

# The Abortion Debate In the Republic of Ireland

**T**hroughout the year ahead considerable attention is likely to focus on church-state relations in Ireland, perhaps to an even greater extent than was the case during the 1973-77 National Coalition Government when Bishop Jeremiah Newman of Limerick engaged in a famous and controversial debate with Dr. Conor Cruise O'Brien (a cabinet member at the time) dealing with, among other things, whether or to what extent legislation in the Republic should reflect or reinforce Catholic moral teaching.

All of this has a special relevance just now not only because of the likelihood of a referendum within a matter of months to add a prolife amendment to the 1937 Constitution, but also because of the probability of a renewal by the new Taoiseach (Prime Minister), Dr. Garrett Fitzgerald, whose Government consisting of a Fine Gael-Labour Coalition formally took office on Dec. 14, of his constitutional "crusade."

Since this present Government is likely to find itself under some financial constraint in view of the rickety state of the Republic's economy, there is every prospect that it will concentrate a good deal of its energies on legal and constitutional reforms. All of this will have implications for church-state relations. To judge by reactions to remarks made early in the New Year on Radio Telefis Eireann (the national broadcasting service), by the Irish Primate, Cardinal Tomas Ó Fiaich of Armagh, on abortion and divorce, the introduction of reforms could prove to be a very turbulent process.

In fairness it should be pointed out that the initiation of a new phase in church-state relations can be traced back to the last Government, led by Charles J. Haughey, of Fianna Fail, which took office in February 1982 (the Irish Republic has had three general elections in the past 18 months). But the responsibility has now passed to Dr. Fitzgerald and his colleagues and also to the minority churches whose role, whether individually or collectively, throughout 1983 and beyond could be of paramount importance.

The abortion referendum, due to take place in March if pre-election promises are adhered to, will be one of the first big tests for Dr. Fitzgerald's Coalition Government, which took office with a comfortable majority of six. Pundits

have confidently predicted that with the kind of majority (and bearing in mind that the previous two Governments were minority governments depending on the support of a handful of independent socialist deputies) at least four years of stable government are ensured (the Irish Constitution of 1937 provides for a general election every five years).

Both Dr. Fitzgerald and Mr. Haughey gave pledges before the last two general elections to proceed with the abortion referendum. But despite this commitment by the leaders of the Republic's two major parties and notwithstanding the fact that Catholics constitute 94 percent of the population, real divisions exist in relation to the proposed referendum.

**I**t must first of all be remembered that the initiative on the abortion question was taken by the "Pro-Life Amendment Campaign" (PLAC), which is composed of Catholic doctors and lawyers and which was established in Dublin in April 1981. In outlining their reasons for seeking a constitutional amendment "to protect the life of the unborn child," the members of the PLAC specifically cited the circumstances that led to the 1973 Supreme Court ruling on abortion in the United States.

PLAC acknowledges that under the 1981 Offenses Against the Persons Act abortion in the Irish Republic is regarded as "a serious crime." It also acknowledges that at the moment there is "apparently overwhelming opposition to abortion among our people and our politicians." But the organization is concerned that at some future stage this act could be challenged in the courts and that the latter might decide that the Constitution as it now stands "does not uphold the right to life of the unborn baby in all circumstances."

According to Dr. Julia Vaughan, who chairs PLAC: "This situation could come about even if the political parties declare themselves unalterably opposed to abortion, and without any consultation with the people." Dr. Vaughan goes on: "In the United States, which also has a written Constitution, neither the people nor their representatives were consulted when in 1973 the Supreme Court ruled, in effect, that the child in the womb is not a separate person entitled to life and so may be deprived of it by the mother or physician. This could not have come about if the

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Constitution of the United States specifically guaranteed the absolute right to life of the unborn child."

From the outset, however, rightly or wrongly, PLAC was widely regarded, and still is, as a conservative Catholic pressure group. And soon fears were being expressed that support would be sought for a denominational or perhaps even a sectarian amendment. Understandably, the fears were most acute with the minority churches, though by no means limited to non-Catholic quarters. After individual churchmen had had their say, it was only a matter of time before the various church assemblies formulated official standpoints on a referendum that came increasingly to be regarded as inevitable.

**A**fter the February 1982 general election, which resulted in a minority Fianna Fail Government and an undertaking from the then Taoiseach, Mr. Haughey, that a referendum would be held before the end of 1982, the three main Protestant churches in Ireland—Anglican, Presbyterian and Methodist—as well as the Irish Council of Churches, which represents all the main non-Catholic churches, officially stated that the proposal to amend the Constitution was unwise and unnecessary.

The Protestant churches and the I.C.C. argued that, while they remained staunchly opposed to indiscriminate abortion, they did not believe it was wise to insert an anti-abortion clause into the 1937 Constitution. The prevailing attitude was summed up in a resolution passed at the June 1982 General Assembly of the Presbyterian Church in Belfast which said that the State's regulation of abortion "and other matters affecting morals should be a matter for legislation by the Dail and Senate, and not for definition in the Constitution."

Also in June the Standing Committee of the Church of Ireland (Anglican) passed a resolution on abortion in which Anglicans said that they "cannot emphasize too strongly the right to life, and this includes the right of the yet unborn." At the same time, the resolution noted a committee report submitted to the 1958 Lambeth Conference which stated: "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 a violation of the personality of the mother) save at the dictate of strict and undeniable medical necessity."

The Dublin resolution concluded: "This implies clearly that there can be medical circumstances in which a termination of pregnancy is required." What was evident at this stage was the fear of a strictly denominational clause, reflecting the traditional Catholic stance on abortion. An aspect of this fear was illustrated by Mrs. Catharine McGuinness, a leading member of the Church of Ireland, a former senator and a respected civil liberties lawyer. Addressing the July 1982 Glenstal Ecumenical Conference in County Limerick, she said it should be recognized that it was part

of Protestant mythology that a Catholic doctor was bound to save the life of a child even if this meant endangering the life of a mother in childbirth and that for this reason many Protestant women still entertained fears about going to Catholic hospitals when they were pregnant.

Mrs. McGuinness said that to pretend that this fear "does not still exist is to blind ourselves to the facts." She added that "this instinctive feeling lies behind a lot of the negative reactions many members of the minority religions have about the amendment." She told the conference that the position of the Protestant churches had been consistently and firmly antiabortion, but they had long felt that there were exceptions in which strict medical circumstances required the termination of pregnancy. The argument that the ectopic pregnancy and uterine cancer cases were not really abortion at all seemed to the average Protestant to be mere casuistry, said Mrs. McGuinness.

Meanwhile, at the regular meetings of the Catholic Episcopal Conference at Maynooth in June and September 1982, the bishops declined to comment until the text of the proposed amendment became available. By September it was evident that the Haughey Administration, preoccupied with economic matters, was having difficulty coming up with a suitable draft and it was soon clear that there would be no referendum in 1982. By late October at least three drafts were in existence and these were shown to a group of Protestant churchmen in secret in what was regarded as an attempt to appease the minority churches.

**W**hen the official text of the amendment finally appeared on Nov. 2, it is fair to say that within the non-Catholic churches and among the more liberal sections of Catholic opinion there was surprise and relief. In the words of the Rev. Brendan O'Mahony, a Capuchin who also happens to be professor of philosophy at University College, Cork, and who had publicly questioned the decision to hold the referendum, the proposed text was "not as rigid" as he had expected.

Perhaps before dealing with official reaction from the churches, it would be as well at this stage to examine the text: "The State acknowledges the right to life of the unborn and with due regard to the equal right to life of the mother, guarantees in its laws to respect and, as far as practicable by its laws, to defend and vindicate that right."

Faced with this, the Irish Catholic Bishops on Nov. 3 gave it a conditional welcome as a measure which "contrib-

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**Despite fears, the abortion issue  
had no significant impact  
on last November's elections**

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utes positively" to safeguarding the right to life of the unborn. The full text of the bishops' response was: "In view of the clear teaching of the Catholic Church on the sacredness of human life, the bishops willingly support measures which give to the life of the unborn child, as to every other life, the full protection of the law. While no constitutional provision can of itself be a full response to the problem of abortion, the text of the proposed amendment does seem to contribute positively to safeguarding the right to life of the unborn and as such it is welcome."

On Nov. 19 the Standing Committee of the Church of Ireland studied the amendment and then wrote to the Taoiseach, Mr. Haughey, to make four essential points. The first was a reiteration of the Anglican position that there can be medical circumstances in which a termination of pregnancy is required.

The second point was a restatement of the Church of Ireland view that an amendment to the Constitution would not alter "the human situation" in this country on the issue of abortion and again underlined the "grave doubts" shared by Anglicans about the wisdom of using constitutional prohibitions as a means of dealing with complex moral and social questions. The third and fourth points dealt directly with the text of the amendment, and were as follows: "We recognize that an attempt has been made to take account of the complexity of this subject and the views expressed by our own and other churches. In particular we are relieved that the proposed wording of the amendment acknowledges the right to life of the unborn with due regard to the equal right to life of the mother."

**W**hat was immediately evident at this stage, given that a formal welcome for the amendment text had been extended by Dr. Fitzgerald's Fine Gael Party, was that the possibility of a church-state clash on this issue had been averted. Up to that juncture the likelihood had been that the minority churches would have been in a confrontation situation with the state. In view of this, the significance of the line in the Church of Ireland statement (accepting that the Government took its views into account) stood out.

Subsequently, when an election was called for Nov. 25, after Mr. Haughey's Government had lost a crucial vote on economic matters in Dail Eireann, the abortion issue was from the beginning a nonstarter as an electoral factor in the national context. In retrospect it would appear that Mr.

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## **Mr. Haughey's compromise was untidy, but it took account of minority sensibilities**

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Haughey and his advisers were very careful to devise a text which would not alienate Protestant opinion or introduce a markedly denominational clause into the Constitution.

Indeed one could go further and say that Mr. Haughey has subtly altered the complexion of church-state relations and risked criticism from Catholic quarters insofar as the text he produced fell short of what PLAC was seeking. Its spokesmen, for instance, contended more than once that one of the main reasons for pressing for an amendment to the 1937 Constitution was to ensure that in the future, near or far, the courts would not be able to hand down any pro-abortion ruling. Yet Mr. Haughey's text of its nature ensures that interpretation by the courts is inevitable, hence the qualification in the response from the Catholic bishops.

The compromise reached may be untidy in strict legal terms. One constitutional lawyer has said the wording will need considerable judicial interpretation because it had failed to define when life began. But the compromise was made to take account of minority sensibilities, and yet at the same time it provides a basic constitutional safeguard against indiscriminate abortion.

What now matters is the attitude of the new Taoiseach, Dr. Fitzgerald, and his Government. He has already indicated that the referendum will be held in March, but it should not be forgotten that on Irish radio on May 2 Dr. Fitzgerald, speaking as leader of the opposition, said that the proposed referendum on abortion should be taken as part of an overall constitutional review. Such a package is more likely to be welcomed by the minority churches than the majority church, if only because it would have to include new divorce legislation.

If that process is to continue and be accelerated then the attitude of the churches will prove of crucial import. And the Government in Dublin, any Government, is likely to find that the main resistance to change will come from the Catholic Church, which has yet to find a way of modifying in positive terms its traditional role as the chief conserving agency in Irish society.

When the amendment is passed, and few doubt that it will happen within a matter of months, it is virtually certain that the people will back it, though the outcome of the referendum may well be closer than some think. In September 1982, for example, a national poll carried out by Irish Marketing Surveys Ltd., showed that 43 percent of the people thought there should be a referendum, while 41 percent thought there should not, with the remainder undecided.

More to the point, even if the amendment is endorsed by the people, there are growing doubts about its effect on the sociomoral circumstances of Irish society which compel thousands of Irish women each year to trek across the Irish Sea to Britain in search of abortion clinics. In the words of one prominent lawyer: "We'll just go on exporting the problem." ■

