APPENDIX B

PUBLIC HEARING ON ABORTION – VERBATIM TRANSCRIPT

Chairman: We are now in public session. I would like to welcome the following representatives of the Church of Ireland: the Right Reverend Harold C Miller, Bishop of Down and Dromore; Dr Michael RN Darling, and Dr PHC Trimble. I want to welcome you to this meeting of the Joint Committee on the Constitution. We have received a submission from the Church of Ireland which has been tabled before the Houses of the Oireachtas and can be found at page 379 of the brief book. That submission, in fact, was addressed to me as a document prepared by the Medical Ethics Working Group of the Role of the Church Committee in response to the Green Paper on Abortion. That response was considered by the full Role of the Church Committee and it was agreed by that committee to forward the response to this committee. The submission is at page 379 of the brief book and has been circulated to members. I understand you wish to make a brief opening statement elaborating on the submission and that will be followed by a question and answer session with the members. I have to draw your attention to the fact that while members of the committee have absolute privilege, this same privilege does not apply to you. I now ask Dr Miller to make his opening statement.

Dr Miller: First of all, this group of three people – the three of us – were chosen by the Standing Committee of the General Synod of the Church of Ireland at its June meeting to report on its behalf to the all-party committee of the Oireachtas. The first thing I must tell you is that the submission by the Medical Ethics Working Group of the Role of the Church Committee which you have before you failed to be accepted by the General Synod in May. You may not realise how the Church of Ireland works but it is quite normal for committees to send in documents or responses to particular issues in their area. The group which has the over-arching authority in the Church of Ireland is the General Synod and in the course of debate where this particular report was an appendix to the Role of the Church Committee report a resolution was put forward that the Role of the Church Committee report be amended by the withdrawal of two appendices and that was passed by 166 votes to 164, suggesting that the Church of Ireland represents a diversity of opinions on certain aspects of the abortion issue. The three of us have been chosen to convey something of the spectrum of views which co-exist in the Church of Ireland. Indeed, Dr Michael Darling was on the medical ethics committee which drafted and wrote the first report and Dr Peter Trimble was one of the representatives who spoke against the report at the General Synod.

However, not least in the light of an article in last Sunday's *Sunday Times* by Kevin Rafter, it is important to begin with areas in which all three of us here are agreed. These include the following – there may be others but we have listed the following to try and help you. First of all, we are agreed in expressing gratitude for the Green Paper and for the fair minded and helpful ways in which it disentangles, presents and focuses the major issues and the potential ways forward. Secondly, we reaffirm together the Lambeth Declaration on Abortion – at Lambeth every ten years all the bishops of the Anglican Communion meet – which remains as the essential and official stated position of the Church of Ireland. It reads as follows:

> In the strongest terms, Christians reject the practice of induced abortion, or infanticide, which involves the killing of a life already conceived (as well as the violation of the personality of the mother) save at the dictate of strict and undeniable medical necessity.

This implies that there can be medical circumstances in which a termination of pregnancy is required.

Thirdly, we agree together on section 2 of the report before you when it says:

From the Church of Ireland perspective the issue of abortion doesn't lend itself to the sort of clear definitions that law requires. However, we realise that such definitions have to be made and a clear way forward found.

The Green Paper itself has helped to clarify many issues in this process.

Fourthly, we accept the spirit of the second part of section 3 which says, "Because of the complexity of the issue, we believe that it must be addressed by legislation rather than in the Constitution."

It has been the official view of the Church of Ireland throughout the abortion debate that the constitutional way is not the best method of dealing with this issue. We would, therefore, say that the words at the conclusion of the Green Paper on page 172 are very close to the stated position of the Church of Ireland – I think it is the very last paragraph or the penultimate one. The review group, therefore, favours, as the only practical possibility at present, the introduction of legislation covering such matters as definitions, protection and appropriate medical intervention, certification of real and substantial risk to the life of the mother and a time limit on lawful termination of pregnancy. The suggestion of the medical ethics group that we put in place a legal structure within which abortion is illegal but exceptions are permitted is close to our own view.

Fifthly, we are agreed that the right to life itself is the most basic of human rights and that this applies to the life of the foetus in the womb. We are also agreed that one of the tasks of the Christian church is to protect the weakest and most vulnerable and that the unborn fall within these categories.

Sixthly, we are totally agreed in our opposition to abortion on demand. Seventhly, we are agreed that abortion should be permitted in situations where the continuance of the pregnancy represents a substantial medical risk to the life of the mother, even if in a few exceptional cases this requires direct rather than indirect abortion.

Eighth, we agree with the importance noted by the medical ethics group of a comprehensive programme of education but would wish to emphasise that this must include education in moral values.

Ninthly, we are agreed that in-depth pastoral care and ministry are necessary to help many women through the trauma of unwanted pregnancy and abortion and, although we believe most abortions to be wrong, we would emphasise the crucial importance of non-judgmental care in the process of healing and restoration.

The essential areas of disagreement among members of the Church of Ireland are the following: (a) whether it is appropriate, as was done in the report you have before you in the first bullet point, to define a lower limit below which abortion is not concerned. The sentence in the submission, "We find merit in the UK's Human Fertilisation and Embryology Authority's use of the 14 day stage, a significant stage in the development of the embryo, and suggest that this should be the earliest stage for the legislation's concern" is unacceptable to many. Those who oppose the 14 day limit are often not prepared to label the IUCD and/or the morning after pill as contraceptive devices. They are also concerned that the 14 day limit has an arbitrary character and they may have strong views on life beginning at conception. Some may also wish to make the moral point that where we are uncertain about whether a life or an nascent life exists our approach should be an essentially conservative one. (b) In our areas of disagreement we are not in agreement about what constitutes an exception other than medical risk to the life of the mother. At the moment, that is the only agreed exception, though some would want to extend this to the risk of suicide where others would strongly oppose this extension.

The three areas of greatest disagreement in exceptions are (i) lethal or severe congenital abnormality in the foetus; (ii) pregnancy after incest and (iii) pregnancy after rape. Another area was also added in the submission and it is as follows: cases where "the probable consequence of the pregnancy would be to render a woman a mental and physical wreck" – the Bourne judgment. This raises very difficult questions of interpretation for many and there would be genuine difficulties for many members of the Church of Ireland with any loophole that would allow the door to be open, which has been opened widely, for example, in England, where the vast majority of abortions are performed for social, economic or psychological reasons.

Having said that these are areas of debate and discussion among members of the Church of Ireland, this does not mean that every individual view among members of the Church of

Ireland is to be considered as of equal moral weight. The official position of our church still remains an essentially conservative, but not a totally black and white one.

Senator O'Donovan: I welcome you here to this committee. I read your report some time ago. It was quite clear and succinct and I thought fairly well thought out. One of the difficulties I would face, as a member of the committee – and I have learned a lot since we initiated these proceedings, meeting various medical experts, etc – is the definition of abortion. I wonder have you a particular view on it because we have heard of indirect abortion – you mentioned it there – and direct abortion and there is the notion of termination of pregnancy and so on? One of the medical experts, I am not sure which one, said when questioned on this, that any emptying of the uterus – I think those were the words he used – was in fact abortion and that something like a miscarriage would be deemed abortion. If we as a committee are somewhat confused, you can imagine the confusion the public would have, say, in the event of a further referendum. Do you feel that abortion should be clinically and legislatively defined as issue number one before we consider either a referendum or legislation or whichever combination you would see fit?

Dr Miller: If you are asking me, I think it is very important that it should be defined. My own wife had three miscarriages, which were labelled abortions. Of course they are officially abortions and, indeed, coming down on the train with Dr Peter Trimble we were just saying the Green Paper on Abortion … The word "abortion" is terribly confusing not only because of the question of whether it includes, for example, miscarriages but also because of the issue raised, on which we are not at one clearly in the Church of Ireland, the issue raised about the 14 day stage and the whole question of what you are dealing with before the 14 day stage. That has never, I think, been clearly defined, the moral and theological background or reasoning for the 14 day stage, in my view, hasn't been clearly stated and defined, even in the Warnock report, which claimed that it had, and I think that needs to be absolutely clear. Some of the reason this paper was found unacceptable by some is that the idea that under that stage it might be something other than quite abortion.

Senator O'Donovan: I wish to raise a point that I think you have pretty clearly answered and I don't want to labour on it. It is that some of the viewpoints that we have entertained in this committee basically look on abortion as a sort of a bad word, a taboo. It's like, you know, maybe some years ago when we were growing up the word "sex", you dare not mention it.

The reason I am anxious on this particular issue is that viewpoints have been put to us that in certain instances where medical intervention to save the life of the mother … that is not abortion. You don't call that abortion. I think it would be important to clear the air on this once and for all. Whether we go for legislation or for a referendum to make a constitutional amendment, I think it is absolutely critical that, for the public at large, the lay people who will be voting on it, this area would be cleared up.

Dr Miller: I would agree that a working definition is very important, not least because when people see the word "abortion" they think they know what it is that we are talking about.

Chairman: Thank you. Deputy O'Keeffe.

Deputy J O'Keeffe: You are very welcome. It is clear that there is a diversity of view within your church. May I congratulate you on the very healthy, open and transparent way in which you dealt with the issue and presented it here. There is a difference of view. I think that's possibly a reflection of the difference of view right throughout the country on some of the complex aspects of this very difficult issue. There seem to be some areas though where there's substantial agreement on the part of your Church. Essentially, do I take it that this could be summed up, in broad terms … you're not really in favour of a further constitutional referendum? Would that be correct? All the different strands would agree on that particular point?

Dr Miller: Yes, I think, if I may – I was living in Cork at the time of the 1992 referendum and personally voted for the first part of that referendum and was very disappointed when it didn't get through. But I think, with that history, that would generally be the case. The approach that the Church of Ireland would generally have taken, and I'm here speaking, as it were, officially

rather than personally, would have been that the Constitution doesn't allow for the nuances that legislative reform allows for.

Deputy J O'Keeffe: And a secondary … of where there seems to be a broad area, again, of consensus is that you're very much in favour of an allocation of resources in a programme to deal with the non-legislative aspects, the education and counselling and so on. You'd be very much in favour of that. Am I right in that?

Dr Miller: Yes, and simply added the rider that the moral aspect of that is vitally important too.

Deputy J O'Keeffe: How would you see the moral aspect of that being properly catered for if we recommended such a programme?

Dr Miller: I think there is an inclination to believe in the Western world of today that there is such a thing as neutrality within a kind of relatively secular environment and I don't believe that such a neutrality exists. So it would be very important, for example, that, for us as a Christian church, that any programme of education, at least for those who are under our care, would be something which takes into account Christian understanding of abortion and the issues associated with it and indeed contraception.

Deputy J O'Keeffe: I suppose I should tell you that the previous delegation we had was from the Muslim community and – Mind you, there isn't … I didn't notice a huge difference of approach and that's … what I would normally accept as being the Christian approach. So, I mean, we have to take it – I merely mention it because they were here and we now have beyond the ... other than the Christian communities to consider.

Could I ask one other question? You mentioned that there was a broad agreement in your Church on an exception, should be situations where the continuance of the pregnancy represents a substantial medical risk to the life of the mother. That's mentioned in the ethics group report and is acceptable, you say, generally. Has any consideration been given to a definition of what is a substantial medical risk? Has that aspect been teased out further? Would it have to be a proven risk that would likely result in the death of the mother? Or there is then the question of a substantial risk to the health of the mother – there is a scale here. Has that been looked at? Perhaps you might –

Dr Miller: Can I ask Dr Darling to –

Deputy J O'Keeffe: Of course.

Dr Darling: Thank you, Mr Chairman. I welcome the opportunity of being here and I admire your patience. On that specific question, firstly, may I just state in answering that, where I come from and I am a practising obstetrician/gynaecologist here in Dublin but I'm also, I hope, a practising and active member of the Church of Ireland and my particular concern is along the medical grounds. I have other concerns but my particular concern would be along the medical grounds. There are occasions, albeit rare, but to my knowledge within this State in the last two and a half years on four occasions where it was felt by the medical information available by a consensus opinion that the appropriate management in the interests of the mother's life was termination of the pregnancy, was an abortion, and it was carried out within the State. And I know the cases.

Now, substantial risk is very difficult to define and you're quite right to hone in on it. The sort of information, and one of the cases I was personally involved in, was that the information available was that if we did not interfere with the pregnancy, the mother would have possibly about a 50% chance of dying before the pregnancy became viable and she could be delivered. Whereas, if the risk of interfering and of evacuating the uterus, removing the pregnancy, the risk of the mother dying was approximately 20% to 30%. Now, these are figures you can't actually justify because you don't know what's going to happen if you don't. The only way of finding out if she's going to die is not do anything or indeed do something to find out does she die then or not.

So, we don't know the answers, but the medical literature and the information that we have at the time of these clinical situations, we know that the pregnancy is exacerbating whatever the medical

condition was and we know that if we remove the pregnancy, that condition will improve. The relative risks are weighed up. Substantive, in my mind, would be something over 50%. If you've got more than a 50% chance of dying, I'd call that substantial, but it's an arbitrary figure.

Deputy J O'Keeffe: And then it would be very much up to the medical specialist to come to a view on that and consult then with the mother –

Dr Darling: And her relatives.

Deputy J O'Keeffe: Are we into the situation of ectopics and cancers and –

Dr Darling: I will come on to that. There were cases I'm talking about are severe medical conditions affecting the mother where the pregnancy is otherwise normal but is exacerbating the clinical situation. In clinical practice, what has happened is that the combined wisdom of various … and they'd be not just obstetricians, gynaecologists, there'd be haematologists, there'd be various sub-specialists, would give their opinion as to the clinical situation, the future prognosis, what would happen if we do interfere and what would happen if we don't interfere, and we would discuss this with the mother concerned and usually her partner and whoever is felt to be appropriate and a decision is then made.

The other situations, and that's really what the Senator was coming on to … to me, the definition of abortion is very clear in that any removal of a pregnancy before viability is an abortion. I don't see any confusion in that. The top end of the spectrum – pregnancy is a spectrum – is viability and that varies. That may be 22, 24, 26 weeks – 28 weeks used to be the current idea, but with improved medical knowledge and techniques, that is getting smaller, getting less. The babies that can survive are getting smaller, 500g is thought to be the lower limit of viability. Now, babies less than that do survive and become healthy citizens. So, there is a spectrum, but anything that is pre-viable, which is approximately 24 weeks, and removed, any pregnancy would be, in my mind, an abortion. Call it a miscarriage if you wish, call it a termination, but it's an abortion.

The difficulty is, well, there are two difficulties. One is you can fudge the issue by talking about ectopic pregnancies, you can talk about double intent, a difficult cancer of the uterus. You remove the cancer but you're performing an abortion and that's been going on in this country always. The difficulty at the lower end of the spectrum, when does life, when does viability or pre-viability start and that's a confusion. Again, I'm afraid, we never will know. The convenient thing for some is to fudge that also.

Some would say that as soon as the egg is fertilised by the sperm, there is the potential for life and that was, I think, correct. Now, we know that these eggs haven't implanted and, in fact, probably something greater than 60% of these eggs come away in the natural menstrual loss. So, the human species is the most inefficient procreator. So, we know that, at the early stage, that a huge natural wastage. People have tried to define 14 days and in the document to which I was party to, and I can explain my position there in a moment, we tried to suggest that it may be helpful to think of trying to define a lower limit.

You could define that from whenever the period is missed, but that isn't really rational. The actual time of conception would be 14 days prior to that, when the egg is fertilised. So any interference thereafter, in theory, if you're following that, is interfering with … could be causing an abortion. Or you could talk about 14 days after the last menstrual period should have been which allows perhaps current practice which is the fitting of the IUCD post-coital contraception. So, in answer to the question, I think all this double effect is really fudging an abortion. It may make it more easily justifiable and, depending on your own personal attitude, may make it more comfortable, and your conscience may be eased, but I think the removal of any pregnancy would be an abortion.

Can I address just very briefly the document which the bishop did. I am a member of the Role of the Church Committee –

Deputy J O'Keeffe: Before you address that, one last point. Perhaps the bishop might want to comment on it as well. Is there a consensus within the Church of Ireland in relation to what

is known as the morning after pill and the IUCD? Is that regarded as acceptable or has that issue been addressed?

Rev Dr Miller: I think it would be true to say that there is no consensus in the Church of Ireland on that subject.

Dr Darling: Just –

Chairman: I would ask you and Dr Trimble to speak generally before we continue with the questions.

Dr Darling: I thought we said most of what we were –

Chairman: I thought you were anxious to make one or two further points. Maybe you could develop them at this stage.

Dr Darling: I wanted to emphasise, as you may know, I was Master of the Rotunda Hospital and I know you have met the three current masters and they have put their views and I have spoken with them. We do come across clinical situations, which I was alluding to, where the current medical information is that in the interests of the mother, direct abortion is an appropriate management and, therefore, whatever conclusions your committee and the State decide, as a practising obstetrician we are a little bit uneasy as regards the current legislation. I am not a lawyer, but I do not think it has been tested. Although we are practising to the highest standards within a framework which we believe to be appropriate and correct, I am not sure if the courts would necessarily take that view if it were tested. I must emphasise that there are very few, I mean, as I say, I know of four cases. There are something less than 5,000 deliveries in this State per annum – this is over two and a half years – so we are talking about one in 30,000 or something like that, so it is not common but they do occur.

I sit on the Role of the Church Committee and as one of the sub-committees on ethics we drew up what we understood was going to be a discussion document, which is now the one that you have. First, on a personal basis I would not disagree with anything that the bishop has said, that as a member of the Church of Ireland, the Christian way forward is along the lines outlined by the bishop, but as somebody involved in a social way and a medical way with lots of people who find themselves pregnant who, for various reasons do not wish to be, one has a social conscience and that is difficult to address. So, our document was to try and flesh this out a little bit further by trying to define what we meant by abortion and suggesting parameters that further legislation might follow. This then gained momentum and next thing it was up in front of the synod and you heard that there was not a little split, but there was a close vote. Many at the synod felt this was a positive contribution and they were comfortable with what we were trying to suggest, but there were as many, if not a few more, who were not comfortable with it which, I think, is a healthy reflection on the diversity within the Church of Ireland in that there is a great deal of agreement, as the bishop has already said, but there would be a spectrum of attitude, as I am sure there is within every church. That is really what I was trying to bring out.

Rev Dr Miller: Could I add a rider, just for your clarification? It is important to notice that even though the vote was very close, this is not now the submission of the Church of Ireland to this working party. That is why we are having to step back. The three of us have been chosen to represent different angles, though not quite as different as they were presented in *The Sunday Times*, but we have been chosen to represent different angles on behalf of the Standing Committee and we have to step back slightly behind this document now to try to express to you some kind of consensus from ourselves, as three representatives, and some kind of expression of what the Church of Ireland has actually said previously on the subject. But this is not now what the Church of Ireland statement is.

Chairman: In fact, you had an opening statement and I assume you could hand us that.

Rev Dr Miller: Yes.

Chairman: Because that is your position now, in effect.

Rev Dr Miller: That is the position of the three of us representing the Standing Committee.

Chairman: That is your position as representing the Standing Committee and it identifies the areas of agreement and areas of disagreement.

Rev Dr Miller: That is right.

Chairman: Before I take any questions, Dr Trimble, do you wish to elaborate on that for us?

Dr Trimble: Dr Darling has said that his document, the Role of the Church document, came forward for discussion at the General Synod and I was one of those who engaged in that discussion. There were a number of people who expressed reservations about aspects of the document. I would have to say that in the original submission to the interdepartmental working group by the Role of the Church Committee, I was pleased that they affirmed the view of the Church of Ireland, upholding the sanctity of life before and after birth.

The issue of termination of pregnancy is clearly sensitive. It touches many people deeply and there is understandably a desire among church members to act out of concern for those in distress, as Dr Darling has expressed. We welcome the consideration that has been given to the difficult issue in the Green Paper.

The Role of the Church Committee on medical ethics attempted to address the particular difficulties in a legislative approach and a situation which can appear unclear. Part of my concern is looking back to the UK experience, when in 1966 David Steele introduced his Private Members' Bill, which became law in 1967. The motivation behind that appears to have been intended to prevent death and misery from back street abortions and also to enable doctors to carry out abortions in hard cases without fear of prosecution. It came at a time when thalidomide was in the news and there were a large number of concerns.

David Steele has stated that it was not the intention of the promoters of the Bill to leave a wide open door for abortion on request, but if we move on 30 years later, he is quoted as saying he did not think anyone foresaw what the numbers would be. The Act, as we know, allowed abortion to be performed in a number of defined situations. Most abortions in England and Wales are carried out on the grounds that the continuance of the pregnancy would involve risks to the physical or mental health of the pregnant woman greater than if the pregnancy were terminated. I, like other members of the General Synod of the Church of Ireland, was concerned that in framing the exceptions listed by the resubmission, that we would head into the same situation which exists in England and Wales and effectively end up with an open door.

Many would hold to the principle which has already been outlined by the Bishop of Down, that in the strongest terms, Christians reject the practice of induced abortion, which involves the killing of a life already conceived as well a violation of the personality of the mother, save at the dictate of strict and undeniable medical necessity. In their submission to the Green Paper, the committee describe abortion as never desirable and, at the most, the lesser of two evils. They then go on to attempt to define the situations in which abortion might be permissible.

The first is situations where the continuance of the pregnancy represents a substantial, which is undefined, medical risk to the life of the mother. This appears to be open to wide interpretation. Then, abortion for lethal or severe, again undefined, congenital abnormality in the foetus. "Severe" could cover a range of abnormalities, which are not necessarily incompatible with life. The detection of such abnormalities is itself not without the potential for physical and psychological complications. Even simple tests can have a profound effect on the mother's attitude to the pregnancy and can impair her acceptance of the developing baby. The more invasive tests can themselves result in the abortion of a normal foetus as a complication unintended of the test.

There are also wider implications. Abortion of abnormal individuals has an effect on society's perception of the disabled and, in particular, acceptance of disabled children. The detection of abnormality, and even the counselling process, puts pressure on the mother to make decisions regarding the continuation of her pregnancy. The process has even been described as giving

rise to a situation where there is a duty to abort. So a process, an intervention which is designed to improve the position of the mother and give greater choice can perversely create a situation where she feels pressured to make a particular choice.

Pregnancy after incest and pregnancy after rape are understandably difficult and emotive situations, perhaps the most difficult in the list of exceptions, and some would argue that abortion in these cases is the lesser of two evils and the compassionate solution. However, going back to the principle outlined in the … where the Church has previously stood, it denies the personhood and right to life of the foetus and it can itself re-traumatise the mother. Establishing the circumstances, that the pregnancy was due to rape, could clearly be very traumatic to the mother and presentation may be late because of her reluctance to come forward in these cases.

Cases where the probable consequence of the pregnancy would be to render the woman a mental or physical wreck is a term which, as we know, comes from the Bourne judgment of 1938. The first and most obvious point in this judgment is that the term "mental wreck" does not easily translate to a diagnosis of a psychiatric condition and is open to wide interpretation and considering the evidence from several studies in the psychological sequelae of pregnancy and abortion, I cannot envisage a situation in my personal professional practice as a psychiatrist where I would recommend the termination of a pregnancy on psychiatric grounds.

In his submission to the Rawlinson inquiry, Blacker reported 10% incidence of short to medium term psychological effects of abortion and the report of the same inquiry noted in its correspondence to questionnaires sent to people who had had termination an 87% of those responding reporting long-term emotional problems. As well as that, an article in the CMAJ has reported wide-ranging longer term emotional problems, including effects on the family following abortions.

On the final criterion for exception to the genuine case of threatened suicide, the assessment of suicide risk remains a major challenge in psychiatry with suicide accounting for 1% of deaths annually. Risk assessment involves identifying factors associated with suicide, careful mental state examination for signs of illness and the assessment of both the short and long-term risk.

Suicidal patients do not fit neatly into one type. They include those who are suffering from a major mental illness and those for whom self-harm appears to be a function of their dissatisfaction with circumstances. It is important to note that despair is often a transient state and modern and effective treatments are available for psychiatric illness.

The Christian response to those who are having difficulty in this way with circumstances might better be to provide help. Studies have looked at this, at the suicide issue. One looked at admissions to hospital after suicide attempt after a miscarriage, induced abortion and normal delivery, and the risk was higher for miscarriage and abortion and the author commented that the risk of suicide after abortion might be a consequence of the procedure, and a study of suicides after pregnancy in Finland in 1987-94 noted that the suicide rate associated with birth was significantly lower and the rates associated with miscarriage and induced abortion were significantly higher than the population rate.

Coming back, as a final comment, Alec Bourne, the obstetrician involved in the Bourne case, from my reading is reported to have become increasingly concerned by what he saw as the abuse of psychiatry in the practice of certifying many pregnant women who were at risk of profound mental disturbance and opposed the 1967 Act, and also became founder member of SPUC. So, the Church response in this situation, I believe, has to be a compassionate one and should focus on the provision of help to those in difficulty through provision of crisis pregnancy advice, support, adoption services, care for the handicapped and in education.

Chairman: Deputy McManus.

Deputy McManus: First of all, can I welcome you here and thank you for coming here to make this presentation? I think it is very useful for us to have this kind of detailed information and I suppose the complexity of your presentation indicates the complexity of the issue itself.

I have to say I am very concerned at the fact that so few women have been involved in these presentations. Today, for example, eight times more men will be speaking here than women and yet it is the women who suffer the crisis pregnancies, who are the ones who have to live with the after effects of rape and whose health and lives are threatened from time to time.

I would like to know if you feel – You have come through the process of consultation, you have had a very narrow vote and, obviously, that is causing a certain amount of difficulty for you in terms of simplifying your position, but are you satisfied that the voices of women within your Church have been sufficiently listened to and in what way have you been able to enable women to make their position heard? And obviously there are differences – And, you know, women as well – I am not saying that there is any simple, straightforward view there but, for example, of the number of people who voted – it is over 300 people – roughly speaking, what proportion would be female?

Rev Dr Miller: The light has just gone on there. I totally accept what you have just said and, indeed, it was an issue at the Standing Committee. The Church of Ireland actually in its governance does not have large numbers of women on the Standing Committee which is one of the reasons why there are two men here, but we are trying to represent positions as well, so it is quite difficult to get a small group to do this. But it was something that was recognised and, I think, you are absolutely right about that.

I could not tell you the percentage on the General Synod who are women. I would imagine something like a quarter, but that would be – Would that be your perception?

Dr Darling: Something like that.

Rev Dr Miller: I would imagine something like that. But certainly the Church of Ireland – Let me put it like this – although we have women priests … is still emerging from being a very male-dominated Church.

Deputy McManus: Indeed, and you have some very eminent women priests and I would congratulate you for that.

Rev Dr Miller: And some other very eminent women too.

Deputy McManus: Could I just ask in relation to your consensus position, you have described it as conservative. As I understand from what you are saying, it is actually more conservative than the outcome of the Supreme Court decision in the X case, where suicide was interpreted by the Supreme Court as being a threat to the life of the mother. Are you saying to me then that the Church of Ireland position is that in the X case that girl should not have been given the right to travel to have an abortion?

Rev Dr Miller: In relation to the X case, I think we have tried to convey a range of views. It would not necessarily be true to say that the Church of Ireland is committed – in fact, it is not committed – to one particular view, I think, of the X case. It did not oppose certainly the right to travel and it did not oppose the right to information. In fact, I think the Church of Ireland would stand with those two rights.

In relation to whether the Lambeth declaration can be widened, where you speak about, say of "the dictat of strict and undeniable medical necessity", the question of whether that can be widened to also include the risk of suicide is something that, I think, the members of the Church of Ireland and the General Synod would be, probably have very different opinions on.

Deputy McManus: In terms – At the moment the constitutional position, as I understand it, is that suicide is, because of the Supreme Court interpretation, is included as … within the terms of the constitution so that it would require a constitutional amendment to take that out of the equation. Now we have already had a constitutional referendum on that precise issue – it was the substantive issue in the previous referendum. What I'm getting from you is you're saying you really don't think it is worthwhile to have another referendum … another constitutional referendum anyway. Is that right?

Rev Dr Miller: Again I have to speak personally to a degree here. Speaking personally, I was very disappointed that the previous constitutional referendum did not succeed in that particular aspect. Whether there's a way of framing a new constitutional referendum which, somehow or other, takes that aspect out of it and allows for new legislation is a good question. I don't know the answer to that. We have looked through – You have given seven potential ways forward and the original document which you received said we examined all seven options and while recognising the merit of some, none of them totally reflected the main body of opinion within the Church of Ireland.

I don't know who judged what the main body of opinion within the Church of Ireland was in that case but, on one level, it's not far from wrong. We've all looked at these seven options and the Church of Ireland does not come down in a black and white way either saying "Yes, a total constitutional ban on abortion we would be opposed to" just as we would be opposed at the other end on abortion being widened to cases where it was allowable … being widened in option No 7. I think something like option No 4 might come a little bit closer where an attempt is made to put laws into place which would allow for very exceptional exceptions. But then the danger, as the Green Paper points out, is that that could lead itself to a legal case where the X case is held up as the result of the previous Supreme Court judgment in relation to the Constitution.

I don't think that we have a clear answer. We couldn't say we think one of these is the right way forward. The Church of Ireland has said right from the beginning that it felt that the Constitution was too blunt an instrument for such intricate dealings as the issues in relation to abortion. I think it would be true to say that we have always believed that abortion is essentially wrong, that we want it not to be legal but that there are very exceptional cases.

Deputy McManus: I'd just like to ask two more questions if I may. One relates back to this issue of suicide. We have received professional presentations here and I think it would be fair to say that while the general view is that suicide is less likely in a pregnant woman than in a woman who is not pregnant, that it is still something that happens. It is rare but it does happen. Dr Trimble, you seem to be indicating that even in those rare circumstances it didn't seem to be something you would accept, that even, for example, if there was clear clinical judgment being exercised where a psychiatrist or two psychiatrists, as has been suggested, felt that a woman was suicidal and that abortion would actually deal with her particular problem, you still feel that shouldn't be allowed. Is that right?

Dr Trimble: My difficulty with that situation is in the ability of clinicians to assess accurately the risk of suicide. There is a difference even between deliberate self-harm – non-fatal deliberate self-harm – and actual suicide risk. Quite often, patients presenting with … or having made efforts to harm themselves, do not actually want to end their life but are seeking some other way of alleviating distress and it may be a sign of distress rather than a sign that they want to end their life. The hopelessness in true suicidal patients is usually a transient effect, a transient state, and if you come back to people who have been suicidal after they have recovered they will be glad that they have not taken their life.

I would worry that if suicide risk was taken as a criterion for termination of pregnancy that women already cornered in difficult circumstances may see threatened suicide or attempt at self-harm as a way to extricate themselves – and an unsatisfactory way, in the long term – to extricate themselves from that situation. We may actually be providing them with a less good option from providing good care for psychiatric illness and good support for their plight. The difficulty is in the assessment of the suicide risk and in applying termination of pregnancy as a solution rather than looking to other ways of resolving the situation.

Deputy McManus: I appreciate medical judgment … there's always a question of risk and having to make a decision one way or the other, but what you're saying is that you would rather take the risk that a woman commit suicide.

Dr Trimble: No. I would rather provide appropriate support for the woman to see them through the situation than provide what may appear to be a solution … terminating the pregnancy, which, in effect, may not help the woman's plight and may lead her, when well, to look back with regret at what had happened and to be troubled psychologically with the consequences of an intervention that has, in fact, added to her difficulty rather than helped in the long term.

Deputy McManus: In effect, you're saying the X case should not have been allowed have an abortion.

Dr Trimble: I would have difficulty with abortion on the grounds of threatened suicide. I don't know the fine details of the case and I …

Deputy McManus: Could I just ask my last question? I think there's a widespread concern at the idea of very freely available abortion as has developed in Britain and the fear that if any abortion is allowed – even though I take the point Dr Darling has made that there is already abortion in certain limited circumstances here – the floodgates would open. We had a presentation from Northern Ireland and I would ask if maybe you would give me your view on the fact that, in Northern Ireland, for quite some time now abortion has been available, probably on rather similar lines to the medical committee ethics working group's criteria, but, roughly speaking, that it's very heavy emphasis on the clinical judgment of the medical profession that is provided, hasn't opened the floodgates. In fact, I think in yesterday's Irish Times there was an indication that the number of Northern Ireland women is actually dropping whereas here it's actually increasing. In terms of what happens in Northern Ireland, abortion is provided for in limited circumstances, targeting certain conditions and issues relating to health or, indeed, to foetal abnormality. Maybe you'd comment on that?

Dr Trimble: Abortion is available in defined circumstances in Northern Ireland. There are also people who would travel to England to obtain an abortion. It is a topic that is not widely and publicly discussed and …

Deputy McManus: You won't not have that problem here.

Chairman: The Assembly voted not to have the discussion like this in recent weeks.

Dr Trimble: In some ways, that lack of public awareness of the abortions that do occur may be having an effect on numbers. However, the position in Northern Ireland is likely to … there's likely to be pressure for change applying human rights law and even there's been talk of challenge on an equality basis, as to whether or not the legislation should be open. It may be that case law opens up further the gates for abortion in the North. In some ways I'm envious of your position where there is a constitutional safeguard for the unborn child, even though that has been tested by the X and C cases.

Deputy McManus: Thank you very much.

Senator Dardis: Thank you for your presentation and I suppose it's in the best traditions of your church that you have this accommodation of diversity of view. However, I need some clarification. Am I correct in assuming that the overwhelming consensus of the Synod would be that it should be by legislation and that the difference of opinion related to the so-called hard cases and how they would be dealt with?

Rev Dr Miller: It's very hard to interpret this particular vote. The vote was not a vote on a motion put to the Synod in relation to abortion. The vote emerged out of a debate on the Role of the Church Committee in which it became clear that some people were unhappy about two appendices, one on abortion and the other on withdrawal of artificial feeding and hydration. A proposal was put forward that the whole Role of the Church Committee report should be not accepted by the Synod and I myself proposed an amendment which was that it should be accepted without these two appendices. In other words, when people were voting, they were not voting on a clear cut resolution about abortion. There was the abortion factor. There was also another appendix being removed about artificial feeding and hydration. In my view, and it's only a subjective view, there were three things running at the same time. One was that some people were unhappy about what the report said, ethically and morally. The second one was that many people were concerned that, if the Church of Ireland withdrew these reports, we had nothing to say to you, and here was our submission gone. That was a genuine concern. The third one was that here was a committee that had worked hard and does work hard on a great number of issues, had presented all their material and it was a very rare thing to do to remove part of that. So, you couldn't say it was a vote simply, pure and simple, on abortion and you can't take from it that half the Church of Ireland is conservative on abortion and half liberal. It may well be that much more than half is conservative on abortion

but that other things were running in their minds or that that was not the subject that was central to them in their vote, it was some of the other issues. So, to interpret that is actually quite difficult.

Senator Dardis: With regard to the substance of the debate when it covered the issue that's before us today, is it reasonable to say that the clear preference, as represented in the debate, would be one of saying it should be by legislation rather than by …

Rev Dr Miller: No the debate wasn't on that subject. What we have had to do since that particular situation, and I myself have gone through it with a fine-tooth comb, is we have had to go through all the other things that the Church of Ireland has said on this subject, either in the Synod or the Standing Committee or the Role of the Church Committee or whatever, over the years, and over the years there has been a consistent feel right back to 1983 with the eighth amendment that amending the Constitution was not the best way to deal with the issue. Now, I would have to say, as Peter Trimble has pointed out, that nevertheless the Constitution has become a safeguard, in a funny kind of way and in a slightly indeterminate kind of way has become a safeguard because of Maastricht. I don't think there's strong feeling against there being anything in the Constitution but the overall feel is that we're dealing with very intricate and detailed issues and, when the 1983 amendment went wrong and was interpreted in quite the opposite way to what was expected, there was a certain amount of feeling in the Church of Ireland of "we told you so".

Senator Dardis: Is the core of the issue not that it is to devise a system whereby, in providing for the so-called hard cases, one doesn't allow optional abortion, so to speak?

Rev Dr Miller: Yes, it is to devise – I think it would be to be true to say – a situation in which abortion is essentially illegal but that there are very very carefully controlled exceptions. Now, the agreed exception is where the life of the mother is at risk, and that has always been the position of the Church of Ireland, that where the life of the mother is at risk an abortion should be possible. Where there are agreed exceptional cases, and what those exceptional cases are, we're not clear about, but what we are clear about is that we do not want a situation like we have in England.

Senator Dardis: Just to return to Deputy McManus's point, about the Northern Ireland example, and we have had presentations describing how the system works in Northern Ireland, do you regard the system as it operates in Northern Ireland or is there something that we can draw conclusions from or that we can draw examples or that could be of benefit to us with regard to how the system actually operates as it stands in Northern Ireland?

Rev Dr Miller: I wouldn't be an expert on that but what I would say is something like this: that the Church of Ireland is and has always been an all-Ireland church. So, whatever moral and theological conclusions we come to in relation to abortion should be applied both North and South, and there are many of us who are concerned about aspects of the northern situation at the moment as well as potential concerns about the situation here.

Senator Dardis: Perhaps Dr Trimble would comment on that aspect. I know you've already dealt with it.

Dr Trimble: I would agree with that and that the issue needs to be debated both North and South. We as a group representing the church need to be prepared for the next time a debate puts the focus on the church's opinion as it's likely to do in the North fairly soon. The case law which is applied, the Bourne judgment, actually the judgment, from my understanding, concluded that there was no essential difference between protecting the mother's life and protecting her health, so there is room for case law to broaden definitions, especially if those definitions aren't tightly defined at the outset.

Senator Dardis: Would you regard it as desirable that there would be a consistency between the position North and South of the Border, I mean, from a church point of view?

Rev Dr Miller: Can I answer a question you haven't asked just before that one and say that it seems to me that the danger of the position in Northern Ireland, if we want to talk about that at the moment, is that the Assembly didn't even have to take a vote on the issue that they did not wish –

nearly every party agreed which is pretty unique for Northern Ireland – but they did not want the 1967 Abortion Act extended to Northern Ireland. The danger is that they then think that everything is done, everything is dealt with. There are many areas in which it would be a great help to the Church of Ireland if we weren't living in two jurisdictions because there are two separate situations to be dealt with all the time. I would imagine that it would be – I'm just talking off the cuff and personally here – very helpful if there was an equivalency between the two situations.

Deputy McManus: May I just ask a supplementary to Dr Darling? As somebody who's obviously worked at the coal face, in a sense, and has to deal with issues as they arise in the medical context, would it be fair to say that there is a great comfort in the fact that, next door to us, there is a country that provides facilities and doctors to carry out safe abortions, where a doctor here is practising and comes across the hard cases, the anacephalic foetus, or where there is a serious risk to the health of the mother, whatever it is, that, in a sense, we can have very clear moral standards and that they can be safeguarded by the fact that, somewhere close by, the job will be done?

Dr Darling: This is fact. I tried to allude to it early on. There is an environment of hypocrisy in the South because, first of all, 6,000 girls don't come to us at all because they have gone to England, so that is not in our ambit and we can either be very concerned about that or we can disregard it and say, "That's none of my business". That's hypocrisy. More particularly in the medical situation, yes, if we do have, and we do diagnose as in every other country, foetal abnormality etc, early in pregnancy and one of the options which many people feel should be available to a patient is the option of termination of that pregnancy. Now I speak as an obstetrician, if one hones in on the hat I am wearing today, which is an obstetrician but representing myself and I am an active member of the Church of Ireland, that may not be an option that I would necessarily put forward but when you're looking after the patient that is an option I think they should have. The comfort is there that if they wish to avail of the system in Northern Ireland, and they do, not many, but some do, it is there. The *status quo* and one of the options in the paper was the *status quo* – it works. It's a sort of system that sort of works for some and increasingly more. There are not that many people excluded from the system because of social status or wealth. In fact it tends to work relatively well but it is a double standard. We are not being honest with ourselves. To go back to the Church of Ireland, I feel there is a consensus within the church that while anti-abortion in a few carefully selected situations is appropriate and acceptable but then there are those also within the church who would like to see those exceptions extended perhaps in some ways. We are hearing various opinions today and I think probably the core opinion would be conservative as the bishop has stated. You will find a spectrum of opinion.

Deputy McManus: Thank you.

Dr Trimble: May I comment on that, Chairman?

Chairman: We are running short on time but certainly.

Dr Trimble: I find as a clinician that there is comfort in having legislation which protects the unborn baby as well and can back up clinical practice. I think it also protects women. If abortion is freely available and is seen as an easy alternative it's not difficult to envisage situations where a woman is shown practical options that she may take to get everybody out of a tight situation, like terminating a pregnancy, where it's inconvenient for others around or inconvenient for the State to provide support in what might be difficult social circumstances. I think there is comfort to be derived by having well framed legislation which protects both mother and child.

Deputy McManus: So you are in favour of legislation?

Dr Trimble: Yes.

Deputy McManus: Okay, thank you.

Chairman: One or two questions. Dr Darling, you are a member of the Institute of Obstetricians and Gynaecologists I take it, and you participated in their consultation procedure?

Dr Darling: I did.

Chairman: I think they made it very clear that in current obstetrical practice rare complications can arise where therapeutic intervention is required at a stage in pregnancy where there would be little or no prospects of the survival of the baby due to extreme immaturity.

Dr Darling: Correct.

Chairman: I took part of what you said to refer to that and to the earlier comments we heard from the master.

Dr Darling: Correct.

Chairman: You expressed concerns about the principle of double effect. I take it from that you would be concerned that while it may be a workable moral principle or a principle connected with conscience, that it doesn't provide certainty for you as a medical practitioner at the coal face.

Dr Darling: That's right. It comes back to definition. To me whether you're removing a uterus because it's got a cancer in it and happens to have a baby as well, that's an abortion to me, regardless of how you classify it. The system works because it is accepted medical practice. Without going into the theological arguments I suppose I was trying to, in answer to a previous query, to say that in current practice in my definition, abortion does occur, not frequently but it does occur for very strong medical reasons.

Chairman: And you referred to these three or four cases in recent years and I take it that, as was indicated to us by the masters, that these related to Eisenmenger's type syndrome?

Dr Darling: There was one Eisenmenger's, two, I think a thing called HELLP, which is a liver failure situation, and another condition, hydatidiform mole. They are there to be scrutinised.

Chairman: And I think you can speak for everyone in this respect, it's correct to say the Church of Ireland is anxious to see that all those kind of cases are covered as medical intervention and are recognised and accepted.

Dr Darling: Yes, exactly. I think whatever these deliberations, whatever legal framework emerges from these deliberations, the Church of Ireland wishes that this should be allowed.

Chairman: Yes, so that in so far as there is a consensus between you, it is not that different from the consensus which the Institute of Obstetricians and Gynaecologists arrived at.

Dr Darling: No, I'm just trying to … No, that's right.

Chairman: But there are divergent views on other issues of course and I accept that.

Dr Darling: Yes. I think the church's view would not be that dissimilar to what was put forward by the Institute.

Chairman: And then of course the wider questions were canvassed at length and I do not want to go back into them but the question of the Constitution. I suppose it's fair to say that when the 1983 referendum was proposed the Church of Ireland took the view that the Constitution was not the appropriate instrument for this issue and that, as you say, the complexities of the issue require detailed legislative treatment. On the other hand, we do have to operate in two jurisdictions in Ireland and of course in this jurisdiction. Parliament is sovereign in Northern Ireland but in this part of Ireland the people ultimately make decisions on questions of public interest, so that is the constitutional system. Would it be a fair refinement of your position to say that while the Constitution should state general principles, the details should be settled by legislation?

Rev Dr Miller: That would certainly be a fair refinement of my position and I don't think that would be very far from the Church of Ireland's position.

Chairman: Thank you very much.