputy Shatter, has taken the same position I have had for a number of years, of challenging those who take over the language system, because once one has the language system under one’s control, one has won the argument. We must resist the stress on words such as “unborn”, “pro-family”, “pro-life”, “unmedical”, etc. We must use our intelligence. We were told here earlier that the fact that no doctor had been convicted meant there was no chilling effect. Really. What it means is that the doctors were so confused by the grey area or so threatened by it that they did not take the action they knew was medically required. If anyone doubts this, they should have watched, with me, most of the prominent gynaecologists in this country, including the masters of the two largest maternity hospitals, saying that it had a chilling effect. We must listen to them.

I believe in listening to the other side and for that reason attended the briefing in the audio-visual room. The main point left out by a previous speaker, when talking about tender loving care in the context of suicide and so forth, was that they also use drugs to sedate people. While I was there, for quite a considerable amount of the time, there were 40 men and only three women in the room and that suggests a certain lack of balance. The idea of suicide was challenged but I do not care, to be quite honest. Suicide is a valid consideration, irrespective of whether it is real. If a woman was raped or was pregnant as a result of incest, she would be terrified that she would not be allowed the appropriate medical treatment and in those circumstances, I think it would be legitimate for her to say, “I am so upset that I am thinking of taking my own life.” Who is to challenge that? We should be honest in addressing these issues.

I am glad something is to be done on the 1861 Act - 1861 is a long time ago - and I am familiar with it because I challenged it in the European Court of Human Rights. I lost in the two courts here but I won in Europe and I am glad we are looking at this aspect of the legislation again. I have said for the last 25 years that, sooner or later, however difficult and however awful a situation it may appear to people, we have to face the question of abortion. I found it very interesting that the Minister spoke about “lawful abortion in Ireland”. That is a phrase that would have been unthinkable ten, 15 or 20 years ago.

I remember, about ten years ago, reading and being moved to tears by a letter in *The Irish Times* by a woman who had an anencephalic pregnancy. It was a foetus, it was not a child. How could one say it was a child? I do not see how one could say it was a child. It had no brain, no spinal cord, no nervous system, no capacity to feel or sense. How is this human? How is this fully human? I do not understand it. It is a misuse of language. She was forced to continue that pregnancy and with great courage, she wrote and signed that letter and included her address.

Senator Power read an e-mail and I would like to read part of another. This e-mail contains grammatical errors and was not sent by some mad, liberal campaigner from Dublin 4. She was pregnant but her baby had Meckel-Gruber Syndrome. Such babies survive inside the mother because the umbilical cord continues feeding them but they will “100%” die during or after birth. She wrote that such babies “are severely deformed, where the back of the head doesn’t form and the brain grows on the outside, no fluid around them and almost always have organ failure”. She continues, “I went full term and had to have the baby because it was five months when we found out about the problem - too late to terminate”. She then had a few more preg-

nancies but:

...with the fourth pregnancy we found out it had happened again and had to find out about a termination all on our own as the doctors wouldn't even talk or give advice to us on this subject. It was so taboo that they would not say anything to us that might cost them their jobs. We ended up going over to an appalling clinic where we were treated like dogs and pushed out the door, 15 minutes after the termination. There were do-gooders outside throwing holy water on us and praying for us. So drowsy and sore. We then had to go to the airport for our flight back home and all in all it cost us €2,000.

I am deeply ashamed that that happened to that woman and I do not care what the consequences are-----

An Cathaoirleach: The Senator is way over time.

Senator David Norris: I do not care what kind of unpleasant letters are sent to me anymore. It does not bother me at all. I want to nail my colours to the mast and say this - I believe a woman has the right to choose, not just in the circumstances indicated in the major case but also in the circumstance where there is severe foetal abnormality and the foetus has no capacity to live or where there is incest or rape. Providing for abortion in those three instances, in addition, is the most humane way to respond to this most terribly difficult human situation. I am a man and we ought to listen very carefully to the voices of women before we presume in this area.

Senator Cáit Keane: The debate we are having today is very sensitive. I acknowledge the work of the expert group, under the expert chairmanship of Mr. Justice Seán Ryan. I also acknowledge the work of the late Trevor West, a former Senator, who worked alongside former Senators Mary Robinson and John Horgan in presenting a Bill on contraception to this House in the 1970s, which was not accepted. The Supreme Court ruled on contraception in 1973 but it was more than 11 years later before legislation permitting the sale of contraceptives without a prescription was passed. Here again we find ourselves dealing with a court ruling on a matter of social policy and we as legislators are keeping up the rear on it. I wanted to make reference to the three former Senators who worked on the contraception issue because earlier today we paid tribute to Trevor West, who died recently.

As Senators have said, abortion is a very sensitive issue. The 1861 Offences against the Person Act is the law under which doctors are operating. On December 16 2010, the European Court of Human Rights noted "a striking discordance between the theoretical right to a lawful abortion in Ireland on the grounds of a relevant risk to a woman's life and the reality of its practical implementation". The court ruled that "no criteria or procedures have been subsequently laid down in Irish law, whether in legislation, case law or otherwise, by which that risk is to be measured or determined, leading to uncertainty as to its precise application". This is where we as legislators find ourselves today - surrounded by uncertainty. As legislators, we cannot allow this uncertainty to continue. It is our duty, whether we like it and regardless of our personal views, to remove the legal uncertainty. It is almost 30 years since the 1983 abortion referendum and 20 years since the X case ruling.

We are still influenced and governed by 19th century law, namely, sections 58 and 59 of the Offences against the Person Act. We await the outcome of an investigation into the very sad death of Ms Savita Halappanavar and I will not comment further on that except to say we do not know the facts of that case yet. It is not strictly relevant to this debate however because

this issue was on the table for the Government long before she died. It was included in the programme for Government, which makes explicit reference to the expert group. Sad as the case of Ms Halappanavar is, we must await the report from Galway.

It is important to bear in mind that the Government has consistently stated its commitment to implement the judgment of the European Court of Human Rights. The expert group's report commented on the option of guidelines versus legislation in its final chapter. The four options were referred to earlier by the Minister and others and these are being considered by the Government. The report also noted that guidelines alone would be subject to legal challenge and that "only the implementation of a statutory framework, compliance with which would provide a defence from criminal prosecution, would provide legal protection to medical practitioners. It would also counteract the effect of the 1861 Act, were this to remain in force". The expert group also noted that the legislative route alone might be too rigid an approach and that is where the issue of guidelines comes in. We do not want to tie any doctor's hands when he or she is making a life or death decision about a mother or a child by the rigid application of a law. We are not experts in the fields of medicine or psychiatry. Sometimes we think we are experts on social policy but we are not. We think we are experts on politics but we see that we can be wrong. I know we are not expert in psychiatry and we must not be too rigid in our approach. These issues must be considered carefully by the Government before making any decision.

The expert group has done its job and presented its report but the decisions must now be made by the Government and the Minister has committed to this. The A, B and C v. Ireland cases have been mentioned and dwelt on long enough. However, Senator O'Donnell also referred to the D case. As far as I know, Mr. Justice McKechnie gave the ruling on the case but it was not about abortion but the right to travel and that is why it was not considered by the expert working group. The judge was ruling on the right to travel and it was not argued on abortion grounds. The HSE lost the case because it was ruled that the girl had a right to travel. That girl wanted to have her baby. She said in court that she had bought the nappies and everything else and she wanted to have her baby, but because the child was suffering from anencephaly, a brain disorder where half of the head is missing, she found that she had no choice. She was in the care of the HSE because her mother was an alcoholic. That is why the case was taken. It is important that this is stated. It is also important that the Minister researches the case and the particulars of the right to travel. It is not an open-ended case. We cannot legislate for every sad case in the country that arises. This is a tight legislative proposal from the expert working group.

An Cathaoirleach: The Senator is over time.

Senator Cáit Keane: Our poet from Templeogue, Austin Clarke, who died in 1974, wrote a very nice poem that was published in a medical journal in 1970 on the issue of contraception. I do not have time to read it-----

An Cathaoirleach: We will not have a recitation today.

Senator Cáit Keane: There will be no recitation.

Senator David Cullinane: I was quite taken by the contributions from all the female Senators who spoke compassionately and eloquently about the issue of abortion. We could all hear the emotion in Senator Power's voice earlier when she read out the powerful e-mail she received from a constituent, who had found herself in a difficult place like many women do.

The reason women are best able to express this issue is because they fully understand what women go through when they find themselves in these circumstances. This is why I was also taken aback by some of the commentary by people who describe themselves as pro-life. I agree with all the other speakers who have a similar position to me on this issue. We are all pro-life, regardless of where we stand or sit on this issue.

The issue of suicide was raised by at least one Senator, if not more, and by many people outside the House. It is deeply insulting to women to suggest they would use the issue of suicide simply to get an abortion. The creation of a perception that women would go shopping around general practitioners trying to get them to sign forms to have an abortion is absolutely wrong and it is deeply insulting to those who are our mothers, sisters, wives, girlfriends, family members and so on. It is deeply insulting to the women of Ireland and elsewhere.

Mention was also made of the Supreme Court judgment, which some people have called into question. They are entitled to disagree with the court's findings but they should not spread misinformation about the Supreme Court ruling. These people peddle the lie and spread misinformation despite the fact that it is corrected *ad nauseam*. The Supreme Court did not hear medical evidence. These people know and we know that the Supreme Court is an appellate court and it does not hear medical evidence. The medical evidence was heard by the High Court. The job of the Supreme Court was to analyse that information and to ensure that it made a correct interpretation of the evidence before the High Court. Essentially, its purpose was to re-evaluate the evidence and information of the High Court. That is a fact but of course we have had misinformation from people who want to use this issue for their own reasons and that is wrong.

I struggle with the issue of abortion because I am not someone who believes. I believe the term "abortion on demand" is ugly. I am not in favour of liberal abortion regimes and do not believe people should have an abortion for any reason at any time. However, I fully accept that there are circumstances in which a termination is necessary and fully agree with the consistency of my party's approach, that is, in instances where a woman's life is in danger, including those relating to mental health but also in cases of rape and incest a termination should be allowed and that the final choice should rest with the woman.

We all know of the tragic case in Galway and we can all sympathise with Ms Halappanavar's family. We know about the A, B, C and X cases. These are not simply figures in an alphabet. These are women who found themselves in very difficult circumstances and were compelled to bring the State to court. Sometimes their claims were upheld and sometimes they were not. However, a consistent feature in all these cases was that they showed up that we have failed as legislators. We need to correct this position. We have a clear role as legislators to ensure that we protect the health of women. This is what the issue is about; it is not simply about abortion. One could argue that it is not about abortion at all but ensuring that the health of women is protected.

I refer to the issue of suicide. The Minister of State was in the Chamber for several of the debates. I took part in the debates on suicide as well. One thing we all agree on is the need to de-stigmatise the issue of suicide. Where does this fit when people use the issue of pregnant women as they do to create a perception that they will use the issue of suicide to have an abortion? I find this offensive and cannot under any circumstances accept the notion as put forward.

The Minister of State is aware that my party tabled a Private Members' Bill some weeks

ago. She is aware that we supported Deputy Clare Daly's Bill when it was tabled in the Dáil and she knows that if the Government brings forward legislation in line with the X case, my party will fully support it. We want to Minister of State to do so as quickly as possible.

The other issues of rape and incest will not simply go away. We will come back to this issue. I fully accept that we can have legislation in line with the Constitution on this issue, but I hope we will consider the issues that we cannot deal with now in a legislative sense. Perhaps sometime in the future we might hold a referendum on these issues in order that we can ensure we protect vulnerable women when they find themselves in these circumstances.

Senator Jim Walsh: Many Members have referred to the referendum in 1983 and the X case in 1992 and the European Court of Human Rights judgment. That is what has brought us to this point. Obviously, there is disagreement on the issue but there are also areas of agreement. Certainly, where there is a real and substantial risk to the life of the mother, pro-choice and pro-life people agree that the mother should be entitled to every medical treatment and intervention without inhibition in order to save her life. This applies even in circumstances in which it is known that by treating the mother and giving her necessary treatment it would lead to the loss of life of her baby.

4 o'clock

An ethical and moral distinction needs to be made. There is a difference between offering the mother every available treatment, on the one hand, as a consequence of which the baby dies, and, on the other, adopting a position from the start where the life of the unborn baby is targeted. This distinction needs to be recognised.

The House debated the issue of embryonic stem cell research a number of years ago. In preparation for that debate I read an article by Professor William Reville, associate professor of bio-ethics in UCC. He comes from New Ross. He was a very bright student and a number of classes ahead of me in school. He wrote about the continuum of life, that life began at conception and ended at natural death. He argued that if that life was interrupted at any point along the continuum, whether it be in middle age, childhood or in the unborn state, the effect was the same. He said this was an arbitrary decision for anyone to take. I can circulate his article to those who may be interested in reading it.

I will not challenge the decision made in the X case, but it must be recognised that no expert psychiatric medical advice was tendered during the High Court case or in the subsequent Supreme Court hearing. To the best of my knowledge, no doctor has been prosecuted in the interim. I am conscious that a number of psychiatrists, including the late Dr. Anthony Clare, said that suicide and mental health had become a wedge in other jurisdictions for the introduction of abortion. Dr. Clare changed his view from being pro-choice in 1992 to being pro-life in 2002. I refer to the 1973 *Roe v. Wade* case which changed the attitude in the United States to abortion. Norma McCorvey was the woman who took the case and she subsequently became a strong pro-life advocate.

What concerns me about the suicide issue is that suicide cannot be diagnosed. In Britain one in every four or five pregnancies ends in abortion. Approximately 600 abortions a day are carried out in Britain where since 1967 approximately 7 million of the unborn have been aborted. Only 143 were undertaken for the reason that the mother's life was at risk. Abortion has become so routine that 48,000 women have had more than one abortion, with some having

as many as eight. I recently spoke to a doctor in Dublin who told me about a patient who was about to undergo her fifth or sixth abortion. It is regarded as a form of contraception. These statistics need to be factored into our deliberations.

I do not doubt the best intentions of Mr. David Steel when he introduced abortion legislation in Britain in order to deal with the hard cases. He has subsequently acknowledged that he never envisaged a situation where the Act would lead to almost 200,000 abortions a year. He said, "I don't think we expected anything like those numbers." We need to consider what has happened in other jurisdictions.

I have spoken to many psychiatrists and have yet to meet one who regards abortion as a treatment for suicidal ideation. I refer to the guidelines for reporting instances of suicide and self-harm produced by the Irish Association of Suicidology and Samaritans. I refer to an esteemed Member of the Oireachtas who has dedicated a large part of his public life to dealing with the issue of suicide. He has said we should avoid simplistic explanations for suicide. Although a catalyst may appear to be obvious, suicide is never the result of a single factor or event and is likely to have several inter-related causes. People do not decide to take their own lives in response to a single event, however painful it may be. Social conditions alone cannot explain suicide. The reasons an individual takes his or her life are manifold and suicide should not be portrayed as the inevitable outcome of serious personal problems. We have evidence from other jurisdictions. Psychiatrists say it is very difficult to diagnose a possible suicide. Even pro-choice psychiatrists agree that in some instances abortion can worsen the mental health of the mother and may aggravate her situation. Once a principle is conceded that abortion is all right in certain circumstances, as Dr. Clare said, it will be used as a wedge to make future legislation more liberal. We must guard against such a view. There are probably 300,000 or 400,000 people alive in Ireland today who would not be if our abortion regime had been more liberal in the past 30 years.

I acknowledge that many women find themselves in a bad place with a crisis or unwanted pregnancy. This is primarily a woman's issue, but I do not accept that it is not one for society also. I refer to cases of fatal foetal abnormality which have been cited. These are very challenging cases. I met representatives of the National Women's Council. However, I also met the One Day More group. These women had carried a foetus to birth and it had subsequently died. However, they received some solace from being able to hold the baby. Rape is a heinous crime which is probably not dealt with as harshly as it should be. At the recent pro-life rally I met a grandfather, a son and a grandchild. The grandfather acknowledged that he was the result of a rape. I refer to my point about the continuum of life. When the life of the unborn is terminated, an entire lineage is destroyed. In advance of the budget all parties were anxious to acknowledge that we had a duty of care to protect the most vulnerable in society.

Acting Chairman (Senator Susan O'Keefe): The Senator must conclude as he is well over time.

Senator Jim Walsh: We want to protect the elderly, the sick, the disadvantaged and the disabled. I suggest the unborn qualify as part of that vulnerable group. Taking the legislative route may not achieve this protection for the unborn. We should, therefore, examine four options, of which guidelines might be the most preferable. I thank the Acting Chairman for her indulgence.

Senator Brian Ó Domhnaill: We all acknowledge that there are many personal and moral opinions on this issues and it is only right that we should express these views in our own Parlia-

ment. I will state why the 1992 decision in the X case is a flawed basis for law in this area. In its majority opinion, the Supreme Court has held that a woman has a right to an abortion under Article 40.3.3° if there is “a real and substantial risk” to her life. There is this right if there is a risk to her life but not her health. It is there, however, if the risk relates to the possibility of suicide. Under Article 40.3.3° of the Constitution: “The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right”. Ireland’s laws state abortion is only allowed where continuation of pregnancy would put a woman’s life - not merely her health or other interests - at risk.

The Supreme Court ruled in the X case that the right to life of the mother is superior to the right to life of the unborn, which was labelled as “contingent”. This departure from the unambiguous constitutional position and the two-patient model it inspires resulted in the legal outcome that if a mother threatens to commit suicide, the Supreme Court holds that she has the right to an abortion. Unfortunately - I share Senator Walsh’s concerns in this regard - the Supreme Court reached this conclusion without hearing expert psychiatric evidence. In addition, the huge volume of medical research which has emerged in the interim shows that abortion is not a treatment for suicide, that it may actually increase the risk of suicide or that, at its height, is neutral in affecting the risk of further mental illness. In the X case, there were no time limits placed on the right to abortion in circumstances where there is a threat of suicide. Legislating in respect of the X case may, therefore, entail legislating or regulating for an extremely liberal position on abortion. Such a position would allow all women who establish that they are at risk of committing suicide to have abortions at a late stage. Any attempt to put in place time limits may have the effect of rendering the proposed legislation contrary to the decision in the X case.

This issue has resurfaced as a result of the decision handed down by the European Court of Human Rights in the A, B and C v. Ireland case. It is important to note that the European Court of Human Rights ruled that there is no right to abortion under Article 8 of the European Convention, and - affirming its ruling in *Vo v. France* in 2007 - holds that contracting states are entitled under the convention “to choose to consider the unborn to be a person and to aim to protect that life”. The court also held that “Article 8 cannot ... be interpreted as conferring a right to abortion”. The situation for the woman known as “C” arose because it was uncertain and unclear whether she could have access to abortion in a situation where she believed that her pregnancy was life-threatening. Rather than information being unavailable, the problem was that there was nowhere C could go in order to secure a legally authoritative determination of her rights. All other complaints were dismissed as well as C’s additional argument that Article 2, which relates to the right to life, were violated were dismissed by the European Court of Human Rights as “manifestly ill founded”. Thus, Ireland has a broad margin of appreciation to maintain its existing laws where they are sufficiently clear. Where they are not clear, the State can provide further clarity. It is not, therefore, required to legislate on the basis of the X case.

The European Court of Human Rights holds that there is no right to abortion under the convention and that Ireland is entitled to protect the right to life of the unborn child. Since the case of A, B and C v. Ireland did not relate to suicidal ideation, and because the X case does more to obscure rather than to clarify the legal position, the most reasonable, proportionate, and effective way of responding to the judgment handed down by the European Court of Human Rights - in order to afford clarity to those in the position of applicant C - would be to regulate for the two-patient model, which is current best practice in Irish hospitals and internationally celebrated.

In addressing the report of the expert group, I am conscious of the attitudes of the medical profession. Regardless of whatever action the Oireachtas takes in respect of this matter, the medical profession must have its own input. The guidelines the Irish Medical Council has laid down for doctors to follow in this regard - these were updated in 2009 - clearly state, in section 21.1:

Abortion is illegal in Ireland except where there is a real and substantial risk to the life (as distinct from the health) of the mother. Under current legal precedent, this exception includes where there is a clear and substantial risk to the life of the mother arising from a threat of suicide. You should undertake a full assessment of any such risk in light of the clinical research on this issue.

These guidelines could provide the basis for bringing certainty and clarity to Ireland's response to the judgment of the European Court of Human Rights.

I do not believe that Senators and Deputies have the right to legislate on this matter without first asking every citizen in the country who is over 18 and eligible to vote for his or her opinion. This could only be done by means of a referendum. I met a constituent recently - the gentleman in question is an accountant - who would not be alive today if abortion had been available to his mother, who gave birth to him out of wedlock. The intention behind the legislation introduced by Lord Steele in 1967 was very different to the outcome to which it has given rise. Some 36,000 abortions took place in Britain in 1968. Last year, there were 190,000. A total of 95% of these were granted on the basis of mental difficulties being experienced by the mothers involved.

If we were to legislate on the grounds of suicide, what has happened in Britain in respect of the unborn would - in proportionate terms - occur here. There is a need to provide constitutional protection for the unborn.

Acting Chairman (Senator Susan O'Keeffe): The Senator must conclude.

Senator Brian Ó Domhnaill: If we, as parliamentarians, cannot do that, I do not know what is to be done.

Senator Colm Burke: On a point of order, it is important to clarify that the Supreme Court heard expert evidence when it was deliberating on the X case.

Senator Jim Walsh: If the Acting Chairman allows that point of order, I want to respond to it. What Senator Colm Burke has said is incorrect. The Supreme Court heard evidence from a psychologist, not a psychiatrist.

Acting Chairman (Senator Susan O'Keeffe): I am not allowing it. We are not having that argument at this time.

Senator Jim Walsh: There is a big difference between psychologists and psychiatrists.

Acting Chairman (Senator Susan O'Keeffe): This is not the place for that argument.

Senator Colm Burke: Incorrect information is being furnished.

Acting Chairman (Senator Susan O'Keeffe): Both Senators are out of order.

Senator Paul Bradford: The little clash which has just taken place illustrates, in very clear terms, the confusion and uncertainty relating to this matter. It also highlights the fact that a

significant debate will be required before substantial decisions are taken.

I welcome this debate which, I hope, will mark the beginning of a process of detailed consideration on how we should respond to the report on the judgment handed down in case of *A, B and C v. Ireland* and on how this Parliament and society in general should deal with this sensitive, substantive and fundamental issue. How the various political parties, this Parliament and society respond to this matter will define both that for which we stand and our aspirations for this country, for families and for children. We must think long and hard before we make any decision.

There are some issues in respect of which clarification is required. Thankfully, it has not been put forward to any great degree during this debate but argument to the effect that - on foot of the ruling handed down by the European Court of Human Rights - particular measures are being demanded of us and that we must make provision in respect of terminations has gained some currency. The fact is that we must make provision for legal certainty. It is the responsibility of the Government and the Parliament to decide the form that legal certainty should take and to then negotiate with Europe in respect of the position we adopt.

I find it a little disturbing when the point is made that the people have voted on this issue time and again and that no further consideration by the people is required. The Minister of State may have been a candidate, as I was, for election to the Dáil in November 1992. She will recall on that occasion in November 1992 when the Irish political parties were fighting a general election the public simultaneously voted on the infamous three abortion referenda. It must be conceded by all sides that on that occasion 99.9% of the political debate was about the general election and not about the abortion issue. There was no referendum commission and no obligation on the political parties or the Government to give information on one or other side of the issue to the public. Three referenda took place but the outcome of them could not be defined as being definitive.

We then had the *X* case judgment and a decade ago in 2002 we had another referendum in which there was not a singular question about one part of the debate. It was a broader debate and a broader proposal was put before the Irish people on that occasion. Perhaps it could only happen in Ireland that on the “Yes” side and on the “No” side of the question in the referendum in 2002 there were people who termed themselves pro-life and pro-choice. Again, it was a very confused question that was debated by the public. While another referendum has been ruled out politically, I believe it may well be necessary for the Oireachtas to recommend that another one be held. While people would shudder at the thought of another referendum, why should we be so fearful of consulting the public? What is wrong with asking the public a “Yes” or “No” question on a specific point? That specific point, which may be necessary to put before the public, relates to the second part of the question, as I would term it, the suicide ground - the mental health ground.

The first half of what we are asked to determine is relatively straightforward. Every Member of these Houses and every member of society, without exception, wants to put in place whatever legal certainty and clarity is required to ensure that in all cases where the health and life of the mother are physically threatened or there is a concern in that regard, whatever treatment is required will be provided. I know Members of the Houses can come together quickly and effectively to resolve that issue. It is not fair to say that it would be kicking to touch to separate the other issue which is the sensitive one of suicide. I know we are supposed to use careful and temperate language but I have to refer to it as the suicide element of the equation.

The Minister in his closing speech, which was thoughtful and in tandem with his contribution on this matter in the Dáil, spoke about Ireland having to bring forward legislation and that it would not mean abortion on demand. If people check the parliamentary records of Westminster in the late 1960s or those of the congressional debates in the United States in the early 1970s, they would note that when abortion legislation was introduced it was always expected to deal with a tiny number of cases. It was not to be abortion on demand but that is what transpired. That is why we must be extremely careful that the results of our deliberations do not produce abortion on demand.

I want to see at the earliest possible date progress on legislation to cater for the medical difficulties and uncertainties that could arise and which some would say have arisen. However, we need a much more substantive debate on the issue of suicide because, tragically, we can look across the world and note that in virtually every country where that ground was allowed as a reason for abortion it opened the flood gates. I ask the Minister of State to name one country where that was not the case and I will rest my argument, but I do not believe any example can be given in that regard. We need time and consideration in this respect. I thank the Minister of State and look forward to an ongoing debate on this matter.

Minister of State at the Department of Children and Youth Affairs (Deputy Kathleen Lynch): I genuinely appreciate the views of all the contributors to the debate, although I do not agree with all of them and I will be straightforward in saying that. In terms of allowing sufficient time for further debate, we have had 20 years and more. The current hiatus in the body politic is a result of a very particular incident. I am not certain that legislation when it is produced will even address that particular incident. The legislation which the Government will produce will be extremely limited. As long as we have the eighth amendment to the Constitution in place, it will continue to be very limited. We can prescribe the circumstances in which women can have control of their own bodies all we like and we can talk about rape, incest and a threat to the life of the mother, but I note very few people have spoken about the threat to the health of the mother, which is the significant issue.

I know women who having completed a pregnancy have found their health was very seriously impaired for the rest of their lives. We all know women like that. We are not discussing that issue. The difficulty with it is that if we are to legislate strictly in line with the eighth amendment, we cannot include those issues. Our difficulty is that the expectation of the public, including those for and against, is that we will resolve this issue. It is my personal belief, having examined it in great detail, that we will not be able to be able to resolve this issue as long as the eighth amendment to the Constitution remains in place. That is a personal opinion but it is clearly backed up by all the legal opinion I have seen.

It worries me greatly that we still talk about women who become pregnant and if somehow we have to protect children from them. None of us would be here but for the fact that our mothers became pregnant and safely delivered healthy babies. Do we trust those women? Do we trust our mothers and our sisters? What about our aunts and our friends? Do we trust them because that is what this is about? It is about trusting women and ensuring they have the right to make legitimate choices about their own health and well-being. I do not know any woman who makes choices in terms of a termination of pregnancy with any great joy. We have to place that trust.

Some of the notes I made as I listened to the debate are about a book I was recommended to read by Joe McHugh. He is dead now and, therefore, I can mention him; it seems one can say

whatever one likes about the dead in the country, which is something else with which I disagree. Joe McHugh was the city manager in Cork and he was an incredible man. He once said to me that if I wanted to talk about the control of women I should read *Eunuchs for the Kingdom of Heaven*. I suggest people read it. It is still the go-to piece of literature in terms of sexuality for the Catholic Church. I am a practising Catholic; I am not anti-church and never have been. That book refers to Aquinas and his description of women, which is something people should read. They are described as imbeciles and feeble-minded and that children should be taken from them. This is very clearly about control and about the legislation which will be produced in this instance which will be so limited that we will not fulfil the expectations of anyone. I firmly agree and completely appreciate the worries there are about people using termination of pregnancy as a contraceptive. I completely understand that argument and completely agree with it. However, I do not agree with the type of restriction we are, once again, beginning to place on women and the choices they must make. It is not always a case of rape, incest or foetal abnormality. There are other circumstances we must consider in which women find themselves and with which they must deal. That women do not talk about them in public or that they are not the subject of conversation around the dinner table or in the pub means they take these decisions very seriously. The issue affects them deeply. Are we now to say to them that, unless they are declared mentally unstable, they cannot have a termination of a pregnancy?

Senator Jim Walsh: I hope we are not going to do that.

Deputy Kathleen Lynch: I very much appreciate the Senator's contribution because his is a side of the argument we must hear. Equally, however, we must be compassionate, logical and tolerant of the decisions others make. The legislation we will be able to produce on foot of the eighth amendment and the restriction in places on us will not satisfy anyone. There are more than two sides to this argument. Fundamentally, however, it is a question of trust, tolerance and ensuring women have a right to make decisions for themselves without termination being seen as a form of contraception; I agree with that completely. I trust women. That we are all here today means that women we know, grew up with and with whom we are close are deserving of that trust.

The debate was excellent. I have always believed the considered contributions made in this House are excellent. Clearly, there are two sides to this argument. However, while we can disagree, we cannot allow our personal views, no matter how narrow or far reaching they are on the legislation, to dictate the outcome. My job is to legislate. I legislate every day of the week, sometimes for things with which I do not agree, but legislating is my job. We can argue in advance of the legislation or argue the toss while legislating, but where the Constitution does not allow us to legislate, we need to have the relevant argument. Perhaps that is where we need to concentrate our efforts. The legislation, when produced, will be very limited. It will in no way and in no circumstances come close to what obtains in other countries or allowing abortion on demand. Anyone who says so in the course of this debate is deliberately being misleading. We need to have this debate and ensure women's lives and health are protected. We all know women who, as a consequence of completing a pregnancy, have had their health impaired for life.

I thank Members for their contributions. I genuinely appreciate and have listened very carefully to them.

Senator Jim Walsh: I respect the Minister of State's-----

6 December 2012

Acting Chairman (Senator Susan O’Keeffe): That concludes statements.

Senator Jim Walsh: May I raise the issue of side effects?

Acting Chairman (Senator Susan O’Keeffe): The Senator is out of order.

Senator Jim Walsh: With respect to what the Minister of State is saying, I ask her to agree that termination is not a treatment for suicidal ideation.

Acting Chairman (Senator Susan O’Keeffe): I have ruled the Senator out of order.

Sitting suspended at 4.35 p.m. and resumed at 5 p.m.

5 o’clock

Civil Registration (Amendment) Bill 2012: Order for Second Stage

Bill entitled an Act to amend and extend the Civil Registration Act 2004.

Senator Maurice Cummins: I move: “That Second Stage be taken now.”

Question put and agreed to.

Civil Registration (Amendment) Bill 2012: Second and Subsequent Stages

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

Minister for Social Protection (Deputy Joan Burton): Before proceeding to outline the content of the Civil Registration (Amendment) Bill 2012, I compliment all those who worked so hard to prepare it, including various individuals and civil society groups that have advocated legislation in this area.

The Civil Registration Act 2004 provides for the notification, registration and solemnisation of marriage. Only the Health Service Executive and religious bodies can apply for registration in the Register of Solemnisers established under the Act. The Bill will amend the Act by providing for an extension to the type of organisation that can nominate marriage solemnisers to include secular bodies.

In Ireland marriage and the family unit are at the heart of the Constitution and part of our social fabric. When two people make a public commitment to each other by way of marriage, it is a cause of great celebration and an occasion on which not only do the two people wish to have their families and friends around them but also to celebrate in the belief system they hold dear. With this in mind, the Bill aims to extend the scope of marriage solemnisers across the spectrum of belief systems and formally acknowledge this in the registration system.

I propose to offer some general observations on the rationale and general principles informing the content of this amending legislation and then proceed to summarise the provisions of the

Bill. The marriage provisions of the Civil Registration Act 2004 arose from recommendations of the interdepartmental committee on the reform of the marriage laws. The need for a universally applicable framework of clear and simple procedures to underpin the solemnity of the marriage contract was among the issues identified by the committee as requiring examination. The main provisions of the Act concerning marriage are: common preliminaries and a single set of documentation for all marriages; the introduction of the marriage registration form as a single licensing system; the establishment of a Register of Solemnisers; and choice of venue for civil marriages. Section 51 of the Act provides that a marriage may only be legally solemnised by a registered solemniser. Section 53 provides for the establishment of a Register of Solemnisers. Section 54 provides that a religious body or the HSE may apply to have a member of that religious body or a registrar, respectively, entered in the register.

It is clear that many citizens wish to celebrate their commitment to each other through a non-religious marriage ceremony. Of the 19,828 marriages held in 2011, almost 6,000 were civil ceremonies. This represents 29% of all marriages performed in 2011 and compares to a figure of 6% of marriages in 1996. The Bill will allow valid marriages to be performed by bodies that fulfil the criteria of a secular body as laid down in the Bill, reflecting the varied belief systems in a modern society which still holds marriage as a valuable life choice. In this regard, the Bill extends the definition of the term “body” in relation to marriages to include a “secular body”. It sets out criteria which must be met by a body before it can apply to have marriages solemnised by one of its members. While this limits somewhat the bodies that would be eligible, it respects the obligation of the State to safeguard the institution of marriage and ensures that the bodies involved have organisational stability. The body must be in existence for at least five years, be an organised group of people who have secular, ethical and humanist beliefs in common, have a minimum of 50 people and meet on a regular basis. The body must be a charity and cannot have the making of profit as one of its main purposes. In addition, a list of organisations are deemed, for the purposes of the Bill, not to be secular bodies, including chambers of commerce, organisations that are political, sporting-athletic, trade union representative in nature, and bodies that promote purposes that are unlawful, are contrary to public policy or morality, in support of terrorism or terrorist activities or for the benefit of an organisation of which membership is unlawful.

The body will be required to meet the criteria on a continuous basis and will be obliged to inform An tArd-Chláraitheoir if they cease to do so. In the event of the body not meeting all the criteria, its members will be removed from the register of solemnisers. There is scope within the Act to allow for appeals and reinstatement on the register where that is seen fit. In amending the Civil Registration Act 2004, this Bill adds in the concept of a “secular body” to those sections that had previously provided for a religious body.

I propose to summarise the main provisions of the Bill. Section 1 provides for the definition of the term “Principal Act” used throughout the Bill as the Civil Registration Act 2004.

Section 2 inserts and modifies definitions in section 45 of the principal Act, to provide for the broadening of the type of bodies that can apply to have a member added to the register of solemnisers, by including secular bodies. Section 45 provides for the definitions used in Part 6 of the Civil Registration Act 2004, which relates to the amendment of the law relating to marriages. Currently, the section only provides that a religious body and the executive, that is, registrars appointed by the HSE and who are included on the register of solemnisers held in the General Register Office, can conduct valid marriage ceremonies. This amendment and the insertion of section 45(A) as provided for in section 3 will allow bodies who fulfil the criteria

of a secular body as defined to conduct valid marriages.

Section 3 amends section 45 and sets out the interpretation of the definition “secular body” for the purposes of this Bill. For the purposes of this Part, a body shall be a secular body if: it has not fewer than 50 members; its principal objects are secular, ethical and humanist; members of the body meet regularly in relation to their beliefs and in furtherance of their principal objects; any rules regarding marriage, or the solemnising of marriages, do not contravene the requirements of the Act or the law; it is shown to the satisfaction of An tArd-Chláraitheoir that it has appropriate procedures around the selection, training and accreditation of solemnisers; it has been in continuous existence for at least five years; it has for at least five years an entitlement to an exemption under section 207 or 208 of the Taxes Consolidation Act 1997; in respect of which a number stands issued by the Revenue Commissioners for the purpose of that exemption and that number stood issued for a continuous period of five years immediately preceding the date of its most recent application; does not have the making of profit as one of its principal objects; and maintains a register of members.

In addition, this section provides for a list of bodies which are deemed not to be secular bodies for the purposes of this Part. These are as follows: a political party, or a body that promotes a political party or candidate; a body that promotes a political cause; an approved body of persons within the meaning of section 235 of the Taxes Consolidation Act 1997; a trade union or a representative body of employers; a chamber of commerce; and a body that promotes purposes that are unlawful, contrary to public morality, contrary to public policy, in support of terrorism or terrorist activities, whether in the State or outside the State or for the benefit of an organisation membership of which is unlawful.

Section 4 provides for the amendment of section 51(3) of the principal Act to include solemnisers from secular bodies in the requirements to be met for a valid solemnisation of marriage. Section 51 provides that a marriage may only be legally solemnised by a registered solemniser. It sets out the elements required to be met so that a valid marriage takes place.

Section 5 provides for the amendment of section 53(4) of the principal Act to allow An tArd-Chláraitheoir refuse to register a person if he or she considers that the body concerned is not a secular body. Section 53 provides for the establishment of a Register of Solemnisers to be maintained by An tArd-Chláraitheoir. The register holds the names of all solemnisers who have been approved to conduct valid marriages and is open to inspection by the public.

Section 6 provides for the amendment of section 54 of the principal Act to include secular bodies in the categories of bodies that may apply for registration of persons on the register of solemnisers. An officer of the secular body must sign a certificate to the effect that, in their opinion, the nominated person is a fit and proper person to solemnise a marriage and confirm that the nominee has been selected, trained and accredited by the secular body in accordance with its procedures. The section also sets out procedures related to requesting additional information from bodies regarding an application on behalf of a member to become a registered solemniser.

Section 7 provides for the amendment of section 55 of the principal Act to include the cessation of a body as a religious or secular body as a reason the registration of a person may be cancelled on the register of solemnisers. Section 55 provides for the cancellation of the registration of a registered solemniser by An tArd-Chláraitheoir on a number of grounds, including a request for cancellation or that the marriage ceremony does not adhere to the necessary

declarations. A registration may also be cancelled if the registered solemniser is convicted of an offence under the Act, carries on a business solemnising marriage for profit or gain, is not a fit and proper person to solemnise marriages or for any other reason. Section 55 sets out the requirements for An tArd-Chláraitheoir if he or she intends to cancel a registration. The amendment provides an inclusion of secular bodies in order that their registration may be cancelled under the same criteria, if required.

Section 8 provides for the amendment of section 56 of the principal Act to include secular bodies in the provisions to appeal against refusals or cancellations of registration in the register of solemnisers. Section 56 of the principal Act provides for leave to appeal to the Circuit Court if the Minister dismisses an appeal on the grounds that the body has ceased to be a religious body. This section provides the same appeal rights to a secular body. If the Minister dismisses an appeal on any other ground, a party to the appeal may appeal against the dismissal on a point of law to the Circuit Court. This section provides the same appeal rights to a secular body or to a party to the appeal who is not a member of a secular body.

Section 9 provides for the amendment of section 57 of the principal Act to allow for the granting of temporary authorisation to solemnise marriage to solemnisers from secular bodies. Section 57 provides for the temporary authorisation of members of a religious body to solemnise marriage. An application made by a secular body under this section will be in such form and containing such particulars as may be determined by An tArd-Chláraitheoir. It must be made by an officer of the body. The certificate must be furnished in a satisfactory form stating that the person to be temporarily authorised is suitably trained and accredited as set out in section 45A(1)(e) and, in the opinion of that officer, is a fit and proper person to solemnise a marriage.

In addition, this section will provide for An tArd-Chláraitheoir to request further information on applications for temporary solemnisers from a religious or secular body. Currently, there is no provision for An tArd-Chláraitheoir to request additional information from religious bodies and this amendment will provide for such a request.

Section 10 provides for the Short Title, collective citations, construction and any necessary commencements. This Bill represents a significant and important change to the Civil Registration Act 2004, which sees us, as a nation, recognise the increasing desire of people to celebrate marriage in a way that can include their own secular, ethical and humanist beliefs. Marriage is an important institution and this Bill enhances its role both in Irish and English law.

I congratulate Senator Bacik who I know has worked on the Bill over a long period. It took some time to deal with all the detailed and legal considerations as Members will have heard in the descriptions of the sections. I have just come from DCU where I listened to the US Secretary of State, Hillary Clinton. She spoke about the requirements of politicians to be both idealistic and realistic. Framing this proposal to meet the wishes of the humanist community in Ireland was a political act of idealism and vision. The slow boring of hard boards in the Office of the Attorney General brings that vision of change to fruition. We now have a Bill. I hope the people who will take on the role of solemnisers will have many successful, happy and fruitful weddings, which they will be in a position to celebrate as befits the humanist community in Ireland. I commend the Bill to the House.

Senator Diarmuid Wilson: I welcome the Minister for Social Protection, Deputy Burton, and thank her for her comprehensive contribution.

The Fianna Fáil Party is supportive of the Bill in principle. This is essentially the same as the Bill introduced in 2011 by Senator Bacik. I congratulate her on the work she put into it. It will allow groups, other than those who observe religious worship, to apply for licences to carry out weddings. As the Minister has outlined under the current Civil Registration Act, the only people who can legally celebrate a marriage are either HSE registrars or members of a religious body, designated by the chief registrar. This Bill will allow the Minister for Social Protection to designate other non-religious groupings such as the Humanist Association of Ireland and others to apply to local registrars for licences.

The Bill amends the Civil Registration Act 2004 which regulates the registration of civil marriages. The 2004 Act provides for the establishment of a register of solemnisers, those who can legally conduct marriages and make provision for a choice of venue for civil marriages. The category of people who may be registered as solemnisers is limited by section 54(1) of the 2004 Act, which provides that the HSE registrars and members of religious bodies are the only people who may celebrate legal marriages. Section 45 of the Act defines “religious body” as “an organised group of people members of which meet regularly for common religious worship.”

The Bill seeks to address the anomaly that only HSE registrars or members of religious bodies may seek to be registered as solemnisers of marriage and it does this by inserting a new extended definition of “body” which the Minister has outlined. As the Bill is essentially the same as the Bill presented by Senator Bacik, it is a pity it does not bear her name. We wish it a speedy passage.

Senator Fidelma Healy Eames: I welcome the Minister and the members of the humanist community in the Visitors Gallery. It is a case of *déjà vu* because we have been here before.

I too was at DCU this afternoon to listen to the former Senator Hillary Clinton. The comment that challenged me was when she said: “Let your value set guide you.” I think that is what we are doing here today. As the Minister said by endorsing the Bill, which I do on behalf of the Fine Gael Party and I compliment Senator Bacik on presenting a similar Bill to the House in the first instance, we are embracing diversity. Clearly the people want to embrace diversity. Things have changed immensely in the space of 15 years, and this is borne out by statistics. In 1996, 6% of marriages were other than Catholic marriages, now the CSO has found in its last survey more people are looking for non-religious marriages than religious ceremonies. To each his own. It is time we embraced that diversity.

I am impressed by the driving philosophy of the Humanist Association of Ireland. As I understand it, humanism has a concern for humanity based on reason and compassion. I would like to think I have some of those qualities. Perhaps there is common ground between persons of faiths and those of none.

I do not wish to repeat the points made by the Minister or Senator Wilson because I endorse the Bill.

The Office of the Attorney General did well to spot that it would be better to correct Senator Bacik’s Bill in order that the solemnisation of marriage would be lawful. I give the Bill my blessing. Go forth and multiply. The Humanist Association of Ireland has much time to make up.

A wide range of groups can conduct marriages and it is time that the Humanist Association

of Ireland was added, as it has worked hard to achieve this. I know it will exercise judgment in the selection, training and accreditation of members who will be solemnisers of marriages. I understand they have officiated at 153 non-legally binding marriages in 2011 and almost 200 in 2012. I presume the Humanist Association of Ireland will call them back for a second day to confer legal marriage. This is a good new story.

I say “Well done” to the Minister, Deputy Joan Burton, and Senator Bacik.

Senator David Norris: My views are broken down into two parts. First, I extend a genuine and sincere welcome to the Bill. I congratulate Senator Bacik who prepared the original Bill, on which I seem to remember speaking, and the Minister on introducing this Bill. May I say that this debate again shows the direct relevance of this Chamber? I hope the Minister will take this point back to her colleagues in the Government, not all of whom appear to be aware of it. She might be kind enough to say it to them. This is the second occasion this afternoon I have felt this. During our important debate on the question of abortion earlier today, Senator O'Donnell placed the details of a highly significant case - the D case - on the record of the House. The Government would do well to take account of the case in question. I stayed here for that important debate rather than attending another scheduled event. Having heard at second hand the catastrophic collection of clichés of which Mrs. Clinton delivered herself, I am rather glad I stayed here.

I approve of the Bill. We know the legislative history in this area. The various provisions have been recited. There is no point in going into them. It is highly appropriate that this right and entitlement should be given to this group of people. I am pleased to be part of the Chamber that is sanctioning it. In her opening address, the Minister said that this legislation “will allow valid marriages to be performed by bodies that fulfil the criteria of a secular body as laid down in the Bill, reflecting the varied belief systems in a modern society which still holds marriage as a valuable life choice”. That is inarguable and perfectly reasonable. She continued:

The body must be in existence for at least five years, be an organised group of people who have secular, ethical and humanist beliefs in common, have a minimum of 50 people and meet on a regular basis. The body must be a charity and cannot have the making of profit as one of its main purposes.

She concluded:

This Bill represents a significant and important change to the Civil Registration Act 2004, which sees us, as a nation, recognise the increasing desire of people to celebrate marriage in a way that can include their own secular, ethical and humanist beliefs. Marriage is an important institution and this Bill enhances its role both in Irish and English law.

I absolutely agree with this.

I compliment and congratulate my colleagues. I note the presence in the Visitors Gallery of my old friend, Michael Nugent. Those who are atheists - I am most certainly not one of them - can be wonderful people with a dignity and an ethical system that sometimes reproves those of us who profess religious belief. I wonder whether the Minister understands in any sense at all how humiliating it is for me to stand here today and say that. Do the Minister and her Government colleagues have any imaginative capacity that enables them to understand what it feels like for me to know that whereas a serial murderer, a rapist or somebody convicted of incest can be legally married in this country, I cannot? One can be married by a druid, by a spiritualist, by

a witch or by a wizard, but one cannot get married if one is gay. Although I feel the joy of those who have had the right to marry conferred on them, I wonder why we are so reluctant to give that right to another group. One can be married by the Bahá'í Community, the Chinese Gospel Church, the Mallow Street Christian Fellowship, the Mountain of Fire and Miracles Ministries, the Mountain View Community Church, the Pagan Federation of Ireland, the Plumblin Ministries, the Presbyterian Church in Ireland, the Society of St. Pius X in Ireland, the Solid Rock Church of God, the Soul Winning Pentecostal Ministries, the Spiritualist Union of Ireland, the Salvation Army and the Unitarian Church. I have given a random selection.

An Cathaoirleach: The Senator is going to run out of time.

Senator David Norris: I will make another point before I do so. It is a disgrace that the Unitarian Church, which is included in the list, is not permitted to solemnise marriage between people of the same sex as it wishes to do. It is right that the church I have named is being given the power to marry people under a fairly strict regime, but it is not right that it is being denied the religious freedom to do what it wants. It is an example of serious religious and sectarian discrimination against a religious group. I imagine that most of the secularist and humanist groups would also be happy to solemnise these marriages, and perhaps they should. I almost feel like proposing to one of the people in the Visitors Gallery in order that we can see how it works out. They are smiling their agreement. The second message I would like to send from Seanad Éireann - I am sure most of my colleagues support me in this regard - is that the Minister should get her skates on and accept that we want to celebrate. The acknowledgment we want is not just a humanist one. People who are debarred from-----

An Cathaoirleach: I have a message for the Senator. He is over time.

Senator David Norris: I have heard the Chair's message loud and clear. My final point is that those who go forth and multiply - that phrase is sometimes used in a disparaging way - should do so in a moderate fashion because we have been bred off this planet by heterosexual excess.

Senator Ivana Bacik: That is a hard act to follow. I welcome the Minister, Deputy Burton, to the House and thank her for the support she has given to this Bill. As others have kindly acknowledged, this is a reformulation of a Private Members' Bill - the Civil Registration (Amendment) Bill 2011 - that I initiated on behalf of the Labour Party group in this House on 10 November 2011. I welcome the members of the Humanist Association of Ireland who are in the Gallery, particularly Brian Whiteside, who has provided immense help and support with the Bill. I would also like to thank the Minister's advisers and officials who have been of great assistance in the reformulation of the legislation I drew up.

As I said, the Second Stage debate on the previous version of the Bill took place on 10 November 2011. It has been a long haul since then. I thank the humanists for their patience. I thank all of my colleagues in this House who spoke in support of the previous legislation on that occasion. I welcome the cross-party support that the Bill is receiving again this evening. The Bill before the House is essentially the same as the 2011 Bill in its purpose. It is a technical amending Bill. It amends the Civil Registration Act 2004, with the key effect of enabling members of the Humanist Association of Ireland and, potentially, other secular bodies to be entitled to perform legal civil wedding ceremonies. When the Bill has been passed, humanists will for the first time be able to legally perform weddings in Ireland, which is hugely significant.

Senator Norris is aware that I entirely concur with what he said about marriage equality. I hope that by the end of the Government's term in office, we will have corrected that anomaly in a way that ensures gay couples are able to marry. They should be able to be married by religious and non-religious bodies in the same way as straight couples. As the Senator knows, the matter is currently before the constitutional convention, which is due to report by the end of next year. He is also aware that I have acted as legal counsel in an ongoing case before the High Court that seeks to establish the right to gay marriage. Progress is being made on that front.

I remind Senator Norris and everyone else who supports marriage equality that it is not the purpose of the Bill. This legislation is making a small but important change to enable marriages to be celebrated by non-religious bodies, as well as by religious bodies. I am particularly conscious the day after the budget that at a time of great economic hardship, this may be seen as less than significant. However, judging by the number of people who have contacted me about it - I am sure Brian Whiteside and others in the Humanist Association of Ireland and Michael Nugent and others in Atheist Ireland have also been contacted - this Bill will have a significant effect on a number of people who have for a long time wished to get married in accordance with their own beliefs but have been unable to do so because humanist weddings have not been legally recognised. Such persons have had to arrange two wedding ceremonies - a civil ceremony with a HSE registrar for legal purposes and a humanist ceremony with friends and family to celebrate in their own way. This legislation will have an important impact on the people concerned.

As the Minister eloquently acknowledged, the changes being made in the Bill are in keeping with this country's move towards a more pluralist and inclusive society. That this Bill has been initiated here is in keeping with the traditional role of the Seanad as the House in which progressive social reforms have been brought forward during the years. I am proud that this legislation, in its original inception and in the Government version, is a creature of the Seanad. It was commenced in the Seanad in both cases. The Seanad was the first House, and is the only House to date, to acknowledge non-Christians in our opening ceremony. I refer to the one-minute silence that we have before the Christian prayer each day.

The Bill represents another way for us to accommodate difference in our laws, to show that we are inclusive and respectful of those who do not share the faith of the majority and to respect the values and belief systems of such persons. It is another step in the process of making our society more inclusive. That important factor in the introduction of the legislation must be acknowledged. The Minister has outlined the detail of the Bill. It will expand the definition of those who are capable of celebrating legal weddings beyond the religious bodies and HSE registrars. We know from Senator David Norris's very colourful exposition that there is quite a range of groups included in the list of bodies authorised as religious bodies to solemnise marriages. The list includes the pagan federation and the spiritualist union. It is anomalous that the definition has excluded members of the Humanist Association which has carried out humanist wedding, funeral and naming ceremonies for many years. The Bill will address that anomaly. The Bill is much more elegantly drafted than my original version of the Bill. I am happy to admit that it covers a whole range of issues that I - not being a professional drafter - had not covered, including temporary authorisation. I am glad to note that secular body is to be covered in the same way as a religious body and be subject to exactly the same rules as in the 2004 Act. When the original Bill came before the House on Committee and Report Stages on 2 May 2012, we ran into difficulty debating how we would deal with defining "secular body". This definition works well.

It is important to note some issues about humanism and the Humanist Association. Humanism is an ethical philosophy of life, based on a concern for humanity. Many people in Ireland, many atheists, including me, would be proud to describe ourselves as having a humanist philosophy, irrespective of whether we are members of the association. The association has a membership of more than 500 and has also become a voice for the non-religious who are, according to the most recent census figures, the largest belief group in Ireland, after Catholics. In census 2011 the numbers who ticked the “no religion” box increased to 270,000. Therefore, it is a significant group. It was good to see humanists represented with religious groups at the presidential inauguration of President Michael D. Higgins last year. Humanists are represented on the National Forum on Patronage and Pluralism in Education and, increasingly, are given status alongside religious bodies at official events.

Humanist wedding ceremonies are gaining legal status in many other countries and an increasing number of people here, as pointed out Senator Fidelma Healy Eames, have chosen to have humanist wedding ceremonies. There were 153 such weddings in 2011 and close to 200 couples will have had humanist non-legally binding humanist ceremonies by the end of the year. Humanists have 12 accredited celebrants and a detailed set of criteria of attributes for accreditation which people must go through before being accredited. It is clear that in a changing society we need to accommodate humanism and other viewpoints that do not fit with the majority religion. The Bill is entirely in keeping with that.

I am delighted the Bill is to pass all Stages today and that there is cross-party support. I thank the Minister for her support. It will go through all Stages in the other House on 20 December where, I hope, there will be cross-party support. I hope it can be signed and commenced by ministerial order by the end of December. Already many people have been disappointed because they could not have Christmas weddings. I hope the first humanist weddings can be held early in the springtime. Perhaps, the Bill can be progressed speedily and commenced swiftly once it has been passed through the Houses. I thank everyone for their kind words.

Senator Susan O’Keeffe: This is a good day. I thank the Minister for coming to the House and, as the Senator has said, reorganising the Bill to ensure it meets all the requirements, including being watertight, that humanists and others would have wanted. Drafting legislation is difficult. Having seen the Bill initiated here and come to fruition in a year is evidence of how difficult it is to get legislation right. It is correct that it is watertight. However, I was amused momentarily by the idea of a Labour Party or GAA solemniser. That would have been quite entertaining but I note correctly that is not the case.

I am grateful to the Senator for having had the vision to bring forward the amendment. It is a good day for Ireland. It is a sign that we are growing up as a society, that we recognise the need for greater inclusion and equality in marriage. I share some of Senator Norris’s concerns. He knows as we know that the constitutional convention will address the issue of same sex marriage. We will wait for that because that convention is itself a recognition of the way we are changing. It is welcome that the Government can see that it is appropriate to invite members of the public to debate matters and make recommendations. I welcome the constitutional convention’s role. Some people have said it will not do enough or it is not starting in the right place. It has to start somewhere and we made a good start last Saturday.

I welcome the Bill. I thank Senator Bacik, the Minister and her officials. It is a sign of our growing up and our capacity to legislate for things that are important. Even though it accommodates a small group it sends a signal to the world and society of what matters to us.

Senator Mary Moran: I welcome the Minister and those from the Humanist Association. I commend Senator Bacik for her work in bringing the legislation to this Stage and the Minister and her officials. The Bill is a sign that we are growing up and the position where legal marriages can only be conducted by a HSE registrar or a member of a religious body should be amended. We have to recognise that the number of people seeking civil wedding ceremonies in Ireland has increased, to the extent that this year the Central Statistics Office is predicting an even greater percentage of non-religious wedding ceremonies than religious wedding ceremonies.

While the term “religious body” includes a wide range of religious organisations, such as the Pagan Federation of Ireland and the Spiritualist Union of Ireland, it has excluded the Humanist Association of Ireland. If a couple wants a humanist wedding they must arrange two separate ceremonies, one at a registry office and the other at a venue they have chosen. By contrast, most Christian weddings do not require a separate ceremony because the marriage is legally registered at the church or chapel where the ceremony takes place. These arrangements are discriminatory in that they do not recognise the humanist wedding as legal. They effectively treat non-religious people as second class citizens. Humanists are, therefore, only seeking parity of esteem in which the same legal right should apply to both religious and non-religious ceremonies. I am pleased that the Bill is going through today and when finally sealed, I hope before Christmas, that the position will change. We have to move in line with other countries such as Scotland, Australia and Scandinavia where humanist weddings have legal status. Australia introduced such provisions 40 years ago. As Senator Bacik has pointed out we can be assured that the Humanist Association has a rigorous accreditation process for prospective celebrants, including the ten required attributes to accreditation.

I congratulate Senator Bacik on her hard work and the Minister and her officials. It is a great day for the country.

Minister for Social Protection (Deputy Joan Burton): I thank Senator Ivana Bacik for the work she has done on the Bill. I thank also Senator Fidelma Healy Eames for the Fine Gael support for the Bill. I thank also Senator Diarmuid Wilson for the support which Fianna Fáil has offered. I understand Senator Norris’s concerns and accept the references to the work of the Seanad in this and other areas. I recall that Senators from Trinity College Dublin such as Mary Robinson, Senator Norris and others worked together on a number of groundbreaking initiatives which were radical in Ireland for their time. That Senator Norris is here to speak in support of the Bill continues a tradition that has been represented by the Trinity College Senators in the House and it is being continued by Senator Bacik. That is a nice historical connection between generations of Trinity College Senators.

Senator Norris referred to gay marriage. That is an issue I would like to see provided for in the Constitution and law. I was one of those who strongly supported the development of civil partnerships. As Senator Ivana Bacik said, the constitutional limitation on gay people getting married is now up for consideration at the constitutional convention. I hope to see this being adopted and made possible in constitutional and legislative terms. Senator David Norris is aware of my views in that regard.

This legislation is a small but significant piece of the mosaic in the development of social and personal freedoms in Ireland, the cornerstone of which is respect. We should respect people from different traditions and backgrounds and their ethical and moral frameworks. We should use the Oireachtas as the appropriate place in which to legislate to reflect all of the different

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religious, ethical and humanist frameworks in Ireland. This is very important, particularly for young people, because most of those who marry are young. However, nowadays many are marrying at a later age, particularly those entering a second or subsequent marriage. It is important that persons with humanist beliefs should have this opportunity also.

I thank Senators for their expressions of support. The 2011 Bill contained all of the core ideas, on which we have made progress. I thank the staff of the Department of Social Protection and the Office of the Attorney General and the Attorney General herself for taking a detailed interest in the progress of this legislation. Today we are taking the second last step with the debate in the Seanad which will finish before Christmas in the Dáil.

Judging by the number of couples who opt for a civil ceremony, the number opting for a humanist ceremony is significant. The people concerned wish to have their marriage celebrated in the presence of a humanist solemniser. I welcome this development and believe the measures and sections included in the Bill offer the appropriate structures and safeguards. They require a solemniser to have an appropriate qualification because it is important that a marriage be celebrated in a dignified and lawful way, not just in a happy and joyful way. This sends an important message about two people coming together to pledge themselves to each other, generally in the presence of family and friends. The institution of marriage is at the heart of this legislation, the commitment of two people to set out together. It is only right that we let them begin that journey by recognising their belief system under which they wish to celebrate their marriage.

I again congratulate Senator Ivana Bacik. I also thank the other Senators for their contributions.

Question put and agreed to.

Bill reported without amendment, received for final consideration and passed.

An Cathaoirleach: When is it proposed to sit again?

Senator Ivana Bacik: At noon on Tuesday, 11 December 2012.

The Seanad adjourned at 6 p.m until noon on Tuesday, 11 December 2012.