



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**DÁIL ÉIREANN**

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

Transport (Córas Iompair Éireann and Subsidiary Companies Borrowings) Bill 2012 [Seanad]: Second Stage	890
Business of Dáil: Motion . . . . .	905
Transport (Córas Iompair Éireann and Subsidiary Companies Borrowings) Bill 2012 [Seanad]: Second Stage (Resumed). . . . .	905
Transport (Córas Iompair Éireann and Subsidiary Companies Borrowings) Bill 2012 [Seanad]: Referral to Select Committee. . . . .	915
Report of the Expert Group on the Judgment in the A, B and C v. Ireland Case: Statements (Resumed) . . . .	915

# DÁIL ÉIREANN

*Dé hAoine, 07 Nollaig 2012*

*Friday, 07 December 2012*

Chuaigh an Leas-Cheann Comhairle i gceannas ar 10.30 a.m.

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*Paidir.*  
*Prayer.*

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## **Transport (Córas Iompair Éireann and Subsidiary Companies Borrowings) Bill 2012 [Seanad]: Second Stage**

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** I move: “That the Bill be now read a Second Time.”

I am pleased to introduce this legislation which deals with CIE’s borrowing powers for non-capital purposes. Strengthening CIE’s capacity to raise credit on a sustainable basis is a key element of a wider set of measures designed to place CIE’s finances in a healthier state for the future.

The CIE group has had to confront a very difficult financial situation. As in most business sectors in the State, the current economic environment is very challenging for public transport providers. The cause of the problem is primarily the recession which has resulted in a drop of more than 20% in passenger numbers from the peak in 2007. That has been partly off-set by fare increases, but revenue is down by more than 11% from the 2008 level. The PSO subvention has reduced by 21% between 2008 and 2012 and is due to fall further by 14% over the next two years. The removal of the fuel rebate is estimated to have cost the group approximately €22 million at a time when it has had to absorb higher fuel prices.

In 2006 and 2007, as a result of the CIE operating companies expanding their network of services and the growth in the economy, CIE experienced an increase in passenger volumes and revenues. However, the impact of the economic downturn which started in 2008 resulted in falls in passenger numbers in each year from 2008 to 2011. Once the expected increase in demand did not materialise as a result of the economic downturn, CIE was then faced with an expanded network of services and reduced revenues which resulted in each of the operating companies incurring deficits in each of the years 2008 to 2011, with the exception of Bus Éireann which generated a small surplus in 2011.

While the CIE group reported surpluses in each of year from 2006 to 2008, 2007 was the only year in the period 2006 to 2011 in which the group generated a surplus when the gains

from the disposal of fixed assets were excluded, that is, the sale of property. In the past three years, 2009 to 2011, CIE suffered a total loss of more than €137 million after exceptional items. Clearly, this level of loss cannot be sustained and must be addressed.

Since income began to fall in 2008, there has been a succession of measures to deal with the underlying problem, including cost reductions, fare increases, service efficiencies such as the network direct programme in Dublin Bus and similar rationalisations in Bus Éireann, and measures to make public transport more attractive such as the leap card, real-time passenger information, RTPI, and providing Wi-Fi.

The operating companies cost recovery programmes that were started in 2009 in an effort to eliminate these deficits have been undermined by continuing falls in passenger numbers, reductions to operating subvention and increases in costs such as fuel that are outside the control of CIE. While progress has been made in reducing costs and head-count to date, these reductions have not been sufficient to eliminate the deficits in the operating companies.

The 2011 annual report and financial statements for CIE and those of the three subsidiary companies were recently laid before the Houses of the Oireachtas. An unqualified audit report was issued by the group's auditors on CIE's 2011 financial statements. However, the auditors have included an "emphasis of matter" paragraph regarding the group's ability to continue as a going concern. They note that funding and trading difficulties give rise to uncertainty for the business and challenge the group's ability to continue to trade as a going concern. The board of CIE expects that these uncertainties can be addressed through a range of measures including the realisation of non-core assets, reduction in cost base, including payroll reductions, multi-annual fare increases and curtailment of an own-funded capital programme.

I have engaged in consultations with the CIE companies and have stressed the need to respond to the PSO subvention funding challenges through further cost savings in their activities. A recovery in passenger numbers and further increases in fares could soften the impact of the reduction in PSO subvention. All concerned in my Department and the NTA must focus on identifying key public transport priorities in cities and across the country. In turn, the PSO public transport service providers will have to achieve greater efficiency and cost effectiveness in the years ahead based on a realistic assessment of the scope and level of contracted services.

Each year, funding is provided for socially desirable but financially unviable public transport services in Ireland. Funding for such services is made available under the Vote for my Department by way of a payment to the National Transport Authority, NTA, for PSO services. In recent years the total subvention paid to the three CIE subsidiaries has been reduced from a high of €308 million in 2008 to €242 million originally earmarked for 2012. On 24 July last, the Government decided to provide additional funding of €36 million to CIE to ensure that the companies could continue to operate for the rest of 2012. That would bring the total subvention for this year to €278 million, higher than the subvention level for 2010 and the fifth highest level of subvention ever. At this difficult time for the public finances it was not easy to find a large amount of additional funds. It involved very difficult decisions in terms of having to divert funding from other worthwhile and important projects and initiatives and imposing sacrifices on others. In 2013, the PSO subvention will be €226.5 million, as compared with €242 million originally allocated for 2012.

I have met regularly with the four chairs and senior executives of the CIE companies and also with union representatives. While facilitating a range of measures to address the prob-

lems, I have stressed that significant progress must be made on the development of a realistic, sustainable and robust business plan by CIE to deal with the current economic realities; cost reductions within the CIE group and employee support for same; the sale of non-core assets; and the securing of new credit facilities. Those various avenues are currently being explored. The additional funding for this year only provides a very short breathing space to CIE. It is essential that the management and staff in the CIE companies use this time productively to discuss and implement proposals to cut costs that can help to address the serious financial position in which the CIE group finds itself. In this regard, I am concerned that the current negotiations between management and unions at the two bus companies are concluded as soon as possible. In view of the difficult financial situation of CIE and the need to finalise its business planning for 2013, it is imperative that these discussions bring forward a positive outcome in the next few weeks.

CIE is progressing the preparation of a revised five-year business plan with aggressive targets that will support the reporting of trading improvements in 2013. It is intended that the business plan will address the underlying financial challenges facing CIE so that the group's public transport services can be provided efficiently and cost effectively over the plan period.

The decisions taken so far by the Government and the financial provisions made regarding CIE were fundamental for creating a better operational environment for the organisation. There is, however, no room for complacency. The group's future will be one of efficiency and effectiveness with regard to what the Exchequer can afford to bear. The measures which have been taken and are planned are in the longer term interest of CIE and its employees.

The resolution of the CIE financial position will involve increased borrowing facilities for non-capital purposes. CIE's current borrowing limit is set at €107 million and it has facilities in place with banks to that limit which expire during 2013. The purpose of the increased limit of €300 million is to give CIE maximum flexibility to ensure access to long-term working capital and short-term funding facilities. In no way is the proposed limit to be taken as an indication that the group will be exposed to a massive increase in its debt position. While it is expected that the debt position will increase beyond the existing facilities of €107 million in 2013, the group is undertaking an aggressive business planning process designed to return to break-even and to achieve a sustainable debt position in the following years. It will judge carefully the range of credit facilities necessary to include both longer term facilities, as well as overdraft type facilities, to enable it effectively manage its cash flow and day to day working capital requirements.

Recent experience has necessitated a strengthening of financial management systems and a need to ensure that corporate governance arrangements of the boards of CIE and of the subsidiary companies are enhanced. A detailed review of the group's financial systems and treasury management arrangements has been undertaken and measures put in place to strengthen those in the holding company and subsidiaries. In addition, my Department will conclude a memorandum of understanding with CIE, which will encourage the achievement of key financial sustainability targets in 2013. I will continue to engage regularly with the chairpersons and chief executives of CIE and its subsidiaries and will report to the Cabinet Sub-Committee on Infrastructure on a regular basis over the coming year.

With regard to the provisions of the Bill, I will avoid repeating all the detail set out in the Explanatory and Financial Memorandum circulated. The existing total borrowing limits for CIE for non-capital purposes are set out in the provisions of section 28 of the Transport Act 1950 and section 3 of the Transport Act 1987 which provide for borrowing up to a limit of €50

million and €57 million respectively. It is now proposed to amend the 1950 Act provision to provide for an increase in the borrowing ceiling to a level of €300 million and to streamline CIE borrowing powers into a single enabling provision for all forms of borrowing undertaken by CIE for non-capital purposes. Separately, section 130 of the Railway Safety Act 2005 already provides for a ceiling of €600 million for capital borrowing by the group.

Section 1 of the Bill substitutes a new section 28 of the Transport Act 1950. In subsection (1) it allows the Minister and the Minister for Public Expenditure and Reform to give consent to CIE to raise or borrow money for non-capital purposes, and sub-section (2) sets a ceiling of €300 million for such borrowing. Subsection (3) enables property to be used as security for borrowings.

Section 2 provides for a consequential amendment of section 20 of the Transport (Re-organisation of Córas Iompair Éireann) Act 1986 to allow the board of CIE lend money to the subsidiary companies and for the subsidiary companies to borrow money, with the consent of the board of CIE, subject to the total ceiling for all borrowings of €300 million.

It should be noted that the giving of security for borrowings will be subject to the requirements of section 67 of the Credit Institutions Stabilisation Act 2010. This requirement arises from the provisions of our European Union and bilateral loan agreements and aims to ensure that our lenders under these agreements are given equal priority on any secured borrowings undertaken by general government. While CIE is not included in general government borrowing, Irish Rail is included. The proposed amended section 28 (3) of the Transport Act 1950 and the amended section 20 (3) of the Transport (Reorganisation of Córas Iompair Eireann) 1986 refer to compliance with the requirements of section 67 of the Credit Institutions Stabilisation Act 2010 by the board and its subsidiaries.

Section 3 repeals sections 30 and 31 of the Transport Act 1950, which provided for the State guarantee of temporary borrowings and the laying of particulars of guarantees before the Houses of the Oireachtas. It also repeals sections 3 and 4 of the Transport Act 1987, which also previously dealt with CIE borrowing powers and State guarantee of borrowings by CIE.

The goal for public transport is to provide safe, accessible and integrated services that contribute to sustainable economic and regional development in an efficient manner. Despite our economic problems and the reduced sums available for capital and current expenditure, this Government will continue to prioritise the role of public transport.

I have outlined for the House the difficulties facing CIE in recent years and touched on the effort that must be undertaken to enhance its financial stability and the commitment of the Government to continue to invest scarce resources in public transport. I have explained the background to the Bill and its provisions. While recognising that there are still many challenges facing the group and its subsidiaries, I am confident that these can be overcome. I therefore commend the Bill to the House.

**Deputy Charlie McConalogue:** Fianna Fáil is committed to a sustainable and efficient public transport system. We support this Bill in the context of CIE having a clear and viable plan for the company's future. We are deeply concerned, however, about the reduction in services being provided by CIE and we are not convinced of the Minister's commitment to public transport.

The context of the Bill is to increase CIE's borrowing requirement to €300 million. I ad-

wise the Minister, Deputy Varadkar, that it would be useful to talk to the Minister for Education and Skills, Deputy Quinn, about identifying sources of cash because I noted on Wednesday that in the education budget - as spokesperson it is my area of interest - €38 million of that Minister's €90 million in savings came from cash reserves in both the vocational education committees and the higher education authorities. That is a total of 42% of his overall budget findings for this year. After six years of budgetary adjustments, the Minister, Deputy Quinn, magically has been able to find cash reserves. It might be no harm, therefore, for the Minister, Deputy Varadkar, to talk to him to see if he can work a similar trick in regard to CIE. It is a very useful skill to have.

This Bill changes the limits on the amount of money Córas Iompair Éireann is allowed to borrow for day-to-day operations as opposed to investment. The limit will increase from approximately €107 million to €300 million, with CIE being able to charge any borrowings of the group to property held by it or its subsidiaries. In effect, CIE will be able to mortgage its property. It also streamlines CIE borrowing powers into a single enabling provision for all forms of borrowing undertaken by CIE for non-capital purposes.

The hope and intention behind this Bill is that the increase will enable CIE better manage its own day-to-day financing needs and those of its subsidiary companies. The borrowing limit currently in force was set 25 years ago in 1987 and therefore it is probably time to revise it. The Bill removes the possible State guarantee of certain CIE borrowings. EU state aid rules restrict the issuing of such debt guarantees to commercial semi-State bodies.

There is no doubt that CIE is in serious financial difficulties. Revenues at the group fell by 0.6 per cent last year to €707 million, according to its 2011 annual report published last month. It should be noted that the accounts were more than four months late.

As the Minister is aware, CIE received more than €500 million in State funding last year for a variety of areas yet it lost €6 million. The group is again expected to record losses out to 2015. CIE auditors PricewaterhouseCoopers state that these circumstances give rise to uncertainty for the business and challenge the CIE group's ability to continue trading as a going concern.

The group exceeded its available borrowing facilities during 2012, and the excess to date has been met by advance payments of the public service obligation. Without any mitigating measures, it is expected that the group will again exceed its existing borrowing facilities in 2013. Coupled with this, the existing group bank borrowing facilities of €107 million are due to expire on various dates between January and October 2013. At 31 December 2011 the group had bank and leasing debt outstanding of €77.8 million. The maximum debt facilities currently available to the group amount to €121 million, including leasing facilities of €14 million.

This has created uncertainty in regard to the ability of CIE to continue to fund itself and in regard to the absence of measures such as increased public service obligation payments or additional borrowings. The Bill allows CIE to address the latter concern. Three major factors have impacted on the financial position of the CIE group. The public service obligation and other current Exchequer payments have reduced by €41.4 million since 2008, with further reductions proposed each year in the period 2012-14. Increased unemployment and reduced leisure and business activity have seen passenger journeys reduce by 17.5% since 2008, with a fall of €81 million in revenue. Passenger journey numbers have fallen by 45 million since 2008, from 235 million to 190 million journeys. CIE fuel costs have increased by €22 million in the past three years.

Annual operating costs for 2011 have been cut by €174 million since 2008 as CIE tries to take action to reduce costs. The size of the workforce has been reduced by 1,450, on average, during the same period. A series of initiatives, ranging from service reviews to contract renegotiations, will yield ongoing operational savings. According to *The Irish Times* of 15 November, a spokesman for CIE confirmed it is progressing a number of options for asset disposals to help fund finance for the business. It expected to confirm significant developments by the year end. The spokesperson said Iarnród Éireann reached agreement with staff in the summer and is now working on generating further efficiencies in the business. Dublin Bus and Bus Éireann are in advanced talks with staff at the Labour Relations Commission. Voluntary severance has been offered, primarily at Iarnród Éireann. In 2012, 77 staff have left and more than 100 others are expected to leave before the year end. This will bring staff numbers to below 4,000.

The restructuring of the CIE group of companies also involves costs that are a significant factor in the group's losses. Redundancy payments and other restructuring costs amounted to €113 million over the three years 2008-10. Management's current projections indicate the group will incur further deficits in the period 2012, 2013 and 2014, with a return to profitability expected in 2015 and 2016. The resultant cash deficits will result in a requirement for renewed facilities, other funding and measures including cost reduction and the realisation of assets.

According to the *Sunday Business Post* last month, Irish Rail is close to securing a deal with a private sector buyer to sell land holdings in Spencer Dock in Dublin. According to the report, the deal is so close to being finalised that management at Irish Rail authorised the restarting of a crucial voluntary severance scheme that had ground to a halt because it could not be funded. The cost of the scheme, which is likely to be up to €18 million, will now be funded through the proceeds of the Spencer Dock property deal. The *Sunday Business Post* also outlined that the day-to-day cash crisis at Irish Rail became so acute over the past two weeks that the National Transport Authority, was forced to provide an extra €16 million to the firm to allow it to pay day-to-day expenses and that a well informed source said there are very serious issues with funding and that Irish Rail is looking at a funding hole of €40 million over a three-year period. Some suppliers have been refusing to do business with the company because of its inability to pay its bills. This is what the public transport provider is facing. Real differences have emerged between how the parties in government approach the future of our public transport services. The parties are well known to having differing approaches to the role of the State in public transport. I question whether the Minister of State has a watching brief for the Labour Party.

The Minister, Deputy Varadkar, made an intriguing speech last month and I wonder about the views of the Minister of State on it. The Minister referred to the Programme for Government commitment which calls for "the need to rebalance transport policy to favour public transport" and states: "We will therefore establish a Cabinet sub-committee on Infrastructure to explore the benefits to the public transport passenger of more diverse bus service provision". The Minister referred to how the National Transport Authority carried out a public and a market consultation on the post 2014 public service obligation bus market and this was recently discussed at the Cabinet sub-committee. The Minister said there were divergent views on the matter when it was discussed at Government and went on to put the case in favour of more diverse bus service provision. The Minister believes there are real benefits arising from moving from direct provision by public companies of subsidised bus services to competitive tendering. I wonder whether the Minister of State and the Labour Party agree.

Increasing fares is not the answer to the crisis facing CIE and an overhaul of the company's transport policy is needed. An overhaul of CIE's strategy and vision is also needed.

The package CIE offers is not attractive to customers and this needs to change. The attempts by the company to address their problems are only papering over the cracks. CIE's long-term viability is under real threat and a comprehensive review of its policy is required to ensure its long-term survival. The company must restructure to make it attractive to customers again. If this involves an increase in the subvention from the Government in the short term, this should be accommodated. CIE has found itself in a vicious cycle of increasing fares and falling passenger numbers. It is essential to protect the public service aspect of the company. The Government needs to facilitate a new service plan for CIE and this must be done urgently to secure the company's future. However, as a public transport company, the Government must ensure it meets its policy platform of having an integrated network and providing public transport to the citizens of the State.

There is significant difference between the fiduciary duties of CIE's directors and the role of the Minister. It is not good enough to say it is up to the board of the company to resolve the issues. The board might not be in a position to do so. It must get its accounts in order as the directors' fiduciary duties require them to balance the books and meet the company's financial commitments. However, the Minister has a different role in that he must ensure we have a public transport network that is fit for purpose. We are concerned the Minister is taking a hands-off approach. The programme for Government recognises "the need to rebalance transport policy to favour public transport". We are not convinced the Minister has taken this commitment to heart.

We need a viable public transport network when we are trying to reduce the number of private cars on the road and assist the economic recovery. In the current economic environment, passenger numbers are dropping and the answer is not to dismantle services because the customers we lose will never be regained. The Government needs to ensure CIE maintains its critical mass of service. A fully operational public transport system is fundamental to any working economy. The company needs to be fit for purpose by providing a comprehensive rural service that has already been affected by recent budget cuts.

During the debate in the Seanad, my colleague, Senator Mooney, made comments I wish to endorse on the positive role of the unions. He paid tribute to the workforce and the unions and the commendable restraint they have shown in difficult times. There have been major job losses and significant changes in work practices in a company that has traditionally been deemed to be inflexible in the context of management and trade union relations. They deserve credit for how they reacted to it. We support the Bill, with the caveats I outlined earlier, and I commend it to the House.

**Deputy Dessie Ellis:** We will be supporting the Bill as it allows for CIE to raise more funds for non-capital projects to keep its services to a standard that serves people's needs at least as adequately as is currently the case.

In many cases, particularly Dublin Bus, CIE is providing a service which is far from desirable and increasingly worse by comparison with previous years. Many of the reasons are plain to be seen. There is, of course, less money for everything, except bankers and bondholders. The State subvention has been cut dramatically over the past four years. Passenger numbers have dropped considerably and the price of using public transport has rocketed. For people living just a short distance from their workplace, it can now cost in Dublin €4.30 to get to and from work each day. A rambler ticket for 30 days costs €115, as much as many young people in the city are paying for rent each week. That works out at €3.80 a day. The Leap card offers lower



fares, but as Dublin Bus fares have been increased numerous times by the Government in its short time in office, people still find public transport very expensive.

That is just Dublin Bus, the company with which I am most familiar, as are most of my constituents. Train fares, for those lucky enough to have rail access, have also gone up to the point where it is just not an affordable option for most people. A rail commute from Tullamore to Dublin, with a monthly pass, is €297. For most people that is more than half of what they earn in a week. I know it may not seem like much to many here who may operate expensive cars and take home very large wage packets, but it should come as no surprise that working people are finding it so difficult and are coming out at the end of the month with very little, given how great a proportion of their earnings are going on just getting to work in the first place.

I do not bring up the issue of these high fares simply to beat the Government with something that is very unpopular with the people. I raise it because these fare hikes and the whole fare system is the very blunt and very useless tool of choice for the Department of Transport, Tourism and Sport to try to whip CIE into shape. I am not sure the Department has decided exactly what shape that is.

Fine Gael would, by and large, like to see the end of publicly operated transport companies and a private market free-for-all. This certainly seems to be something that has the boys in blue hot under their collars. I also imagine, given what we have seen over the past two years, that Labour will not do a whole pile to stop them, other than guard the Minister and his colleagues from any mud that might dare to splatter on them in the form of public outrage.

The idea that privatisation is a solution is only merited by the argument that the publicly owned bodies have failed. They have failed to provide a top-class service and they have failed to provide it in a sustainable way. The questions are why they failed and how it could be any different.

It can be different, but the parameters of the debate have to be changed. For one thing, the Government needs to decide just what it wants out of public transport. Does it want something that is cheap and without any of the troublesome burden of providing essential links to people in more isolated parts of the country or even our cities and towns, or does it want a genuinely world-class service that provides fast, efficient, environmentally sound transport to the majority of people who require it? The Government certainly does not seem to want the latter. The Government, like its predecessors, wants to get away with only half-providing a service.

The subvention for Dublin Bus and CIE has, historically, been much lower than in many other countries, both in the EU and elsewhere. We have one of the lowest public transport subventions. The Minister will argue that the subvention is now at an all-time high but that really does not matter when the service is not good enough and the fares are getting higher.

CIE does not have to be a profitable company. It would be great if it was, but to make this the ultimate part of the Minister's policy on public transport is to ignore the massive benefits of a public transport system that serves a wide section of the community and the country.

What on earth would be the point of taking profitable routes from CIE and giving them to private companies to cream off the most money while the State is left with providing for the loss-making routes? There is also a certain madness in giving public service obligation, PSO, routes to private companies to be subsidised by the State. There is no reason to believe this would lead to any better service. The idea that the private sector provides better services is

not borne out by the facts. It is not black and white. In some cases private industry is a better method of providing a service but not in every case and not even in most cases. I do not understand people, who claim to have an interest in the people of this country, arguing for private profit and public loss which is exactly what many of the arguments for privatisation, veiled in talk of reform or deregulation, etc. are about.

We need a genuine world-class service for the benefit of our economy and our society. We can choose to structure this in a way that ensures value for money and efficiency but we cannot afford to outsource the State's responsibility to provide it. There is simply no reason to believe the private sector can provide a better service as a whole. Matthews Coaches might provide a more comfortable service to a certain town but it does not follow that it can provide a better transport system by competing with other services not in the interest of the public but their own profit.

Public transport needs more investment. Projects such as metro north, although expensive, would have created large numbers of jobs. Such projects have been left behind in the cutting of capital spending on public transport. Metro north would have provided a link between the north and south sides of Dublin and to the airport and would have created at least 5,000 jobs in construction and thousands of ancillary jobs. It is a pity we have gone down the road of cutting these projects. They are all part of the make-up of the public transport system that needs to be joined up. We badly need to join it up.

We need a proper strategy and vision, not the cutting of routes that serve people. Many areas of Dublin have seen their bus routes cut. The Nos. 19 and 19A routes are among the oldest bus routes in the country. Routes like these provide people, including the old and disabled, with the means of getting to and from shopping, work or wherever they need to go. These cuts are a tragedy.

When we talk about the sale of non-core assets, I worry about what the Minister has in mind and what is to be imposed on CIE. Will it mean selling off vital sections of our industry or our transport routes? It is clear that there will be cuts across the board.

There is no doubt that public transport costs have increased in the last while. Much of the fall in passenger numbers has been due to the selling of routes to private operators. Many areas throughout the country have lost their bus routes and people in those areas have been forced to use cars. Public transport passenger numbers in those areas have, of course, gone down. Those people need to be targeted once again. We need a better vision of how to do that.

There has been a loss of staff in CIE. No one can dispute that the staff of CIE have done a wonderful job. I have seen them provide services, even in areas where their colleagues have been attacked in the course of their work. The staff of CIE have kept the system going and have been magnificent. I do not want to see that changing. It is not in the interest of the country that it should change.

**Deputy Shane Ross:** The most significant thing the Minister said in his speech this morning was that CIE, Iarnród Éireann and Bus Éireann had lodged their accounts in the Oireachtas Library in November. This Bill is an attempt to give a lifeline to CIE. We must ask why it needs a lifeline and we must ask why it lodged its accounts in November. November is inexplicably late and it is not the first time CIE has lodged its accounts late. It is a consistent defaulter in terms of being able to deliver simple accounts within a six month period, which is lenient by

any standards. Admittedly the auditors are given accounts without qualification but not without reservation and they have serious concerns about CIE being a going concern. This Bill is immensely significant because it comes before the House when this company cannot produce accounts on time and its auditors have reservations about it being a going concern, yet the Bill allows the company to increase its borrowings from €107 million to €300 million. Why should we do that?

I am not one for knocking public transport but I will knock it if it is not being run or administered properly, if somewhere at the top and in the middle there is a lot going wrong. CIE has been indulged by successive Governments for far too long. CIE had what the Minister described as a surplus in 2006, 2007 and 2008 but that was a misnomer. People think a surplus is a profit but CIE does not make a profit. At that time it was getting a €300 million subsidy and the change that was left over was described as a surplus. The company has been indulged because of political influence. It has consistently taken this surplus but been unable to explain why it cannot give clear accounts on time. It is in accounting terms a semi-State basket case. It may deliver a reasonable service in various places but in terms of its commercial mandate, it fails on virtually every single count. It is worrying that this seems to be continuing under this Government.

It is only a couple of years ago that a secret report, because that is the way CIE was run, was commissioned to look into some of the practices going on inside it. It cost €500,000 and reported that there were completely unacceptable practices such as backhanders, wrongdoing and all sorts of corrupt activity within the company. Attempts to bring that report to the Joint Committee on Transport were vaguely successful; they were not totally frustrated but they were not pursued with the sort of enthusiasm expected from the Government of the time. CIE was at the time and still is politically controlled. Happily, many of the board members who were appointed by the last Government have now gone, many of them favoured friends of former Taoiseach, Bertie Ahern. The fact, however, that such appalling behaviour was discovered within CIE, and there is little evidence that corruption was not endemic, is still worrying. I would like to hear from the Minister if he is satisfied all the wrongdoing and the millions that were discovered to be lost to CIE during that period have been cleaned up. Is he satisfied the indulgence that went on in this enormously loss making company is over, and that the Cabinet and the Minister are on top of the company, which was extravagant in the extreme, loose in its controls and generous to its staff and its directors?

The problem in semi-State bodies of this sort, and CIE is the worst offender, is that it starts at the top. I note what the Minister did, and he has done some good things about CIE. The appointment of almost an entirely new board was commendable and the way it was done was to be recommended; although it was not perfect, it was an improvement. That, however, is countered by the fact that a large number of those appointed by the outgoing Government in its final days are still there. Why are they still there? They were appointed because they were proteges of Fianna Fáil or the Green Party and they should have been removed forthwith. They were not.

On top of that, the Minister and new Government, in accordance with the policy which it had promised when it entered power, not only appointed new chairmen, but had them appear before a committee. This was apparently a great reform but they did not go before the Joint Committee on the Environment, Transport, Culture and the Gaeltacht to be ratified, because the appointments had already been made; it was a showpiece. Four of them went in one day before 27 people for an hour and 50 minutes. That was it. It was a farce.

If the Government is sincere about appointments to these bodies, those people should be interviewed for suitability by all-party Oireachtas committees and should explain their vision for the semi-State in question. Then that committee should be allowed to ratify or not. In this case, from memory, Vivienne Jupp, who was put in charge, was given three minutes to give her vision for CIE, part of which was that she lived close to a DART station and so knew a lot about it. She was then subject to a few questions before the committee moved on to the next person and the next. She was thanked and off they went. It was derisory. The appointment was already made.

If the Government is serious about reforming semi-States, it will start with the chairmen and subject them to serious scrutiny, asking them to be ratified and then it may start to tackle the problems within organisations like CIE. CIE, certainly two years ago, was rotten to the core. I do not know if it is unprecedented, but four auditors holding such strong reservations about it being a going concern should make us think twice about throwing €300 million in its direction and saying it is all right. In July because it hit a crisis the Minister, quite wrongly, said that yes, it was a basket case but it would be given another €36 million. Greatly to his credit, in October he said he would not give it the money because it was not up to scratch in terms of what it was doing.

We need an inquiry into the company. We need to know whether the €278 million it is now getting is really going to subventions. The accounts, which I have read, are very opaque and give little detail on the transfer of this money to particular routes. We need to know that the massive subvention is actually being spent on those routes that are not profitable and whether it should continue. We know very little about where these subventions go. We know that politicians are frightened of challenging them, which is understandable. We know that politicians are frightened of challenging public transport because they feel they are threatening a service that is serving the people in a necessary way. I am not opposed to subsidising services that are necessary. However, I am opposed to throwing money at a rotten company that has been found to be corrupt in the past three years unless we get an assurance that those practices are now over and that the cover-ups that were going on previously have now ended.

**Deputy Joan Collins:** I have no problem with what Deputy Ross has said about the accountability of the board of CIE. In recent years many boards were abused through the cronyism of Fianna Fáil in putting its people on boards and there was little accountability of those boards. All boards should be accountable to committees of these Houses and there should be transparency in showing what happens to all money being put into the company. That is not a problem but it is a different argument from providing a public service in our communities and whether it should be run for profit. I believe Government has an obligation to provide that public service. To date the unions have co-operated to a point with the changes required with Dublin Bus's Network Direct project and they have tried to accommodate productivity increases on the cross-city routes. There were objections to many of those routes, particularly the No. 19 bus which went from my area in Inchicore over to Finglas, as Deputy Ellis mentioned, because of the effect they has on communities. The bus service is not there just to get people to and from work as if we human beings are just products of our labour. It also provides a service to get the elderly to go to shops, hospital, etc. It serves people with young children in prams getting from A to B and getting into town to do shopping. Public transport provides a very important social service. I will do all in my power to support such a service in our community.

We also had a problem with the change to the No. 150 bus service. In the past three weeks Dublin Bus has again reduced the frequency, which has an impact on the level of service to the community. If a service becomes less regular, people tend not to use it as much. When the

No. 150 bus came every ten minutes, I knew I could jump on it and get into town, to Crumlin hospital or up to the Ashleaf shopping centre. However, with a service every 20 minutes if that did not come, I could be waiting another 30 minutes for a bus. So the regularity of the service is very important. Any cutback in the service now will affect people's thinking in how they link in with their bus service around the city.

I contacted some union members in Dublin Bus who wanted me to make a particular point. The reason this Bill is before the House is the reduction in subvention to CIE by the Minister for Transport, Tourism and Sport, and his flip-flop decision on emergency funding until hard-pressed staff subsidise public transport with cuts in their terms and conditions. With one of the lowest subvention levels in Europe, the loss of the rebate in excise duty on fuel and recently Dublin Bus being forced to pick up a €5 million tab for the introduction of the Leap card, the two public transport bus companies are in a no-win situation against multinational and indigenous for-profit private operators. The Minister has let his own personal feeling be known in many interviews most recently in the *Sunday Independent* on 2 December. He advocates privatisation and is doing it by stealth.

Dublin commuters faced an average increase in Dublin Bus fares of 17% at the same time as staff members are being squeezed with draconian cuts in their terms and conditions by Dublin Bus management. The latest round of cost cutting is on top of €58 million in annualised cuts already given by staff since 2009. The current negotiations the Minister mentioned in his speech have severe impacts for the workers. They include cuts in conditions and pay so severe that it is proposed new drivers will start on contracts that would mean they work late only at weekends for a basic pay of €10.18 per hour, which is only €1.53 per hour above the minimum wage, this for a driver of a large public service vehicle in a safety-critical job. These buses carry hundreds of passengers every day and because of Government actions, the proposed pay for new entrants is less than a burger flipper in McDonalds.

CIE has issued an ultimatum to staff that from 1 January no sick pay will be paid for the first three days of illness. Such conditions belong in 19th century Victorian workhouses, not in 21st century Dublin. What is proposed by Dublin Bus management is akin to industrial apartheid. This whole process is being given a legitimate air by the recent public consultation process announced by the National Transport Authority. This follows on from the same process in 2006. While this particular process predated the Public Transport Regulation Act 2009 and the formation of the DTA - later to become the National Transport Authority - the union's primary concerns of employment sustainability and public transport provision remain at the top of its agenda in responding to issues such as the 2014 public bus service contracts.

The focus of the 2006 discussions with the Department was twofold - the maintenance of the existing Dublin Bus fleet network and its ability to be competitive in a future market expansion. The unions were assured by the Department, during both the lead-in period and in the aftermath of the implementation of the legislation giving the DTA its remit to licence public transport operators, that its concerns were addressed by the inclusion in the legislation of the "direct award" clause with regard to the existing services and network of both Dublin Bus and Bus Éireann. The compensation element of the direct award under section 52 of the Act is consistent with and complies with Regulation (EC) No. 1370/2007.

The unions were given to understand that the recent route changes within the network of both Dublin Bus and Bus Éireann was conducted in co-operation with the NTA and underpinned by a report commissioned by the previous Minister. This report by Deloitte acknowl-

edged that both companies' performance in terms of efficiency ranked among the highest in the EU and that the level of subsidy to both companies is among the lowest in the EU. The report found that the PSO funding received by Bus Éireann is 12% of total revenue. This compares with Connexxion in Holland which gets at 49% of revenue, Post Auto in Switzerland which gets 51% and TEC in Belgium which gets 78%.

Any proposal that would effectively lead to a defragmentation of the networks would serve to contradict the principle of providing separate and distinct processes and procedures for public service obligation contracts and licences issued for commercial public bus services leading to a blurring of the line between a public transport imperative and one based on ideological grounds. In this regard the recent admission by the Minister that the Government was powerless to block slots owned by Aer Lingus at Heathrow being used for routes other than to Ireland is a salient reminder to those whose ideology blinds them to the potential repercussions of the loss of vital State infrastructure. It is one thing to provide taxpayers' money to a taxpayer-owned company but it is an entirely different matter giving funding to a company whose *raison d'être* is shareholder dividend and profit.

In the opinion of union members, the optimum assurance the authority can obtain is one where quality of service is inserted as a condition of the contract and where the new public service bus contracts can ensure the integration of the public bus service with the wider public transport network by encouraging relationships between the State-funded public service obligation provider and a commercial sector where service to the customer is primary. The best value for the taxpayer is an assurance that their money is going to one of the lowest subsidised companies in the EU. This value for money is further underpinned by the ability of members to provide for themselves and their families without recourse to funding from other Departments in such areas as family income supplement and rent allowance.

The Government, through the National Transport Authority, has a duty to provide a reliable, punctual, comfortable, clean and customer service-orientated public transport bus service for the citizens of the State. This service requires the ability to encompass ticket integration, passenger information and ease of transfer. While market forces and the requirement to make a profit for company shareholders may derive from conditions facilitated by the provision of modern infrastructural enhancements, the essential social needs of the community, for example, public transport, are the responsibility of Government. It is the role of the Government of the day to provide affordable public transport for its citizens, not to line the pockets of private transport providers and turn semi-State employees into economic slaves.

**Deputy Catherine Murphy:** We are debating this issue today because there will be a requirement to increase the limit on non-capital borrowing for CIE. Not doing so means we will not have a public transport service next year. In many ways, we do not have much choice but some issues relating to the filing of accounts and the delay in doing so and a business plan are of key concern because it is taxpayers' money and it is essential we make sure this company is run in a way that is transparent, efficient and delivers the best possible service for the money available.

The managerial and funding difficulties cannot be disconnected from the general economy. Indeed serious losses have been posted since 2008. In 2009, there was a loss of €77 million. People have lost jobs and there are fewer people using public transport. There has been a not inconsiderable increase in the price of fuel by almost 25% since 2008. It is a very difficult thing to balance at a time when subventions are being reduced. The troika spoke to us about the cost

of living but the cost of public transport is directly related to the amount of subvention that can be made. It is quite difficult in a country with such a dispersed population to provide a service in an economical way.

We are paying the price for the way we have allowed our settlement strategy to evolve with land rezoned based on who owned it rather than a good planning model that looks at linking land use and transportation. If anyone thinks there is no economic and opportunity cost in terms of services being provided, they should think again because that is at the heart of much of the unsustainability of delivering a public transport system. I had to laugh when I heard a Fianna Fáil contributor criticising the Government. The Deputy may have been right in doing so but it is a case of the pot calling the kettle black when they talk about favouring road over rail and other forms of public transport when that has been the case for many decades.

If one was to look at how we can make CIE viable, one initiative, which is major and costly, would have long-term returns. The Minister can probably guess the one I will pick out. It is the interconnector. If we can network these services, for example, our rail services in Dublin, we make the services viable outside the city because the surrounding counties, where there is good rail transport, become viable in both directions. I campaigned for the doubling of the Maynooth rail line for many years and it now functions very well and gives a solid return because it has a peak in both directions. It is not just one area that would benefit from something like the interconnector. It would deliver the kind of game changer we need to bring the kind of income into the company that would then be able to deliver services in areas that are less commercially viable otherwise. There is a potential all-round gain and I hope this can be looked at again because there is such a strong business case for that one project. Although it is a large investment, it would make all the difference.

I have questions in respect of the sale of the asset around Spencer Dock. It is important for us to know how it is intended to use the income from that. There is clearly a very large pension deficit of approximately €175 million. It is a bit ironic when one considers that more than €1 billion was put into the pension fund of the banks when there was no obligation to do so, yet we see companies like Aer Lingus and CIE with very large pension deficits where there would have been an obligation because of their connection to the State. It strikes me as both strange and ironic.

The issue of fares is very important. We have potentially reached a tipping point. People talk about fares being a serious cost in getting to and from work. As Deputy Joan Collins noted, it is not the only reason people will need or want to use public transport but it is off-putting at a time when people's incomes are being diminished. There is a real focus on the cost of transport in most households.

It would be useful to hear the Minister's overall plan for the public transport system. If one looks at wholesale privatisation in, for example, the UK, one can see there were very poor outcomes from the privatisation of the rail service, while bus services disappeared from areas outside big cities. This is what is likely to happen here if we see the cherry-picking that inevitably takes place when services are privatised. The idea behind the founding of CIE in 1926 lay in the chaos caused by the range of private services competing against each other. The person who wanted to use public transport did not get a coherent service. The service must have coherence. The lack of a central terminus in this city is something one does not see in other countries where there are thought-out transport systems and people automatically know where the service starts and finishes. The lack of this has not helped. The introduction of the Leap card has been

an improvement in recent years. Transport connection is just as important an issue. It could be demonstrated in a real and substantial way which would provide a return not only for the years immediately after its introduction, but for decades to come through the construction of the interconnector. I hope this issue can be revisited because it would be central to making public transport commercially viable.

**An Leas-Cheann Comhairle:** I call Deputy Anthony Lawlor who will share time with Deputy Frank Feighan.

**Deputy Anthony Lawlor:** The Bill will provide an increase in the overdraft facility of a company of up to €300 million for its day-to-day running. If a private company went to a bank and sought to increase its overdraft from €107 million to €300 million, the door would not even be opened. One must analyse it from the perspective that it would not be tolerated for a private company without a proper business plan or strategy. Therefore, CIE should come here on its hands and knees and be extremely grateful for what we are doing in this legislation.

I have several questions with regard to the overall management of CIE and that of Iarnród Éireann, Bus Éireann and Dublin Bus. In the past ten years CIE has received €3.25 billion and one must ask on what has it been spent and question the management and workers. Over the years the management of CIE has failed to deliver the value required by the customer. The customer should ask these questions because it is the customer who pays increased fares and subsidises many of the work practices and the poor and bad management which exists in CIE. Would it be worthwhile to bring its board and management before an Oireachtas committee? The management makes decisions which cost the State, taxpayers and users of the company the money to be paid.

Is CIE fit for purpose? In answering this we must examine what is happening in CIE. Fare increases were recently introduced across the board. If one removes the public service obligation and examines the routes on which the companies actively compete with private companies, one sees a significant difference in the fares charged. I will be a little parochial with my example. One can travel from Naas to Newbridge at a cost of slightly more than €5 with CIE. One can make the same journey with a private bus company for €2. This private company does not receive any subsidy or subvention from the State, but CIE cannot compete on an equal footing and one must ask why. This brings one back to the management and workers.

I always welcome capital spend by CIE on improving the quality of the facilities used, including the rail tracks and carriages and buses. However, private companies do the same but receive no subvention. I welcome the real time passenger information display signs which are now beginning to appear in counties close to Dublin. Last night, a tragedy occurred on Dawson Street which meant a curtailment of services. Shortly afterwards the display boards showed a notification that buses would not be running. However, after 8 p.m. everything went blank and people did not know what was happening. No information was available. A tool was available to provide information to customers but management failed to use it.

The town of Kilcock was bypassed and most public and private buses do not go through it, but we will vote on increasing CIE's overdraft facility to up to €300 million and we have increased its subvention this year by almost €36 million. The taxpayers of Kilcock pay to help keep the companies operating but receive no service. Kilcock is a small growing town and if the number of bus services were increased, people would use them. They feel they are not getting value for the money they pay in tax because it goes to CIE but they receive no benefit from



it. Deputy Catherine Murphy welcomed the increase in services to Maynooth, but three miles down the road a rail service operates on a single line.

I have my reservations about increasing an overdraft for a company which has not proved it is justified. As I stated, if it were a private company going to a bank seeking an increase in its overdraft facility on a day-to-day basis, it would not be entertained. One must question at all stages the management of the company and whether it uses taxpayers' money in the proper and right manner and whether it gives a proper account of where the money goes. In future, we need further and improved scrutiny of where our taxpayers' money is being used. I have received many e-mails today from people with regard to the respite care grant. All they seek is €22 million and we are giving in increased subvention of €36 million to CIE. One must question where one puts one's money and if one does not receive proper value for it, one doubts whether it is worth investing.

**Deputy Leo Varadkar:** On a point of order, a number of speakers from the Opposition spoke about the importance of public transport but I note for the past ten minutes no member of the Opposition has been in the House to discuss this important Bill and the future of public transport in Ireland. Therefore, I wish to call a quorum. *Notice taken that 20 Members were not present; House counted and 20 Members being present,*

Debate adjourned.

### **Business of Dáil: Motion**

**An Leas-Cheann Comhairle:** I ask the Minister of State to make an announcement.

**Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe):** I move:

That, notwithstanding anything in Standing Orders or an Order of the Dáil of 6 December 2012 in relation to the sitting on Monday, 10 December 2012, the Dáil on its rising today shall adjourn until 11 a.m. on Tuesday, 11 December 2012.

Question put and agreed to.

### **Transport (Córas Iompair Éireann and Subsidiary Companies Borrowings) Bill 2012 [Seanad]: Second Stage (Resumed)**

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

**Deputy Frank Feighan:** I am delighted to speak on this Bill. It is technical legislation, but it gives me the opportunity to speak on a wide range of issues connected to CIE and the provision of public transport. The Minister, Deputy Varadkar, and Minister of State, Deputy Kelly, have been clear consistently on trying to return CIE to profitability. There are many issues within CIE that need to be addressed, but there are many positive developments there too.

Bus Éireann is one area where CIE could improve, although it is being challenged by many of the independent transport companies, especially on the Expressway routes. For instance, the buses from both Sligo and Westport to Dublin are not now calling into various villages, such as Carrick Castle in Mayo, and Elphin, Rooskey and Dromod. This has caused considerable concern and anger in many areas. The elderly, those who do not have their own transport, the unemployed who need to collect benefits and shoppers feel they have been left out, notwithstanding that the good work done by the NTA has been cynically undermined by those who are trying to use it for their own political advantage.

**An Leas-Cheann Comhairle:** Could we reduce the noise level for Deputy Feighan? Can we have respect for the speaker? I do not think they can hear me up there at the back. Deputies should reduce the noise level. Deputy Feighan has the floor.

**Deputy Frank Feighan:** I thank the Leas-Cheann Comhairle for that protection. Most of them are my own colleagues.

**Deputy Mattie McGrath:** All of them are.

**Deputy Frank Feighan:** Nothing has changed in the political scene.

**Deputy Mattie McGrath:** There is no sign of Deputy Luke ‘Ming’ Flanagan.

**Deputy Frank Feighan:** It is all right. Those opposite I can see; it is the ones behind me I cannot.

**Deputy Mattie McGrath:** They are more dangerous too.

**Deputy Frank Feighan:** Much of the time when one is trying to explain why the Government cannot subsidise Expressway routes it seems lost on many who say that we are giving a subvention to CIE and should assert that the buses should stop at every town and village. I am annoyed that this is so but I understand the reasoning behind it. I have worked closely with Bus Éireann, certainly in Sligo, to try to achieve a compromise on the matter. The fact is that if one takes the Bus Éireann service from Sligo to Dublin, as I do on occasion, and which is quite good value, it takes three hours and 30 minutes. There are private licensed operators which leave Sligo, stop in Carrick-on-Shannon and on the by-pass in Longford, effectively picking up 50% or 60% of those travelling, and get to Dublin in less than two hours. CIE faces considerable challenges. Unfortunately, it could lose its customers on those routes, but it also has an obligation to try to deliver for everybody. I say that because CIE was working closely with the NTA and with rural transport to try to fill in the gaps, but sometimes it can be a race to the bottom where the private licensed operators cherry-pick the major population centres.

A major population centre such as Sligo town has as many customers as 40 villages. The position is the same as when people resisted a by-pass for a town where every other town wanted it because one would get to and from Dublin or wherever as quickly as possible. We are working closely with the NTA to get this arrangement sorted out. I have worked closely in Ballinamore, which is a big town which had no public transport links to the major towns. We achieved a compromise in Elphin and Carrick Castle and I am working closely to achieve a compromise so that the service will come off the main road into Dromod, and also in Rooskey. Dromod is not as bad as Rooskey because Dromod is on the Sligo railway line to Dublin, but Rooskey is a difficulty. I still cannot understand why Bus Éireann could not come off the dual carriageway and use the old N4 because the route is shorter and it would only take a minute

longer. This issue has caused so much anger. Sometimes it is difficult for us as politicians to get involved to resolve such matters, especially when there are others who are clearly presenting as fact something that is incorrect.

During the Celtic tiger, many who came into the country, especially those from Poland, did not have their own cars and used public transport in Dublin, the major cities and in rural areas. People got on at every bus stop, but now, because of the recession, there is a significant loss of revenue for Bus Éireann and CIE.

I pay tribute to Irish Rail. It provides a great service on the Sligo-Dublin line and many others. It is competitive and it is wonderful. However, sometimes the cost of tickets is exorbitant. If I want to take a train in the morning from Sligo to Dublin, it will cost €35. While I believe the free travel scheme is necessary and it is wonderful that anybody over 65 can avail of it, in some aspects the scheme is being abused. One area I feel it is being abused is where, in a certain town or city, a retired senior civil servant, because he has free travel, takes the Friday train to Heuston Station in Dublin where he has a coffee or a pint, and meets his son, who works for a major firm in Dublin, in the afternoon. Not alone that, the son can travel free with his father as the accompanying passenger back to wherever they go. Not alone are he and the young fellow getting free travel, the poor unfortunate who is paying the full price for his or her travel must stand up so this young man can sit with his father. That is where it is abused. There are some aspects where people must enter into the spirit of the scheme. An accompanying passenger where somebody is disabled or needs a hand is a worthy measure but, in some respects, the scheme is much abused, and this is worth looking into.

I pay tribute to the professionalism of the bus drivers and the train drivers, and all the staff who are courteous. Even on Dublin Bus, people, especially those coming up from the country who do not know where they are going, are shown great courtesy, which I respect. One does not mind asking a bus driver which stop is appropriate, and I appreciate that.

On the extension of rural transport services I believe the National Transport Authority is considering the use of school buses and private operators in the provision of rural transport services because they are a vital link for the elderly and people who need such transport to get into the local town to collect their pensions, to shop or to meet their friends. This is because rural areas have become extremely isolated. Even ten years ago, if seeking directions, one always would have seen someone who was walking along the side of the road. However, there no longer appears to be anyone in rural areas and consequently, people tell me how important are such rural transport services.

While a lot of this money is going towards the provision of a public service, one measure that could be examined is the provision of cycleways and walking paths between towns and villages. For example, if one wished to get from Boyle to Carrick-on-Shannon, which takes ten minutes by road, the adoption of the model used in Germany or the Netherlands, with cycleways along rivers and canals, could get a lot of people out of their cars and off the roads. I acknowledge one would need a certain level of fitness but consideration should be given to connecting all the major villages nationwide and I note this has been sorted out successfully in Dublin.

I wish the Minister well with this Bill and thank him for the work he is doing. One point that should be considered in the context of The Gathering event next year is that only 5% of overseas visitors and 6% of tourism revenue are generated through coach tourism. A huge op-

portunity exists in this regard and I believe Bus Éireann and many other operators must examine this possibility.

**Deputy Mattie McGrath:** I am pleased to have an opportunity to speak on this Bill today. I regard Deputy Varadkar to be a hard-working Minister with good ideas and good intentions. This is a reasonable effort to deal with an issue that should have been dealt with years ago. At the outset, however, I note the Government has promised reform in many areas, including additional settings on Fridays. While this is not the normal kind of Friday sitting, I do not know the reason for the calling for a quorum by the Minister a few minutes ago. In the time when I was supporting a Government as a backbencher, the onus always was on the Government side to maintain the quorum. I do not believe I ever saw a case in which the Government side called a quorum, as it always was done by the Opposition. This may be a sign of reform or perhaps the Minister was simply testing the mettle of his backbenchers to ascertain whether many of them are present in the House today, whether many of them have gone into hiding from the budget or whatever. Nevertheless, I believe this was strange.

Moreover, the Minister of State, Deputy Kehoe, then arrived in the Chamber to propose to Members that the Dáil would not sit next Monday. While this proposal obviously was accepted by the House, Members were meant to be sitting next Monday and I do not know whether they are coming or going. They received very little notice of the Monday sitting in the first instance and now find they will not sit on that day. People must make accommodation requests and so on, as I did this morning, and consequently, Members must have some reasonable interaction and engagement. I am not a Whip of any group and do not know what is going on.

**An Ceann Comhairle:** In what section of the Bill is this?

**Deputy Mattie McGrath:** I was merely making a preamble to my contribution. The Ceann Comhairle is welcome to the House.

**An Ceann Comhairle:** Sorry, I thought I was in the wrong-----

**Deputy Mattie McGrath:** No, it was just to note that I was confused about what was happening.

**An Ceann Comhairle:** That is grand.

**Deputy Mattie McGrath:** I will return to the Bill now.

**An Ceann Comhairle:** Excellent.

**Deputy Mattie McGrath:** Reform is what I look forward to seeing and in the context of reform of the CIE group, it has been obliged to confront a difficult economic position. As with most businesses sectors in the State, the current economic environment is very challenging for public transport providers. One is told the primary cause of the problem is the recession, which has caused a fall of more than 20% in passenger numbers from the peak in 2007. While this has been partially offset by fare increases, revenue is down by more than 11% from the 2008 level. I can tell the Minister that revenue also has fallen by far more, by between 50% and 60%, for many of the private operators. In this case, the public service obligation, PSO, subvention has reduced by 21% between 2008 and 2012 and is due to fall by a further 14% over the next two years. The removal of the fuel rebate is estimated to have cost the group approximately €22 million. However, that has cost all road users, and certainly all transport providers and hauliers,

to the same degree. It was announced in this week's budget that a rebate would be introduced for road hauliers but the rate was not indicated. On pressing the Minister last night, it was found that the private road transport providers, that is, private bus companies, will not be included. This rebate should be applied fairly and should be given to everyone who provide such services.

The Minister stated:

While the CIE group reported surpluses in each year [of the boom when we all were going crazy] from 2006 to 2008, 2007 was the only year in the period 2006 to 2011 in which the group generated a surplus when the gains from the disposal of fixed assets were excluded, that is, the sale of property. In the past three years, 2009 to 2011, CIE suffered a total loss of more than €137 million after exceptional items. Clearly, this level of loss cannot be sustained.

I welcome these comments and I also welcome the comments he made publicly some time ago to the effect that this issue must be dealt with and is not a bottomless pit. As I noted earlier, there are many areas for reform. To revert to Coras Iompair Éireann and the various organisations therein, in the main I must compliment its workers and staff, including the outdoor workers on the rail lines and everything else. They have been proud, honourable and courteous and did an honest day's work and provided the services. However, at the top of the organisation, something is rotten in the state of Denmark, which appears to have been a problem across our society. Whatever about those out on the front line in the more challenging areas, the board has much to answer for because its auditors had been warning the board about dangers coming down the line. I question whether the board members listened to that warning. Did everyone get carried away in the three or four years of the boom and think there would be no tomorrow and that CIE also would be affected?

In addition, I have raised a case in the House recently concerning a compulsory purchase order, CPO, that affected a landowner in County Tipperary. While I admit the family concerned approached me late in the day, I believe three alternatives existed for CIE to engage with the aforementioned landowner, rather than placing a compulsory purchase order on his land, locking his gates and locking him out of it. Swaps could have been carried out or other mutual arrangements and three different options existed. I must state that I met a wall of arrogance from officials. They would not meet me, either alone or with the family, and would not engage. I pointed out I was a public representative from south Tipperary, for the time being, but it did not matter as they did not wish to know. This must be dealt with, as such people must be accountable. The State is putting in public money to the group and they must be accountable and must have respect for Members of this House and for others. I was appalled by such a level and I encountered a complete roadblock. I was told the compulsory purchase order would be signed on a certain date, which it was, with the result that the land was cut off from the man. However, it did not make sense because mutual arrangements and swaps could have been entered into for a lot less money and it was a pity that reason could not be seen. One cannot have such a bureaucratic group that will not engage with public representatives and this message must be sent to it loud and clear. However, are they listening or are these people part of the permanent government who consider that no matter who is in charge or elected to this House, they are a greater power? That is how it appears to me. They think the likes of me as a public representative is only here for a while and will be gone after the next election and that they can carry on. This is what has happened to this country in respect of many Departments but it is not good enough and cannot be accepted.

A situation has arisen with Bus Éireann in my native county and I have been contacted by Councillor Sylvia Cooney-Sheehan dozens of times about the Carrick-on-Suir to Dublin service. People are completely unsure as to what will happen to it, as it faces a threat of being reduced from eight to two services per day. If one considers the budget announced this week and all the talk about it being an austerity budget, it was mentioned several times that people could use public transport. However, it is not available and even the parts that are available are being removed. In this context, I refer to the increase in tax rates for cars with low CO2 emissions and the breach of faith with the members of the public, who greeted the original initiative with gusto. They upgraded by buying cleaner and leaner new cars to avail of the low tax, only to experience this complete breach of faith. The Minister is as aware as I am that the public transport is not there. It is the same with the Clonmel to Dublin route, where there is uncertainty, and but for private operators we would have basically no service. The Cahir and Clogheen to Cork route has had services removed without engagement. The bus stop had a laminated A4 sheet left on it; I have a picture of such a notice at Hopkinsrea in Burncourt indicating that the bus stop would no longer be in use after two weeks. The notice was left fading and blowing in the wind. That is not good enough.

We had the same problem when the new M8 was opened. We fought for years to get a bus to stop in New Inn and we achieved that goal. When the motorway was opened, the bus went along the motorway and the company forgot about the people of New Inn. Before the bus stopped in the village, the people had to travel to Cahir or Cashel to get the bus. We cannot carry on like that.

Railway stations are an untapped resource. I have fond memories of bringing beet into Cahir when there was many staff and much activity but the station is now idle. There is a waiting room if people want to avail of the few services that are left. Entrepreneurs have contacted me over the past number of years with businesses ideally suited to that building but there was no engagement with CIE. Railway stations are lovely, protected listed buildings but they are idle. I commend the station master, who has passed away, and his wife, who still lives there, for the way the property and area has been kept. The buildings are big and accessible but they are left idle, with cobwebs and crows flying through them. That resource is being squandered by the incompetence of management, who did not become swift, thrifty or innovative in their business and thought the Government would continue to pump money into the company.

I am very involved with rural transport. I have not determined if the cuts will be €10 million or €11 million but there is much voluntary engagement in the likes of Ring a Link in Carlow, Kilkenny and south Tipperary. I am chairperson of the south Tipperary working group but there are three. There is a voluntary board, a manager in Mr. Jackie Mealy and bus drivers. They bring pleasure, sustenance and benefit to passengers. I could give quotes from letters, and we launched a book with such letters. One lady said it was like opening the gates of Mountjoy and releasing her because the bus could pick her up at her house and bring her home. She could book the service on-line by giving a time and date. I salute the board members and staff.

Why should these people be worried about funding? We gave more than €10 million to Derry Airport in 2011, although I am not against such funding going to the airport. When the McCarthy report was published, it recommended the closure of rural transport, despite us working tirelessly for it. I commend the people doing the groundwork, including a number of clergy involved in my area. Our county is a showcase, as passenger numbers are large and we provide value for money. We are pruning services that are not cost-effective. Our service should be expanded and we must allow it to flourish.

There is rural transport in most counties but I have been contacted by a lady from just outside Tallaght in Dublin. She availed of a service but that is being discontinued. She is almost in Tallaght - she can see it from where she lives - but now she may as well be in Donegal because there is no service and she must ring a taxi. The Minister would know the geography of Dublin better than me, as I only drive through the area. This is a proud Tipperary woman who has lived in Dublin for 40 years. She fought for a service and got it but now it has been stopped with the stroke of a pen because the group in east Wicklow was not able to oblige her any longer. I would not blame the group as it must rein in its budget too.

There are many questions to be asked of the senior management and board and about their behaviour over the years. We should examine the costs of consultants, fees and junkets over the years, leaving the ordinary people last to get anything. They are first to be hammered.

I offer sympathies on what happened yesterday. I happened to be on the street close to where the incident involving the bus occurred. It is awful as somebody died, which is unfortunate for the person's family and the bus driver and passengers. Bus drivers have many trips to complete every day and they have a safe record, in fairness. Although accidents happen, it was unfortunate for the bus driver, passengers and colleagues.

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** At the outset I thank Fianna Fáil and Sinn Féin spokespersons, as well as Independent Members, for their support of the Bill. I will address a few points raised by Deputies before I sum up. Deputy McConologue raised the issue of competitive tendering and asked if there is a difference between Fine Gael and Labour Ministers on the matter. Like many issues, there is a diversity of views in the Government and they do not always break down along party lines. I was disappointed that having asked the question, Deputy McConologue did not tell us the Fianna Fáil view, and I am interested in knowing the party's view, including what it thinks would be most of benefit to passengers or in the public interest.

I had a chance to examine the Fianna Fáil pre-budget submission, which although not fully costed was fairly detailed. It is interesting to note that in the pre-budget submission, the party proposed to increase spending in a number of areas but did not propose any increase in spending on public transport or CIE. I intend to hold Fianna Fáil to their proposal and will not listen to its Members criticising the level of subvention, as their alternative budget endorsed and supported cuts in subvention. It is there in black and white with Fianna Fáil headed paper. Fianna Fáil also proposed a 7% cut in free travel. We will not cut that scheme and I would like to know how Fianna Fáil would intend to bring about the 7% cut in the amount provided for free travel.

Deputy McConologue was concerned that I may be taking a hands-off approach with public transport and CIE but that is absolutely not the case. I have a very hands-on approach in the area and the CIE financial crisis takes up much of my time and that of the Minister of State and officials. We must bear in mind that CIE and subsidiary companies are not a normal part of the public service; although they provide public as well as commercial services, they are not the same as the Departments of Social Protection, Education and Skills or Health or the Revenue Commissioners. They are a State-owned enterprise with a board and management, so there is a certain separation. Certain logical and legal procedures do not allow a Minister to be as engaged in processes as he or she would be in the Department.

Deputy Ross indicated that this Bill is essentially throwing a lifeline to CIE, which is absolutely correct, and he questioned whether we should do so. It is a legitimate question. He also

asked the rhetorical question of what would happen if we did not pass this Bill. There are two options. The first is putting another cash injection of taxpayer money into CIE in 2013; that will not happen as I do not have the money. The alternative is to allow the company to go bust or close down significant parts of the services it provides. That is not something I can countenance either, and that is why the Bill is before us.

The Bill has a number of important elements. It clarifies different measures under which CIE can engage in non-capital borrowing and makes a few changes with regard to the importance of State guarantees. It recognises that although Irish Rail is part of the State, Bus Éireann and Dublin Bus are not. That derives from European law. The legislation sends a clear message to the CIE board, management and staff that if it runs behind this year, the company will have to borrow money. Any deficit will have to be covered through borrowing against assets, interest will be paid on the borrowing and the money must be repaid. There is no possibility of a further cash injection above what has already been given to CIE. The Bill sends a clear message that shortfalls and overruns will be met by borrowings against the assets of the company. While CIE will not necessarily be required to provide collateral in all cases, borrowings will be made against the company and interest will be charged on any such borrowings. If it ever needed an incentive to implement its business plan, this should be it.

CIE is undergoing major reforms which have only recently commenced. The company has a new corporate structure, with four recently appointed non-executive chairpersons and new board membership. A Government decision was made not to dismiss board members appointed by the previous Administration. I chose not to dismiss board members for this reason, although I have appointed many new members. New financial management, with different systems and people, has been introduced at the company.

Deputy Ross referred to the Baker Tilly report, with which he was heavily involved. I commend the Deputy on his work in that regard and the extent to which he drove the report through committee. However, the report deals with events which took place in 2005 and 2006, which is the best part of a decade ago. Since coming to office, I have done a trawl in my Department to ascertain if many allegations of wrongdoing were made in CIE and if they stacked up. I found there were only a small number of such allegations and none of them stacked up. If anyone has any allegations about wrongdoing or corruption in CIE, I would like to see evidence for them. I cannot stand over an assumption that wrongdoing must be rife and ongoing because it was proved in one instance in 2005. I do not accept this view as there is no evidence that wrongdoing or corruption is rife or ongoing in CIE. If anyone has allegations backed up by evidence, I would like to see them by all means, however. I do not have any reason to believe CIE is not entirely proper in its dealings at management and worker level.

CIE chairpersons were appointed before they went before the committee, although I did not sign off on their orders for appointment or mandates until after the committee hearing in case any matter arose at the meeting that would cause me to change my mind. As it happened, the four chairs did very well in their hearing and their mandates were subsequently signed. Since then, the procedures have changed slightly and any chairperson who goes before a committee must do so before his or her appointment is confirmed and the order for appointment is signed. This procedure has applied, for example, in the cases of the new chairpersons of the Dublin Airport Authority, National Roads Authority, Railway Procurement Agency and port companies and in the reappointment of Mr. Gay Byrne as chairman of the Road Safety Authority. All the individuals in question appeared before a hearing of an Oireachtas committee before they were appointed or reappointed. This issue has, therefore, been addressed.



I thank Deputy Ellis for his support for the Bill and the commitment he expressed towards Dublin Bus in particular. I note his call for greater investment in public transport. All of us would love more investment in public transport and if I had more money, I would invest it in public transport. Sinn Féin recently produced a €7 billion stimulus plan and while the source of funding for the plan is questionable, that is a matter for another day. However, even if one gives the party the benefit of the doubt and accepts that €7 billion could be raised, I note its plan proposed to spend €400 million on a road located mainly in Northern Ireland, €74 million on an airport and €50 million on a port and that no funding was proposed for public transport, either buses or railways. Deputy Ellis should bear this in mind when he calls for more investment in public transport.

**Deputy Dessie Ellis:** We did not outline every project we would fund.

**Deputy Leo Varadkar:** It is interesting the plan managed to refer to money for ports, airports and a road but did not make any reference to public transport.

**Deputy Dessie Ellis:** We could have a listened 1 million projects.

**Deputy Leo Varadkar:** Half of the funding provided under the Government's stimulus plan announced last year is being allocated to transport, albeit not to public transport for various reasons.

Deputy Joan Collins stated the trade unions had co-operated to a point with the necessary changes and reforms in the CIE companies, which is true. She pointed out that she had been in contact with the trade unions before proceeding to read out a statement based largely on what union representatives told her. I wonder how different her statement would have been if she had spoken to taxpayers and passengers to gauge their views on the matter. My job as Minister is to look out for taxpayers and passengers while having regard to the workers. It is a little disappointing for a Deputy to speak, as it were, on behalf of the staff rather than those who use the services. I am aware that Deputy Collins is a strong supporter of improving our labour laws and having a quasi-judicial system of dispute resolution. For this reason, I would be interested in hearing her view on whether Bus Éireann trade unions made a correct decision in refusing to go before the Labour Court.

The Deputy also indicated that the problems in CIE are caused by cuts in the subvention, which is not entirely true. As I noted, the subvention provided to CIE in 2012 was the fifth highest in the history of the State. This was the company's fifth best year ever in terms of money it received from the Government. I wonder how many individuals or groups could say the same about this year. CIE has done very well from subvention and while I accept it is lower here than in other European countries, it should be noted that other countries have much more extensive transport systems. We do not have electrified railways between our cities or underground rail systems. Moreover, in calculating subvention figures, it is important to bear in mind that subvention is paid in two forms here, namely, through the public service obligation grants for services and capital grants. When trade unions and other interest groups are making comparisons they often count the PSO grants and omit capital grants, whereas in most countries only one form of subvention is paid. It is important to compare like with like.

Deputy Catherine Murphy made some good points on land use and transport. She noted correctly, for example, that land was developed in the past on the basis of who owned it, rather than whether it was appropriate to develop it. We have major problems with settlement pat-

terns. Our settlements are too spread out, there are too many of them and they are not sufficiently dense near cities. In Dublin and other cities, railway lines frequently run through fields, while lands a significant distance from the lines were somehow rezoned and developed. Major mistakes have been made in this regard and it is much more difficult and expensive to provide hospitals and public transport services in the right places because people live in the wrong places as a result of poor planning over the years. This is an enormously expensive legacy that we will have to bear for generations unfortunately. It is also one of the issues that caused me to enter politics when I became a Fingal county councillor and one about which I still feel very strongly.

Deputy Murphy also expressed strong support for the rail interconnector project, which I also support. It is proposed to proceed with the project as a public private partnership project. However, in recent years, we have been unable to get many public private partnerships off the ground. We will re-examine the matter in 2015 to ascertain whether we can get the PPP market for transport moving again. If European leaders can agree a budget, I hope we will be able to secure some funding for the project through the Connecting Europe facility under TEN-T.

The Luas BXD project is an interconnector of sorts, linking up at St. Stephen's Green with the Luas line running south from St. Stephen's Green to the Tallaght, CityWest and Docklands Luas line. From there, it will travel through the north inner city and past the new DIT campus in Grangegorman to Broombridge, where it will link up with the Connolly to Maynooth line. The Luas BXD does not link up the two Luas lines for the sake of it but will serve as an interconnector. For example, it will enable a constituent of Deputy Murphy to board a train in Leixlip, change at Broombridge and travel directly to Dundrum. It is currently extremely difficult to complete this journey by public transport as one would probably have to take two or three buses and it would take a long time. Once the new line has been completed, people will be able to make a seamless change from the train to the Luas. I could provide many similar examples.

The rail interconnector, which is an underground project, is different again and would benefit the entire country. For example, it would allow the DART to be extended as far as Balbriggan to the north, Greystones to the south and into my constituency as far as Dunboyne and Maynooth and perhaps further to Navan. I would like the project to proceed but it will be some time before that occurs.

While it is planned to increase fares on public transport every December, we will try to keep the increases to a minimum. This will depend on other factors such as subvention and cost savings elsewhere in CIE.

The story of privatisation of the railways in Britain is interesting because although it was initially a disaster, more people are using the railways in Britain now than at any time since the war. It has been a success, therefore, in terms of the numbers using rail. Moreover, the subvention per passenger kilometre is now lower than it was in the past. Following the initial disaster, therefore, privatisation has been a success.

The position in respect of buses in Britain was entirely different. Outside of London, bus services were deregulated and privatised entirely. It was a disaster and bus services collapsed. What was done inside London was different, though. In London, bus services are still subvented. Indeed, the subventions are high, but various companies tender for them. As a result, there is good value for money.

Deputy Lawlor mentioned last night's tragedy on Dawson Street in which a man lost his life. I wish to extend my sympathy to his family and to the bus driver involved. It must have been traumatic and shocking for him. I was caught in the gridlock. I will speak to the Garda and various authorities about how such an incident can be managed better in future and what was done with the real-time passenger information, RTPI, signs.

Deputy Mattie McGrath mentioned a number of matters, that of the fuel rebate for hauliers in particular. It was hard fought for and well won by the Irish Road Haulage Association, IRHA. The association went about it the right way, made its case well, used independent analysts to support its case and campaigned strongly for the rebate. I wish to acknowledge the work of Deputies Heather Humphreys and Áine Collins in assisting the IRHA and me in getting the issue of the rebate across the line. It will work. It will reduce fuel tourism out of Ireland and encourage it into Ireland, which is a positive. It will also ensure greater compliance in the sector, as only tax compliant and fully licensed operators will be eligible for it, which is an important element.

I was asked whether the rebate will extend to buses. I still need clarity on this matter, as much of it relates to European regulations in this space. The cost of including buses in the rebate is small and would be covered in the Estimate in Wednesday's budget.

I thank Members for their understanding of and support for the Bill.

Question put and agreed to.

### **Transport (Córas Iompair Éireann and Subsidiary Companies Borrowings) Bill 2012 [Seanad]: Referral to Select Committee**

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** I move:

That the Bill be referred to the Select Sub-Committee on Transport, Tourism and Sport pursuant to Standing Order 82A(3)(a) (6)(a).

Question put and agreed to.

### **Report of the Expert Group on the Judgment in the A, B and C v. Ireland Case: Statements (Resumed)**

**Deputy Mick Wallace:** No one yet knows for sure what happened to Savita Halappanavar. We know that she wanted to be pregnant, that she miscarried and that the care she received did not save her life. It is important to push for medical accountability in such cases and to demand full investigations into whether protocols existed and were followed and whether the patient was subjected to discriminatory harassment and remarks, as has been alleged.

We need not wait for the investigation to highlight what we know about abortion in Ireland. The Government has yet to regulate access to life-saving abortions despite the fact that such

medical interventions have been legal in this country for two decades. The legality of an abortion where the pregnant woman's life is in danger was upheld by the Supreme Court in 1992 and supported by a referendum in the same year. While abortion generally is criminalised in Ireland, women whose lives are threatened by their pregnancies are constitutionally entitled to have abortions.

In 2010, the European Court of Human Rights berated the Government for not regulating access to life-saving abortions clearly, thereby creating insecurity for medical providers and patients alike. Many medical providers want clarity on when they can intervene and when they cannot. How does the Government propose to treat a woman who may or may not die as a result of her pregnancy? Should it tell her to return when she is sure she will die? How will she know and what if it is too late? Who would be responsible for such preventable deaths?

In recent weeks, we have heard time and again about the pain and fear that pregnant women face when something is clearly wrong with their pregnancies and they cannot receive care near home. Abortion is a medical intervention to which women need access, some to save their lives. This is not an opinion - it is a fact, as evidenced by the thousands of women who travel from Ireland to the UK or mainland Europe to terminate pregnancies every year. Knowing this, why do we keep postponing doing the right thing?

Twelve women travel from Ireland to the UK each day to access abortion services. They are from all walks of life and each has her own reasons for deciding to have an abortion. Women's experiences of abortion are diverse and complex and the decision to have one is not taken lightly. Women's reasons for choosing abortion, such as financial worries, concerns about the well-being of other children, diagnoses of serious foetal abnormalities, pre-existing health problems, including mental health problems, and relationship issues, can be stressful. The stress involved in making the decision is exacerbated by needing to travel to another country to access abortion services, by the expense involved, by feelings of fear, stigma and secrecy, by a sense of isolation and by a lack of support. For these women, the need to travel abroad involves unnecessary hardships and, in many cases, significant psychological, physical and financial burdens. The women and girls who experience the most difficulty are those who are marginalised and disadvantaged, namely, those with little or no incomes, those with care responsibilities, those with disabilities, those with mental illnesses, those experiencing violence, those who are young and those of uncertain residency status.

**Deputy Olivia Mitchell:** I have spoken on this issue twice in recent months, but I wish to make further points and to amplify points I have made previously.

Yet again, this issue is turning out to be emotive, divisive and contentious, and needlessly so, as there are central areas of agreement. For instance, I want healthy women to deliver healthy babies. This is everyone's ideal. However, the term "pro-life" is being used as if some of us favour death for children and mothers.

What is often forgotten is that protecting our young is possibly the strongest human biological urge. I do not like making generalisations, but I can say without fear of being contradicted that no woman ever lightly chooses a termination, even when her own life is at risk. We are often in awe of stories and reports of the lengths to which mothers will go to protect their children. In the most extreme circumstances in wars and so on, women make considerable sacrifices. For example, they will go without food and put themselves in danger of death to protect their children. This is not just the case in wars and other extreme circumstances. Every day, mothers

are making the most amazing sacrifices for their children.

It is insulting to women generally to be of the attitude that there is a mindless desire among them for abortion on demand. People with that belief could not be more wrong. No one considers abortion a good or highly desirable measure. Let us at least agree on this much.

I welcome the Government's commitment to report on the option that will be chosen from the expert group report before Christmas. Legislation is the best option. Even the expert group, which was not asked to make a recommendation, but to give options, believed that, according to the logic of its deliberations, legislation would be necessary if legal certainty was to be given to doctors. The outcome I want is that there should never be a hesitant, uncertain or procrastinating doctor attending pregnant women in this country, in particular in a crisis situation. The danger will continue to exist if we do not provide doctors with absolute legal certainty and legal protection for whatever medical interventions are required to save the life of the woman.

I am no longer willing to have such deaths laid at my door because we, as a Legislature, have failed to provide such protection. The time is long past for us to deal with the issue in a humane and determined way. Our task as legislators is clear; we must legislate for the constitutional provisions, as interpreted by the Supreme Court in the X case. We have been exhorted over many years and on many occasions by the Supreme Court to do so and now we are on our last chance from the European Court of Human Rights.

I regret that there have been efforts to extend the debate to either reduce or extend the provisions of the constitutional provisions. They are red herrings in the context of the current debate. We are not dealing with other situations. Suggestions have been made that this is the first step to euthanasia, to the introduction of abortion on demand or a regime similar to the one in Britain. One person suggested to me that we are taking a step towards terminating the lives of disabled persons. I have had many similar letters. They are all nonsense. They are complete red herrings. Such proposals are not on the table nor is there any suggestion that they should be.

I accept there are different points of view. I believe terminations should be considered in the case of rape, incest and where the foetus is unviable, but I completely accept that is not on the table. The only thing that is on the table is saving the life of the mother in circumstances where to continue the pregnancy would put her life at risk. Could that be so bad? Could people be so against that? Could there be a husband, father or brother who would want to risk the life of his wife, daughter or sister? The only justification that could be put forward for opposing such interventions is where it is denied that there are any such circumstances in which continuing the pregnancy would put the life of the woman at risk. Some have suggested that in the letters I have received, but we now know for certain that there are such circumstances.

We do not need to wait for the outcome of the tragic Savita Halappanavar inquiry to tell us that; doctor after doctor has told us such circumstances do exist, if we ever doubted it in the first place. They exist in circumstances similar to those described by Savita's husband in a crisis where immediate choices have to be made, but they also exist in non-crisis situations and those are probably the most common. I refer to cases where women suffer from cancer, have severe heart conditions or dangerously high blood pressure. In many such cases, if the pregnancy is continued to full term, it is known that there is a real and substantial risk to the life of the mother. Currently, such women, after being briefed on their prospects for survival by their doctors, go to England for life-saving terminations. That sick women have to make that journey is not only unconscionable, it is not what is provided for in the Constitution. While the risk to

life must be real and substantial, I do not believe it must be imminent. That must be addressed in the legislation or guidelines we provide in the new year. I see no justification for insisting that doctors wait until the risk is greater before intervening, as it will be in the more advanced stages of pregnancy.

The Constitution does not allow us to consider terminations merely due to a pregnancy's impact on a woman's health. Given that only the risk to life can be considered, the challenge is to determine when that risk begins. The truth is there is no one point when it suddenly becomes real and substantial. It occurs probably along a continuum and will be different in every case. To provide guidelines to doctors and for us to legislate will require the wisdom of Solomon. It will be extremely difficult. At the same time we must ensure we stay within the provisions of the Constitution, and allow discretion to doctors, because we could not possibly anticipate every situation with which they will have to deal.

In the past we have seen where a wording inserted into the Constitution turned out to mean precisely the opposite of what we all thought it meant. The Taoiseach was correct that we cannot rush matters. He was also correct not to try to introduce legislation before Christmas. I do not have either the legal or medical expertise to know what the precise wording should be, but I do know what outcome I want. Many of us do. I want what I believe most people want; that is to protect the lives of women when continuing with a pregnancy would endanger their lives. It is that simple. Since health cannot be considered, I want the bar determining where the risk begins set as low as possible. I do not want it set anywhere near when the risk becomes so great that it is irreversible. To achieve that and to stay within the provisions of the Constitution will be a considerable challenge but I hope that is what we will provide for in the new year. I look forward to participating in the debate.

**Deputy John Paul Phelan:** I am pleased to have an opportunity to make a contribution on the recently published report of the expert group into the judgment in the *A, B and C v. Ireland* case which was taken to the European Court of Human Rights. In my almost 14 years as a public representative there is no other issue on which I have received more correspondence of varying forms than abortion and medical termination. Concerned constituents and people from all over the country have been in contact with Members of the Oireachtas repeatedly in the past few months in particular. Like the previous speaker, Deputy Mitchell, I am not a medical expert but I have taken the time in recent years to speak to women who had difficult pregnancies or who either travelled abroad for terminations or who had medical terminations in this country owing to the fact that their particular situation was dealt with by the existing guidelines of the Medical Council.

I am also conscious of the fact that, as a man, it is somewhat easier to make pronouncements than a woman who could find herself in grave, personal difficulty with choices to make. I will try my best to outline my position on these matters to the House while referring also to the report of the expert group. I do not believe any woman who has become pregnant has set out with the intention of having an abortion or termination. I have been struck by the unhappiness of the women to whom I have spoken who have travelled overseas. It was not a decision they took lightly. I did not detect any sense to the contrary from the people to whom I have spoken.

I have also spoken to a number of women who have had medical interventions in this country that have saved their lives but led indirectly to the death of the child they were carrying. That has certain resonances with the recent tragic events in Galway and the death of Savita Halappanavar in the most harrowing of circumstances. We await the outcome of the inquiries

that are currently ongoing into her death which was a tragedy for her husband and family. I am sure the findings of those reports will have an impact on the deliberations the Oireachtas will have on that matter in the coming months.

I hold a pro-life position but I believe fundamentally in the aim of the 1983 amendment to the Constitution, namely, the protection of the life of the mother also. In my conversations with women who had terminations in this country due to being gravely ill, I was struck by their overwhelming view that such a position should be protected into the future. I have been struck also by the number of women I have spoken to in recent months who hold strong pro-life views but who recognise the need for legal certainty for medical practitioners in dealing with cases where the life of the mother is under threat. I understand the Government is proposing to deal with those particular circumstances in the new year. That is something that arguably should have been done before now and the current Medical Council guidelines provide a basis under which legislation in this area can be formed. Most people who hold similar views to mine would be of the opinion that those guidelines should be included in legislation, regulation or a combination of both. That is not something with which people have any particular difficulty.

The issue that causes the most concern, certainly for me, is suicide and psychological well-being. In other jurisdictions, most notably the nearest one to this country, the inclusion of loose terminology on the matter of the psychological well-being of the mother when abortion legislation was introduced in the United Kingdom in 1967 has led to a situation in the UK where abortion is freely available. From talking to people on all sides of the argument, and particularly those most affected, who are young women of the age to have children, I do not believe anybody who wants to have abortion freely available as is the case in the United Kingdom.

We are charged with providing a solution that recognises the 1983 constitutional amendment and the subsequent decision of the Supreme Court in the X case judgment, and provides a legal framework both for women and medical practitioners in ensuring that amendment is reflected in the law of the land. A number of interesting analyses were carried out recently. Many of us were briefed recently by Professor Casey from the Mater Hospital who has analysed births in the Dublin maternity hospitals since 1980. Approximately 700,000 births occurred in those hospitals in that 32 year period and Professor Casey's figures and analysis suggest that in that time just two women who had been in contact with the maternity hospitals in Dublin committed suicide. I believe it was the head of Holles Street maternity hospital who commented recently that suicide is very rare but it does occur. We have to develop a system in this country that acknowledges that while suicide might be very rare, it can occur and that the necessary legal protections are in place for practitioners, mothers and suicidal mothers to ensure their medical and health interests are protected.

This debate has been ongoing for the duration of my life having been born at the end of the 1970s. The abortion issue arose periodically at intervals in the past 35 years. It tends to bring out the worst in proponents on both side sides of the argument, namely, those with strong pro-life and pro-choice views. An irrational debate occurs in which most of the population tend to hold more middle ground views that are much more understanding of the circumstances in which people find themselves and tend to be of the view that the right to life of the unborn should be protected also.

In the United Kingdom, approximately one out of every five pregnancies results in a termination, which is an incredibly high statistic. I do not believe that the majority of our people want a regime which would lead to a similar development in this country. I believe, from ex-

tensive discussions I have had, that the majority of people want a clear legislative framework underlining the existing Medical Council guidelines. That should happen, and the Government has outlined a course of action over the coming months which will lead to that being put in place.

Regarding the options outlined in the expert group report, it appears there is very little disagreement on the matter of physical threats to the life of the mother. The only issue arises in the area of psychological threats to the life of the mother. My opening position, and it is the position I have garnered from medical practitioners here in terms of their view of the operation of any new legal framework, is that everything is done in practice in our maternity hospitals to protect both lives. If it becomes apparent at a particular juncture that the life of the mother can only be saved by a medical termination, that is what happens at present. That view is the one most reflected in my interaction with constituents and with people who have concerns about this area, particularly in recent months. It is probably the most emotive issue this country has faced in the past 30 years and it is one on which people hold very strong views. My views are not rooted in a religious perspective. I believe in a society that is based on rights and the most fundamental right is the right to life. That right should be upheld and vindicated and all other rights are subsidiary. That goes for everyone and it underlines my position in being a vocal critic, over many years, of the death penalty and other issues. We must arrive at a situation where protection is given to women who find themselves in medical difficulty during pregnancy. We must provide protection for professionals working with women who find themselves in medical difficulty during pregnancy.

I agree with previous speakers from the Government side who have raised the potential for further constitutional amendment with regard to the matter of psychological issues. It should still be considered by the Government but I agree with the need for the legislation and regulation to be introduced in this area in the near future. It has dragged on since the X case in 1992 and action needs to be taken. Consultation with the public on this matter is not something that should be ruled out at this juncture by the Government.

**Deputy Brendan Ryan:** I propose to share time with Deputy Michael McNamara. I welcome the opportunity to address the House on this important matter. Some people believe the debate should be confined to women. The debate is happening in the House, I was sent here by the women and men of Dublin North and I can do nothing about my gender. In my adult life, I know of no debate that is so divisive, bitter and harsh as the debate on abortion. It has been dominated by loud and vociferous voice from both ends of the spectrum from those in favour of a liberal abortion regime to those who want to see no move towards an abortion regime in Ireland, including legislating for the X case. The Labour Party position on this has been clear for over a decade. Our unambiguous and clear position is that we support legislating for the X case. It will remain our position until we have satisfactory legislation in place. The expert group report states that the X case decision is the law of the State as declared by its highest court. It is binding on all lower courts and generally. The report states, "Although it could have done so and has been criticised in the Supreme Court for failing in that regard, the legislature has not put in place a formal system to provide the exercise of this constitutional right." It is our job to put a formal system in place. Due to the fact the Labour Party is part of the Government, we are closer than ever to achieving it. Recent opinion polls suggest overwhelming support for legislation on the X case. The tragic death of Savita Halappanavar, six weeks ago, has brought the need for clarity in the form of legislation to the front pages again. We await the findings of the report into her death and further comment on individual circumstances is inappropriate at



this stage.

The tragic death of Savita has acted as the further catalyst for public opinion. In the past few days, the budget and related matters have dominated the airwaves, newspaper columns and social media sites. The coverage of the abortion debate has moved back somewhat. I welcome the space we are now in to push the process through the House over the coming weeks. We need to learn from the past and conduct the debate in a forthright, honest and, ultimately, respectful manner. It is the bare minimum the women of Ireland deserve. For too long, there has been a lack of respect running through those most vociferous in the debate. Blame can be shared on both sides, pro-life and pro-choice. I have seen it in the past few weeks as citizen turns on citizen. This week has seen the bitter debate in the form of argument on social media about the number of people at opposing demonstrations. This debate should not operate on that level. The vast majority of people in this country are not on the extremes but want a civilised and informed debate. The majority of people in the Labour Party are not on the extreme and reflect a wide variety of views on the issue. The Labour Party reflects the beliefs of most people in Ireland on this matter. What we share is a desire to legislate for the X case as soon as possible. This is what Labour Party wants and we have brought it to Government. Now is the time for it to be delivered.

**Deputy Michael McNamara:** I thank the Ceann Comhairle for the opportunity to speak on this important issue which, as previous speakers stated, is the most divisive in Irish politics. That is perhaps why successive Governments have done so little for 20 years. The fact that something is difficult is no reason to do nothing. If that were the case, this august Chamber would still be a lecture theatre of the Royal Dublin Society. Instead it is the Parliament of a sovereign state. I welcome the commitment of the Minister for Health and the Minister for Justice and Equality to legislate in the area. I was nine years of age when the eighth amendment to the Constitution was made. I was 18 years old, and about to become a law student, when the Supreme Court decided on the X case. It involved a 14 year old girl who had become pregnant as a result of rape and, as a result, was suicidal. I will reiterate what the Chief Justice stated in that case because there has been a great deal of obfuscation: “I, therefore, conclude that the proper test to be applied is that if it is established as a matter of probability that there is a real and substantial risk to the life, as distinct from the health, of the mother, which can only be avoided by the termination of her pregnancy, such termination is permissible, having regard to the true interpretation of Article 40.3.3 of the Constitution.” Considering that a suicide risk had to be taken into account in reconciling the right to life of the mother and the unborn, the Chief Justice continued: “I am, therefore, satisfied that on the evidence [it has been] established, as a matter of probability, that there is a real and substantial risk to the life of the mother by self-destruction which can only be avoided by termination of her pregnancy.” Similar judgments were delivered by three of the other four judges, with Mr. Justice McCarthy noting pertinently “The right of the girl here is a right to a life in being; the right of the unborn is to a life contingent; contingent on survival in the womb until successful delivery.” He concluded: “On the facts of the case, which are not in contest, I am wholly satisfied that a real and substantial risk that the girl might take her own life was established; it follows that she should not be prevented from having a medical termination of pregnancy.”

In that same year, 1992, a proposed 12th amendment, which would have excluded the threat of suicide from justifying an abortion, was defeated by the Irish people. Some ten years elapsed and nothing was done by the House. In 2002, the 25th amendment to the Constitution Bill also proposed to remove the threat of suicide as a grounds for legal abortion. That was rejected by

the Irish people. A further ten years elapsed and this august Chamber did nothing. Less than a week before the second anniversary of the judgment of the European Court of Human Rights into the *A, B and C v. Ireland*, we are discussing the report of the expert group set up to examine the judgment.

That is the legal context or, rather, the absence of a legal context in which the *A, B and C v. Ireland* case was decided. As a result, girls born in the same year as me and women who went to college in the same year as me spent their entire lives subject to what is described in the European Court of Human Rights judgment as the chilling effect of the criminal law provisions in the 1861 Act, which have an impact on women and doctors during a medical consultation because of the risk to both parties of criminal conviction and imprisonment. The UN Special Rapporteur on health and the UN Committee Against Torture have also commented on the effect of criminal laws that have an impact on the health of women. When discussing the Bill tabled by Deputy Clare Daly, which he acknowledged was well-intentioned but substantially defective, the Minister for Justice and Equality, Deputy Shatter, commented that her Bill failed to deal adequately with sections 58 and 59 of the Offences Against the Person Act. In recent weeks, the Act has placed doctors in an impossible position, as alluded to in the European Court of Human Rights judgment. I have heard such claims from medical doctors who work in obstetrics. The master of the National Maternity Hospital at Holles Street called for more guidance to deal with the grey area that arises in cases where there has been a risk to the mother's life, and a consultant in emergency medicine, Dr. Patrick Plunkett, called for legislation to clarify when doctors can intervene and terminate a pregnancy in a bid to protect the mother's life. Therefore, I welcome the Government's commitment to bring forward legislation to bring clarity in that area.

That, however, is not the end of successive Governments' failures to legislate in this complex area. Some Deputies have said marriage is primarily about children, its main purpose being to propagate. While I disagree with that, an increasing number of couples find it difficult to propagate. They find it difficult to conceive a child and, as a result, resort to IVF and assisted reproductive methods. One of the undeniable consequences of that is an increase in the number of frozen embryos, again a matter for which the House has failed to legislate. In *Roche v. Roche and others*, it fell to the Supreme Court to decide whether a frozen embryo was human life within the meaning of Article 40.3.3°. The Chief Justice, Mr. Justice Murray, said:

I do not consider that it is for a Court of law, faced with the most divergent if most learned views in the discourses available to it from the disciplines referred to, to pronounce on the truth of when human life begins.

It is important to recall that the European Court of Human Rights came to the same conclusion in the *A, B and C* case, that is, that there is no consensus in Europe as to when human life begins and that protection for that human life and the decision as to the moment it begins falls to member states to adjudicate. This State has singularly failed to decide when human life begins and when the protection of human life begins in accordance with Article 40.3.3°. The Supreme Court, in the case of *Roche v. Roche and others*, decided that frozen embryos did not attract the protection of Article 40.3.3°. Mr. Justice Hardiman stated:

But the fact that difficulties are raised does not absolve the legislature from the obligation to consider the degree of respect due to fertilised embryos and to act upon such consideration "by its laws". There has been a marked reluctance on the part of the legislature actually to legislate on these issues: the Court simply draws attention to this. That is all it can do. That is what McCarthy J. did, apparently in vain, in the *X* case eighteen years ago.

But the Court does so as seriously and as urgently as it can.

Another anomaly in Irish law concerns the 2007 case of Ms D, a minor, which was also considered by the European Court in the A, B and C case. Ms D was a minor in HSE care who had been prevented from going abroad for an abortion. Her foetus had been diagnosed with an-encephaly, a condition where a major part of the brain is missing. The diagnosis was accepted as being incompatible with life outside the womb. The High Court clarified that the case was not about abortion or termination of pregnancy but about the right to travel, admittedly for the purpose of a pregnancy termination. I happened to be in court on other business the morning Ms D applied to the court. I recall her standing towards the back of a crowded court room full of bewigged and begowned barristers and solicitors as her medical details were read out to the crowded courtroom. Women with a medical condition such as hers should not be dragged into court to outline the most intimate medical details to a crowded courtroom.

In the A, B and C case, the European Court of Human Rights considered it evident that travelling abroad for an abortion constituted a significant psychological burden on each applicant but concluded there had been no violation of the convention as regards the first and second applicants. In general terms, the court affirmed that it does not consider that the prohibition in Ireland of abortion for health and well-being reasons exceeds the margin of appreciation accorded in that respect to the Irish State.

Nevertheless, it is high time the Legislature decided what exactly constitutes the unborn who attract the protection of Article 40.3.3°, aside from the A, B and C and X cases. Does it include frozen embryos? If not, when will this Legislature legislate for that? Does it include a foetus that is diagnosed with a condition that is incompatible with life outside the womb? For the avoidance of doubt, because I am clear this issue is emotive and that every word every politician says on it is likely to be skewed, I am not talking about diagnoses of an illness or disability. I am talking about a diagnosis where it is found that the foetus is incompatible with life. Does that foetus enjoy the protection of the right to life?

**Deputy Michael Creed:** I welcome the opportunity to speak on the Government commissioned report of the expert group on the judgment in the A, B and C case, which has led to a broader discussion on the provisions in our Constitution and the interpretation of the Constitution, particularly with regard to the X case.

I thank the members of the expert group for a report that is very legible, even for a lay person, but which raises very complex issues. I thank them for that.

It is well nigh impossible to debate this issue without reference to the tragic death of Savita Halappanavar in Galway. I extend my sympathy to her husband and family on her very tragic death. What made the story newsworthy was the fact that deaths of that nature are, thankfully, rare occurrences. It has evolved into a greater story with many facets. It was always going to be difficult to have a rational debate on the expert group report on A, B, and C, without the emotive charge of the death of Savita Halappanavar. Until we know all the facts, it is important not to confuse the two issues.

For that reason, I welcome the HSE inquiry and the decision by HIQA to hold its own inquiry. I hope those reports can be expedited and can inform this debate. I also hope the inquest can be expedited so that we have a full picture of what happened.

The issue is one of great public interest and sadness because it is unusual, but not unprec-

edented. We remember the tragic death of Ms Tania McCabe which was followed by a similar statutory inquiry. For those who care to read the report of the inquiry, the circumstances are somewhat similar and the outcome also tragic. It is important to acknowledge the content of that report and that it assists us in coming to a decision.

This is a complex issue. It is one for the Irish people and their representatives to decide. For that reason, I was irked by the offensive reference to the issue by the visiting United States Secretary of State, Mrs. Hillary Clinton. We have an extremely good record in terms of safety in our maternity hospitals for women and this is newsworthy because it is so rare. That is a fact that holds up to international scrutiny. I accept there is a debate about how those figures are constituted but they hold up to comparison with any country in the developed world, including the United States.

It is also apparent, with a few exceptions, that we have moved on significantly in this debate in terms of the capacity to have a civilised discourse on the issue and to be tolerant of different views, and there are many different views. The death of Savita Halappanavar has generated an enormous number of communications with constituents and citizens that fall into one or other side of the debate on how we should move forward. What has struck me most are not the generic e-mails I received but the people who took the time out to construct their own emails and to cogently express their concerns. Middle Ireland has a view that might be simply interpreted as not wanting, in any circumstances, to compromise the lives of mothers during pregnancy and we all share that outlook in this debate. It is important as we try to chart a roadmap on this difficult issue to accept that we start from fundamental values we hold. The lazy labels go back to the 1980s when this issue was first raised during the scramble for a constitutional referendum and the context in which it was conceded. Those lazy labels do a disservice to all sides and it is important to remember we all share a certain fundamental approach on this issue.

Conservative or liberal are other labels that go with this. I would be on the conservative side of this debate but on other related issues, such as human assisted reproduction, I am on the record as saying that it is disgraceful we have not legislated for this or provided legal certainty for children born through surrogacy and who have second class status in the State akin to the former status of illegitimacy that we legislated to abolish. Those labels are lazy.

The political context of the debate is simple. We campaigned on the basis of not legislating for the X case but establishing an expert group. The Labour Party position was quite clear that it was its policy to legislate for the X case. As in any arrangement for government between two parties, a compromise was established in the programme for Government, which established the expert group. The issue of concern to me is if the outcome of the debate was a foregone conclusion given the circumstances and terms of reference for the expert group. Annex 2 of the report stated that the terms of reference were 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 a speedy action. It appears to me that in many respects the group was channelled into pursuing a certain course of action.

None of us wants a situation where doctors in the labour wards must refer to the small print of the law to deal with an individual case of pregnancy. I have never been lobbied officially by the Institute of Obstetricians and Gynaecologists, but if their voices now emerge in the context of the Savita Halappanavar case, and the existing Medical Council guidelines must be given statutory impact, I have no difficulty with that. No one wants a situation that compromises any

mother's life in the slightest.

The issue in the context of the X case is how to deal with suicide as the threat to life of the mother. Regrettably in society today, suicide has far too high a currency and happens all too frequently. I have sought the statistics for threats to the life of the mother due to suicide and I heard one of the heads of one of the Dublin maternity hospitals say it could arise once every 25 years. Be that as it may, none of us would want in any circumstances to deny a mother the appropriate treatment. People fear the principle of the Trojan horse, whereby we make provision but find subsequently that it was not sufficiently legally watertight and would in future lead to unintended consequences.

The dilemma is the divergence between the legislative intent of the public when they passed Article 40.3.3° in 1982 and its interpretation by the Supreme Court. It would be one thing, and this is not a criticism of the Supreme Court as it vindicated the right to life of the mother, for the interpretation of the Constitution to have diverged from the legislative intent of the citizens but for that to happen a second time as this House grapples with the necessary legislation to underpin that ruling would be an unforgivable error. We must remain true to the democratic *imprimatur* given for our efforts to protect the life of the unborn while bearing in mind the equal right to life of the mother while giving the legal certainty that is required.

Much has been said about 20 years of inactivity but that is not entirely true. There have been four referenda in the intervening period, two of which were passed and two of which were rejected. While I have reservations about the suicide issue, I am cognisant of the other side of the argument that states that on two occasions the public rejected referenda to exclude suicide as a grounds on which to secure a termination because of the threat to the life of the mother. I know that is open to argument and dispute because of the circumstances of the debate but I am also cognisant that given the high incidence of suicide, there is a distinct possibility that if a single issue referendum was held on suicide, the public would reject it and then we would have to reflect on the consequences of that and how it might be interpreted by others as a vote for a more liberal approach to the issue. It is complex.

I would prefer a situation where the Oireachtas through its joint committee held hearings before the Government makes a decision so that we can assimilate all the information from the various experts who have different and conflicting views of the reality. That would be a preferable route. As we grapple with this very difficult issue we must be cognisant of the legislative intent of the people in Article 40.3.3° of the Constitution. At the same time we must never in any circumstances put any mother at risk by our failure to act or by our actions.

**Deputy Finian McGrath:** I welcome the opportunity to participate in this very important debate on the report of the expert group on the judgment in the A, B and C v. Ireland case. This is a major part of the abortion debate and I am glad to be able to put my views on the record of the House and not to be totally misrepresented as has happened in recent weeks. Of course I offer my full sympathy and support to all the family and friends of Savita Halappanavar. The loss of human life is a total tragedy and our compassion and support must go out to all of them. We need to look at the facts surrounding her death and then make a decision based on the evidence and facts. I do not do hearsay evidence, but I emphasise that the Halappanavar family members must be given the maximum support in their requests.

Let us be open and honest in this debate and drop the slogans. I have always considered myself pro-life in all aspects of my beliefs and political philosophy. I do not know anyone

who is anti-life and we all want to do our best to save lives. We all need to do our best to save mothers and we all want do our best to save babies and young children. That is my view and I feel it is the view of most Members of the Dáil and Seanad. However, life is not fair and can be very difficult at times. There are times for extremely difficult choices and they have to be made. Many of us have had those difficult times in our lives through miscarriages and threatened miscarriages or having a baby with a disability. They have all touched our families, but at all times life is at the top of our agenda. That is why I disagree with many of my colleagues that the issue of abortion is complex. The bottom line for me is as follows. I have two daughters and now, thankfully, a granddaughter. I would do anything to protect, safeguard and save their lives in any difficult pregnancy situation, as would most parents and family members. There are no talks about talks when it comes to one's own family members. Most medical people would do that and if a termination is necessary to save the life of a young woman, I would agree to doing that.

My clear position is that in cases of women's health, rape and incest, termination should be allowed after the best medical advice involving the people directly affected by it. I know many people who have different views on abortion, but none of them is anti-life.

There is also the issue of personal conscience and personal choice, something that the political parties should respect. People with different moral and ethical views in very difficult situations should be allowed to have a free vote on this issue. People should not be whipped into making a decision with which in their conscience they disagree. I know the Minister of State, Deputy Brian Hayes, has said this in the past and I strongly support that position. This is a very personal, private, moral and ethical issue and they should be allowed to have a free vote. Despite that free vote, I believe most people will move towards the consensus in the middle ground.

As things stand the 1992 X case judgment remains the basis of abortion law. Hospitals can and do carry out terminations where there is a risk to the life of the mother. Suicide is currently accepted as a risk. In the past 20 years the sky has not fallen in with women claiming suicide as grounds for abortion and therefore it proves that women are more responsible than many have portrayed them. It is argued that the Government should formalise this situation and that would be my personal position. I will deal with this later in my contribution.

In recent weeks the media have made repeated mention of the abortion lobby. Those who want the Government to legislate for the judgments in the X case and the A, B and C v. Ireland case are not the abortion lobby. They are the majority of people in this country and have been so since 1992.

The suicide issue is at the heart of the problem. If suicide is excluded other medical emergencies become easier to legislate for and control to some extent. However, any mental health advocate knows that suicide can and does form a very real risk during pregnancies. To disallow suicide could make for stronger legislation, but it could also lead to tragic instances where women who are victims of particularly traumatic experiences are left without the support they need and have a life-saving option taken away.

I acknowledge that my colleagues across all parties in the Dáil have engaged in a common sense and non-emotional debate with no hysteria. We have had a decent debate and an open discussion with all our views on the record.

Internationally, laws on abortion are diverse with differences arising according to influences of religious, moral and cultural norms. A survey of abortion law in 197 countries and territories published in 2009 found a range of legal regimes with highly restrictive law on one end of the spectrum and abortion on demand at the other end. In the 32 countries with the most stringent legislation, including Malta, Andorra and San Marino, abortion is not legally permitted on any grounds. In the next category, 36 countries permit abortion when the woman's life is threatened. Ireland is the only country in this category in a developed region with all the others from the developing world. A few countries in the category, for example, Panama and Mali, make exceptions in cases of rape, incest or foetal abnormalities.

Foetal abnormality has been mentioned in the debate. I base what I say on life's experience. As many Deputies will know, I have a daughter with an intellectual disability. We would not swap her for the world and I have many friends in the same position. That was our choice and family consideration. When people have a child with any kind of disability, despite the trauma, sadness and often the deep loneliness, there are many positive sides to it. My other daughter and the rest of the extended family would not swap her for the world. It is important to say that because there are many other people in the same situation.

Some 36 countries allow abortion to save a woman's life and to preserve her physical health, and 23 allow abortion to save a woman's life and to preserve her physical health and protect her mental health. The latter categories include countries such as Israel, New Zealand, Spain and South Korea. Less restricted again are the 14 countries, including India, Britain, Finland, Iceland and Zambia, which permit abortion on the three previously mentioned grounds and also for socioeconomic reasons, with exceptions made variously in cases of foetal impairment, rape or incest. When it comes to rape or incest, or if the health of the mother is at risk, termination should be allowed.

The remaining 56 countries and territories allow abortion without restriction as to reason, although in many countries certain conditions must be met for abortion to be carried out. For example, many impose gestational limits, most commonly that abortion must be carried out during the first 12 weeks of gestation. Other limitations placed on access to abortion include parental consent where a minor is concerned. Again these are all issues. Countries like Nicaragua and El Salvador have amended their already restrictive laws to prohibit abortion entirely. This is what is going in the world.

I am still going through the report but my initial gut reaction is for the option on page 49, section 7.4.3, which is legislation plus regulations. It is important to look at the advantages of this. According to the report, the Oireachtas would have the opportunity to discuss and vote on all relevant details of the proposed legislation and access to lawful termination of pregnancy would be put on a statutory and thus more secure footing. The report argues that such legislation would update the 1861 Act and arguably provide better protection for the unborn than is currently provided by the Act and that the chilling effect of the Act would be removed and legal protection from prosecution would be attained by compliance with the proposed legislation. It argues that the role of the Minister would come under less scrutiny in respect of procedural matters as these would be in the legislation and that the regulations could be amended relatively easily in order to address changes in clinical practice, scientific advances and challenges arising from their implementation. It argues that legislation plus regulations would be likely to satisfy the requirements of the implementation process of the European Court of Human Rights judgment in the *A, B, and C v. Ireland* case. This is the position regarding option four in the report. It is very important that we look seriously at this option as one of the possible solutions.

I thank and commend the expert group for the magnificent work it has done in respect of this issue. It went away and did a considerable amount of work on it and I note that of the 14 people in the expert group under the chairmanship of Justice Sean Ryan, nine were women. This is something that has not been heard over the past number of weeks in the broader debate. There has been considerable misinformation about the expert group. It has done an excellent job and come back to us with different options. It is now up to us as legislators to get on and make the decisions.

Another issue that has arisen in this debate and has been touched on in respect of the Savita Halappanavar case is that of the Coroners Act. I raised this issue recently in the Dáil with the Minister for Justice, Equality and Defence to see if the legislation needs updating. The Minister told me the Coroners Bill 2007 is before the Seanad, having been restored to the Order Paper on his initiative. He told me the Bill is being reviewed by his Department with a view, among other matters, to making it as cost-effective as possible. The Bill, as published, provides for the comprehensive reform of the existing legislation and structures relating to coroners and provides for the establishment of a new coroners service. I raise this issue because it is also connected with the tragedy we saw in Galway.

To conclude, I commend my colleagues for the reasonable and balanced debate that has been held. I urge the Government and the major political parties to give people the option of a vote of conscience in respect of any further debates, particularly when legislation comes before the House. The world will not end if we respect difference and diversity. I want to live in a republic that is inclusive and pluralist and that respects all religions, faiths and ethical and moral values. What a boring place this country would be if we all had the same values and beliefs, particularly in respect of this issue. While I am talking about religion, I must say that the attacks on Alliance Party public representatives and sectarian attacks in recent days in Northern Ireland have been appalling. It is important that we also speak out on that issue.

**Minister of State at the Department of Finance (Deputy Brian Hayes):** Hear, hear.

**Deputy Finian McGrath:** When we discuss this issue, it is important that we look at the different options. We have heard from the expert group which has provided us with excellent information for which I commended it earlier. The expert group gave us different options and following this debate during which everyone was given a fair amount of time and where every view was respected and listened to, it is time for legislators to deal with it. I am leaning towards option four in the expert group's report. We need legislation and strong regulations to provide clarity for the citizens of this State and the medical profession and in order to do our best to save the lives of mothers, children and citizens of this State.

**Acting Chairman (Deputy Bernard J. Durkan):** Deputy Farrell proposes to share time with Deputy Pat Breen. Is that agreed? Agreed.

**Deputy Alan Farrell:** I echo the sentiments of many of my colleagues who have spoken on this issue over the past number of days or hours and indeed in the debate over the previous two Private Members' Bills. Although these Bills were insufficient to deal with this issue, nonetheless we are discussing it in a broad sense. I would like to state initially that I am unapologetically pro-life but I also respect the law and the sentiments of the Irish people in the 1983 amendment to the Constitution and the X case judgment in 1992. What the Irish people want and what the Supreme Court ruled upon 20 years ago are clear and unambiguous. I do not think the opinions of people have changed that much although if one was to believe the recent polls,



85% of people want clarity on legislation relating to the X case and the C case that went to the European Court of Human Rights, upon whose judgment this debate is based.

The report of the expert group was predicated on the programme for Government and the decision of the European Court of Human Rights and not the tragic loss of life in Galway. Some have suggested that the timing is a bit peculiar in that the report happened to coincide with the release of information about the tragic death in Galway but nonetheless, here we are. It is timely for us to be having this debate some 20 months into the term of office of this Government. I have no doubt that both society and the medical profession require confidence, clarity and certainty as to what qualifies for a medical termination when the life, as opposed to health, of a woman is at risk. In providing that certainty, clarity and confidence to young women right across this State and particularly in Galway, it is very important that if legislation is chosen, we get it right.

I echo the sentiments of Deputy Creed in respect of the chronology the Government proposes to use in respect of this issue. It is better for us to have a wide-ranging debate in this House and the Oireachtas Committee on Health and Children followed by a decision by the Cabinet. We should get all interested parties to take part in that debate. It is not something on which I have stayed quiet. I articulated this point on a number of occasions. Although I changed my view on that a week ago, I have since reverted to the view echoed by a number of my colleagues on both sides of this House that we should have a very thorough and open debate with society in general on this issue. That can only occur if we invite interested groups to take part in a debate before the Oireachtas Committee on Health and Children.

No doubt both sides of this issue have very firm views, so much so that we have all received hundreds of telephone calls, postcards and e-mails. Indeed some of us have even been subjected to some pretty horrific photographs like the one I received this morning which was disguised as a Christmas card. My secretary opened it and I was also subjected to it. I plead with those on both sides of the debate to desist from doing this. It is disgusting. As a legislator I understand people want to express their views, but neither my staff nor the staff of other Deputies and Senators should be subjected to horrific photographs.

The need for legal certainty and clarity for the medical profession is one of the two main issues in this debate. We do not want a scenario where doctors and consultants must consult the law prior to making a decision or providing medical treatment to a woman. This is why we must strike the right balance between the need for legislation and-or guidelines. We do not need another referendum on this issue, specifically on the X case. I would welcome a debate on whether we should legislate for cases of rape and incest, but like Deputy Creed I am not convinced the people would make a clear decision due to the very real difficulties and problems the country has with regard to the number of people committing suicide. This is an issue the House must deal with and attempt to assist those who find themselves under such severe constraints and personal difficulties that they would consider such a course of action.

If we are to believe the polls, 85% of people want action on the X case which would most likely include legislation. As a personal request, I would like the Cabinet to seriously consider repealing the 1861 Act which perhaps was correct when it was written because medical science was not as advanced as it is today, but we are a modern society in a modern world and we can and should ensure sufficient clarity for the medical profession and women throughout the State to know when they are legally entitled to a termination and when a termination is required for medical reasons.

Like the previous speaker I compliment the expert group, particularly Mr. Justice Seán Ryan, for the work done on behalf of the Houses of the Oireachtas and the Government. It provided everyone with a huge amount of information in a very clear and frank fashion. I also compliment the group on the manner in which the information was framed because not all of us have the benefit of a medical or legal education and the work the group did on our behalf is greatly appreciated.

If legislation and guidelines are the selected options, as I believe they most likely will be, I do not envy the Attorney General in striking the balance required to frame the legislation correctly to ensure the 85% of people who, if one believes the polls, want action on the X case will be happy while preventing what the overwhelming majority of people including me do not want to see, which is unfettered access to abortion on demand. I do not wish to ever legislate for this. I thank the Minister and the Government for the opportunity to discuss this matter.

**Deputy Pat Breen:** I welcome this opportunity to contribute to today's debate. I acknowledge the commitment of the Minister for Health and the Government to listen to the debate and give careful consideration to the views expressed in the House before any decision is made on the recommendation of the expert report. The issue of abortion is one of the most painful and controversial issues which will ever come before the House. Many of us in the House in all parties have very strong and deeply held views on the matter. The lack of consensus is also reflected in the Irish people who are equally divided. Every day I receive calls from constituents who hold strong and diverging views on how we should move forward. Five referenda have been put before the people and on each occasion the campaigns were bitterly fought. Ireland has seen many economic and social changes in the past 30 years since Article 40.3.3° was first inserted in the Constitution but there has been little change in people's attitude to abortion. It remains a very emotive issue and the country is as deeply divided now as it was 30 years ago.

The latest situation arose as a result of a judgment of the European Court on Human Rights in the case of *A, B and C v. Ireland*. The Government established an expert group in January and I congratulate this group on the work it has done. It has made a number of recommendations which must be considered. The debate has been further complicated by the recent tragic events in Galway and I express my sympathy to Praveen Halappanavar on the death of his wife Savita. The entire country has been deeply affected by what happened. It is important that the facts of the case be established as quickly as possible. Two inquiries are under way, namely, a HSE inquiry headed by an eminent professor and a HIQA inquiry. The first priority is to have a prompt conclusion to these inquiries and ensure pregnant women in the country have the confidence they will receive the best possible care when they enter our hospitals.

It is not right to apportion blame to the medical profession or anybody else without establishing the facts. We also need these inquiries to conclude as promptly as possible, because some people have sought to exploit this tragedy to force the House to rush through legislation. I do not want go into the specifics of the case. The eyes of the world may be upon us but we should not be rushed. The full facts should be available to us before any decision is made because it is important we get it right. We all know how rushed legislation can lead to bad law. It is important to point out to those observing the debate outside the country that our maternal death rate is one of the lowest in Europe and we have the highest birth rate per capita in Europe.

Legislating for abortion is fraught with confusion. In 2002 the then Government put a referendum before the people which sought to exclude suicide as grounds for abortion, which was rejected by the people. Last week a ReDC poll carried out by the *Sunday Business Post*

reported that 85% of people now support legislating for the X case, which means allowing abortion where the mother's life is threatened including by suicide. However, as in 2002 there appears to be much confusion because the same poll shows 63% of people believe suicide should be excluded as grounds for abortion. Based on analysis of the calls I have received it is clear a substantial number of people have doubts about making abortion available on the grounds of suicide.

However, there is universal agreement on one matter, which is that everyone wants to ensure where a clear danger to the life of the mother exists every medical intervention is performed to save her life. This right is already enshrined in Article 40.3.3° of the Constitution. If further clarity is needed for the medical profession in this regard it should be provided and clear guidelines issued. However, legislating for abortion on the grounds of suicide is a very different matter. This is a very complex area with many differing views among the medical experts as to whether it is necessary. The suicide rate among women is low and a previous speaker referred to this. It is approximately 4.5 per 100,000 and it is extremely rare for it to occur during pregnancy. According to statistics, between 1980 and 2011 two suicides among women occurred in the three Dublin maternity hospitals, both of which occurred post delivery. One of the women had a long history of depression and the other a long history of substance abuse. It would be virtually impossible to legislate for every eventuality and several questions arise, such as who will determine a woman is suicidal and that her life can be saved by an abortion. Will the view of one psychiatrist be sufficient? Will general practitioners be involved? Will it require the involvement of a second psychiatrist? Will a panel of experts be involved? There are many questions that need to be asked here. At this stage, I am not convinced that abortion on the grounds of suicide should be part of any legislative solution and I will take a great deal of convincing that legislating in these cases would be watertight so that it would not lead to abortion on demand.

Like other Deputies, I have reservations. We all have our own personal experience. I will not discuss it but given my own personal experience, I value life very much indeed. I value every minute of life.

I am pro-life and anti-abortion and I do not want to see abortion available on demand in this country. All I hope is that our views and concerns can be taken on board and that a solution can be found to the European court judgment which should try to satisfy all of us.

I welcome the opportunity to speak in this debate today. It is very sensitive for many. Like Deputy Creed, I would have liked the hearings to have been held before the Cabinet makes any decision. I hope the Minister might take those views on board.

**Acting Chairman (Deputy Bernard J. Durkan):** The next slot is a Fianna Fáil slot of 15 minutes. There is no Fianna Fáil presence. The two next speakers presenting are Deputies Ó Ríordáin and Eric Byrne, who have the option of either sharing this slot or taking the two slots consecutively.

**Deputy Aodhán Ó Ríordáin:** We will take the two slots separately.

**Acting Chairman (Deputy Bernard J. Durkan):** Deputy Ó Ríordáin has 15 minutes.

**Deputy Aodhán Ó Ríordáin:** I had a chance to speak briefly on this issue on the night of the legislation put forward by Deputy Clare Daly.

This issue, as has been stated, is the single most divisive one in Irish politics. Every politician who talks about abortion always says it is a very sensitive issue, and then nothing happens. Effectively, this issue has seen the greatest amount of political cowardice and hypocrisy of any in Irish debate.

I was not politically active in any way - I was only a child - in 1983 when the pro-life amendment was made to the Constitution. It was introduced by the same people who were against contraception, divorce and all other supposed social ills that would bring Ireland to its knees. In my view, and that of others, the 1983 amendment effectively reduced the status of a woman to that of a vessel, effectively, to that of a womb.

Inevitably, regardless of those who warned against the actions of the group which was intent on pursuing that course of action, the X case arose in 1992. I need not go over the details of the case but it is sometimes convenient when we call a teenage rape victim X rather than give that person a name. It is sometimes easier for us to merely call a person by an initial rather than discuss a human being. The Supreme Court determined that a constitutional right to abortion existed when there was a real and substantive risk to the life of the mother and the constitutional right was vindicated in a referendum by the votes of the people that year. As it stands, that is the position. There is no legislation.

The 2002 referendum - let us not recast what happened - was a cynical attempt to remove the threat of suicide by a Fianna Fáil Party in pre-election mode, and it also was rejected by the people. Where are we? There is a constitutional right which is left without any legislation. The 2002 referendum was not an attempt to legislate. It was an attempt to pander to pro-life voters and to subvert the X case judgment, and they failed.

We are all told to be calm and respectful and Ministers make reference to a free vote so that Members can wrestle with their consciences. I was surprised at the speech made earlier by an Independent Member. I remember canvassing during the general election an hour after that gentleman and being confronted with the issue of the Labour Party and abortion at every door. It is amazing how the wind changes and people's positions change.

I looked through the pre-election manifestos before I came into the Chamber. There was no reference to legislating for the X case judgment in the manifestos of the Fine Gael, Sinn Féin or Fianna Fáil parties, or in the manifestos of any of the members of the United Left Alliance. Only one manifesto mentioned the X case. It was my party, the Labour Party. We have had a consistent approach to this matter because we understand law and we understand the responsibilities of legislators.

I am bewildered by some of the contributions made in this House today and last night. Reference was made to a "herd mentality" and a "rush to judgment". A Member, only a short time ago, spoke about people "exploiting the death of Ms Halappanavar" - I find that quite offensive. How can one have a herd mentality and a rush to judgment after 20 years?

The expert group makes it clear that legislation and regulation is needed. The pro-life stance states Ireland is the safest place in the world to have a baby - if I have heard that one time in the past couple of weeks, I have heard it a thousand times. If that is the case, if there is never a case when a woman's life may be at risk, then what is the problem with legislation? Of what are they afraid?

The reality is when there is a problem, women simply travel to England. I have asked those

who have experience of this to contact me in the past couple of days and some of them have. I will not name these women. I have an e-mail before me. In it, the lady writes that she found out she was pregnant on 11 November, the day of her partner's birthday. She gave the pregnancy test to him as a surprise birthday present, and he was doubly delighted as they had only been trying for three months. She then discovered that her baby's condition was incompatible with life. She writes that they travelled to Liverpool to the women's hostel where they talked her through the procedure, gave her the tablet to stop her body supporting her baby, and told her to go and rest in a hotel for two days. She writes that this was the hardest part. She did not want to leave the room, she felt as if she was going to die, and all they did was watch the clock for the next 48 hours until they returned to the hospital. Fortunately, the reserves arrived in the form of her aunt and mother who helped distract her from her partner. She writes that the hospital was great in accommodating all four of them with beds and food. That same morning they induced her and she went into labour by lunchtime, which went on until 10 p.m. that night when they finally had to give her painkillers.

Junior, as the lady calls her baby, was born asleep after 10 o'clock. She writes that they asked those taking care of them to hand him to her partner first so he could check that he looked okay and he sadly stated he was perfect. They then got to hold him and look at his hands and feet which were all perfect, and then they were able to have him blessed by a priest, and that during the blessing even the midwife cried with them. She writes that the midwife then gave them an imprint of his hands and feet and although she initially refused photographs in her dazed state, the midwife kindly took them anyway and informed her they would be put on file and she could collect them at any time, for which the lady is now very grateful.

In addition to the emotional cost, the lady writes that financially, she and her partner were set back €3,500 as well as her extended time off work, that though the necessity of terminating a child would be no less traumatic in any situation, the fact that they had to slink off under a cloak of lies and guilt is unacceptable, and that she personally felt an overwhelming desire to explain to everyone she came across, even a taxi man, that she wanted her baby, she did not want to be doing this but she had to so that her baby would not suffer. Such a case will not be dealt with under X case legislation.

Another lady wrote to me about her sister. She writes that after further scanning, her sister and her husband were told that the baby had severe abnormalities. The brain of this baby was never fully developed and it had other abnormalities, and they were sent home to be brought back the next day to have further scanning. She writes that she will never forget this day as long as she lives, seeing the devastation on her sister's face as she curled up on the sofa with her lip shaking while she tried to fight back the tears as she felt like her world was falling apart. She writes it was so hard to watch. The following day, after detailed scanning, doctors came to the conclusion that the baby was, in fact, incompatible with life and would not survive outside the womb if the pregnancy even managed to reach full term. She writes that both her sister and her husband booked flights to London, that when her sister went in for the procedure, she was devastated and kept explaining to the nurses that she really wanted this baby, that it would not survive once it was born, and that she was trying to justify herself. She felt like she was doing something wrong because her own country had made her feel this way by not providing this service. The person who wrote the e-mail continued that it is absolutely disgusting that in this day and age, women are forced to leave their own country to have terminations in cases where their much-wanted baby would never survive.

A lady named Siobhán wrote about a condition called anencephaly, in which the brain and

skull do not develop fully. She wrote that on the day of the scan, she found that her baby would not live. While that was devastating enough, she and her husband were then told she could continue on with the pregnancy for a further 20 weeks to her due date and, if she did not wish to do so, she would be obliged to travel to the United Kingdom to terminate the pregnancy as the law in Ireland would not allow anything to be done here. She writes that, consequently, she travelled with her husband to Liverpool and spent a few surreal days carrying on as if all was well with their world while it actually was turning upside down. They met the team in Liverpool's Women's Hospital, who were kind, gentle and compassionate and were sorry Siobhán and her husband had to be there with them. The hospital team gave her a tablet to take and then she and her husband were obliged to leave the hospital for 48 hours before returning. She writes these were 48 hours of trying not to think about what was happening and trying to act normally in a city they did not know while separated from their families and friends, including their two children, aged four and two.

On returning to the hospital, she was given further doses of a tablet every few hours to induce labour and eventually, after 12 hours, her baby was delivered. Siobhán writes that she and her husband held him, named him and cried together for the death of their son. The hospital chaplain came in and blessed him for them. She writes he and all the staff were so sympathetic, caring and understanding at the horrible predicament in which she and her husband had found themselves. She concluded by stating this was her story, which she was sharing in the hope it would bring about change in our country, as the women of Ireland deserve better.

A woman called Ruth, whose child unfortunately had the same condition, wrote she could never have been prepared for what she and her husband were told that morning, as the experts scanned her. Their baby had anencephaly, a neural tube defect that results in the absence of a major part of the brain and skull. The consultant explained that Ruth and her husband had two choices, that is, she could continue with the pregnancy and their baby would die as soon as she was born, or shortly thereafter if the pregnancy got that far, or they could terminate. Ruth wrote that ringing her dear mum and being obliged to break this news to her was utterly heartbreaking. She recalls her mother being so shocked, not by her awful news but by the fact that she and her husband would be obliged to travel to the United Kingdom for termination. Ruth wrote she does not really remember the days that followed, other than the amazing support from her husband, family and close friends. She wrote that she cried and cried and was so angry. The anger was not about their baby's diagnosis, as she had nursed for long enough to realise that bad things happen to people every day, but she just felt so angry that she and her husband were obliged to travel. She wrote she had thought that surely under these circumstances, termination was allowed in Ireland. She wanted to have the chance to stand up in front of a judge and plead her case to allow her to be looked after in her own country, but instead she and her husband were obliged to travel to the United Kingdom with all their grief, feeling like criminals. She then goes on to outline precisely what happened to them but she concludes with the damning statement that although they felt no shame about the decision they had made, this journey made them feel like criminals.

The cases of none of the aforementioned women will be dealt with under X case legislation and Members are only discussing the risk to the life of a mother. Much now has been made of the issue of suicide but it is dealt with under the X case judgment of the Supreme Court. Moreover, it has been reinforced in the referendum results of 1992 and 2002. One cannot come into this Chamber and talk about mental health and suicide ideation or complain about budgetary measures in respect of mental health if one does not, in one's gut, trust a woman when she is sui-

cidal as a result of a situation that brought about her pregnancy for whatever reason. One cannot do this if one simply does not trust her and simply thinks she is telling lies. Despite all the wind expended in this House about mental health and suicide, obviously Members do not trust women because, clearly, they will not be telling the truth. All of the e-mails I received came from devastated women, because they know that abortion is always a tragedy. It is as though women wilfully wished to discard their babies and pregnancies because they are so callous. Members must be clear about this suicide issue. It is part of the determination of the Supreme Court of this land in 1992. It was reinforced by the votes of the people in 1992 and 2002 and it must be part of this legislation. Members cannot walk away from this issue. Perhaps, in the fullness of time, when people stop being so cowardly and hypocritical, Members might return to the amendment that was introduced in 1983 and listen to what I consider to be the wise words of the Minister for Justice and Equality, Deputy Shatter, in this regard.

The time has passed for talking any further on this issue. I do not want legislation to be introduced to this House via a Private Members' Bill as it must come from the Government and must come from the Office of the Attorney General. Moreover, the idea of a free vote is an absolute nonsense in a modern parliamentary democracy that must deal with issues of conscience every single day. Members deal with issues of conscience each day. Each day they pass laws and budgets that potentially will hurt people but Members know in their guts that sometimes it is for the greater good. Consequently, this idea of a free vote, mentioned earlier by an Independent Deputy and previously by a Minister of State, is a nonsense and cannot be allowed to happen in this situation because the women of Ireland need to know the Government of the day is on their side.

**Deputy Eric Byrne:** This is the first time I have spoken on this issue but it is a matter of such importance, nationally and internationally, that it would be remiss of me not to spend some time dealing with the situation that obtains in Ireland today. I am slightly older than the previous speaker, who covered most of the points in great depth. However, in the Ireland of the 1980s, women often did not trust and were so terrified of having their babies in maternity hospitals with a so-called Catholic ethos that many preferred to travel to the Rotunda Hospital in Dublin because of its so-called Protestant ethos. Women felt more reassured that they would get better life-saving response and treatment there in a crisis situation. That was a widely held view in the 1980s among those of us who knew there was a distinct difference in ethos between the Catholic maternity hospitals and the Rotunda Hospital, Dublin.

Imagine that in those days, worried women were obliged to travel to Belfast to have amniocentesis tests because of their lack of availability in the Republic. That was 30 years ago and one would have imagined that our maternity hospitals would have progressed to a point where the life of Savita Halappanavar would have been saved and no one could have cited as an excuse that this is a Catholic country. That was the Ireland into which my children, aged 32 and 30, were born, yet here Members are, having this inconclusive and ongoing debate again, for which they need finality.

I believe the hypocrisy and indignity of forcing women from this country to travel to England for a termination, including a 14 year old suicidal rape victim, is an obscenity and a blot on the image of Ireland both nationally and internationally. Ireland is indeed an overwhelmingly Catholic nation, and the recently completed census shows that 84% of the people in the Republic proclaim themselves to be Catholic. However, Members also must note that now more than ever before, Ireland is a highly diverse society. As legislators, they must legislate for the nation as a whole and not just for the religious moral teachings of one faith. Ireland now is a multi-

faith society and Members must legislate for such.

It might be useful to put on record what constitutes the Ireland of 2012. Members might note that the group nearest in number to Catholics are those who declare themselves as having no religion. They now number 269,000, an increase of 44.8% over the 2006 census figure. A further 73,000 people do not state their religion, which would be indicative of an open-minded collective. Among those who did declare their religion last year, the next largest grouping to those with no religion are members of the Church of Ireland at 130,000, members of the Presbyterian Church, which have increased 4.5% to 24,600, and Jehovah's Witnesses, which stand at more than 6,000 people.

The most significant non-Christian religion in Ireland is Islam, with members of the Irish Muslim community now representing approximately 50,000 people. That is a big increase of 52% over the figure from 2006. Hindus are important in this debate, as it has as a backdrop to the case of Ms Savita Halappanavar, who was Hindu. Their numbers have grown by almost 76% to approximately 11,000. Ireland also has a Buddhist and Jewish population, among other groups.

I respect absolutely the right of the five bishops and their congregations to picket the Dáil but we should not, as legislators, attempt to legislate for one faith or the morals of one religious grouping. We must legislate for an open, diverse and multicultural society, and I remind those who practice Roman Catholicism that no Catholic with a moral belief need avail of such services that may be available to those who do not believe that life commences at the moment of fertilisation, which is the Roman Catholic Church position. I believe very strongly that, in a modern liberal democracy, we as legislators must not impose in laws the singular view of one faith group.

I will not spend too much time going over the details of what has happened in the past in Ireland. Deputy Ó Ríordáin mentioned some and I have quickly perused the report of the expert group, so it strikes me that one group does not appear to matter in this country, aside from the women whose lives are threatened. I am talking about the families of such women, including mothers, fathers, sisters, brothers, partners and extended family. They are mainly excluded from these debates. There is the case of Ms D, who brought Ireland to court. She discovered after 14 weeks of pregnancy that one of the twins she carried had died in the womb and the other had a lethal foetal abnormality, Edwards syndrome. In all humility I ask how the religious and pro-life groups are arguing that women like this should be compelled to continue the pregnancy when she, her husband, her family, her mother or father, her aunts, uncles and grandparents may have decided, with her agreement, to abort.

Another woman brought a case against the Health Service Executive. She was four months pregnant at the time of the hearing and had learned that the foetus had a neural tube defect resulting in the absence of a major portion of the brain, with the condition usually fatal within three days of birth. I wonder how insensitive this society has been to mothers, husbands, children and families that we have not, over 20 years, improved the circumstances where a woman can go into a maternity hospital and feel absolutely secure that if she and her family make a decision that a foetus is dead in the womb, she will not have to continue the pregnancy. It is an obscenity and we as legislators should pull out our fingers and begin legislating for women and their partners as a collective.

The five bishops had an amazingly excited audience of pro-life group members so hysterical



in their extreme views that they were the mirror image of the groups demonstrating two days earlier which sought abortion on demand. These extreme groups were screeching, hysterical and mind-boggling. One group was led by five Roman Catholic bishops and the other was led by ultra-leftists, Trotskyists, Éirigi and radical feminists. These groups constitute the extremes, but we have a mandate as democrats in a liberal democracy to ensure we do not interpret their views but accept that we have a maturity in Parliament to implement legislation for the betterment of any mother using our maternity services.

**Deputy Paschal Donohoe:** As a man, speaking in a male-dominated Parliament and a room in which not a single woman is present, I find commenting on and adjudicating the most sensitive and difficult decision that any woman could make to be a difficult experience. Any difficulty I may experience would be meagre in comparison with the emotions any woman who has attempted to reconcile her desire for life and that of her unborn child would feel as she looks at this debate. Such a woman would be looking at mostly men talking about a terrible choice that only women face. As legislators and public representatives, we often use empathy to bridge the gap between the decisions we make and the people who live with these decisions. However, even the most developed sense of empathy will flounder in the face of the sadness and grief that women face when the joy of carrying life is accompanied by the risk of their own death. That this only happens to a small number of women should not allow a diminishment of the horror of this predicament.

A philosopher once observed in a very different setting that when one cannot speak of a matter, one must be silent. Despite the massive difficulty I face in imagining this choice as a man, as a legislator and a public representative I am required to speak, make known my views and act. Amid this turmoil I have looked to retrace the main decisions made by our people and our institutions of State on the issue. I do so conscious that in my nine years as a public representative, this is the first time as a Member of the Oireachtas I have dealt with an issue that has riven our nation.

What are the key public events that have defined this debate? In 1983 the people voted to introduce Article 40.3.3° into Bunreacht na hÉireann, including the key phrase “with due regard to the equal right of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right”. In 1992 our Supreme Court interpreted our Constitution to allow for lawful termination if there is a real and substantial risk to the life, as opposed to health, of the mother. In 1992 and again in 2002, people voted against measures that were designed to exclude suicide as a ground for lawful termination. Everything that has occurred since is defined by the contours of these decisions.

Two other points must also be made regarding the role of European institutions in this deeply sensitive matter. First, in July 2006, the European Court of Human Rights rejected an application from a woman referred to as “D” on the grounds that Irish courts offered sufficient remedy and procedure for deciding on her application. The court recognised that Irish institutions provide the first and proper public space within which decisions are to be made. Second, it should be noted that the decision made in December 2010, again by the European Court of Human Rights, was in respect of compliance with decisions made by Irish people and institutions.

The expert group report states that “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”. However, in accepting this we must acknowledge that what is required of us is coherence between our laws and courts.

No one is seeking to foist a decision upon us. What we are required to do is be consistent with decisions we took in the past. What we cannot do is second guess those decisions. The right to decide the interpretation of law is not open to everyone. If that were the case, it would instigate the gradual but inevitable erosion of the foundations of legitimacy and authority upon which the State and institutions, including the Oireachtas, depend. This competence is, therefore, exclusively reserved for our courts and if we disagree with an interpretation of the courts, it is open to us to change the constitutional framework within which they make such interpretations. This has not occurred.

Having made forays into the world of the abstract, the world of our laws and institutions and a world in which women are referred to as initials, let me address the handful of tragedies to which we are seeking to respond. In a case where the life of a mother is threatened, the State has two responsibilities, namely, to do everything possible to keep mother and child safe and alive and to ensure that those medically involved in any such dilemma are protected by the law when they stay within the law. By omission, I cannot accept that when the life of a mother is threatened the State should make a decision for her or reduce the choices open to her. It should be recalled that in such circumstances, the life of a woman, who could be a neighbour, friend or someone we have not met, is at risk. In the solitude conferred by the horror of such a choice the State should not be present beyond meeting the two responsibilities I have outlined.

I am against the introduction of abortion for social or economic reasons. What we must do is clarify our law as it stands. Having had the honour of seeing my own children brought into this world, I will not yield to anyone in my recognition of the rights and lives of the unborn and born. Perhaps because of this experience I am also deeply aware that the law is not always successful in governing by absolutes. We all live our lives in the space between absolutes. Sometimes we are aware of the right thing but on other occasions we fumble forwards and hopefully do the right thing. Our fragility and vulnerability to chance and events beyond our control defines our humanity.

For these reasons, I believe the option of advancing legislation or regulation to deal with the consequences of the X case should be pursued by the Government in a careful and deliberative manner. We must be particularly careful on the issue of mental health and risk of suicide. We must also remember that threats to mental health already cause deaths at substantial cost to society. This issue is not about changing the law but about making it clearer for those who depend upon the law for their lives or exercise duties upon which the most vulnerable depend.

This will be a difficult debate. I have already been the victim of comment and behaviour that gives me a taste of what is to come. Francis Bacon once made the following observation: "It is as hard and severe a thing to be a true politician as to be truly moral." I have certainly felt this when considering this issue.

The separation of powers is sacred to our Republic. While the courts cannot make Parliament act, the Oireachtas is obliged to consider the views expressed by the courts. In giving such consideration, we must recognise our obligation to support a woman in circumstances where her life is threatened but we must not make a decision for her.

**Deputy Anthony Lawlor:** I thank the members of the expert group which drafted the report on the judgment in the A, B, and C v. Ireland case. The report has been eagerly awaited by members of the public and I am pleased the Government will decide before Christmas which of the options it will pursue. This issue has been ongoing for too long and it is important that the

Legislature makes a decision on it.

It is important to note that this debate is solely on the report of the expert group. Bearing this in mind, we must be cognisant of the provisions of the Constitution pertaining to the rights of mothers and their babies, the findings of the Supreme Court in the X Case in 1992 and the judgment by the European Court of Human Rights in 2010.

I do not agree with the labels of “pro-life” and “pro-choice” and they do not have any place in the House. In recent weeks, Ireland has been gripped again by an abortion debate, which was reignited following the tragic death of Savita Halappanavar. The loss of this mother and her child in such circumstances has touched the hearts of everyone in the country. As with every Member of this House, I have been inundated with correspondence from members of the public outlining their views on this matter. What I have found is that many of the issues being raised fall outside the remit of the report and that any action taken by the Government will not impact on the scenarios raised.

After more than 20 years of inaction, the Government needs to legislate on the Supreme Court ruling. Such legislation will not only protect our medical professionals in their decision making, but also give mothers and, indeed, fathers certainty about their rights. This is an emotive issue, but it is vital that it be debated in a calm and measured manner. I do not believe that any Deputy present wants to see abortion on demand in Ireland. It is not what the Irish people voted on in three referendums.

We must be aware that, by legislating for the X case, we are merely maintaining the *status quo* in terms of the availability of terminations for medical reasons. It is necessary because it will provide legal footing for the medical profession. Regulations must be introduced along the current medical guidelines to assist the profession further.

From a personal perspective, I would also like to see the terms of the Supreme Court ruling extended to the health of the mother, not just the risk to her life. The European Court of Human Rights ruled in favour of C. It found that while there was not necessarily a real and substantial risk to the life of the woman due to the pregnancy, her health could have been affected by the pregnancy due to the cancer treatment she was undergoing. This matter is worth considering.

Having listened to my constituents, members of the public and other Deputies who have spoken in the House on this matter, the element of suicide appears to be one of serious concern. I understand how these concerns can arise but I remind the House of what my colleague, Deputy Neville, stated, namely, that the risk of suicide decreases during pregnancy and, therefore, this risk, although real in the sense that it can occur in very rare cases, is not likely to increase the number of terminations undertaken.

Furthermore, I must agree with Deputy Neville, in that we must put our faith and trust in our mental health psychiatric services and their ability to diagnose correctly a genuine suicidal case over someone who dishonestly claims to be suicidal in order to obtain a termination. The expert group report sets out a number of options in this regard and I tend to agree with the suggestions regarding two psychiatrists and one obstetrician assessing the woman before a decision on termination is made.

The issue of suicide was put to the people in 1992 and 2002 and we must listen to their voices. As Deputies, we need to put our personal and moral beliefs aside and act as legislators by correcting this anomaly, which has existed for the past 20 years.

**Acting Chairman (Deputy Bernard J. Durkan):** The next slot is Fianna Fáil's. There being no Fianna Fáil presence in the Chamber, I will call on the next presenting speakers, Deputies John Lyons, Seán Kenny and Eamonn Maloney. They can exercise their speaking options.

**Deputy Seán Kenny:** Deputy Maloney has asked me to go first. He will return in a few minutes.

I wish to express my deep sadness at the death of Savita Halappanavar and to send my condolences to her husband, family and friends. I say this as a parent and a grandparent.

I welcome the opportunity to speak in the House on this issue. It is only right that every Member is able to express his or her views on the report and to have his or her constituents hear the voice of those they elected to represent them. Like other Deputies, I have been contacted by hundreds of my constituents expressing their views on the matter. I thank them for doing so. I have never received so many representations from constituents on a single issue, which speaks volumes about how seriously the people view the matter of the X case.

As someone who remembers the 1983 referendum, I welcome the calm and rational debate that is taking place. Those of us who disagreed with the wording in 1983 were subjected to a great deal of aggravation at the time, some of it in the workplace. Thankfully, we can debate this question today with greater maturity and tolerance.

As Mr. Justice Seán Ryan stated in the report, the European Court of Human Rights concluded that an existing constitutional right had been identified by the Supreme Court in the X case and that it was logical and rational that this right would be available and enforceable in law. Article 47 of the European Convention on Human Rights requires the Oireachtas to implement the European court's judgment. As this State ratified that convention, we cannot make excuses for ignoring the report.

Many of the representations I have received have been incredulous, asking why the Oireachtas has failed to take action on the issue of the X case for two decades. The simple fact is that the Oireachtas failed to address the case. I am glad that those who are now Members of the Oireachtas will finally ensure that the X case will be addressed.

Having carefully read and considered the expert report, I believe that what the Oireachtas must do is obvious, that being, to enact legislation to address the X case correctly. The best method of doing so is to enact new legislation, not amend existing legislation. The new legislation should be accompanied by regulations that govern the technical and procedural aspects of how to provide for a lawful abortion.

There are groups and individuals who believe that regulations will be enough to address the requirements that the European court has laid down. Others believe that there should be another referendum to remove any right to an abortion, especially in the case of suicide. I do not support the former view and the latter option was attempted a decade ago, when it failed. Therefore, we must act within the Constitution's current provisions.

Some individuals have contacted me to express their wishes to see legislation introduced that widens the provision of abortion in order to deal with cases where termination of a pregnancy is permitted for medical reasons beyond the scope of the X case. These cases occur where the pregnancy has a fatal foetal abnormality, where there is no chance at all of life outside the womb. I am sympathetic to this point of view and I have indicated to the Minister for Health

that situations such as this need to be considered.

Such cases are generally thought to be outside the scope of the X case and may well be outside the scope of the Constitution. Will the Minister for Health consider this particular area of abortion legislation to verify whether that is the case? Women in these situations must endure a difficult physical and emotional crisis. If they choose not to endure that crisis, which is entirely understandable, they must travel outside the State. That is wrong.

Suicide is a real factor that must be considered when legislating for the X case. The X case hearings accepted testimony from mental health professionals regarding the state of mind of X. Beyond that dreadful case, however, suicide is not something that women will lie about in order to obtain abortions. On the matter of abortion legislation and suicide, every Deputy must ask himself or herself whether he or she trusts women. When it comes down to it, all Deputies do trust women. Therefore, the House must accept that suicide is a real factor that must be covered by the legislation.

Following on from the matter of suicide, there is a concern about legislation leading to what is termed “abortion on demand”, as indicated to me by some of my constituents. I wish to address this concern. Abortion on demand cannot or will not happen under any legislation that will be enacted as part of the expert group process. It would not be unconstitutional and, therefore, would not be legal. What must be considered also is the question of trust in medical professionals, who are required by society to behave ethically. All Deputies believe that medical professionals, including mental health professionals, act ethically.

I am certain about one aspect of the issue relating to the Offences against the Person Act 1861, namely, that no reasonable person wishes to see a woman who obtained an abortion go to prison for any length of time. It would be inhumane. Women who seek abortions seek them because they are in crisis. That crisis should not be something that results in a prison sentence.

Time is required to develop legislation but I would stress that a reasonable amount of time is needed as opposed to an undue amount of time. The Oireachtas must act without delay. I am certain that whatever action is taken by this House on foot of the expert group report will be challenged in the Supreme Court by those who do not wish to see any action and who will try to undermine the outcome of the work done by the expert group. Therefore, the legislation must be legally robust. This would be in the best interests of the State, Irish women and all of the Irish people.

**Deputy John Lyons:** In the same way as Deputy Donohoe, I will never understand the issue to the extent of a woman, but I wish to contribute to the debate nonetheless. We have waited a very long time in this country to have this debate, but now that it has come it is very welcome. Like everyone else in the House, I have been inundated with telephone calls, letters and e-mails from constituents - from home and abroad - in recent weeks about the death of Savita Halappanavar. Many of those who contacted me were also people who stood on Kildare Street on the day the story broke, and marched on O’Connell Street the following Saturday, to show their support and compassion for Savita’s family. I have never seen such a public reaction, and how it has informed the debate in this House.

Until then, for many the X case was an abstract, legal discussion, but now it is also a personal story of loss. People with previously entrenched positions in this debate have realised the *status quo* cannot continue. The recent polls tell us the public wants this issue resolved, and it

will be. We have an opportunity to show the women of this country that we will act to vindicate their rights, show leadership and provide clarity of purpose on the issue. Many of those who contacted me in recent weeks said that for too long politicians had dodged the issue and that they would not stand for it. This Chamber and its Members cannot be the rock on which the tide of public opinion breaks and recedes. Not this time.

In the same way as other Labour Party candidates, I stood in the previous general election on a manifesto that included a commitment to legislate for the X case. I want the commitment to be honoured not just because it was often a difficult and lonely policy to support, but because it is the right thing to do. We have seen the expert group report. We know the options it gives us and we must now draw up a plan to proceed. Whatever course of action is chosen - be it legislation, regulations or a combination of both - I will support it. The report does caution that to get the right balance between appropriate drafting and democratic scrutiny will take time.

I know the impatience of people and the desire for an immediate reaction but we should not spend a minute more or less than we need on the issue. This is the opportunity many people never thought they would see, and I am prepared to wait just a little bit longer for a response that will satisfy the people of this country. Regardless of whether we like it, this debate and the subsequent legislative response will not be the end of the abortion debate in Ireland. That will be the case as long as thousands of Irish women continue to travel to other countries to access medical services each year. Whatever people's opinions on abortion beyond the X case, it is a debate in which we must all engage at some point.

**Deputy Charles Flanagan:** I welcome the report and recommend its reading by as many citizens of the State as possible. I hope the report is available in all public libraries, schools and colleges. I encourage everyone to go online to read it. The Government must ensure that hard copies of the report are available because of its importance.

I acknowledge the great work of the expert group and its composition of medical, legal and administrative expertise. It is regrettable the abortion debate in this country has been dominated by extremists on both sides for many years. There is now a middle ground of public opinion that urges us, as legislators, to get on with the job. We have, on the publication of this report, an historic opportunity for all-party consensus on a way forward. The report and its options offer a reasonable solution to a highly charged and emotive issue. Abortion is a difficult, sensitive and divisive issue not only in this country, but around the world. People hold strong personal views. The debate must be kept calm and within certain perspectives of civility. The Government sought the report to provide expert guidance and advice on the State's obligation to the judgment of the European Court of Human Rights. A range of options was sought and it was delivered. Delay and the *status quo* are not among them. It is 30 years since the highly-charged referendum and 20 years since the X case judgment. The issue must be addressed within the framework of the Constitution and its interpretation by the Supreme Court in the X case.

The constitutional review group of 1996 recommended legislation as the "only practical possibility" to clarify the state of the law. The all-party group stated that the legislation should cover matters including definitions, protection for appropriate medical intervention, certification of real and substantial risk to the life of the mother and a time limit on lawful termination. Three years later, the Green Paper on abortion in 1999 considered seven options and, of those, two fall within the terms of reference of the current expert group's work. The two options involved primary legislation and regulating abortion in line with the X case criteria.

It seems to me, therefore, that the only means by which certain legal clarity is required to the issue of lawful termination in Ireland is by means of primary legislation. People require clarity. Failure to act may cost lives. Courts in this country and in Europe have made it clear that this legislative vacuum is unacceptable. Mothers must know the law; doctors must know the law; people must know the law. We are told there are grey areas. Grey areas may cost lives. The report acknowledges that no criteria or procedures have been laid down in law since the X case by which to measure or determine the risk to a woman's life. Hence, there is uncertainty as to the application of the law.

We have a duty as public representatives to help provide clarity on issues, but I acknowledge that whatever legal clarity is assured, such clarity must be within the confines of the current constitutional framework. Four options were outlined in chapter 7 of the report. None of the four options will lead to abortion on demand. One or more of the options will be considered by the Government and acted upon.

There is also the issue of the Offences against the Person Act 1861 and in particular sections 58 and 59 thereof. If the favoured course of action is that this House opts for legislation to give effect to the provisions of the X case – I believe it will - then sections 58 and 59 must be replaced. The “chilling effect”, as it applies to women and medical practitioners, must be removed in its entirety. The expert report reminds us that the European court indicated that the criminal provisions still in force would have a chilling effect on both women and doctors during the medical consultation process because of the risk for both parties of criminal conviction and imprisonment. The need for legislative compliance which would offer a defence from criminal prosecution seems a necessary protection for medical practitioners.

Current Medical Council guidelines may be seen at times as ambiguous and can on occasion be interpreted differently. Obstetricians say they require legal protection and they deserve protection where there are legal and practical grey areas. In situations where the mother's life is not at risk, where the health of the mother is not life threatening, then the law is clear, “A termination cannot be performed”. The 1861 Act will apply and a criminal offence will be committed. However, medical emergencies can throw up difficulties and it is sometimes problematic to distinguish between threats to the life of the mother and threats to the health of the mother. The X case decision is the law. The European court requires the State to establish procedures in law to determine the risk to the mother's life and to set out criteria which a doctor may employ to measure that risk. The X case judgment states that the correct test is that a termination is permissible if it was established as a matter of probability that there is a real and substantial risk to the life of the mother and the risk can only be averted by the termination of the pregnancy. It should be noted that under current law the doctor need not be of the view that the risk to the life of the woman is inevitable or immediate. That is a decision for doctors and doctors only.

The setting out of the four options, one or more of which will ultimately form the basis of the Government's response, is clear and detailed. The report leaves it to Government to choose an option, and I understand that will be done next week. I welcome that. Under the terms of reference of the expert group it was not the function of the group to specify the way the judgment was to be implemented but to provide this House with options, and it has done that. However, it appears from reading the report that a combination of primary legislation and statutory regulation offers a likely way forward.

The focus must always be primarily on the health and well-being of the mother. As legislators and regulators we must accept that burden of responsibility. I do not believe a referendum

is the best option but in any event it is not considered by the expert body. I strongly disagree with colleagues who call for this issue to be put to the people again by way of referendum. Government must govern, and the Dáil must act in accordance with the principles of a representative democracy. The Dáil must ensure, on the best advice available, that no woman's life is ever put in danger. We need safeguards for medical procedures to protect the life of the mother by setting out criteria and conditions which are required to be met to be lawful. Those criteria must be framed in primary legislation and regulation.

The precise detailed nature of the legislation must be carefully considered and it must respect the current constitutional position. Legislation is by definition specific, sometimes very specific. That is where the complication arises.

I wish to state categorically that I am very much against abortion as a form of lifestyle choice or for so-called socioeconomic reasons. However, where there is a clear and undeniable medical necessity or emergency I will be guided by doctors.

I have heard many men make statements on this issue but I advise my single male colleagues in this House and beyond to discuss it with women before they make a final judgment on their position. This is primarily a matter for wives, daughters and partners and it is essential that we get this process right in a calm and logical sequence.

The fact that senior medical specialists remind us as legislators that there are situations where a termination is necessary but that there are grey areas where they need legal protection must be addressed. Doctors deserve protection and, more importantly, women deserve protection.

The expert report, like the Supreme Court in the X case judgment, uses the phrase "real and substantial threat" to cover all forms of threat to the life of pregnant women. Within that general definition of the threat two different medical scenarios can be identified, the first being physical health threats and the second being mental health threats, particularly the threat of suicide.

There is an emerging political consensus on the way to deal with the physical health threat scenario, and I welcome the cross-party consensus in the debate in the House today and yesterday. I believe, therefore, that we can reach an historic cross-party consensus on the matter of legislation covering the physical health threats. The matter of the mental health threat may not be as straightforward.

The matter of suicide is a major, delicate and sensitive issue. We must answer the question as to whether and when the threat of self-destruction can be justified as a reason for the termination of a pregnancy. Sometimes I wonder why the Supreme Court got into the medical definition of risks to a mother's life in the first instance having just ruled that medical actions to protect the life of pregnant women are lawful. In that context the threat of suicide is a valid medical threat factor. Personal health risk factors endangering the life of the mother are best left to the medical profession supported by legislation and regulation.

On the one hand it is difficult to understand the reason a simple blackmail threat by a pregnant woman with no personal history of mental health issues, and no evidence of physical health condition other than being pregnant, might ever be accepted as sufficient reason to end a pregnancy. On the other hand there is the case of the pregnant woman Anna Byrne who tragically took her own life when 38 weeks pregnant. The rationale for ending a pregnancy on mental health grounds is an extremely difficult area. Choosing one particular medical health



factor, the threat of self-destruction, and making explicit provision for it as a reason for termination seems fraught with difficulty. I would like to hear more from psychiatrists in that regard, and I welcome the health committee hearings to be held in the new year.

I welcome the fact that the stigma around suicide has diminished in recent years and that a more humane and sympathetic attitude now prevails. Nevertheless, we must at all times ensure that as a society we value life, that people know there is always a better way than suicide, and that help is always available. Suicide prevention must always be at the heart of our policies. I am pleased that most suicide prevention policies and treatments are successful, but greater awareness is necessary. Expenditure of greater resources is necessary, and I have huge regard for the pioneering work of my colleague, Deputy Dan Neville, who passed through the House a moment ago, who has been campaigning on this issue for many years both within this House and outside it.

As a society we can do everything possible to prevent suicide yet, regrettably, sometimes the outcome is a sad and inevitable part of the human condition. In this debate on the termination of pregnancy where there is a real and substantial threat to the life of the mother we must deal with the claim that the threat of suicide constitutes a real and substantial threat to the life of the mother thereby justifying the termination of the pregnancy.

In dealing with that situation we must be conscious of the danger of the threat of suicide being formally and legally elevated to an acceptable option or criterion for the attainment of a personal objective, or sometimes becoming a matter of choice. The real danger is dignifying the threat of suicide with a social, moral and legal approval that in effect undermines all the good work being done to prevent suicide being seen as an acceptable solution to a problem in life. Suicide is never a solution to any problem, no matter how grave. We must amplify our message that human life is treasured and ensure that we do not offer a thin veneer of acceptability to a public policy that suicide and the threat of self-destruction sometimes meets with our approval.

Some evidence exists to the effect that there are cases, however rare, in which there is a real and substantial threat to the life of a pregnant woman from suicide but the X case was primarily about the right to travel for an abortion. The Supreme Court reference to the suicide factor was not a primary finding. It is a fact that one judge was against the idea, one references the word "suicide" only once, one references "loss of life", while the remaining two speak of the real risk to the mother's life without any great elaboration, but perhaps a deduction or an assumption to include suicide.

The threat of suicide can be regarded as a conventional experience in mental health practice. There are standard mental health responses to the situation that are employed to remove such a threat. A threat of suicide made by any patient for some guarantee of concession to a different demand would never be entertained by doctors when that demand comes from mental health patients of every age and either sex.

The real challenge for medics and legislators is to distinguish between those pregnant women who are in real danger from a threat to their life from suicide and those who do not belong to such a classification of mental health condition. Among the factors to be considered will be the pregnancy timeline, the medical evaluation factors, the medical evaluation timeline, therapy options, the termination timeline and the emergency timeline. I have no doubt we will revisit this issue in the new year.

The current statistics on pregnant women committing suicide must be clarified but if it is a rare occurrence, it nevertheless requires a response from us.

I commend this report and its authors. They admit that it was not in their remit to adjudicate on legal, medical or political controversies. The doctors on the group were not settling legal issues. The lawyers on the group were not settling medical issues, but they were expert and they did report. We must now respond, and I believe legislation must follow.

It is a full 20 years since Mr. Justice Niall McCarthy stated: “The failure of the legislature to enact the appropriate legislation is no longer just unfortunate; it is inexcusable.” We have a duty to respond but regardless of the detail, form or shape the legislation takes it must be governed by rules which are fixed, knowable and certain, with no room for the grey area that currently exists.

**An Ceann Comhairle:** Deputy Maloney missed out on his five minutes and therefore I will give him that time now.

**Deputy Eamonn Maloney:** I thank the Ceann Comhairle for facilitating me, it is entirely my fault. Thanks are due to Mr. Justice Sean Ryan and the other 13 members of the expert group whose report we are discussing. It is a comprehensive report and, as someone with no legal and medical background, its detail and comprehension is to be admired. It is difficult to be objective given the subject matter but I found it sensitive in how it was drafted and how it sets out the options for people such as us, who must ultimately decide on the issue.

I am pro-life and I have never met a human being, in the House or elsewhere, who is not pro-life. I reject the impression created by a small minority that, somehow, they value life more than people like me or others. I have never been of the opinion that any woman makes lightly the decision to have a termination or to abort her pregnancy. As men, we must say that. It must be a traumatic and emotional decision for a woman to make. We should be sensitive when talking about the subject. It is not a decision any woman makes lightly.

I compliment Deputy Charles Flanagan. I agree with many of his points and he said things that I do not now need to say. His contribution was thoughtful and balanced and included a comment that the debate is about women who became pregnant. Women who find themselves in that situation and find their lives at risk are the priority.

As legislators, over the past 30 years, we have not made much progress but I will welcome primary legislation whenever it arrives in the House. I think is the only way to deal with the issue and I will have no hesitation in making my mind up about the best thing to do. No other woman should die in the jurisdiction when her life is threatened by pregnancy. With regard to the prolonged history of evading making a decision on the matter, I refer to previous Members of this House, the late Jim Kemmy, the Limerick socialist, and Michael D. Higgins, who represented Galway West. They lost their seats in 1983 as a result of the amendment at the time. Some people paid the price at the time and it is now clearer political weather than it was in 1982 and 1983. We must step up to the edge because no woman should die due to a lack of legislation to protect women in danger during pregnancy.

**Deputy Marcella Corcoran Kennedy:** It was stated in the House, and the medical evidence supports the assertion, that Ireland is one of the safest places in the world for women to give birth. I concur, having availed of maternity services on three occasions. I express my deepest sympathies to the Halappanavar family on the loss of Savita. Sadly, it seems the family’s trag-

edy has been hijacked by some as evidenced by the intense lobbying of Oireachtas Members in the past weeks. I talked to some of the young people protesting outside the gates of the Dáil. I discovered they were sincere in their sympathy to the Halappanavar family but confused about the legalities of termination for women in need during pregnancy. They were certain, as I am, that they never wanted anything like that to happen to a pregnant woman in this country again. We must be confident in the level of expertise and care we will receive in pregnancy until pregnancy is completed by the birth of a child. It is a joyful and life-enhancing milestone in most cases. However, pregnancy brings challenges to the healthiest of women. Pregnancies may end in miscarriage or the foetus dying in utero or having a foetus with an abnormality.

We must reflect on how life has been for women in Ireland in the past. They have not had it easy. We must never forget the treatment of single women in their attempts to obtain contraception or when single women became pregnant. Married women and their husbands who wanted to obtain contraception found it very difficult. Women had appalling procedures carried out on them in labour and after delivery, leaving them with lifelong problems or unable to have more children. As a society, we seem to have real problems with the fact that we are human beings in whose DNA it is to procreate. In the past, campaigners even objected to the provision of sex education. Somehow, they believe that keeping people ignorant of their potential to reproduce will prevent sexual activity. As a society, we are slowly but surely acknowledging our human drive to reproduce. In an ideal world, all pregnancies would be welcome but that is not the case. Many of our young women, some barely out of childhood, have been victims of rape and incest, with acts perpetrated on them, in many cases, by the men they trusted most. I am conscious of the sensitivities of these cases and do not want to cause distress but we must never forget how poorly our young women have been treated, resulting in much emotional and psychological damage. We have also heard tragic cases of those who have made the decision to travel abroad for an abortion and the impact it has on their lives thereafter. Debate on this sensitive and human issue exposed the many complexities of the matter.

I welcome the recent report of the expert group on the judgment in the *A, B and C v. Ireland* case. I have strayed off the agenda but it is important to reflect on where we come from. The terms of reference of the expert group were clear. The first was to examine the judgment in the *A, B and C v. Ireland* case in the European Court of Human Rights. The second was to elucidate on its implications for the provision of health care services to pregnant women in Ireland. The third was to recommend a series of options on how to implement the judgment, taking into account the legal, medical and ethical considerations in the formulation of public policy in the area and, more importantly, the overriding need for speedy action. I thank Mr. Justice Ryan and the members of the expert group in their work producing the report and their careful consideration and production of options. As a Legislature, we must carefully consider the options presented. It may be guidelines, regulations, legislation or legislation and regulations but all must be considered carefully. The report will help us to come to a decision on the best for society. This society has tried to grapple with various sides of the arguments for and against the ending of the life of the unborn child. Ethical, social and religious points have been debated but the fallout is that deep divisions were created, with many people fearful of revealing what they really felt. Like many colleagues, I received passionate and emotive lobbying from both sides. The termination of a pregnancy can be performed where there is a real and substantial risk to the life of the mother. Our Constitution also has a provision to defend and vindicate the right to life of the unborn. In this case, we must make our choices and learn from other jurisdictions. That does not mean we should slavishly follow what they do. At this point, we need a reasoned and calm debate as it is one of the most significant decisions the Government must consider. Emo-

tion and hysteria will also only serve to cloud the issue. The most significant issue is whether or not the medical profession have the clarity they need. They have made it very clear that they need clarity on the point at which a termination is permissible so that the 1861 Act will not be hanging over every decision they make in future.

Allied to that, I believe human life is sacred. Both the mother and the unborn child need our protection. I also know that no matter what decision is made, there will be dissenting voices. I sincerely believe, however, that here in the Dáil we will achieve consensus on how to proceed and that political posturing and opportunism will be left to one side so that we can arrive at the best decision and be united in where we go with it.

I reassure those who are concerned that legislation will lead to abortion on demand or abortion by the back door that this is not the case and is not my intention. The Taoiseach and the Minister for Health have been clear on this. We must make a decision based on the report of the expert group. I support the fact that the Government will be making a decision next week. We will all participate in the hearings, listen carefully to them and ensure that, finally, we get it right this time.

**Deputy Bernard J. Durkan:** I am glad to have an opportunity to speak on this particularly important debate. Like THE Cheann Comhairle and a number of others I was here when the original debate on this topic took place. I recall with great clarity the strongly held views on both sides of the argument and how they created more division in society than any debate I have known before or since.

I do not know if it is a good thing that I survived the intervening period or not.

**Deputy Jerry Buttimer:** We still enjoy Deputy Durkan.

**Deputy Bernard J. Durkan:** I thank Deputy Buttimer. I try to create as much enjoyment as possible in other spheres as well.

I am conscious, however, that we are having this debate in the aftermath of the tragic death of Savita Halappanavar. I do not know enough about the circumstances of her death to comment on it. Those circumstances have not been made public, but I hope the findings of a full investigation will be made available to the Houses of the Oireachtas so that we can come to a judgment as to how to prevent a recurrence of this tragedy, if prevention is possible. I do not know that either. It is sad that a tragedy has been the catalyst for this debate. Of course, the bigger issue is the report of the expert group which was heralded long before the death of Ms Halappanavar.

I am certainly not in favour of abortion. I never have been. I am not in favour of abortion for social reasons or as an optional extra. I believe the people, in their response to previous referendums, were also thinking along those lines. I studied the judgment of the Supreme Court and its interpretation of the judgment of the people in the referendums. It is clear to me that the Supreme Court expected legislation to follow that would give protection, security and assurance to the medical profession, to the people and to pregnant women, who were the people directly affected then and would be in the future. Everyone in the country has had a mother. Some of our mothers are, gladly, still alive.

Like other Deputies, I have received hundreds of e-mails and letters on both sides of this argument. No matter which side we come down on we will annoy somebody. Our duty as

legislators, however, is to make the right decision, having regard to all the evidence available to us, and to read up as much as possible on the issues. To have lived through the controversies of the past is also an advantage.

I have no doubt of what was expected of the Oireachtas by the Supreme Court. There was an expectation of legislation to protect the three elements I have referred to. Similarly, the Supreme Court did not intend that legislation should give effect to widespread availability of abortion, for social reasons or whatever. I do not think that was anticipated. By rejecting two proposed amendments to delete the element of suicide, the people made it clear they were not happy to delete suicide as a possible ground for intervention in pregnancy. In the backs of their minds, the people remembered that there may be women who would find themselves faced with a situation they could not tolerate. People have varying capabilities when it comes to dealing with pain and stress. Some people can deal adequately with a great deal of pain and stress and some people can not. Should we legislate for only one set of people? We must legislate for all. It is our job to legislate for all creeds, shades of opinion and colours, without exception. I hope we will do that.

I congratulate the members of the expert group on an excellent report. They have laid out the options quite clearly. My interpretation of what they have said is that we must legislate. We cannot exclude the possibility of suicide. It is clearly laid out for us to accept or reject it, but we cannot reject it.

The people have said they do not want abortion to be generally available *ad lib* for everyone in all circumstances. The women, the mothers and the pregnant women of Ireland do not want that either. However, where a rape takes place, particularly statutory rape, the final decision as to whether the unfortunate child should be forced to carry on with the pregnancy should not be taken by a third party, whether that is a court, legislators or the medical profession. The parents, because the child is a minor, and the girl herself should have some opinion as to what should happen. They are the people who will have to live with the aftermath and the consequences.

There are those who will say the unborn child had nothing to do with the rape and committed no crime. That is true and I am conscious of that, but neither had the victim of the rape. What should we do, as bystanders who are removed from the situation? Should we make the harsh decision that what happened was a bit unfortunate but that the woman must accept the consequences of it? That is not within our remit and we should not do it. It would be very harsh to do that.

I am quite clear that the opinion of the pregnant woman, or the parents in the case of a minor, should have some bearing on the outcome. I am not going down the road of free choice, but there must be some regard for the view of the woman or girl who is pregnant. After all, when a man goes into a hospital for a procedure how would he like it if the decision whether to receive the procedure or not were handed over to a third party group, whether psychiatrists, judges, doctors or commentators, to be debated? The whole thing is ridiculous; it is utterly crazy. How can one understand such a situation? We must put our feet in the shoes of the person in that position. People will say women have been having babies for millions of years and in most cases without any great difficulty but occasionally a problematic pregnancy occurs. What do we do then? What do we do in any medical situation? Do we debate the matter or do we attend to it? We have no option as a humane society other than to give the best possible treatment to the person presenting with the problem, it is as simple as that. If we depart from that in any shape or form, we are doing ourselves an injustice.

There are those who would say that as a man, I should not have a view on this sort of thing. I do not mind, I am still a member of the population. I do not necessarily agree with the notion only women should make this decision. If a woman presents to a hospital with a difficult pregnancy, the time is long past for other people, men or women, to comment. The only person who is in the eye of the storm is the patient presenting in the hospital. I cannot see for the life of me how anyone could have a prior right to set out the procedure to be followed, particularly if there is a threat to the life of the mother.

We fully accept the 1983 amendment. As we now know, however, the Attorney General at the time pointed out the potential conflict. We debated that *ad infinitum* at the time. Time, however, has passed and society has learned. We are not all God, and we cannot make these decisions as if we were. Even God himself would have a difficulty coming to a conclusion in some of the situations presented to us from time to time. I do not have any daughters so it is easy for me to comment but other people do have daughters and in that situation the future pregnant mothers in this country must be reassured we the legislators understand their predicament and in the event of a doubt about their health during pregnancy, they will not be prevented from receiving the treatment that might be required, the most compassionate and optimum treatment at that particular time. To do otherwise is to shirk our responsibilities and to move away from the situation and leave the matter in the hands of others to be decided. We are a humane society, notwithstanding some of the things we say from time to time, and we must come to a conclusion and follow the options laid out in the report of the expert group.

I do not believe that there should be a free vote on this. We do not come in here to have options, we must stand up and be counted. If it is the consensus in the House that we go a particular route, having regard to the situation unfolding before us, we must make our minds up. I strongly advise against a free vote because we know all about what can happen from past history.

I compliment everyone on all sides in the debate so far. It has been a rational debate and has taken into account all of the issues that must be addressed. I hope we make the right decision and do not have recriminations. Our job, however, is to legislate. We cannot do everything. We can make provision for the issues highlighted in the expert report and have regard to recent events and past events. All of us in this House over the years have dealt with situations where questions were raised in our minds as to why particular procedures were not followed. We live in a litigious society and there could be a case where third parties might intervene to prevent a medical procedure that was urgently necessary at a particular time and that would be tragic.

**Deputy Jerry Buttimer:** The debate we are having on the report of the expert group on the judgment in the *A, B and C v. Ireland* case is very important. For the past two months, this has been in people's minds. At the forefront of our thoughts must be Savita Halappanavar and her family but also the State must address the findings of the expert review group and the Government must act. We must see action so there is an end to the procrastination.

As a child born ten weeks early during a crisis pregnancy in the 1960s, to me the gift of life has been given to me. I try to adhere to words of Swift, "May you live all the days of your life", because I have been the lucky one. My mother was in trouble, she knew that as a midwife herself, but she was not listened to at times and thankfully the birth resulted in a healthy child and she had three more children afterwards. That has shaped my philosophy and ideology in life. I am pro-life by ideology but we must park our ideologies in this debate.

I heard Deputy Flanagan speaking about single male colleagues and I am a single male man who will not have any children. That does not mean I cannot contribute to the debate. We must all listen to the views not just of women but of all people. Women are very important in this debate because if we do not listen to them, we will have lost a sense of empathy and understanding and we must try to seek consensus on this. That is why the establishment of the expert review group was important. It took less than a year to report and we are now debating that report. In discussing it, our debate and the Government decision, and the hearings in the Joint Committee on Health and Children, will stand as a template for how we as a society have learned from the debates in the 1980s.

I was a teenager then and I remember those debates vividly. I hope in our deliberations on this report we will bring legal clarity to the medical practitioners and women who find themselves in difficult circumstances. I compliment Mr. Justice Ryan and the group for the way in which the report is presented. It is easily readable and sets out its core ideas. As part of that process it was right and proper to wait for the report to be published so we could have a debate instead of jumping through hoops to satisfy one interest group over another. Our duty as legislators is to listen to all sides and not to engage in a knee jerk reaction on either side.

Chapter two of the report sets out clearly the current legal position, which has evolved over the last 30 years. From the 1861 Act, to the constitutional amendment, to the X case, to the provision of information, the report lays out the current legal parameters. I welcome the publication by the Irish Catholic bishops' committee earlier this year on their day for life where they again reaffirmed that the Catholic Church has never taught that the life of a child in the womb would be preferred to that of a mother and that by virtue of their common humanity the mother and her unborn baby are both sacred with an equal right to life. This report should be read by everybody in Irish society.

I join Deputy Charles Flanagan in saying that the Government should make this report available because the report will form the template of the debate we will have later. It is important that people are informed irrespective of their viewpoint. Chapter 3 of the report goes into great detail about the historical development of our law. It goes into each of the pertinent court cases, the background and the legislation involved in each referendum. It also looks at the all-party committee reports and Green Papers. It looks at each of the times when we, as a society, have considered the issue. For anybody who is unsure of the exact legal provisions or who wants a balanced and detailed overview of how our law has evolved and developed, chapters 2 and 3 are essential reading.

Before the report sets out its recommendations, it outlines four guiding principles. These principles have been based on a position that "the State is entitled and, indeed, obliged to regulate and monitor the exercise of [the existing constitutional provision] so as to ensure that the general constitutional prohibition on abortion is maintained". For those who are worried about the motives of the report and what will happen next, I hope that acknowledgement offers some comfort. The report is about working within our constitutional provision; it is not about changing our Constitution.

The termination of a pregnancy, whether by direct intervention or as a consequence of medical treatment, is a profound and serious matter. In all of our discussions, regardless of where we are coming from, we cannot lose sight of that. If medical professionals are saying they are faced with difficulties posed by our current situation, we have an obligation to make this position clear. We have heard from women who have faced similar difficult decisions, and we have

an obligation to give them clarity. We must provide clarity and certainty, and we must end the mind games and vitriol. No matter where we stand in the debate, we must ensure the position is clear and unambiguous and that doctors know what they can and cannot do.

As citizens and legislators we must end the uncertainty, create certainty and give a sense of confidence to the medical professionals and the women of the country. As I said in the debate on the Private Members' Bill, let us put aside our political differences and ideology, whether we are pro-choice, pro-life or in the middle. The issue is far too important to be bedevilled by the playing of a game. For 30 years it has bedevilled Irish society and political life. There has been a failure on all sides to debate this issue maturely and act on it. It behoves all of us, who have an interest in humanity and life, to be calm and to debate the issue, as we are about to do as a Parliament and, more importantly, as a society. We need a thought-out, considered and timely response to the report of the expert group, and today is part of that process.

The Government has given its clear intent on what will happen in the next few months. Following this debate, the Government will decide on which options it will take. From there the parliamentary process will begin to consider the guidelines, statutory regulations or legislation as is required. In the new year I, as Chairman of the Oireachtas Joint Committee on Health and Children, and my colleagues on that committee will hold a series of meetings on 8 to 10 January. We will consult widely and listen, and we will debate maturely. We will do so in the interests of the people. That is why I, as Chairman of that committee, and my colleagues will not be found wanting. We will meet next Thursday in private session to discuss how we intend to proceed, and that will be done on a cross-party basis. Our hearings will be fair and there will be a process of dialogue to ensure a wide range of voices are heard. We will consult wisely and widely. People will be asked to make a contribution.

Today's debate is necessary for us as a society. I hope it has been a constructive debate. I pay tribute to the parliamentarians in this House who have been constructive. This issue is far too important to be used to try to score political points. The outcome of what we do will reflect our views as a society. I conclude by quoting the words of Martin Luther King: "Our lives begin to end the day we become silent about things that matter."

**Deputy David Stanton:** We have reached a certain position after many years and we are where we are right now. I have met people and we have all been lobbied strongly on this issue. I have met people from the Pro-Life Campaign. One of its documents states:

The most important option not contained in the report is to reverse the Supreme Court decision of 1992, which would allow for abortion up to birth [according to it]. If people do not want to introduce such an abortion regime in this country, this is the only political option and it has to be confronted.

That is one option. After having had two referenda, I am not sure the people would agree with what the Pro-Life Campaign wants. My feeling is that they would not. I met some people from the Pro-Life Campaign and they said the same. They said they thought the people would not reverse the Supreme Court decision of 1992. We could possibly have a "preferendum" on it or some other kind of poll. I note that recent polls agreed with that. Putting that aside for the moment, we are where we are. The Medical Council guidelines published in 2009 state:

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 ex-



ception 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.

That is the current situation as interpreted by the Medical Council in its guidelines and advice to its members. Recent research has found that 94% of people say that doctors are trustworthy, which is good.

The fifth progress report of the all-party Oireachtas Committee on the Constitution makes for fascinating reading. Five minutes is not much time to give to this matter. That report refers to rare and complicated cases and states that protecting the life of the mother is paramount. It states that the scientific basis for medicine changes regularly. It also states that suicide rates in pregnancy are low at one sixth of the expected rates for women who are not pregnant and one 20th of actual rates. The numbers are small and the risk is small. Some of the experts who gave evidence in 1999 and 2000 said there is no failsafe way of saying a person will or will not commit suicide. They spoke about intervening to help individuals, to treat depression, to help stop drinking and so on. They also maintained that suicidal thoughts can be transient. Some experts maintained that the majority of people, who attempt or threaten suicide, are actually not mentally ill. They may have some kind of psychosis or feel they are a bad or unworthy person. They also quoted a Finnish study that indicated that abortion increases the chances of a woman committing a suicide after the abortion. Interestingly they said that an abortion will not undo rape.

Having said all that, we are still where we are legally and constitutionally. They talk about the law of the land and, as the Medical Council has stated, the basic law is our Constitution and it trumps every other law. Any law this House might pass must be in compliance with this, as interpreted by the Supreme Court. The Supreme Court has ruled and only the people in a referendum can undo what it decided. Now we are where we are and we have to abide by this. There are issues here. For instance the fifth progress report referred to the difference between abortion and miscarriage. It also states that a baby after 24 weeks is probably viable and that doctors at that stage are obliged to recognise that and to do everything they can to save a baby's life after 24 weeks. This is another major issue because we have heard reports that pregnancies in other countries have been terminated after 24 weeks and the babies left to die. My interpretation is that after 24 weeks, doctors here are obliged to try to save the baby and keep him or her alive. The issue arises regarding how to deal with a suicidal person before 24 weeks and the risk that one could lose both.

I would be very interested in hearing the debate in the Oireachtas Committee on Health and Children on this issue. This forum is probably not the best one to tease out the detail and the committee will probably be the place to do that. I do not think we can or should have a referendum because we have to deal with the legal situation as the Constitution outlines and as the people have spoken way back. It is very complicated from a medical and legal point of view but we should be able to-----

**An Ceann Comhairle:** For the sake of other Deputies, I must ask Deputy Stanton to conclude because we must finish at 4 p.m.

**Deputy David Stanton:** We should be able to move forward.

**Deputy Kieran O'Donnell:** I welcome this debate.

**An Ceann Comhairle:** This debate is not concluding today.

**Deputy Kieran O'Donnell:** It is a very important debate. I have listened to the debate on this subject, which has been widely discussed recently. The public is looking for a consensus on the issue. It is fair to say there is a broad consensus among politicians and the general public that there is a need to legislate and regulate for best medical practice. What we must do is ensure that we preserve the reputation of Ireland in terms of medical practice as one of the safest places in the world for a mother to give birth to her child, both for mother and child. In that regard, the investigations under way into the tragic death of Savita Halappanavar need to be carried out in the quickest possible fashion. They need to be made public both in terms of her husband and family receiving the truth. It has been a tragedy. The investigations will also help inform best medical practice in this area.

In respect of suicide, on which there is no consensus, it is imperative for us to hear the best available medical evidence, particularly in psychiatry. There is a need for education and for politicians and the wider public to be properly informed. The public wants that level of knowledge. As legislators and representatives of the people, it is incumbent upon us when deliberations get underway in the Oireachtas Committee on Health and Children to consult widely. We are looking at best medical practice and the lives of both the mother and child. We cannot lose sight of the fact that in Ireland, we have a terrific medical system. We have excellent doctors and nurses across the spectrum who deliver babies daily in hospitals and seek the best situation for the mother and child.

Like everyone, I have thought long and hard about this issue. We need consensus and to be properly informed. I was delighted to hear the chairman of the Oireachtas Committee on Health and Children, Deputy Buttimer, say that he is looking to consult widely and bring in a range of medical expertise from across the spectrum. This is vital. People have come a long way and there is broad agreement on the need to legislate for best medical practice. It is there in guidelines but in terms of bringing clarity to the situation, it is extremely important that this takes place. Working in that framework of consensus, it is critical that the committee brings in psychiatrists and other personnel such as the masters of the various maternity hospitals and gets a proper overview of the current situation from a medical perspective. I welcome the debate which was extremely important for the House and I look forward to further deliberations on the issue.

**An Ceann Comhairle:** Deputy Griffin can commence his contribution and I will ask him to adjourn at 4 p.m. He can reconvene on the next occasion.

**Deputy Brendan Griffin:** I welcome the time allotted to Deputies to make statements on this matter and commend all those Deputies who have availed of the opportunity to do so. I acknowledge that I am another man standing up to speak on a sensitive topic that will never directly affect me. When I use the word “directly”, I use it in the context of my own body. On a personal basis, as the husband of an expectant mother, this is a matter about which I feel very strongly and by which I am indirectly affected, as is every man in the country. It should not be forgotten that men are also affected by this matter. As public representatives, we have a duty to speak on this matter and make our views known. Before I go any further, I want to express my sympathy to the women and families affected in any way by this topic and acknowledge that public discussion, be it here in the Dáil or on radio or television, is very painful for many thousands of people throughout the country.

7 December 2012

I welcome the report of the expert group and the fact that progress is being made. It has been said that six Governments have ignored this topic and thankfully this seventh Government will not do so, which is very welcome. My understanding is that the legislation on this matter to protect mothers' lives will be brought forward and I would be happy to support it. We need to provide legal clarity to protect the lives of pregnant women in all circumstances, including mental health grounds. It is a very difficult area to legislate for but we must do it. There are 166 Members in this House with probably 166 differing views on the topic. Very few people would have exactly the same views on this matter. It is such a complex health, justice and ethical area that one will never get total consensus but we need to work towards the broadest possible consensus we can find. While the report of the expert group deals with the judgment in the A, B and C *v.* Ireland case, it does not deal with cases involving rape or incest. These are difficult areas to deal with but we must face up to the reality that it happens on a regular basis. I echo a recent observation made by a colleague, that had it not been for our proximity to the UK this matter would have been dealt with by our Parliament much earlier. It is not acceptable for the country to continue to bury its head in the sand with regard to this issue.

The Dáil adjourned at 4 p.m. until 11 a.m. on Tuesday, 11 December 2012.