

DEBATING CONTRACEPTION, ABORTION AND DIVORCE IN AN ERA OF
CONTROVERSY AND CHANGE: NEW AGENDAS AND RTÉ RADIO AND
TELEVISION PROGRAMMES 1968-2018

VOLUME ONE

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February 2020

A thesis presented in fulfilment of the requirements for the degree of

Doctor of Philosophy



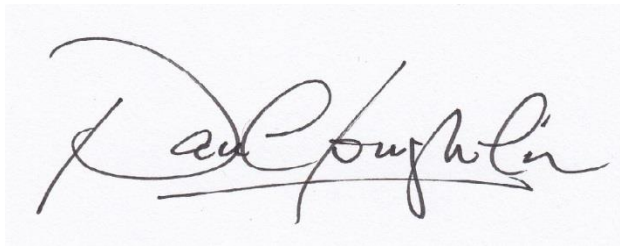
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AUTHOR'S DECLARATION

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Date: 28 June 2019.

SUMMARY

The period 1983 to 2018 saw a series of referendums on proposed amendments to the Constitution of Ireland relating to abortion, marriage equality and divorce. Those guarding what they saw as essential Irish family and sexual values were pitched against those seeking to advance and liberalise Irish society. Yet this was no simple binary struggle between homogenous 'conservative' and 'liberal' groups. Church of Ireland clergy would not remarry divorced people although some, sympathetically, would bless a second union; Catholic priests challenged the teachings of their church on contraception. A Church of Ireland clergyman who had supported the British Abortion Act of 1967 stated that he profoundly regretted having done so and now strongly supported the PLAC cause. A Taoiseach crossed the floor and voted against his Government's own bill.

From the outset, all groups focused on the broadcast media as offering the most effective access to voters. The prominence of the referendums in RTÉ's broadcasts and debates provides a valuable reflection of contemporaneous concerns.

The cornerstone of the study is extensive analysis of broadcast material. RTÉ News and Current Affairs programmes, along with the *Late Late Show*, were generally broadcast live. Thus, clashes between all shades of opinion constitute primary source material. RTÉ's valuable archive has never been examined to this extent until now.

Analysis was based on searches of all genres of radio and television programmes over the period 1968 to 2018, revealing patterns in the public discourse hitherto unexplored. It was discovered that the controversies over contraception, abortion and divorce did not occur sequentially as a rule, but often paralleled each other. Some individuals and groups appeared as actors in more than one controversy. The propaganda and arguments deployed by the various sides were displayed. New trends were observed. such as the appearance of anti-media campaigns accusing radio, television and newspapers of bias. A coarsening of public discourse appeared, particularly in some live televised debate programmes, with insulting and abrasive language and false claims.

Early television catalogue entries tend to be short on background information and context. The RTÉ catalogue utilises a search engine, Mediaweb, but the archive had never been

interrogated to the degree of complexity this study demanded. After many false starts, a Boolean search method was developed; the results were downloaded and copied into four master lists. Mediaweb was then used to search the Radio catalogue also.

230 programmes were listened to/viewed, and many transcribed, for the purpose of this study. The transcripts are a valuable written archive of broadcast discourse and will be available for analysis by future researchers.

These transcripts have shed considerable light on a 50 year period which marked an important, observable and measurable evolution in Irish opinion, helping identify key protagonists and advocacy groups over time; evaluating the efficacy of major arguments, vehicles, strategies and tactics of the debates; and noting significant shifts in position, themes, tone and content.

The 1983 Eighth Amendment of the Constitution proved one of the most divisive in Irish history to that point. Those opposing constitutional change efficiently took possession of the term 'pro-life' by calling themselves the Pro-Life Amendment Campaign (PLAC). The 'Anti Amendment Campaign' (AAC), formed a year later, had a less assertive name and a less easily communicated message. PLAC's message was clear: it was pro-life, anti-abortion.

Panellists and presenters in earlier studio-based programmes such as *7 Days* engaged in polite question and answer exercises, rarely challenging each other. Later, panellists and audiences become far more confrontational.

Generation of fear was initially a powerful weapon, ruthlessly exploited by opponents of change. The debates were marked by dire warning that 'the floodgates' would open (contraception would lead to abortion; divorce would impoverish women; abortion would lead to euthanasia, etc.). Transcripts reveal the evolution, application and effectiveness of this strategy as it was successively applied to the twin issues of abortion and divorce.

The study tracks the ultimate decline in the effectiveness of fear tactics, to the point where the electorate, albeit narrowly, voted against the advice and warnings of the anti-divorce groups, including the Catholic church, and passed the 1995 divorce referendum; ; the 2015 Marriage Equality referendum; and the 2018 'Repeal the Eighth' referendum.

While debates became increasingly abrasive, peaking in the 2018 ‘Repeal the Eighth’ referendum, other, more positive changes are observed. In a landmark *Late Late Show* during the 1986 divorce campaign, a modicum of compassion was expressed for those trapped in abusive or broken unions. Nonetheless, questions concerning religion occupied far more of the programme and throw much light on where the national mindset then rested. However, a significant rise in voter compassion for others, first detectable in the post ‘X’ case and second divorce referendums, became more evident in the 2015 Marriage Equality referendum, and in the salience of personal ‘abortion stories’ in the 2018 ‘Repeal the Eighth’ referendum.

The study begins with the publication of the papal encyclical, *Humanae Vita*, in 1968 and ends with the repeal of the Eighth Amendment. At the outset, contraception, divorce and abortion were legally unobtainable in Ireland and forbidden by the Catholic Church. Fifty years later all three were legally obtainable.

A major contribution of this study is the catalogue of 230 relevant programmes developed by the author and contained in Appendix One, Volume Two of this study. Each radio and television programme cited in this study is listed in the catalogue with its RTÉ Archive identifiers, content and transmission information. Relevant programme entries in the catalogue are easily found by reference to footnoted transmission dates. Researchers can now access and search the wealth of eminently quotable content, virtually unexamined to date, contained in this valuable store of the living word.

DEDICATION



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ACKNOWLEDGEMENTS

Upon completing an M.Phil. dissertation in 2011, my then supervisor in Modern Irish History, Professor David Dickson, remarked that it contained an interesting use of RTÉ programme content covering the Divorce Referendum of 1986. He suggested that a similar approach might be used to widen the study to include the contraception and abortion controversies. The concept appealed also to Professor Eunan O’Halpin, Contemporary Irish History, who saw in it the potential for a PhD project and became my supervisor. I am deeply indebted to him for his truly dedicated and immensely valuable oversight of this study.

Throughout this whole experience of working first towards an M.Phil. and then a PhD, the support of RTÉ management and staff was critically important. Cathal Goan, as Director General, sanctioned my continued access to the complex following my retirement in 2010, to gather material for the M.Phil. dissertation on divorce. Razib Chatterjee of Library Sales sent me a printout of everything on divorce up to 1986 and Vicky Moran, also from Sales, searched for a selection of the tapes and set up playback and DVD recording facilities. In preparing the PhD project proposal, Bríd Dooley, Head of RTÉ Archives, agreed to continued access to the Film, Video, Paper and Stills Libraries while News and Current Affairs HR arranged my continued access to the complex.

Ongoing access to Mediaweb enabled the gathering of material in support of the proposal and, once commenced, Claire McLoughlin, Patricia Sweeney and Niall Farrell responded generously to the dozens of issues which can arise with projects of this size. Outstanding tapes were quickly sourced, shelved and extra viewing and copying time provided in every window of opportunity to complete viewing 230 programmes. Thanks also to Malachy Moran for his help with the Sound Archive and Michael Talty with the paper Archive.

RTÉ veterans who offered advice and/or information were Ed Mulhall, former Head of News and Current Affairs, John Kelleher, former Controller of Programmes and Peter Feeney, former Head of Compliance. John Kelleher and Peter Feeney also contributed interviews. Joe Little, Religious and Social Affairs Correspondent, RTÉ, provided information, including his recollection of the appearance of Mother Teresa in at an emotional anti-abortion rally at the National Stadium 1982. Gareth Ivory, current Head of Audience Research at RTÉ, gave me useful listenership data in respect of Philip Boucher Hayes’ *Abortion Stories*.

Other helpful RTÉ veterans include Tony O'Connor, former Director of Post-Production Facilities who advised on the technical and financial practicalities of saving videotaped programmes in the early years. Special thanks are due to the former programme economist and writer Feargus O Raghallaigh who, fortunately, kept his copy of the transcripts of the interviews filmed for *Today Tonight* at the 1987 Patrick MacGill Summer School in Glenties. Betty Purcell, who began her career in Radio, recounted her experience in *Women Today* during the pioneering days of radio phone-ins.

Thanks are due to Tony Cournane who, as an assistant cameraman, was on the original *Today Tonight* team and provided a selection of his personal photographs of scenes from one of the earliest *Today Tonight* episodes filmed during the first hunger strike in November 1980.

Thanks also to Kitty Holland and Peter Murtagh of the *Irish Times* for their photographs of anti-abortion demonstrators parading graphic images outside the newspaper offices and the National Maternity Hospital, Dublin.

The author is indebted to the late Senator Des Hanafin for his introduction to John O'Reilly who, along with Senator Hanafin and others, led both PLAC and the ADC. John O'Reilly provided me with literature, records and hours of information describing the formation of the Anti-Divorce Campaign of 1986 and later the evolution of the Pro-Life Amendment Campaign (PLAC) from the Responsible Society, the Council for Social Concern, the Irish Family League and other groups.

Thanks also to Jeremy Hennessy, formerly of the *Irish Press*, who handled media relations for the ADC and PLAC gave me accounts of his dealing with the print and broadcast media of the time.

Jean Tansey, former Secretary of the Divorce Action Group, provided valuable background on the Group's activities in the first Divorce Referendum.

Marie Woods, former chair of the Labour Women's National Council in 1983, gave her reaction to Bishop Kevin McNamara's claim that members of a pro-abortion lobby existed under the umbrella of the Anti-Divorce Campaign.

Dr Tom Hesketh, author of *The Second Partitioning of Ireland? The Abortion Referendum of 1983*, kindly provided me with records from the Anti-Divorce Campaign (ADC).

I am very grateful to the ethicist, Linda Hogan, Professor of Ecumenics, Trinity College Dublin, and her advice on the 'double effect' principle of Roman Catholicism.

Thanks are due to Dr Patrick K. Plunkett, Clinical Professor, Surgery, TCD, for his comments on the so-called 'morning-after pill' as well as his informal advice and encouragement.

Similarly, thanks are due to Pamela O'Loughlin Doyle who specialises in family law at Actons Solicitors and who advised on sources of information on the incidence of divorce in Ireland since it was introduced in Ireland following the referendum of 1995.

Special thanks are due to all those who contributed interviews and more specifically for this work. I should first mention the late Victor G.B. Griffin, Dean of St Patrick's Cathedral Dublin (1968-1991) and a patron of the Anti-Amendment Campaign (AAC) in 1983 among his many other activities while in Dublin. Thanks also to Dean Griffin's successor, the Very Revd. Victor Stacey, who explained the powers of the Dean and Ordinary in canon law; powers exercised by Griffin in their fullest.

The former Minister for Justice, Alan Shatter, an expert in family law and a Fine Gael backbencher before, during and after the campaign to remove the constitutional ban on divorce in 1986, contributed a very frank account of the shortcomings of the then Government campaign to bring about the constitutional change the Government itself had initiated.

Former Tánaiste, Dick Spring, spoke to me about his experiences during the first Divorce Referendum.

David Nally, managing editor of RTÉ Current Affairs TV, uploaded the *TV-50 Battle Station* series of two programmes he made with John Bowman in 2012. He also provided a detailed response to Pro Life Campaign (PLC) assertions via www.hearbothsides.ie which are contained in Appendix Three. Mr Nally's detailed rebuttals follow each assertion.

Niall Stokes, editor of *Hot Press* magazine, analysed for me an assertion by Maria Steen of the Iona Institute on *Claire Byrne Live*.

Patricia Monaghan, managing editor of *Newstalk* Radio strongly rejected a PLC assertion about her station's coverage of the campaign to repeal the Eighth Amendment in 2018.

Sincere thanks are due to Philip Boucher-Hayes of RTÉ Radio for providing links to his *Abortion Stories* series transmitted on RTÉ Radio's *Drivetime* programme and for answering questions on how he researched and produced the interviews while avoiding any semblance of bias and ensuring balance during an often heated 2018 campaign.

My sincere thanks to the Grace Lawless Lee Fund, whose awards in two consecutive years made possible the transcribing of extended broadcasts.

Last, but by no means least, my deep appreciation to my wife, Helen and daughter, Hannah, for keeping my spirits up over the last four years of travail!

ABBREVIATIONS USED IN THE THESIS

AAC	Anti-Amendment Campaign (1983)
ADC	Anti-Divorce Campaign (1986 and 1995)
AIM	Act, Inspire, Motivate (group advocating for family law reform)
ATGWU	Amalgamated Transport and General Workers' Union
COI	Church of Ireland
CSW	Council for the Status of Women
DAG	Divorce Action Group
DL	Democratic Left
eISB	Electronic Irish Statute Book
FF	Fianna Fáil
FG	Fine Gael
FG/Lab.	Fine Gael/Labour (coalition)
HLI	Human Life International
ICLU	Irish Civil Liberties Union
ICTU	Irish Congress of Trade Unions
IMS	Irish Marketing Surveys
IUD	Intrauterine Device
IWLM	Irish Women's Liberation Movement
<i>Late Late</i>	The <i>Late Late Show</i>
MRBI	Market Research Bureau of Ireland
NDC	No Divorce Campaign
NWCI	National Women's Council of Ireland
OFM	Franciscan religious order

OFM Cap.	Capuchin religious order
OB	Outside Broadcast
OP	Dominican (religious order
OSB	Benedictine (religious order
PD	Progressive Democrat
PLAC	Pro-Life Amendment Campaign
PLC	Pro Life Campaign
RC	Roman Catholic
RE	Radio Éireann
SF	Sinn Féin
SPUC	Society for the Protection of Unborn Children
TE	Telefís Éireann
WP	The Workers' Party of Ireland
YFG	Young Fine Gael

SPAN OF RESEARCH

1968: Publication of *Humanae Vitae*

1979	Legislation:	Health (Family Planning) Bill	(passed)
1983	Referendum:	8th Amendment: Right to Life of the Unborn	(accepted)
1985	Legislation:	Health (Family Planning) (Amendment) Bill	(passed)
1986	Referendum:	10 th Amendment: Dissolution of Marriage	(rejected)
1992	Legislation:	Supreme Court: Attorney General vs. 'X'	(overturned)
1992	Referendum:	12 th Amendment: Right to Life	(rejected)
1992	Referendum:	13 th Amendment: Right to Travel	(accepted)
1992	Referendum:	14 th Amendment: Right to Information	(accepted)
1995	Referendum:	15 th Amendment: Dissolution of Marriage	(accepted)
2002	Referendum:	25 th Amendment: Protection of Human Life in Pregnancy	(rejected)
2013	Legislation	Protection of Life during Pregnancy	(passed)
2015	Referendum:	34 th Amendment: Marriage Equality	(accepted)
2018	Referendum:	36 th Amendment: Repeal of the Eighth	(accepted)
2018	Legislation	Regulation of Termination of Pregnancy	(passed)

NOTE ON BROADCAST CITATIONS

Extracts from television and radio programmes were originally cited in line with the British Universities Film and Video Council (BUFVC) citation guidelines. These have specific requirements to aid academic researchers and enable them to review relevant extracts. An entry example would be:

Alan Dukes TD FG, Minister for Justice in *Today Tonight no. 797: Galway Discussion re Divorce*, Prod. RTÉ. Tx 3 June 1986, RTÉ 1. Dur 56'45'. RTÉ Internal Archives, production no. TY0154301, viewing copy ref. LX2032.

When it was decided to extend the span of research to include an additional chapter on the 2018 'Repeal the Eighth' referendum, (see Introduction below), the word count implications were significant. The Dean of Graduate Studies agreed to raise the word count limit from 100,000 to 115,000 words, but these were to be inclusive of footnotes. Since the thesis contained citations (many of them multiple) for 230 broadcasts, the latter were very numerous.

To keep the thesis within the word limit, the author, in consultation with his supervisor, decided to replace the long-form BUFVC citations with a simple date of transmission. Using this, the researcher can turn to Volume Two, Appendix One of this study, where the full details of each citation are provided in chronological order.

The Alan Dukes citation above is now replaced with just the date: 19860306.

INTRODUCTION

Between 1983 and 2018, nine referendums were held in Ireland on proposed Amendments of the Constitution of Ireland ¹ relating to abortion, divorce and same-sex marriage as well as three legislative reforms on contraception.

The original span of this study was 1980-1995, beginning in the run up to the referendum on the Eighth Amendment ('Right to Life of the Unborn') and concluding with the referendum on the Fifteenth Amendment ('Dissolution of Marriage'). It rapidly became evident that the study had to begin at a much earlier point in time, with the publication of the papal encyclical on contraception, *Humanae Vitae*, in 1968. Not to do so would have removed several levels of understanding of the Irish condition before that date.

When the thesis was about to be submitted, the Government announced a new referendum on abortion, to be put to the people on 25th May 2018. It was agreed that the study needed to be extended to encompass the completion of this major narrative in the arc of contemporary Irish history. The study, beginning with the contraception debate, continues through the Eighth Amendment and concludes with its repeal.

These stormy years witnessed several major engagements in a political war. On one side were people who wished to conserve what they saw as the essential Irish values of the family and of sexual mores. Opposing them, other groups coalesced over time and as a reaction to the growth of moralising, socially conservative groups. These other groups, sometimes referred to as upholders of the 'social agenda', resisted efforts to mould the Constitution in line with the rules of a particular church. The struggle to shape the Irish moral and social landscape along traditional lines was conducted by a comparatively small number of people who, if they were not already associated with a pressure group, a church or a political party, allied themselves with relevant organisations as the contest crystallised.

¹ Government of Ireland. *Bunreacht na hÉireann/Constitution of Ireland* (Electronic Irish Statute Book: <http://www.irishstatutebook.ie/eli/cons/ga/html>). Accessed 27 March 2016.

Most of these groups comprised Catholic lay people, many with a deep religious faith and loyalty to their Church. However, their organisations were not structurally linked to the institutional church, nor did they take direction from it. Nevertheless, strong religious themes appear in TV current affairs programmes when supporters of traditional Irish, Catholic values engage in debates with opponents and programme presenters. Programme transcripts which follow are peppered with references to 'God's plan' and 'living as God wants us to live' made by programme participants as late as the 1980s. 'God's plan', as Professor David Runciman writes, was a mediaeval concept where earthly power had its source in God's plan for the world.²

Deeply divisive, the referendums exposed many polarities in Irish society; religious and secular, urban and rural, middle and working class.

Much of the discourse surrounding contraception, divorce and abortion drew attention to issues affecting women: women subjected to serial pregnancies; women seeking the right to enter a second, hopefully more successful union; women in an unwanted pregnancy, perhaps the result of rape. The public discourse was often fiery. Although not addressed in depth in this study, the Marriage Equality referendum of 2015 also exposed such polarities. A feature of the struggle is that many of the champions on both sides appear throughout the period 1980 to the present day.

While national and provincial print coverage was extensive throughout the period, the real impact lay in the referendum contests as played out on radio and television, particularly the latter.

The broadcast element of this study is not simply a review of oral history. The airwaves were the forum where the campaigns were fought. RTÉ News and Current Affairs programmes, along with the *Late Late Show*, were for the most part broadcast live. The clashes between all shades of opinion are, therefore, primary source material. For this reason, the cornerstone of the study is extensive analysis of broadcast material, especially televisual. From the outset,

² David Runciman *Politics* (London: Profile Books, 2014) 28.

and throughout each of the campaigns, all groups focused their efforts on the broadcast media as offering the most effective access to voters.

As the research into the RTÉ Radio and Television Archives progressed in this study, so did the emergence of a timeline as radio and television news bulletins fell into place. Around these were television current affairs series with longer, more in-depth interviews than could be accommodated in news bulletins.

The programmes most frequently consulted were news bulletins (both radio and television); *7 Days*; *The Politics Programme*; *Frontline*; *Today Tonight*; *Tuesday File*; *Prime Time*, *Questions & Answers*.

Coverage of the issues under consideration was not confined to News and Current Affairs. The impact of the *Late Late Show* was extraordinary. It helped to open up many areas of discussion in Ireland which formerly were never considered suitable for the airwaves, and it featured two landmark programmes on divorce. The soap opera, *The Riordans*, also explored sensitive topics, as did *The Women's Programme* and the daily *Gay Byrne Show* (formerly *the Gay Byrne Hour*) on RTÉ Radio One.

Most of the programme research centred on television, principally because of the relatively easy access to viewing tapes at the RTÉ complex in Donnybrook. Radio tapes were and are stored at RTÉ Limerick. Digitisation of the Radio Archive is not yet complete; when it is, opportunities for research such as in that undertaken in this study will be considerably greater (see 'Future Study' at the end of this thesis).

The prominence of the referendums and major legislative developments in RTÉ's news and current affairs coverage provides a valuable reflection of contemporaneous concerns throughout each of the referendums. To date, they have received limited academic examination, perhaps because of a lack of awareness of the scale of that part of the RTÉ archive, or because non-broadcasters, more familiar with conventional libraries, have found it difficult to navigate the RTÉ catalogue, and to access and view the material. This thesis examines a series of controversies, public and legislative debates, and referendums concerning sexual politics, and explores how their evolution progressed in broadcast media. It asks the

question whether and how the very fact of ventilating these arguments in public through broadcast media affected change.³

The RTÉ Radio and Television Archive, when explored, interrogated and eventually united, provided a timeline revealing that controversies over contraception, abortion and divorce did not follow each other sequentially but, as will be shown, were contiguous through what this study will argue was an era of fractious change in sexual politics from 1968 to 2018. The period encompassed by this study marked an important, observable and measurable evolution in Irish opinion. The thesis will analyse the rhetoric and propaganda employed on each side of the debate; it will explore major arguments and vehicles of the debates, along with iconography, slogans and tactics.

The generation of fear was initially a powerful weapon and was ruthlessly exploited. The study will track the evolution, application and effectiveness of this strategy across the period in question as it was successively applied to the twin issues of abortion and divorce. It will track the ultimate decline in use and effectiveness of fear-based strategy insofar as it can be observed through opinion polls, print media comment, newspaper letters pages, and on-air comment, to the point where the electorate - albeit by a small margin - voted against the advice, pleas, warnings and instructions emanating from the anti-divorce groups, which included the Catholic Church, and passed the 1995 referendum favouring divorce legislation, the 2015 Marriage Equality referendum and, in 2018, the Repeal of the Eighth Amendment (which was passed by a large margin).

Contraception, abortion and divorce were illegal in the Irish Republic at the start of the period addressed by the study: contraception by domestic legislation, abortion by the 1861 Offences against the Person Act, and divorce by the Irish Constitution of 1937. By the end of the period of study addressed by the thesis, contraception and divorce had been legalised while the

³ The Irish broadcast media over the greater part of the period covered in this study consisted of Telefís Éireann and Raidió Éireann (later rebranded and combined as Raidió Teilifís Éireann or RTÉ).

prohibition of abortion, elevated to Constitutional law by the Eighth 'Right to Life of the Unborn' Amendment, was repealed in 1983.⁴

Author's Association with RTÉ

In the context of current affairs generally and *Today Tonight* and *Prime Time* in particular, it is appropriate at this point to declare the author's long association with RTÉ Television and particularly the organisation's Current Affairs TV service.

Following graduation, the author's broadcasting career began with radio and television production training at the Communications Centre in Dublin in the late 1960s, continued with a scholarship to Emerson College, Boston and a job offer from CFCF TV News and Current Affairs, Montreal (now CTV Montreal). Hired as a line-up editor, and then reporter, he later produced *Pulse News* and the station's current affairs syndicated series, *As It Is*. The author returned to Dublin not long after the Québec Sovereignty Association referendum in May 1980 to join RTÉ's newly launched current affairs series, *Today Tonight*.

30 of the author's 40 years in broadcasting were spent working with RTÉ. As a current affairs producer/director at RTÉ, he covered campaigning in the 1983, 1986 and 1995 referendums. His in-depth knowledge of the content and location of RTÉ's extensive and not easily navigable archives has made this study possible. After retiring from the organisation, he was granted continuing unfettered access to the Library for seven more years. While his network of contacts on all sides of the various campaigns has been very valuable, he is fully alive to the fact that these advantages also bring challenges, one being that of maintaining critical distance from an organisation with which he has been closely involved over the decades. He believes that this study will demonstrate that this challenge has been met, and points to sections 1.2, 1.3 and 5.4, as providing particularly strong evidence of this.

Critical to the role of any broadcasting professional is a keen awareness of the risks of bias. The author has been very conscious of the fact that the subject matter of his thesis

⁴ Government of Ireland. 'Eighth Amendment of the Constitution Act, 1983', electronic Irish Statute Book (eISB): <http://www.irishstatutebook.ie/eli/1983/ca/8/enacted/en/html?q=eighth+&years=1983> . Accessed 4 February 2017.

encompasses his former profession. He believes that he brings to academic research the deeply ingrained principles that govern impartiality in broadcasting. These principles were central to his role as a producer/director for many decades in Canada and Ireland. They can be summed up by the following guidance offered by Dr Zina O'Leary of the University of New South Wales:

Recognise and appreciate your own reality as a researcher. Awareness of your own basic attributes, ideological assumptions, position of power and subjectivities is fundamental to the process ... Be cognisant of how your worldview, assumptions and position can unwittingly influence the research process ... Act ethically. Research should be conducted in a manner that balances the biases and subjectivities of the researcher and protects the dignity and welfare of the researched. ⁵

⁵ Zina O'Leary. *The Essential Guide to Doing Your Research Project* (London: Sage Publications, 2004) 43.

LITERATURE REVIEW

The main focus of this study is, as stated earlier, on broadcast material (both aired and untransmitted), as well as contemporaneous notes in RTÉ Archive entries. It mines a rich seam of 230 radio and television programmes, containing primary source material, which has received little examination to date.

Of the authors mentioned in this Literature Review, only Michele Dillon sought to examine issues as debated on television when she asked for, and received, permission to view eight relevant *Today Tonight* episodes in the Divorce Referendum campaign of 1986, including transcriptions she made of some programme segments. In her book, *Debating Divorce: Moral Conflict in Ireland*,⁶ a chapter entitled 'Television's Framing of the Debate' identifies several important factors influencing the 1986 television coverage of the referendum.⁷

Apart from Professor Dillon's book, the author is not aware of any other significant exploration of broadcast material.

Below is an overview of the literature consulted for the study. The review will conclude with an outline of what the study contributes to the existing canon.

Church and State: Modernisation and Secularisation

Professor Tom Garvin, in *Preventing the Future: Why Was Ireland so Poor for so Long?*⁸ addresses the period 1937-60, prior to – but deeply impacting upon – the commencement of the period addressed in this study. His conclusion to the question posed in the title of his book is that the Catholic Church and Eamon de Valera's Fianna Fáil party believed that a strong, modern economy would pose threats to traditional morality. Instead, they wanted Ireland to remain, in Garvin's words, 'a parochial, rural, neo-Gaelic and, above all, Catholic arcadia'.⁹ Tracing the evolution from a religiously observant Ireland to a modern secular state, he

⁶ Michele Dillon. *Debating Divorce: Moral Conflict in Ireland* (Lexington: University Press of Kentucky, 1993).

⁷ Ibid. 127-143.

⁸ Tom Garvin, *Preventing the Future: Why Was Ireland So Poor for So Long ?* (Dublin: Gill & Macmillan, 2004).

⁹ Ibid. 37.

describes the central argument of his book as being that Ireland, faced with the conditions and circumstances that pertained in the changed world of 1945, made 'a series of "non decisions" that were, in the short to medium term, disastrous developmental prospects'.¹⁰ He paints a bleak picture of a static and mainly rural society in which powerholders across political, cultural, socio-economic and religious groupings fought tenaciously to maintain an increasingly undesirable status quo and in which the authoritarianism of the Catholic Church was emulated by secular elites. It was, according to Garvin, a society marked by fear, lack of self-confidence and lack of moral courage. Many of these elements become vividly apparent in the broadcast debates which marked the succession of proposed amendments to the Constitution of Ireland relating to abortion, marriage equality and divorce which form the subject of this thesis.

J.H. Whyte studies the evolution of the Church's relationship with the new state in *Church and State in Modern Ireland: 1923-79*.¹¹ He asks whether the Free State became a theocracy or whether the Church was just another particularly powerful interest group. He concludes that there is no easy answer and that within Irish society, and competing with the Church, there are many other influences at play. His first chapter is titled 'The Catholic Moral Code Becomes Enshrined in the Law of the State'. From the outset, he catalogues the concerns of the Irish hierarchy as they surveyed the many evils permeating society, the worst of all being the decline in sexual morality (this fixation is also commented upon by Professor Diarmaid Ferriter in *Occasions of Sin: Sex and Society in Modern Ireland*). They attribute the latter to the advent of mass media from outside Ireland - cinema, radio and above all the 'unfamiliar values' the English 'sensational newspapers' – were bringing to the notice of their flocks.¹² The Government stepped in to protect Catholic moral values by introducing the Censorship of Publications Act 1929.¹³

Whyte traces the evolution of Ireland's economy from T. K. Whitaker's First Plan for Economic Expansion in 1958 through to the unprecedented economic changes of the 70s. These were accompanied by a decline in emigration. A major impact of economic growth was a growing

¹⁰ Ibid. 3.

¹¹ J. H. Whyte. *Church and State in Modern Ireland 1923-1979*, 2nd ed. (Dublin: Gill and Macmillan, 1984).

¹² Ibid. 24.

¹³ Ibid. 37.

and proportionately younger population which was given added political heft by the lowering of the voting age from 21 to 18, in 1972.¹⁴ Economic growth, population growth, and urbanisation are, according to Whyte, 'factors which sociologists associate with cultural change. A population which is rich, young and town-dwelling is likely to have different values from one which is poor, relatively elderly and largely rural.' However, Whyte notes that in one area, change was surprising small: 'The outward allegiance of the great majority of the people to the Catholic Church appears as strong as ever. The 1971 census showed a fractional decline, as compared with 1961, in the proportion describing themselves as Catholics: from 94.9% to 93.9%.¹⁵

Dr Carole Holohan, in *Reframing Irish Youth in the Sixties (Reappraisals in Irish History)*,¹⁶ elaborates on the pivotal role of Irish youth in economic growth, along with their dramatic rise in educational attainment and their disproportionate role as beneficiaries of job creation. Noting, like Whyte, the significance of lowering the voting age, she writes about the new status youth had achieved in Ireland: 'In sixties Ireland, official messages elevated youth as an integral asset in a new national project of economic growth'.¹⁷ This changed view of youth as an important asset, worthy of investment, placed a new focus on education and employment. In spite of all this, Holohan observes that change, while significant, was not transformative. Secularisation was a slow and partial process:

Cultural values around sexual morality, class, gender, and status remained largely intact, and they infused and shaped the nature of social change.¹⁸

Professor Mary E. Daly, in *Sixties Ireland: Reshaping the Economy, State and Society 1957 to 1973*,¹⁹ notes the beginnings of some forces for change but argues that any such forces were

¹⁴ Ibid. 381.

¹⁵ Ibid. 381-2.

¹⁶ Carole Holohan. *Reframing Irish Youth in the Sixties (Reappraisals in Irish History)*. (Liverpool: Liverpool University Press, 2018).

¹⁷ Ibid. 220.

¹⁸ Ibid. 218.

¹⁹ Mary E. Daly, *Sixties Ireland: Reshaping the Economy, State and Society, 1957-1973* (Cambridge: Cambridge University Press, 2016).

far from revolutionary. As the 50s gave way to the 60s the power, influence and involvement of the Catholic Church remained in its role in education, in the control of industrial schools, in the legal restrictions on contraception and divorce. 95% of the population professed a belief in God.²⁰ But Professor Daly notes that economic and social change destabilised the equilibrium between church and state. Investment in education was seen as a major driver in economic growth but, she comments, 'any significant expansion in education was fraught with hazards, because it threatened to disrupt the existing relationship between church and state.'²¹

By the early 1970s, the falling age of marriage brought with it larger families and the need to consider the medico-social consequences that ensued, prompting discussion of the probable need to arrange some form of family planning. However, Daly records that neither the Church, the State nor most electors were ready to allow access to contraception or divorce, issues which, she writes, would divide Irish society for decades to come. Professor Daly describes the emergence of investigative journalists in print and television, and the growth of 'second-wave feminism',²² as engines of social change.

In the 1998 edition of his book *Moral Monopoly: The Rise and Fall of the Catholic Church in Modern Ireland*,²³ Tom Inglis shows how the power of the Church derived from the combination of the strong supernatural sense it inspired and its capacity to bring souls to God through its own set of definitions of right and wrong, good and evil. Inglis points to the Church's unmissable physical presence in Ireland together with its overriding influence in health, education and welfare.

In *Modern Ireland 1600-1972*,²⁴ R. F. Foster highlights the impact of free post-primary education introduced in Ireland in the early 1960s. He contrasts the participation rate of

²⁰ Ibid. 212.

²¹ Ibid. 215.

²² Ibid. 181.

²³ Tom Inglis, *Moral Monopoly: The Rise and Fall of the Catholic Church in Modern Ireland*, 2nd ed. (Dublin: University College Dublin Press, 1998).

²⁴ R.F. Foster. *Luck and the Irish: A Brief History of Change 1970-2000* (London: Penguin, 2007).

secondary education in Ireland with that of Britain, which it outpaced. The 1960s were also boom years for third level education, though in the absence of an adequate grant system, this, he observes, tended to work to the benefit of the advantaged and the metropolitan.²⁵

Professor Foster explores the changing face of Ireland in *Luck and the Irish: A Brief History of Change 1970-2000*. In Foster's characterisation of the changes Ireland underwent in thirty years, he notes that the engines of change were not unique to Ireland but to many things beyond Ireland - the impact of 1960s international radicalism, youth culture, television and the expansion of education at all levels. In his chapter, 'How the Catholics Became Protestants', he tracks a growing decline in the notion of Catholicism as inseparable from nationalism over the period 1970-2000.²⁶

When, in 1979, Pope John Paul II visited the country, he was greeted by 2.7 million Irish people. He denounced birth control and divorce and pleaded with the people to stay in their places at home bringing up families.²⁷ However, Foster went on to say, 'the barbarian hordes had actually been sapping the foundations for some time. Revelations of sexual assaults on children by Catholic priests began to be publicised in the 90s, while the uncovering of the secret families of Bishop Eamon Casey (1992) and Fr Michael Cleary (1994) reminded many of images of these two clerics during the Pope's Irish tour.'²⁸

Professor Diarmaid Ferriter, in *Occasions of Sin: Sex and Society in Modern Ireland*,²⁹ views the campaign for an Amendment in 1983 as far removed from the centre of political debate and propelled by a small group of dedicated people who feared the rise of sexual permissiveness. However, he also sees the sheer divisiveness of the 1983 campaign as having strengthened the bonds between the more liberal-minded in Ireland. He regards the behaviour of politicians at the time as lacking in courage and lauds the 1992 comments of Supreme Court Justice Niall

²⁵ Ibid. 580.

²⁶ Ibid. 8-37.

²⁷ Ibid. 61.

²⁸ Ibid.

²⁹ Professor Diarmaid Ferriter. *Occasions of Sin: Sex and Society in Modern Ireland* (London: Profile Books, 2009).

McCarthy, referring to the 1983 Amendment and the 'X' Case: 'The failure by the legislature to enact the appropriate legislation is no longer unfortunate, it is inexcusable.'³⁰

Understandably, much of Professor Ferriter's *Ambiguous Republic: Ireland in the 1970s*³¹ concerns the Troubles, the Irish Government's response to them and, of course, the broadcaster's reporting and analysis of the Troubles. However, he also gives much attention to clerical abuse revelations and the way the Catholic hierarchy sought to cover them up. He credits RTÉ's Mary Raftery and her 2004 *Cardinal Secrets* series with inspiring the damning Murphy report on the hierarchy.³² Ferriter, detailing the Church's attempts to control Irish people's sexuality, notes that, in the early '70s, platforms for people to recount their experience of abuse were rare. In his final chapter, 'Breaking the Shackles', Ferriter writes that contraception dominated the decade as a social, moral, religious and health issue with 'Catholic extremists applying pressure with 'electoral blackmail'.³³

The prologue to Louise Fuller's *Irish Catholicism since 1950: The Undoing of a Culture*³⁴ contains a very useful history from the beginning of the 19th century with its great waypoints for the Catholic Church in Ireland; the formation of the Catholic Association; Catholic Emancipation; the effort to bring the Irish Church into conformity with the 'Universal Church'; the spread of religious orders; the Famine; the reforms initiated by Archbishop Paul Cullen; the Protestant Evangelical movement; the rise of Fenianism; the Disestablishment of the Church of Ireland; the first Home Rule Bill and the alliance between the Irish Parliamentary Party and the British Liberal Party with the Catholic Church 'at its heart'; and, finally, the Rising, the War of Independence and the Treaty bringing about the Free State and its legitimisation of the Catholic ethos.

Later in her book, the chapter 'Communications Media and the Irish Church' addresses much of the ground dealt with by Savage in his books on the foundation of the RTÉ Television

³⁰ Ibid. 474.

³¹ Diarmaid author Ferriter, *Ambiguous Republic: Ireland in the 1970s* (London: Profile Books, 2012).

³² Ibid. 379.

³³ Ibid. 675.

³⁴ Louise Fuller, *Irish Catholicism since 1950: The Undoing of a Culture* (Dublin: Gill & Macmillan, 2002).

service, the development of its programming and, particularly, the *Late Late Show*. The Church was wary about the establishment of an Irish television station but was acutely aware that there was a growing rate of ownership of television sets and that people were watching British stations, and thus susceptible to British values and outlooks. Fuller then catalogues the various quarrels between RTÉ and the Church over television; Archbishop McQuaid and his efforts to obtain a presence in the station's management structure (ground which is also covered in Rafter and O'Brien's *The State in Transition*); rows over *Late Late Shows* including episodes like 'the Bishop and the Nightie', and Brian Trevaskis versus the Bishop of Galway. However, a balancing factor was RTÉ's *Radharc* series, produced, directed and filmed by Dublin Diocesan priests, which became one of the most popular series on Irish television.³⁵

In her conclusion, Fuller echoes Daly and others in that she recognises that the Church, just as the Irish experience as a whole, has been subject to a bewildering array of forces of which, she says, the importance of the media cannot be overestimated. She notes that television has moved beyond the Church-friendly pre-1960s media to adopt a more critical and challenging approach,³⁶ as will be apparent in this thesis.

Ciara Meehan's *A Just Society for Ireland? 1964-1987* is of particular interest. Her chapter on Garret FitzGerald's 'Constitutional Crusade' (which he announced on RTÉ Radio's *This Week* in 1981) gives an account of the rise of the pro-life movement and FitzGerald's efforts to deal with it. The establishment of the Pro-Life Amendment Campaign together with the various groupings who came together to form it are covered. Meehan describes the zeal that existed at the time for a complete ban on abortion, and how its supporters were convinced that the Supreme Court's decision in the McGee case was, as William Binchy put it, 'a time bomb which, with changing attitudes, may yet explode in a manner which most of our citizens... would deeply regret.'³⁷

³⁵ Ibid. 127-138.

³⁶ Ibid.

³⁷ Ciara Meehan, *A Just Society for Ireland? 1964-1987*. (UK: Palgrave MacMillan, 2013) 167. Meehan

Dr Tom Hesketh's *The Second Partitioning of Ireland*³⁸ is a history based on his PhD thesis at Queen's University Belfast. He describes the origins and evolution of the Pro-Life Amendment Campaign and the campaign itself. He was closely associated with Dr Cornelius O'Leary of Queen's, who became Vice-Chairman of PLAC and was assisted in his research by John O'Reilly.

Changing Role of the Irish Media

The surge in numbers of young and very well-educated Irish men and women, as noted in Whyte, Daly, Holohan, and Foster, *inter alia*, were to have a significant impact on the formation of RTÉ television news and current affairs coverage. This study pays particular attention to the evolution of Current Affairs TV.

J. J. Lee's sweeping and provocative *Ireland 1912-1985: Politics and Society*³⁹ is a landmark book for part of the period under examination. While he makes virtually no reference to the role of the media, Lee's concludes that the debates on contraception, divorce and abortion showed a complete underdevelopment in the Irish public discourse, with opposing groups talking past each other rather than attempting to relate to the convictions of the opposing side. This, says Lee, is 'a dialogue of the deaf, though not of the mute!' – as the transcripts considered in this thesis will illustrate abundantly.⁴⁰

The State in Transition: Essays in Honour of John Horgan is a lively and wide-ranging collection edited by Kevin Rafter and Mark O'Brien.⁴¹ O'Brien's contribution on religion and journalism is titled "'Facile ignorance" and "wild wild women": Religion, Journalism and Social Change in Ireland 1961-1979'. The 'wild wild women' were the *Irish Press* women's editor, Mary Kenny and her contributors who delivered articles on deserted wives, prostitutes and other subjects which disturbed the Press Group's chairman, Vivion de Valera (who coined the 'wild wild

³⁸ Tom Hesketh. *The Second Partitioning of Ireland?: The Abortion Referendum of 1983*. (Dublin: Brandsma Books, 1990).

³⁹ J. J. Lee. *Ireland 1912-1985: Politics and Society* (Cambridge: Cambridge University Press, 1989).

⁴⁰ Ibid. 655.

⁴¹ Kevin Rafter and Mark O'Brien, eds. *The State in Transition: Essays in Honour of John Horgan* (Dublin: New Island, 2015).

women' reference). Mary Kenny had arrived at the Irish Press, according to its editor, Tim Pat Coogan, 'like a comet exuding in its wake a shower of flaming particles from burning bras'.⁴² Kenny took contributions from Anne Harris, Nell McCafferty, Rosita Sweetman, June Levine and Maire de Burca, all of whom practised a journalism far removed from the unprovocative fare typified by the newspapermen described by Michael O'Toole as 'a docile lot, anxious to please the proprietor, the advertiser, the prelate, the statesman.'⁴³

One of Kenny's predecessors at the *Irish Press* was Maeve Binchy, by now Kenny's counterpart at the *Irish Times*. Kenny and Binchy addressed seminarians at Maynooth telling them the days of women taking advice from celibate priests were over and condemning legislation 'which makes you a criminal if you want to plan your family.'⁴⁴ Calls for legalised contraception drew condemnation from the pulpits and the Bishop of Clonfert deplored the new journalism inspired by women's liberation, comparing it to the attacks on Ireland's Catholic heritage of penal times.⁴⁵ O'Brien also gives an often-entertaining account of the unsuccessful efforts of Archbishop John Charles McQuaid to insert one of his close associates in the Dublin Diocese into the RTÉ structure to advise on faith and morals.⁴⁶

Mary Robinson contributes an essay, 'Denounced from Catholic Pulpits all Around the Country', recounting the attempts she made, along with John Horgan and Trevor West, to introduce a family planning bill in the Seanad. She and Horgan shared the view that the Seanad could be a forum for social change. But their efforts were 'denounced from Catholic pulpits' after they notified the Seanad of their intention to introduce the bill in the normal way and were refused leave even to publish and distribute the bill.

Bob Collins, a former Director General of RTÉ, reflects in 'Broadcasting and Public Policy: Personal Reflections', on RTÉ Television's future and how, in a media environment far removed from the time of its foundation, it must reflect the full range of ideas about Irish

⁴² Ibid. 17.

⁴³ Cited in *State in Transition*, 4.

⁴⁴ Ibid. 20.

⁴⁵ Ibid. 22.

⁴⁶ Ibid. 10-14.

society in its broadcast output. He believes that the measures required to maintain the relevance of RTÉ output should be a concern not only for the organisation's policymakers and programme-makers but for Government as well. It is clear from Collins' contribution, as he reflects on the foundation of the RTÉ Television Service, that he would side with the Reithian view of broadcasting as an instrument of public good and that a publicly-owned service is preferable to a commercial model. Robert Savage, below, takes a more nuanced view, stating that the station was in fact a hybrid - a commercial public service expected to pay its own way.

In *Irish Television: The Political and Social Origins*,⁴⁷ Robert J Savage traces the beginnings of serious discussion about the merits of establishing an Irish television service. It was an embarrassment to some that, while an estimated 4,000 Irish homes had televisions (rising to 20,000 by 1958), and Irish newspapers printed BBC television listings for those on the east coast and border counties, Ireland itself had no television service.⁴⁸ One of Savage's heroes is Leon Ó Broin, Secretary of the Department of Posts and Telegraphs who had an interest in television, was an admirer of the BBC and enjoyed the friendship of its Director General, Sir Ian Jacob. Ó Broin championed a television service for Ireland but firmly in the public service model exemplified by the BBC. Much of Savage's narrative centres on Ó Broin's discussions with Government and the opposition from the Department of Finance in a precarious Irish economic condition. The department even refused Ó Broin's request to buy a television. However, discussions progressed, and decisions were made but if there was to be television it had to be self-sufficient with no liability for the Irish Exchequer. Savage is at his most interesting on the struggle which then ensued between those pressing for commercial television on the American or British model and Ó Broin, advised by Jacob, seeking nothing less than state-owned, public service television. Ó Broin's position prevailed following a *volte face* by the Department of Finance and his success in winning over to his point of view the then Taoiseach, Seán Lemass. Savage's treatment shows how close Ireland came in the 1960s to having commercial television whose sole mission would have been to generate profit.

⁴⁷ Robert J. Savage, *Irish Television: The Political and Social Origins* (Cork: Cork University Press, 1996).

⁴⁸ *Ibid.* 39.

Savage continued his study of RTÉ's early history during its first turbulent decade. He addresses in *A Loss of Innocence: Television and Irish Society 1960 to 1972*⁴⁹ how the medium helped to undermine the conservative political, cultural and social consensus that dominated Ireland into the 1960s. Savage describes Lemass telling de Valera that some of the staff seemed to be 'losing the run of themselves', denying that the Government had any function relating to the National Broadcasting Authority.⁵⁰ Savage develops his thesis that RTÉ, staffed by those singled out by the Authority's chair, Todd Andrews, as the 'creatives' were addressing the societal changes that were having a profound effect on the country. RTÉ, he believes, had become an active agent often aggressively testing the limits of the medium and the patience of government.⁵¹

Professor John Horgan's 2004 book, *Broadcasting and Public Life*⁵² describes the rise of the new television current affairs programme strands with their 'structural analysis' rather than 'classical journalism' approach. While classical journalism, as practised by the staff of the RTÉ newsroom, simply reported the events of the day, the structural analysis approach aimed to present new stories, make revelations, pose often difficult questions and sometimes set a political agenda. While many of the newsroom staff had come into RTÉ from the print media, many of their opposite numbers in TV current affairs had arrived directly from the universities or other professions, such as teaching. Some of the early *7 Days* programmes exhibited an aggressive approach new to Irish broadcasting wherein lay the potential for conflict with certain groups across the Irish establishment.⁵³

Christopher Morash in *A History of the Media in Ireland*⁵⁴ traces the development of Irish media over four centuries. A fascinating chapter deals with the establishment of Ireland's first

⁴⁹ Robert J. Savage, *A Loss of Innocence?: Television and Irish Society, 1960-72* (Manchester: Manchester University Press, 2010).

⁵⁰ Ibid. 383.

⁵¹ Ibid.

⁵² John Horgan. *Broadcasting and Public Life: RTÉ News and Current Affairs, 1926-1997* (Dublin: Four Courts, 2004) 51.

⁵³ Ibid. 51.

⁵⁴ Christopher Morash. *A History of the Media in Ireland* (Cambridge: Cambridge University Press, 2010).

radio station, 2RN. Almost 40 years before the birth of Irish television, this account prefigures and illuminates the tensions that would mark RTÉ television's hybrid role as a commercial public service. Morash describe how the birth of the Irish Free State coincided with that of radio. Within a month of the signing of the Anglo-Irish Treaty, a new radio station was opening daily in the United States. Unlike any previous medium, it developed at astonishing speed and became part of the culture of daily life within a very short time.⁵⁵

By 1923, the Free State Minister for Posts and Telegraphs, J.J. Walsh, had issued a *White Paper on Wireless Broadcasting*. The Free State government was deeply suspicious of the completely unregulated commercial market which obtained in the US. The BBC licence fee-based model appealed, but it was not seen as viable in less prosperous Ireland. Offers of funding from Lord Beaverbrook and Marconi were dismissed on the grounds that they would result in loss of state control. It was eventually decided to make the new station state-owned and operated. Morash describes how 2RN was launched in 1926 by Douglas Hyde who, speaking in Irish, declared 'Eire is not completely saved yet, and will not be until the foreign influence is wiped out'. Morash observed that 2RN frequencies had been chosen so as to block out signals from Manchester and Bournemouth, popular with Irish listeners.⁵⁶ Almost four decades later, another President, Eamon de Valera, with a similarly passionate desire to resist foreign influences, would launch the new Irish television service with many qualms: 'I must admit that sometimes when I think of television and radio, and their immense power, I feel somewhat afraid'.⁵⁷

Jack Jones, a former military officer, was the founder and chief executive of the Market Research Bureau of Ireland (MRBI), Ireland's first indigenous market research company. Jones was best known for his opinion polls on politics published in the *Irish Times* and the analyses which accompanied them. Political commentary in Irish media benefited from having two market research companies associated with the two leading newspapers; MRBI in its association with the *Irish Times* and Irish Marketing Surveys linked to Independent

⁵⁵ Ibid. 131.

⁵⁶ Ibid. 135.

⁵⁷ Ibid. 172.

Newspapers. As will be seen, Jones' insightful analyses in his memoir, *In Your Opinion*,⁵⁸ enhance the narrative of this study.

Contraception, Divorce and Abortion

The following publications were extensively consulted in the thesis:

Dr Tom Hesketh's *The Second Partitioning of Ireland?*⁵⁹ provides undoubtedly the most authoritative narrative of the campaign which led to the insertion of the Eighth Amendment to the Constitution. Hesketh had unusual access to the leadership of the Pro-Life Amendment Campaign (PLAC), its associated groups and its records. He and Professor Cornelius O'Leary (one of the leaders of PLAC), in their jointly authored article 'The Irish Abortion and Divorce Referendum Campaigns' encapsulate the two narratives of abortion and divorce, noting the similarities and differences in the campaigns.⁶⁰ They also consider two articles written in 1986⁶¹ and 1987⁶² by Professor Brian Girvin whom they identify as the only scholar who had, at the time, seriously considered the two campaigns. These articles are also cited in the thesis.

John O'Reilly, founder and one of the chief architects of the pro-life movement, produced some of the earliest booklets compiled and circulated by those who, like himself, were devout Catholics deeply concerned with what they saw as their country slipping into a moral morass. As chair of The Irish Family League he produced the booklet *Is Contraception the Answer?*⁶³ circulated to 20,000 doctors, pharmacists, bishops and solicitors; *Contraception: The Baited*

⁵⁸ Jack Jones, *In Your Opinion: Political and Social Trends in Ireland through the Eyes of the Electorate* (Dublin: TownHouse and CountryHouse, 2001).

⁵⁹ Tom Hesketh. *The Second Partitioning of Ireland?: The Abortion Referendum of 1983* (Dublin: Brandsma Books, 1990).

⁶⁰ Cornelius O'Leary and Tom Hesketh. 'The Irish Abortion and Divorce Referendum Campaigns' in *Irish Political Studies*, Vol:3, Issue: 1, 43-62.

⁶¹ Brian Girvin. 'Social Change and Moral Politics: The Irish Constitutional Referendum 1983' in *Political Studies*, 34:1, 61-81.

⁶² 'The Divorce Referendum in the Republic: June 1986' by Brian Girvin, *Irish Political Studies*, Vol.2, Issue 1, 1987, 93-8.

⁶³ John O'Reilly (ed.). *Is Contraception the Answer?* (Dublin: Irish Family League, 1974).

*Hook*⁶⁴ was published and circulated by The Council for Social Concern; *The Gift of Life*⁶⁵ continued the theme of the earlier two booklets and firmly linked abortion to contraception as had been done in the papal encyclical, *Humanae Vitae*.⁶⁶ O'Reilly's polemical skills advanced to the production and circulation of a regular, quarterly newsletter for the 'Responsible Society'.⁶⁷ *Response* began with Vol. 1, no. 1 in Spring, 1982. The newsletter is one of the most important series of documents for anyone studying the movement to bring about constitutional change on abortion.⁶⁸

Fr Paul Marx, OSB was the founder of Human Life International, the Pro-life Missionaries, headquartered in Virginia with offices in Florida, Rome and a branch in Knock. Marx travelled the world, visiting some 90 countries in his battle against abortion. His books, apart from the first, *The Death Peddlers*, are rarely available other than through Human Life International itself. They make extremely illuminating reading for the student of the early anti-abortion movement.

In 1976, an American Jesuit priest, Fr Bruce Francis Biever, published *Religion, Culture, and Values: A Cross-Cultural Analysis of Motivational Factors in Irish and American Irish Catholicism*,⁶⁹ based on an opinion poll he conducted among close to 1,000 Catholics living in Ireland. While he found his survey population poll largely comfortable with their church, he detected the beginnings of a challenge. Broadly speaking, the challenge, by no means dramatic, could be sensed among younger and better educated urban dwellers.

⁶⁴ O'Reilly. *Contraception: The Baited Hook* (Dublin: The Council for Social Concern, 1977).

⁶⁵ O'Reilly. *The Gift of Life* (The Knights of Saint Columbanus, 8 Ely Place, Dublin 2. 1978).

⁶⁶ Paul VI. *Encyclical Letter, Humanae Vitae, of the Supreme Pontiff, Paul VI to His Venerable Brothers the Patriarchs, Archbishops, Bishops and Other Local Ordinaries in Peace and Communion with the Apostolic See, to the Clergy and Faithful of the Whole Catholic World, and to All Men of Good Will, on the Regulation of Birth* (Rome: Libreria Editrice Vaticana, 1968) II:14.

⁶⁷ The Responsible Society was a constituent group of the Pro-Life Amendment Campaign.

⁶⁸ TCD Library Holdings extend from Vols. 1 (1982) through 22 (2010) of *Response*.

⁶⁹ Bruce Francis Biever, *Religion, Culture, and Values: A Cross-Cultural Analysis of Motivational Factors in Native Irish and American Irish Catholicism* (New York: Arno Press, 1976).

Much of the value of this work may lie in the contrasting attitudes of the 1960s and those of the 1980s among the frequently young, liberal opponents of PLAC, SPUC and the other, mainly Catholic, proponents of constitutional change and their methods of pursuing it.

The specific teachings of the Catholic Church on the subject matter of this study can be found in two key documents: *Humanae Vitae*,⁷⁰ published by the Vatican; *Human Life is Sacred*,⁷¹ published by the Irish hierarchy; and *Marriage, the Family and Divorce*,⁷² also published by the Irish hierarchy. All appear in the course of the various debates as does William Binchy's *Is Divorce the Answer?*⁷³ which became the handbook of the Anti-Divorce Campaign (ADC) and yet, remarkably, was not read by the coalition opposing Binchy and the ADC.⁷⁴

Desmond Fennell, in *Nice People and Rednecks*⁷⁵ criticises the 'RTÉ/Irish Times axis' and the attitudes of liberal commentators.

While much has been circulated and published by or about the opponents of contraception, abortion and divorce, on the 'liberal' or 'progressive' side, Nuala Fennell's *Irish Marriage: How Are You?*⁷⁶ details a series of abusive and inescapable marriages related to her by women affected.

Elgy Gillespie's *Changing the Times: Irish Women Journalists 1969 – 1981*⁷⁷ is a collection of articles reflecting the time when 'women were invented' as Mary Maher, editor of the first 'Women First' pages during the 1970s, described it. The collection includes articles by Maeve

⁷⁰ Paul VI. *Humanae Vitae*.

⁷¹ Irish Catholic Bishops. *Human Life Is Sacred: Pastoral Letter of the Archbishops and Bishops of Ireland to the Clergy, Religious and Faithful. Complete Text with Introduction and Guidelines* (Dublin: Veritas Publications, 1975).

⁷² Irish Catholic Bishops. *Marriage, the Family and Divorce: A Statement of the Irish Bishops* (Dublin: Veritas, 1986).

⁷³ William Binchy, *Is Divorce the Answer?: An Examination of No-Fault Divorce against the Background of the Irish Debate* (Dublin: Irish Academic Press, 1984).

⁷⁴ See Fergus Finlay, cited on page 269 of this study.

⁷⁵ Desmond Fennell. *Nice People and Rednecks: Ireland in the 1980s* (Dublin: Gill & Macmillan, 1986).

⁷⁶ Nuala Fennell. *Irish Marriage: How Are You?* (Cork: Mercier Press, 1974).

⁷⁷ Elgy Gillespie (ed.) *Changing the Times: Irish Women Journalists 1969 – 1981* (Dublin: The Lilliput Press, 2003).

Binchy, Mary Leland, Gabrielle Williams, Christina Murphy, Geraldine Kennedy, Maev Kennedy, Eileen O'Brien, Caroline Walsh, Theodora FitzGibbon, Nell McCafferty, Renagh Holohan, and Elgy Gillespie. The topics range from the light-hearted to the serious. The latter addresses issues particularly relevant to the period and topics under examination. Examples are articles addressing contraception, working mothers, unmarried mothers, unmarried fathers, fundamentalism in the Catholic church, violence against women. On contraception, Gillespie quotes Mary Leland: 'The sacredness of the female reproductive system vanished forever with the publication of *Humanae Vitae*. From there on, wombs and menstruation became acceptable items of popular as well as clerical obsession.'⁷⁸ Gillespie's collection of journalism by women echoes that practised by the women journalists who disturbed Vivion de Valera, as mentioned above.

The Gillespie collection's value to studies like this also lies in its accounts of people like the American anti-abortion crusader, Fr Paul Marx, also mentioned above. We realise that most of what we know about Marx and his visit to Ireland comes from Marx himself in own books about his world travels. Mary Leland describes him as coming from the current 'American medico-legal lunacy' and its rigidity. She graphically the crusading priest's visit to a group of leaving certificate girls at a school in Cork, with his foetus in a jar. Then she writes of her attendance at Marx's film show featuring a suction abortion on the near-naked body of a woman filmed in graphic detail. The embarrassment and horror Leland felt was directed not at the abortionist at work but at Marx and his 'phoney hip presentation'.⁷⁹

CONTEXTUALISATION OF THE PRESENT STUDY

Key elements distinguish this study from the many other studies which address societal, political, religious, media and other developments in Ireland during the second half of the twentieth century and the beginning of the twenty-first.

⁷⁸ Ibid. 140.

⁷⁹ Ibid. 142-4.

This study is based, as far as has been possible, on primary source material: the live or pre-recorded, unedited, spontaneous voices of leading figures on all sides, activists on all sides, ordinary people, journalists and commentators on all sides across a span of fifty years.

Reportage serves mainly to carry the narrative rather than supply analysis or commentary so that the content favours the voices of participants rather than those of the reporters covering events. A reporter, producer or editor takes a recording or notes of events and participants' comments, edits them and fits them into a report. In approaching this project, the author has treated reportage as secondary source material. This is not to diminish the work of journalists, editors or producers. Their job is to report and interpret. Their professionalism, by definition, involves a filtering process at one remove from the primary source.

Historians, such as those referenced in this Literature Review, work from primary source material, often hard to access. Few, until now, have benefited from ease of access to their national broadcaster's radio and television archives. Of the authors mentioned in this Literature Review, only Professor Michele Dillon sought to examine issues as debated on television when she asked for, and received, permission to view eight relevant VHS recordings of Today Tonight programmes at RTÉ. Although she had the cooperation of Today Tonight staff, she had the tedious job of transcribing programmes herself from VHS off-air copies.

This study, for which 230 programmes have been consulted, was undertaken with several years of cooperation from the management and staff of the RTÉ Archives. To their knowledge, no one has conducted anything approaching the extent of search and analysis contained in this study. This, along with print media content where necessary, has enabled the production of a narrative stretching from 1968 to 2018.

Along with the narrative has come the live debate content, the live and as-live interviews with all the often-passionate arguments, the abrasiveness, challenges and even insults characteristic of a gradual coarsening in the public discourse. With arguments over contraception, abortion and divorce unfolding on Radio and Television programmes recorded off-air, there came the opportunity to analyse them. William Binchy's advantage in programmes surrounding the Divorce Referendum of 1986, observed by Michele Dillon, was evident. The frequent presence of Catholic priests and other clergy in early programmes on contraception, abortion and divorce could be seen to diminish completely over time. The

work of broadcasters pushing the boundaries out in providing platforms for people with things to say about issues usually absent from polite conversation, could be seen and heard.

Where, then, should this study be situated in the context of the canon of existing historical works? It is long on narrative, atmosphere, colour and emotive arguments, tracking the evolution of the movement which gave Ireland the Eighth Amendment, then fought to keep it; kept the divorce ban for another nine years; then lost the fight to prevent the threat of suicide justifying abortion; the removal of the divorce ban and finally the legalisation of abortion itself. This movement still exists and is backing pro-life candidates in the 2020 general election.

This study does not replace the existing canon. However, it significantly augments and enriches it.

As television is a visual medium, a complete appreciation of the media content can only be gained by watching and listening to the programmes as well as reading transcripts. A major contribution of this study is the catalogue of 230 relevant programmes developed by the author and contained in Appendix One, Volume Two of this study.

Each radio and television programme cited in this study is listed in the catalogue with its RTÉ Archive identifiers, content and transmission information. Relevant programme entries in the catalogue are easily found by reference to footnoted transmission dates. Researchers can now access and search the wealth of eminently quotable content, virtually unexamined to date, contained in this valuable store of the living word.

As an example of a contribution this study makes to the canon: while existing literature addresses the events and issues of the stormy half century under consideration, it tends to do so in a sequential manner. These periods of controversy may have looked sequential, but the Mediaweb searches and the transcripts reveal that they are more accurately described as contiguous. The study reveals how public on-air discussion about inserting a constitutional amendment outlawing abortion, and removing the power of the Oireachtas or the Courts to rule on it, ran in parallel with arguments about removing the constitutional ban on divorce. Public discussions about contraception and its eventual legalisation also paralleled discussions about abortion and divorce. The phenomenon might be seen thereby as an era of controversy

and change in the arena of sexual politics. The study also shows many of the key actors reappearing from one pressure group to the next – from one controversy to the next.

Another example is that, while books and print media can describe the controversies over 50 years, they struggle to capture the dogmatism, vitriol, interruptions, shouting down and talking over opponents, which marked so many of the debates and which led J.J. Lee to conclude that ‘public debate on issues of moral principle were (sic) so underdeveloped in the political culture that neither side was able to relate to the assumptions of the other.’ He saw this as reflecting ‘an almost total lack of a well-developed public sphere in our society’. The broadcasts, which this study makes so accessible, uniquely reinforce this view.

METHODOLOGY

BROADCAST RESOURCES

The methodology is an extension and development of that employed in the applicant's 2010-2011 M.Phil. dissertation. From the outset, both sides focused their efforts on the broadcast media as offering the most effective access to voters. The prominence of the referendums in RTÉ News and Current Affairs reports and debates provides a valuable reflection of contemporaneous concerns throughout each of the referendums. Prior to the 1960s, there was no equivalent platform for major issues to be examined, promoted and challenged.

As mentioned, to date, these valuable sources have received very little academic examination for many reasons. The RTÉ Library developed over many years as a resource for programme makers rather than as a corpus of information for scholars. As such, its navigation is difficult for those outside RTÉ or without training in RTÉ programme research; scholarly access nearly always requires the presence of an RTÉ Library staff member to act as a guide, researcher and technical assistant. Equipment for viewing/audio copying may be required. All of these needs entail expense.

Prior to receiving a Grace Lawless Lee Fund award in two consecutive years, the author had relied exclusively on his own ability to transcribe segments from news bulletins and current affairs programmes such as *7 Days*, *The Politics Programme*, *Today Tonight* as well as the *Late Late Show*. A long form programme took a week or more to transcribe. Receiving the awards enabled the professional transcription many full-length programmes and news bulletins. Each programme wholly transcribed has been screened three times: as it has been copied to DVD in the RTÉ Archive; reviewed to supply precise cues, name and title supers for the transcriber; and proof-reading the received transcript against the DVD.

Unlike a documents-based thesis, where the author can summarise and condense material, the relative inaccessibility of this primary source broadcast material needs to be displayed in its original long form. Otherwise, it would be impossible to convey the cut and thrust of the arguments.

These transcripts have been welcomed by RTÉ Archives and are now included in RTÉ's programmes catalogue.

The writer's past experience as a broadcaster, and subsequent experience working on academic research within the library, have contributed to the effort to make RTÉ's important national asset more accessible to future academic researchers by developing approaches and strategies enabling them to come to grips with a working library which was and is developed primarily as a resource, not for academics, but for programme makers. It is hoped that academic researchers and others may study the author's encounter with the vast RTÉ film, video, sound and print archive and that this will help them on their own research journey.

With some exceptions, early catalogue entries on the television side tend to be short on background information and context. The RTÉ catalogue of programmes utilises a search engine, designed for internal use, called Mediaweb. However, the archive had never been interrogated to the degree of complexity this study demanded. As mentioned earlier and will be dealt with more fully later, a Boolean search method was developed and bore results. The results were downloaded and copied as Word documents into four master lists. Mediaweb was then employed to search the Radio catalogue in a similar fashion.

Unable to find a way to merge the Television and Radio catalogues, the two had to be combined manually. This was very time consuming but yielded an observable series of four catalogues of news bulletins marking each developing story, combined with current affairs programmes containing arguments deployed by all sides across the period under examination.

This led to the structure of Boolean searches assembled in word files (Appendix One in Volume Two of this thesis describes the construction of these searches). Each search had to be made twice – once each for radio and television as follows:

- 19611231 to 19831231 TV All Programmes *Humanae Vitae* to Eighth Amendment. In the keyword box the word 'contraception' was inserted plus synonyms such as 'family-planning' AND family planning AND condom AND birth-control AND birth control plus any other synonyms and variations the author could muster.

- Then came 19611231 to 19831231 Radio All Programmes *Humanae Vitae* to Eighth Amendment with keyword and synonyms as above followed by:
- 19840101 to 19861231 TV All Programmes Eighth Amendment to Divorce 1
- 19840101 to 19861231 Radio All Programmes Eighth Amendment to Divorce 1
- 19870101 to 19921231 TV All Programmes Divorce 1 to X Case and 3 Referendums
- 19870101 to 19921231 Radio All Programmes Divorce 1 to X Case and 3 Referendums
- 19930101 to 19951231 TV All Programmes X Case to Divorce 2
- 19930101 to 19951231 Radio All Programmes X Case to Divorce 2

Because the campaign to repeal or keep the Eighth Amendment came so late in the study, Boolean searches of the period leading to the 2018 Referendum must await another day and another opportunity. The narrative to the 2018 Referendum was written based largely on a daily newspaper file and notes kept by the author and off-air recordings of the main RTÉ and TV3 live debate programmes.

The Boolean searches of RTÉ Radio and Television programmes from 1961 to 1995 coupled with the more traditional newspaper files and the final RTÉ and TV3 programmes enabled the construction of a timeline from the publication of *Humanae Vitae* (followed by the Irish Catholic hierarchy's *Human Life is Sacred*) to 2018 and the referendum repealing the Eighth Amendment.

All transcriptions, long and short form, have been emailed to the RTÉ Archive for inclusion in the RTÉ programme catalogue in line with the agreement with the Head of Archives to permit continued access, research, viewing and copying facilities.

Appendix One in Volume Two of this thesis provides expanded details on the complex methodology developed and employed to search the Archive. This should assist future academic researchers who may consider making an application to the Head of RTÉ Archives.

RTÉ Archives management wish to make the Radio and Television Services' vast collection more easily accessible to historians and accredited academic researchers. It was with the creation of a comprehensive and accessible catalogue in mind that they allowed unlimited

access to their archives to the author. The researcher wishing to probe this newly accessible layer of to date largely unexamined broadcast content will shortly, thanks to digitisation, require nothing more than permission to access RTÉ's Archive premises, a grasp of the Mediaweb search engine, a desk with an RTÉ network computer and authority to login.

PRINT MEDIA AND PRIVATE RECORDS

Print media

Extensive print media files have been maintained by the author over the years. Others were accessed electronically, via publication archives, and through the ProQuest Historical Newspapers™ digital archive (accessed through TCD Library). Articles, letters, editorials and opinion pieces on proposed Amendments have been reviewed, and these are examined alongside the fluctuations of the opinion polls, in particular those conducted by the Market Research Bureau of Ireland (MRBI) and Irish Marketing Surveys (IMS). The ebb and flow of public opinion evidenced in the polls and the referendums are assessed against other socio-political developments of the period (part of the purpose being to explore any relationships between such developments and public approval or disapproval of the Amendments being proposed).

Records in private hands

In addition, records were secured from organisations and individuals who participated in the campaigns. These include previously unreported material from the Anti-Amendment Campaign (ADC) and the Divorce Action Group (DAG).

INTERVIEWEES AND OTHER CONTRIBUTORS

Interviews were granted to the author by key individuals to amplify certain areas of the study (these are included in the Acknowledgements section and throughout the text). Of particular value was a rare interview, recently granted to the author, from John O'Reilly, one of the chief architects of the pro-life movement (along with the late Senator Des Hanafin and the lawyer, Professor William Binchy). Appended in full in Volume Two, Appendix Five of this study, this is only the second interview O'Reilly has given in the 40 years since he first came to prominence.

The author contacted potential interviewees by letter, email, text or phone, explaining the background to his interview request, and indicating the areas he was interested in exploring with the potential interviewee. Lines of questioning related to the interviewee's experience across the subject matter contained in the thesis. A date and time were then agreed, and the interview followed a semi-structured format. Some took place in person, some by telephone and two by email. Permission was sought in advance to record each interview for transcription. Appendix Five in Volume Two of this thesis provides a full transcript of a sample interview.

The following is the full list of those who granted interviews and/or provided written contributions:

Philip Boucher-Hayes was interviewed for this thesis on 25 July 2018. He researches, produces and presents items on RTÉ Radio Current Affairs programmes. His *Abortion Stories* series of 16 items was transmitted on RTÉ Radio 1 *Drivetime*. Each item related the story of a woman's experience of abortion either through undergoing the procedure or deciding not to. Husbands or partners also spoke. The RTÉ Exit Poll taken during the vote on the May 2018 Referendum on the Eighth Amendment showed that many voters stated they were influenced by the personal stories of women terminating their pregnancies or deciding not to do so.

Peter Feeney was interviewed for this thesis on 10 January 2018. He took up the position of Press Ombudsman following his retirement as Head of Compliance in RTÉ. Feeney's RTÉ career merged administrative and programme-making experience having been FOI Officer for the organisation, Head of Millennium Programming and Head of Current Affairs TV. He originated *Hanly's People* with David Hanly, *Questions and Answers* with Olivia O'Leary and John Bowman and *Marketplace* with Pat Kenny. He also produced the *Late Late Show* and documentaries. Feeney's wide-ranging experience in a variety of roles from the 1970s made him an important source of information on the growth of RTÉ TV Current Affairs and those who worked in it.

The late **Very Reverend Victor Griffin** was interviewed for this thesis on 10 April 2012. He was Dean of St Patrick's Cathedral from 1968 and, unlike most Church of Ireland clergy in the Republic, was an outspoken critic of political as well as religious issues. He championed ecumenism when it was still regarded as a minefield and linked it to his vision of a pluralistic society. However, it was his intervention in the abortion referendum of 1983 that catapulted

him into public view. His denunciation of the very idea of holding a referendum on abortion was transmitted on *Today Tonight* and later followed by a full-length interview putting forward a Protestant view. He became a prominent supporter of the AAC appearing at public meetings to press home his belief that the referendum project could only bring deeper divisions among the people. Griffin did not identify himself as representing the Church of Ireland but was seen by many liberal Catholics as reflecting their views.

John Kelleher was interviewed for this thesis on 11 January 2019. He was series producer of early RTÉ TV current affairs series such as *The Politics Programme* and launched *Today Tonight* as Controller of Programmes of RTÉ 1. He was executive producer of *The Year of the French* and went on to produce eight feature films including *The Guarantee* and *Eat the Peach*. He was appointed Director of the Irish Film Classification Office (formerly the Irish Film Censor's Office) and now heads John Kelleher Media, developing and producing feature films, television drama, documentaries and digital content. *Today Tonight* was a key source of information and comment during a particularly turbulent period. It advanced the commitment to investigative journalism begun with *Seven Days* (later rebranded as *7 Days*) and was the template for the later, and still running, *Prime Time*.

Joe Little provided a written contribution for this thesis on 2 June 2017. He retired in December 2019 as RTÉ's Religious and Social Affairs Correspondent. Joining the original *Today Tonight* team, he reported on abortion-related controversies in Ireland from the 1980s, continuing through the 2018 Referendum campaign which resulted in the repeal of the Eighth Amendment. In the absence of his filmed report on Mother Teresa's visit to a SPUC rally at the National Stadium in 1982 during the campaign to create a constitutional ban on abortion, Joe provided a written account of Mother Teresa's emotional encounter with the SPUC supporters.

John O'Reilly, was interviewed for this thesis on 25 March 2019. A qualified engineer, he spent the early part of his career in the Province of Ontario, Canada, before returning to Dublin. Long associated with strongly conservative Catholic views, O'Reilly was a Knight of St Columbanus and joined with other like-minded people in the Irish Family League, the Council for Social Concern, the Responsible Society and the successful Pro Life Amendment Campaign of which he was one of the chief architects. O'Reilly contributed and edited the newsletters, journals and other literature associated with all these groups and provided the author with many

editions of the genre. He, along with Senator Des Hanafin, founded the equally successful Anti-Divorce Campaign (ADC) of 1986. He provided the author with files and records from that group as well as an invaluable newspaper file assembled by date. O'Reilly is now Secretary of The Second Look Project, a charity committed to providing education, information and resources on pro-life issues to people across Ireland.

Betty Purcell, was interviewed for this thesis on 20 January 2018. The author of *Inside RTÉ*,⁸⁰ she worked first in Radio and later as a television producer in a broadcasting career of 33 years. Her name is synonymous with the *Women Today* radio series on which she was a producer. Associated with radical politics and the Socialist Labour Party she had to step away from specifically political activities on joining RTÉ as a programme maker, although she never ceased crusading for the rights of women and particularly those suffering in abusive relationships, marginalised through poverty or faced with many other misfortunes. *Women Today* exposed and gave a voice to sufferers. Particularly in her earlier years as a broadcaster, Purcell often experienced the strong disapproval of members of the Catholic hierarchy. Later in her career, Betty Purcell was elected by RTÉ staff to be their representative on the RTÉ Authority.

Dr Mary Randles and **Diana Allen** were interviewed for this thesis on 14 July 2016. Dr Randles was a general practitioner in Navan during the 1960s when she and a former nurse, Diana Allen, decided to provide family planning services at Randles' surgery in 1975. They had been inspired by the recent establishment of the Irish Family Planning Association (IFPA) and by their own experiences of the plight of the mothers of large families themselves often in a state of near-constant pregnancy. Large numbers of women, hearing of their services by word of mouth, attended their clinic providing Randles and Allen with stories of their predicaments at a time when any form of artificial contraception was illegal under the Criminal Law Amendment Act of 1935.

Alan Shatter was interviewed for this thesis on 23 May 2016. He is a solicitor, academic, writer, long-serving TD and former Minister for Justice and Defence who represented the Dublin South Dáil Constituency as a Fine Gael deputy for most of the period 1981 to 2016. He

⁸⁰ Betty Purcell, *Inside Rté: A Memoir* (Dublin: New Island, 2014)

is the author of *Family Law in the Republic of Ireland* (1977) the first comprehensive academic book published on Irish family law and *Shatter's Family Law* (1981,1987,1997). His family law reform proposals, perceived as radical when first published, set the agenda for a substantial portion of the legislative and constitutional reform that is reflected in today's law. His unprecedented enactment from the Dáil opposition benches of the complex Judicial Separation & Family Law Act (1989) laid the foundation stone for the enactment of a comprehensive code of separation and divorce laws to address the consequences of irretrievably broken marriages. He was a founding partner of Gallagher Shatter, Solicitors, specialised in family and constitutional law and regularly represented clients as a solicitor advocate, without the engagement of counsel, before both the High and Supreme Courts. His career as an advocate is marked by the delivery by both the High and Supreme Courts of a number of important landmark judgements. His public service career as a TD spanned most of the era covered in this study and included the controversies over contraception, abortion and divorce. Together with his Fine Gael colleague, Monica Barnes, he defied the Fine Gael whip in 1983 and voted against inclusion of an anti-abortion amendment in the Irish constitution. As a Fine Gael backbencher and expert on family law, he was appointed to the Oireachtas Committee on Marriage Breakdown, yet had to watch the arguments for and against the removal of the constitutional ban on divorce from the side-line of the back benches for most of 1986 (when the FitzGerald/Spring coalition might have been better served had they fielded Shatter against the ADC's William Binchy in the various debate programmes leading up to the 1986 Referendum). In 1995, he was Fine Gael's deputy director for the divorce referendum campaign of that year which resulted in the removal from the Irish constitution of the prohibition on the enactment by the Houses of the Oireachtas of a law permitting the Irish courts to grant divorces.

Very Reverend Victor Stacey was interviewed for this thesis on 16 August 2017. He was elected Dean of St Patrick's Cathedral in 2012 and served until 2016. Prior to his service at the National Cathedral of the Church of Ireland he had been Rector of Christ Church, Dun Laoghaire, as well as other parishes North and South. As Dean of St Patrick's Cathedral, he oversaw the restoration of the Lady Chapel built in 1270. He was very familiar with the role and duties of the Dean and Ordinary and held many conversations on these subjects with his predecessor, Victor Griffin, but did not have to face the public controversies that Dean Griffin had to deal with.

Niall Stokes contributed to this thesis via a series of emails between 18 and 27 July, 2018. He is the editor of *Hot Press* magazine, which carried an interview with Dr Peter Boylan in its issue of 25 April 2018, headlined ‘At least three Irish women have died as a result of the Eighth Amendment, says Dr Peter Boylan’. ⁸¹ Stokes makes no secret of the *Hot Press* editorial position on the Eighth Amendment. ‘In general, I believe that *Hot Press* played a really important role in the campaign to Repeal the 8th. We campaigned very strongly for a Yes vote, and contributed over a sustained period of years, as well as directly in the run-up to the referendum, to the climate in which such an overwhelming majority of 18 to 29-year olds, in particular, voted Yes’. He insists that Boylan did not say Miss ‘P’ died as a result of the Eighth Amendment as alleged by Maria Steen of the Iona Institute. ⁸²

Marie Woods was interviewed for this thesis on 22 September 2019. She joined the Labour Party in her teens and rose to become chair of the Labour Women’s National Council, a post she held in 1983 when she campaigned door-to-door against the insertion of what became the Eighth Amendment. A qualified nurse and psychiatric social worker with deaf people in Springfield Hospital, Tooting, she later became an advisor to Barry Desmond TD, Minister for Health 1982 – 1987.

⁸¹ *Hot Press* 25th April 2018 <https://www.hotpress.com/opinion/at-least-three-irish-women-have-died-as-a-result-of-the-eighth-amendment-says-dr-peter-boylan-22088234> accessed 8th January 2020

⁸² Niall Stokes, editor of *Hot Press* in emails to the author 18th – 27th July 2018

I. FROM THE MID-1960S TO 1975: 'STIRRINGS':

The beginnings of the debate on contraception to the rise of the Catholic lay organisations and the Irish bishops' pastoral letter, *Human Life is Sacred*.

I.1. BACKGROUND: CHURCH AND STATE ENCOUNTER CHALLENGES

Cardinal William Conway was Archbishop of Armagh from 1963 until his death in 1977. In September 1969, he wrote a memo to the Irish bishops in which, while eschewing any alarmism, he warned that changes in other parts of the world including the rise of the 'permissive society', turbulence in the Church after the second Vatican Council, the questioning of Church doctrines, and the role of the news media, could spell danger. Conway believed that new challenges, both to the Church's doctrines and to authority generally, could have a deleterious effect on a new generation of priests and nuns, and on ordinary Catholics. His memo, in the McQuaid Papers at the Dublin Diocesan Archives (DDA/AB8/XV/C/112), was reproduced by permission of Archbishop Diarmuid Martin in John Bowman's book, *Ireland: The Autobiography* as a chapter entitled 'An archbishop on 'the permissive society''.¹

Their effect on a new generation of priests – and nuns and teachers – could be more disquieting in that it would inevitably affect the people also. The effect here of the general loosening of moral standards in the 'permissive society' of Great Britain is difficult to assess. It seems inevitable that it is bound to be having a considerable effect especially on young people. [...] I think it would be wrong to concentrate too much attention on 'protecting' the young people from weakening influences. For one thing, it is simply impossible to shut out news of the permissive society or the turbulence in the Church; for another, the concept of freedom is so strong among young people to-day that an over-concentration on negative policies would be likely to be counter-productive.²

¹ John Bowman. *Ireland: The Autobiography. One Hundred Years in the Life of the Nation Told by Its People* (Dublin: Penguin Ireland, 2016) 284-286.

² Ibid. 285.

However, Conway wrote that he believed there was still a very strong belief in the Catholic faith and acceptance of Catholic views: what he called the Church's 'capital' of belief and practice. From his memo, and from a sermon and interview quoted below, he clearly felt that the Church and its clergy faced no immediate threat to their teaching, or diminution of the laity's obedience to it.

Underpinning all Conway's comments was the essential principle that neither the Church nor its individual theologians could change its doctrines. This was, and is, because the Church holds that its doctrines are divinely ordained and beyond the ability of any human agent to modify.

However, the Cardinal demanded an improvement in the clergy's standard of preaching to counterbalance television's increasingly lively discussion programmes. People, especially younger people, would no longer be 'talked at' in 'cliché-ridden' language.

Conway realised that the Church, by which he meant its authorities, was in competition with the news media, print and broadcast. He made the following four propositions:

1. There is a great deal in the presentation of news and the expression of views about the Church, in Irish newspapers, radio and television, which could be fairly criticised.
2. It is very difficult to measure the effect of this on the people. Specifically, it does not seem to be having a very great effect.
3. There is a dearth of competent people who are willing to answer unfair criticism or criticise unfair presentation. I believe it should be possible to do something about this. There are plenty of balanced priests and laymen in the country who can write a good letter to the newspapers. The problem – and it is a considerable one – is how to secure that this will happen without creating a furore about a Hierarchy pressure-group.
4. With regard to RTÉ, I find it hard to see why the authorities should not be prepared to listen to the advice and comments of a competent Catholic Advisory Board. It would be important, of course, that such a Board should

be open and positive in its approach and moderate and balanced in its criticism.³

Conway never succeeded in getting a Catholic Advisory Board at RTÉ. Shortly after his memo to the hierarchy, the ranks of RTÉ producers, reporters and journalists were expanded. Most of these were graduates, many inspired by those who challenged power structures elsewhere - taking to the streets in Paris, Chicago, Derry and Dublin itself. Applying for positions advertised by RTÉ, successful applicants found themselves on training courses longer and more intensive than RTÉ had conducted in the past.

As Peter McGuire recently pointed out in the *Irish Times*, 1968 was the year when students at University College Dublin mounted a series of protests in support of their critiques one of which was that UCD was a 'Catholic academy masquerading as a university'.⁴

I.2. CURRENT AFFAIRS GETS TOUGH AND GOVERNMENT REACTS

Founded in 1960, Telefís Éireann began broadcasting on 31st December 1961. Its creation had passed through several phases, as the author Robert J. Savage of Boston College details in his history, *Irish Television: The Political and Social Origins*⁵ and in RTÉ's *TV-50: Battle Station* series⁶ on which Savage advised and in which he appeared. In his chapter, 'The Department of Finance, León Ó Broin, and The Television Committee'⁷ he stated that Government policy from the outset had been that a new television station should be answerable to Government but be self-financing. The then Head of the Department of Posts and Telegraphs, seen as the lead ministry in the Lemass era, was Leon Ó Broin, an admirer of the BBC and a believer in public service broadcasting. He ensured that Ireland's fledgling television service would not follow the North American television model, owned and operated by commercial interests and

³ Ibid. 286.

⁴ 'The Legacy of UCD's 'gentle revolution' by Peter McGuire, *Irish Times*, 30 October 2018.

⁵ Robert J. Savage, *Irish Television: The Political and Social Origins* (Cork: Cork University Press, 1996).

⁶ 20120723.

⁷ Ibid. 43-58.

supported entirely by advertising. Ó Broin persuaded the Government to accept the principle of a state-owned and operated public service. The new service was to be funded by licence fees paid by television owners (collected by the Department) and from advertising revenue. It was governed by the Government-appointed RTÉ Authority until the formation of the Broadcasting Authority of Ireland in 2009.

In a later book, Savage describes this hybrid thus:

That television in the Irish Republic was established as a hybrid, a commercial public service: that is, expected to pay its own way while informing, educating and entertaining viewers – profoundly affected its development throughout the 60s and into the 70s. That is critical to understanding the dilemma that confronted RTÉ. From the outset, officials responsible for broadcasting understood that the new television and radio service had to sustain itself financially if it was to remain free of direct government control. This burden compromised the medium's public service role and was a tremendous source of frustration to many who wanted to use the medium to inform, educate and entertain viewers.⁸

In the first five years of its existence, the new station had set up both *The Late Late Show* and *Seven Days* (rebranded in 1967 as *7 Days*). While these did not set out to challenge church, state and other constituents of the Irish establishment, they provided opportunities for an increasing number of those who did. Its public service remit was an essential part of the RTÉ staff's sense of self, mission and duty towards Irish society. A new breed of programme-makers, described in more detail in 1.3, began to challenge Government policies and Church teachings previously faced with little challenge. And this was being done on Telefís Éireann - an organisation, whose place, some in Government held, was that of an organ of the State.

The Church found some of its teachings in dispute, especially those under the general heading of 'sexual politics'. This was a new experience in Ireland; it had evolved over a comparatively short space of time.

⁸ Robert J Savage. *A Loss of Innocence?: Television and Irish Society, 1960-72* (Manchester: Manchester University Press, 2010) 384.

The development of RTÉ editorial staff's outlook did not take place in a vacuum. British television networks had been adopting increasingly rigorous approaches to current affairs. Stations like BBC Northern Ireland, UTV and Harlech (Wales) were accessible to Irish viewers (principally on the east coast). The BBC's weekly *Panorama* series developed investigative broadcast journalism and vigorous interviewing techniques exemplified by Robin Day, perhaps its most famous presenter. BBC also produced the weekday *Tonight* series, hosted network, ITV, also accessible to Irish viewers, transmitted *The Frost Programme*. David Frost in the 1960s had developed an aggressively searching interview technique epitomised by his exposure of Emil Savundra, later convicted of insurance fraud. So devastating was Frost's treatment of Savundra that the programme was dubbed 'trial by television'; questions were raised as to whether Savundra could get a fair trial following his arrest not long after the broadcast.

I.3. NEW GENERATION OF PROGRAMME MAKERS IN RTÉ; *HUMANAE VITAE*

An early point of conflict between the younger generation and the Church was the Vatican's publication of the papal encyclical, *Humanae Vitae*, stating that:

Direct interruption of the generative process already begun and, above all, all direct abortion, even for therapeutic reasons, are to be absolutely excluded as lawful means of regulating the number of children. Equally to be condemned, as the magisterium of the Church has affirmed on many occasions, is direct sterilization, whether of the man or of the woman, whether permanent or temporary.' ⁹

Deliberately contraceptive sexual intercourse was described in the encyclical as 'intrinsically wrong'.¹⁰

⁹ Paul VI. *Humanae Vitae*, 2:14.

¹⁰ Ibid.

In 1975 the 'Archbishops and Bishops' of Ireland wrote a Pastoral Letter, *Human Life is Sacred*, which unequivocally endorsed the teaching of the Encyclical.¹¹

While RTÉ itself did not set out to challenge the Church, during the 1960s it had attracted a number of young, Catholic and non-Catholic, mainly university-educated men and women as programme personnel, journalists and producers across the News and Programmes Divisions. Robert Savage described them as being determined to use the medium:

...to hold institutions accountable. Many were idealists hoping to exploit the public service remit of Irish television to pose difficult questions about the past and present in an attempt to improve the future. As the decade progressed viewers were exposed to increasingly sophisticated indigenous broadcasts providing greater access to information concerning social, political and cultural issues. This enhanced a growing sense of openness in Irish society and a gradual trend towards secularisation as the medium began to undermine the influence of the government, churches and a host of cultural and political organisations.¹²

The programme series which followed included the *Late Late Show*, *Division* and *7 Days*. These provided platforms for all sides in whatever political, religious or other controversy happened to be current, where such platforms had not existed hitherto. The new current affairs series as products of the RTÉ Programmes Division were then quite separate from the News division in terms of organisation, management and general outlook.

Writing in 2004, Professor John Horgan described the rise of the new television current affairs programme strands with their 'structural analysis' rather than 'classical journalism' approach. While classical journalism, as practised by the staff of the RTÉ newsroom, simply reported the events of the day, the structural analysis approach aimed to present new stories, make revelations, pose often difficult questions and sometimes set a political agenda. While many of the newsroom staff had come into RTÉ from the print media, many of their opposite numbers in TV current affairs had arrived directly from the universities or other professions, such as

¹¹ Irish Catholic Bishops. *Human Life Is Sacred: Pastoral Letter of the Archbishops and Bishops of Ireland to the Clergy, Religious and Faithful. Complete Text with Introduction and Guidelines* (Dublin: Veritas Publications, 1975).

¹² Savage, *Loss of Innocence*, 384.

teaching. Some of the early *7 Days* programmes exhibited an aggressive approach new to Irish broadcasting wherein lay the potential for conflict with certain groups across the Irish establishment:

The two largest potential targets for structural analysis and criticism were both very powerful, and dangerous if attacked. They were Fianna Fáil, which had been in government as a single party for the best part of ten years, and the Catholic Church, which had been around for rather longer. John Horgan notes:

In this broad general context, it is hardly surprising that the political establishment saw the newer breed of broadcast journalist as a threat – a threat which was all the more dangerous, and difficult to deal with because it did not simply involve disadvantaging one of the mainstream political parties in order to advantage its rivals, but advanced a new framework of analysis completely.¹³

Peter Feeney, Horgan's successor as Press Ombudsman was, like Horgan, a product of RTÉ television current affairs, having joined the organisation in the 1970s. He also contributed to the expansion of TV current affairs, originating *Hanly's People* with David Hanly and *Questions and Answers* with Olivia O'Leary and later John Bowman. Then followed *Marketplace* with Pat Kenny. He also produced the *Late Late Show* and documentaries. Later in his career he became, successively, Head of Current Affairs TV, Head of Millennium Programming, FOI Officer for RTÉ, and Head of Broadcasting Compliance, which post he held at his retirement:

Feeney: I think the people who joined RTÉ as producers and researchers, etcetera, in that period, were people who felt that they were there to challenge the establishment. And I think the establishment ... would have included (the) Catholic Church, established values, the kind of hierarchal structures in society even the political parties. And there was a period where there was a move from a very deferential society towards a less deferential society.¹⁴

¹³ John Horgan. *Broadcasting and Public Life: RTÉ News and Current Affairs, 1926-1997* (Dublin: Four Courts, 2004) 51.

¹⁴ Peter Feeney, interviewed for this thesis, 10 January 2018.

The impact of the *Late Late Show* from its first transmission in 1962 would be hard to measure. Its producer and presenter was Gay Byrne, neither a graduate nor one who had transferred to broadcasting from one of the professions. Byrne has always denied that he sought to influence public opinion. In his book, *To Whom it Concerns*, published in 1972,¹⁵ Byrne said that he believed television, and perhaps the *Late Late Show* in particular, had helped to open up many areas of discussion in Ireland which formerly were never considered suitable for discussion:

Feeney: And that obviously brought conflict, it brought conflict with the Catholic Church in particular, because the Catholic Church was used to being responded to with respect and being deferred to.¹⁶

Among the younger, well-educated and radically minded new people joining RTÉ in the 1970s was Betty Purcell whose career as a radio, and later television producer began in *Women Today*. The political and educational mix of new intakes contrasted with many of the earlier recruits:

We weren't all upper class the way most of the radio cohort who were already *in situ* were. They were quite middle class. A lot of them would be Irish language speakers and, you know, kind of senior and serious people so we had a different energy about us being young. I would say that there were a number of us who had radical and socialist ideas in general terms and, you know, we possibly naively thought that we were going into radio and we were going to change the world from radio. But I do remember when I was recruited myself, Michael Littleton who was on the interview board pushed across the interview (table) at me a picture of me speaking at a Socialist Labour Party meeting in favour of contraception.¹⁷ He said to me 'is that you? And I said 'yes', and he said, 'you realise this will have to stop?' And I said 'yes, you know, I've read the Broadcasting Act and I know that the views that I have will not be able to be brought into the organisation as an agenda'. But I said 'nevertheless I will be straight with you, I do have views and I do have political

¹⁵ Gay Byrne. *To Whom it Concerns* (Dublin: Gill & Macmillan, 1972).

¹⁶ Peter Feeney interview.

¹⁷ The late Michael Littleton held several leading positions in Radio Éireann, later RTÉ Radio, including head of Features and Current Affairs.

views and I believe quite strongly in change in society, policy, socio-economic change and I won't be parking that at the door, but I will be trying to be fair which I understand is what the Broadcasting Act requires of me'.

Question: Did you also say, 'if I get a chance, I will be doing programmes on this issue?'

Purcell: Not specific issues, not specific issues but I did say I would definitely be wanting to do programmes that would change society.¹⁸

One of the new techniques Purcell and her colleagues envisaged for *Women Today* was to use live phone-in or phone-out segments so as to bring ordinary people from poor areas, trade union activists and others to explore poverty, labour and other issues focussing on women but rarely ventilated in this way:

It was the technique of using phones to allow ordinary people a voice that they had not up to then. There had been an awful lot of talk on subjects by experts. But for instance, on *Women Today*, one of the very early programmes that I did was on women's sexual problems, and we got a number of women who spoke on air ... and they talked very poignantly and very graphically about things like not being able to have orgasms, you know, painful sexual intercourse.

Question: Looking back would you still regard yourself as having been a crusading journalist?

Absolutely. I mean there's no doubt looking at the trajectory of my career, I mean I was very lucky that my first job in RTÉ was on *Women Today* and I was there for many years. And that was an absolutely campaigning programme.¹⁹

As Peter Feeney observes, a clash with the Catholic Church was inevitable, since the majority church was used to deference. However, deference to establishments was not something the younger breed saw as part of their role. To them, their job was to provide a platform for others to examine, challenge and call to account. They saw it as providing a service to an

¹⁸ Betty Purcell, Retired RTÉ Producer/Director, interviewed for this thesis on 29 January 2018.

¹⁹ Ibid.

audience so far deprived of the type of forthright and occasionally aggressive current affairs programmes such as the BBC Television's *Panorama* and Granada's *World in Action* series. Where the BBC had star interviewers like Sir Robin Day, RTÉ were to have Brian Farrell on the television side and Marian Finucane on radio.

John Kelleher, a UCD law graduate with an MA in English and Drama from the University of Louisville, Kentucky, had joined RTÉ in 1970 and was assigned to *7 Days*. Later he became Assistant Controller and then Controller of Programmes. His recollection was of a programme area wherein producer/directors were senior to the journalists with whom they worked. This caused problems as the area had some who were very politically aware but others who were not:

The journalists were, by and large, well-qualified journalists, whereas they were often working with producer/directors who, as they say, were not in any shape or form politically aware. They had been recruited, possibly, internally. They had been very good camera men. They had been very technical people. Or they had come in from outside and they had been very good in their field, but they were not necessarily politically acutely aware journalistically. So, that created a problem because you had people making decisions who were not necessarily clued into what was the prevailing current affairs agenda, if you like. And it was potentially dangerous for RTÉ and mistakes were made.²⁰

In 1976, the twice weekly *7 Days* programme was dropped and replaced by *Tuesday Report* and *The Politics Programme*. The latter was edited by Kelleher and was transmitted on Fridays with a mix of studio input and filmed reports. It could also review any major politically charged stories of the week. Kelleher became convinced that coverage could not be provided adequately by RTÉ with only one reactive current affairs programme per week.

Meanwhile, the calibre of the current affairs producer/director intake was becoming stronger. Some of the 1970s graduates in current affairs TV had come from newspapers or periodicals in a recruiting drive by RTÉ. Michael Heney had reported on education for the *Irish Times* and

²⁰ John Kelleher, independent television and film producer, formerly Assistant Controller (1978-1980) then Controller of Programmes, RTÉ (1980-1983) interviewed for this thesis on 11 January 2019.

Deirdre Younge wrote on politics for *Hibernia*. Heney joined RTÉ as a reporter on *The Frontline*. He later became a producer/presenter on *Today Tonight*. Younge first produced programmes on *The Frontline*, which had replaced *The Politics Programme*, and later *Today Tonight*. Following a rigorous panel interview, new producer/directors were placed on a nine-month training course. Some, especially those destined for current affairs TV, joined a group of people who had begun to challenge several Irish establishments including, as John Horgan points out, the Catholic Church and the main political parties.²¹

Peter Feeney commented:

I remember, for example, having discussions with Jack Lynch where he expressed his frustration at where RTÉ was going and he saw RTÉ as somehow undermining structures of government and yet, at the same time, he acknowledged that broadcasting should be independent. So, there was a sort of a tension there.²²

Feeney described those whom Horgan called the ‘new breed’ as ‘feisty’ and ‘opinionated’. But did this mean that the newcomers were entering an organisation with a pivotal role in the Irish public forum at a most sensitive period carrying with them ideological baggage?

On the issues of Northern Ireland there was huge baggage. There was a huge ideological struggle in RTÉ about how we’d respond to what was happening in Northern Ireland. And it was emerging from a period of where there was such a widespread acceptance of the nationalist narrative into challenging that narrative and this whole sort of thing about the Stickies and Provos and Hushpuppies and all the rest was part of a lengthy and at times quite bitter debate about Ireland and about its relationship with Northern Ireland and our understanding of Northern Ireland.²³

Betty Purcell’s views were similar:

²¹ Horgan, *Broadcasting and Public Life*, 147-150.

²² Peter Feeney Interview.

²³ Ibid.

I would say that particularly when we came to discussions on the North, I would have definitely been more radical than 95% of the people who were in the Radio Centre in their views on the North. You know, like I remember raising the issue of the Birmingham Six way back and being decried at a meeting for that, for saying that possibly that the verdict was unsafe. ²⁴

Questioned by the author about religious affairs, Feeney responded:

When it comes to religious matters, I think it was much more general, there was – within the Catholic Church there was a move towards being more challenging anyway. And this was sort of picked up on ... But I didn't have a sense that it was driven by strong views, other than that broadcasting likes the anti-establishment position because it makes for livelier programmes ... It kind of suited the mood of the time. ²⁵

Q. In *Response*, the newsletter of the Responsible Society, the editor, John O'Reilly, specifically refers to RTÉ being very anti the pro-life movement in 1983. Would you say he's correct in that analysis?

Feeney: My impression was that the pro-life movement ... spent a lot of time looking for examples of bias in RTÉ and pointing out what they saw as bias. And from a broadcast perspective we would look at what they said was biased and say, 'No that's not biased, that wasn't biased, that was factual'. In hindsight, it's easy enough to look at it and say well actually RTÉ was on the liberal side and I think probably it would be fair to say that is the case, it reflected the generation that was the driving force within programme making. ²⁶

However, there was an impression among some radio and television programme makers that RTÉ management was sensitive to criticism from the Catholic Church and the growing, mostly Catholic pressure groups. This sensitivity was such that management requested that Pat

²⁴ Purcell interview.

²⁵ Feeney interview.

²⁶ Purcell interview.

McInerney, a radio producer who was also a Catholic priest, sit in on *Women Today* programme meetings, as Betty Purcell remembers:

He didn't really speak but I presume he was notetaking for senior management who were concerned because they were getting a lot of complaints about *Women Today*, so this was a way in which I suppose he was working for the organisation to make sure that there was no mad radical agenda being promulgated at meetings.

Q: How did your seniors present that to you? Did they say, 'look, Betty, we're going to have to send one of your colleagues, who happens to be a priest, in to make sure that you don't get out of line'?

Purcell: It wasn't put in exactly that way. It was just we were told that there was a lot of pressure on about the social agenda and complaints from the Catholic Church up in the organisation, up at the senior levels in the organisation, both Authority level and at editorial Board level.

Q: What kind of complaints?

Purcell: Complaints that we were pushing an agenda that was immoral, that was anti-Catholic, that was not fair to traditional women, that was not representative of ordinary women in Irish society. So, it was, that was the kind of complaints and I know myself from looking at records of the editorial board, which I have documented in my book *Inside RTÉ*²⁷, that, you know, the hierarchy itself in the person of Bishop Brendan Comiskey made a lot of representations to the information officer was the title of the person in senior management who had to liaise about fairness with the public.

Q: And this would have been in the early 1980s, would it?

Purcell: It would have been in the 1980s, early.

Q: Coming up to the 1983 (Eighth Amendment) referendum?

Purcell: In particular around that time.

²⁷ Purcell, *Inside Rte: A Memoir*. 52.

Q: And afterwards the divorce referendum?

Purcell: Exactly. So, I think in all of that, we, you know, we were, I suppose, feeling fair to management ourselves, you know, and when it was suggested to us that Pat McNerney would be keeping a watching brief on us for a while, we just said that's okay. Because in a way we had nothing to hide. In fact, we had nothing to hide. Because most programme ideas were thrashed out in a fairly heated way, you know. There was no way that we were all sitting there, conspiratorially coming up with ideas and ...

Q: There wasn't group think?

Purcell: There wasn't group think, no. There was a variety of views around the table and I suppose there would have been a couple of us who would have been more radical and more in tune with what was going on in the women's movement outside, having been formerly members of same and founder members of same, so, you know, but I mean, for instance, Claire Duignan was one of the producers on the programme and Claire would have had a far more conservative view and sometimes she'd prevail and sometimes I'd prevail or, you know, it went like that.²⁸

The *Late Late Show* series lay within the light entertainment section of the Programmes Division. Uniquely, within the organisation's programme production structure, its presenter, Gay Byrne, was also its producer. This gave him wide latitude in which to experiment with the *Late Late* format. From an early stage in the evolution of the series, he mixed showbusiness with serious discussions on topics of the day. He arranged panels, sometimes including individuals who could be counted on to add controversy such as Ulick O'Connor, Mary Kenny and Brian Trevaskis. He also encouraged audience participation where controversial topics were being discussed. Saturday night audiences thus became quite familiar with, and interested in, televised confrontation. The show's popularity was reflected in the series' TAM ratings (television audience measurement).

²⁸ Ibid.

The popular projection in some media of Catholic Irish life in the decades since independence is of an unrelentingly grim, 'priest-ridden' society wherein all the troubles afflicting its people may be laid to a greater or lesser extent at the door of the majority church. However, recent popular perceptions do not take into account the findings of a research project undertaken in Ireland in the early 1960s by the American Jesuit, Bruce Francis Biever. Biever studied attitudes towards the Catholic Church and its teachings among both Irish-American Catholics and native Irish Catholics. In Ireland, he conducted an opinion poll of just under a thousand Catholics, many of whom he later interviewed. He found his Irish survey population largely at ease with their church. Interestingly, Irish-American Catholics were far less likely to accept the Church's teaching on birth control than were native Irish Catholics.

As he worked on his study, Biever did find a cohort of young, discontented native Irish Catholics, whose dissatisfaction with the Church might, he felt, become problematic unless the Church took some steps to recognise disaffection and seek remedies.²⁹

Biever, writing in 1965, could not have anticipated it, but the publication of *Humanae Vitae* in 1968 resulted in a wellspring of discontent across the Catholic world. In Ireland, upon its publication, Catholic bishops were available to lend support to the Vatican statement. One of the first to do so in an RTÉ News interview was Most Reverend Dr Thomas Morris, Bishop of Cashel and Emly. He admired the courage and decisiveness of Pope Paul VI, remarking that 'he won't draw the applause' for banning all methods of contraception including *coitus interruptus* and the condom.³⁰

Large numbers of women in Ireland simply ignored both church and state. An episode of RTÉ's *The Politics Programme*, transmitted in 1977, nine years after the publication of *Humanae Vitae* and two years after *Human Life is Sacred*, quoted pharmaceutical companies and reported that some 60,000 women were 'on the pill':

²⁹ Bruce Francis Biever, *Religion, Culture, and Values: A Cross-Cultural Analysis of Motivational Factors in Native Irish and American Irish Catholicism* (New York: Arno Press, 1976, 1965)

³⁰ 19680729.

We set out to discover exactly what access there is in Ireland today to various forms of contraception. There are many different kinds: from the ordinary condom or sheath to various creams and spermicides, the intrauterine device or IUD, and the pill, the best known. The drug companies tell us that 60,000 Irish women are on the pill. That's ten percent of the 15 to 45 age group. Paradoxically, virtually every chemist shop in the country stocks it. But how did this happen? It's a contraceptive and surely, it's illegal to sell contraceptives. But the pill, of course has other properties.³¹

On *The Politics Programme*, reporter Michael Heney stated that doctors admitted to a practice whereby the ban on contraception could be circumvented by prescribing the contraceptive pill as a menstrual regulator.³² The contraceptive drug Ortho-Novin was available in Irish pharmacies at the time as a menstrual regulator rather than as a contraceptive. However, Heney pointed out that the prescribing guide for medical practitioners listed the drug as a contraceptive, with no mention of menstrual regulatory properties. The drug manufacturer had another product, Ovysmen-Ortho, listed in the same guide, specifically for menstrual regulation. The company, Ortho, told *The Politics Programme* that Ortho-Novin was not a menstrual regulator and that the drug was actually too weak to fulfil such a function. It was a contraceptive, pure and simple. The commercial reality was that, were it to be advertised as a contraceptive, it would not get a license in Ireland and could not be sold.³³

Heney's findings beg the question whether doctors knew that what they were prescribing was a contraceptive. It is highly unlikely that medical professionals would have been ignorant of what these medications actually were and that suggests that the doctors prescribing for the 60,000 woman mentioned above had little interest in Church or State laws and considered their first concern to be for the needs expressed by their patients.

The separation of sex from procreation was anathema to the Irish Catholic Church. Cardinal Conway was quick to confront developments in sexual politics. Even though *Humanae Vitae* was not an *ex cathedra* statement invoking papal infallibility, Conway copper-fastened its

³¹ 19770311.

³² Ibid.

³³ Ibid.

status within the teaching of the Church as binding upon Catholics in a sermon filmed by RTÉ News:

This teaching is authentic and binding, not as a mere human opinion or point of view, but as the clear voice of the Church speaking once again through the Vicar of Christ, that Church to which Our Lord said, 'he that heareth you heareth me'. I have no doubt that it will be accepted as such by the vast majority of our people. Some will accept it with pain, and no one is more sensitive to that than our Holy Father himself. He appreciated painfully that for some it will pose profound human personal problem. Others will receive the teaching of the Encyclical with gladness or relief. But whether with pain or gladness I believe that the great majority of our people will accept it not just in a spirit of loyalty but above all in a spirit of faith remembering Our Divine Lord's words: 'thou art Peter and upon this rock I will build my church'. In the name of the Father and of the Son and of the Holy Ghost, Amen.³⁴

Although the Cardinal's remarks were not couched in coercive or demanding language, it was clear that the Church expected obedience from its flock.

The following October, Conway gave an interview to the late Kevin O'Kelly, then RTÉ's religious affairs correspondent. In the interview, Conway criticised the print news media's coverage of the discussion over contraception and *Humanae Vitae*. There had been, as yet, no criticism or debate about *Humanae Vitae* on Irish television. An interview with the Cardinal by Kevin O'Kelly, RTÉ Religious Affairs Correspondent, focused on how people would accept the intellectual arguments contained in the encyclical if they studied it carefully. However, the Cardinal, without specifying any particular organisation, was critical of discussions on *Humanae Vitae* in the press:

O'Kelly: Given the language of the times, Your Eminence, is it fair to describe this as a moderate statement?

Conway: It's a reasonable statement. It's a calm statement and although the word is almost a cliché one could say it's a reasonable and compassionate statement.'

O'Kelly: There will be intellectual difficulties about this?

³⁴ 19680804.

Conway: (I) recognise that some people will not find the internal argument intellectually convincing. You have to read it more than once.

O'Kelly: But the difficulties of the ordinary faithful?

Conway: It is not an intellectual difficulty. Living a Christian life is hard.

O'Kelly: There is much talk that this has generated a crisis in the Catholic Church. In the Irish context do you think this is true and do you think it is a good or bad thing?

Conway: It has created a serious situation.... not panic stations.... not a crisis in that sense. But it is a very significant event in the life of the Church. There's no doubt about that.

O'Kelly: Is discussion a good thing?

Conway: I'm not happy about the way these discussions sometimes percolate through to the newspapers and the news media generally. I have the impression reading letters in the newspapers and hearing things generally a lot of this stuff is simply riddled with non-events, non-facts, non-sequiturs and so on. If the discussion were based on reality of what the encyclical says, then I think it's excellent. But you know I have the feeling that a great deal of the world now is living by myths and there is this gap between reality as projected by the news media and reality as it exists. So that discussion, yes the kind of.... I'm almost tempted to say, yes, phoney discussion that one sometimes hears.

O'Kelly: And beware of it?

Conway: Well be aware of it.³⁵

The Catholic attitude, as reflected by Conway, seemed to be that while the Church did not seek to control the public discourse as it appeared in the media, it wanted a bigger part in it. Conway was not challenged to consider the plight of women who, having no recourse to birth control, found themselves in a state of near-constant pregnancy, let alone women who had been impregnated by rape. However, when asked whether discussion of the encyclical was a good thing, he dismissed much of what he was aware of in the newspapers, including letters to the editor, as 'phoney'.³⁶

³⁵ 19681009.

³⁶ Ibid.

The contraception controversy prompted little action until late 1970, when Mary Robinson (née Bourke), elected to the Seanad by the University of Dublin, announced a challenge to the legal framework banning the importation, sale and advertisement of contraceptives. In an RTÉ current affairs programme, *7 Days*, she said it was not, nor ought it to be, a legal problem; it was a moral, medical and personal problem. She proposed to bring forward a short technical bill which would repeal Section 17 of the Criminal Law Amendment Act (1935) which made it a crime to sell or have for sale or to advertise contraceptives, and which also designated contraceptives as prohibited goods under an earlier customs consolidation act. She wanted to repeal sections of the Censorship of Publications Act (1946) which banned books about family planning or contraceptives generally.³⁷

Even though Bourke's bill did not get a reading in the Seanad, the contraception issue was forced onto the political agenda the following year, 1971. Taoiseach Jack Lynch, at a press conference on his return from New York, was asked whether contraception should be simply a matter of private morality:

Lynch: There are methods of private morality and public morality and this is one of the things that has to be considered in the context of which is private, and which is public morality.

Kevin Healy, reporter, RTÉ: Do you personally regard it as one of private morality?

Lynch: Yes, to a large extent it is. It must be remembered that the law in relation of contraceptives prohibits the exposure for sale and the importation and beyond that it is a matter for a person's conscience.³⁸

Although Lynch was articulating what amounted to no more than a statement of the Irish legislative position, here was a Taoiseach delivering what some saw as a challenge to the clear teaching of the Catholic Church. A week after Lynch's comments, the Archbishop of Dublin, John Charles McQuaid, delivered what John Cooney called, in his biography of McQuaid:

...a theological Exocet that launched what was to be a 25-year 'moral civil war' between the Hierarchy and the legislature on matters of public and private morality.

³⁷ 19701208.

³⁸ 19710321.

If legislation were to be passed which 'offended the objective moral law', he warned, 'it would be, and would remain a curse upon our country.' To speak of a right to contraception on the part of the individual, be he Christian, non-Christian, or atheist, is to speak of a right that cannot even exist. ³⁹

Soon after the Archbishop's denunciation of so-called contraception rights, RTÉ's Rodney Rice travelled to Enniskillen to report on contraception there for *7 Days*. ⁴⁰ Rice sought Catholic and Protestant views in what he described as a small, equally divided, conservative country town. In the town were three Protestant-owned chemists who sold contraceptives over the counter and four Catholic-owned shops which did not. However, and paradoxically, the Catholic pharmacies dispensed the contraceptive pill but only on foot of a prescription and because they were obliged to do so by Northern Ireland regulations. Rice interviewed young and older people in Enniskillen in an unsuccessful search for signs of rampant promiscuity linked to the availability of contraceptives. While Rice did not deliver a final comment at the end of his report it was clear from the content that the apparent ease of access to contraception in Enniskillen did not seem to have resulted in moral turpitude. On the other hand, Rice's jokey approach to the story might not have appealed to some Southern viewers. He concluded his report with a tongue-in-cheek and obviously pre-arranged sequence. He drove up to a smiling customs official on the Republic side of the border and declared the contraceptives which he had bought in one of the Protestant shops. The official obligingly told him he could not bring them into the country. 'Not even for personal use?' asked Rice. 'No. Not even for personal use', came the response.

I.4. THE CONTRACEPTIVE TRAIN

Less than two months later, on 22 May 1971, and again taking advantage of the availability of contraceptives across the border, an event occurred which had the effect of holding Ireland's contraception legislation up to further ridicule. Members of the Irish Women's Liberation Movement (IWLM), including two well-known journalists and activists, Nell McCafferty and June Levine, travelled to Belfast to purchase various types of contraceptive and bring them

³⁹ John Cooney, *John Charles McQuaid: Ruler of Catholic Ireland* (Dublin: O'Brien Press, 1999) 420.

⁴⁰ 19710406.

back to Dublin as an act of defiance of the law. RTÉ News travelled with them and reported the event showing the women crowding into a chemist shop in Belfast, making their purchases, being handed packets of contraceptives and paying for them. On returning to Dublin, aboard what the media gleefully dubbed *The Contraceptive Train*, the women were met at Connolly Station by demonstrators with welcoming placards and confronted by customs officials:

Crowd chanting: 'Let them through!'

Crowd pushing barrier; woman refuses to hand over her bag to officials; crowd chanting; triumphant contraceptive purchasers leaving station.

Pat Ledwith (IWLM): Well I bought a packet of Durex and a contraception pill which I have here and nobody asked me for them [at customs] when I said I had them, they let me through, they weren't interested [she waves a box of condoms and a white tablet to camera].

Eddie Barrett (reporter): Did they make any comment at all?

Ledwith: Nothing.

Barrett: Had you expected this sort of reaction?

Ledwith: Not really, no, I thought that, you know, seeing as it's supposed to be against the law that they would sort of take them from me.

Barrett: What are you going to do now?

Ledwith: Well (smiles) I don't know yet.

(High angle close-up of woman [most likely to be MAIRIN JOHNSTON] argues with customs official who wants to take her bag and (she) refuses to hand it over.)

WOMAN: I have got that as well and I am not giving it to you. It's jelly. You're not getting it.

CUSTOMS OFFICIAL: Would you mind putting up your bag please?

WOMAN: No, you are not getting it. I refuse to give it to you. ⁴¹

⁴¹ 19710522.

The 'Contraceptive Train' episode was a very public act of defiance and followed an unsuccessful political initiative to amend the law the previous March.

I.5. THE MCGEE CASE

In 1973, the Supreme Court ruled that Mrs Mary McGee's privacy, as a married person, was infringed by the State's contraception laws. The case and its background, socially and politically as well as legally, has been thoroughly documented, most recently, by Ruadhán Mac Cormaic in the chapter, 'McGee v. Attorney General', in his book, *The Supreme Court*.⁴² He describes how Mary and Séamus McGee, having had four children, including twins, decided not to have any more because Mrs McGee had developed a form of blood poisoning during her first pregnancy. During her second pregnancy, she had symptoms which her local general practitioner, Dr James Loughran, diagnosed as signs of a stroke. She was rushed to the Coombe Hospital, where she gave birth to her child. Some months later Mrs McGee and Dr Loughran discussed her health. The GP advised her not to become pregnant again. McGee declined oral contraception on religious grounds but agreed to a diaphragm. Before it could be fitted, she became pregnant again with twins, gave birth and, in the process, became dangerously ill.

Loughran fitted McGee with a diaphragm and gave her a prescription for a spermicidal jelly which, he told her, could be obtained from the International Planned Parenthood Federation in London. Mac Cormaic cites Irish law at the time under which it was legal to manufacture (and not illegal to possess or use) contraceptives in Ireland, but it was illegal to offer, sell, advertise or import them. Customs officers seized the package and served notice of this to the McGee's. Mrs McGee appealed on health grounds to the Revenue Commissioners. Dr Loughran sent the Revenue a certificate that his patient had cerebral thrombosis and that she had an urgent health need for the spermicidal jelly. The Revenue Commissioners dismissed the appeal, citing the Criminal Law (Amendment) Act 1935 and forwarded Mrs McGee's letter to the Department of Justice.⁴³

⁴² Ruadhán Mac Cormaic. *The Supreme Court*, (London: Penguin, 2017).

⁴³ Ibid. 158-160, 170-171.

Loughran was a founding member of the IFPA which is, in turn, affiliated with the international organisation Planned Parenthood. The IFPA openly operated a clinic in Dublin at the time Loughran was treating Mary McGee. McGee asked him what she could do, since she feared that she could be prosecuted. She also felt that this was a private family matter that caused hurt to no one. Loughran put her in touch with a solicitor, Dudley Potter. Following consultations, Potter wrote to the Attorney General to say that he had begun legal proceedings to have the Act declared unconstitutional.

Mac Cormaic provides extensive detail in his chapter, *McGee v. Attorney General*, on the process whereby Mary McGee reached the Supreme Court and prevailed in her case before it. On 19 December 1973, the Supreme Court decided by a 4-1 majority that the Criminal Law (Amendment) Act 1935 breached Mary McGee's right to marital privacy as enshrined in Article 41 of the Constitution.⁴⁴ The McGee judgement was to become such a concern for those who feared for Ireland's moral architecture that it became one of the factors inspiring the move to insert a complete abortion ban in the Constitution.

In the prologue to his memoir, *Your Earth*, James Loughran recalls hearing the news of the Supreme Court ruling as he returned to Ireland from a University of Hawaii symposium on menstrual regulation. He had been invited by the International Planned Parenthood Federation in recognition of his work on behalf of the McGees:

... seeing Mary's win headlined in the Honolulu Advertiser on the return flight to Los Angeles was a complete surprise. No matter that the Hawaiian reporter assumed this meant contraceptives would now go on sale in Ireland – alas, it did not; yet affirming Mary's right to import contraceptives for personal use made world news, even highlighted on neon tickertape at New York airport! She and her husband Seamus were now famous after a two-year battle with the Irish state.⁴⁵

The FG/Lab. Coalition's attempt to legislate for the Supreme Court's judgement in *McGee v. Attorney General* foundered when Taoiseach Liam Cosgrave TD (FG), joined others in voting

⁴⁴ eISB. *Constitution of Ireland*: <http://www.irishstatutebook.ie/eli/cons/en/html>. Accessed 15 March 2017.

⁴⁵ Dr James Loughran. *Your Earth*, 2. (Memoir in preparation, quoted by permission of its author).

down his own government's Control of Importation, Sale and Manufacture of Contraceptive Bill 1974.

In an interview with *The Politics Programme*, Mary McGee stated that the Eastern Health Board continued to refuse her the medical contraception she had been prescribed, even after the Supreme Court decision.⁴⁶

In 1979, the then Minister for Health, Charles Haughey, brought in the Health (Family Planning) Act which enabled married couples with a prescription to obtain contraception. Haughey's legislation aimed to give effect to the Supreme Court's decision in the McGee case and, in his own words, would open no floodgates:

...[it] seeks to provide an Irish solution to an Irish problem. I have not regarded it as necessary that we should conform to the position obtaining in any other country.⁴⁷

As will be seen in 2.2 below, this Act was to draw the opprobrium of the fledgling Responsible Society as a further threat to the values of Irish family life.

Uncertainty and confusion reigned over the issue of contraception until The Health (Family Planning) (Amendment) Act 1985 was brought in by the then Minister for Health and Social Welfare, Barry Desmond TD (Lab.).⁴⁸ This permitted contraceptives to be sold *as* contraceptives, without a prescription, to people aged 18 and over. In the interim many Irish women had no difficulty in obtaining contraceptives.

In his book, *The Second Partitioning of Ireland*, Tom Hesketh cited the United States Court decision in the Griswold V. Connecticut case in the context of the Irish Supreme Court's decision on the McGee case:

⁴⁶ 19770311.

⁴⁷ R. F. Foster, *Luck and the Irish: A Brief History of Change C. 1970-2000* (London: Allen Lane, 2007) 43.

⁴⁸ Health (Family Planning) (Amendment) ACT 1985. eISB: <http://www.irishstatutebook.ie/eli/1985/act/4/section/2/enacted/en/html#sec2>. Accessed 18 March 2017.

Perhaps the most significant (identification of a personal right) is the right to marital privacy recognised in *McGee v. Attorney General* in 1973. The Supreme Court in that case was clearly receptive to the United States Court decision of *Griswold v. Connecticut* in 1965, which had also formulated the right to marital privacy. Yet within the short period of eight years, the right to marital privacy in the United States had become a right to procreative privacy entitling a woman to have what, in effect, amounts to abortion on demand.

It was this aspect of judicial activism in Ireland and the parallels which could be drawn with judicial developments in the United States which led many within the pro-life lobby to conclude that the 1861 (Offences against the Person) Act might be challenged. The verdict was too uncertain for the pro-life lobby to leave it to chance.

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That the anti-abortion lobby did not trust the Supreme Court any more than it trusted elected members of the Dáil was evident in debate programmes during the campaign leading to the Eighth Amendment:

Robert Pierse (anti-Abortion solicitor): There are four ways that abortion can come into this country. The first one has already been referred to, that is through a Supreme Court decision and I'd like to ... say that the Supreme Court has already adopted the American right to privacy in the McGee case and it is equally possible that they will adopt and enlarge that right to privacy like they did in America.⁵⁰

In the months following the McGee case outcome, the Fine Gael/Labour Coalition (led by Liam Cosgrave as Taoiseach and Brendan Corish as Tánaiste) felt obliged to introduce legislation in the summer of 1974. The previous November, the Conference of Irish Catholic Bishops had published a statement condemning any proposed legislative change. In it, the Church seemed to embrace two contradictory positions. It sought not to appear to assert that the State was bound to legislate according to Catholic teaching while, at the same time, firmly stating that contraception was morally wrong no matter what the State or its Supreme Court might think.

⁴⁹ *Irish Times*, 22 July 1982, quoted in Hesketh, *The Second Partitioning of Ireland?* 4.

⁵⁰ 19830310 A & B.

The question at issue is not whether artificial contraception is morally right or wrong. The clear teaching of the Catholic Church is that it is morally wrong. No change in state law can make the use of contraceptives morally right since what is wrong in itself remains wrong regardless of what the State says.⁵¹

The Catholic bishops' 1975 pastoral letter, *Human Life is Sacred*, may have been prompted, in part, by the rise of many women's groups in Ireland from 1970 onwards. 1970 was the year of the founding of the IWLM, itself inspired by the rise of the women's liberation movement in the United States.⁵² The IWLM addressed, *inter alia*, the importance of sexuality. Perhaps inspired by the ILWM's success in bringing women's issues into the national discourse, a range of single-issue women's groups sprang up, some demanding the right to safe abortion in Ireland. In her chapter on 'Women, Emancipation and Politics, 1860-1984' in *A New History of Ireland*, Mary Cullen notes that abortion was a taboo subject in the 1970s and that there had been little discussion or support for it in the women's movement. The question of women going to England and Wales for abortions was quietly ignored. She notes that a small 'Women's Right to Choose' group emerged in 1979'.⁵³

I.6. SOAP OPERAS AND MULTI-CHANNEL LAND

In 1974, the contraception issue, hitherto the purview of news, current affairs and the occasional *Late Late Show*, surfaced in the popular weekly soap opera *The Riordans*, written by the late Wesley Burrowes. The series owed much of its popularity, especially in rural Ireland, to its knowledgeable handling of rural issues as well as the personal stories of its characters. The fact that some of the cast had come from rural backgrounds, that it was filmed on a real farm, and the way current agricultural issues were woven into the plot also contributed to its large following. So, when it took up the issue of contraception, it did so compellingly but with a very light touch.

⁵¹ Conference of Irish Catholic Bishops. *Statement on the 1973 Contraception Bill*, 25 November 1973. Reported in full in *The Irish Times*, 26 November 1973.

⁵² Mary Cullen. 'Women, Contraception and Politics' in J.R. Hill, ed., *A New History of Ireland: 1921-1984*, 9 vols., vol. VII (Oxford and New York: Oxford University Press, 2003) 882.

⁵³ *Ibid.* 886.

Two of the main characters were the young couple, Benjy and Maggie Riordan, (played by Tom Hickey and Biddy White-Lennon). In Episode 40, titled *Welcome Home*, transmitted on Sunday 7 July 1974, Maggie visits Owen Howard, the local general practitioner, at his surgery. Dr Howard tells her that her condition is such that any further pregnancies would be extremely dangerous.⁵⁴

Dr Howard: That of course raises the questions of relations between a young couple with a good happy marriage. It isn't my place to advise you on what you should do but any information you need, well, I can give it to you.⁵⁵

The resonance with Mary McGee in the 1973 McGee case could hardly have been missed by the audience. Dr and Mrs Howard, played by Gerry Sullivan and Pamela Mant, were portrayed in the series as a well-to-do, apparently liberal-minded couple; he a Catholic, she a Protestant.

Later in the episode, as Benjy takes a break from a local tug o' war contest, he and Maggie have a conversation. She has been thinking about what the doctor said and has been reading about: 'the different ways, the safe time and all of that.'⁵⁶

Benjy: Yeah. How safe is safe?

Maggie: Well everything the doctor said the other day. It's hard to take it all in. But you see it doesn't make any difference.

Benjy: It makes a lot of difference.

Maggie: Not between us. I'm not going to let it.

Benjy: Yeah but what can we do?

Maggie: There's a new pill. It's the safest yet.⁵⁷

After the tug-o-war Benjy and his father Tom Riordan are seen strolling homewards.

⁵⁴ 19740707.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

Benjy: Listen Dad. I didn't say anything about this before. But, well Maggie's been told she's to have no more children.

Tom: As bad as that. That's hard to hear. She's a grand little girl. You fell on your feet, so you did.

Benjy: I know I did. She was just saying there about.....

Tom: Now look whatever she was saying let it stay between the two of you because it'll have to be a decision for the two of you anyway. And let nobody tell you that it isn't.

Benjy: Fair enough.⁵⁸

In another episode, Maggie discusses her decision to go on the pill with the parish priest, Fr Sheehy. Fr Sheehy advises her to follow her conscience. RTÉ's tackling of the contraception issue in *The Riordans* resulted in a storm of outrage, notwithstanding the fact that it had reflected nothing beyond the Supreme Court judgement on a similar issue a year previously. Helena Sheehan, in her study of Irish television drama, wrote:

Again and again, any hint of sexual transgression on the part of any of *The Riordans* whether Benjy in a compromising position with a woman, before or after marriage, or Jude, a separated woman, having a relationship with a divorced man, was met with a chorus of indignation.

More than once, RTÉ and Wesley Burrowes were accused of subverting the morals of the nation. What really raised the roof was the issue of contraception, when their own much-loved Maggie went on the pill and the much-revered parish priest was implicated in the decision. The moral dilemmas of both Maggie Riordan and Fr Sheehy, to whom she went for advice, were posed with the utmost care. Maggie had just experienced a difficult birth and had been warned against the medical consequences of another pregnancy. Fr Sheehy, despite the rigidity of the church's teaching on the matter, sympathised and advised her it was a matter for her own individual conscience.

It was an accurate reflection of what was going on at that time when younger Catholic women were going on the pill in that spirit and younger Catholic priests were taking that sort of stance, or even going further, in opposition to papal proclamations. It was also an indicator of the progressing Protestantisation of

⁵⁸ Ibid.

Catholicism, expressed in what came to be called 'à la RTÉ Catholicism'. Nevertheless, individual viewers, provincial newspapers and county councils heaped censure upon RTÉ, Wesley Burrowes and everyone connected with propagating, or even acknowledging, such views.⁵⁹

The Riordans, episode 40, was transmitted just ten days before the then Taoiseach, Liam Cosgrave of Fine Gael, crossed the floor of the Dáil without warning to vote with Fianna Fáil, thus contributing to the defeat of the FG/Lab. coalition's contraception bill, introduced after the Supreme Court's decision in the McGee case. It was a reminder that, while elected representatives and, indeed, members of the judiciary, might have a particular view, the Catholic Church had another which could displace it.

It is important to note that Irish viewers were not watching television in a vacuum. By the mid-1970s, the UK soap opera, *Coronation Street*, had an established audience in those parts of the Irish Republic which could receive BBC 1 and 2, UTV and/or Harlech (Wales) as well as RTÉ 1 and RTÉ 2 (when it came on air in 1978). Sean Egan, author of *50 Years of Coronation Street*⁶⁰, observes that sex was 'suddenly nearly everywhere' in the *Street* from 1968. Between 1961 and 1995, *Coronation Street* had 19 divorces, mostly on grounds of adultery, and once on grounds of bigamy.⁶¹

The American soap opera, *Dallas*, which was 'hugely popular in Ireland when it was screened on RTÉ in the seventies and eighties',⁶² featured sex and divorce from the start, and abortion in 1982.⁶³ While abortion featured in a *Coronation Street* story line only once before 1999, contraception, as such, was probably so normal that it never merited a story line.⁶⁴ Viewers in

⁵⁹ Helena Sheehan. *Irish Television Drama: A Society and Its Stories* (Dublin: Raidió Teilifís Éireann, 1987) 160, 161.

⁶⁰ Sean Egan. *50 Years of Coronation Street: The (Very) Unofficial Story* (London: JR Books, 2010) 100.

⁶¹ Corrie Net: The Coronation Street fan website: <http://corrie.net/profiles/lists/divorces.html>. Accessed 17 July 2017.

⁶² RTÉ Entertainment: <https://www.RTE.ie/entertainment/2019/0424/1045497-dallas-star-ken-kercheval-dies-aged-83/>. Accessed 3 February 2017.

⁶³ *Dallas*, Series 6, Episode 2, 15 October 1982: <https://sharetv.com/shows/dallas/episodes/169464>. Accessed 3 February 2017.

⁶⁴ The first episode of *Coronation Street* to have tackled abortion was number 4591 (9 April 1999) when Leanne Tisley was forced by her husband Nick to abort her child:

multi-channel-land following both series may have been somewhat bewildered at the outbreaks of moral outrage which occasionally greeted episodes of *The Riordans*.

I.7. THE IMPACT OF DEREGULATION

Until the mid-90s, there were only two home-grown TV channels in Ireland. Then TG4, the Irish language channel arrived in 1996; with and TV3, the independent commercial station, following in 1998. However, in *The Provision of Irish Television in Northern Ireland: A Slow British–Irish Success Story*, Dr Gareth Ivory, Head of Audience Research at RTÉ, comments that:

...in 1996 and 1998, respectively, the availability of UK-based television services south of the border continued to increase. These increases were linked primarily to the uptake of cable and satellite subscription services.⁶⁵

Deregulation of markets in the 90sIn the 90s and the advent of satellite transmissions made borders irrelevant in broadcasting terms. An explosion of new channels occurred across Europe with stations vying for audiences across entertainment, sport music, lifestyle. Then television went digital.

Noel Curran, the then Director General of RTÉ, set the scene starkly in his introduction to the station's *Strategy 2012-2017* document:

The Irish TV licence fee of €160 is significantly below the European average. It has not increased since 2008, and so RTÉ's public funding has effectively decreased in recent years and will continue to erode due to inflation. In addition, the Irish advertising market has shrunk by over 35% from 2008 to 2011. A comparatively low licence fee and a small population create a very high dependency on commercial income, which impedes RTÉ's ability to plan for the evolving needs of its audiences.⁶⁶

[http://coronationstreet.wikia.com/wiki/Episode_4591_\(9_April_1999\)](http://coronationstreet.wikia.com/wiki/Episode_4591_(9_April_1999)) . Accessed 31 October 2017.

⁶⁵ Gareth Ivory. 'The Provision of Irish Television in Northern Ireland: A Slow British–Irish Success Story' in *Irish Political Studies*, 29:1, 2014, 134-153.

⁶⁶ RTÉ. *Strategy 2012-2017*, 10..

However, in the context of this study, there has been one important exception to the impact of increased competition:

TV News and Current Affairs usually held their own in the ratings the rest of the schedule presented challenges in attracting and holding audiences.⁶⁷

I.8. THE INVASION OF THE FORTY FOOT

Figure 1: Forty Foot Gentlemen's Bathing Place Sign



Image courtesy of RTÉ Archives.

While the Catholic hierarchy and growing numbers of conservative lay Catholics worried about the apparent liberalisation of sexual politics in Ireland, others had what might now seem a more mischievous outlook. These included the IWLM, keen to maintain the kind of public attention and the hilarity which had greeted the 'Contraceptive Express' and generated ridicule of Ireland's church and state contraception rules. Female activists followed up with an invasion of the 'Forty Foot', the well-known gentlemen's bathing place in the south Dublin suburb of Sandycove. This was a particularly attractive target, as women were barred by the exclusively male bathers who frequently bathed at the 'Forty Foot' without swimsuits. The self-appointed committee even had a sign saying, 'Forty Foot: Gentlemen's Bathing Place'. On 20 July 1974, a number of women, styling themselves 'Dublin City Women's Invasionary Force' took to the sea and occupied positions on the rocks

⁶⁷ Dr Gareth Ivory in an email to the author on 31 January 2020.

surrounding the Forty Foot wearing wet swim suits and carrying placards announcing: 'The Forty Foot is for Women Too', 'Out from Under and into the Swim', 'Women Swimming', 'We'll Fight on the Beaches We'll Win between the Sheets'. The reaction of the gentlemen present was predictable and appeared on the RTÉ News:

ANGRY MAN (to reporter): Get Out. There was a time when no self-respecting woman

would be in here anyway. Go on, hop it.'

(The reporter asks a group of women whether they are acting to defend their rights.)

WOMAN IN BATHING SUIT: If it was a male only club specifically to exclude women, simply because we are women thereby assuming we are inferior to men. Yes, I would.

REPORTER: the men bathe here nude in the morning. Are you going to break in on them when they are swimming early?

WOMAN: If it is a rule that they swim nude before 9 am then yes. We came into this world naked.

REPORTER: You'd swim nude as well.

WOMAN: Yes, I would.⁶⁸

Elsewhere, however, the outlook was anything but light-hearted. At a mass in Dublin celebrating the European Congress of Nurses, Cardinal Conway, linking abortion with euthanasia, told nurses that the right to life was being assailed by the clamour to legalise abortion and euthanasia.⁶⁹

While those challenging the status quo generally targeted their legislators rather than Catholic Church leaders, the Catholic bishops, mindful of man's inclination towards sinfulness as written in Scripture, continued their defence of Church teaching, especially in the moral sphere. Believing strongly in public morality, one of their most trenchant defenders had been

⁶⁸ 19740720.

⁶⁹ 19760907.

appointed Bishop of Limerick, Dr Jeremiah Newman (sociologist and former President of Maynooth College). Writing in 1976, the year after the publication of *Human Life is Sacred*, Newman argued:

Men are not pure spirits... They need help and encouragement to remain faithful to themselves even in the following of their self-confessed ideals of conduct. For a government to think otherwise would be tragically blinkered and indeed to fail in one of its most important duties.

It is precisely for this reason that the law must recognise the place of public morality, through the maintenance of a secular institutional context which responds to the needs of the citizens. It was this realisation that was behind the criminal law of England so long prohibiting such matters as divorce, abortion, contraception and homosexuality.⁷⁰

I deem it a reasonable proposition to suggest that the views of the leaders of the Church which represents the vast majority of the people should not be regarded as irrelevant to the making of political decisions in these matters.⁷¹

Newman's views were not unique among Catholic churchmen. The previous year, 1976, his fellow bishop, Dr Cornelius Lucey of Cork, had argued in a *7 Days* programme that there should be Catholic laws for a Catholic people.⁷² Episodes such as this may fuel the often popular notion that the Catholic Church of the early to mid-twentieth century was a monolith whose repository of certainties prevented any deviation or even questioning. Yet, questioning voices from within the Church had begun to be raised, particularly about divorce and remarriage in the 1970s. These included Fr Fergal O'Connor, the Dominican priest and UCD political science lecturer, and Fr Seán Fagan, a Marist priest and philosopher. In May 1975, Fr Fagan appeared on a programme on divorce. With him on the panel were Mary Banotti, a strong advocate of women's rights and later an FG MEP, and the late Canon James Hartin, a theologian and sub-warden of the Church of Ireland Divinity Hostel. The Church of Ireland, at

⁷⁰ Jeremiah Newman, *The State of Ireland* (Dublin: Four Courts Press, 1977) 24-25.

⁷¹ Ibid. 29.

⁷² 19760402.

the time, had been debating whether it should consider marrying, in church, those who had been divorced. There was no such debate within the Catholic Church:

Hartin: This prohibition of any change in the marriage law in this respect in the Constitution seems to me to be greatly lacking in human consideration. The clause doesn't really take account of all the complexity and the difficulty of the developing marriage relationship and that in fact the marriage relationship can decay and die and can become in fact a destructive and damaging thing for people involved, imprisoned in it, in those conditions and therefore it would seem to me that on a broadly human basis, there ought to be the possibility of release from that kind of marital imprisonment and the opportunity to build a new marriage in a new way.

Banotti: Well, at the moment in this country there are 4,000 women receiving a deserted wives' benefit. That means there are 8,000 people technically speaking imprisoned in a marriage that has irretrievably broken down ... the Department of Social Welfare have received 6,300 applications for this benefit which is a documented number of people in this country who have applied, who have publicly stated that their marriages have broken down. Now there are a great many other people who would not qualify because of either income or lack of stamps or whatever, for this benefit. So, I would put it, I would say there are at least, at this moment, 14,000 citizens in this state who are imprisoned in a situation for which neither the church nor the state are making any great provision.

Fr Fagan: I think that more attention should be paid to Mary Banotti's point about the number of people who are suffering from marital breakdown and to her figures. I would like to add three and a half thousand people in the North of Ireland, three and a half thousand marriages so we can double that. 7,000 people and it adds up to quite a number of people. Now it's so easy for the theorists and academics to say well hard cases make bad laws. It's true. But at the same time, I think we all of us ought to acknowledge in shame and repentance that both church and state, we've been dragging our feet in this whole area. We have been talking about how complex it is, how difficult, all the possible implications of it and we're doing very little in fact for the people who are living out their lives in unbearable situations. 73

⁷³ 19750527 A&B.

Fr Fagan was punished later for his criticisms of what he regarded as the Church's rigid stances on issues of conscience and sexual morality, according to Patsy McGarry, religious affairs correspondent of the *Irish Times*. The former President of Ireland, Mary McAleese, said 'his heart and spirit' were broken by the Vatican and his 'career blighted by being silenced by the Congregation for the Doctrine of the Faith'. In 2012, he was one of five Irish priests silenced by the Vatican. The others were Frs Tony Flannery, Gerard Moloney, Brian D'Arcy and Owen O'Sullivan.⁷⁴

I.9. CATHOLIC LAY ORGANISATIONS BEGIN THEIR DEFENCE OF TRADITIONAL VALUES

In an RTÉ TV current affairs programme, *The Frontline*,⁷⁵ transmitted on 15 January 1980, attention turned to the increasing numbers of Irish women travelling to Britain to seek abortion. The presenter, Mary McAleese, reported:

In 1968, when England first liberalised its abortion laws, 64 women left this country to have their pregnancies terminated. By 1979 that figure had risen to 2,700. 80% of them were unmarried. That means that at least one in every twenty Irish pregnancies currently ends in an English abortion, and this in spite of Catholic Church opposition and in spite of the fact that abortion is unlawful here in Ireland. Clearly something needs to be done. But what?⁷⁶

The figures McAleese quoted in 1980 had been released by the UK Department of Health which tracked, as part of a vast range of data, the number of women aged 15-44 with addresses in the Irish Republic who obtained abortions in England or Wales. Once Parliament had legalised abortion in Britain, word spread quickly in Ireland. The figure of 64 Irish abortions in 1968, the year after the Act was passed, grew over twenty-fold to 1,406 in 1974.⁷⁷

⁷⁴ 'Fr Fagan's spirit "broken by Rome"' by Patsy McGarry, *Irish Times*, 18 July 2016.

⁷⁵ *The Frontline* was one of several TV current affairs revamps in the period between the demise of *7 Days* in November 1976 and the launch of *Today Tonight* in October 1980. That turbulent period is covered by John Horgan in *Broadcasting and Public Life: RTÉ News and Current Affairs 1926-1997* (Dublin: Four Courts, 2004).

⁷⁶ 19800115.

⁷⁷ Abortions from ONS (UK); female population aged 15-44 from CSO (population at April of that year); unwed births from CSO in *Overview of Irish Abortions*. Pro Life Campaign.

By 1974, with the Dáil considering the legalisation of contraception, some members of Catholic lay organisations and others had begun to fear that Christian values were being eroded by the perceived clamour for contraception, divorce and, especially, abortion. There had always been Catholic lay organisations in Ireland espousing varying degrees of religious fundamentalism. At one extreme could be found *Maria Duce*, which sought the gathering of the Irish people under the 'Social Reign of Christ the King', effectively making the Catholic Church the established Church of Ireland.⁷⁸ Now came the *Irish Family League*. Its purpose was to protect the Irish Catholic family from moral danger, not only through the evils of the permissive society and its manifestations through contraception, abortion and divorce, but also through the availability of erotic books, magazines, newspapers and films which might escape censorship. Quite apart from external forces subverting the family, the Irish Family League, chaired by John O'Reilly,⁷⁹ was concerned that its own Church leaders might be found wanting. The organisation produced 20,000 copies of a booklet in 1974 entitled *Is Contraception the Answer?*⁸⁰ It circulated this to all doctors, pharmacists, and solicitors found in the 'Yellow Pages' telephone directory. It was also circulated to bishops, priests and members of the Oireachtas. The foreword read:

To be a true Catholic today, you must be prepared to know and live your Faith. In the present state of the Church, you may find it difficult to get the definite guidance that was previously too readily available. Even in Ireland there are priests and priests, Catholic doctors and Catholic doctors, even bishops. But through the confusion, we can hear, if dimly at times, the authentic voice of Peter's successor.⁸¹

O'Reilly's early opinions, circulated among lay Catholics and others, presaged his later and more radical views which eventually coalesced in the Pro-Life Amendment Campaign. The aim was to vault over future elected deputies and judges of the Supreme Court, removing from

<http://Pro-Lifecampaign.ie/plc/wp-content/uploads/Irish%20Abortion%20Figures.pdf> . Accessed 14 March 2016. Repeated in FN 73?

⁷⁸ Cooney, *John Charles McQuaid*, 239.

⁷⁹ John O'Reilly was a founder and one of the chief architects of the pro-life movement (along with the late Senator Des Hanafin and lawyer, Professor William Binchy).

⁸⁰ John O'Reilly (ed.). *Is Contraception the Answer?* (Dublin: Irish Family League, 1974).

⁸¹ *Ibid.* Foreword.

them any legislative or judicial capacity in the matter of abortion. For the moment, though, his concern was with unorthodox priests and liberal doctors:

On issues involving faith and morals we must turn to the Pope as the magnet turns to the North Star. There is only one Pope, and when you hear other plausible voices and see the strange things they do and the even stranger consequences of their acts, stop, think and turn once more to the voice of Peter.

In the meantime, examine carefully what doctrine you hear, no matter how illustrious or academically qualified the speaker. And on the question of family planning, choose your medical adviser very carefully. We hope that this booklet may be of some help.⁸²

John O'Reilly edited *Is Contraception the Answer?* which included contributions from himself and others. He believes that the arguments advanced in the booklet contributed to the defeat of the first contraception bill (1974) when Taoiseach Liam Cosgrave TD, along with Richard Burke TD, crossed the floor and voted against the Government's own bill. A former Knight of Saint Columbanus, O'Reilly was also the Vice-chair of the Council for Social Concern, a founding member of the Responsible Society, The Pro-Life Amendment Campaign (1981), The Anti Divorce Campaign (1986) and The Pro Life Campaign (1992).

The language and rhetoric of *Is Contraception the Answer?* was more muscular and confrontational than anything from official Church sources, including the Irish bishops themselves. It signalled preparedness for a fight and set the tone for the pro-life and anti-Amendment campaigns that lay ahead, and the pro and anti-divorce Amendment campaigns that were to follow in 1986 and 1995. The warnings about contraception and abortion contained in *Is Contraception the Answer?* may be conventional for the time, but what must be unusual in a Catholic-originated document circulated to 20,000 recipients are the criticisms it levels at church leaders, including bishops. O'Reilly is advising his readers, in a time of confusion following the publication of *Humanae Vitae* five years earlier, to listen only to the Pope:

⁸² Ibid. 1

We have undergone a barrage of brainwashing from the media in favour of contraception and its legalisation in Ireland. The reasons given are generally superficial appealing to the emotions rather than to the mind. One 'argument' is the horde of hypothetical women with sixteen children, living in one room with a drunken unemployed husband.

Anyone seeking the Truth must beware of the media – and particularly of the argument that what is being done elsewhere is somehow or other an argument for its being done here. That is no valid argument for a thinking man.⁸³

Prior to *Humanae Vitae*, says O'Reilly, there was no doubt in any Catholic mind that contraception was anything but wrong:

But since Vatican II (1962 – 1965) there have been such divisions in the Catholic Church that a priest, theologian, bishop or even a cardinal can be found to support any point of view no matter how bizarre or absurd. Even good bishops, fearing a bad media image, and the present mood of exaggerated ecumenism, are frequently loath to speak their minds on the true doctrine of the Church; and loath also to exercise authority over wayward priests and theologians.⁸⁴

The booklet, intending to inform as well as influence its readers, listed the range of contraceptives and abortifacients available. It links contraception with abortion, arguing that 'promiscuity is the logic of birth-control, but to have promiscuity there must also be abortion.'⁸⁵

These fears for the future of the Church and the survival of Christian values were growing against the background of the numbers of Irish women travelling to England for abortions. That number had grown to 1,562 in 1975, according to the British Department of Health. The Irish Catholic bishops met the Episcopal Commission for Emigrants to consider how they might

⁸³ Ibid. 2.

⁸⁴ Ibid.

⁸⁵ Ibid.5.

prevent Irish women going to Britain for abortions. But those figures continued to grow until they peaked at 6,673 in 2001.⁸⁶

I.10. THE CATHOLIC BISHOPS PUBLISH *HUMAN LIFE IS SACRED*

In 1975 the bishops' major task was their follow-up to *Humanae Vitae*, the pastoral letter entitled *Human Life is Sacred*.⁸⁷

The pastoral letter reiterated the teachings contained in *Humanae Vitae* but presented them in a less formal and legalistic way to be more accessible for an Irish readership. Its title, invoking the sacredness of human life, was a challenge to liberal sexual attitudes. Its opening paragraph reads:

This pastoral letter deals with one of the main topics of our time. People have always discussed sex, marriage, human dignity and violence but never as openly and continuously as now. Faced with this non-stop public debate the Christian may wonder what his religion has to offer. It is hoped that a careful reading of the pastoral will show the wealth of Christian teaching on human life.⁸⁸

The letter was divided into four parts; the first two spoke about life and the last two about love. The bishops emphasised the sacredness of life from its beginning which, in Catholic doctrine by then, was from the moment of fertilisation:

Human life is sacred, even before it is born. Sexuality and sexual love are sacred, as the mysterious source of human life. We teach, not in the way in which philosophy

⁸⁶ *Overview of Irish Abortions*. Pro Life Campaign figures. Source: Abortions from ONS and Department of Health (UK); female population aged 15-44 from CSO, (population at April of each year) unwed births and other data from CSO. Note: Abortions on women from the Republic in 2010 per 1,000 women aged 15-44 was 4.4. Abortions on residents of England & Wales in the same year per 1,000 aged 15-44 was 17.5, four times higher.

⁸⁷ Irish Catholic Bishops' Conference, *Human Life Is Sacred* (Dublin: Veritas, 1975): <http://www.Catholicbishops.ie/1975/05/01/human-life-is-sacred/> . Accessed 14 March 2016.

⁸⁸ Ibid. 3.

is taught, but in the way that the Spirit teaches us, showing how spiritual truths make spiritual sense ... we are those who have the mind of Christ (1 Cor 2:13-16).⁸⁹

God's commandment, 'Thou shalt not kill,' unconditionally forbids all taking of innocent human life from its beginnings in the womb.⁹⁰

The pastoral letter pulled no punches in its condemnation of abortion as murder in all circumstances, including in the first trimester. It contained graphic descriptions of abortion procedures. It accused the media of falling for the proponents of abortion who sought to further their arguments by publicising 'hard cases' which were then 'eagerly gobbled up and disgorged by press, radio and television.'⁹¹ It is worth noting at this point that, during the campaign to repeal the Eighth Amendment in 2018, the Pro Life Campaign and their allies vigorously attacked the Repeal side for highlighting so-called 'hard cases'. Repeal spokespeople protested that these cases, mostly involving women having to travel to Britain for an abortion, were part of the reality of the situation women often found themselves in.

The bishops stated the Catholic position in a less confrontational way than did the Irish Family League in the booklet, *Is Contraception the Answer?* Yet, referencing Madeleine Simms and Keith Hindell's *Abortion Law Reformed*, they constructed an argument which characterised the act of abortion unambiguously as an act of anticipated murder:⁹²

To prevent birth is anticipated murder; it makes little difference whether one destroys a life already born or does away with it in the nascent stage. The one who is to become a man is already a man.⁹³

The bishops next focused on the consequences of abortion on mothers. These, they claimed, included psychological and emotional disturbances as well as feelings of guilt. Still quoting British statistics, they argued that the legalisation of abortion increases demand and that the

⁸⁹ Ibid. 5.

⁹⁰ Ibid. 6.

⁹¹ Ibid. 12.

⁹² Madeleine Simms and Keith Hindell, *Abortion Law Reformed* (London: Peter Owen, 1971). Cited in Irish Catholic Bishops, *Human Life is Sacred*, 16.

⁹³ Ibid. 13.

problem of unwanted children has increased in Britain despite the universal availability of contraceptives. Quoting Madeleine Simms and Keith Hindell, the bishops wrote: 'Abortion on request is a logical concomitant of contraception on demand'.⁹⁴

Far from reducing recourse to abortion, said the bishops, the availability of contraception will '... only spread still further the mentality and style of life which produce the demand for abortion. There are no easy options to take the place of moral living'.⁹⁵

Most immediately disturbing, said the bishops, was the situation at the time of *Human Life is Sacred*, eight years after the British Abortion Act (1967), where a considerable number of Irish girls were already going to England to have their pregnancies terminated:

At present more than 2,200 Irish girls are officially registered as having abortions in England each year. More than half of these are from the Republic. Since the introduction of legal abortion, probably at least 8,000 Irish resident girls and women have had abortion under the British Act. Over half of these are from the Republic. This clearly could not be happening without encouragement and advice from people they consult in this country. Those who advise or arrange abortions for girls and women who consult them bear as great, if not a greater degree of guilt than the girls and women themselves.⁹⁶

While the bishops acknowledged the then recorded figure of girls and women travelling to England for abortions annually, they did not, at least in the pages of *Human Life is Sacred*, consider the reasons *why* so many sought abortions. Nowhere in the pastoral letter was there an indication that the authors were conscious of or understood the terror of a girl or a woman knowing that her pregnancy and illegitimate child would bring a lasting shame upon her family and that she herself could become a social outcast. Neither did they consider the possibility that a pregnancy could be the result of rape.

⁹⁴ Ibid. 16.

⁹⁵ Ibid.

⁹⁶ Ibid. 18.

One bishop, at least, had a sense of the unmarried mother's predicament. Bishop Edward Daly of Derry referred to it in an interview with RTÉ News following the launch of the pastoral letter:

Well I think that the attitude to the unmarried mother, the pressures which the young girl who becomes pregnant, the young unmarried girl who becomes pregnant finds herself confronted with ... and abortion, perhaps some girls consider, is a means of escape.⁹⁷

In the pastoral letter, there is a brief reference to the state of mind of those who have had abortions as opposed to those contemplating abortion. It is couched in terms of the 'agonies of conscience and tortures of remorse which many girls who have had abortions are now suffering'⁹⁸ rather than fears of the unmarried upon discovering their pregnancy. The bishops want to assure them of:

the boundless compassion and unlimited mercy of Christ. He loves them. He loves to forgive. He has told us that he has more joy in forgiving sinners than he receives from the just who do not think they need forgiveness.⁹⁹

I.I.I. THE IRISH FAMILY PLANNING ASSOCIATION

Already in existence when *Human Life is Sacred*¹⁰⁰ was published was the Irish Family Planning Association (IFPA), formed in 1969, the year after the publication of *Humanae Vitae*. Its aim was to provide advice and consultation on contraception:

Motivated by the suffering caused by the State's blanket ban on contraception, the IFPA was established by seven volunteers in 1969. Since then the IFPA has been to

⁹⁷ 19750502.

⁹⁸ *Human Life is Sacred*, 18.

⁹⁹ *Ibid.*

¹⁰⁰ Irish Catholic Bishops. *Pastoral Letter of the Archbishops and Bishops of Ireland to the Clergy, Religious and Faithful. Complete Text with Introduction and Guidelines* (Dublin: Veritas Publications, 1975).

the fore in setting the agenda for sexual and reproductive health and rights both nationally and internationally.¹⁰¹

Attempts to establish IFPA clinics in various parts of Ireland sometimes met with hostility to the point that setting them up was impossible. One town where an IFPA clinic was successfully established was Navan, Co. Meath. It was operated by a local GP, Dr Mary Randles at her surgery in Watergate Street. Randles was joined by Diana Allen, who had trained as a nurse specialising in family planning at King's College, London, and then worked at IFPA clinics in Dublin:

Randles: I was new to Navan. I found that women were having enormous families – poor women were having families of 12, 14 and 16. They were having baby after baby, year after year and to me it seemed incomprehensible that women could carry on like that and I felt this is the time that they need family planning and it coincided with the arrival of the pill, so that we had a way to do it.¹⁰²

Randles described the situation in which she found some women:

Randles: It was a little cottage. The woman had She ended up with 16. I got a call to the house. It was a two up-two down house and no running water, the tap outside the back door, no bathroom and that woman was having baby after baby after baby, year after year after year. You'd get a call to perhaps the baby in the house who is ill. This is nothing to do with family planning now. The baby would be over in a corner in a cot, and you'd have to pick your steps over the floor getting over all the other children to get to the baby. I came across women who were permanently pregnant. It would be by the month. For example, it would be September and they would have a baby in September and by October/November they were pregnant again and they'd have a baby again the next September/October and that went on year after

¹⁰¹ Irish Family Planning Association Website. https://www.ifpa.ie/about_us . Accessed 20 April 2014.

¹⁰² Dr Mary Randles and former nurse, Diana Allen, interviewed for this thesis in Slane, Co. Meath on 14 July 2016.

year and the only rest those women got was the week or ten days when they were in hospital having this annual baby.¹⁰³

Mary Randles' and Diana Allen's memories of the plight of some of the women they encountered, echoed those of Dr James Loughran (see 1.5 above) in his description of the treatment of women in his early medical career at the Coombe Lying-In Hospital:

I was horrified by a lack of compassion shown to women in the late 1950s while working in the Coombe Women's Lying-in Hospital, Dublin, and its nearby tenements; there I saw poor women trapped like battery hens from rigid enforcement of church teaching on sexuality and human reproduction.¹⁰⁴

Randles said that she and Allen did not seek to persuade women to come to their clinic; rather, women came of their own free will because they wanted their services. At first, they opened for family planning on Wednesday evenings, then all day Wednesday and eventually Monday to Friday, providing family planning along with the general practice as the numbers grew:

Randles: They were really a cross section of society. Some of them were very clued in, knowledgeable women who knew about contraception and it went right through the whole scale. The women that I was really targeting in my own mind; they weren't coming rushing in at the beginning they weren't the women with the 12, 14, 16 children, sure they weren't?¹⁰⁵

Allen: Most of the women that came initially would have been aware about family planning and they were the ones that came first of all. Now some of them did have a lot of children, but the majority of them were ... even though they were poor they certainly were aware of it and that's why it started really basically with that type of person.¹⁰⁶

¹⁰³ Ibid.

¹⁰⁴ Dr James Loughran. *Your Earth*, 8.

¹⁰⁵ Randles and Allen interview.

¹⁰⁶ Ibid.

News of the Navan clinic spread. Randles and Allen began treating women from places far beyond the limits of Navan. They said this could only have happened through word of mouth:

Allen: We were getting patients from all over Ireland, not just from the locality.

Remember we had some coming from Cork, Sligo, even from the North of Ireland.

They were coming from everywhere. It was a very busy surgery.¹⁰⁷

Randles and Allen carried on their family planning service for years without incident. There were no objections from Catholic Church figures. Randles acknowledges this and believes the absence of complaints from that quarter may have been because her husband was a frequent and public critic of the Catholic Church.

Although there is little evidence of support for abortion in Ireland during this time in the '70s, Bishop Edward Daly, in his interview following the publication of *Human Life is Sacred*, opined that there had been a general reduction in the value placed on human life and that the pastoral letter spoke out against this trend. Public opinion, he said, was being lulled by propaganda for the legislation of abortion. Massive pro-abortion campaigns were being funded from American sources and we, in Ireland, were not living in isolation:

I don't think there is any proximate danger in the immediate future, but I think it's always a possibility but even apart from that I think it's important that the Church should state very clearly its position on abortion. It's a moral issue and I think it should state that and state it very clearly and I think it has done that in this pastoral.

REPORTÉR: In the second part of the pastoral letter you deal with social justice and injustice. Would you say that this contributes to abortion?

Daly: I think that there must be in this Christian country a charitable and understanding attitude to the unmarried mother. There are excellent services for the unmarried mother in this country and I think that the Church in this pastoral (letter) states that it is.... it wants to make these services better known.¹⁰⁸

¹⁰⁷ Ibid.

¹⁰⁸ 19750502.

Perhaps the most notable section of this interview lies in Daly's recognition, however limited, of the plight of unmarried mothers in Ireland at the time. He calls for 'a charitable understanding' of unmarried mothers and a greater promotion of what he says are the 'excellent services for the unmarried mother' available in Ireland. Daly was speaking long before the treatment of unmarried mothers in certain institutions became widely known.

In 1976, the year after the publication of *Human Life is Sacred*, the RTÉ *7 Days* series produced a programme on Church/State relations. The programme reported that there were signs of increasing tension between church and state. The divorce issue was being kept alive by the Divorce Action Group (DAG) but with little sign of political mobilisation. Archbishop Dermot Ryan of Dublin opposed the introduction of divorce in the *Sunday Press*, against a background of increasing debate on what form a United Ireland might take with respect to the character of its laws, overwhelmingly regarded by Unionists as reflecting the ethos of the majority church in the Republic. Ryan said the Church would oppose any change to the marriage laws.

Dr Cornelius Lucey, Bishop of Cork, argued that there should be Catholic laws for an overwhelmingly Catholic people. Interestingly for a conservative bishop, he was prepared to discuss how legislation might be framed in an all-Ireland context should such ever come about:

The whole country would be a pluralistic state and being a pluralistic state, it would have to allow for the different groups in it; 'twould have to allow them what they regarded as part of their civil liberties. So that in a united Ireland I would not think that legislation would have to be in accordance with Catholic principles in the way that it has been in accordance with Catholic principles when it has been within a community which is practically 100% Catholic.¹⁰⁹

There followed a spirited studio debate chaired by presenter and lecturer in Political Science, UCD, Brian Farrell. The panel consisted of Senator Michael J. O'Higgins (FG), barristers Catherine McGuinness and Donal Barrington, and a Marist Brother, Vivian Cassells:

¹⁰⁹ 19760402.

McGuinness: Northerners are not affected by gestures.... but are negatively affected by things like this.

O'Higgins: I am not prepared to accept that a legislator is required to leave his conscience and his principles and his convictions outside the door of the debating chamber when he goes in. I think a politician and a legislator is entitled to ask himself in relation to any matter which comes before him whether divided views and divided opinions as to which view best accords to the established beliefs and standards of the majority of people in the state.

Barrington: Ian Paisley would say the same thing. You are saying Paisley is right in Northern Ireland and you're right here. Do you not think you should look for laws that are acceptable to all?

O'Higgins: Certainly ... subject to public morality and common good.

Brother Cassells had no time for assertions that those of minority religions were somehow being disadvantaged by the majority or their Church:

This is the first time I have heard the minority group saying their rights have been infringed. The minority group have been more than well looked after over the last few years since the founding of the state and I think for one in particular that the majority are bent over backwards in order to facilitate the minority and I think that it's high time that the minority stood up in this country and said just exactly how they are treated and this question of the unity of Ireland is a complete red herring ... and I think this would be a stronger message going back up North than anything we could do in changing our legislation in order to suit them and I think I would now appeal to the minority to stand up, be counted and say exactly how well they are treated in this country and that is the message that should go back up North, not the other way around. ¹¹⁰

¹¹⁰ Ibid.

The next year, 1977, John O'Reilly, Chairman of the Irish Family League and Vice-Chairman of the Council of Social Concern, published, along with others, *Contraception: The Baited Hook*.¹¹¹ This was a polemical work greatly expanded from his earlier publication, *Is Contraception the Answer?* Some 34 pages long, 2,000 copies were prepared and distributed with the assistance of the Catholic lay organisation, the Knights of Saint Columbanus. The foreword was by the bishop of Limerick, Dr Jeremiah Newman, writing, as he put it, in the midst of 'the present debate regarding the legislation of the sale of contraceptives, while around the corner are such issues as homosexuality, divorce and abortion':¹¹²

I.12. 7 DAYS CANCELLED; TODAY TONIGHT LAUNCHED; ACCUSATIONS OF BIAS IN RTÉ

After ten years as RTÉ's 'flagship' current affairs programme, *7 Days* ended in 1976. The circumstances of its demise, accompanied by much bitterness and an intervention by a member of the RTÉ Authority, have been well documented in John Horgan's *Broadcasting and Public life: RTÉ News and Current Affairs 1926-1997*.¹¹³ The Government had turned on RTÉ in 1969 with its inquiry into a *7 Days* programme on illegal moneylending. Although the programme had its flaws and several of its staff suffered days of intensive questioning in the inquiry set up not to investigate illegal moneylending, but the people who made the programme. RTÉ weathered the storm and continued as a hybrid surviving on the licence fee and its advertising revenue while resisting government control.

With the benefit of hindsight, the organisation and its viewership might have been better served had station management set about reviving and strengthening Current Affairs TV. Instead, the 1976 Autumn Schedule saw RTÉ management installing four new programmes intended to cover a range of current affairs briefs between them. As shown in the RTÉ Archive database *Mediaweb*, and listed by Horgan, *Spot On* with Cathal O'Shannon on Mondays was an interview-based programme; *Tuesday Report* was a documentary-style series covering

¹¹¹ John O'Reilly. *Contraception: The Baited Hook* (Dublin: The Council for Social Concern, 1977).

¹¹² Jeremiah Newman. *The State of Ireland* (Dublin: Four Courts Press, 1977) 17.

¹¹³ John Horgan, *Broadcasting and Public Life: Rte News and Current Affairs, 1926-1997* (Dublin: Four Courts, 2004) 147-150.

social and other issues; *Next Stop* covered non-metropolitan events on Wednesdays; *The Politics Programme* on Fridays was to be hard current affairs covering events of the past week.

RTÉ management's understanding of current affairs may be interpreted from their policy at the time. It suggests that the view then was that current affairs really consisted of a whole range of subject matters which could be compartmentalised and that the main groups deserved programme strands of their own. So, *Spot On* could deal with anything which could be managed in a studio by a small production team. *Tuesday Report* could manage issues needing a degree of reflection such as social matters filmed around the country. *Next Stop* was there to cover stories which arose in rural Ireland and *The Politics Programme* reviewed the week's main political events.

The creation of four new programmes to fill the gap left by the cancelled *7 Days* may have looked well on paper. However, by definition, a current affairs series is intended to be *current*, capable of reacting to and adding value to *any* event or issue arising in the news cycle. Whatever aspects of *7 Days* were found wanting, at least it was transmitted twice a week and had some chance of keeping up with developments. A once-per-week series had far less capacity.

John Kelleher, first editor of *The Politics Programme* (later Assistant Controller and then Controller of Programmes), identified flaws in management's reasoning:

The argument was these programmes (were) going to do what *7 Days* did. But equally, they were creating separate little fiefdoms ... but the problem was that it dissipated the focus of current affairs and, therefore, there were definite gaps. If you are only doing a once a week current affairs programme and you are meant to be covering the main stories of the week, and there could be three; you can't really do that. So hence, the thinking that created *Today Tonight* and to put it under the authority of one very strong editorial person, namely the editor... And the reporting relationship then was very straightforward, very simple. You were dealing with one person, not ten. ¹¹⁴

¹¹⁴ John Kelleher interviewed for this thesis on 11 January 2019.

Searches of the RTÉ Archive via Mediaweb, as well as the RTÉ Guide, indicate that some of the new series had a relatively short life-span. *The Politics Programme*, as noted by Horgan, 'never really seemed to catch fire'¹¹⁵ and was replaced by *The Frontline*. *Tuesday Report* disappeared from the schedule after a year.

Kelleher brought producer/director Joe Mulholland into the process. They agreed that what was needed was a current affairs series that would be extremely well-resourced:

It would have in technical and financial terms resources absolutely adequate to what the requirement (was) and they wouldn't be split across a whole range of, not just programmes but also departments. They would all be gathered into the one unit which became *Today Tonight*. But also, it would mean, editorially, across four nights of the week, you had a current affairs programme that could react to whatever the story was. They could make changes at the last minute and deal with something that was extremely current, which was never the case ... after the demise of *7 Days* in 1976.¹¹⁶

Today Tonight was a heavy consumer of RTÉ's financial, technical, journalistic and production resources and talent base. Challenges soon emerged to stretch that talent base:

Kelleher: It was coincidental, it was fortunate and from an RTÉ and a *Today Tonight* editorial point of view, it was a huge bonus, which was that *Today Tonight* went on the air in October 1980. In the next eighteen months, or thereabouts, you had three general elections. You had the hunger strikes. You had a range of significant current affairs stories on which a programme like *Today Tonight* was able to thrive. It gave it a huge boost. It gave it a huge authority from the get-go.¹¹⁷

Kelleher might also have mentioned the campaigns to insert the Eighth Amendment in the Constitution and to prevent the divorce ban being removed from it; the 'heaves' against Charles Haughey from within his own party; and the numerous programmes devoted to the negotiations leading to the Anglo-Irish Agreement of 1985. These, and the many other major

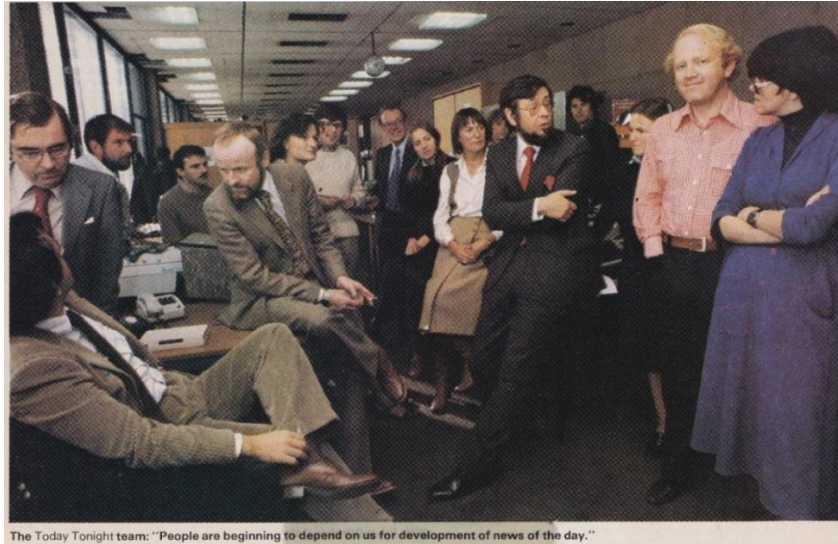
¹¹⁵ Horgan. *Broadcasting and Public Life*, 149.

¹¹⁶ John Kelleher Interview.

¹¹⁷ Ibid.

issues which emerged in the 1980s and early 90s, could not have been adequately reflected by a once-a-week current affairs programme.

Figure 2: Members of the original Today Tonight production team.



L-R Liam Miller, Producer/Director; Brian Farrell, Presenter; Breffni Byrne, Lighting Cameraman; Tony Cournane, Assistant Cameraman; Barry Cowan, Presenter; Eleanor Sweeney, P.A.; Fintan Cronin, Researcher; Claire Reynolds, P.A.; Joe Mulholland, Editor; Michael Cassidy, Sound Recordist; Una Claffey, P.A.; Paul Loughlin, Producer/Director (and author of this study); Margaret Gleeson, Producer/Director.

Photo courtesy of the RTÉ Guide.

2. 1995-1983: FROM *HUMAN LIFE IS SACRED* TO THE EIGHTH AMENDMENT

Vox Pop, Younger Woman: 'I believe this Amendment will be the witness of the Irish people towards the sanctity of the unborn child.'¹

2.1. BACKGROUND

The struggle to shape the Irish moral and social landscape was conducted by a comparatively small number of people who, if they were not already associated with a pressure group, a church or a political party, allied themselves with relevant organisations as the contest crystallised.

Fears that Ireland would succumb to the perceived wickedness of the permissive society beyond its shores occupied the minds of conservative lay Catholics as they concentrated on ways to protect Irish people against threats to the Irish family. Contraception was one such threat. It had become firmly linked in many Catholic minds with abortion, first through the Papal Encyclical, *Humanae Vitae* of 1968 and, in 1975, with the Irish Catholic Bishops' Conference publication, *Human Life is Sacred*, which also linked contraception with abortion:

In contemporary experience, this contraceptive mentality is directly associated with the use of artificial methods of contraception. It can even, in the end, bring with it a prejudice against new life. It is significant that many of those who have been most prominent in campaigning for contraception are also found among the leading advocates of abortion. For some of these, abortion is openly recognised as 'the second line of defence against unwanted pregnancy'.²

So, for some, abortion and contraception were inseparable as anti-life manifestations. For others, they were twin issues related to women's rights of control over their own bodies. In whichever manifestation, they attracted considerable political and media attention. Yet it would be a mistake to consider abortion and contraception as the defining questions of the period. There had been an increase in attention to and discussion about the situation of those

¹ 19830303.

² *Human Life is Sacred*, 56.

‘trapped’ in marriages which had effectively ‘died’. While couples could legally separate, divorce and remarriage were impossible under the 1937 constitutional ban on the dissolution of marriage. Over this period, three related controversial issues may be said to have characterised the public discourse. These were: the demand to reform legislation to allow access to contraception for all; the demand to alter the Constitution to allow the dissolution of marriage and right to remarry; the question as to whether the Constitution should be amended to deny the Oireachtas or the courts any competence in the matter of abortion.

There was a further issue. The Northern Ireland conflict was then at its murderous height. It brought into focus a whole range of concerns within the Republic. Chief among these were fears that acts of terrorism in the North might spread to the South or that the Republic’s economy might suffer because of its sheer proximity to the violence. The Northern conflict, with its internecine fury, produced what may have been a less expected reaction among some in the South, as they began to ponder the reasons for the implacable hostility among Northern Protestants towards the southern state. Among those who contemplated the political, social, religious and economic nature of the Republic was Taoiseach Garret FitzGerald, who was associated with the liberal wing of Fine Gael and was a regular contributor to RTÉ programmes (both in and out of office). He articulated his liberal credentials when he announced a ‘constitutional crusade’ on RTÉ News *This Week* programme, on Sunday, 27 September 1981. He had been just three months in office at that time.

Before the interview, FitzGerald told the programme’s presenter, Gerald Barry, that, were he to be asked about the constitutional reform issue, he would have something significant to say. Barry duly provided the opportunity and FitzGerald opined that the Republic had become imbued with the ethos of the Catholic majority, and that this had contributed to the further partitioning of Ireland. To counteract that, FitzGerald said:

I want to lead a crusade, a republican crusade to make this a genuine republic I believe we would have a basis on which many Protestants in the North would be willing to consider a relationship with us.³

³ Garret FitzGerald. *All in a Life: An Autobiography* (Macmillan London, 1991) 378.

He went on to describe the southern state as it was then as 'sectarian' although not 'in the acutely sectarian way that Northern Ireland was'.⁴

The first head-to-head contest between the liberally-inclined people Garret FitzGerald sought to lead, and Catholic traditionalists was, unexpectedly, the campaign to establish a constitutional ban on abortion by legislation or by court judgement.⁵ In this contest a loose coalition of generally liberal individuals and groups faced the already organised and focused PLAC/SPUC axis and the Catholic Church. This followed PLAC's success in extracting the promise of a referendum from both Fianna Fáil and Fine Gael, though not from the Labour Party (see 2.3 below).

An early indication of how vicious the future campaign would become was when Dick Spring, newly elected Leader of the Labour Party, learned that *The Kerryman* was to run a front-page article labelling him an abortionist. Only by threatening an injunction did Spring manage to get his defence onto the front page alongside the attack.⁶

At the heart of the reformist versus traditionalist contest were fundamentally different views on how the country should be governed. The emerging view of PLAC/SPUC and their supporters, as they built up pressure for a referendum on 'the Right to Life of the Unborn' in the early 1980s, was that elected representatives could not be trusted to carry out the will of the people. The 'will of the people' was to be firmly linked to the imperative of a complete and unalterable prohibition on abortion.

The belief that elected representatives, i.e. 'the politicians', cannot be trusted informs the thinking of many, if not all, supporters of direct democracy. Speaker after speaker in the

⁴ Ibid.

⁵ As the study unfolds, it becomes evident that this was not a simple binary struggle between two homogenous groups, 'conservative' and 'liberal'. Church of Ireland clergy would not remarry divorced people although some, sympathetically, would bless a second union; Catholic priests challenged the teachings of their church on contraception; a Church of Ireland clergyman who had supported the British Abortion Act of 1967 changed direction and strongly supported the predominantly Catholic Pro-Life Campaign; politicians crossed the floor of the House to vote against their own party on social referendums; Catholic lay organisations criticised their hierarchy for being insufficiently hard line. It is more useful to view the debates as involving two sides rather than two groups.

⁶ Fergus Finlay, *Snakes and Ladders* (Dublin: New Island Books, 1998) 13.

programme transcripts which follow promote ‘the will of the people’, which was to be firmly linked to the imperative of a complete and unalterable prohibition on abortion. The mistrust of politicians continues to the present. It was apparent 35 years after the Eighth Amendment in the 2018 campaign to repeal that Amendment. RTÉ Radio and Television, following a long-established policy, mounted a series of debates between the various participants in the 2018 campaign. Some debates consisted of panellists facing a studio audience of interested individuals or groups. Other programmes were simply one-to-one debates between ‘yes’ and ‘no’ advocates. One such was *Today with Seán O’Rourke* at 10.00 am on 30 April 2018, less than a month ahead of the referendum date on 25 May. In studio were Declan Ganley, entrepreneur and pro-life activist, arguing to retain the Eighth Amendment, and Colm O’Gorman, Executive Director of Amnesty International (Ireland), arguing for repeal. During the debate Ganley raised the question of trust in politicians:

The idea that we should trust politicians (that) we should remove a human right belonging to this part of our people, our pre-born boys and girls, we remove that and trust politicians to legislate exactly what will happen to those boys and girls is too big an ask.

O’Gorman: On the question of ‘we can’t trust politicians’; this kind of anti-democratic trope is incredibly dangerous. It’s also quite dishonest because right now there are laws that govern access to abortion for women and girls. They’re just not laws passed in our Oireachtas, they’re laws passed in Westminster. It’s UK politicians that we have to trust to pass laws that respect the human rights of women and girls in Ireland, not our own politicians, not the Oireachtas, not the people that we can hold accountable. We are left trusting politicians in Westminster ... that pass laws that govern the access to abortion, to compassionate healthcare for the women and girls of Ireland.⁷

This mistrust of elected representatives was also expressed by the Anti-Divorce Campaign (ADC) spokespeople in 1986, many of whose leaders and foot soldiers were PLAC and/or SPUC

⁷ 20180430.

veterans. Following the PLAC/SPUC victory in the 1983 Right to Life referendum and the ADC's 1986 victory in the Dissolution of Marriage referendum.

It was a view articulated clearly by Alice Glenn, who had been a Fine Gael TD for Dublin Central, at the time of the 'Right to Life of the Unborn' and 'Dissolution of Marriage' referendums. She had lost her seat in the February 1987 General Election.⁸ Glenn was outspokenly conservative on moral issues concerning contraception, abortion and divorce, all of which she opposed. She, along with Oliver J. Flanagan TD and others, opposed their own government's wording for the 'Right to Life of the Unborn' constitutional Amendment and voted for the opposition Fianna Fáil wording, which passed. She also opposed the Government's attempt to remove the constitutional ban on divorce, which proved unsuccessful in the 1986 referendum. Her unpopularity within FG grew when, according to her obituary in the *Irish Times*, she denounced as 'enemies of the people' most of the political parties, the media, trade union spokesmen, women's groups and the 'leadership of most of the churches with the exception of the Catholic Church'.⁹

Glenn was interviewed for RTÉ's current affairs TV series *Today Tonight* at the Patrick MacGill Summer School in Glenties, Co. Donegal, in August 1987. The MacGill theme that year was an examination of the 1937 Constitution and how well it had served the Irish people in the half century since it was passed. Glenn, who spoke in a debate entitled *The Case for a New Constitution*, was interviewed afterwards by the late Professor Brian Farrell of the School of Politics and International Relations at University College Dublin.¹⁰

Brian Farrell: Alice Glenn, would you say that the Constitution has served us well, and if you would, would you say it?

Glenn: Yes, I do. I think it has served us well and it has reflected, I think, the ethos of the people. Now that may not suit the politicians and I think that is possibly why we

⁸ She had held the seat as a Fine Gael TD but had run, and been defeated, as an independent

⁹ *Irish Times*, 24 December 2011.

¹⁰ Farrell had begun a parallel career in broadcasting for Radio Éireann in 1957. By 1987 he was the longest-serving presenter in television current affairs and was then co-presenter on *Today Tonight*.

are down here at this MacGill seminar because the politicians made it very clear in the last two referendums that they did not accept the judgement of the people.

Farrell: Would you say what you have already said about the high-powered campaign by a small group? Why do you think now that there is a push for a change in the Constitution?

Glenn: The only reason I can think there is a push is that there is a group of people, and many of them would be politicians, who believe that the decision(s) of the people in the last two referendums [Right to Life 1983, Dissolution of Marriage 1986] were retrograde and that in order to make ourselves more acceptable to the rest of the world – I suppose to Europe in particular – we should have been prepared to allow divorce and not to have the Eighth Amendment. But that is not what the people want, and I mean it is quite outrageous for the Taoiseach of the day [Garret FitzGerald], when the results were announced, to say ‘You have disgraced yourselves again’ almost (though) not in so many words ‘You have got it all wrong’. I mean the people cannot get it wrong.¹¹

Asked about the McGee Case of 1973, Glenn criticised the Supreme Court judgement which, as she put it, ‘did alter the ethos’ of the country. She said that where the Court makes judgements, as in the McGee case, and where such judgements may touch on the country’s ethos, these judgements should be put to the people in referendums:

It was an extraordinary judgement that was handed down in that it was relating only to a particular couple, and I believe after that we should have put that to the people because they were not speaking for everybody. They were speaking for Mr and Mrs McGee and their very special and peculiar circumstances relating to that case. But it was applied generally, and I think wrongly applied generally.¹²

¹¹ Transcript of largely untransmitted sections of an interview with Alice Glenn recorded at the Patrick MacGill Summer School, Glenties, Co. Donegal, 19 August 1987 for a *Today Tonight* programme on the Irish Constitution. RTÉ Archives. CA/P/TT056 CA. See Volume Two, Appendix Four of this study.

¹² *Today Tonight*, Alice Glenn Interview.

The referendum campaigns which took place in 1983 and 1986 had included much discussion, mainly on the reformist side, of how the Irish Republic needed to become a more pluralist society:

Glenn: I don't think a pluralist constitution is possible because at the moment the difficulty is that you have minorities who believe that they are under-represented, that they haven't got the freedom to do what is the norm for them. But then on the other hand you have the majority who want things to remain the way they are. So, what do you do in that situation? How do you reconcile those two situations? ¹³

Some may see an irony in the fact that Alice Glenn lost her seat so soon after the two main causes she championed had triumphed in just three years. The Eighth Amendment, with its ban on abortion, had been won and the Tenth Amendment, allowing for the dissolution of marriage, had been defeated - all with Glenn's very visible support.

2.2. THE GENESIS OF PLAC AND THE AAC; THE DOCTRINE OF 'DOUBLE EFFECT'

The Pro-Life Amendment Campaign (PLAC) had been formed by 13 Catholic lay and clerical organisations meeting at Mount Carmel (private) Hospital on January 24, 1981. These were listed by Dr Tom Hesketh from PLAC records as:

The Congress of Catholic Secondary School Parents' Associations; Irish Catholic Doctors' Guild; Council of Social Concern; Guild of Catholic Nurses; Guild of Catholic Pharmacy (*sic*); Catholic Young Men's Society; St Thomas More Society; Responsible Society; Society for the Protection of Unborn Children; Irish Pro-Life movement; National Association for the Ovulation Method – Ireland; St Joseph's Young Priests' Society and the Christian Brothers Schools Parents' Federation. ¹⁴

¹³ Ibid.

¹⁴ Tom Hesketh, *The Second Partitioning of Ireland?: The Abortion Referendum of 1983* (Dublin: Brandsma Books, 1990), 12. *Response*, the newsletter of the Responsible Society, in Vol. 1 Number 3, Autumn 1982 additionally includes The Irish Nurses' Association (INO), Muintir na Tíre and the Association of Lawyers for the Protection of the Unborn affiliated later, while the St Thomas More Society was omitted.

The Responsible Society, cited above by Hesketh, was a constituent group of PLAC. It was formed on 13 March 1980 following a public meeting at Ely House, Dublin, headquarters of the Catholic lay organisation, the Knights of Saint Columbanus.¹⁵ The meeting's theme was 'The Permissive Society and its Lessons for Ireland'. The focus of attention was Minister for Health Charles Haughey's 1979 Health (Family Planning) Act, allowing married couples to access contraception on production of a doctor's prescription. The Act was designed to give effect to the Supreme Court's decision in the McGee case, and Haughey declared that it would open no floodgates.¹⁶ The organisers of the meeting held a very different view, seeing the Act as potentially undermining the morality of Irish family life.¹⁷

The meeting was chaired by Professor Eamon de Valera, Master of the National Maternity Hospital. The implications for family life included contraception, abortion and divorce, evils which, in the minds of Society members, had already gripped Great Britain, the United States and elsewhere.

The Responsible Society held meetings addressed by a range of US-based pro-life supporters. These included Fr Paul Marx, OSB, of the Human Life Centre, Minnesota and founder of Human Life International (HLI), headquartered in Washington, DC.

Marx was an indefatigable and widely travelled anti-abortion campaigner with an understanding of the social, political and medical rationales surrounding abortion. At the time of writing his first book, *The Death Peddlers*, he noted that 17 states had already legalised abortion, saying that there was a growing abortion industry while pro-abortionists propagandised 'therapeutic' or 'elective' abortion as a kind of community social service. He linked the increase in artificial birth control and abortion with the rise of feminism.¹⁸ He

¹⁵ John O'Reilly, *Response*, 1, No. 2. Page 1. In private hands.

¹⁶ Foster, *Luck and the Irish: A Brief History of Change C. 1970-2000*. 43.

¹⁷ eISB: <http://www.irishstatutebook.ie/eli/1979/act/20/enacted/en/html>

Accessed 15 March 2017. The Act legalised contraception in Ireland, under specific conditions.

¹⁸ Paul Marx, OSB. *The Death Peddlers: War on the Unborn* (Minnesota: St John's University Press, 1971) 116.

encouraged, organised and financed what it identified as 'Pro-Life' movements in countries including Ireland, as Fr Marx wrote in one of his 'Special Reports' dated December 1981:

In 1973, I went to Ireland to organise Pro-Life forces while there was still time. In the late 1960s, PP (Planned Parenthood) had set up contraception centres in Irish cities. In country after country. I had already seen the inexorable march of the antilife movement from contraception to abortion-infanticide-euthanasia. So, in five national lecture tours, I warned every Irish bishop, priest, sister and lay person who would listen, about what was coming. ¹⁹

HLI's role in Ireland, according to Fr Marx, was to organise an opposition to face what he regarded as the certainty of an attack by those determined to see Ireland join the countries which had embraced contraception and abortion. Writing just over two months before the 1983 'Right to Life of the Unborn' Referendum, in a 'Special Report' entitled *The Global Threat to Life*, he acknowledged that HLI's contribution was financial as well as organisational:

We have poured more than \$100,000 worth of Pro-Life audio-visual aids and literature into Éire, the only major developed country in the free world still welcoming enough babies to stay in existence. ²⁰

The belief that the family was under attack was not new. It was recorded by Fr Paul Marx in his regular HLI reports of his travels. In Ireland, those who saw their role as defending the family were now gathering their strength to engage and defeat liberal Ireland in a referendum campaign.

In his second HLI report, December 1981, Marx wrote:

On March 19-21 (1981) we will be part of an American delegation organised by HLI and Americans United for Life (AUL) which is to discuss with 50 Irish leaders in a closed, weekend seminar the best way to pass an Amendment to the Irish

¹⁹ In Paul Marx. *Confessions of a Pro-Life Missionary* (Human Life International: Gaithersburg, Maryland, 1988) 31.

²⁰ In *ibid.*

Constitution which could not be challenged, leaving the Catholic Irish with the same antilife mess we have in our country.²¹

John O'Reilly, founder-member of the pro-life movement, was the editor of *Response* and its principal contributor. Earlier, he had edited a booklet, *Contraception: The Baited Hook*, 2,000 copies of which were circulated to politicians, bishops and priests in 1977.²² It was followed by *The Gift of Life* in 1978, 10,000 copies of which were circulated to politicians, clergy and the Knights of Saint Columbanus.²³ The earlier publications foreshadowed the later *Response* series in its linking of contraception with abortion.

O'Reilly was also the driving force behind what became Family Solidarity, a conservative advocacy group, whose volunteers worked across every constituency. O'Reilly had previous experience in groups lobbying against abortion counselling and the dissemination of abortion literature.²⁴ His organisational capacity was crucial to the anti-abortion side in the 1983 referendum campaign. The same organisation was redeployed for the 1986 anti-divorce and subsequent campaigns. Family Solidarity is associated with the Knights of Saint Columbanus.²⁵

Over the years, O'Reilly has refused all invitations to participate in radio or television debates (although he made a brief appearance in one filmed programme²⁶). Until his interview with the author for this thesis,²⁷ the only formal interview he has given in the 40 years since he first came to prominence, was with Dr Tom Hesketh.²⁸

²¹ In Marx, *Confessions of a Pro-Life Missionary*, 3.

²² John O'Reilly. *Contraception: The Baited Hook*.

²³ Ibid. *The Gift of Life* (The Knights of Saint Columbanus, 8 Ely Place, Dublin 2. 1978).

²⁴ Emily O'Reilly. *Masterminds of the Right* (Dublin: Attic Press, 1992)15-19.

²⁵ Family Solidarity literature in 1986 gave 133 Church Street, Dublin 1, as its business address. Thom's Street Directory for Dublin 1986 lists 131-135 Church Street as The Father Matthew Centenary Memorial Hall, Capuchin Periodicals and Capuchin Foreign Mission Office. Family Solidarity's address is Ely House, 8 Ely Place, which is the headquarters of the Knights of Saint Columbanus.

²⁶ 19830303.

²⁷ See Volume Two, Appendix Five of this study.

²⁸ Hesketh, *The Second Partitioning of Ireland*, 405.

O'Reilly was most influential in deciding whether PLAC would take part in programmes and which PLAC spokespeople would give interviews or take part in debates. Family Solidarity's main spokesman was William Binchy, then and now a supporter of and legal advisor to PLAC and its successor, the Pro Life Campaign. The organisation's early leadership included Dr Julia Vaughan, a gynaecologist and obstetrician, and Dr Cornelius O'Leary, Professor of Politics at Queen's University Belfast.

In 1982, writing in the Responsible Society newsletter, *Response*, O'Reilly urged:

It is most important to have the beginning of life defined and protected. Else we end up in the same position as the IUD under the present law and despite our Pro-Life Amendment the way would still be open for abortion and prostaglandins, menstrual extraction etc ... Voters will have to be strongly motivated to come out and vote ... we have a long way to go yet but if we get there in the end it will have been worth it ... we will have been the first country to establish constitutional legal protection for the unborn, pre-empting the abortion lobby before abortion became widely supported. The ball is now in the pro-life lobby's court. Attack is the best form of defence. The alternative would have been to wait and watch the abortion lobby erode our laws by court cases and Private Members Bills, by extensive abortion referral and by pro-abortion propaganda in the media.²⁹

The first edition of *Response* also included the warning that the Amendment, when framed, must not 'prohibit treatment for cervical cancer and ectopic pregnancies which are not abortions at all, though indirectly and unintentionally they lead to the death of unborn babies'.³⁰ This is the doctrine of 'double effect'. Where a mother's life is at risk due to cervical cancer or ectopic pregnancy and the only solution is surgery which will result in the death of the child, the *intention* of the mother or the surgeon is not to kill the child, but to save the mother. The procedure is justified according to Catholic doctrine.³¹

²⁹ *Response*, 4.

³⁰ *Ibid.*

³¹ Catholic Church. 'The Fifth Commandment'. In 2nd ed., *Catechism of the Catholic Church* (Vatican City: Libreria Editrice Vaticana) 2263. 'The act of self-defence can have a

PLAC and other pro-Amendment activists invoked this principle to assure voters that an Amendment banning abortion in Ireland under any circumstances posed no risk to women. The principle, as adopted by the pro-Amendment side, was not challenged in the campaign. As will be seen in 5.14 below, the same doctrine will continue to be invoked 35 years later, in the run up to the 'Repeal of the Eighth' referendum.

Asked to comment on the reasons why there was opposition to the Amendment, O'Reilly said:

I think the reasons actually for opposing the Amendment are because the Amendment would not allow abortion in the case of rape or incest or in the case of the life of the mother and that it would forestall future legislation on abortion. Well now if they are the reasons for opposing the Amendment, it is obvious that the people who agreed on those reasons for opposing the Amendment, must be in favour of abortion under those circumstances.³²

Asked to comment on whether 'double effect' is a particularly Catholic principle, Professor Linda Hogan, Professor of Ecumenics, TCD, provided the following explanation:

Indeed, it is only in the Catholic tradition that when discussing the moral distinction between an outcome that is foreseen and one that is intended there is a strong emphasis on the physicality of the act with the insistence that the good outcome cannot be produced by means of the bad effect. This is the most contentious aspect of 'double effect' and was at the heart of the debate about what would or wouldn't be permitted if the Eighth Amendment was passed.

So, you could say that the application of the principle of 'double effect' is a Catholic construction and not usually deployed in other faith traditions.³³

double effect: the preservation of one's own life; and the killing of the aggressor... The one is intended, the other is not.'

³² 19830303.

³³ Prof. Linda Hogan, Professor of Ecumenics, Trinity College Dublin. Emails to the author, 3 November 2017 and 27 August 2018.

In June 2018, just after the Referendum on the Regulation of Termination of Pregnancy was passed, the Irish Catholic Bishops' Conference published their *Code of Ethical Standards for Healthcare* and launched it at Maynooth.³⁴

In the chapter, 'Human Sexuality, Procreation and the Beginning of Life', the bishops set out the code to be observed where there may be difficulties during pregnancy. While not using the term 'double effect', the bishops address situations where pregnancy may be terminated if the mother's life or health is threatened, while the intention is not to terminate the pregnancy:

2.29 In some cases a woman may develop during pregnancy, a life – or health-threatening condition for which the only effective and available treatment is one that would endanger the life or health of her unborn child. Such treatment is permissible provided any harm to the child is neither intended nor disproportionate to the threats facing the mother. Every effort consistent with good medical care for the mother should be taken to minimise the adverse effects of her treatment on the child, both before and following birth.³⁵

2.3. FRAMING THE ORGANISATION AND FRAMING THE MESSAGE

Perhaps the cleverest thing PLAC did in its earliest days was to employ a psychologically powerful communications technique identified by the economist and BBC *Newsnight* presenter Evan Davis as 'framing'.³⁶ An example he gives is how those promoting gay marriage avoided the word 'gay' in association with marriage but preferred instead the term 'marriage equality'. They reasoned, rightly, that the association of 'equality' with 'marriage' would have a greater appeal. It undoubtedly had that appeal in Ireland when the Marriage Equality Referendum of 2015 was carried by a margin of almost two-to-one.³⁷ The language used

³⁴ Consultative Group on Bioethics & The Council for Healthcare of the Irish Catholic Bishops' Conference, *Code of Ethical Standards for Healthcare* (Dublin: Veritas 2018) 54, 2.29

³⁵ Ibid.

³⁶ Evan Davis, *Post-Truth: Why We Have Reached Peak Bullshit and What We Can Do About It* (Great Britain: Little Brown, 2017) 152.

³⁷ Government of Ireland. Thirty-Fourth Amendment of the Constitution (Marriage Equality) Act 2015 Electronic Statute Book (eSB): <http://www.irishstatutebook.ie/eli/2015/ca/34/enacted/en/html?q=thirtyfourth> Accessed 5 October 2015.

suggested the argument was about 'equality' rather than 'gayness'. Davis demonstrates how this tactic is used in current disputes over abortion:

Both sides try to win an argument by focusing in on an attribute of abortion that suits their side of the argument. No one is pro- or anti-abortion, they are pro-life or pro-choice. Each side is trying to frame the debate by taking the argument to a terrain that favours them. The cognitive point here is that we generally make sense of confusing things by judging them against various preconceptions ... we place the proposition somewhere in relation to our pre-existing structure of beliefs and attitudes ... what the clever communicator does is prompt us to use the most favourable of those preconceptions to view the issue. ³⁸

PLAC may not have invented the designation 'pro-life', but it took possession of it efficiently when it styled itself the Pro-Life Amendment Campaign. By its use of the word 'life' it also set at an immediate disadvantage any other pressure group which might establish itself in opposition to PLAC. When an opposition group, the AAC, was formed a year later it designated itself the 'Anti Amendment Campaign', a manifestly less assertive name. The AAC was further hampered by the difficulty its leadership and supporters had in getting their message understood, whereas the PLAC message was simple and to the point. It was pro-life and anti-abortion.

Among the AAC membership were many who described themselves as 'pro-life' and 'anti-abortion'. For various reasons, they did not believe that the Constitution was the proper place for the type of Amendment that was being proposed. Theirs was a complex argument which appeared weak against the clarity of PLAC's robust appeal. It lacked the easy access to the voters' 'pre-existing structure of beliefs and attitudes' as defined by Davis. The mission, identity and authenticity of the pro-life, anti-abortion, anti-Amendment campaigners of the AAC lacked the clarity of their opponents.

Armed with instant recognisability, just three months after its 24 January inauguration, PLAC extracted promises of a 'pro-life' referendum from the major political parties.

³⁸ Davis, *Post-Truth*, 152.

Barry Desmond, in a 2018 interview with the *Irish Times*, stated that Garret FitzGerald was ‘politically railroaded’ by the Fianna Fáil leader, Charles Haughey, into agreeing to a referendum. FitzGerald was so panicked that Fine Gael would be cast as pro-abortion that he agreed to the Fianna Fáil wording ‘to get it off the pitch’ in the forthcoming 1982 general election, thus giving a vulnerable hostage to fortune.³⁹

A combination of luck and acute political timing underpinned PLAC’s success in its approaches to the two main political parties. The campaign to ensure that the politicians would keep their word to hold a referendum and that a majority would vote for it began in May 1981, against a troubled political background. A general election loomed in the Republic while, in Northern Ireland, Bobby Sands, elected as Sinn Féin MP for Fermanagh and South Tyrone, had begun his third month on hunger strike. Dr Michael Woods TD (FF), Minister for Health, told RTÉ Radio News that the Fianna Fáil Government had made it clear that they were totally opposed to abortion.⁴⁰ Just over two weeks later, the then Taoiseach, Charles Haughey, repeated that position in the Dáil and promised that his government would bring forward a constitutional Amendment as soon as possible.⁴¹

Just after Christmas, 1982, SPUC held a candle-lit procession and laid a wreath at Leinster House. The SPUC public relations officer, Patsy Buckley, said this was to remember those who died in British abortion clinics and to remind Taoiseach Garret FitzGerald of his promise to hold a referendum. In an emotional interview with RTÉ News, she set the scene for that organisation’s contribution to the campaign:

Now we have gained in strength but the people who favour abortion are also gaining in strength and they are openly referring people to England for abortion. Forty a week. And we feel it is monstrous. Monstrous because it’s killing, killing little Irish citizens.

³⁹ ‘FitzGerald ‘railroaded’ into 1983 abortion referendum’ by Michael O’Regan, *Irish Times*, 19 February 2018.

⁴⁰ 19810428.

⁴¹ 19810514.

Reporter: Supposing the government refuses to hold a referendum for the pro-life Amendment?

Buckley: Well, Mr Garret FitzGerald before he was elected told us that he would, and I honestly don't feel he will go back on his word. It would make him seem very strange to the people of Ireland. ⁴²

Buckley's vivid and forthright comments illustrate the difference between SPUC's approach and that of PLAC whose chairperson, Dr Julia Vaughan, sought a medico-legal presentation of the pro-Amendment case. The SPUC approach was more visceral. PLAC tended to shy away from expressions such as 'killing babies'.

The change of Government following the general election of 18 February 1982 encouraged the pro-Amendment side. In March, Taoiseach Charles Haughey told the pro-Amendment side that there would be a referendum by the end of the year. At a news conference on 27 April, Julia Vaughan said the Taoiseach was considering forms of words which PLAC had suggested for the Amendment. Kevin O'Kelly of RTÉ News put it to her that, while she might not wish an Amendment to become a denominational issue, it was already becoming so in the view of many Protestants:

Vaughan: Well unfortunately that appears to be the case and I regret that they see it that way. We regard this as a fundamental human rights issue, and everyone really has the right to life. Perhaps when we have the opportunity of meeting the individual church leaders, we'll have an opportunity of telling them in depth of what, how we see the position.

O'Kelly: You say you want to preserve the right to life but isn't it a fact that whatever constitutional Amendment there may be, girls will still be able to go to England and get their abortions just as before.

Vaughan: That's quite true. We will not be interfering with the status quo. What we're concerned about is enshrining the right to life in the constitution. That of itself will necessitate a change of heart here. A change in people's attitudes towards girls

⁴² Ibid.

who find themselves in difficulty. These people need to be helped, to be cared for and that means that government has a duty in this regard as well as individuals.⁴³

Vaughan did, on occasion at least, exhibit some sympathy for the thousands of women who had resorted to abortion elsewhere. However, that did not distract from the primary purpose of ensuring that wherever abortion took place it would not be in Ireland.

Later in the campaign, the anti-Amendment side were to challenge PLAC, SPUC and their supporters, accusing them of trying to force specifically Catholic doctrines into the Constitution; of having little concern for the wellbeing of those who were already born or for the thousands of pregnant women who sought abortions in Britain. The number of Irish women aged 15 to 44 giving Irish addresses and obtaining abortions in England or Wales had risen from 64 in 1968 to 3,650 in 1982, representing 5.1% of live births.⁴⁴

Overleaf is a PLAC campaign leaflet from 1982.

⁴³ 19820427.

⁴⁴ Abortions from Office of National Statistics and Department of Health (UK); female population aged 15-44 from Central Statistics Office, Ireland (population at April of each year) unwed births and other data from CSO. Figures provided by the Second Look Project: <http://secondlookproject.ie>. Accessed 14 March 2016.

Figure 3: PLAC campaign leaflet 1982.

THERE IS NO NEED FOR ABORTION

Help and care are available to the pregnant mother, before and after birth.

The following are some organisations which will help the mother to keep her baby or, if desired, arrange adoption:-

AGLY
St Bernard's Priory Upper Ower St., Dublin 1.
Tel: 51-140250

CASA
Dublin: 51-121558 New Rd. Upper Ower
Kilberry: 510-2270 New Rd. 10-11 Upper
Cath. 51-121558 New Rd. Upper Ower
Kilberry: 51-121558 New Rd. 10-11 Upper
Kilberry: 51-121558 New Rd. 10-11 Upper
Kilberry: 51-121558 New Rd. 10-11 Upper
Kilberry: 51-121558 New Rd. 10-11 Upper

LIFE
10 Lower Roper St., Dublin 1.
Tel: 51-140250

Irish Pro-Life Movement
The Lady of Lourdes Hospital, Drogheda Tel: 501-1401
Branches throughout the country

CHERISH
2 Lower Roper St., Dublin 1. Tel: 51-140250

The Catholic Protection and Rescue Society
10 South Anne St., Dublin 1. Tel: 51-170644

St. Anne's Adoption Society
Assumption Convent, Wickham Park Tel: 51-140250

St. Patrick's Guild
40 Haddington Road, Dublin 8. Tel: 481-1401

Abortion is the deliberate killing of an unborn child. This can never be justified and is a violent exploitation of women. Before voting, this should be carefully considered.

SHOW THAT YOU ARE OPPOSED TO ABORTION



VOTE

☒ TA
YES

...to
protect
life

Your local Pro-Life organizer needs your help. Contact the address below for details.

The Pro-Life Amendment Campaign
21 Merrion Square, Dublin 2.
Phone: 762278

If you can help with costs, please send a donation.

Protect Life... Prevent Abortion.



VOTE YES

On September 7th

What the Amendment says...

"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."

This Amendment means...

- That unborn children have a right to be born.
- That the State protects all children equally, whether born or unborn.
- That the State continues to protect the right to life of the mother.
- That we commit ourselves as a people to the welfare of mothers and their children, before and after birth.

and does...

The Amendment will...

- Prevent abortion being made legal in Ireland against the democratic wishes of the Irish people.
- Protect the unborn child in the Constitution—just as you and I are protected.
- Guarantee basic human rights to the most innocent and defenceless in the community.

and will not do.

- The Amendment will not cause any change whatsoever in the medical treatment of mothers during pregnancy (e.g. treatment of ectopic pregnancy, cancer of the womb, etc.) All five university professors of obstetrics and gynaecology in the State have confirmed this.
- The Amendment will not change the legal position in regard to any method of contraception.
- "The Amendment will not alter the existing statute law in relation to the medical treatment of mothers during pregnancy".

With Association of Lawyers for the Defence of the Unborn



TO PROTECT LIFE
VOTE YES
TO PREVENT ABORTION

Poster from the author's personal collection.

2.4. THE ANTI-AMENDMENT CAMPAIGN BEGINS

Figure 4: Anti-Amendment Campaign leaflet 1982.



Leaflet from the author's personal collection.

Opposing the pro-life Amendment campaign was the Anti-Amendment Campaign (AAC). It consisted of individuals and some organisations. The latter included the Dublin Rape Crisis Centre; the Dublin Well Woman Centre; Cherish; the Women's Right to Choose Campaign; the Trade Union Women's Forum and several student unions. The Communist Party of Ireland, the Democratic Socialist Party and the Workers' Party also sponsored it. Notable individuals among the AAC's sponsors were Jim Kemmy TD, leader of the Democratic Socialist Party, Senator Catherine McGuinness, Senator Mary Robinson and the Very Revd. Victor Griffin, Dean of St. Patrick's Cathedral, Dublin.

The Anti-Amendment Campaign was launched on 2 June 1982 at a news conference chaired by the Labour Party activist, feminist and writer, Jean Tansey. In a *Today Tonight* programme on 4 June, ⁴⁵ Tansey declared that the AAC was not a campaign for abortion but a campaign to defeat the PLAC effort to have the proposed Amendment inserted in the Constitution. Instead,

⁴⁵ 19820604.

the anti-Amendment group wanted Government action to prevent unwanted pregnancies through contraception and education. They also argued that some exceptional abortions might have to be allowed, such as where the mother's health was in danger or the pregnancy was the result of rape. The suspicion that the AAC had within its ranks people who supported abortion surfaced at the news conference transmitted on *Today Tonight*. A questioner asked how many of the committee were prepared to stand up and say they were totally opposed to abortion but were also totally opposed to the Amendment. Tansey replied that they had no figures but suggested that all one could do was to go to the people who had sponsored the AAC, some of whom had stated their total opposition to abortion.⁴⁶ The question of whether the AAC had abortion supporters within its ranks was to become an issue later in the campaign, in statements by the Archbishop of Kerry, Dr Kevin McNamara, and his fellow bishops.

In August, there was a reminder of the horror many felt at the notion of abortion. SPUC (UK), the parent organisation of SPUC (Ireland), organised a rally at the National Stadium to hear Mother Teresa of Calcutta speak on abortion. The atmosphere of the SPUC rally was highly emotive and characteristic of SPUC's instinctual approach to the Amendment debate. It was an undoubted coup for SPUC to have secured the appearance and the support of Mother Teresa, whose account of abortion in Calcutta, although delivered in a calm and gentle manner, was vivid and profoundly shocking.

RTÉ *Today Tonight* reporter, Joe Little, was present at the event:

Mother Teresa described her sisters' efforts to rescue fetuses and infants from abortion clinics and rubbish bins. I recall seeing a few women in audience weeping ... not in a melodramatic way, but silently ... perhaps the descriptions of the rescue missions were enough to move them to tears. The turnout was very large, and I do not think there were many empty seats. Mother Teresa was preaching to the converted and doing vox pop interviews with her listeners proved difficult as I was trying to play the devil's advocate with people who were

⁴⁶ Ibid.

thoroughly convinced that the nun's very obvious piety placed her arguments beyond reproach.⁴⁷

Close analysis of an IMS poll in the *Irish Independent*, quoted by Hesketh, led 'to the conclusion that just under three in 10 voters – or 28% – are both in favour of a referendum and would vote in support of the proposed Amendment'. Hesketh interprets the poll result as 'the clearest indication that the AAC had made significant gains since its launch in June'. Both PLAC and the *Irish Catholic* put a brave face on it, but the *Catholic Standard* was dismayed to see that only half of the 1,300 interviewed were 'even aware of the issue'.⁴⁸

Minister for the Gaeltacht, Pádraig Flynn TD, speaking at a meeting of SPUC, politicised the debate, accusing Garret FitzGerald of having an ambivalent attitude to the proposed referendum.⁴⁹ Hesketh's account goes further; he spoke of Flynn accusing FitzGerald of backing down on the issue and claiming that the Fine Gael leadership tacitly accepted that legalised abortion could be introduced under limited circumstances.⁵⁰

The then Taoiseach, Charles Haughey, had promised an Amendment bill by the end of 1982. Late summer and autumn of 1982 was a period of political havoc. The Attorney General, Patrick Connolly SC, was forced to resign when a murder suspect was arrested in his Dalkey apartment. John Murray SC was appointed Attorney General in his place. The same period saw the first of what became known as the 'heaves' against Haughey as leader of Fianna Fáil. In spite of the turmoil, Haughey worked at getting the wording of the proposed Amendment drafted. He succeeded just three weeks before the anticipated general election. On 2 November, he circulated the bill with the proposed Amendment entitled 'Eighth – Right to Life of the Unborn':

⁴⁷ Joe Little, Religious and Social Affairs Correspondent, RTÉ News, in an email to the author 2 June 2017.

⁴⁸ Hesketh, *The Second Partitioning of Ireland?: The Abortion Referendum of 1983*. 103-106.

⁴⁹ 19820927.

⁵⁰ Hesketh, 121.

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. ⁵¹

Fine Gael's statement read:

The Fine Gael Party welcomes the form of the Amendment to the Constitution proposed by the Government. The Amendment as proposed is worded in positive terms, designed to strengthen the constitutional protection of life, as proposed by the Leader of Fine Gael in his Árd Fheis speech. At its meeting today the Fine Gael Party decided to support the Amendment and in government to initiate legislation with a view to a referendum to be held by the end of March. ⁵²

The publication of the proposed wording three weeks before the general election date of 24 November 1982 did not thrust abortion and the proposed Amendment into the political campaigning. However, it did become a political issue in some places, notably Limerick and Galway. In Limerick, the Democratic Socialist TD, Jim Kemmy, lost his seat to Frank Prendergast, described by Hesketh as an intensely pro-life Labour councillor and former mayor. ⁵³ Kemmy refused to go along with the emotionally charged pro-Amendment side in Limerick and asserted that abortion could be justified if the mother's life was endangered or if there was a congenital deformity of the foetus. The *Limerick Leader*, quoted by his biographer Brian Callahan, attacked Kemmy: 'Abortionist Jim Kemmy is hitting below the belt ... let the people decide which is the better way -- the pro-life way or Kemmy's way of death'. ⁵⁴

The Fine Gael Leader, Dr Garret FitzGerald, in a move which later proved politically unwise, endorsed the Fianna Fáil wording without any reservation in a *Today Tonight* episode

⁵¹ Hesketh, in *The Second Partitioning of Ireland*, credited the new Attorney General John L. Murray with the formulation of the Amendment.

⁵² 19821103 B.

⁵³ Hesketh, 184.

⁵⁴ Brian Callahan. *Jim Kemmy - Stonemason, Trade Unionist, Politician, Historian* (Dublin: Liffey Press, 2011) reviewed by Stephen O'Byrnes in the *Irish Independent*, 25 December 2011: <https://www.independent.ie/entertainment/books/review-biography-jim-kemmy-stonemason-trade-unionist-politician-historian-by-brian-callahan-26805494.html> . Accessed 13 April 2017.

transmitted on 4 November 1982. In it, the presenter, Dr Brian Farrell, noted the alacrity with which Fine Gael had accepted the Fianna Fáil wording and suggested to FitzGerald that he simply wanted to prevent such a sensitive issue as abortion emerging in the election campaign:

FitzGerald: When we examined it carefully and saw the wording of it and took advice on it, it seemed to us that it was about as good a formula as you could get. I have to admit that in the Government's favour. ⁵⁵

Two days later, on 6 November 1982, FitzGerald wrote to Dr Julia Vaughan, the PLAC chairperson:

We are committed to introducing this Amendment in Government and having it put to the people in a referendum before 31 March next. ⁵⁶

FitzGerald entered the election having forestalled any widespread attempt to generate political controversy over the proposal to call a 'pro-life' referendum and the wording to be put to the voters. On 9 November, the *Irish Times* reported: 'Abortion now petering out as an issue':

Yesterday Dr FitzGerald said it was 'disgusting' that the Taoiseach should try to make abortion an election issue, but Mr Haughey again repeated that he has no confidence on the Fine Gael Party following through the proposed Amendment. ⁵⁷

Following the defeat of the Haughey Government and the formation of the Fine Gael/Labour coalition, the pro-Amendment lobby noted the commitment contained in the joint programme of Government. This promised legislation by 31 March for the 'Pro-Life Amendment' published by the outgoing Government:

⁵⁵ 19821104. The FitzGerald quotation is also in a transcription of the programme by PLAC, in PLAC papers (in private hands).

⁵⁶ Letter from Dr Garret FitzGerald to Dr Julia Vaughan, Chairman, Pro-Life Amendment Campaign, 6 November 1982. In private hands.

⁵⁷ *Irish Times*, 9 November 1982.

Dick Spring: Legislation will be introduced to have adopted by 31 March 1983 the Pro-Life Amendment published by the two largest parties in the Dáil. The Parliamentary Labour Party reserves the right to a free vote on this issue.⁵⁸

The first serious crack to appear in the government coalition came on 18 January 1983 when Minister for Health, Barry Desmond TD (Lab.), announced that he would vote against the Referendum Bill.⁵⁹ He indicated that its passage through the Dáil would, instead, be managed by Minister for Justice, Michael Noonan TD (FG). Monica Barnes TD (FG), among others associated with what was regarded as the liberal wing of FG, also criticised the party leadership. In early February 1983 there began a flurry of press speculation that a 'rethink' about the Amendment wording was under way in the Government; that 'second thoughts' might lead to 'different formulations' wherein the Amendment text might 'be altered' as it was still 'a matter for discussion by the Government'.⁶⁰

On 8 February, Monica Barnes who, like Desmond, represented the Dun Laoghaire constituency, told RTÉ News that she would vote against the bill even in the absence of a free vote. She referred to the legal and medical implications being expressed by professionals and believed that the Amendment would endanger women in certain cases.⁶¹ Barnes' comments came the day before the Dáil debate on the proposed Amendment presented by Minister for Justice, Michael Noonan (FG) who said that TDs would not be committing themselves to the wording because questions had arisen as to whether the wording could cause unforeseen difficulties. Over the next few days word spread through the Dáil that the Government was backing away from the FF wording. Charles Haughey said in an interview that it seemed to him that the Government might drop the referendum altogether. He denied that it was a sectarian Amendment and said the wording was acceptable to the Protestant churches when first published by his government before the election.⁶²

⁵⁸ Fine Gael/Labour Programme for Government, dated December 1982.

⁵⁹ 19830118.

⁶⁰ Hesketh, *The Second Partitioning of Ireland?*, 198-199.

⁶¹ 19830208.

⁶² 19830214.

Haughey would have been more accurate had he limited himself to saying that the wording was acceptable to some Protestants. Just two weeks earlier Canon James Hartin told RTÉ News at the end of January that he opposed the referendum wording because he regarded it as sectarian and likely to alienate Protestants.⁶³ As will be seen shortly, an even more notable Church of Ireland cleric, the Dean of St. Patrick's Cathedral, attacked the referendum wording on RTÉ's *Today Tonight*. But first FitzGerald had to endure trenchant criticism from members of Young Fine Gael when he attended their annual conference which took place in Galway on the weekend of 12/13 February 1983. FitzGerald was expecting criticism of the proposed referendum. As *Sunday Tribune* journalist, Emily O'Reilly reported:

The profile of Young Fine Gael had changed considerably since their last conference. Inspired by FitzGerald's constitutional crusade, a more liberal element had come in ... It was Young Fine Gael that managed to have the issue debated at the (party's) October Árd Fheis, proposing the motion: 'That no useful purpose can be served by proceeding with the constitutional Amendment.' However, the motion was defeated by 3 to 1. The same motion was again raised in February at the Young Fine Gael conference with greater success. Young Fine Gael had, in a sense, decided to carry on FitzGerald's crusade without him.⁶⁴

A concern forcefully articulated at the conference was for the situation of unmarried pregnant women who felt that abortion was their only alternative:

In a debate on the proposed referendum the delegates proposed by an overwhelming majority that 'no useful purpose could be served by proceeding with the referendum'. Sally Anne Godson, a delegate from the Dublin South Constituency, said that the Amendment was 'going do nothing to help those who were having abortions'. She asserted that 'the very people who claimed to be pro-life were, in fact, causing abortions through their narrow-minded, insular approach to unmarried pregnant women. The children of these women would be branded as illegitimate or – if their parents could not have married before their births – as 'adulterine bastards' in law and branded as worse by 'these sanctimonious good Irish Catholics whose lack

⁶³ 19830131.

⁶⁴ 'FitzGerald was reported to be shattered' by Emily O'Reilly, *Sunday Tribune Magazine*, 15 May 1983.

of Christianity and human compassion is responsible for a very minimum of 3,000 aborted Irish people. Is this pro-life?' ⁶⁵

Barbara Calahane, also representing Dublin South, echoed the emotion of her constituency colleague as she addressed the Taoiseach directly, challenging him on his own 'constitutional crusade':

Supporting this Amendment, no matter what the wording of it may be, will seriously undermine many of the causes this party wants to further. A small group who are seeking to re-assert and influence what has been eroded by social change over the past 10 years are behind this Amendment. If this Amendment succeeds, there will be more Amendments, more attempts to turn the clock back until they have rebuilt the confessional state.

An Taoiseach, how will the constitutional crusade survive in that environment? ⁶⁶

The conference took on the air of a challenge at that moment. Young Fine Gael, although linked to Fine Gael itself, was independent. Its members had welcomed and been inspired by FitzGerald's ambition to lead a constitutional crusade. Now here was what appeared to be a reversal of the ideals the Taoiseach had espoused two years earlier, when in opposition. While FitzGerald does not refer to the conference in his autobiography, *All in a Life*, other than to mention that he attended it, the *Today Tonight* film showed him listening to Calahane and others while looking distinctly uncomfortable. Emily O'Reilly wrote that he was reported to have looked 'shattered'. ⁶⁷

Calahane: Taoiseach, can we be proud that we have overlooked groups who have been campaigning for years for real social change in favour of an Amendment to the Constitution that aids precisely no one and does not save the life of a single child? ⁶⁸

⁶⁵ 'Referendum should be dropped - young FG' by Michael Finlan, *Irish Times*, 14 February 1983. Retrieved 14 August 2017 from ProQuest Historical Newspapers: <http://elib.tcd.ie/login?url=https://search.proquest.com/docview/529682463?accountid=14404>

⁶⁶ 19830303.

⁶⁷ 'FitzGerald was reported to be shattered', O'Reilly.

⁶⁸ 19830303.

As reported, the anti-Amendment sentiment of the Young Fine Gael delegates at the conference was overwhelming. The ideals of the Young Fine Gael delegates, expressed directly to the Taoiseach were activated when the group announced that they would fight a nationwide campaign against the proposed constitutional Amendment. They and the Workers Party were the only political bodies to enter the fray officially.

It is important to note here that the speeches by some Young Fine Gael delegates were among the few occasions the situation of thousands of women travelling for abortion received any attention during the campaign leading to the Eighth Amendment. The plight of such women featured strongly in the campaign to repeal it 35 years later.

As the Taoiseach drove to Galway for the Young Fine Gael Conference the weekend of 12/13 February, he called at Ballinasloe to see Bishop Joseph Cassidy of Clonfert. He informed him that the Attorney General, Peter Sutherland SC, had presented his formal legal opinion on the existing Fianna Fáil wording. Sutherland had identified what he termed ‘ambiguities’.

FitzGerald considered that the Government could not morally set before the voters a formula which, if passed, might at some future time be interpreted by the Supreme Court as excluding the right to life of the mother in some cases, or permitting abortion in others. An alternative wording had to be devised and put before the Dáil. FitzGerald had come to explain the predicament, so as to avoid any misunderstanding with the hierarchy. Cassidy said he understood the situation, would consult his fellow bishops and come back to FitzGerald with a channel of communication. But when Cassidy did so it was only to say that the bishops would nominate an intermediary. FitzGerald feared that such an arrangement might result in misunderstandings; a fear, he said, later proved fully justified.⁶⁹

FitzGerald faced a political furore with the Fianna Fáil leader, Charles Haughey, accusing the Government of a breach of faith. Others, inside and outside the Oireachtas, claimed the Government was backing away from having a referendum at all or at least postponing it. Minister Noonan told deputies that they would not be committing themselves to the existing

⁶⁹ Garret FitzGerald, *All in a Life: An Autobiography* (Macmillan London, 1991) 440-443.

wording and that questions had arisen about the wording which could result in unforeseen difficulties.⁷⁰

On Tuesday evening, 15 February 1983, the Attorney General, Peter Sutherland SC, was interviewed by Brian Farrell for *Today Tonight*. He said his task, as the Government's law officer, was to examine the wording inherited from the previous, Fianna Fáil, government, and advise the current Government. He told Farrell he had not advised the Government before it took office. When the task of managing the passage of an Amendment bill through the Oireachtas was transferred from the Department of Health to the Department of Justice, Minister Michael Noonan perceived that the wording might be problematic and sought advice. Sutherland emphasised the importance of getting the wording right. Once passed, an Amendment was immutable and could not be struck down. The country would be fastened to it, perhaps for generations.

A further complication was the fact that FitzGerald said earlier that FG had taken advice on the FF wording, though he did not specify from whom the advice came.⁷¹

Sutherland saw two main difficulties with the wording. One was the definition of 'unborn' which did not appear as a noun in any dictionary. A court would have to define what 'unborn' meant and who exactly would be protected by the proposed Amendment, if carried. As the AG saw it, 'unborn' might be taken to mean the fertilised ovum or it could also mean a foetus *capable of being born*. Were that to be the case, he said, the foetus might be protected by the Constitution only from 28 weeks onwards. Were 'unborn' to be held by the court to mean *as from the moment of fertilisation*, certain contraceptives might be ruled out thereby.

Sutherland's second difficulty concerned the 'equal right to life' provision:

For this particular wording, giving an equal right to the life for mother and to child creates the situation potentially where it is possible that the Court, in interpreting the provision, would say that a doctor who is treating a mother, an expectant mother, for a condition which might, or would remove the foetus, terminate the life

⁷⁰ 19830209.

⁷¹ 19821104. Also in transcription in PLAC Papers, as cited above.

of the unborn, might feel that he could not prefer the mother to the child and would be in a position where he would be inhibited in the treatment which could be afforded to the mother under these circumstances. And that fear is another matter of concern upon which I have felt compelled to advise the Government that they must be cautious in regard to this wording.⁷²

As will be seen, this careful legal language, considered by the Government and discussed within the Fine Gael Parliamentary Party, would be replayed by the PLAC chairperson to a press conference accusing the Taoiseach: 'The Prime Minister of this country said women would die.'⁷³

On the same day there came another attack on the increasingly beleaguered Government. The Dean of St. Patrick's Cathedral, the National Cathedral of the Church of Ireland, issued a lengthy statement denouncing the very idea of the referendum on abortion as well as its wording. It was read, almost in full, on that night's edition of *Today Tonight*. Dean Victor Griffin's objections were six-fold:

1. The Constitution should not be the vehicle for complex moral questions. Rather it should be an expression of common unity while leaving divisive issues such as abortion to the Dáil.
2. The Amendment, if passed would do nothing to address the problems underlying abortion.
3. The wording currently under consideration was ambiguous and framed in such a way as to appear non-sectarian.
4. The proposed Amendment would render abortion in the case of rape, incest or foetal abnormality a criminal offence whereas the generally held Protestant view was that abortion would be allowed as a last resort in exceptional cases as the lesser of two evils.
5. If an unborn child or human being is equated with a fertilised ovum even before implantation then certain contraceptive pills and devices such as Inter

⁷² 19830215.

⁷³ 19830816 and 'PLAC launches poll campaign', *Irish Times*, 17 August 1983.

Uterine Devices (I.U.D.s) could be declared as unconstitutional, as abortifacients. Herein lurks a danger to family planning clinics which prescribe these methods of contraception The Protestant would regard this as an invasion of privacy and a denial of the rights of conscience and individual liberty.

6. If the term 'life' is to be taken to include the health and wellbeing of the mother, why is this not made clear in the wording? Is it because abortion where the life of the mother is endangered is the only circumstance allowed by the Roman Catholic Church and does this mean that the moral viewpoint of that church is the only one to be allowable under the Constitution? ⁷⁴

This was the first significant intervention by the late Dean Victor Griffin in the Amendment campaign, although he had agreed to join the list of sponsors of the AAC launched in June 1982. As a churchman, Griffin's freedom to express views on matters of public interest was in marked contrast with the rules, regulations and procedures of the majority church. Griffin was the Dean and Ordinary of the National Cathedral. According to the Constitution of the Church of Ireland, deans of that cathedral were elected by the members of the Cathedral Chapter from members of the Chapter. The Archbishop of Dublin could intervene and appoint a dean only when the Chapter had failed to do so after a three-month vacancy. Even then he could appoint a dean only from within the Chapter. ⁷⁵ The Dean exercised comprehensive jurisdiction as an Ordinary, described as:

In canon law, an ecclesiastic in the exercise of the jurisdiction permanently and irremovably annexed to his office. Such jurisdiction extends over his rights of teaching, governing, adjudicating and administering the sacraments. ⁷⁶

⁷⁴ 19830215.

⁷⁵ 'Election of Dean' in *Constitution of the Church of Ireland, Chapter VII, Cathedrals, National Cathedral of St Patrick, Dublin*, 25.
<https://www.ireland.anglican.org/cmsfiles/pdf/Information/Constitution/07.pdf>. Accessed 16 August 2017.

⁷⁶ F. L. Cross, *The Oxford Dictionary of the Christian Church* (London etc.: Oxford U. Pr., 1958)

Following his statement, and his appearance on *Today Tonight* 24 hours later, Griffin became a powerful symbol of opposition to the proposed Amendment. One of his more recent successors, the Very Revd. Victor Stacey, Dean of St Patrick's Cathedral 2012-2016, said that Griffin exercised a good deal of autonomy in his capacity as Dean and did not hesitate to involve himself in issues that concerned him. He was very protective of that autonomy which has a long history and, in retirement, would often remind his successors of the power and discretion they might exercise.⁷⁷

The Church of Ireland took no formal part in the campaign other than to issue a statement from the Standing Committee. Griffin spoke as Dean of St Patrick's Cathedral, not as a spokesman for the Church of Ireland. However, through his unique position, his public profile and, perhaps the fact that Protestant churchmen taking a strong public stance on socio/political or religious matters were, apart from James Hartin, a rarity, demand for appearances by and interviews with Griffin grew.

On Wednesday 16 February 1983, the day following his statement, *Today Tonight* filmed and transmitted a full-length interview with the Dean:

I speak for myself, but I'm quite conscious of the fact that I'm speaking for a great, great number of people not only of the Church of Ireland people but of Protestant people in general and, indeed I should say, possibly a number of Roman Catholics as well.⁷⁸

Griffin became very active in the AAC. Along with other anti-Amendment campaigners, Nell McCafferty, Michael D. Higgins and Fine Gael TD, Monica Barnes, he took to the road at public meetings organised by the AAC. A native of Wicklow, he sought a pluralist, non-sectarian society in the Irish Republic. He held that issues such as abortion were the business of the Oireachtas as the legislature and should not be for definition in the Constitution. Griffin joined the argument that the Amendment would make no difference to women seeking abortions in England. He also articulated what he described as the Protestant view that the mother had a

⁷⁷ Very Revd. V.G. Stacey, Dean of St Patrick's Cathedral 2012-2016, interviewed for this thesis on 16 August 2017.

⁷⁸ 19830216.

superior right to that of the foetus.⁷⁹ Hesketh notes that a growing number of liberal Catholics enthusiastically welcomed Griffin's stance and that denouncing the Amendment as sectarian, as Hesketh put it, 'would reactivate this Protestant-liberal Catholic coalition in opposition to it'. Hesketh argues that the objections from 'the Protestant churches and from Catholic liberals had effectively sectarianised the issue'.⁸⁰

Some thirty years later, then in retirement, Griffin considered Hesketh's argument that he and other Protestant churchmen had sectarianised the issue. Griffin turned the argument around saying that he had come upon a situation that had been sectarianised already:

It had to be sectarianised if it was to gain the acceptance of the Roman Catholic hierarchy . . . We didn't set out to sectarianise . . . We only pointed out that if this form of words were to be accepted, it would not be acceptable to us.⁸¹

Without naming PLAC, SPUC or any other 'pro-life' lobbyists, Griffin, on *Today Tonight*, challenged the claim by PLAC leadership that there was already in Ireland a substantial and growing pro-abortion demand. He also dismissed any notion that it was possible to legislate people into a particular moral position:

I really can't understand the reason for this pro-life campaign because if people were going around wanting abortion – easy abortion – I could understand this sort of thing but we're not getting it in Ireland. As I've said before, the attitude, the moral attitude of people will determine their conduct and you cannot make people good by one act of parliament. You cannot make people behave in a moral way – what you think is a moral way – by amending the Constitution.⁸²

All the campaign would do, said Griffin, would cause divisiveness while achieving nothing:

⁷⁹ Cited in Paul Loughlin, 'The Eighth Amendment: a short history' in *Search: A Church of Ireland Journal*, Vol. 40.1, Spring 2017, 25-36.

⁸⁰ Hesketh, *The Second Partitioning of Ireland?: The Abortion Referendum of 1983*. 70.

⁸¹ Interview by the author with Dean Victor Griffin, 10 April 2012.

⁸² 19830216.

I just come back to what the Protestant churches said: this should not be a constitutional matter because to be a constitutional matter you first of all have to draw up a form of words and I do contend that you are not going to be able to do that; a form of words which is going to have a sufficient moral consensus which I would say should be required in any section of certain areas of the Constitution.⁸³

On 2 March 1983, just over two weeks after transmission of the interview with Griffin, Taoiseach Garret FitzGerald announced that there would be a new form of wording for the constitutional Amendment on abortion. He was replying to the Fianna Fáil leader, Charles Haughey. On the same day, the first Women's Conference of the Irish Congress of Trade Unions took place. The delegates rejected the proposed Amendment and demanded a change to the laws on divorce.⁸⁴ The FitzGerald Government now faced uncertainty surrounding the Amendment wording, which the Taoiseach had endorsed in the *Today Tonight* programme of 4 November, proclaiming it 'as good a formula as you could get'.⁸⁵ Serious divisions were about to emerge in FitzGerald's own party, and cogent arguments against the proposed Amendment were beginning to emerge both from Protestant churchmen and liberal Catholics.

In February 1983, RTÉ's *Today Tonight* prepared a programme on the origins of the Pro-Life Amendment Campaign. It was a timely examination of the views and the motives of the organisation when, according to British Department of Health statistics for 1982, an average of ten women per day, giving Irish addresses, obtained abortions in clinics in England and Wales.⁸⁶ The programme also employed 'fly on the wall' techniques when filming events such as a SPUC meeting in Tullamore, where participants conversed with each other rather than simply responding to a reporter's questions. The following features a SPUC meeting which took place in January 1983 after Minister for Health, Barry Desmond, had announced that he would not support the referendum bill:

⁸³ Ibid.

⁸⁴ 19830302.

⁸⁵ 19821104.

⁸⁶ 1982 figures from Department of Health (UK) figures for women giving Irish addresses when seeking abortions. Quoted by The Second Look Project www.secondlookproject.ie. Accessed 17 May 2016.

First lady: I think it's disgraceful for the Minister for Health, Barry Desmond to stand up and make a statement that he is against the Amendment. And, I know many of the people in the Labour Party are Pro-Life – definitely Pro-Life.

Second lady: Anybody can voice an opinion, but when it comes to the nitty-gritty, it is the rule that is the power, and I always thought it was the wishes of the majority, was rule. And those who are against the Amendment, surely, are against democracy because they are afraid to put it to the people; whether or not they want abortion.

First man: Now we have been going around, as quietly as possible over the last few months and we have in fact visited all the areas in our various counties, and we have set up a small unit of people who are supporting Pro-Life and who would be prepared to work with us in the referendum, who will go out and canvas; who will get the people out on Polling Day, would drive them to the polling booth and who will convince them on the doorstep of the need for the Amendment.

APPLAUSE ⁸⁷

The distrust of parliamentary democracy hinted at here would become more pronounced in the succeeding years. A push for direct – as opposed to parliamentary – democracy would feature again and again up to, and including, 2018.

Barry Desmond is labelled a 'disgrace' by the first speaker because he opposes the Amendment. The second speaker considers anyone who opposes the Amendment to be 'against democracy'.

At the same meeting in Tullamore, participants confronted the question of how they, as individuals, might react were their wife or daughter to become pregnant through rape:

Second man: 'If my wife was raped tonight, I certainly – wouldn't have a feeling that I was creating a grave misjustice (sic) in considering abortion, and let any other man

⁸⁷ 19830303.

here tonight, if their wife was raped tonight, or your daughter was raped tonight – what would you think?⁸⁸

The President of SPUC, Dr Mary Lucey, also made a personal comment:

I don't know what I'd do, I don't for one moment say, that I wouldn't be tempted if my 19-year-old daughter was raped and was pregnant as a result of it; I don't say for one moment that I wouldn't consider abortion. I would be a half-wit if it didn't come into my mind, but I hope that I know what the right thing to do is and I trust in God to give me the support to do what is right. I'm only human. I will not say that I will not be tempted, and I will only say that I hope, I wouldn't give in to the temptation to sacrifice an innocent life for nine months discomfort for the victim of the rape.⁸⁹

On a personal level, Lucey admits that she herself would consider abortion for her daughter were her daughter to become pregnant as a result of rape. It is noticeable that she automatically adopts the decision as her own, not that of her daughter who, aged 19, would have been legally a minor in 1983.⁹⁰

The comments contained in this and other programmes provide valuable insights into a variety of contemporaneous attitudes. One such attitude is that the 'innocent life' consequent on the rape should never be sacrificed. The words 'nine months' discomfort' seem inadequate to describe a rape victim's daily reminder of the horror of the rape which caused the pregnancy. Yet, on the other hand, Lucey uses the word 'victim' in reference to the one who has been raped. Perhaps the SPUC and PLAC leadership were not as heartless as sometimes portrayed. Many of the same thoughts, views and arguments were evident in the campaign to repeal or retain the Eighth Amendment 35 years later.

In the transcript segment above, Lucey effectively acknowledges the reality of the availability of abortion to Irish women simply by crossing the Irish Sea. In the same programme, her colleague in PLAC, Dr Julia Vaughan, stated that the organisation did not seek to prevent

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ The age of majority was not reduced until 1985. *Age of Majority Act, 1985*.
<http://www.irishstatutebook.ie/eli/1985/act/2/enacted/en/html> . Accessed 2 October 2017.

women travelling to seek abortions. It sought to protect the 'unborn' from being killed only in Ireland.

The claim that there was a growing lobby to legalise abortion in Ireland was repeated regularly by PLAC:

Vaughan: Over the last number of years there has been a growing lobby by a vocal minority for abortion. And that demand is there and it's well recognised; and the grassroots of society are concerned about that and that's why the Pro-Life Amendment campaign is ... to effect an Amendment, given that this lobby is growing and recognising that lobbies of a similar magnitude effected the introduction of abortion in other countries.

Margaret O'Callaghan, RTÉ: Did you see a danger of such groups, as you refer to exerting an influence, out of proportion to their actual size?

Vaughan: Yes, that's possible

Lucey: There are some TDs in the Dáil who are in favour of abortion

Q: Would you see there being many TDs in the Dáil in favour of abortion?

Lucey: I would see about five or six.

Q: Do you think they are a significant grouping?

Lucey: Yes, I would, yes.⁹¹

In the same programme, barrister and PLAC legal advisor, William Binchy expanded on Vaughan's explanation of the need for the proposed constitutional Amendment:

The position as we see it, is that very definitely the Constitution contains no explicit protection for unborn children ... I think everybody on all sides of the debate accepts that there is no explicit protection for the unborn ... between 1965 and 1973, a number of decisions were given by the court which led to the abortion decision in the United States. ... The alarming dimension ... is that within a very short time ... the American Supreme Court were able to articulate a right to abortion based on a

⁹¹ 19830303.

right of privacy in the area of reproductive decision making, and this means in practical terms on the ground, that there is abortion on demand. It is possible an Irish court, when pressed by a particular case, might find it difficult to resist the argument which was successful in the American courts.

Vaughan: The new Amendment to our Constitution will give effect to the right to life of the unborn. That is the intention and it will not in any way invalidate any laws that exist in this country at the moment and it won't put any new restraints or restrictions whatever on anyone.

Q: Will it have any other practical effects?

Vaughan: I know of none.⁹²

These interview clips reflect the main bulwarks of the PLAC argument which underpinned their demand for a constitutional Amendment. PLAC's arguments rested on the assertions that:

- there was a growing, vocal minority of supporters for abortion which included a number of Dáil deputies;
- there was no specific protection in the Constitution for the unborn. Moreover, to be a citizen one had to have been born, so statute law needed to be changed to recognise the unborn as citizens;
- the American Supreme Court experience had shown that 'the right to marital privacy in the United States had become a right to procreative privacy entitling a woman to have what, in effect, amounts to abortion on demand';⁹³
- the Irish Supreme Court had already decided in the McGee case that Mrs McGee's marital privacy had been denied with respect to contraception. A future Court might rule similarly with respect to abortion.

While not mentioned in the above passages, there was also the suspicion that future politicians, ever mindful of their political careers, might be pressured into accepting some

⁹² Ibid.

⁹³ In Hesketh, *The Second Partitioning of Ireland?*, 4.

measure of abortion in the event, for example, of a hung Dáil and a pro-abortion party or group of deputies holding the balance of power.⁹⁴

Neither PLAC nor SPUC explicitly referenced Catholic doctrine in their arguments. However, the debate had a doctrinal character from the start and many churchmen urged voters to support the Amendment when the time came. Naturally the issue arose as to whether Catholics could vote against the Amendment. Did Church teaching mean that if a person were pro-life, he or she would have to vote pro-Amendment? That question as to whether Catholic voters could remain ‘good Catholics’ and vote against the Amendment while opposing abortion in Ireland was among the issues which featured strongly in the two live debate programmes and a filmed report transmitted by *Today Tonight* during the campaign. During debate programmes, the AAC endeavoured to emphasise that voters were not just being asked whether they were for or against abortion; they were being asked to vote on what would be a complex legal measure.

The strongest theme in the heat of the campaign emerged through PLAC and SPUC’s effort to reduce the debate to the simple question of whether people were prepared to allow the killing of babies or not. The same phraseology, juxtaposing ‘killing’ and ‘babies’, appeared even more strongly in the 2018 campaign.

Later in the 1983 campaign, the AAC countered PLAC with the equally confrontational assertion that ‘this Amendment could kill women’.

Two *Today Tonight* debate programmes were broadcast prior to the referendum. These adopted a model pioneered by the *Late Late*, with a panel of proponents and opponents debating a single topic live, in front of an invited audience comprising experts and other interested parties.

The first debate took place before the bill was passed and the (Fianna Fáil) wording adopted by the Dáil. It was transmitted on 10 March 1983 as a live outside broadcast at the Imperial Hotel, Cork. The second was broadcast on 25 August from the RTÉ studios in Dublin. By then

⁹⁴ 19830324 C.

the Attorney General, Peter Sutherland, had advised the FG/Lab. Coalition Government of potential problems in the FF wording and had offered an alternative wording. The alternative wording was voted down in the Dáil, some Government TD's siding with PLAC and the pro-Amendment campaign.

The 10 March debate had a panel of four, two pro- and two anti-Amendment, together with an invited audience of interested individuals. The four panellists were:

PLAC: Dr Julia Vaughan, gynaecologist, Chair, PLAC; Jim Sexton, solicitor with a practice in Limerick, member of PLAC;

AAC: Adrian Hardiman BL, member of AAC; Dr Mary Henry, consultant vascular physician, Rotunda and Adelaide Hospitals, member of AAC.

Because the alternative wording had been voted down. the only wording in play was that proposed by Fianna Fáil and framed by its Attorney General, John Murray SC.⁹⁵ That wording had been welcomed by pro-Amendment supporters and their organisations as unambiguously 'pro-life' with its apparently straightforward references to 'the unborn' and the unborn's 'equal right to life' with respect to that of its mother. The FG/Lab. Government had not yet published its proposed wording, formulated by the Attorney General, Peter Sutherland.

From the start, pro-Amendment supporters emphasised the need for the Amendment, without which abortion in Ireland would be inevitable. Audience member, Fr Pat Scanlan posed the question:

Can we expect when it comes to the most basic right to life that somehow or other we can stand as to it will never happen in Ireland? And it *will* happen in Ireland without, perhaps, the consent of the Irish people.⁹⁶

It became clear, from their comments in the first televised debate, that the pro-Amendment side sought, as far as possible, to confine the debate to its guiding principles: the simple

⁹⁵ Hesketh, *The Second Partitioning of Ireland?* An 'erratum' page in the book names Murray as being responsible for the formulation of the Amendment.

⁹⁶ 19830310.

assertion that voters were either for or against abortion, that there was a growing abortion lobby, and that the Supreme Court or a future Oireachtas might bring in abortion 'by the back door'. They often drew on a catalogue of experiences in other countries where abortion had been allowed in particular cases, eventually leading to abortion on demand without the citizens of those countries being consulted. A revealing moment came when a solicitor, Robert Pierse, appearing for the 300 solicitors supporting PLAC and the Amendment, along with Fr Michael Cleary, made it very clear that the movement mistrusted not only elected representatives but also the Supreme Court. The solicitor had issues with parliamentary democracy and, where 'pro-life' matters were concerned, preferred a more direct form of democracy.⁹⁷

The anti-Amendment side sought to bring the debate around to perceived threats to the doctor-patient relationship and to contraception. It saw the Amendment presenting a threat to methods such as the IUD or post-coital contraceptives:

Adrian Hardiman BL, AAC:(there is the) very substantial fear that this Amendment or any Amendment similar in form could interfere with the availability of contraceptives of a certain type with the direst consequences, as the medical people against the Amendment will be able to demonstrate, and secondly that an Amendment of this kind will open the door to legal actions by self-appointed moral enforcers against individual women and against doctors or other professional advisors, a possibility which has been specifically envisaged by the chief legal advisor to the pro-Amendment campaign.

Julia Vaughan, Chair, PLAC: This Amendment is to prevent the direct killing of the unborn in Ireland. For as long as the people wish. All of the people in their sitting rooms looking at us this evening will be given the opportunity of answering the question 'are they for or against abortion?' Do they want the direct killing of the unborn in Ireland? There is no other question, there is no other issue. The contraceptive situation has nothing whatever to do with this Amendment.⁹⁸

⁹⁷ 19830825.

⁹⁸ 19830310.

Throughout the programme, as with the whole referendum campaign, PLAC's strategy was to limit the debate to the measures necessary to prevent the killing of babies in Ireland while in the womb. Questions as to why so many Irish women sought abortions in England were avoided and other questions such as contraception were dismissed as 'red herrings.' PLAC, having framed the issue, saw to it that their frame remained intact. Such framing was less successful in 2018.

When asked whether a person could be anti-abortion and anti-Amendment at the same time, the answer was that such a position could result in the future introduction of abortion in Ireland:

Vaughan: It's highly improbable that the Oireachtas would legislate for abortion at this point in time but it could happen in the future. And Strasbourg could decide that abortion should be introduced here. In the absence of an explicit right to life in our constitution, that might happen.

Bowman: Father Pat Scanlan, is that a fair position, do you think, that somebody can be anti-abortion and anti-Amendment?

Certainly, I think there must be a number of people who sincerely hold that view, anti-abortion and anti-Amendment, at the same time. Personally, I am absolutely convinced that if a person, you know, is genuinely anti-abortion, I'm quite certain that the people here tonight who have said so are, I would ask them what about the possibility of abortion being legalised in Ireland. Look right around us. We're not insular, we're not cut off from the rest of the world. ... And it will happen in Ireland without the consent, perhaps, of the Irish people – and I'm very concerned about this as a priest, working in a parish on the ground meeting girls who find themselves in that unfortunate and terrible and frightening situation of being pregnant with an unwanted pregnancy, it is there to protect that girl too. Because to my mind she is the central victim in all of this, she's being used.⁹⁹

Scanlan did not say how the girl with the unwanted pregnancy was being used, or by whom. It is also worth noting at this point that unmarried mothers contemplating abortions or travelling

⁹⁹ Ibid.

for abortions were almost always referred to as 'girls'. In 2018 they were referred to mostly as 'women'.

In fairness to Scanlan, he, along with Bishop Edward Daly, was one of the few on the pro-Amendment side who, of his own volition, referred to the plight of unwed mothers facing a predicament in an Irish society which was largely unsympathetic towards them. Bowman put the issue of the pressures on unmarried mothers to Professor John Bonnar in the context of the question of whether Ireland needed a 'pro-life Amendment:

In Ireland one out of every 22 pregnancies is going to England for an abortion because we are not offering an alternative. Because we are not protecting the mother from the pressures that are pushing her towards abortion. So, we're looking for a positive commitment to protect the mother.

Bowman: Dr Tim O'Connor?

O'Connor: The imaginary problem in this country is that somebody might bring in abortion. It will not happen. The real problem in this country is that 50% of our population is under the age of 25, and that 3,000-plus of these patients are being aborted in England every year. Now I would like to directly ask Dr Vaughan how and in what way precisely bringing in this Amendment will in some way change this awful statistic?

Bowman: Dr Vaughan?

Vaughan: This is a bad statistic, I agree, Tim, but the problem that we have is that we do not want to see the direct killing of the unborn in Ireland.

[Audience Laughter]

Vaughan: May I continue? The debate that surrounds this Amendment will, I'm sure, change a lot of attitudes which have caused these girls to go to England for abortions
...

If there were changes of attitudes following the debate on what became the Eighth Amendment, they were not reflected in the British Health Department figures for women with

Irish addresses seeking abortions. They continued to increase for another 18 years when they reached a high of 6,673 in 2001.¹⁰⁰

Vaughan: ... what we're here this evening to discuss is the pro-life Amendment. We are not here to discuss these other peripheral issues. (laughter) Of course they must be considered and they are very relevant to Irish life and the fact that people have behaved in an irresponsible manner in the past and have been uncharitable within their own families in not receiving people who have had difficulty, who've experienced being shut out from home (cutaway shot of hands raised) does not justify us from shutting our eyes to the possibility that abortion can be introduced here without the Irish people being asked do they want it. And this is what we're about.¹⁰¹

Dr Vaughan used the word 'peripheral' several times in the debate. The word says much about the PLAC mindset and its strategy. 'Peripheral issues' encompassed the more than three thousand 'girls' with 'difficulties' who had travelled to Britain for abortions the previous year; concerns over some forms of contraception which might be barred under the Amendment; and questions about the doctor-patient relationship.

Adrian Hardiman BL and Dr Mary Henry for the AAC argued that it was highly unlikely that a Supreme Court would rule in favour of overturning the 1861 (Offences against the Person) Act, as Dr Vaughan thought possible sometime in the future:

Dr Mary Henry: For a start ... I think the ethos of our society has been left out of this altogether I don't see that there is any need for this referendum with the tremendously strong law we have which involves penal servitude both for the woman and whoever procures the abortion in this country.¹⁰²

¹⁰⁰ In 1983 the number of women giving Republic of Ireland addresses in obtaining abortions in England and Wales was 3,677, or 5% per 1,000 pregnant women in Ireland aged 15 – 44. (Source: British Department of Health via the Second Look Project: <http://secondlookproject.ie/> Accessed 14 March 2016.

¹⁰¹ 19830310 A&B.

¹⁰² Ibid.

Sean O'Donovan, Lawyer: I think that Dr Vaughan is attempting to introduce an element of hysteria into the whole debate which should not be brought in because she is not actually reflecting the situation as it is.

Vaughan: Look, John, look, we are in the cause for a very specific reason, to guarantee the life of the unborn. And we would have to pursue all loopholes and all avenues of approach. It would be futile to have an Amendment that would only close off one avenue and, surely, we're all thinking individuals. Since there are avenues of approach that could be used by interested people to have a little abortion in certain circumstances, it's prudent and beholden on us to seek a proper Amendment to this constitution right now. We shouldn't be waiting until the horse has bolted to go closing the stable door. That has happened.¹⁰³

Canon David Woodworth, Rector of Bandon and a member of the Standing Committee of the Church of Ireland, did not think the Amendment sectarian but neither did he think it necessary:

Is it going to change anything? We have heard from the pro-Amendment people no convincing argument that it will change anything at all. There have been woolly statements about making things good for the unfortunate girl who finds herself looking for an abortion. It is not going to change anything then ... Is it going to do anything about the Supreme Court? Now this back door in through the Supreme Court has been mentioned again and again. The back door isn't there. I am surprised that one judgement from the Supreme Court has not been mentioned. It's a judgement by Mr Justice Walsh in his Supreme Court judgement ... quoted in Irish Reports 1980 in which he categorically confirmed that the protection of the right to life under Article 40 expanded to protect the right of an unborn child. I do not think this Amendment is either necessary or effective. And I'm anti-abortion and anti-Amendment.¹⁰⁴

¹⁰³ Ibid.

¹⁰⁴ Ibid.

Seated nearby, the Director of the Christian Renewal Centre in Rostrevor, Co. Down, the Revd. Cecil Kerr, also of the Church of Ireland, vigorously defended the Amendment and recounted how he had, at first, supported the British Abortion Act of 1967:

I just want to support what Dr Vaughan has said because I believe it is wholly appropriate that an Amendment of this kind should be in the Constitution given what has happened in so many countries of the world. And the reason why I'm here supporting the pro-life Amendment is quite simply that in 1966 and '67 I was invited to debate the whole issue with those who were putting the new law through in England in 1967 with David Steele and with Lord Silkin and I look back with shame at that time when I allowed myself to be persuaded that this was going to deal with an enormous problem and solve a lot of issues. While this programme is on the air, do you know that 30 babies will be aborted in Britain?

Bowman: While this programme is on the air, one Irish woman will travel to Britain for an abortion.

Kerr: Yes, indeed, and I think that it's true to say that when the law is changed like that, you are writing the baby out of the equation. It is wholly appropriate to protect the life of the unborn and I am convinced of this and I believe that it's the right thing to do and support it for that reason.¹⁰⁵

Canon Maurice Stewart, lecturer in Divinity at Trinity College, Dublin, made a strong intervention criticising the proposed Amendment as sectarian. Originally from Belfast, Stewart served in several Northern Ireland parishes and teaching posts before moving to Dublin in 1969. He later succeeded Victor Griffin as Dean of St Patrick's Cathedral.¹⁰⁶ In his critique of the proposed Amendment on *Today Tonight*, he echoed Griffin's attack with his blunt depiction of the proposal as an attempt by right-wing Roman Catholics trying to force their rigid views on the entire population:

¹⁰⁵ Ibid.

¹⁰⁶ 'Dean bids Cathedral farewell', *Irish Times*, 19 April 1999. Retrieved on 18 September 2017 from ProQuest Historical Newspapers: <http://elib.tcd.ie/login?url=https://search.proquest.com/docview/310424850?accountid=14404>.

Underlying this proposal are very complex religious moral and social issues which have not yet been given sufficient debate. Issues such as is abortion wrong on all occasions? Is it absolutely wrong? Is the foetus a human person? Is the fertilised ovum a person? Now these are questions to which the pro-Amendment people will give a very dogmatic answer but there is another tenable answer held by the majority of Protestants in this country and where you have a controversial issue like this, the state should not be obliged to choose on one side or the other, nor should it be a matter for a majority vote. Two things stand out. This proposal originated with a right-wing, a group of right-wing Roman Catholic organisations and they are trying to impose one inflexible view on the whole country. ¹⁰⁷

Stewart's comments on sectarianism came too late in the programme to allow his views to be amplified by sympathetic hearers or challenged by the pro-Amendment side. This meant that the sectarian accusation did not receive a thorough ventilation during the programme.

The pro-Amendment side's preference for direct, rather than representative, democracy in the issue of the proposed Eighth Amendment received a thorough defence by PLAC's legal panellist on the programme in an exchange with other lawyers on the programme, wherein it was clearly asserted by the pro-Amendment side that democratically elected representatives, and Supreme Court judges appointed by such representatives, were to be put to one side with regard to this issue.

PLAC's legal advisor, Robert Pierse, enumerated the four avenues through which PLAC and its supporters saw abortion being legalised in Ireland. These were: a decision by the Supreme Court; a successful challenge to the Constitution whereby only those who have been born, and not the 'unborn' have a right to life; a decision by the European Court and:

... the fourth way that it can come in – and Dr Vaughan referred to this as being unlikely – that is through the Dáil. I don't think that most of us trust our politicians sufficiently to say that.

Bowman: We do elect them, don't we?

¹⁰⁷ 19830310 A&B.

Pierse: We do elect them, but we don't trust them that much.

Bowman: We literally get the politicians we deserve.

Pierse: Well what do we get? We got two hung Dáils depending on one man in each of the last two hung Dáils; that's Jim Kemmy of Limerick and Tony Gregory. Now, who trusts those on that issue, I'd like to know? ¹⁰⁸

Bowman: Well they were elected. I mean you've put yourself before the electorate yourself Mr Pierse.

Pierse: I did, yes.

Bowman: And so presumably you trust the system?

Pierse: Well it is the system that exists but what I'm saying is there is a better system and that is that the people themselves reserve to themselves this right to legislate on who has the right to be born in this country. ¹⁰⁹

2.5. FITZGERALD ACCUSED OF A U-TURN

There had been rumour and media speculation that, in consultations with the Attorney General, concerns had surfaced over the FF wording which FitzGerald, as leader of FG, had described in a *Today Tonight* programme as 'the best Amendment you could get' during the November 1982 election campaign. ¹¹⁰ the *Irish Times* reported that 15 Fine Gael TDs had doubts about the referendum but were unlikely to disobey the party whip when the legislation would be introduced. ¹¹¹

The Government's new wording was announced on 24 March:

¹⁰⁸ Jim Kemmy was at the time of the referendum campaign the Democratic Socialist TD for Limerick East. He was attacked in his constituency because of his liberal views on abortion and lost his seat to the strongly 'pro-life' Labour candidate, Frank Prendergast in November 1982. Tony Gregory was elected in February 1982 as an Independent TD for Dublin Central. He voted against the FF wording.

¹⁰⁹ 19830310 A&B.

¹¹⁰ 19821104.

¹¹¹ '15 Fine Gael TDs have doubts on Referendum', *Irish Times*, 5 February 1983. Retrieved on 18 September 2017 from ProQuest Historical Newspapers: 701422?accountid=14404<http://elib.tcd.ie/login?url=https://search.proquest.com/docview/529>

Nothing in this Constitution shall be invoked to invalidate, or to deprive of force or effect, any provision of a law on the ground that it prohibits abortion.

Reaction inside the Dáil and outside was swift and overwhelmingly hostile. Charles Haughey, having brought forward the original wording immediately prior to the November 1982 election, attacked the wording saying that it was totally negative, would not prevent any future Dáil Éireann from legalising abortion, and was a complete contradiction of every undertaking made by Garret Fitzgerald in and out of office.¹¹² He was quickly followed by Oliver J. Flanagan, TD (FG), who said the Government wording would enable the Dáil to introduce abortion to the country and that the Taoiseach had performed a U-turn on his promises.¹¹³ Minister for Justice, Michael Noonan, said that because the Attorney General was the legal advisor to the Government and had pointed out difficulties in the original wording, the Taoiseach had to take account of that advice. Any form of words used to tie the legislature would have to be interpreted subsequently by the Supreme Court; to tie both the Oireachtas and the Supreme Court at the same time would prove very difficult.

By the time the *News at Six Thirty* went to air, open revolt had broken out in the senior Government party. Five FG deputies announced that they could not accept the new wording. Following Oliver J Flanagan's statement, Tom O'Donnell, Liam Cosgrave, Michael J Cosgrave and Alice Glenn issued a statement rejecting the Government wording, saying that the wording did not fulfil the commitment given by Fine Gael in three elections; it totally omitted any reference of the life of the unborn and it left a situation whereby the Oireachtas could legalise abortion at some future date.¹¹⁴

Next, the PLAC spokesman, Brendan Shortall, appeared on the *News at Six Thirty* to say that PLAC could end up actively campaigning against the new referendum wording. He said the very introduction of the new wording amounted to the withdrawal of commitments by Fine

¹¹² 19830324 A.

¹¹³ Ibid.

¹¹⁴ 19830324 B.

Gael to provide specific constitutional protection for the unborn and there was now a fear that this withdrawal might lead the way to limited abortion.¹¹⁵

Oliver J Flanagan repeated the PLAC assertion that without the Amendment there could be a hung Dáil wherein supporters of abortion could hold the balance of power and bring in abortion. His party leader, he said, was thus ‘robbing the people’:

The Government have made it difficult for themselves because they gave a solemn undertaking to the pro-life people that they would vote and support and implement and that there would be a referendum on this issue for the protection of the unborn before the 31 of March of this year.¹¹⁶

The questions the Attorney General had raised about the FF wording for the proposed referendum were of little interest to Deputy Flanagan, his allies, Dr Michael Woods and FF. The AG might predict legal issues in defining ‘the unborn’ and the ‘equal right to life of the mother’ as in the FF wording. To the FG opponents, however, the Government wording looked like an attempted re-formulation which, as the Minister for Justice admitted, would not prevent the Oireachtas or Supreme Court from introducing abortion in the future. The new wording lacked the stirring pledges to protect ‘the right to life of the unborn’ and to ‘defend and vindicate that right’. Worse still, the coalition Government was going to destroy the ambition to make Ireland, in the words of the first edition of the newsletter of the Responsible Society, ‘the first country to establish constitutional legal protection for the unborn, pre-empting the abortion lobby before abortion became widely supported’.¹¹⁷ Because of what Deputy Flanagan called the Taoiseach’s U-turn, he and other FG deputies would have no hesitation in voting against their own Government. They represented the Irish people who had been ‘robbed’ of the certainty that neither future legislators nor Supreme Court judges could bring abortion into Ireland ‘by the back door’. Their ambition for an Ireland immune from abortion was under threat from their own leadership.

¹¹⁵ Ibid.

¹¹⁶ Ibid. C.

¹¹⁷ *Response*, Vol. 1 No. 1, Spring 1982, 3. In private hands.

When it came to the vote, the following FG deputies voted against the bill: Oliver J. Flanagan (Laois-Offaly); Alice Glenn (Dublin Central); Michael Begley (Kerry South); Liam Cosgrave (Dun Laoghaire); Michael Joe Cosgrave (Dublin North East); Joe Doyle (Dublin South East); Tom O'Donnell (Limerick East); Godfrey Timmins (Wicklow).

Dr Michael Woods (FF) had been Minister for Health in the short-lived 23 Dáil (February - November 1982) and was now the FF spokesman on the proposed Amendment. He predicted that the Government Amendment wording would be rejected by the Dáil.

Controversy continued until the inevitable Government defeat in the vote of the 27 April. Canon James Hartin said, in an interview with RTÉ's David Hanly, that the Church of Ireland found the Government wording more acceptable; it avoided controversial questions such as 'when does life begin?' 'Are the rights of the mother superior or equal to the rights of the not yet born child?' 'What is the legal definition of 'the unborn''? ¹¹⁸ However, the period was dominated by the dissenting FG members opting for the FF wording and by PLAC's attack on the Government, and Taoiseach Garret FitzGerald in particular.

On 12 April 1983, almost three weeks after the publication of the Government's wording, PLAC Chairperson, Dr Julia Vaughan, launched an attack on Dr FitzGerald. There was now much confusion, she said, but such confusion was not of PLAC's making. There had been broad national and political consensus on calling a referendum. The proposed wording was accepted by the two major parties. It was also accepted, to varying degrees, by most of the churches as, in the words attributed to the Church of Ireland Archbishop of Dublin, Dr Henry McAdoo, 'just and adequate'. Now there was confusion. ¹¹⁹

In early February, the Justice Minister had indicated reservations about the wording. While he reaffirmed the Government's commitment to a genuinely 'pro-life' Amendment, he did indicate that changes would have to be made.

¹¹⁸ 19830329.

¹¹⁹ Statement read by Dr Julia Vaughan, Chairman of PLAC, at a news conference in Dublin, 12 April 1983. In private hands.

The Government's form of words, Vaughan said, showed that the principle of the right to life had been abandoned. It contained no acknowledgement of the constitutional right to life, would not prohibit future abortion legislation, and would not leave to the people the final decision on introducing abortion to Ireland. She described the Government's attempt to represent the new wording as fulfilling the commitment given to PLAC in June 1981 as 'totally incorrect'. PLAC, she said, contradicted the Taoiseach and described the statements of Ministers as untrue.¹²⁰

Vaughan also stated that the existence of the 'pro-life' Amendment did not imply a distrust of the country's legislators or its Supreme Court. She then read from a letter from the Taoiseach to PLAC, saying that the Government had found it:

... impossible to produce any wording which would at one and the same time exclude the matter from consideration by the Supreme Court, and also prevent the Oireachtas from legislating. The simple reason for this is that whatever words are used with a view to prevent the Oireachtas from legislating would themselves be liable to interpretation by the Supreme Court – thereby undermining the very purpose for which the Amendment was sought.¹²¹

Dr Vaughan dismissed the Taoiseach's explanation.

On 20 April, Oliver J. Flanagan emerged from a Parliamentary Party meeting commenting that, if anyone should be thrown out of the Fine Gael, it should be the Taoiseach himself. He reminded listeners of the commandment 'Thou shalt not kill'.¹²² The Chief Whip, Seán Barrett (FG), stated that there would be no free vote on the issue because it was too complex; disciplinary measures were a possibility; the two main parties were agreed on the need for an Amendment; and the current issue was to do with the wording.¹²³ In a damage limitation exercise, the decision to impose the whip was reversed to allow FG members a free vote on

¹²⁰ Ibid.

¹²¹ Extract: letter from Taoiseach Dr Garret FitzGerald to Dr Julia Vaughan, in a statement read by Dr Julia Vaughan at a news conference in Dublin, 12 April 1983. In private hands.

¹²² 19830420.

¹²³ Ibid.

the wording. On 27 April, Defence Minister Paddy Cooney made the announcement on the RTÉ Radio *News at One Thirty*, on the day of the Dáil debate, protesting that FG had been in favour of an Amendment from 'day one' and resenting that some had doubted the party's commitment because they had used a 'particular wording'.¹²⁴ Later, RTÉ's Seán O'Rourke reported that the FG Amendment had been defeated by 87 votes to 65. The eight dissidents in the party stayed together in their seats on the back benches. Frank Prendergast (Lab.), Neil Blaney (Independent Fianna Fáil), Michael Bell (Lab.) and Sean Treacy (Lab.) joined Fianna Fáil people in the division lobbies.¹²⁵

The following day, 28 April, Dr Henry McAdoo, Church of Ireland Archbishop of Dublin, seemed to have changed his mind about the original wording. He had been quoted two weeks previously by the PLAC Chairperson as having considered the original wording 'just and adequate'. The RTÉ *News at One Thirty* now reported:

In a comment on the latest developments on the controversy over abortion, Church of Ireland Archbishop of Dublin, Dr McAdoo, described the abortion referendum as 'insensitive' and 'divisive'.¹²⁶

However, at a news conference called by the Church of Ireland on 11 May to emphasise the Church's total opposition to abortion except in cases of strict medical necessity, McAdoo clarified the Church's position on the wording. The *Irish Times* reported:

... they had looked on the first wording of the Amendment drawn up while the Fianna Fáil Government was in power as an honest attempt to look at points raised by the Church of Ireland and by other churches but did not say that it was totally satisfactory. Subsequently attention was drawn to difficulties in that wording. When the second wording came out it seemed to avoid the difficulties raised in the original wording.¹²⁷

¹²⁴ 19830427.

¹²⁵ 19830428 A.

¹²⁶ 19830428 B.

¹²⁷ 'C of I view on Amendment', *Irish Times*, 12 May 1983.

Neither the *Irish Times* nor RTÉ News, which also reported the news conference, seem to have asked McAdoo whether he had used the words ‘just and adequate’ to describe the proposed FF wording, as stated by Dr Julia Vaughan of PLAC in her statement of 12 April.

The Church of Ireland considered the planned constitutional prohibition inadvisable in the context of an issue of such moral complexity. Neither would it help the existing human situation in the country. The Church had made its views plain and would not advise its members how to vote, McAdoo said.¹²⁸

On 11 May, *Today Tonight* turned specifically to health issues and contraception questions the AAC and others had been trying to get on the agenda, despite the Pro-Life Amendment Campaign’s reluctance to debate them. These were issues Dr Julia Vaughan dismissed as ‘peripheral’ when AAC supporters tried to steer the discussion beyond what PLAC considered the substantive issue of killing of babies. *Today Tonight* invited onto the programme the masters of the country’s two leading maternity hospitals; Dr George Henry of the Rotunda and Dr Dermot McDonald of the National Maternity Hospital, Holles Street, Dublin. Rather than having them face-to-face in the studio to argue point by point, *Today Tonight* opted to pre-record interviews separately with the two masters and structure the item to produce an ‘information-led’ programme rather than the more confrontational approach which had been the practice hitherto.

Dr Henry was known to be sceptical about the proposed Amendment, while Dr McDonald did not consider that it would alter accepted medical practice. Accordingly, the programme transmitted Henry’s criticism first:¹²⁹

At the present time, there is no legal definition of what an abortion is. And medical practice for many years has accepted that an abortion is interfering with a pregnancy from the beginning of pregnancy until 28 weeks of pregnancy. Now there’s general medical agreement that pregnancy begins, or life begins at conception but it’s now common practice in Irish hospitals to terminate pregnancies where there are serious

¹²⁸ Ibid.

¹²⁹ On transmission, the interviews with Henry and McDonald were edited back to back. In this study, the sequence has been re-edited slightly for thematic reasons.

complications before 28 weeks and the babies survive in a large number of these cases with the increasing neonatal care or intensive care of the new-born infant. So, if this Amendment is passed, we're going to have to have a definition, a legal definition of what abortion is. We are also going to have to say, clarify, what is meant by the term 'unborn' because of course while there is agreement that life begins at conception, there are certain very well-established methods of contraception such as the intrauterine device and the morning after pill which do interfere with the egg after it is fertilised.¹³⁰

Reporter: Do you think it's likely that those contraceptive measures which you have mentioned might no longer be available to people?

Henry: I would be very concerned that that is what might happen. And in fact, the pro-life campaign has said that it would try to see that these methods are outlawed.

Dr Dermot McDonald: I think that's a separate issue and I don't think such has been tested or tried in the courts, but I think it's more about the intention really than what one does. If one's intention is to use the pill as a contraceptive, I see that clearly as an act of contraception and if one uses a particular form of contraceptive clearly as an abortifacient well then, I think that's an abortion. I think there's a lot in what the intention is in the user, in the person using it.¹³¹

McDonald, using the word 'intention' in this context seems to rely on the Catholic Church's 'double effect' principle.¹³² Effectively, a drug or device may be a contraceptive if the user intends it to be so. Similarly, it may be an abortifacient if the user intends that to be so. However, the editorial team present did not pick up on this in the programme.

Reporter: So, you don't necessarily see this Amendment extending out and reaching into presently used methods of contraceptive?

¹³⁰ As advised by Professor Patrick K. Plunkett, TCD, in an email to the author on 7 October 2017, the 'morning after' pill delays ovulation, or the production and discharge of eggs from the ovary, so that pregnancy cannot occur.

¹³¹ 19830504.

¹³² See 2.2 above.

McDonald: No, quite the contrary. I see it as making no difference in that field either in relation to what has been standard practice in this country insofar as there can be standard practice in relation to contraception. I don't see the Amendment making one whit of difference really.

Reporter to Henry: There's been some talk of the whole area of ectopic pregnancies and the way in which that might be affected. Would you be worried along those lines as well?

Henry: No, because I think that there is general medical agreement that when a mother has an ectopic pregnancy, she has to have treatment because an ectopic pregnancy can be life-saving. Also, the mother with cancer of the neck of the womb has to have treatment because the cancer is life threatening. The pro-life group have said that these are two acceptable exceptions to giving equal right to life to the unborn.

Reporter: But presumably there are other measures which doctors use in Irish hospitals at present which you feel might no longer be available to them?

Henry: Yes, I would find, feel that doctors could be in a very difficult situation, for instance if they had to treat a pregnant woman with cancer of the breast or with leukaemia where they had to give drug therapy to kill the cancer cells, it would also have the effect of killing the baby.

Reporter: So, is it the case that some of these measures which have to be implemented to save the life of a mother may no longer be available to Irish doctors?

Henry: Well the pro-life group have said that it wouldn't change medical practice in any way but I fail to see how, if the equal right to life of the unborn is to be practised, how these types of treatments could be given because they would, and everyone agrees they would have the effect of killing the baby.

Reporter: So, what you're saying is doctors are caught in the middle trying to decide between the supposed equal right to life of the mother and at the same time the equal right to life of the unborn.

Henry: They could be caught, yes.¹³³

The Eighth Amendment's granting of equal rights to life to mother and child were to lie at the heart of the later controversy over the death of a pregnant 31-year-old Indian-born dentist, Savita Halappanavar, on 28 October 2012 in Galway (this is discussed more fully in 5.e below). Her medical team did not intervene, as she and her husband asked, because the hospital judged that there was not a risk to her life sufficient to warrant intervention, and because a foetal heartbeat was present. Dr Peter Boylan, consultant obstetrician and former Master of the National Maternity Hospital, who testified at the Coroner's inquest into Savita's death, said on RTÉ Radio:

My conclusions are that if she'd had a termination on the Monday (22 October 2012) or the Tuesday (23 Oct.), she would now be alive ... By the time a termination became a legally realistic prospect, she was becoming seriously ill. And even if they'd started a termination on the morning of the Wednesday (24 Oct.) it was too late at that stage. I did identify a number of deficiencies in the care but none of them individually contributed to her death, in my opinion.¹³⁴

Continuing the *Today Tonight* programme, Dr McDonald was asked to comment on Dr Henry's suggestion that doctors could be caught in the middle trying to decide between the equal rights of a mother and an unborn child:

McDonald: I think that's a dangerous suggestion. I think in Irish hospitals I can really only speak for the one in which I work myself but my understanding is the practice is rather similar throughout the country and the life of the baby and the life of the mother score equal and in general practice in maternity hospitals, what is good for the mother is good for the baby as well.

Reporter: But aren't there occasions when a decision of sorts has to be taken between what is right for the mother and what is right for the unborn?

¹³³ Ibid.

¹³⁴ *Marian Finucane*, RTÉ Radio One, Sunday 21 April 2013.
<https://www.rte.ie/radio/utis/radioplayer/RTÉradioweb.html#!rii=9%3A10137436%3A70%3A21%2D04%2D2013%3A> . Accessed 10 August 2018.

McDonald: There are situations where an intervention might be carried out more in the interests of the mother's health or more in the interests of the baby. But this wouldn't ... isn't the same as suggesting that one would have to be sacrificed against the other.

Reporter: So, you feel then that if this Amendment is passed, there will be no change resulting from it in the way medicine is run in our hospitals.

McDonald: I honestly believe that this Amendment will not make one whit of difference to the standards of practice in our maternity hospitals throughout the country.

Reporter: But some senior doctors, colleagues of yours have said that they're afraid that some treatment currently available to Irish women may not be available if this Amendment is actually passed.

McDonald: I wouldn't share their concern. I'm not informed adequately as to what precisely they're referring but ...

Reporter: Well they're talking about treatment for breast cancer, treatment for leukaemia which may affect the life of the baby.

McDonald: Well I would say treat the cancer and treat the leukaemia and this is what is done, and this is what will continue to be done irrespective of the Amendment and this would be standard practice. Similarly, we're really getting into the argument about cancer in the womb. If the cancer is in the breast, well treat the breast; if it's in the womb, treat the womb.

Reporter: So, you see no conflict arising for doctors in their day to day working in hospital arising from this Amendment?

McDonald: I don't. I think their practice will continue as it has been doing their best for mother and baby and above all treating the cancer with surgery or with radiotherapy or with drugs irrespective of whether the mother is carrying a baby or not.

Reporter: But are there times when a decision has to be taken between the mother's health and that of an unborn child?

McDonald: Of course, there are times when a decision is taken about health of mother or baby, but this again is not about taking one life in order to preserve another.¹³⁵

This, too, may be an instance of 'double effect' reasoning. For example, a surgeon who removes a cancerous uterus knows that the contents of the uterus are forfeit but the surgeon does not *intend* to abort the foetus. The surgeon *intends* to save the mother afflicted with cancer.

The *Today Tonight* item above set out to answer questions which had arisen regarding medical issues. For this reason, it sought the opinions of two of the country's most eminent practitioners of medicine in maternity hospitals. While Dr Henry was concerned that measures such as the IUD or 'morning after' pill would become illegal, Dr McDonald had no such concerns. If he based this on the Church's 'double effect' principle it would have meant that if one intended the IUD or 'morning after' pill as abortifacients, then so they were. But if one intended them as contraceptives, then they were not abortifacients. Similarly, the 'double effect' principle could be applied to conditions such as breast cancer or leukaemia. By the same token the injunction of the proposed Amendment to defend the right to life of the unborn and, with due regard to the equal right to life of the mother, to vindicate that right, posed no contradiction because, as Dr McDonald said, it was not about taking one life to preserve another.

The polling date for the referendum was announced in July. It was to be held on 7 September 1983.¹³⁶

The Labour Party, having registered its opposition to the 'pro-life' referendum, a position not shared by some of its members, turned to the divorce issue which had received scant attention while the public discourse and media focused on abortion. In a news bulletin, the party leader, Dick Spring, said Labour had no wish to 'open up the floodgates' for divorce but would propose a limited facility which could be used when all other measures had failed. He said that legislators had to legislate for the entire community and not just for one church

¹³⁵ 19830504.

¹³⁶ *Irish Times*, 8 July 1983.

alone.¹³⁷ Elsewhere on the Labour Front, the Irish Congress of Trade Unions (ICTU) held their annual conference in Galway debating, *inter alia*, the proposed Amendment. Speakers supported and opposed the Amendment. Matt Merrigan, General Secretary of the Amalgamated Transport and General Workers' Union (ATGWU) called on ICTU to adopt a pluralist position on the referendum. 'This is not a Catholic State' he exclaimed to applause. On Friday 8 July, as news of the polling date appeared in the newspapers, Congress endorsed a statement by the ICTU leadership opposing the proposal to amend the Constitution in relation to abortion.¹³⁸

Taoiseach Garret FitzGerald, appearing on *This Week*, said that the referendum on abortion had been fully debated in the Dáil, that FG would be urging voters to reject the proposed Amendment but that he, personally, would not be campaigning.¹³⁹

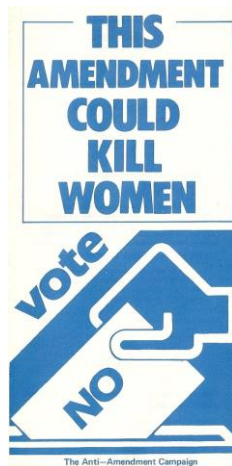
On 15 August, the AAC launched their campaign against the proposed Amendment. Adrian Hardiman BL, one of AAC's leading spokespeople, said that pulpits were being given to lay people to make political speeches and that the behaviour of some politicians had turned many people off the campaign. The AAC's slogan was also announced:

¹³⁷ 19830624.

¹³⁸ 19830706.

¹³⁹ 19830710.

Figure 5: The Anti-Amendment Campaign slogan 1983.



Poster from the author's personal collection.

Two days after the AAC launch, Bishop of Kerry, Dr Kevin McNamara, warned in the *Irish Times* that in the AAC 'a strong abortion lobby' was working to defeat the referendum and bring abortion into Ireland:

... there exists in Ireland a strong pro-abortion lobby, with powerful backing in the media and very substantial support from the international pro-abortion movement.

... Under the umbrella of the Anti-Amendment Campaign, this group hopes to defeat the Amendment as a first essential step towards the legalisation of abortion. With the Amendment rejected they would be able to put members of the Oireachtas under great pressure to make abortion legal. Their strategy would be to get abortion legalised at first in certain exceptional cases with the knowledge that it would then be only a matter of time until legal abortion was freely and widely available.¹⁴⁰

Marie Woods, chair of the Labour Women's National Council in 1983, was asked for a reaction to Bishop McNamara's claim that members of a pro-abortion lobby existed under the umbrella of the AAC:

¹⁴⁰ 'Bishop claims strong lobby for abortion', *Irish Times*, 17 August 1983.

Marie Woods: He was right.

Question: He was right?

Woods: Of course.

Q. Because Ruairi Quinn (Minister of State in the FG/Lab. Coalition) has denied that.

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Woods: Yes, I know. But Ruairi would have denied that because it wouldn't suit him to admit it because it would open a can of worms and I suppose he was right because although there was (a group of) the pro-abortion people within that organisation it wasn't everyone. I'd say the pro-choice people were the ones who were the majority who wanted a liberal society that treated everyone the same, even those who wanted something that we mightn't want.

Q: Just to be absolutely clear can you define again the difference between 'pro-choice' and 'pro-abortion'?

Woods: Well, for me, pro-choice was that if somebody wanted an abortion, they had the right to have it. But it was not the first option for birth control.

Q: And you, yourself, were not pro-abortion?

Woods: Well, I wouldn't be pro-abortion but I'm very much pro-choice.

Q: But you clearly differentiate between the two positions.

Woods: Oh yes. ¹⁴²

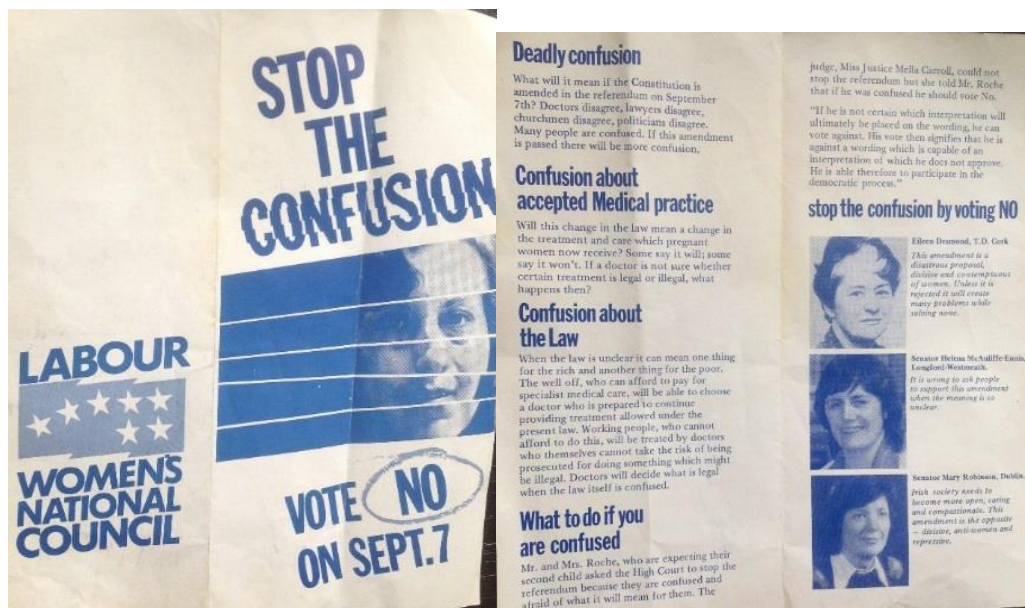
In an interview with the author for this thesis, John O'Reilly, founder member of the Pro-Life Movement, dismissed Woods' opinion that while she would not be pro-abortion personally, she would support others' right to it. ¹⁴³

¹⁴¹ 19830817.

¹⁴² Marie Woods, chair of the Labour Women's National Council in 1983, interviewed for this thesis on 22 September 2018.

¹⁴³ See Volume Two, Appendix Five of this study for full text of interview.

Figure 6: Labour Women's National Council leaflet 1983.



Poster from the author's personal collection.

Bishop McNamara said that the long-drawn-out discussion on the Amendment had exposed the abortion lobby and the great danger it posed to Irish society:

The issue is quite literally one of life and death. At stake in the referendum is the protection of the lives of unborn children in great numbers. The Irish people are fortunate in being given this opportunity to make its will clearly known on the question of abortion.¹⁴⁴

Five days later, the Catholic hierarchy issued its statement on the referendum. Much of the content echoed its 1975 pastoral letter, *Human Life is Sacred*.¹⁴⁵ The bishops stated their claim to authority in the clearest terms:

¹⁴⁴ Bishop Kevin McNamara, *Irish Times*, 17 August 1983.

¹⁴⁵ See 1.9 above.

When, for example it (the Church) declares abortion in all circumstances to be morally wrong, it does so with the authority given it by its founder, Jesus Christ.¹⁴⁶

The bishops, armed with their 'double effect' principle, had the authority to determine when a procedure counted as an abortion.

The hierarchy did not, in so many words, endorse the FF wording which had been adopted by the Dáil, but it was clear that the bishops wanted a 'yes' vote on the current proposed Amendment:

There are people who are sincerely opposed to abortion and yet who feel that no referendum should take place at all, or that a different form of words should have been used. We respect their point of view. However, a concrete situation faces us now. A form of words has been decided upon by the Oireachtas. It is this form of words which is being put before the people.¹⁴⁷

While acknowledging the right of people to act in accordance with their consciences, the statement emphasised the bishops' duty to 'alert' the consciences of the people as to the moral implications of their votes, while reminding the people of their responsibility to vote.

The bishops' statement addressed other concerns which had arisen during the campaign, including the effect the Amendment might have on medical practice and how the 'equal right to life' provision might be interpreted in an emergency. In addressing these concerns, the statement virtually guaranteed that both lives would be safe:

We are aware that some have reservations about the effect of the Amendment on existing medical practice. Nevertheless, it is our considered opinion that the Amendment will safeguard the right to life both of the mother and the unborn child.

¹⁴⁸

¹⁴⁶ 'Hierarchy's statement on referendum', *Irish Times*, 23 August 1983.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

The positions of the Catholic hierarchy and PLAC were lock stepped: pro-abortionists lurked within the anti-Amendment group; the Amendment had to be passed or that group, with media and outside support, would take advantage of political circumstances; the Supreme Court might declare abortion to be a marital privacy issue and thus allow it. The only defence against such a decision by future judges of the Supreme Court was for the people to put its introduction beyond the reach of the Oireachtas or the Courts.

The Church of Ireland also issued a statement saying that people should vote according to their consciences. The Church opposed abortion except in cases of strict medical necessity. Canon James Hartin, in an interview with RTÉ News, said that, while he welcomed the statement, he accused the (Catholic) bishops of moving to the right on the issue and said that a ‘yes’ vote would alienate Protestants.¹⁴⁹

The final live debate was due to be transmitted on *Today Tonight* on Thursday 25 August, to be followed a week later by a filmed *Today Tonight* report on the campaigns of both sides.¹⁵⁰

Today Tonight staff had been in contact with the main campaign groups, PLAC, SPUC and the AAC, as well as a range of medical and legal professionals, other interested parties and Dáil deputies, in advance of the debate programme. The invited deputies were Dr Michael Woods TD (FF) who had been the party’s chief spokesperson on the proposed Amendment and had been involved in the party’s work towards it. On the FG side was Monica Barnes TD, a prominent figure on the liberal wing of FG and one of that party’s most vocal critics of the proposed Amendment. *Today Tonight* staff followed normal procedure and informed each invitee of all other invitees.

In the *Irish Times* on Wednesday, 24 August, Peter Murtagh wrote:

Representatives of the Pro-Life Amendment Campaign have threatened to withdraw from tomorrow night’s special edition of *Today Tonight* on the proposed

¹⁴⁹ 19830823.

¹⁵⁰ The author produced both the live debate and the filmed programme.

Amendment to the Constitution unless RTÉ drops plans to include two politicians in a panel discussion.¹⁵¹

Senator Des Hanafin FF, PLAC's chief fundraiser and Brendan Shortall, the organisation's spokesman, had met with *Today Tonight* staff including the series editor, Dr Joe Mulholland, and registered strong objections to the inclusion of the two politicians. The PLAC objection, according to Dr Tom Hesketh, was that the presence of politicians would give the debate a party-political flavour.¹⁵²

The *Irish Times* reported the *Today Tonight* programme format as having two opposing panels, for and against the Amendment. These would argue their cases before an invited audience comprising interested parties who would be for, against or undecided with respect to the Amendment. On the pro-Amendment side were to be Iarlaith O'Neill, a barrister and one of PLAC's legal advisors; John Bonnar, Professor of Obstetrics and Gynaecology, TCD; Dr Julia Vaughan, chair of PLAC; and Dr Michael Woods TD (FF). On the anti-Amendment side were to be Adrian Hardiman BL, one of the AAC's legal advisors; Anne O'Donnell of the Rape Crisis Centre and the AAC; Dr George Henry, Master of the Rotunda Hospital; and Monica Barnes TD (FG).¹⁵³

This seemed to be a balanced line-up of panellists, comprising representatives of the two opposing organisations together with legal, medical and political commentators. The panels would cover the main aspects of the debate and the participating audience was equally balanced to reflect all points of view.

However, on the morning of transmission day, 25 August 1983, the *Irish Times* and the other national dailies reported that PLAC had withdrawn from *Today Tonight* because RTÉ had refused to drop the two politicians from the panel. PLAC's statement read:

The Pro-Life Amendment Campaign has decided to withdraw from the *Today Tonight* programme since RTÉ has insisted on including representatives of the

¹⁵¹ 'PLAC threat on poll programme format', *Irish Times*, 24 August 1983.

¹⁵² Hesketh, *The Second Partitioning of Ireland?*, 347.

¹⁵³ Ibid.

political parties on the panel. PLAC has consistently held that the Amendment issue is above party considerations and loyalties.

Far from enlightening the public, the inclusion of politicians in the programme would only cause further confusion by giving the impression that the Amendment is a party-political issue rather than one of human rights.¹⁵⁴

Emily O'Reilly, who covered both the final stages of the production as well as the transmission and aftermath, attributed a different motive to PLAC:

It now appears that PLAC's decision came about as a result of representations made to them by a number of politicians unhappy at the inclusion of Monica Barnes on the panel.

'Several Fine Gael TDs around the country,' says Alice Glenn 'were particularly unhappy about Monica Barnes being on the panel. They felt that she was unrepresentative of Fine Gael grassroots. So, we approached Brendan Shortall, and asked him to reconsider PLAC's participation.'¹⁵⁵

Alice Glenn TD (FG) was a strong pro-Amendment supporter and, perhaps ironically in the light of Emily O'Reilly's interview with her, was in the participating audience seated next to Mary O'Rourke TD (FF).

The withdrawal of the PLAC spokespeople and supporters presented RTÉ with a balance problem. Unless the *Today Tonight* staff could replace the PLAC/SPUC absentees with other 'pro-lifers', the participation would be radically unbalanced, and the programme's intended format would have to be abandoned. Early in the day, staff began to replace the pro-Amendment side on the panel and in the audience. Dr Joe Mulholland as editor of *Today Tonight* went on the *News at One-Thirty* to say that there were plenty of 'pro-lifers' prepared to go on in their place.¹⁵⁶ Emily O'Reilly, who had arrived at the *Today Tonight* office to help

¹⁵⁴ 'PLAC declines TV debate', *Irish Times*, 25 August 1983.

¹⁵⁵ Emily O'Reilly, 'More heat than light: Emily O'Reilly watched the *Today Tonight* debate on the Amendment. Her verdict', *Sunday Tribune*, 28 August 1983.

¹⁵⁶ 19830825 A.

contact pro-lifers she had encountered in her own reporting, gave a colourful account of the staff's initially frantic efforts to recover the balance that had been upset by the PLAC withdrawal:

'I've got five, I've got five!' shrieks Fintan Cronin. The other researchers look pained. A sort of 'I've-got-more-pro-lifers-than-you-have' atmosphere prevails. Recruits are marked down on the seating plan. 'Who the hell is B. Kennedy?' asks the producer.

An organised phone-in is underway by pro-life supporters. The lines are transparently rehearsed. Everybody has 'just missed the news' and wants to know 'if the programme is going ahead' and if so are PLAC represented? The politeness of the very hassled *Today Tonight* staff is impressive.¹⁵⁷

O'Reilly witnessed the heated negotiations still going on between PLAC and the programme staff. Brendan Shortall, the PLAC spokesman, asked the *Today Tonight* producer to stop calling other pro-life people. He and Dr Julia Vaughan, the PLAC Chair, offered to attend in a private capacity. Shortall said he would do what he could to get the PLAC decision reversed. None of this happened.¹⁵⁸

Meanwhile, the *Today Tonight* staff had reconfigured the pro-Amendment panel to maintain balance in the absence of PLAC. Three of the four pro-Amendment panellists had been withdrawn by PLAC, leaving only Dr Michael Woods.

The pro-Amendment panellists now assembled were Robert Pierse, a solicitor, one of the originators of the Amendment proposal and a member of the Irish Association of Lawyers in Defence of the Unborn; Dr Louis Courtney, a gynaecologist from Cavan who had appeared previously on RTÉ Radio's *This Week*; Michael Adams, a publisher; and Dr Michael Woods TD, the FF spokesman on Justice.

¹⁵⁷ O'Reilly, 'More heat than light'.

¹⁵⁸ Ibid.

The anti-Amendment side remained intact with Adrian Hardiman BL, one of the AAC's legal advisors; Anne O'Donnell of the Rape Crisis Centre and the AAC; Dr George Henry, Master of the Rotunda Hospital; and Monica Barnes TD (FG).

The participating audience had been rebuilt with pro-Amendment people (other than PLAC members) eager to have their say. As airtime approached, panellists and the participating audience arrived in the RTÉ reception area. So did two PLAC members, who tried to persuade pro-lifers to walk off the programme:

Enter trouble. Majella Mulkeen ¹⁵⁹ and friend, PLAC members, in a last bid to 'disrupt' the programme. Majella, in tears, states her case to Glenn, O'Rourke and (Fr Michael) Cleary. Come off the programme, embarrass RTÉ and score a victory for PLAC. The elders don't agree, pat her on the shoulder, tell her that PLAC will score an own goal if they do what she suggests.

Friend in tow, Majella heads off in search of two of the pro-life panellists, Robert Pierse and Dr Louis Courtney. The *Today Tonight* team head her off at reception, grab Courtney and Pierse as soon as they arrive and whisk them off. ¹⁶⁰

Today Tonight was transmitted after the *Nine O'Clock News* that night with a budgeted duration of 85 minutes airtime. RTÉ had rearranged its transmission schedule for the entire evening so as to provide some 50 extra minutes to the debate.

Brian Farrell introduced the programme. He explained that official representatives of the Pro-Life Amendment Campaign and the Society for the Protection of the Unborn Child had been invited to take part but had not seen fit to do so, and that RTÉ regretted that. He then handed over to John Bowman to begin the debate.

¹⁵⁹ Chairwoman of Students Pro-Life.

¹⁶⁰ 'More heat than light', O'Reilly.

Bowman thanked the panellists and audience for attending and for braving three bomb scares to do so. He then asked each of the panellists to state their main argument, beginning with the pro-Amendment group: ¹⁶¹

Robert Pierse: I think we need to extend the constitutional acknowledgement to a right to life which we have to the unborn. I think we need to extend the protection of the state to that and I think we need to put it into the Constitution so that nobody can bring in abortion to this country except the people of Ireland, therefore it'll be a decision of the people of Ireland whether or not abortion comes in and nobody else.

¹⁶²

Dr Louis Courtney: The purpose of the Amendment is not to change the law, it is to stabilise the law, to protect life, not to endanger life and to prevent the mutilation of young Irish women, which is currently occurring, by these clinics which are so-called non-directive, referring young women to England to have these procedures performed. I resent the comments made by doctors that this Amendment will endanger life. Quite the contrary, it will do the opposite. ¹⁶³

Michael Adams: As I see it there are two issues: is abortion right or wrong? The second question has to do with the Amendment itself and while I can understand how somebody who is anti-abortion can also be anti the Amendment, I think that there's no doubt, at least there's no doubt in my mind that a 'yes' vote makes it very difficult for abortion to be legalised in this country and a 'no' vote makes it quite easy for abortion to be legalised in this country.

Dr Michael Woods TD: I believe we do need the Amendment to protect the life of the unborn. This is what we promised to put before the people and to preserve the values that we have. The vast majority of people are against abortion and we can preserve this value in the constitutional Amendment. Now, my own personal position is, therefore, that I'm pro-life and I'm voting 'yes' and I see it as a human

¹⁶¹ Note: the author has edited the following transcripts to maintain the coherence of the various arguments as well as to reflect the hostility and turmoil which arose in the studio.

¹⁶² 19830825 A.

¹⁶³ Ibid. By so-called non-directive clinics, Courtney may have been referring to the Well Woman Centre and the Rape Crisis Centre, among pro-Amendment supporters' targets. He was not specifically challenged on this during the programme.

rights issue ... I'm not here on a party-political basis and I want to make that quite clear.¹⁶⁴

Bowman turned to the anti-Amendment panel:

Adrian Hardiman BL AAC: I'm pro-life and I believe that this Amendment is dangerously anti-life. It's been made quite clear by the judiciary and by all reputable authorities that there's no need to have the Amendment to stop abortion being introduced. No one can tell you with certainty what the Amendment means. You'll see doctors and lawyers disagreeing on the topic. No one would sign a legal document, the meaning of which they didn't understand. No one should sign this Amendment unless they're quite clear that it will not endanger their or their relatives' lives and safety. I'd ask everybody to listen to the arguments with this in mind: can you be convinced beyond doubt that it will not endanger the lives and the health of women? If you cannot, then vote no for no change.¹⁶⁵

Ann O'Donnell AAC: I don't believe this Amendment is necessary. It will not stop a single woman going to England, it won't help a single woman. Anyone who really is pro-life should be looking to find the reasons why women seek abortion. Anyone who's pro-life should be looking to help women in distress. Women, single mothers, women who are battered, women who are living in over-crowded conditions. They're the things we must do if we are pro-life. This Amendment won't do those. The other reason I'm against it is because I've now been working for four years with victims of rape and incest in the Rape Crisis Centre and I'm very worried that the morning-after pill which is a form of medication that can be given to a woman who's been raped to stop her becoming pregnant may not be allowed if this Amendment is passed.¹⁶⁶

Dr George Henry: I'm opposed to this Amendment because I believe that if it's passed, it could affect women's health and, in some cases, could even endanger their lives. I also believe that medical practice could change due to interference with the present doctor-patient relationship – the intervention of third parties. I also believe

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.

it should be opposed because some methods of contraception may be banned following the passage of this Amendment. And finally, I feel that the Amendment wording is too vague, and I think we have ample evidence to suggest that it's open to very many legal and medical interpretations and as such should not be passed.¹⁶⁷

Monica Barnes TD (FG): Well, like all the other member around this panel and also in the audience and the rest of Ireland I am pro-life. I don't think we should reach the stage where we actually have to say that. Who in heaven's name is anti-life? As well as that, it doesn't, as Ann has said, address itself to the real issue and the problem of abortion and it will not unless we get down to the social issues. And this debate has failed totally to raise them much less actually face honestly or try and resolve them. Finally, a constitution ... in no way could it ever be used, or should it ever be used to introduce confused ambiguous wording that would divide this country. Not alone with regard to churches, professionals, but families even. I deplore that, and I feel sad and I think it's a sad day for Ireland that we have reached this stage.¹⁶⁸

Neither of the politicians on the panel attempted to score party political points, thus giving the lie to PLAC's accusation – cited as their reason for withdrawing from the programme – that their inclusion 'would only cause further confusion by giving the impression that the Amendment is a party-political issue rather than one of human rights.'

With the opening comments from the panellists aired, Bowman referred again to the PLAC absence, noting that the organisation was the force behind the existence of the proposed Amendment in the first place. In the absence of the PLAC chair, Dr Julia Vaughan, he introduced a speech by Dr Vaughan, filmed at the PLAC launch of the final stages of their campaign on 16 August.¹⁶⁹ The launch was also covered in the *Irish Times*.¹⁷⁰ In it, Vaughan made the following claim:

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

¹⁶⁹ 19830816.

¹⁷⁰ 'PLAC launches poll campaign', *Irish Times*, 17 August 1983.

The Prime Minister of this country said women would die. That is totally untrue. It is without foundation and we can say that categorically without fear of correction because there is nothing in the wording that will impose obligations or curtail the activity of the obstetricians and gynaecologists who are here with you.¹⁷¹

No reference to a statement by then Taoiseach Garret FitzGerald, that 'women would die' can be found. Vaughan does not appear to have been challenged on that assertion, either at the news conference or elsewhere.

Vaughan, in the videotape insert, went on to name the eminent medical practitioners present in support of PLAC at the launch:

Videotape: These people have got to act on behalf of women in this country. They've got to act in a responsible manner and they have got to treat women, and to imply that there is anything in the wording that will put constraints on them is to suggest that the patrons of the organisation and I as Chairman would be acting in an irresponsible manner by putting our names behind a campaign that was effectively going to tie our hands and prevent us treating women as we have treated them today and as we have treated them in the past. We treat cases of ectopic pregnancy; we treat cases of cancer of the uterus and we're going to continue and to do so. And to suggest that we were campaigning in a manner that would put women's lives in danger is incredible.¹⁷²

Bowman started with Dr George Henry:

Can I turn first to you, Dr George Henry? Now, in what way do you believe, do you argue, as you've said in your opening statement, this will change medical practice?

Well, the present medical practice universally accepted in this country is that we give the principal care to the mother and there are many situations other than cancer and ectopic pregnancy where we may have to give treatment to the mother who is seriously ill with complications of pregnancy in the knowledge that the foetus may

¹⁷¹ 19830825 B.

¹⁷² Ibid.

be damaged or killed. I give you the one example of the mother who has severe blood pressure at say 24, 26 weeks of pregnancy and the doctors are unable to control that blood pressure with drug treatment and the only way we can control that blood pressure is to terminate the pregnancy, to do a caesarean section and remove the baby and the placenta from the womb. Now, we know when we make that decision to do that at 24 to 26 weeks that the baby very likely and nearly in all cases will not survive. So, I fail to see if we have to give equal right where practicable to the foetus, how we can in conscience carry on that treatment in that particular case?

Bowman: And how would the third parties, which you suggested, interfere if this Amendment were passed?

Henry: Well, it could happen that a husband who is particularly anxious to have an heir to inherit his estate for instance might say: 'well I don't really think, Doctor, that you ought to do this. Can you not wait a bit longer?' And of course, he has perfect right to go to the courts and seek an injunction to prevent the doctor from undertaking the treatment that he has advised.¹⁷³

Bowman next turned to Dr Louis Courtney, who described what Dr Henry had just said as 'absolutely absurd'. He held up a photograph of two children who, he said, were born at 26 weeks gestation:

A baby of 24 to 26 weeks nowadays carries a survival rate of 50%. 50%, Dr Henry! This is the latest statistic. These two children were born in Cavan, (holds up photograph) if you can pick it up on camera, they were born in Cavan at 26 weeks. Not in the Rotunda - in a small rural hospital and they're alive. To suggest that we can't deal with a woman who has severe toxemia at 26 weeks pregnant is absurd. Your treatment is quite correct, you do a caesarean section if the blood pressure can't be controlled but the babies can survive and the latest statistics on this issue is a 50% survival rate. If you present yourself in front of the Irish people, Dr Henry, as Master of the Rotunda, you should at least know what you're talking about.

¹⁷³ Ibid.

Bowman: Dr Henry?

Henry: I would just say that I disagree with Dr Courtney's contention. I do not accept that a baby at 24 to 26 weeks has a 50% chance of survival.

Bowman: What of the question of medical practice? Will it change if this Amendment is passed? Dr Courtney.

Courtney: No, there's going to be absolutely no change. The suggestion that men in my position would support any legislation to endanger life is preposterous ... And that is why I'm here tonight. That is why I drove 110 miles from the banks of the Shannon to refute these nonsensical statements. Because they do affect and worry my patients and it's very essential, at least, that the women of Cavan who are watching, if they are, know that there will be no change in Cavan with regard to treatment of anybody who is pregnant.

Bowman: Dr Tim O'Connor, consultant gynaecologist and a lecturer in University College Cork, a member of the Pro-Life and Anti-Amendment doctors.

Well first of all could I congratulate Dr Courtney on his perinatal mortality statistics for 24-week fetuses. He really should publish these as nowhere else in the international journals has a survival rate of 50% (at) 24 weeks been achieved, he is to be congratulated on this.

O'Connor's comment was delivered with thinly disguised scepticism.

Courtney: Thank you.

O'Connor: ... What I would like to do is perhaps simplify or try to simplify the medical situation ... No medical organisation in this country has backed this Amendment and this Amendment will not save the life of one Irish foetus, so alas Dr Courtney, your remark at the outset that it was a vote for life is, I'm afraid, at the least disingenuous and it may even be stated to be perhaps mildly dishonest.¹⁷⁴

¹⁷⁴ 19830825 C.

Courtney did not respond to O'Connor's challenge. Instead Senator Michael D. Higgins (Lab.) stepped in to refocus the argument from where it had begun to descend into hospital statistics:

I think that there is a confusion here that it is very important that in honesty we clear up. Nobody was calling into question the professional capacity of Dr Courtney to deliver medical therapies. What is being called into question is something very simple: will the atmosphere in the delivery of medical practice be the same in the event of the Amendment being carried as it is today? And I think that when you (Courtney interrupts) if you might allow me, Dr Courtney, I think you can answer this question very simply. I think that if you look at the wording and the voters who make a decision on this will have to look at the wording and ask the question: can you give rights to an undefined entity called the unborn and leave the existing relationship between the consultant and the patient (the mother) the same? Of course, you cannot because in law as in anything else it will be perfectly possible for third parties to seek to vindicate the rights that are attached to the new entity, and in that matter, it is perfect clear that the relationship between the woman and her consultant is changed and there is a legal capacity for that change.

Fr Michael Cleary sought to bring the discussion back down to the more personal level touched on by Courtney. He attacked Ann O'Donnell of the Rape Crisis Centre, asserting that the pro-Amendment campaign had grown because she and others had launched a campaign to bring abortion into Ireland. O'Donnell protested, but Cleary had scored his point by promoting the suspicion that O'Donnell was part of the group which sought to have abortions available in Ireland:

Now if the Amendment is defeated, their next logical step is to go to the courts and there's very good reason to think they'll succeed and then the people who say, 'I'm anti-Amendment, but anti-abortion' can wash their hands like Pontius Pilate and say 'but it wasn't my fault'. Now, you see, there's a very real reason. I read in the paper yesterday a political party emerging in this country whose policy says abortion is the answer – I quote the Independent – abortion is the answer to the deformed foetus. (Indicates young woman in wheelchair) Here's a girl, not a Catholic, an atheist, who was a deformed foetus and I'm delighted that Jim Kemmy wasn't in government and his party when she was a foetus or an undefined entity as Michael D. Higgins calls

her. So, let's have a look now, John, to be fair, at the horrible consequences of the Amendment being defeated.¹⁷⁵

Bowman: Michael D. Higgins, briefly.

Higgins: ... What Father Cleary is doing now is that he is now just trying to distort this debate in the same way as he has systematically done in his free column in the *Sunday Independent* in the last several weeks. What I did say, and I insist on it being accurate, what I said is that the term unborn has not been defined and the failure to define it poses threats to the lives of women and poses threats to means of contraception (voices raised talking over each other).

Bowman: Sorry gentleman, we'll move onto the legal implications of any change – I'm sorry Father Cleary – we're taking a break at this point and will be back with part two of this debate in just a moment.

The debate moved on rapidly from a complex legal discussion as Bowman steered it towards the moral issues and then concentrated on members of the participating audience who had not yet been heard from. First came Fr Simon O'Byrne OFM, a Franciscan friar, author and Director of the Adam and Eve Counselling Service. O'Byrne was known for his forthright and uncompromising Catholic orthodoxy. He spelled out the unambiguous duty of Catholics to act on the basis of their 'informed conscience according to the dictates of the hierarchy':

I'm speaking now as a Franciscan priest and as reference has already been made to the statement by the bishops and the bishops did state that we recognise the right of each person to vote according to conscience. Well now, I'll speak solely to the 98% Roman Catholics and when the reference was made to conscience, it's not just as feeling or my sentiment or the Protestant interpretation of conscience, it's the Roman Catholic interpretation which is an informed conscience and each and every Catholic out there is expected to form, to have an informed conscience according to the dictates of the hierarchy, the successors of the apostles, and to vote 'yes' for life, to vote 'yes' for life and to have no doubt and we have references from the learned lawyer on the foetus, it's human life from conception.

¹⁷⁵ Ibid.

Bowman: Is this sectarian, do you believe, Father O'Byrne?

O'Byrne: It's not sectarian because the issue is not sectarian nor political. The greatest defender of human rights in the world is the Roman Catholic Church and always has been, so with an informed conscience you'll vote yes. ¹⁷⁶

Protestant clergy in the audience objected to what they regarded as a very divisive clause being inserted in the Constitution, saying that it should be for the Oireachtas to decide on matters such as this. They did not want a situation as currently obtained in Britain but felt that the proposed Amendment would do nothing to help those travelling to Britain for abortions.

Bowman turned to Jim Kemmy:

Jim Kemmy, leader of the Democratic Socialist Party, you've argued, I think, that it's sectarian. In what sense can you say that?

Well, it's divisive because what has happened in the last few months is like a civil war in our country. It's a civil war that has developed into a struggle between the forces of reactionary conservatism and the forces of progress and democracy. It's sectarian, of course it's sectarian because it's endeavouring to put the teaching philosophy of one church into a constitution at a time when our society is becoming more open, working towards a pluralistic society this is surely a backwards step which will do no good for anybody. Indeed, it will not protect the lives of anybody born or unborn, so therefore it is sectarian. It's useless and it's a stupid Amendment which should be opposed by every liberal thinking person on the island.

Earlier in the programme, Fr Michael Cleary had drawn attention to a young woman in a wheelchair sitting near him. He used the opportunity to suggest that, since she was born with a disability, she might not have been born at all had people such as Michael D. Higgins and Jim Kemmy been in power when she was a 'deformed foetus'. The incident was published as part

¹⁷⁶ Ibid.

of an article on the Eighth Amendment contributed by the author to a Church of Ireland journal in 2017.¹⁷⁷ The following extract is taken from that article:

As it happened, the young woman was a member of the Handicapped for the Amendment group, some of whom were present. At a news conference on the day of transmission the group had claimed to be in possession of copies of Government papers showing that abortion under circumstances such as in the case of malformed foetuses was being considered.¹⁷⁸

The young woman was, in fact, British, and thus unlikely to have been affected by a regime reflecting Jim Kemmy's or Higgins' presumed policies. However, that did not deter Cleary.

One of the Government papers which Handicapped for the Amendment Chairman, Eugene Gath, claimed to possess, was entitled 'Department of Justice comments (not cleared by Minister) on Mr Quigley's draft of 11 March'. The discussions focused on how to deal, in the forthcoming Amendment, with the situation of an expectant mother informed that her child is anencephalic. An official of the department, Mr Quigley, was asked to produce a text which could be considered, and which read in part:

...however, [in particular] medical treatment including intervention [in pregnancy] required to [preserve] [protect] the life of an expectant mother or termination of pregnancy where the foetus is known [conclusively] to be incapable of viable life after birth shall not be unlawful.¹⁷⁹

Although the document referred only to those foetuses so compromised that life was virtually impossible beyond a matter of hours after birth, some of the pro-Amendment supporters quickly expanded this to mean any foetus exhibiting signs of handicap. In the *Today Tonight*

¹⁷⁷ 'The Eighth Amendment: a short history' by Paul Loughlin in *Search: A Church of Ireland Journal*. Vol. 40.1. Spring 2017.

¹⁷⁸ Eugene Gath, Chairman, Handicapped for the Amendment, RTÉ Radio *News at Six Thirty*, 25 August 1983.

¹⁷⁹ Department of Justice comments (not cleared with Minister) on Mr Quigley's draft of 11 March. Photocopy in private hands. Quoted in Loughlin, 'The Eighth Amendment: a short history'. Also quoted in Doris Manly et al. Doris et al. Manly, *The Facilitators* (Dun Laoghaire: Brandsma, 1987) 152-167.

programme of 25 August 1983, Gath and Cleary quickly raised the spectre of handicapped babies being aborted.

A government spokesperson called *Today Tonight*, while on air, to deny that there was any consideration by the Government of abortion for severely handicapped people. However, Handicapped for the Amendment had got their allegation across to a large audience and created the impression that there had been consideration of abortion in certain circumstances – exactly the type of qualification the pro-life pressure groups rejected absolutely, believing, with Julia Vaughan, that any loophole would be used by others to have ‘a little abortion in certain circumstances’:

A document which came to hand later seems to suggest, in spite of Government denials, that the possibility of permitting abortion of an anencephalic foetus had indeed been discussed at the highest levels. In what appears to be a copy of an unsigned draft of the Attorney General Peter Sutherland’s advice to the Fine Gael/Labour Government on the Fianna Fáil proposed wording, we read:

. . . the proposal would close off the possibility of ever permitting abortion in the case of the anencephalic foetus or in other cases of severely deformed fetuses. Some Protestant Churches regard abortion as morally permissible in limited circumstances such as these.¹⁸⁰

This intervention by Fr Cleary and Handicapped for the Amendment was one of the most contentious moments of the entire debate. During the episode, Valerie Cox, a freelance journalist later employed by RTÉ Radio, crossed the studio to Monica Barnes and thrust a sheaf of papers at her. The papers were photocopies of the Department of Justice documents the Handicapped for the Amendment group claimed to have in their possession:

Bowman: That’s an intrusion of privacy.

[APPLAUSE]

¹⁸⁰ Photocopy of Advice (of) the Attorney General. Undated. In private hands. Quoted in Loughlin, ‘The Eighth Amendment’.

Barnes: It is, if I may continue. Abortion is illegal in this country. There is nothing in the foreseeable future and ... John Kelly and every other legal expert in this country has said that in the foreseeable future there's no way with the Supreme Court we have, with the judges we have, that it could come about. An opportunity ...

Voice from the audience: Professor Kelly is voting yes.

Barnes: Excuse me ... to suggest that the government party or that the leader, Dr Garret FitzGerald, would attempt to introduce by the back door some kind of abortion on demand is totally unfounded and I find it very unfair that I should be questioned on it here today.

The confrontation between the two sides became even more heated as the programme neared its conclusion. There was to be no meeting of minds. The pro-Amendment side's argument began and ended with the declaration that human life began at fertilisation and any intervention, other than one deemed not to be abortion by virtue of the 'double effect' principle, was abortion. Questions about contraception were to be dismissed as irrelevant, merely efforts by the anti-Amendment side to frighten women and distract from the central issue – which was only to be the question of abortion in Ireland and not anywhere else. The anti-Amendment side doggedly promoted their doubts about women's health and access to all forms of contraception then in use.

AAC member Dr Mary Henry, a consultant vascular physician at the Rotunda and Adelaide Hospitals, sought to introduce her anxieties regarding women like her own patients; however, it was very difficult to make points in the face of the constant attack launched by Courtney and Cleary in the closing minutes of the debate:

Dr Mary Henry: Please, Mr Bowman let me tell you about the women.

Courtney: Contraceptives you're talking about? Contraception means preventing life, not destroying life.

Henry: Dr Courtney, let me finish.

Courtney: You're contradicting yourself.

Bowman: Sorry, Mary Henry.

Henry: I am not contradicting myself.

Courtney: Very clearly, contraception ...

Henry: Dr Courtney!

Bowman: Sorry, Dr Henry has the floor.

Henry: Dr Courtney, I am talking about methods of contraception which are allowed in this country at the moment for my high-risk mothers.

Courtney: Are you talking about ...

Bowman: Sorry, Dr Henry has the floor, Dr Courtney, you'll come in a moment.

Henry: When this campaign started, I looked at the wording and I thought this is a challenge to methods of contraception which allowed here now. They will ...

Courtney: Like what?

Henry: I will tell you, the IUD which was once removed ...

Courtney: Who says?

Henry: Which was once removed under Dr Woods and was replaced as being allowable by Dr Woods who is not a medical practitioner but allowed this. When I started in practice in the mid-60s, four to five women died every year from pulmonary embolism in this country. Now we've had one death in five years. The sort of women who died were women in their thirties and forties with ten and 12 and 14, one case in 1972 ... 19 children.

Courtney: What has that to do with your IUD?

Henry: Now these women are using these forms of contraception, because they cannot take the pill.

Courtney: Who says these forms of contraception will be banned?

Bowman: Michael Woods, I think as former Minister for Health.

Woods: I would like to make quite clear as former Minister for Health, I did not remove IUDs, in fact no applications were made for import licences for quite some time. But the position in relation to the IUD is a very important one in this debate and it is that any of the contraceptive methods which are allowable now, will be allowable under the constitutional Amendment. We have, if I might conclude, we have the best of legal and medical advice available to us in the selection of the words which went into the Amendment. There's no question about first of all as Dr

Courtney tried to say and to get across, by definition if you're talking about contraception, you're not talking about abortion, by very definition. That's one of the red herrings that has been brought in to try to confuse the issue by people like Adrian Hardiman and others and any of the legal people who have any sense of responsibility about the issue will tell you quite clearly that contraception is totally separate and I want to make it quite clear and indeed it's been made clear not only by me, it's been made clear by the professors of obstetrics and gynaecology who are the teaching professors, by the bishops in a very firm statement. (Addressing Bowman) Now you're not making very clear how firm that bishops' statement was and how considered it was and how removed it was from the heat of the situation. They said, 'it is our considered opinion that the Amendment will safeguard the right to life both of the mother and the unborn child.' Those words are not said without due consideration. Three Attorneys General now, three Attorneys General have approved of the words which are there.

Bowman: Adrian Hardiman.

Hardiman: Now, I think this is a dreadfully important thing, because as Dr Henry says, there are women whose lives would be endangered if the coil is banned. Now just one moment, Dr Courtney, you've constantly interrupted everybody, and I wish you wouldn't do so. Now, as Dr ...

Courtney: (Interruption)

Hardiman: Dr Courtney ... you're behaving like an unruly schoolboy. This is a dreadfully serious matter. I think this question must be addressed to Dr Woods. When Dr Woods was Minister for Health, he introduced the Health Family Planning Bill. The day that was passed the Department of Health said the coil would be banned because it might be an IUD, I would ask Dr ... Dr Woods says nothing that's legal now (was) illegal then. Is the use of the coil in your view legal now?

Woods: Yes, use of the coil presently is acceptable now.

Hardiman: Is it legal?

Woods: Now there's a different question if you come to people of a particular church and their view, from their point of view.

Hardiman: Is it legal according to the law of this state?

Woods: Just let me finish ...

Bowman: Let Michael Woods continue.

Woods: If you take the constitutional and legal position strictly and this is what we should be looking at here, constitutional legal position, yes, it is not, and there has been no case or no attempt to show that it's not illegal and it is accepted presently and it's available presently.

Hardiman: Is it legal?

Woods: It is legal.

Bowman: Anne O'Donnell. I'm very concerned.

Woods: I'll tell you how in fact, I'll tell you how and that has been made quite clear by the pro-life people, because in fact it acts principally as a contraceptive and occasionally as an abortifacient, I mean that's the argument. Now no one could in effect take a case which proves when it's acting as an abortifacient and it becomes a question for people. That's the ...

Unfortunately, there was insufficient time left for the presenter to return to the comment by a former Minister of Health that an intrauterine device (IUD) was both a contraceptive and an abortifacient. Such a comment may have been very confusing for the viewing audience. The controversy over the function of IUDs continued for years afterwards.

Bowman: We'll come to the audience in a moment. Ann O'Donnell.

O'Donnell: I'm extremely concerned that an awful lot of people listening to this programme tonight don't understand this issue. And all of this legal and medical wrangling isn't helping them. They're probably more confused now than they were at the beginning of the programme but the one thing that is very clear is that there is disagreement, and no one can assure us that methods of contraception that some women need to use at the moment will be safe after this Amendment and that the only message that people should take from this programme is if they're unclear, unsure, if they can't be guaranteed that these methods will after the Amendment still be safe, then they must vote no. That's the only message they must take.

Barnes: I'm very concerned that time is running out and that the people of this nation looked on tonight to try and get some direction and some easing of the confusion. What I do think though – please – and I would like this to come out of

this programme if nothing else, and that is that a great number of us who for the best of reasons and the most professional of reasons and the most moral of reasons oppose this Amendment, are somehow even within this studio alleged to be for abortion or if not for abortion to be colluding strongly ... may I please finish, to be colluding strongly ...

Cleary: Many of them admit they are for abortion. How many of them are for abortion, please?

Bowman: Monica Barnes.

Cleary: I know the ones who are against it, Dr Henry, Monica Barnes is against it, Adrian said he's against it, are you against abortion Ann? Question – answer it, be honest, you ran a campaign for it, didn't you?

Barnes: May I finish?

Bowman: Sorry, Monica Barnes. I'll come to Ann O'Donnell in a moment.

Barnes: Please! The type, the type of thing that was attempted here tonight by bringing in a document in an envelope and confronting me, confronting me with such a tactic has been part and parcel of this debate. It's what I feared, it's what I regret and may I ...

Bowman: Ann O'Donnell.

First of all, I want to say categorically [Cleary interrupts], excuse me, you've asked me a question I want to answer ... Father Cleary has asked me a question. I have not run any campaign for abortion. I'm involved in this campaign which is to oppose the Amendment. If any red herring has been raised here tonight, it's the red herring of suggesting that we are for abortion. And also ... John, I'm not finished and also with due respect to people who are handicapped and who are here, and I think they're very brave to be here, and I'm very glad to see them here, there is no suggestion from our campaign that we want to abort handicapped babies.

[Interruption]

O'Donnell: I am a mother myself and every [interruption]. Excuse me. I am [interruption] I am ... I do not. I am a mother myself and every woman when she is preg ... let me finish, John, please, this is appalling!

Bowman: Sorry, if nobody can control this audience necessarily.

O'Donnell: John, I'm not finished.

Interruptions

Bowman: Louis Courtney.

I would say to the two or three million people listening that we are the only people in the world that are given the golden opportunity of voting on behalf of our unborn children and we must vote yes.

A man called Mr Roche brought a case to the courts trying to stop this referendum because he said he didn't know, and nobody could explain it. The judge couldn't stop the vote, but she said this, if he is not certain which interpretation will be placed on the wording he can vote against. His vote then signifies that he is against a wording which is capable of an interpretation of which he does not approve. If you don't know, vote no.

Bowman: Well we've had advice on both sides, sorry, we've had advice on both sides, we must conclude it there ... We've also had a government spokesman who's telephoned the programme denying that there was any consideration by the present government of abortion for severely handicapped people as has been claimed on this programme. We hope we have helped you to make up your minds, if we haven't, that I think is manifest in the confusion and division on this Amendment. Voting on September 7. Thank you for viewing and good night.¹⁸¹

Emily O'Reilly described the atmosphere after the programme:

At the reception afterwards, the bitterness and hostility spills over. Monica Barnes leaves the station shaking. Fr Simon O'Byrne has just told her that she is 'an evil influence on the women of Ireland.' Anne O'Donnell confronts Alice Glenn and Fr Michael Cleary. They have, she claims, made defamatory comments about her. Alice Glenn tells her she is not worried. 'Mrs Glenn can look after herself, dear.' Mrs Glenn has now received a solicitor's letter. Fr Cleary puts his arm around Ann, smiles, tells

¹⁸¹ Ibid.

her he's sorry, that he mistook her for somebody else. 'Print that', she tells him. 'I will', he says, 'in my column on Sunday'. But that won't do.¹⁸²

The *Today Tonight: Referendum Special* of 25 August 1983 was a waypoint in the gradual coarsening of the public discourse that had taken place over the years, reaching even greater levels of vocal hostility in the campaign of 2018. Had PLAC not withdrawn from the programme in 1983, and had Julia Vaughan, Brendan Shortall and others of their organisation taken part, it might have been a calmer, less confrontational, less abusive and more informative discussion, instead of what Emily O'Reilly described as 'more heat than light'.

On the following Thursday, *Today Tonight* transmitted the last of its pre-referendum programmes. It was to be a report on the campaign 'on the ground' and was filmed mainly in Cork and New Ross. There had been no more on-air debates although both sides had held information meetings around the country.

In Cork, the Franciscan Order had preached regularly in favour of a 'yes' vote at its masses. On this, the second last Sunday before the vote, the friars gathered, as they did every Sunday, on the steps outside the Church of St Francis in the heart of Cork City and conversed with mass-goers on the importance of voting 'yes'. Nearby was an AAC group with their poster: 'THIS AMENDMENT COULD KILL WOMEN'. Inside the church, another Cork member of the order, Fr Cassian Byrne OFM, a Doctor of Canon Law, said mass. In his sermon, he instructed the congregation on what the Church meant by 'freedom of conscience' and the referendum result the Church held to be consistent with 'God's plan':¹⁸³

The Church defends the right to life. Not only in regard to the majesty of the Creator who is the first giver of this life but also in respect of the essential good of the human person. And therefore, our own hierarchy concludes, by suggesting and saying to us

¹⁸² Emily O'Reilly, 'More heat than light'.

¹⁸³ Professor David Runciman, examining philosophies of politics, observes that for the ancient world philosophy of politics rested on virtue. In the ancient mind, the point of being a citizen was to lead a virtuous life. For mediaeval thinkers, the philosophy of politics rested on religion. Earthly power had its source in God's plan for the world. This philosophy seems to have guided minds through much of the span of study contained in this work. David Runciman. *Politics: Ideas in Profile* (London: Profile Books, 2014).

that we give a decisive 'yes' to life by voting 'yes' in the Amendment on Wednesday week.¹⁸⁴

As they left the church, mass-goers were largely, but not entirely, in harmony with the message they had just received from the pulpit:

1 Woman: I'm going to vote 'yes' for the Amendment.

2 Woman: I think our Holy Father asked us to do this and whatever our Holy Father asks us, I will do.

2 Woman: We must have an informed conscience.

Reporter: What did you think of this morning's sermon at mass?

1 Man: I didn't approve of it to be quite honest with you.

2 Man: It's indecisive and an awful lot of people in there don't even know what the whole thing is about, and they were more or less having it drummed into us saying yes. No blooming way.

Reporter: What's your view of this morning's sermon?

3 Man: I'm going to vote to vote agin' the Amendment and to think that anyone should tell me because I voted agin' the Amendment that I was a murderer or that I was for abortion, I'm not for abortion.¹⁸⁵

In an interview with *Today Tonight*, Fr Cassian Byrne elaborated on the position of the voter who is anti-abortion but still votes 'no':

One would not altogether liberate these people from a degree of lack of true moral integrity. They are departing in some way ... and to some degree, they are departing from the teaching of the Church. They are departing above all from the teaching of

¹⁸⁴ 19830901.

¹⁸⁵ Ibid.

Christ who has said 'thou shalt not kill'. And that extends from the moment of conception to death.

Reporter: Now one of the main arguments in the anti-Amendment lobby is that 98% of our population is already Catholic, that as a country really, we're not likely to see abortion on our shores.

Byrne: We're not likely to see abortion on our shores in the immediate future. But it is the considered opinion of the bishops that we would be a very foolish people indeed if we were to rely on the myth, which it is to an extent, that we are 98% a practising Catholic country, that there is nobody in this country in favour of abortion and that there is no likelihood of abortion at any stage being introduced into this country. I think that would be to ignore the actual situation, it would be to bury our heads in the sands and pray that a miracle will be performed in relation to Ireland, preserving it from all danger.

Reporter: So, the country's piety won't protect it.

Byrne: The country's piety will greatly help us but the country's piety of itself will not protect it.

Reporter: Or prevent it.

Byrne: Or prevent it. I would think.¹⁸⁶

In his interview, Byrne emphasised the Catholic position as he and his fellow Franciscans had proclaimed it throughout the campaign. In a forthright statement of the duties of Catholics regarding the Amendment, he echoed his fellow Franciscan, Fr Simon O'Byrne, in the live debate a week earlier.

¹⁸⁶ Ibid. In a conversation with Fr Cassian Byrne, the author, who produced the *Today Tonight* report above, asked again, off camera, whether the people's general adherence to, and respect for, Catholic teaching might inspire them to such abhorrence of abortion that its introduction to Ireland would be highly unlikely. The priest replied that his knowledge of the moral attitudes of many Irish people, gained through his experience in the confessional, was such that he had little faith in the view that the country would be immune to the introduction of abortion.

The abrasive nature of the campaign was reflected later, in the same *Today Tonight* programme, in a report on an AAC information meeting held in New Ross on 29 August 1983. PLAC, SPUC and the AAC held such meetings around the country during the campaign. A pro-Amendment supporter attended the New Ross meeting and challenged the Very Rev. Victor Griffin who was on the platform as a sponsor of the AAC:

I'm not too sure, if you said the same thing tonight, I'm still trying to figure out if you did, that you were pro-life and, in some cases, pro-death. You said that in the cases of rape, handicapped, and I forget the third one that you are for abortion. Meaning that you would kill the handicapped, the most defenceless of all human beings.

Dean Griffin: I'm certainly not pro-death. I never said that. I'm certainly very much pro-life. I repeat our situation here that we will allow abortion as a last resort in certain unfortunate exceptional cases as the lesser of two evils. Abortion is an evil thing but sometimes unfortunately it has to be resorted to on the grounds of strict and undeniable medical necessity. The actual cases will have to be worked out by medical opinion in consultation with the mother and with those who are interested. As I said, and I emphasised it here in my speech, we in the Protestant tradition are very suspicious of absolutism or rigid inflexible laws to govern sensitive human conditions. Each is a particular individual case, each has to be treated with compassion and Christian concern and so when I say that abortion may regretfully have to be resorted to in certain conditions, it's only done on the grounds of strict and undeniable medical necessity and that is not being pro-death.¹⁸⁷

2.6. THE VOTE AND THE *RESULTS PROGRAMME*

The opinion polls had reflected neither an overwhelming desire to have a referendum nor to vote in favour of the Amendment.

The final opinion poll was scheduled for a Wednesday, 31 August 1983, a week before polling day. On 22 August, the Catholic Church published a favourably disposed statement, indicating that the Amendment would safeguard the life of both the mother and unborn child. This

¹⁸⁷ Ibid.

announcement would appear to have influenced many voters, since the opinion poll found that support for the Amendment had substantially increased - to 69% (from 55% on 26 May).

in the *Irish Times* Jack Jones wrote: 'There are very significant indications that the Amendment will be comfortably carried, and a majority ... of 2:1 can be expected'.¹⁸⁸

The result of the vote on 7 September 1983 was, as Jones expected, a two-to-one majority in favour of what became the Eighth Amendment of the Constitution, article 40.3.3.

Table 1: 1983 referendum results

Yes – 66.9%	No – 33.1%
841,233	416,136

On the afternoon of the following day, 8 September 1983, *Today Tonight* began the first of three results programmes. Apart from a fractious exchange between Senator Mary Robinson and William Binchy in the second programme, the comments made by other contributors from both sides were restrained in comparison with the antagonism which had characterised much of the campaign. The programme also had a more reflective segment where Canon James Hartin and the *Irish Times*' former 'Backbencher' columnist, John Healy, discussed the meaning of the campaign and its result with Brian Farrell:

Farrell: What about the views particularly of the minority churches? Canon Hartin, what does this outcome now mean for the minority churches particularly for the Church of Ireland? After all, your hierarchy spoke up, made its position quite clear, and said this is not the appropriate kind of issue to put to the people in a referendum. You were just ignored – ignored initially by the politicians, subsequently rejected by the people.

The Amendment has now been carried and the Protestant churches now find themselves in a position of not having been heard. We tried very hard to make our opinions known. I don't think we've been listened to. I don't think we've been heard.

¹⁸⁸ Quoted in Jack Jones, *In Your Opinion: Political and Social Trends in Ireland through the Eyes of the Electorate* (TownHouse and CountryHouse Ltd, 2001), 55-56.

But nevertheless, we are still here and are continuing to speak to this debate and other debates of this kind. I think we have missed in this state a tremendous opportunity in this voting of showing that we were prepared to listen to minorities. And also, I think we've fallen down a great deal on our republican ideals of there being a place in Ireland for every man. But we've now learned to speak in this kind of national debate through this debate and I believe we will speak a great deal more strongly in the future. There'll be no opting out of the Protestant community after this referendum, we'll be continuing to speak. And I think that we are very anxious lest this be the first sign of some kind of regress in Irish society.

Farrell: Are we going back in time, are we going back to the bad '30s or the bad '40s?

Hartin: Yes, or even the bad 'fifties that I remember where I had very serious doubts about my Irishness. People implied that my Irishness was somehow defective. I'm now convinced that my Irishness is not defective and I don't want to see a narrow definition of Irishness emerging in the future. And I imagine that the same sort of people who have pushed through this so-called pro-life movement may well in the future begin to raise other moral issues and it could be the beginning of a rather reactionary, puritanical movement in the country which I would resist strongly.

Farrell: John Healy, you've been saying, you've been preaching in your own pulpit, God knows, way back when you were '*Backbencher*' (title of Healy's Column) and subsequently '*Sounding Off*' (later title) that Ireland does need this variety, we do need this republicanism. Is this now the death certificate of Republicanism?

Mind you it's very interesting that the word 'Republicanism' only comes up after the event and I'm glad that the Canon is making the Republican sound because I'm beginning to think that there are very few and they're very thin on the ground.

Farrell: Do you think that what you used to talk about verbal republicanism, is this another bit of it?

Healy: That's a different category of animal altogether. Two words died today: pluralism died, and republicanism died. I mean as we use them. Now verbal republicanism as I said is a completely different animal and I hope that's dead because it was a sham anyway.

Farrell: If pluralism died today, didn't it die when the senior politicians ever allowed this to go forward?

Healy: Dead right, dead right, dead right.

Farrell: Are they going to pay a price for it?

Healy: I think they will, but the point is this, don't forget this, you know the old cliché we have - there goes the mob, I'm its leader, I must follow. But what they are following - and what has been evidenced today is that we want here in the 26 counties (is) a nice green Catholic state. Now we have it. Now the figures are there. Anyone that wants to buck that. Anyone that wants to talk about pluralism or the old ideal of republicanism, which is pluralism as well, they have, you know, the figures are against them.¹⁸⁹

¹⁸⁹ 19830908 C.

3. 1983-1986: THE EIGHTH AMENDMENT TO THE FIRST DIVORCE REFERENDUM

3.1. BACKGROUND: PREVIOUS M.PHIL. WORK ON THE 1986 DIVORCE CAMPAIGN

This section builds on research carried out by the author for an M. Phil. dissertation in 2011.¹

An Oireachtas-sourced survey² showed a surprising pattern of voter opinion before, during and after the campaign on the proposed change to the constitutional prohibition of divorce. From September 1983 to January 1986, opinions in favour and against had held fairly steadily at around 70% in favour and 20% against, but thereafter came a sudden downturn against the Amendment. This continued to 26 June 1986, when the referendum was defeated. Table 2 below illustrates how, four months after the vote on June 25th, 1986, an opinion poll on the same pre-vote question showed a dramatic reversal in opinion in favour of divorce.

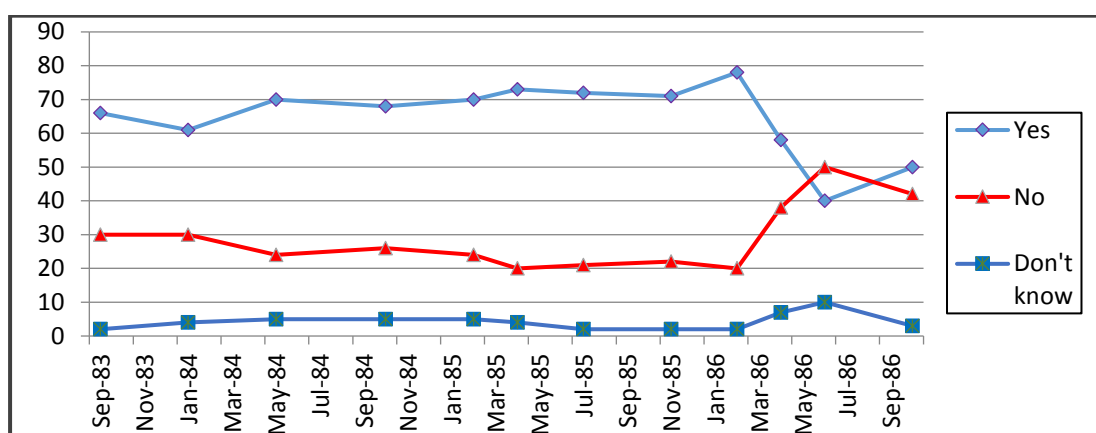
The parish-level organisation, so effectively mobilised by PLAC and SPUC for the 1983 campaign, was deployed again and equally effectively in 1986. The machine easily outmanoeuvred its opponents in both campaigns. The elements of aggression and bitterness which marked the 1983 Eighth Amendment campaign, surfaced again in 1986 with the addition of a new element, that of fear.

The following graph shows the reversal of opinion favouring divorce. It may be interpreted as a measurement of the effectiveness of what proponents of divorce termed a 'fear campaign'.

¹ Paul Loughlin. 'Church, Property and Income versus Compassion: The Defeat of the 1986 Divorce Referendum.' Unpublished M.Phil. thesis in Modern Irish History. University of Dublin. 2011.

² Oireachtas Library and Research Service:
http://www.oireachtas.ie/parliament/media/housesoftheoireachtas/libraryresearch/Polling_web.pdf
Accessed 17 September 2011.

Table 2: Opinion reversal in 1986 divorce referendum



Source: Oireachtas Library and Research Service ³

The figures could suggest that voters had been frightened by the ADC's dire warnings of the peril awaiting wives and children should husbands be empowered to get a divorce. In the author's M. Phil. dissertation, the conclusion reached was that the decisive influence on the vote was the sheer weight of the Catholic Church's campaign against the Amendment. ⁴ This was not to discount or minimise the effectiveness of the strategy devised and orchestrated by the Anti-Divorce Campaign. However, this work will revisit the M. Phil. conclusion in the light of greater access to the RTÉ Radio and Television Archive and coverage of the campaign, particularly in live programmes and inserts.

An important characteristic of the 1986 campaign was that it was fought to a significant extent by members of the same groups who had opposed each other in the 1983 campaign. The ADC largely comprised some of the PLAC leadership, including Senator Des Hanafin (FF) of PLAC, John O'Reilly, Chairman of the Irish Family League, members of Family Solidarity and members of the local or parochial groups who had joined PLAC's 1983 campaign to bring about the Eighth Amendment. Those supporting the divorce Amendment proposed by the Fine

³ Oireachtas Library and Research Service:
http://www.oireachtas.ie/parliament/media/housesoftheoireachtas/libraryresearch/Polling_web.pdf . Accessed 17 September 2011.

⁴ Loughlin. 'Church, Property and Income'.

Gael/Labour coalition included the well-established Divorce Action Group and others, like Jean Tansey, who had been associated with the Anti-Amendment Campaign in 1983.

As the narrative unfolds in this chapter, through broadcast and other media transcripts, a pattern emerges wherein two distinct opposing groups may be discerned: one favouring the retention of the civic and religious values they held as emblematic of Irish exceptionalism; the other favouring reform and an increasing measure of pluralism. Both are broad groupings. Traditionalists encompassed many groups such as members and supporters of the now disbanded PLAC; SPUC; the ADC; Family Solidarity; and many others. Reformers were equally varied. Not all belonged to the Divorce Action Group. There were the Separated Persons Association; the AIM group for family law reform; large numbers of Labour Party Supporters; and most of the Fine Gael front bench.

A further development characterised this period. It was the emergence of a clear point of difference between the majority Catholic Church and the Church of Ireland hierarchy. The latter, while not sanctioning divorce and remarriage, acknowledged that marriages could fail, and that couples could find themselves doomed to perpetual unhappiness and despair of ever entering another, more fulfilling married relationship. The Catholic Church, while permitting legal separation, opposed divorce and remarriage under any circumstances. An impression of the Church's attitude at the time may be gleaned from a comment by Dr Kevin McNamara, Archbishop of Dublin, in the Jesuit publication *The Sacred Heart Messenger* (circulation 196,000), shortly before the referendum vote on the proposed removal of the constitutional ban on divorce:

There are some members of the Church to whom sacramental absolution cannot be given as long as they continue to live in a particular way. Among these are: the divorced and remarried (and) Christians living together in an irregular union.⁵ McNamara, then Bishop of Kerry, had been a leading advocate of the

⁵ 'Reconciliation and penance' in the *Sacred Heart Messenger*, June 1986: 'Archbishop McNamara answers a question often put by people today: Why are some people refused absolution who are anxious to obtain God's pardon?'

Eighth Amendment in 1983 and had warned against what he claimed was a strong abortion lobby.

As noted earlier, the Women's Right to Choose group prior to the 1983 referendum was small, probably numbering little more than 100. The mid-1980s were far more religiously observant times than the present; the Archbishop's pronouncements in 1986 would have been taken most seriously by observant Catholics, as they had been in 1983. For its part, the Church of Ireland did not condone divorce and, at the time, would not remarry divorced persons (although some individual clergy would provide a service whereby divorced persons, already married in a civil ceremony, might receive a blessing on their second union).⁶

3.2. THE *LATE LATE SHOWS* ON DIVORCE

The *Late Late Show's* Gay Byrne decided to make two programmes on divorce; one in 1975, the other nine years later in 1984. He had dealt with the divorce issue in earlier programmes, but only as one of several discussion topics. He decided to research and produce a full 90-minute debate exclusively on divorce, to be transmitted on 15 November 1975. The second debate was transmitted on 3 March 1984.

As producer and presenter of the *Late Late*, one of the most watched series on (the then) Telefís Éireann, Byrne exercised an independence unrivalled among the producers' group. Writing of himself (curiously, in the third person), he said:

Gay Byrne is the producer. As such he is responsible for everyone who appears on the programme – talkers and performers and artists. He agrees fees, signs contracts, arranges transport and is responsible in a general way for getting the show on the road. With a lot of help from other people, of course. But basically, his is the responsibility. Then on Saturday nights he suddenly switches hats and becomes a performer in the guise of the programme's host. This is most unusual, not only in RTÉ, but as far as we are aware in BBC and ITV also.⁷

⁶ Email to the author from Ms Janet Maxwell, Director of Communications of the Church of Ireland, 20 February 2018.

⁷ Gay Byrne, *To Whom It Concerns*.

A former RTÉ Television Controller of Programmes, John Kelleher described another unusual feature of the management structure of the *Late Late Show*. Byrne, as presenter, when live on air was not obliged to follow any directions from a producer or director in the control room - since he *was* the producer. Furthermore, Adrian Cronin, the director in the control room, was also the Head of the Light Entertainment Department to whom Byrne was notionally answerable. Notwithstanding the unusual management structure of his team, Byrne was answerable to RTÉ via the Controller of Programmes for the *Late Late*:

Kelleher: I think it worked differently, at different times, depending on who was in the Controller's chair or the Director General's chair. But I think, generally speaking, it was an autonomous unit. I mean, the upper management were petrified of it and of its ability to create a major embarrassment or scandal for RTÉ.⁸

The *Late Late* had large audience ratings; Byrne was considered brilliant both as a producer and presenter. In common with all department heads, Adrian Cronin routinely briefed the editorial committee of plans for upcoming *Late Late Shows*:

Kelleher: But by and large, it was a case of hoping for the best. I think quite often, the editorial responsibility rested with Gay. He had extraordinary power.

Q. Theoretically though, there was a structure there so that management could conceivably have intervened had it required?

Kelleher: Oh absolutely, there was. I am not suggesting that management didn't and indeed, in my own time, I recall having some heated discussions with Gay about issues. Whether something might be a bridge too far in terms of public sensibility, particularly in relation to a sexual issue. But his judgement, although he always wanted to push the boat out, he wanted to push it out for the right reasons, it wasn't for a sensationalist or for the wrong reason. It was, generally speaking, for the right reason.

Kelleher recalls Byrne's ability to be outrageously funny, particularly on sexual matters.

⁸ John Kelleher interview for this thesis, 11 January 2019.

I remember him doing (an item) on contraception. He had somebody coming in and displaying what were effectively banned aRTÉfacts. I think it was a woman, he said, 'What is that?' and she said it was a Dutch cap and he put it on his head [laughter].
Ever the showman! ⁹

The *Late Late Show: Divorce* programmes were each to have panels reflecting all major shades of opinion and an invited audience, of whom many were interested parties. Another production device the *Late Late* employed was the 'soap box', where two, usually well-known people, holding opposing views on a subject, were each given an uninterrupted period to make their cases to the studio and viewing audience. Then came statements from the panellists followed by comments and challenges from the audience.

On 3 March 1984, not quite nine years later, the *Late Late* mounted another programme on divorce, including some of the participants from 1975 and following the same format as the 1975 programme.

The availability of two similar programmes nine years apart offers the opportunity to compare several elements common to both. These include the 'soap box' contents and style of presentation; the type of people chosen for the panels; and the demeanour of all the studio participants, particularly the audiences. An added interest lies in the gradual development of the overall debate on sexual politics and the rise of feminism in Ireland in the period. By 1975, there had been increased interest in contraception as an issue in the public discourse, following the papal ban contained in *Humanae Vitae*. There had been calls for the Government to remove restrictions on contraceptives. Taoiseach Jack Lynch said at a news conference that he regarded the use of contraception as a private matter. As described earlier, contraception even formed part of the story line in *The Riordans*, a family favourite; and the Irish Women's Liberation Movement had made the round trip to Belfast and returned aboard what the media instantly dubbed the 'Contraceptive Train' or 'Contraceptive Express'.

⁹ 'Dutch Cap' is common usage for the contraceptive diaphragm, so called because of its similarity to traditional Dutch headgear.

3.3. THE *LATE LATE SHOW*, SATURDAY 15 NOVEMBER 1975

In the November 1975 episode on divorce, the 'soap boxes', which provided the catalyst for the ensuing debate, were occupied by Nuala Fennell and Angela McNamara.

Fennell was a writer and a leading women's rights campaigner in the 1970s. McNamara, a devout Catholic, was the 'agony' columnist in the *Sunday Press* for some twenty years, and frequently gave talks to Catholic secondary schoolchildren

Fennell's 'soap box' contribution was a plea for society and the state to recognise that increasing numbers of married people were coming forward and admitting that their marriages had irretrievably broken down. Yet they were prohibited by the Constitution from re-marrying. In Ireland, she said, a great deal of importance was attached to 'image'; we did not like to admit to broken marriages and the idea of divorce was regarded with distaste. She also acknowledged that many believed that marriage is a sacrament. Fennell next illustrated her argument for compassion with two cases. First there was a woman whose husband left for another woman. She raised their three sons and, over the years, paid off the mortgage. The husband then returned, put the house up for sale and was demanding his conjugal rights. In law he was within his rights and could also demand his conjugal rights in court if he wished. She also cited the case of a deserted man left to raise five boys. They needed a mother and he needed a companion. Was the state or society entitled to deny him the opportunity to remarry? Fennell's call was for compassion. She praised the work of the Catholic Marriage Tribunal, but said its decisions had no status in law while, on the other hand, the Roman Catholic majority had codified its beliefs into law.¹⁰

Angela McNamara edited the letters column in the *Irish Press* for some twenty years. She professed a strong adherence to her Catholic faith. She began her writing career by contributing articles on her own four daughters to the *Irish Messenger* which was distributed through Catholic Churches. As teenagers began to ask challenging questions in the changing Ireland of the 1960s, McNamara was frequently invited to give talks to Catholic secondary school children.

¹⁰ 19751115.

McNamara argued for the Christian ideal, i.e. that marriage is a contract for life. Her opening statement was a cogent statement of Catholic teaching on the subject; unyielding doctrine with a light blend of compassion:

The Christian ideal is that marriage should be forever. The possibility of divorce changes the whole attitude towards marriage. It is a different contract if divorce is possible. Once divorce is available, marriage becomes a limited commitment. No matter how sorry we may be for those cases quoted by Nuala in which marriage has broken down, we must not cease to uphold the norm of Christian marriage as being forever. If divorce and remarriage is made available for people who are suffering in marriage, who is going to define the measure of another person's suffering and the point at which he or she may legally escape from a freely undertaken commitment?¹¹

McNamara saw modern society as obsessed with self-aggrandisement and the avoidance of pain whereas life, she said, was full of pain and to know happiness people had to have experienced pain and risen above it:

In a union between two human beings, it is quite normal that there are problems even though we're led to believe that it's not. What we need is the courage and grace to tackle our problems together, not to be given another loophole through which we can escape from pain and responsibility.¹²

It is worth noting here that many of the religious themes of the *1975 Late Late Show* will be reprised in the 1984 episode.

Following McNamara, William Duncan, lecturer in law, Trinity College Dublin, said that the two essential things were that, while legal separation mechanisms existed in Ireland, the right to remarry did not. Other impediments existed such as that, in law, a wife's legal domicile was regarded her husband's, even if he had deserted her, gone abroad and obtained a foreign

¹¹ Angela McNamara in the *Late Late Show Divorce Special*.

¹² Ibid.

divorce. However, the early part of the programme tended to revolve around the religious issue and God's plan as expressed by Fr Paddy Brophy, parish priest of Kilcock:

Now, the Catholic viewpoint is this, very simply, that the Church is not a monster, the Church is the expression of the love of God on earth, helping men to live in union and harmony and when St Paul wants to describe what he considers to be the ideal relationship between Christ and his followers, he uses the image of the love of a husband and wife. And if you could imagine Christ being separated from his church, then you could contemplate the Church advocating the introduction of legal facilities which would lead to the dissolution of marriage. In other words, this would be against the very inner nature of the Church itself.¹³

Fr Brophy continued by describing the threat felt by all who feared divorce and opposed divorce and remarriage in Ireland. Although this was 1975, his words were emblematic of the themes that were to come in the divorce referendums of 1986 and 1995. These were the perceived dangers facing Ireland: the danger of becoming like America, where one in four couples approaching marriage, he said, would soon be separated. For children, there would be the danger of them becoming juvenile delinquents. And so. He asked, 'what kind of an Ireland do we want?'¹⁴

Gay Byrne called in Reverend G.B.G. McConnell, Moderator, Dublin & Munster, Presbyterian Church in Ireland, who said the country had to recognise and deal with the suffering of those in failed marriages:

... It's all well to (say) we must have pain and suffering, we mustn't reject all pain and suffering. But whose suffering? The suffering of women and children. This is what worries me. Now I belong to a church which has always maintained that in certain circumstances divorce is a necessary thing, it may be a necessary evil but only in certain circumstances. The idea of easy divorce has never entered into the question.

¹⁵

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

Reverend McConnell agreed with Brophy that marriage was an ongoing relationship between two people. However, he went on, in situations where couples have separated, the marriage cannot be said to exist; to insist that it does is to invoke 'some mythical entity somewhere we don't know where'. The law must be altered to meet that situation. Gay Byrne then turned to Mary Doyle, described in the RTÉ Archive listing only as a 'housewife' from Galway working for an organisation called 'CARE'. It became quickly obvious that she had been chosen for the panel by the *Late Late* researchers because of her traditional Catholic views:

Doyle: Angela mentioned that the whole cult at the moment is self-expression. I would like to counter it very briefly with self-denial, self-control and self-discipline. And that can be started in the crib, in the cot, I would like to leave it at that for the moment please.

Byrne: Could I force you a little further than that and take up what Reverend McConnell said and that is the situation where a marriage has broken down, it's causing much suffering, there is no earthly hope of it every becoming an ongoing relationship again, what then?

Doyle: Yes, perhaps so, but I still will back Angela the whole way that there cannot be freedom for either party to remarry.

Byrne: Even for people who are not members of the Roman Catholic Church.

Doyle: I must still take that stand, yes.

McConnell: This is a case of discrimination. I admit of course if you've 95% of the population, I think it's quite a reasonable argument to say we have a Catholic state here all right. But if we're not going to do that, if it's going to be hopefully for the whole population of this island, then I think this is definitely wrong.¹⁶

Dominican priest, Fr Fergal O'Connor, a UCD lecturer in Political Science, and a regular guest on *the Late Late* in the 1970s, said that the real bogeyman in Ireland was that, because most people were Christians, they all believed in the indissolubility of marriage. But did that mean that legislators, irrespective of their persuasion had the right to interfere in the lives of others

¹⁶ Ibid.

to prevent them dissolving their marriages and remarrying? Because the majority of people held to the Christian ideal of marriage for life, they believed legislation 'should enact that ideal': ¹⁷

I don't think any law or any state should interfere with that basic fundamental human need for a partnership in love and affection which people need in this world. I know people will say: 'how about the children?' ... The children are not served by the present situation. They are not served by keeping the parents together and we can easily design legislation that will take care of the children. And finally, if I might say one last point: I honestly believe that instead of talking about divorce legislation, we should be talking really both within the church and in the state of scrapping all family law and all marriage law except laws protecting the rights of children.

APPLAUSE

Byrne: Nuala?

Fennell: Two years ago I was on a panel, if you remember, with Father Fergal, on this programme. The discussion was very much the same type of thing 'let's not talk about the misery, let's not talk about the problems, let's talk about what we should do with the education and the support and all this idealism'. That was two years ago, nothing has changed, it's got worse. ¹⁸

The preceding year, Fennell had published a book on marriage problems in general and the plight of women. In it she catalogued the disadvantages that beset women, basing her research on the women she corresponded with and with whom she followed up face to face.¹⁹

Central to O'Connor's argument was that Irish people, as Christians believing in the ideal of the indissolubility of marriage, had no right to legislate thereby and that such legislation was an injustice:

O'Connor: Why is it that we regard it as a social crime that two people who are failed in marriage, I'm talking about a social crime now, that two people who have failed

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Nuala Fennell, *Irish Marriage: How Are You?* (Cork: Mercier Press, 1974).

in marriage should be, as it were, prevented from ever seeking to discover a future relationship?

McNamara: May I come in here, Father, yes, I think when you term it so strongly as a social crime, I'm with you but I feel that for an awful lot of people the problem is the defining the certain circumstances.

O'Connor: I think it's time for church and state to get out of marriage entirely in the sense of laying down laws and rules and regulations, determining marriage. The State has an obligation to children and therefore she (the State) would have to legislate because these are innocent incapable persons and they need to be protected. And therefore, you asked me how would I determine? I wouldn't presume to determine, but if two people in their consciences decide that there is no future to their relationship, I would respect that.

McNamara: But Father, excuse me, they're not being educated. People are not being educated to be able to make this sort of conscientious decision.

There followed contributions from people who were separated or divorced. Inevitably, it seemed, the programme's emphasis was to be drawn back time after time to religion and legislation which supported the Christian, or more particularly the Catholic, position on the indissolubility of marriage. Apart from Nuala Fennell, Fr Fergal O'Connor did not receive much support from the audience, some of whom accused him of 'woolly thinking' while what we needed, they claimed, were laws:

Man in audience: We need guidelines, we need signposts on the way through life and most people here seem to agree that not alone is there no need for no law, but there's need for more law. Now, we may disagree on the type of family law that we want, but certainly Father O'Connor, I think, should go back to his drawing board.

O'Connor: It's the most cruel and unjust system of law and degrading to women. Consequently, I do not trust the Church even to be a guide as to what is good jurisprudence because she tends to sanctify the status quo. And certainly, the state can be no guide as to what is essential in such an intimate matter as this. Now if anybody can prove to me that this would lead to the breakdown of the family or the breakdown of marriage, then I will gladly withdraw what I'm saying.

Byrne: Yes, Mary.

Doyle: What greater indignity can there be for a woman than to be thrown onto the second-hand market?

Fennell: What kind of indignity is there for a woman to be beaten in her own home, put out of her house, not maintained and losing any sense of dignity she ever had because she has no escape? ²⁰

The 1975 *Late Late Show Divorce Special* ended on that note: the competing considerations of people in what had come to be termed 'broken marriages' and the teachings of the Christian churches in general, and of the Catholic Church in particular which, as Fr Fergal O'Connor concluded, had become enshrined in the law of the land. The inclusion of O'Connor in the absence of an equally gifted conservative performer might give some the impression that the programme was being 'stacked' to favour the liberal or reformist side. From the point of view of the *Late Late* production team, O'Connor would have been a known quantity, a reliable academic as well as a priest. He was also guaranteed to question established norms and the cherished verities of many in 1970s Ireland which, as Peter Feeney has already pointed out, many RTÉ staff felt they were there to challenge. In contrast to O'Connor's forceful arguments, the Kilcock Parish Priest, Fr Paddy Brophy, made just one contribution while Angela McNamara made pleas for more education so that people would be able to decide when their marriages were over although it was evident that in her mind there was no question of granting the right to remarry.

Relative performances aside, the major topic of the programme was religion and the Catholic Church's fixed position on divorce and remarriage. While the producer, Gay Byrne, would have been alive to the importance of religion in any discussion of divorce and remarriage as he and his researchers planned their programme, he did not deliberately steer the live debate in that direction once beyond the 'soapboxes' and the panellists' opening statements.

²⁰ Ibid.

3.4. THE *LATE LATE SHOW*, SATURDAY 3 MARCH 1984

The *Late Late Shows* of 1975 and 1984 took place in different political climates. The 1984 programme was aired in a more heightened and charged environment than that of the earlier debate. Just seven months had elapsed since the campaign for what became the Eighth Amendment. Invigorated by their success, the ADC had lost none of their militance. That campaign had many of the characteristics of a crusade, especially on the pro-Amendment side whose mission was, as they saw it, to stifle a nascent pro-abortion movement and keep abortion out of Ireland. There was a sense of Irish exceptionalism, that it was Ireland against the world, that Ireland would be as an abortion-free shining light as John O'Reilly of the Responsible Society and PLAC had written earlier.²¹

This sense that Ireland had to defend itself against foreign influences went beyond the determination to keep abortion out of Ireland. There was also a sense that the family itself was under attack by forces within and without Irish society. This fear appears in the contributions of panellists and invited audiences, particularly in the larger studio or outside broadcast debates. It is hard to know whether the fear that abortion might 'come in the back door' was a corollary of the perception that the Irish family was under attack. It is worth recalling that Pope Paul VI, in his encyclical, *Humanae Vitae*, had ruled that contraception and abortion were jointly condemned as unlawful interruptions of the generative process. Much of the late 1960s and 1970s had witnessed growing demand for contraceptives to be made available in Ireland; now those committed to protecting Ireland from moral harm faced a new threat, divorce and remarriage.

An important presence in the *Late Late* studio on 3 March 1984 was former legal advisor to PLAC, barrister and member of the Law Reform Commission, William Binchy. He was there to combat any attempt to bring divorce and remarriage into Ireland. He had authored *Is Divorce the Answer?* wherein he argued, largely drawing on divorce-related conditions in other countries, that wives and children would be seriously disadvantaged should the Irish

²¹ *Response*, Vol. 1, no. 1., 4.

constitutional ban on divorce be dismantled.²² While this was some two years before the Fine Gael/Labour Government announced the Divorce Referendum, the battle lines were ready to be drawn. The PLAC machine would re-constitute itself as the ADC while many of those who had rallied to the Anti-Amendment Campaign of 1983 were ready to support DAG and the pro-divorce Amendment side. bbb

The *Late Late* team, alive to developments in the public discourse, bought into an omnibus survey where costs were shared by a number of partners, each with their own set of questions. One of the advantages for the *Late Late* was that respondents did not know who was asking the questions. Armed with the survey results, the team arranged their second full-length divorce special of the decade. The 1984 episode aimed to debate whether, to what extent, and in what direction, public opinion had moved since its first full-length episode on the issue in 1975.²³ The 1984 format was similar to that of the 1975 programme: the 'soap box' sequence featuring two opponents; the introduction of the panellists, each of whom gave a short exposition of their opinions; the producer/presenter, Gay Byrne, then opening the issue to the invited audience, some of whom were interested parties.

The major innovation was the introduction, at the beginning of the programme, of results from the survey into which the *Late Late* had bought. The survey results suggested that there was a small majority in favour of divorce generally which increased as certain circumstances, such as physical cruelty were cited:

Gay Byrne: Ten years ago, probably 70% of people in Ireland would have been against divorce. We asked Irish Marketing Surveys a week or two ago to attach a question to one of their regular excursions around the country on our behalf, on behalf of the *Late Late Show*, and it was to ask several straightforward questions. The first question was if you were asked to vote on a law which would permit divorce in this country would you vote in favour or against such a law to ...

²² Binchy, *Is Divorce the Answer?: An Examination of No-Fault Divorce against the Background of the Irish Debate..*

²³ 19751115.

Permit divorce in this country?

46% Yes

40% No

15% Don't Know

Byrne: Now that marks a big change from 10 years ago in attitudes, but the margins are still very close and probably I would think today much closer than most people would think. 46% in favour, 40%. The margins were greater when some additional points were put into the question. For example, in the event of consistent physical cruelty by one party proven in court would you be in favour of divorce or against:

Proven physical cruelty?

68% Yes

20% No

12% DK

Byrne: In the event of continuing mental cruelty by one partner proven in court?

Proven mental cruelty?

63% Yes

22% No

15% DK

Byrne: Where annulment has been granted by the church already?

Church annulment granted

67% Yes

19% No

14% DK

Byrne: ... and where a marriage without children has irretrievably broken down according to both partners?

Irretrievable breakdown – no children.

54% Yes

30% No

16% DK

Byrne: Finally, where a marriage with children has irretrievably broken down according to both partners?

Irretrievable breakdown – with children.

44% Yes

37% No

19% DK

Byrne: Irish Marketing Surveys going into the nitty gritty point to us generally speaking that farmers are against divorce. What that means, what it shows, I don't know but farmers are against divorce and not so surprisingly those who are opposed to divorce are generally speaking older people and those who are in favour of divorce are generally speaking younger people. Now those are the results in broad outline of a survey conducted by Irish Marketing Surveys. ²⁴

Byrne then introduced the 'soap box' feature which mirrored its 1975 antecedent, with one significant difference. In 1975, Nuala Fennell went first, arguing for divorce, followed by Angela McNamara arguing against. In 1984, the order was reversed. It began with Mrs Gobnait Ó Grádaigh, a mother of four and a member of the Institute of Family Development, speaking against the introduction of divorce. Her opponent was Clara Clarke, a mother of two and co-author of *Coping Alone*, ²⁵ arguing for divorce with remarriage. She had written what she later called 'a handbook for single parents' based on her own experience of coping as a single parent after the breakup of her marriage. ²⁶

²⁴ 19840303 A.

²⁵ Clara Clarke and Stella Mahone. *Coping Alone* (Dublin: Arlen House, 1982).

Ó Grádaigh quickly launched into statistics to show alarming divorce rates in England and Wales. This included the startling claim that in Britain there were, in 1981, 100,000 children in care because of marital breakdown. However, Ó Grádaigh's arguments essentially mirrored those of Angela McNamara some nine years previously:

We all agree that something has to be done about marital breakdown, but divorce only increases the rate of marital breakdown, it does nothing to stop it. Divorce leads to more divorce because it seems that when it's available couples see it as a less difficult option. So they stop trying to make their marriages work. Commitment to marriage for life is not given, so people think 'if it doesn't work out, well, there is a way out', and they might have another go with another partner. And, of course, the cost to the State, that is you and me the taxpayer, is just enormous. But who suffers most of all? The children of course. The remarriage of divorced parents is just not in the interest of children. So, what can be done to alleviate the suffering of those whose marriages have broken down? Indeed, what can be done to avoid breakdown altogether? ²⁷

Gobnait Ó Grádaigh's view that divorce brings more divorce was one shared by William Binchy. In his book *Is Divorce the Answer?* Binchy examined no fault divorce in several countries under a range of headings. These included financial support after divorce; succession rights of children; divorce and the family home; and the psychological effects of divorce on children, among other issues. In Chapter 11, entitled 'Divorce and Family Stability', Binchy writes:

It seems reasonable to predict that legislation permitting unilateral divorce would have some destabilising effect on marriage. Marriage, after all, involves a commitment which at times is hard to live up to; almost all marriages have their difficult patches. It seems only consistent with common sense that if divorce is available as a tempting release from these difficulties, some spouses will be likely to resort to it even though, if they persevered, the difficulties might have been resolved. This risk is enhanced under a system of divorce based on breakdown of

²⁷ 19840303 A.

marriage, since under this system of divorce, either spouse is entitled to a divorce without regard to the wishes of the other spouse.²⁸

Ó Grádaigh's pithy assertion, 'divorce leads to more divorce', neatly echoes Binchy's more academically phrased prediction. Ó Grádaigh's comment would not have been lost on Binchy, who was sitting in the *Late Late* studio at the time. He later became the ADC's main spokesman and his book became the ADC's handbook in the divorce campaign. As will be seen, he became a skilful and forceful television performer, appearing more often than any of the Government spokespeople on programmes dealing with the issue. When asked by journalists for a spokesperson during the campaign, the ADC invariably nominated Binchy. Binchy thus found himself in studios facing a succession of Coalition ministers none of whom were as well prepared as himself.

Ó Grádaigh next turned on the broadcast media, namely RTÉ and the few pirate radio stations then operating:

As for the media! Well I think that many programmes being beamed into our homes do nothing to encourage caring family life. Instead they show family breakdowns as the norm, bombarding us with values which are alien to our society.²⁹ Sometimes we are encouraged to think we are backward and old fashioned because we are different from Europe. But what's so awful about being different? For goodness' sake let's hold on to our really wholesome values and turn our energies towards living as God really wants us to do.³⁰

As 'God's plan' was a prominent element in the 1975 *Late Late Show*, so it was in 1984.

Ó Grádaigh's 'soap box' opponent, Clara Clarke, took the stand and began a very differently composed argument. She asked the audience to imagine two families living side-by-side in an Irish town, each consisting of a mother, a father and two teen-aged children. Both men and one of the women worked fulltime. The second woman worked part-time. The four children

²⁸ Binchy, *Is Divorce the Answer?*, 81.

²⁹ References to programmes like *Coronation Street* and *Dallas*. See footnotes 53-57, 1.6 above.

³⁰ 19840303 A.

spent a lot of time together. One family had a live-in granny, the other a granny who visited on Sundays:

Two very ordinary families you might conclude. However, there is one very fundamental difference. One couple is married to each other. The other couple is living together, each of them separated from their spouse (and) the children from the woman's former marriage. These two families appear the same, live similar lives, go to church, are concerned for their children's welfare, struggle to pay their bills on time and exercise their constitutional right to vote. But legally the position of each couple is very different. The married couple's rights are recognised, protected and supported by the constitution, by the Church, by the State and by society. Having the status of husband or wife is clearly definable, unambiguous, acceptable. All fair enough and as it should be. But now, let's take a closer look at the other couple's situation. Separated for over ten years, the woman, a Catholic, has a church annulment. This means that according to the church she was never married and is, therefore, according to the church single and free to marry. This does not affect the legal status of her children. However, despite having lived apart from her husband for over ten years, receiving no maintenance and having no contact of any kind for many years, she is still legally married to him, still legally a wife.³¹

Married life for the separated woman had been a history of cruelty. Following separation, there had been no contact whatever with the husband over the years. The children's birthdays, Christmases, First Holy Communions and Confirmations had come and gone, but he was still their joint legal guardian. Finally, she met another man and fell in love. He too had suffered a broken marriage. They decided to set up house together. After nine years of living alone with her two children, rearing them as best she could, this was the beginning of a new life which contrasted sharply with the life she had led as a single mother:

She was regarded with suspicion by neighbours, particularly wives. Husbands were summoned indoors by wives when the woman appeared in her garden. Each Christmas parties were held to which she was never invited. Requests for a home help from the local health board during an illness were refused. A plea to the local

³¹ Ibid.

priest to assist in finding a child-minder when the offer of full-time employment came up was ignored ... Such is our compassionate, caring and Christian society. Our constitution enshrines the family. That based on marriage. It recognises the support given to the State by the woman in the home.

To get back to our married couple living happily as a family without sanction from Church or State. Are they wrecking the fabric of society? Are their children delinquent or a lesser breed than the kids next door? No. Just so long as we do not mention the word divorce, we can all pretend that everything is all right. It's all right to be battered, to be hungry and cold while the wage or dole money is being gambled or drunk. It's all right to commit bigamy, live in sin and have illegitimate children. But this is Ireland. Don't mention divorce. I am the woman in that relationship, thank you.³²

APPLAUSE

Clarke's contribution was an eloquent call for compassion contrasting sharply with Ó Grádaigh's more religiously, statistically and defensively based argument. Her 'soap-box' may have seemed to some viewers to carry a tinge of self-pity, even bitterness - especially when the 'payoff' reveals that the woman in the relationship was Clara Clarke herself. However, her story was a plea for a compassionate society to grant unfortunate people the benefit of a second chance. Clarke took a risk in personalising her argument to such an extent, although her delivery was restrained, and the audience responded well. By contrast Gobnait Ó Grádaigh, although not ruling out compassion for those in broken marriages, turned the argument around by calling for compassion to be extended to those whom she said were the real victims of failed relationships, the children. Her debating manoeuvre of turning the argument around became one of the familiar strategies of anti-divorce spokespeople throughout the campaign.

What is instructive about this programme, even though it was transmitted some two years before the actual campaign to admit divorce and re-marriage, is that the essential elements of that campaign were already being ventilated in the *Late Late*. The stated aim of those seeking

³² Ibid.

constitutional change was to extend compassion towards those who desired a second chance at marriage. Those who opposed change did so because they feared for the future of the institution of marriage in Ireland. The family was emblematic of Irish religion, culture and values which were the cornerstones of, as Gobnait Ó Grádaigh put it, 'living as God really wants us to do', i.e., living by God's plan.

An early and frequently iterated element of anti-divorce spokespeople was to minimise the extent of the problem of broken marriages, and the extent to which separated people might wish to marry again. William Binchy, appearing on the 1984 *Late Late Special* on divorce, brushed aside the figure of 70,000 individuals in broken marriages, remarking that participants should not 'bother debating the statistics because none of us have a certain figure on that'. Binchy's comment seems to dismiss the findings of the All-Party Committee on Marriage Breakdown which estimated the number of broken marriages in Ireland at 36,000 or 6% of the population.³³ As will be seen shortly, these findings were also disputed by Fr Robert Noonan of the Catholic Marriage Tribunal on a *Today Tonight* programme a month later.

The 1984 *Late Late* divorce episode was far more confrontational than the earlier full-length programme of 1975. Following the 'soap box' presentations, the various panel members made their opening comments. Paula Scully, a solicitor, said that the only available remedy for those in broken marriages was legal separation. A Church annulment was not a remedy for those seeking a second marriage, because Church annulments were not recognised by the State; second marriages were deemed bigamous and any resultant children illegitimate. Scully was followed by Fr Fergal O'Connor who, in the 1975 programme, had argued that the State should scrap its marriage laws except where the welfare of children was concerned, and that people, having separated, should have the right to remarry. In 1984, he argued along much the same lines, describing Irish marriage laws as the source of immense suffering and pain.

However, in 1984, he was about to face a more robust challenger. This was Fr Robert Noonan OFM Cap. (Capuchin). He had been a judge/advocate of the Dublin Regional Marriage Tribunal.

³³ 19850411.

This was the Catholic Church body which decided on marriage annulments. He was now Registrar and Dean of Studies of the Moral Theology Department, All Hallows College, Dublin.

Marriage is not only a private affair; it is very much a social affair. So, I would suggest ... that law in the area of marriage is absolutely necessary. Not that law should tell people whom to marry, no way. And it should stay away from the private side of marriage but there is a tremendous social dimension to marriage which has to be covered by law because people have to be protected, even sometimes from themselves. And so, we have laws in relation to age, we have laws to protect people who might be getting battered up in a marriage and that's the reality of marriage as it exists.³⁴

Noonan then challenged the *Late Late*'s survey question where respondents were asked whether they would vote for a law which would permit divorce in cases where a Church annulment had been granted already:

I'd like to comment on two other points. At the beginning you made a point about the statistic in relation to annulments. It was 67 to 19, is that right?

Byrne: Where an annulment has been granted by the Church, 67% in favour of divorce, 19% against. Yes.

Noonan: Well, you see, how many annulments are granted in Ireland every year? Between 70 and 80. Of those 70 and 80 about 75 have prohibitions on them that at least makes the person go to the bishop before they can get married again. So, what are you really talking ... I'm really commenting on that survey; I mean what did it mean to the people when they were asked the question? Has that question any meaning? Real meaning? I would suggest that it hasn't because what you're really talking about is about 25 people who get an absolute clear annulment with the OK to go ahead straightaway. So, I mean to in any way to argue from that kind of figure to the introduction of divorce, you know, is ludicrous.

Noonan deliberately cherry-picked one of six questions the *Late Late* had asked in the survey. The survey's purpose was to sample the state of public opinion on the extent to which people would allow divorce in a range of circumstances or conditions. The question Noonan selected

³⁴ 19840303 B.

was the one which sought to measure the extent to which respondents would favour divorce where the Church had already granted a decree of nullity. Contrary to Noonan's assertion, Byrne had not argued for the introduction of divorce on the basis of the 67% in favour and 19% against divorce where the Church had annulled a marriage. However, Noonan had scored a debating point, and may have skilfully undermined the whole survey in some viewers' minds by appearing to have demolished one of its results. A number of viewers and listeners might have been swayed into doubting the whole survey if, to them, he had demolished one of the results.

It may be that *the Late Late* had no need of the 'Church annulment' result since annulment was such a minor issue in the public discourse of the time. Asking the nullity question in the omnibus survey was, in hindsight, a waste of a question.

Byrne moved on:

Byrne: All right, are you absolutely and totally opposed to divorce, Father?

Noonan: Absolutely, yes.

Byrne: And you get this from your own experience in the States is it mainly? Have you seen the effects?

Noonan: I worked in the States and I was teaching what they call sophomores inter certs and I had a certain number of boys there, 27 out of 150 who were from divorced parents. Now just my experience. All those 27 were disturbed. And we had to allow special conditions for them in the high school where I was teaching. And that's the reality. And let me say more than that that I've been 23 years, apart from what I do teaching et cetera, involved in marriage work and all that experience would say to me no to divorce.

Byrne: What would you say if a couple came along to you who had been divorced and were living together and wanted to receive communion for example?

Noonan: Right. Each case like that has to be taken, there is a principle, for example, the Holy Father and the general teaching is that you've got, there is ... those people are technically regarded as living in sin. That is the principle. But with all principles you have to get down to the individual case and we have hundreds of priests in this

country now who know how to deal with these individual cases and see what the realities are so that that statement is just a principle and you get down to the reality in each individual case.

Byrne: So you're not prepared to give a general opinion of what you would do in that case?

Noonan: No, because you'd have to take each individual. ³⁵

It is worth noting again that, two years later, during the 1986 campaign over the Government's plan to remove the constitutional ban on the dissolution of marriage, the then Archbishop of Dublin, Dr Kevin McNamara, had no hesitation making a statement which, as the second highest ranking prelate in the island of Ireland, would have carried more weight than a 'general opinion'. The Archbishop did not mention any necessity to take each individual case on its merits when he stated that sacramental absolution cannot be given to divorced and remarried members of the Church as long as they continue to live as couples. ³⁶

On the panel was Dr John Masterson, a lecturer in psychology at TCD who challenged both Mrs Ó Grádaigh and Fr Noonan. He argued that, while the two-parent family was a very good way to raise children, it was not the one and only way as both Ó Grádaigh and Noonan seemed to insist:

The effects of raising children in other ways are not as disastrous as are cited and certainly I've never read anything that would suggest anything like Father Noonan's all-disturbed children. When parents get divorced, of course children get upset. So, do parents get upset and not just women, I mean women and men all get upset. It's an enormous upheaval in their lives. But it's ... a time-limited crisis, something which they work through in a year or two years, depending, or perhaps even three years and in a very, very minute number of cases, it will last somewhat longer. ³⁷

³⁵ Ibid.

³⁶ 'Reconciliation and penance' in the *Sacred Heart Messenger*, June 1986.

³⁷ 19840303 B.

Byrne then asked Noonan to respond to Masterson's comment that he had never heard of situations where, in a classroom, children of divorced parents were troubled and needed special assistance. Noonan and Masterson argued over various studies each had read. They agreed there could be upset for children in a broken marriage but that could be alleviated, said Masterson, if a successful remarriage could be achieved:

I'm not suggesting this is the reason divorce should be brought in – is remarriage. When people get remarried, you get out of that situation and very much along the lines of what Clara described earlier: you suddenly move back into a family unit which looks normal and which is able to support itself financially.

William Binchy responded saying international experience universally showed women and children had been impoverished by divorce, and that older women in particular had been seriously hit financially:

The amount of maintenance which they have received and the amount of maintenance which has been ordered by the court has gone down most seriously in those particular categories. Also, the international experience universally shows that the amount of child support throughout the world has gone down over the last 15 years, rather than gone up. If I may refer just very briefly to the emotional situation regarding the children, it is of course true what John said there: some children recover; not all children are damaged by divorce and not all children are damaged by separation. Some children removed from a home where there's been extreme disharmony improve. But what the studies show and again there is, if not unanimity there is a strong consensus on this point, including studies that have been cited by John on previous occasions in written materials that in one out of three cases, the position, the emotional position of the child improves. In two out of three cases divorce and separation damage the child. So, what I'm talking about there ...

Byrne: Permanently?

Binchy: Well of course the child isn't a child permanently. Wallerstein and Kelly's study which has been mentioned already today show that even after five years there was significant damage for children. So, we're talking for a ...

O'Connor (DAG): ... for a very, very small number of children.

Binchy: We're talking internationally to show ...

Audience Member: What about the children of annulled marriages, surely the children of annulled marriages ...

Byrne: Is it any worse ... I'm always intrigued about this reference to children, is it any worse than a death in the family for children?

Binchy: Well it is. I mean to give you a rather stark and emotive statistic, but I think it brings it home to you: the rate of suicide between disrupted ...

O'Connor: This is only scaremongering, absolute scaremongering, that's all it is, scaremongering.

Binchy: ... families is much higher, much higher among disrupted families.

O'Connor: Not at all. This is absolutely wrong.

Binchy: Well I'm sorry ...

O'Connor: The position is that the Irish Association of Social Workers – who are experts in the field, William Binchy's a lawyer, a good lawyer but he's a very poor social worker, sociologist (APPLAUSE) ... For instance, William hasn't mentioned that two-thirds of all divorce applications in Europe are from women. Northern Ireland is no exception. If it was a case of women being hurt so badly, two-thirds of applications wouldn't be made by women. William doesn't seem to realise that women's applications for divorce are not based on crude things like maintenance but on their own self-esteem and the position and the status as human beings, with a life of their own to lead. They don't want to suffer the indignity.

Binchy: Could I just reply very briefly to that? Of course, when I make assertions based on the empirical evidence, I do so on the basis of research (APPLAUSE) and I know we don't want to be throwing round references at each other all night, that doesn't make much for the development of discussion but if I just may mention ...

O'Connor: Are these are official statistics from the Law Reform Commission?

Binchy: John, give me a chance. No, the statistics about suicide that I'm referring to are in the Journal ... the statistics about suicide attempts by children are in the

Journal of Marriage and the Family 1983, they're obtainable in any social science library.

Following a commercial break an audience member attacked what he claimed was the official policy of the Catholic Church; that a person, having separated and remarried, should now separate from the second spouse and live a celibate life while the children of the first and second unions should be brought up as Catholics and attend the sacraments. Byrne referred this to Fr Noonan:

Well let's see what the Holy Father said. In the encyclical on the family he said those who are in this situation must not regard themselves as being separated from the Church. They should be encouraged to take part in the Christian community, to come to mass on Sundays, to bring up their children as Catholics, to take part in all the activities for justice within the parish.

Then came an indication that some felt that the Catholic Church, in the context of sexual love, might have been to some degree remote from reality.

Man in audience: But not to give or receive love from each other.

Woman in audience: The problem lies in relation to, in the fact that women, and the majority of Irish women, married women in our society don't have economic independence and I think that Father Fergal O'Connor was coming very, very close to this when he was speaking about the root problem being not actually marital breakdown but the whole way in which society organises and legislates for marriage.

Gay Byrne: Alice Glenn, sorry. Alice, please you wanted to say ...

Alice Glenn TD: Thank you, Gay.

Gay Byrne: Are you totally opposed to divorce, Alice?

Glenn: Yes, I am totally opposed to it?

Byrne: Based on your own experience, your work as a TD, what?

Glenn: ... it seems from the figures that I have that there are 7,303 women who are drawing deserted wives' allowance – that's assistance and a benefit, at a cost to the

exchequer last year of £21 million. The situation in relation to divorce, all of the evidence from international sources would indicate a snowball effect from the introduction of divorce into a society. If anyone can show me one country ...

Audience: Italy, Spain, Portugal ...

Audience: A Catholic country like ourselves.

Glenn: If I might, Gay, I would hope without interruption ...

Byrne: What about Italy, come to think of it?

Audience: They have a very, very low rate of divorce since divorce was introduced there following a referendum in 1979 and if a similar referendum were held here, I'm sure that we would have a similar result. The people would allow the introduction of divorce, but they would not have this snowball effect, this mad galloping dash to have a divorce. I'm afraid that people like Alice Glenn have a very poor opinion of the Irish people and in fact they have a very low opinion of Irish marriage.

[APPLAUSE]

Glenn: It's my earnest wish because of the seriousness of this topic that we could generate more light than heat and if we're all allowed to continue to conclude what we're trying to say, perhaps the people looking at us will have learned something.

Byrne: Have you any solution to the problem of marital breakdown, Alice?

Glenn: The problem of marital breakdown has always been there. There is no doubt about that.

Byrne: What's the solution? Have you a solution?

Glenn: No. If you would allow me. There are no snap answers, Gay, and it is facetious to ask them ... Now in a divorce situation, the experience all over the world has been the theory that if a man divorces his wife, they are now two strangers and there is no right whatsoever that she should claim from him. And the women are ridiculed for wanting to do it ... Now, the evidence abounds, that if the women of this country were to find themselves in that situation, the majority of them would

be on the scrapheap and I want to go back to something one of the people in the audience said, about giving them a chance to remarry. Would somebody tell me what man would want to take on and remarry a woman with seven children?

Male Audience: I might. LAUGHTER

Various audience members (to Glenn): Shame on you. Shame on you! Shame!

Byrne: Hold on. Why have you got your hand up, Clara? Clara Clarke, you haven't got seven children.

Clarke: No, I don't have seven children, thank God.

Byrne: Why does it always have to be seven children, I ask? Yes, Clara? You have two children and you want to remarry.

Clarke: Speaking from experience ... I have two. I would like the option to remarry and I see it as an option. I don't think, I think this whole thing is getting very steamed up. I don't think there's going to be a mad rush and I don't think Alice Glenn or William Binchy or indeed anybody else need get sort of frantic about the whole situation.

Aideen Madden in audience: ... What I want to make you aware of and make other people aware of is that there is an attack, a concerted attack in Irish society against marriage on its four levels of its characteristics. There's an attack on ... the one we are talking about tonight happens to be the permanency of marriage. Now I am aware as most people are that there is suffering involved in marriage breakdown but to relieve that suffering there may be more suffering involved and I am convinced that even though there is great suffering involved for individuals in marital breakdown, that the suffering, it would be nothing, it is nothing in comparison with the suffering which comes to society at large from the introduction of divorce. And divorce for hard cases or for sad cases – and I sympathise with those people – is the thin edge of the wedge just as in other cases we have seen the same sort of thing. We have people saying, for instance, in the pro-life debate that they were totally opposed to abortion but let's murder the baby in the case of rape. Now, a baby conceived as a result of rape is as pure and innocent as any other baby. We've the same thing here: we've the thin edge of the wedge ...

Audience: Terrible! Come on!

Madden: It is terrible.

Audience: Abortions and suicides, I mean the scaremongering that's going on here is unbelievable.

Byrne: Hold on, this lady said your divorce cost you what?

Woman in cap: Forty five pounds (IR45) including my solicitor because my husband agreed with me that we should be divorced. No problem, three weeks.

Byrne: Yes, Mr Lombard, yes.

Lombard: Somebody referred to Alice Glenn's view of the Irish people. I think that she has the correct view of the Irish people and I think the longer this debate goes on, the more vociferous the voices of those who would like to have divorce because of unhappy situations perhaps, they're going to get louder and louder but the people who do not want divorce and want marriage and the family as a permanent institution will probably be quiet as they have been in the past such people. But I think when the chips are down and when and if this comes to a referendum, I think the legislators and indeed the country will be shown quite clearly the values of the Irish people that, the values they have for family life and the permanence of marriage.

(APPLAUSE).

Mags Geaney (DAG): I'd just like to make the point that with all the counselling services and with all that's going on in the country, we still have something in the region of ... 70,000 separated individuals, right? Now we can talk all we like about the increase in divorce rate in other countries. We don't know the exact separated figures for this country because there's no count of it but it's increasing rapidly and if we take Alice Glenn's opinion which is, you know, I'm sorry I can do nothing for broken marriages.

Clarke: What would William Binchy do for a couple living together with children who are not free to marry? Can he answer me that?

Binchy: I'll certainly answer that We are going to, it seems, discuss the issue of divorce in this country on a big scale over the coming years. Now, the question will come. What should we do about marriage breakdown? The answer is massive economic support in the area, massive social support. Significant legal changes and I should just give a little promotion for where I work, the Law Reform Commission has made significant proposals in the area of legal separation that have received no discussion in public. Not one line of discussion. A small report but not one line of discussion. I think that's significant. So, I would say in that area social and economic changes ... but going back to the basic question which was the theme for debate tonight: should we have divorce? Well, we can answer that only by examining what has happened in other countries and what has happened in other countries ... unmitigated disaster ...

Byrne: What do they (separated people living together who wish to marry) do then?

Binchy: What they do themselves, if they choose to live together which is what a number of people do, a number of people don't. If they choose to live together then in those circumstances one can make significant legal changes in the area of private agreement between the parties to give protection so that the people are not defenceless. It isn't true to say that in that situation the law makes no provisions so that these people are unable to protect the dependent spouse or the dependent partner and children in these circumstances.

Woman in cap: Those 60,000 or 70,000 deserted people. What is the change in their status between being separated and being divorced? There is none whatever except that with divorce they actually do have a legal standing again in this country ... and separated people? Their marriage is already dead, give them a living, give them a break.

Byrne: What do you say to that?

Binchy: Gay, the whole case for divorce based on breakdown of marriage is based on a very appealing metaphor which is the death of the marriage. And the marriage, the death certificate should be given in the form of divorce. But what has happened – and we know what has happened because 100 other countries have divorce, what has happened when the death certificate, namely the divorce is granted to that

relationship, what happens there is that the person who is buried is the wife and the children. This is on record.

Audience Voices: Rubbish!

Byrne: What do you say to that? What do you say to that?

Woman in Cap: I say that many, many women want to be divorced. What are you talking about?

Audience (man): It's like saying if you abolish funerals, you'll do away with death.

Audience: Laughter and APPLAUSE

Byrne: Have you an answer for that? Paula?

Paula Scully (solicitor): Could I come in there? The reality is that the vast majority of people who go to solicitors are women who want a separation. It's usually the men who don't want a separation.

Audience Member: Quite right!

Paula Scully: And therefore, I think the whole basis of Mr Binchy's argument is incorrect. And a lot of people are prepared to put up with economic insecurity rather than to continue on being battered in a marriage. That's the least of their worries.

Byrne: Is that what they say? Yes, Fergal, you want to get in. Yeah, I'll come to you now.

Fr O'Connor: Listening particularly to those who favour divorce, what bothers me is why you want a law. Now you only need a law because you are legally married, right. So let's scrap the whole idea of legal marriage and there is no problem.

APPLAUSE

Gay Byrne: Why are you laughing merrily, Father? Father Fergal O'Connor – why are you laughing merrily at him.

Priest in Audience: Well I think it really would be utopia if we could get rid of the whole idea of law in relation to marriage because law may be imperfect, but law does protect people. One of the problems about divorce is that in order to solve the problems, you're changing the definition of marriage for everybody. So that's the real problem that Mr Binchy is trying to face.

Audience: Live in glorious sin.

Byrne: Yes, live in glorious sin ... OK, there's a lady in at the back lads here with the hand up for the last hour or so. I'm sorry for keeping you so long. Who are you, please?

Woman from Cork: Well I'm one of a group of four of us here up from Cork and we're involved in a women's actual group in the north side of the city. It's a huge working-class community and we presented a report to the Dáil Committee on Marriage Breakdown. We had meeting after meeting with working class women who are in situations of marriage breakdown and though we accept that it is women and generally it is interesting, I think, most of the audience who spoke here tonight were men, we accept that it is women who one way or another are, suffer the brunt of breakdown. But most of the women, in fact the vast majority of women would want to have the freedom to choose. They would want to have the possibility of divorce. The other thing they feel is when marriages are breaking down, there isn't the support structure. With the unemployment rates, the poverty, the housing policies by the corporations where they require young couples to have two and three children before they will house them, it puts immense pressures on young couples. There are other points, in fact people felt that marriage it should be made much more difficult for people to get married. They should have counselling before doing that. The Church and the State should be totally separated in terms of marriage. The Church should get its own act together within the church but the State should legislate and make the situation ... there is tremendous confusion if people get a church separation, they think that very often it entitles them to marry again when in fact they're in bigamy and some people even suggested that the priests who actually marry them should be challenged as to whether they're in fact aiding and abetting in the breach of the law.

Byrne: OK, fine.

APPLAUSE

Audience (man): We've been talking about hard cases all night and hearing about hard cases. As a lawyer I accept they are tragic cases. We will always have them. They do not make good law. The vast majority of the people watching this programme are families within the definition set out in our constitution which is the fundamental law of this country. We must balance the situation; we must look at the balance of the situation between the rights of the majority of the people in this country as against those very tragic 70,000 persons who are separated. We live in a democracy.

Byrne: Would you put it to a referendum?

Audience (man); I certainly would. I'd be delighted to put it to a referendum.

Byrne: And what do you think the result would be?

Audience (man): I would be satisfied that the ban would be retained on divorce under our constitution.

3.5. DIVORCE ARGUMENTS ENCOMPASSED BY THE *LATE LATE SHOWS*

The value of a close reading of the two *Late Late Shows* above lies in their reflection of the state of public discourse as it appeared on RTÉ television in the mid-1970s and its development over part of the following decade. A particularly important feature is the prominence of religion in that discourse and the inclusion of Catholic clergy in these and other programmes. Angela McNamara's contribution in the 1975 programme puts it succinctly as she defines marriage as a lifelong commitment made before God, again a reference to God's divine plan. Divorce, she argued, would make of marriage little more than a temporary arrangement. All this was linked to the kind of Ireland people wanted to have.

The arguments, such as they were in 1975, 44 years before the time of writing, were very simple, as was the discussion in that episode of *the Late Late*. By contrast, the 1984 programme contained an array of issues and arguments not present in its 1975 predecessor. That may have been because the mid-1970s had not yet experienced the growth of a culture in sections of Irish life wherein societal, religious, political and all

other values were to be debated, questioned and, if necessary, challenged. If so, then a lot may be learned from a comparison of both programmes.

A trawl through the RTÉ Mediaweb search engine from 1964 to 1983 does not reveal an extensive debate on broken marriages, separation and divorce. However, there was sufficient interest in the problem of deserted wives to prompt a report by the Economic and Social Research Institute (ESRI) in June 1974, which may have inspired the *7 Days* and *Late Late Show* programmes in 1975.³⁸ While Nuala Fennell, making her case for a compassionate approach allowing for divorce and remarriage, relied on the many cases of hardship she had revealed, Angela McNamara had sympathy for such women but not to the extent of giving them a second chance. To this way of thinking, the introduction of divorce and remarriage would be to formalise a moral hazard. A person could enter a marriage in the knowledge that, were they to decide to abandon the marriage, the risk would be the other spouse's, not theirs.

McNamara mentioned two quite revealing things: God and pain. Matrimony, in Catholic Church dogma, is a sacrament instituted by Jesus Christ.³⁹ It is thereby a principle that the relationship between a man and a woman in marriage is akin to that of Christ and His Church – indivisible. For its part pain, and the suffering of it, was held to be ennobling in Catholic literature and imagery. The sufferer was being tested by God. And so, McNamara mentions that pain may arise in marriage but that 'self-love' results in people turning away from pain, avoiding it or indulging in hedonism.

Apart from Fr Fergal O'Connor's attempt to arouse interest in his view that church and state should stop regulating marriage, the 1975 *Late Late* never got much beyond the issue of compassion for those in broken marriages versus traditional Catholic doctrine and values.

³⁸ 19740617.

³⁹ 'The Sacrament of Marriage' in *New Advent Catholic Encyclopaedia*: <http://www.newadvent.org/cathen/09707a.htm> . Accessed 15 March 2018.

In comparison with the 1975 programme, the content of the 1984 *Late Late* on divorce was more substantial and there were far more interventions from audience members for and against divorce.

The 'soap box' contributions of 1984 were quite different. On the anti-divorce side, Gobnait Ó Grádaigh's contribution moved beyond a simple appeal to preserve the sanctity of marriage, although she did refer to living 'as God wants us to do'. While invoking traditional Catholic values and the divine plan, she also articulated strong warnings reflecting those contained in William Binchy's *Is Divorce the Answer*, destined to become the campaign manual of the ADC.

⁴⁰ Clara Clarke's opposing 'soap box' was the stronger for its grounding in her own personal experience.

The sheer variety of issues crowding into the remainder of the 90-minute programme are an indication of how the debate on divorce had evolved since 1975. The extent of audience and viewer input demonstrates both an ease with the debate format, and a high level of concern for the issue under discussion.

Binchy introduced warnings based on his international research. He warned that divorce inevitably brought with it the impoverishment of women, especially older women, and children. Arguments such as 'divorce would bring more divorce' were introduced. There was discussion over whether Ireland needed fewer laws or more. Children of divorced parents would be disturbed. Yes, there were hard cases. But hard cases would make bad law.

Although the programme was transmitted two years before the divorce referendum itself, it contained elements which were to feature in the bitterly divisive campaign that was to come; elements similar to the Eighth Amendment campaign which had preceded it. A most important feature lay in the success of the anti-divorce side in framing its organisation and its message. Where the Pro-Life Amendment Campaign had cast itself in the role of defending 'the right to life of the unborn' and pledged itself to the 'vindication of that right' so too did the soon-to-be established Anti Divorce Campaign (ADC) pledge itself to defend marriage and the family against international liberalism. Both PLAC and the ADC were essentially

⁴⁰ Binchy, *Is Divorce the Answer?*

manifestations of the same movement, and both stood for the defence of values which, they believed all reasonable, sincere and well-meaning people could not but fully support in the protection of their country from perceived harmful foreign influences.

The framing of the ADC's message was as clear-cut as that of its predecessor. However, it differed in terms of the element of threat it was to contain. The perceived threat in the case of divorce legislation was, if anything, more substantial. It was known that there were broken marriages and deserted wives whose husbands had absconded, often with another woman, leaving them bereft of funds. Some had moved their domiciles to Great Britain or elsewhere and simply divorced their wives. How much greater might a threat be if an Irish Government were to overturn the Constitutional ban?

3.6. APPROACHING THE CAMPAIGN TO OVERTURN THE CONSTITUTIONAL BAN ON DIVORCE

The Dáil All-Party Committee on Marriage Breakdown, having sat for some twenty months, issued its report in the first week of April 1985. The first substantial television programme, billed as a 'discussion', was the following Thursday edition of *Today Tonight*, presented by Olivia O'Leary. The committee gave 36,000 as the highest available estimate of broken marriages in Ireland. It acknowledged that their estimate was difficult to arrive at in a country which did not permit divorce and where separations were not accounted for in the census. The committee calculated the 36,000 estimate as 6% of the population. The report recommended that a referendum should take place but stopped short of recommending divorce. The committee was unable to reach unanimity on either issue. Several members of the committee were present on the studio panel together with a participating audience of interested parties. The programme began with panellists and others stating their positions.⁴¹

The then Minister for Health in the FG/Lab. Government was Barry Desmond, the Labour Party TD for Dun Laoghaire Rathdown. In June 1981 he was appointed Minister of State at the Department of Finance. As a TD, Desmond had, according to his memoir, encountered a stream of battered wives and wives desperately seeking home assistance after their husbands

⁴¹ 19850411.

had deserted them (often with another woman in tow).⁴² Compassion for those trapped in failed marriages featured strongly in Labour Party thinking, influenced to no small extent by the Labour Women's National Council whose chair was Maire Woods, an advisor to Desmond.⁴³ The Labour Party slogan in the campaign became *Put Compassion in the Constitution*.⁴⁴

In the April 1985 edition of *Today Tonight* Desmond expressed his disappointment with the All-Party Committee which, though realising the gravity of the situation, could not bring themselves, because of political differences, to recommend what to Desmond was the obvious solution:

Olivia O'Leary: You're saying that implicit in the analysis is the acceptance that perhaps divorce is the only answer?

Barry Desmond: There is the reality that in the heel of the hunt, the marriage which has intolerably, irrevocably, irredeemably broken down, where the husband or the wife are living totally apart ... do they have the right to dissolve their marriage? In the eyes of the law do they have the right separately or singly to go away and remarry again? That issue was not grasped. The old story of the Irish, we never grasp the nettle and we dodge away from it. Now, the members of the committee, quite frankly, because there were political divisions, were unable to reach a consensus. That's the reality and I suppose that might be the reality equally in terms of a debate in a referendum.⁴⁵

Several women members of the participating audience described the hardship they endured in the absence of maintenance and the difficulties they had getting their husbands into court. One woman recounted how a court had awarded maintenance which the husband stopped

⁴² Barry Desmond, *Finally and in Conclusion: A Political Memoir* (Dublin: New Island, 2000) 283.

⁴³ *Ibid.* 206.

⁴⁴ *Ibid.* 288.

⁴⁵ 19850411.

paying after three weeks. Another woman said the court system was completely inadequate. However, ADC and Family Solidarity supporter, Jerry Collins, dismissed these complaints:

Listening to the last few speakers, one would presume that there is virtually no legislation which can assist people with marital breakdown problems but this just isn't so.

O'Leary: No, I think what they're saying is that the legislation that's there isn't convenient, isn't adequate, doesn't serve their purposes.

Collins: But the legislation has improved dramatically over the past twenty years and there's a very substantive body of legislation, particularly the Maintenance of Spouse and Children Act of 1976 which improved the situation dramatically for a spouse and made it very, very easy to make application to court to obtain the necessary maintenance order and to enforce it.⁴⁶

Rory O'Hanlon rejected Minister Desmond's contention that there were political divisions in the All-Party Committee and said he hoped the Government would move to reform the system's shortcomings. He was supported by Myra Barry TD (FG). Barry Desmond said he supported the idea of a family tribunal system but could not expect the state to pay out money where the responsible spouses refused to pay themselves:

Desmond: For example, I pay out on behalf of the taxpayer £32 million a year to deserted wives. Very many of whom don't receive a bob from their husbands at all. Now maintenance should be a statutory obligatory requirement on the spouses to maintain their wives and their children rather than handing over their particular desertion to the state and the taxpayer at large to meet the cost. We've got to be very clear on this. Whereas I do believe that the state must meet, of course, the fire brigade actions and cannot allow women and children to be destitute. I think there's a very emphatic view that a family tribunal is not some kind of quickie way out of a problem, whereby you disappear, and you have ...

O'Leary: So, are you going to take onto yourself then the burden of following up a husband who skips it for instance and fails to pay his maintenance payments? Is the

⁴⁶ Ibid.

state going to take on the burden of finding him and making sure that he continues to pay maintenance?

Desmond: I think a family tribunal will have devolved on it a full-scale investigation by a social worker into the extent of which there in fact is family maintenance being maintained by that husband in the case of a wife who's deserted and where there's a very serious marital problem. Because too many people want to take the easy way out, and I would make firmly the point, it's women and children who by and large suffer in this whole situation but I don't think that husbands who depart into the night, either to England or away with some other woman or disappear to the local pub and drink their wages there, I don't think they should be allowed by the state to get away from their responsibilities either. Now that's a very strong view.⁴⁷

Following the commercial break, Olivia O'Leary turned the discussion to the substantive issue, divorce, the nettle that the members of the committee did not grasp. This failure was not a surprise, she commented. Charles Haughey, Leader of the Opposition, had said he did not believe in divorce as a solution to the problem of marriage breakdown and Taoiseach Garret FitzGerald did not favour it. The only party favouring divorce was Labour, and it had to live within a coalition, she pointed out.

She listed the arguments for and against divorce as they stood. The constitutional ban meant:

FOR:

- There was no legal recognition of a new and stable relationship entered into after marriage breakdown.
- There was no protection for children born from new and stable relationships.
- There was a threat to the family from a growing number of stable relationships, not recognised as family units.
- There was discrimination against the basic rights of minority denominations.
- The ban had not halted marriage breakdown.

⁴⁷ Ibid.

- In certain circumstances, the integration of children into a new and loving relationship can reduce trauma from marriage breakdown. However, the ban limited the formation of new family relationships.

AGAINST

- The experience abroad suggested that divorce would open the floodgates and cause increased marital breakdown.
- Divorce would fundamentally alter marriage by making it a temporary, not a permanent, union.
- Divorce would cause those couples having difficulties to work less hard at resolving them.
- The effect would be to damage children from the increased number of broken homes.
- To allow divorce would remove the constitutional right of existing spouses to protection and security within marriage.
- To allow divorce would be contrary to the religious views of the vast majority of the people of the Republic.

Having considered all the arguments, the Committee made no recommendation on divorce, but did recommend a referendum.

Mary Harney TD (FF) differed from her party colleagues on the Committee and stated that she favoured divorce:

Mary Harney TD (FF): I personally believe that in Ireland today there are many thousands of marriages that have irretrievably broken down. And even if we implement all of the findings in our report, which will greatly ease the trauma which will to a large extent compassionately deal with many of the people that are victims of marital breakdown, I believe that people should have the right in certain circumstances to remarry and I believe denying them that right is wrong, and I believe denying people that right does nothing to protect marriage. On the contrary, I think, it leads to a situation which we have at the moment where many thousands of Irish couples live outside the law in relationships that are illegal, they have no protection under the law, the children born in those relationships are illegal, the

parties to those relationships have absolutely no protection in the eyes of the law. I believe that that's a very serious situation. I believe it's a situation that shouldn't be allowed to continue and it's for that reason that I believe divorce legislation is necessary in certain circumstances.⁴⁸

O'Leary: Right, well if we could go across the panel and take a personal view on that. Start with Myra Barry. Do you think that in the end, even regrettably, divorce has to be introduced for certain cases?

Barry: I would be in favour of divorce in certain clearly defined limited circumstances.

O'Leary: Right, Rory O'Hanlon.

O'Hanlon: My gut reaction is against divorce and I'm not convinced that it would improve the situation. I certainly would have sympathy with individual couples and I can understand the situation they find themselves in but I'm not convinced that divorce is in the common good.

O'Leary: Alan Shatter?⁴⁹

Shatter: I have no doubt that divorce is ultimately going to be provided within our legislative framework and I would agree with what Mary Harney said ... I think it's time everybody recognised – and the 'no' parties played politics with this issue – that there are divisions within every party. The Labour Party, the Fine Gael party and the Fianna Fáil party and what we need to do is depoliticise the issue and what this committee has done by proposing that there should be a referendum has provided now the format for a debate to take place within the Oireachtas. There hasn't been a debate within the Oireachtas since its establishment. A coherent debate on the tragedy facing couples whose marriages have collapsed and who are denied the opportunity to remarry.

O'Leary: Yes, but Mary Harney, do you think a referendum would pass?

⁴⁸ Ibid.

⁴⁹ Alan Shatter, TD (FG), member of the All-Party Committee.

Harney: I don't think it would pass at the moment – no. I think we have to have perhaps a public debate for another 12 or 18 months, maybe two years. We've to proceed that with a debate in the Oireachtas.

Desmond: ... it's the job of politicians to give a lead. It's our job to give political leadership and where people want to have a divorce, I would be prepared to agree to divorce in very limited circumstances ... I would strongly make the point here – the Labour Party is not in favour of divorce. We regard divorce as a bad thing. It's bad for everybody. But where you have to have it, you have it in a legitimised and in a formal statutory setting when there's nothing else left for the couples.⁵⁰

Reflecting some 33 years later on the work of the Committee of which he was a member, Alan Shatter noted, in an interview with the author, that there had been a whole range of issues arising from marriage breakdowns that the State had paid little attention to. These included separation laws, property disputes, support payment issues, child disputes, succession act issues:

So, the Committee in its recommendations addressed all of that but it also looked at the issue of the prohibition of divorce in the Constitution and we held hearings not just on the divorce issue but on other issues, but there was a lot of lobbying done on the divorce issue. The committee was divided with regard to whether it should recommend divorce or not and the way of getting around that issue was to detail all of the arguments in favour of allowing for divorce and the arguments for maintaining the status quo and then a consensus was reached by agreement that we recommended a committee that there be a referendum. Because at the end of the day it was a decision to be made by the people, that there should be a referendum.

⁵¹

In the *Today Tonight* programme following the All-Party Committee Report, Fr Robert Noonan launched an attack on the pro-divorce side reminiscent of his attack on the *Late Late's* opinion poll on divorce transmitted on 3 March 1984. In that programme Noonan had accused Gay

⁵⁰ 19850411.

⁵¹ Alan Shatter, former Minister for Justice and Defence, interviewed for this thesis, 23rd May 2018.

Byrne of arguing for divorce because 67% of respondents would favour divorce where the Catholic Church had already annulled a marriage. Actually, Byrne had not done so. He had merely presented the results of a poll testing respondents' views accepting or rejecting divorce in a range of circumstances.

In *Today Tonight* he asserted that all those who spoke favouring divorce assumed that everyone whose marriage breaks up wants to marry again. Again, earlier speakers had not claimed that this was the case. The argument was simply about the *right* to remarry. Then, like the Family Solidarity representatives later in the programme, Noonan minimised the extent of the problem of marriage breakdown in Ireland which had been estimated by the All-Party Committee at 6% of the population or 36,000 couples.

Noonan: Some of them, oh yes, allow for some of them but we have to break down that six per cent of our marriages and it is only six per cent. We have to break that down into three groups. Some who would like to get married again, some who are not capable psychologically of entering into a marriage and some who could but simply don't want to.

O'Leary: Yeah, but should they be punished, father, for having had a bad marriage by not being allowed to remarry?

Well, you see, I made the three points, there are three, so you're taking one third of that three, is that right, that's what you're taking, right? Now then you have to look at how many are you dealing with and you have to protect the rights of minorities in the community. Certainly, you have to. I mean I'll fight for the rights of minorities just as anybody, but I mean what gets trotted out are phrases like pluralism. What in the name of goodness does pluralism mean, you know? Would you or any of our legislators here tonight want the views of those who support violence in Northern Ireland to be enacted into law?⁵²

⁵² 19850411.

Some might argue for the right to remarry on the grounds of pluralism. But Noonan had no time for pluralism and introduced a complete red herring by linking pluralism to the idea of rights for minorities supporting violence in Northern Ireland.

At this point Olivia O’Leary introduced Vivienne Darling of the Social Services Department at TCD, who said she thought the present constitutional ban on divorce was, to an extent, sectarian. The fact that separated people could not remarry was, she believed, wrong. Noonan quickly intervened:

I have to come in there on the question of, you know, is it sectarian? In no sense. I mean our bishops have made it clear time and time and time again, nobody can be in any doubt about that, that we do not want Catholic principles enacted into legislation. No way.

Opinion within the Catholic clergy may have differed to some extent. In 1976 Bishop Cornelius Lucey had argued in a *7 Days* programme for Catholic laws for a Catholic people.⁵³ Similarly, a clerical colleague of Fr Noonan, the Reverend Dr Simon O’Byrne OFM, a well-known Franciscan writer on moral issues, addressed the rising popular approval for divorce legislation by invoking the Church’s *Magisterium* ⁵⁴ in the *Irish Independent*:

They [Irish Catholics] should clearly understand that the Magisterium of the Catholic Church has the obligation to safeguard the Deposit of Faith and that neither Martin Luther nor Henry VIII, nor the Lambeth Conference, have any competence regarding the theology of the Sacraments in the Catholic Church.... A Family Court has NO (sic) jurisdiction in relation to the Sacrament of Matrimony the State never will have any right or competence in relation to the Sacrament of Marriage ... ⁵⁵

⁵³ 19760402.

⁵⁴ **‘The Magisterium of the Church:** The task of giving an authentic interpretation of the Word of God, whether in its written form or in the form of Tradition, has been entrusted to the living teaching office of the Church alone. Its authority in this matter is exercised in the name of Jesus Christ’. *Catechism of the Catholic Church*, 47.

⁵⁵ ‘Referendum on divorce would not succeed in the Republic says Dr Simon O’Byrne OFM’, *Irish Independent*, 31 August 1980.

Olivia O’Leary suggested that, no matter what the bishops said, people would get the impression that Catholic principles were being reflected in legislation. Noonan continued to insist that separated people seeking to remarry were a small minority.

Alan Shatter pointed out that all the minority churches, other than the Mormons, who had made verbal or written presentations to the Committee said that, while within the tenets of their religion marriage was indissoluble in a spiritual sense, where marriages had irretrievably broken down civil divorce should be available. The minority churches believed that civil law should not reflect the views of any one church and that the present situation was discriminatory. Shatter also raised the issue of Church annulments where these might be in conflict with the law as it stood:

In the context of the marriage tribunal which Father Noonan is involved in, a group came before us from the marriage tribunal in an oral submission and we received written submission from them and we dealt at great length with the issue of marital breakdown and with the Church’s power to grant decrees of annulment and there were two points made on this. The first is that the Church is currently granting decrees of annulment in situations where not only can the civil law not grant decrees of annulment but in situations in which the civil law can never be extended to grant decrees of annulment because it could be regarded as divorce by another name. We pointed out that currently, and then this is a point worth making, the Church is currently remarrying within the Church couples whose marriages have been annulled by the Church but are still valid according to the law of the state. And you have a number of couples in this anomalous position.

O’Leary: I think we’d better let Father Noonan just answer that question. Is it divorce by another name? Were you disappointed for instance that the Committee did not accept that Catholic annulments should be approved by the state?

Noonan: Oh no, we wouldn’t want that under any circumstances whatsoever. ⁵⁶

⁵⁶ Ibid.

However, it emerged later that Catholic Church leaders did, in fact, seek the cooperation of the State in an arrangement whereby the Church could remarry those whose previous marriage they had annulled. Church annulments became an issue of some contention between Church and Government leaders during a meeting in 1986 between Taoiseach Garret FitzGerald, and Minister for Justice Alan Dukes, with the Primate of Ireland, Cardinal Tomás Ó Fiaich and Archbishop Kevin McNamara of Dublin. The Church leaders asked the Taoiseach and Minister for Justice to consider a particular arrangement. According to FitzGerald, the hierarchy proposal was that the Church would continue its practice of declaring certain marriages null. Where a partner in an annulled marriage wished to marry again with Church approval, such a marriage would be a purely religious event which would neither claim to be, nor give an appearance of being, a valid civil marriage. The hierarchy representatives suggested, according to FitzGerald, that they and the Government could cooperate in this. But they had not thought out the implications for the Taoiseach and his Minister for Justice. The State did not recognise Church annulments and any marriage subsequent to an annulment would be bigamous by definition:

As a result, they were, I think, taken aback by the strength of our reaction to a proposal that appeared to us to suggest that, instead of amending the Constitution to provide a means for dealing with this as well as other marriage breakdown problems (which the representatives of the hierarchy were strongly opposing), we should collaborate in undermining the existing constitutional protection of marriage. For as long as this clause remained in the Constitution, we were committed as officers under the Constitution to uphold it'.⁵⁷

FitzGerald interpreted the bishops' suggestion as an effort on their part to continue with their nullity procedures, while at the same time avoiding the potential problems of a conflict between church and state laws.

The April 1985 *Today Tonight* programme drew to a close with Bernadette Bonar of Family Solidarity highlighting again the international statistics on divorce and reminding the audience

⁵⁷ FitzGerald, *All in a Life*, 628.

of the saying that ‘bad cases make bad law’. Rory O’Hanlon TD invoked a saying that was beginning to gain currency – ‘divorce brings more divorce’.

At the very end of the programme, the representative of the Family Studies Unit at UCD, Gabriel Kiely, insisted on being allowed to make a point on how international statistics were being used by the anti-divorce side to argue that divorce legislation would open the floodgates:

... there’s a point that I want to make other than that which is about this floodgate business. If one actually looks at the statistics from other countries, you’ll find that we’re reading them incorrectly. If you examine them seriously, you’ll find that divorce legislation follows changed economic circumstances in these societies. You had changed economic circumstances in Ireland which is changing the economic value of the family or its economic unit. And it is that (which is) one of the major changes which is affecting the breakdown of marriage in Ireland. Divorce legislation cannot be seen in any country to have caused divorce. That is a major suggestion. The second point, very quickly, I want to make is about the children. There’s also a suggestion about the protection of children. Divorce for a child – and there’s a mass of research to show this – constitutes a crisis in the child’s life. But it is different to the long-term effect of two parents in conflict.⁵⁸

In this final contribution to the pre-campaign *Today Tonight* episode, Kiely echoed points made earlier by John Masterson of TCD in his contribution to the *Late Late* of March 1984. However, the use and interpretation of international statistics by the anti-divorce side during the campaign itself were rarely challenged in programmes transmitted during it.

3.7. THE CAMPAIGN TO OVERTURN THE CONSTITUTIONAL BAN ON DIVORCE

The Government announced its intention to remove the Constitutional ban on divorce on 23 April 1986. The ADC was already being formed and planning its campaign:

⁵⁸ 19850411.

... on 20 January 1986, Senator Des Hanafin and John O'Reilly, the former Chairman and Secretary of PLAC, had met in the Dáil Restaurant and had secretly begun assembling the key elements that made up the Anti-Divorce Campaign.⁵⁹

The ADC was better organised than the Divorce Action Group. The latter comprised a small committee and advisors consisting of some who had been involved with PLAC. The Dublin-based group included Senator Des Hanafin (Chairman); John O'Reilly (Secretary), an engineer; Bernadette Bonar, a member of Family Solidarity and the Responsible Society; Joe McCarroll, a lecturer in Ethics at Clonliffe College; Michael Lucey, a retired Irish Life Assurance Company general manager; Fr R. Neville; Iarlaith O'Neill SC; Liam de Feu, a solicitor; and Jerry Collins, also a solicitor.

The Divorce Action Group was also preparing for a referendum. Their main argument, echoed by the Labour Party, was for compassion for the estimated 70,000 people they trapped in failed marriages with no prospect of a second chance at happiness.

However, when the campaign got under way in 1986, the 70,000 figure, an important part of the plea for compassion, was attacked repeatedly by the anti-divorce side. Rather than relying on a simple numbers game during the campaign, the ADC's established strategy, as noted earlier, was to turn the compassion argument around to focus on the other family members who would be affected by a divorce in the family.

The anti-divorce groups, analysing the DAG and pro-divorce groups position well ahead of the actual campaign had recognised that their only argument was not an argument all. It was simply a plea for compassion:

Compassion is the central issue. The Anti-Divorce Campaign accepts the pro-divorce lobby's statement that they are 'motivated by compassion'. But however good their intentions the fact is that such compassion is at the expense of other family members. Where is the compassion for the wife who is divorced against her will?

⁵⁹ John O'Reilly, Secretary, Anti-Divorce Campaign. *Start of Planning Group for Anti-Divorce Campaign*, 24 February 1988. Anti-Divorce Campaign Records. [In private hands] 1.

Where is the compassion for the wife who loses all her pension rights? Where is the compassion for the wife who loses all her succession rights?’⁶⁰

By March 1986, then under cover of secrecy, the ADC was preparing its budget and planning the distribution of its main campaign leaflet. The ADC minutes of 6 March 1986 show an organisation able to call on cash resources far beyond any that DAG could access.

Budget £160,000. Cost of postal distribution £36,000. Would the bishops help by arranging parochial distribution?

Believe it will not be this side of the summer and if not held in October/November will not be in this government’s lifetime.

Do groundwork now but do not declare publicly. However, get a good PR firm, line up speakers for the media in readiness for going public. Invite Michael Lucey [Property Investment Manager, Irish Life Assurance Co.] and Fr R. Neville to next meeting. All meetings to be strictly confidential’.⁶¹

An earlier minute shows the ADC planning their media strategy and identifying possible spokespeople:

Possible speakers discussed: William Binchy, Joe McCarroll, Jim Behan, Mary Lloyd, Mary McAleese.⁶²

In the event, the ADC chose William Binchy as their principal speaker. Michele Dillon, in her book *Debating Divorce: Moral Conflict in Ireland*, analysed the eight programmes *Today Tonight* transmitted on divorce from the time the Government announced the referendum. She observed that *Today Tonight* did not call on experts. Such experts as Dr John Masterson of TCD and Gabriel Kiely of UCD would have been available to comment on psychological, economic or sociological issues which were frequently raised throughout. Masterson and Kiely, on earlier episodes of the *Late Late* and *Today Tonight*, had challenged several of the

⁶⁰ Anti-Divorce Campaign Press Release, 12 June 1986 [In private hands].

⁶¹ ADC Minutes, 6 March 1986 [in private hands].

⁶² Ibid.

anti-divorce side's assertions. The late Brian Farrell, UCD lecturer in political science and presenter of *Today Tonight*, interviewed by Dillon, said that the production team's decision not to call on experts was because they did not wish to appear to favour either side.⁶³ She also noted that William Binchy, author of *Is Divorce the Answer?* appeared on five of the eight programmes. By contrast individual pro-divorce spokespeople rarely appeared more than once or twice.

According to Michele Dillon, it was ADC policy to promote Binchy as their main spokesperson. On one occasion, the ADC refused a *Today Tonight* request to have Senator Des Hanafin appear on their behalf. *Today Tonight*, in common with other series, sought to change spokespeople for the different sides in a controversy, primarily to explore varying nuances from one programme to another. However, the RTÉ Steering Group of senior executives, fearing accusations of partiality, instructed *Today Tonight* to accede to the ADC demand for Binchy. Dillon's analysis is that Binchy's frequent appearances may have enhanced his recognisability and credibility, thus strengthening the appeal of the ADC and its cause.⁶⁴

ADC minutes of 6 March also exhibit the organisation's attempts at political forecasting in a note that the referendum would not take place 'this side of the summer'.⁶⁵ Curiously, the ADC actually heard of the likelihood of a late June date from a member of the Labour Party. The Dublin South-East Branch of the Labour Party had held a debate on divorce on 18 April. Jean Tansey, Secretary of DAG, spoke as did the Labour Councillor, Eithne FitzGerald. The ADC Secretary, John O'Reilly, attended along with William Binchy and Bernadette Bonar of the Responsible Society. Over a drink following the debate, a Labour Party activist, Michael Taft, informed O'Reilly that a senior political figure had told him the referendum date would be in late June. O'Reilly, incredulous at first, told Taft the ADC would win comfortably.⁶⁶

⁶³ Michele Dillon, *Debating Divorce: Moral Conflict in Ireland* (Lexington, Ky.: University Press of Kentucky, 1993) 141.

⁶⁴ Ibid. 142.

⁶⁵ ADC Minutes, 6 March 1986.

⁶⁶ William Binchy, John O'Reilly, Kevin Doran and Nick Lowry. *Fusion or Fission: Ireland's Options for the Family?* (Dun Laoghaire: Brandsma Books for the Life Education and Research Network, 1988) 55.

On 26 May, it was announced that the referendum would take place on was Thursday, 26 June 1986. The exchange between O'Reilly and Taft was an indication that the pro-divorce side were nothing if not well-informed.

The DAG minutes of their meeting of 10 March 1986, which took place within days of the ADC meeting in the early stages of the campaign, makes no mention of financial resources whereas the ADC was already planning on the basis of a budget of IR£160,000.

In early April, Taoiseach Garret FitzGerald, met leaders of the Catholic Church and the Church of Ireland. The Church of Ireland bishops repeated their Church's position: that it did not advocate divorce and did not remarry divorced people. However, they believed that the problem of marriage breakdown had to be addressed. Bishop Walton Empey of Meath and Kildare said to RTÉ News: 'Divorce happens following irretrievable breakdown.'⁶⁷ The Catholic position had been set out clearly in the 4 March pastoral letter, *Love is for Life*. In section 20, *The Divorce Debate*, paragraph 187, the bishops state:

In any debate concerning divorce legislation the position of the Catholic Church would be unchanged. We do not ask that Catholic doctrine as such be enshrined in law. We recognise that morality and civil law do not necessarily coincide. Nevertheless, moral issues affecting the whole of society are raised by the question of divorce; and we as pastors have a responsibility to offer moral guidance to Catholics to help them to form their consciences in respect of their moral responsibilities as legislators or as voters. Where questions of public morality and the moral well-being of society are concerned, we have a duty and a right to call attention to the moral implications of proposed legislation and to its consequences for the moral well-being of the community. No Catholic hierarchy anywhere in the world has failed to record its moral objection to the introduction of divorce or to its extension.⁶⁸

⁶⁷ 19860405.

⁶⁸ *Love Is for Life: A Pastoral Letter Issued on Behalf of the Irish Hierarchy*, (Veritas, 1985).

Following his meeting with the Taoiseach and Minister for Justice, Alan Dukes on 7 April, Cardinal Tomás Ó Fiaich was interviewed by RTÉ News and asked his view on opinion polls showing support for divorce:

While my general impression has been over the years that there has been an increase in the number of people who would either tolerate or perhaps even support divorce legislation that, as I would think politicians would admit, (it is) very hard to know where the balance lies because some of the recent Gallup polls have been a little bit contradictory of each other and it depends very much on the questions asked, on the mood of the people at the particular time, as I was saying, and so on. It's hard to know. I couldn't say which side the balance lies on at the moment, but I think one would have to admit there has been an increase in the number of people who would favour some form of divorce legislation. ⁶⁹

On the evening of 23 April FitzGerald called a news conference along with the Tánaiste Dick Spring. FitzGerald said that Fine Gael as a party would support the Amendment but that individual members might hold divergent views. They would be free to express these. Some did so, and a difficult situation arose later in the campaign when Minister for Education, Paddy Cooney, publicly and repeatedly opposed the Amendment.

3.8. THE TENTH AMENDMENT OF THE CONSTITUTION BILL, 1986

The proposed Bill was worded as follows:

The Tenth Amendment of the Constitution Bill, proposes to delete subsection 2° of Article 41.3 of the Constitution, which states that no law shall be enacted providing for the grant of a dissolution of marriage, and to substitute the subsection here following:

2° Where, and only where, such court established under this Constitution as may be prescribed by law is satisfied that:

a marriage has failed,

⁶⁹ 19860407.

the failure has continued for a period of, or periods amounting to, at least five years,

there is no reasonable possibility of reconciliation between the parties to the marriage, and

any other condition prescribed by law has been complied with,

the court may in accordance with law grant a dissolution of the marriage provided that the court is satisfied that adequate and proper provision having regard to the circumstances will be made for any dependent spouse and for any child of or any child who is dependent on either spouse.⁷⁰

During the 23 April news conference, announcing the referendum, which was transmitted live by RTÉ, a *Today Tonight* reporter, Una Claffey, asked the Taoiseach what the position of the Catholic Church would be. FitzGerald said that the Church would express its theological and sociological opinions to its own members:

Do you expect the Church to involve itself in a campaign against the referendum in addition to expressing its own views to its members?

FitzGerald: That's a matter for the Church. There are many things in the Amendment that bear the stamp of matters put before the Church. We have taken account of their views and they are very fully represented but we have made up our own minds as to what to do.⁷¹

FitzGerald said he himself would campaign, that he hoped for an active but responsible campaign and that it would benefit no one if it descended into hysteria. He promised that 'adequate and proper provision for a spouse and any children' would be provided for in legislation accompanying the Amendment. He said the balance of the social good would be served although it might have a negative effect on some marriages. Spring said that Government had to confront the problem of marriage breakdown as well as provide support

⁷⁰ Referendum Ireland. <https://www.referendum.ie/archive/referendum-on-the-thirty-third-amendment-of-the-constitution-court-of-appeal-bill-2013-6/> Accessed 16 March 2016.

⁷¹ 19860423.

for marriages in danger. He also said that proper and adequate provision for spouses and children would have to be made before a divorce could be granted.

Today Tonight turned to a separate pre-recorded item at the conclusion of the live news conference while Fitzgerald drove out to RTÉ to be interviewed more fully by John Bowman. In studio, he repeated that, while removing the ban on divorce might destabilise some marriages, the number of failed marriages was so great that the Government had to act; therefore it intended to bring in a restrictive form of divorce where the duration of a marriage failure would have to have been at least five years.

In the event, FitzGerald did little campaigning for the proposed change in the Constitution. In fact, he displayed little enthusiasm for the proposal itself and left the impression that the Government had embarked on the constitutional project only because it felt it had to:

Bowman: You have always said it would be better to have no divorce referendum than to hold one and see it fail. Are you optimistic that this can succeed?

FitzGerald: I think it will pass because there has been a shift in opinion and a growing recognition that there are problems here to be solved and that you cannot just brush them under the carpet and that the social balance, really, of advantage lies with acting rather than not acting assuming that one can do it in a way that will preclude any question of easy divorce in these circumstances and with the wording of the referendum I think we will get the support of the majority of the people but that's obviously a matter for the people to decide when the time comes.⁷²

FitzGerald's studio interview was followed by an interview with William Binchy who had seen the earlier press conference. Binchy's comments on behalf of the ADC again foreshadowed the organisation's main arguments to be deployed in its campaign: divorce will be American-style and easy; marriage no longer will be for life; the existing social supports will disappear because marriage is no longer for life; maintenance and succession rights will be modified for the same reason. Finally, Binchy brushed aside the oft-repeated Government promise of

⁷² Ibid.

restrictive legislation to follow acceptance of the proposed Dissolution of Marriage Amendment.⁷³

3.9. THE ON-AIR DEBATE BEGINS

Today Tonight transmitted the first live debate of the campaign the night following the Government announcement on 23 April 1986. The Tánaiste Dick Spring and Minister for Justice, Alan Dukes had appeared on *Morning Ireland* earlier expressing confidence that the Amendment would be carried. There would then follow legislation which would include a new family court structure at the same level as the circuit court.

Polls early in 1986 looked supportive for a constitutional change. John Cooney wrote in the *Irish Times* of 10 February 1986:

A 10 percent lead over those opposed to the removal of the ban on divorce has been gained by those wanting a referendum to delete the prohibition from the Constitution, the first *Irish Times*/MRBI poll of 1986 has concluded.

The first poll since the inconclusive end of the Dáil debate on marriage breakdown shows that 52 percent favour removing the ban, 42 percent want to retain it and six percent don't know.

Between April and July of last year there was a resurgence of support for retaining the ban after a series of anti-divorce pronouncements by the Archbishop of Dublin, Dr McNamara.⁷⁴

The studio-based debate *Today Tonight* programme included the interested parties but consisted mainly of guests re-stating their positions.

An exception was Bishop Joseph Cassidy of Clonfert. Speaking on a link to John Bowman he said that when he watched the Government news conference the previous night he thought, at first, that the proposal was reasonably restrictive given the five-year separation

⁷³ Ibid.

⁷⁴ '52% seen as favouring end to divorce ban', *Irish Times* 10 February 1986.

requirement. But he had now serious doubts about the 'irretrievable breakdown' concept as proposed:

In fact, irretrievable breakdown can amount to what you could describe as unilateral repudiation in that one partner could bring down a marriage. One partner, one unfaithful partner, could impose divorce on an innocent partner. Now that's a very, very serious thing and that's a very, very unrestricted or advanced form if you like of divorce.

John Bowman: Isn't that the present case that one partner can walk out and that that's happening in effect?

Cassidy: Ah yes but if you legalise that, if you put a legal stamp on that surely it's an encouragement and an inducement to infidelity because if people find themselves in a situation where they can, where they have a legal restraint if you like then I think, I think the tendency is to make a better effort to make the marriage work but if divorce is there the temptation surely, we're all human, the temptation is to have recourse to divorce.⁷⁵

Here was the moral hazard argument where permission to divorce and remarry allows one unscrupulous partner to enter a marriage knowing the other innocently shoulders the risk should the first decide to leave. Bowman put it to Cassidy that the Church had theological and sociological objections. He accepted that theology was the Church's business but challenged him on how qualified the Church was in its sociology. Cassidy was surprised at first but then fell back to quote the international statistics with the anti-divorce claim that divorce begets divorce. Bowman then pressed Cassidy to differentiate between the Church teaching and the Church campaigning:

Bowman: What sort of campaign do you expect?

Cassidy: I hope we'll have a very reasoned and calm campaign.

⁷⁵ 19860424.

Bowman: Will the church participate?

Cassidy: The church will not participate in a campaign as such because I don't particularly like the word campaign because I think it has, well, unhappy overtones. It suggests that we will be holding public meetings and up on platforms and knocking at doors.

Bowman: There are public meetings every Sunday at which people assemble i.e. mass, and the priest speaks from the pulpit, will he be speaking on this issue?

Cassidy: I think inevitably it would have to be part of pulpit preaching. The pulpit will be used ... not abused, I would hope, and the church would use the pulpit to teach her members the truths of the faith, to teach her members what Christ taught about marriage and to teach her members the social and moral implications of any piece of legislation including divorce. That's going on all the time on various issues, there is nothing new about that.

Bowman: But that in effect ... will be telling them how to vote in the referendum.

Cassidy: Oh no, no indeed it will not.

Bowman: In effect? Is that not the net effect of that?

Cassidy: No, no it's not the net effect of that. We don't dictate to people, we have no right to dictate but we have no option but to teach and people are free then to do what they consider best in conscience but their conscience, you know, has to be a deeply reflective thing and it has to take full account of all the issues involved, the predicaments of those who are in difficulty, and I have the greatest sympathy for them, but also their conscience must be a comprehensive thing and it must take into account those who will be the inevitable casualties of divorce and there will be inevitable casualties of divorce. Then if people feel that in the depths of their conscience, having considered all the issues and considered them very, very carefully, if they can say before God, if they can solemnly attest before God, that what they are doing is right obviously then they must follow the final arbiter.

Bowman: In that answer you are saying the bishops will not nor the priests will not say: 'this is how you should vote'?

Cassidy: Oh, not at all. As I say we do not dictate but we have no option but to teach.

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On *Today Tonight*, Pat Kenny was joined in studio by the Tánaiste, Dick Spring, who welcomed Bishop Cassidy's statement that the Church would not tell people from the pulpit how to vote.

Pat Kenny: But you are going to be up against priests in the pulpit every Sunday pointing out the, as I say, not only the moral implication which is certainly within their ambit but also the sociological implications as outlined by Bishop Cassidy.

Spring: Yes, but I believe that we can work within the formula which was outlined by the bishops at the forum and that is that it's for the government to govern and that's what we intend to do.⁷⁷

As will be seen, however, a number of bishops and an unknown number of priests did tell their Catholic people how to vote.

During the campaign Dick Spring himself experienced first-hand pressure from the pulpit:

I actually remember being in a church one day in Tralee, with one of my drivers ... the priest was attacking Garret FitzGerald and myself and I went to get up to leave the Church. My driver, who was a friend of my father's, put a hand on my wrist and said, 'you have to listen to thunder'. Now if I had walked out the Church, obviously it would have made headlines and the driver obviously being a wise old owl just said, 'you have to listen to thunder' and we sat it out.⁷⁸

Garret FitzGerald's political biography, *All in a Life*, and his later *Reflections on the Irish State*, tend to support the contention that the Catholic Church was the greatest influence in the defeat of the 1986 referendum:

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Dick Spring, interviewed for this thesis on 29 July 2011.

The institutional Church chose to campaign on the basis of simplistic and unverified sociological assertions, bolstered up by a dubious 'floodgate' theory, which was sometimes combined with theological statements of a kind that were irrelevant to the issue of civil divorce. And these churchmen were backed by lay advocates who deployed emotive arguments about property, designed to frighten those who owned assets of various kinds, especially land.⁷⁹

FitzGerald clearly regarded the activity of the Catholic Church not just as 'teaching' but as campaigning notwithstanding Bishop Cassidy's statement on *Today Tonight* that the Church would not campaign but had 'no option but to teach'.

Inevitably the question arises. it is impossible to calculate the balance of influence as between the two main contenders; the Catholic Church and the ADC.

Following Bishop Cassidy's appearance on the *Today Tonight* episode transmitted the night after the Government announcement the anti-divorce side set out their challenge to the proposed Amendment. One of the key ADC strategies was displayed again by William Binchy in the studio. It was the simple, yet effective tactic of ignoring the Government's policy to bring forward the Amendment wording and, if passed in the referendum, follow it with legislation. Binchy took advantage of a fatal strategic error by the Government, the failure to publish the heads of the legislation they were discussing. Nothing existed in writing other than what was in the Constitution Bill:

When I watched the television and listened to the news last night, the presentation of the government proposals, I was of the view that five years separation was required. In fact, if you actually look at what is going to the people to ask them to say 'yes' or 'no' on the type of divorce that is proposed is divorce that doesn't even require one week's separation between the spouses. That's point number one. If I can make point number two which is, I think, an equally serious blunder.

Kenny: May I just clarify something with you William, the Taoiseach seemed to make it clear to all of the journalists present at the press conference that that's what they

⁷⁹ Garret FitzGerald, *Reflections on the Irish State* (Dublin: Irish Academic Press, 2003) 121.

had in mind. Are you saying that as it's written in the Amendment that's not what it says?

Binchy: Absolutely and anybody who reads the Amendment will see that.

Kenny: OK, point two.

Binchy: Point number two is that at the moment the Constitution in articles 41 and 42 gives substantial protection to families in their relationships with each other, between the parents and the children and in rearing the children. The effect of this proposal will be to remove the constitutional protection towards the family in the rearing of the children and the education of the children, (to) remove that entirely once the couple are divorced. That's a very serious change which again has not been mentioned and it's quite possibly it has been overlooked by the government.⁸⁰

Binchy's contention was, in effect, that the Government and supporters of divorce could talk about a five-year separation requirement as much as they liked but if the word 'separation' was not in the Amendment then it did not exist. Binchy was followed by William Duncan, lecturer in law at TCD who had written in support of the introduction of divorce in Ireland. He criticised the Government's intended five-year separation requirement as very restrictive, but he did not challenge Binchy's interpretation.

Bishop Walton Empey, for the Church of Ireland, said the proposed Amendment and legislation was broadly in line with what the Church put to the All-Party Committee on Marriage Breakdown given that breakdown was an unpalatable fact in Ireland. Bernadette Bonar of Family Solidarity was absolutely opposed. Pat Kenny asked her what she would say to the woman whose husband has gone to England to find work, met another woman and abandoned his wife and family. Bonar's answer was forthright, and she did not attempt to minimise the plight of abandoned women although she deftly turned the question around ignoring the possibility that the abandoned women might find happiness and a better future in a second union.

⁸⁰ 19860424.

Well I suppose to some human problems there are no solutions and I would have to know a particular case but I do personally know many cases, and some of them are good friends of mine, where the husband has gone off and left this wife and little children and I have seen the hurt faces of those children making First Communion, Confirmation, going to school, when the fathers are around for the other children. Now don't tell me that divorce is going to solve that problem. If anything, it will take all status from the woman. As it is, she feels she has a husband even though he is not living with her but if divorce (is) what's going to happen, his position is going to be made legal and respectable and she will be left with no hope of any sort. If fact in that situation the law is on the side of the offender.

Kenny: Bernadette you presumably hope and believe that this referendum will be defeated?

Bonar: I have no doubt it will. ⁸¹

Karen O'Connor of the Divorce Action Group (DAG) was confident it would pass notwithstanding the five-year clause. In contrast to the anti-divorce side most pro-divorce commentators acknowledged the five-year provision and criticised it as unnecessarily restrictive. Anti-divorce commentators did not acknowledge it at all and considered it as little more than window-dressing aimed at conservative voters. However, the proposal as it stood called for a five-year failure of the marriage, not a five-year separation of the couple:

O'Connor: Given the type of referendum it is going to be and given the fact that the five-year clause is going to be introduced to the Constitution which will alleviate worries which I think a lot of people had, that to introduce divorce would lead to quickie divorce and to the slippery slope. To put a five-year clause in the Constitution which is not the case in places like California, which is not the case in Britain, it will be the case in Ireland that it will actually be built into the Constitution is a very favourable step. ⁸²

⁸¹ Ibid.

⁸² Ibid.

Among the ADC spokespeople of the time was Joe McCarroll, a lecturer in ethics at Clonliffe College, the Dublin diocesan seminary. During the live studio-based programme he claimed that most marriage breakdown is caused by serious emotional disorder:

I think underlying this whole Amendment is a rather out of date understanding of what causes marital breakdown. Marital breakdown is caused, according to the psychiatrists and the marriage counsellors, in the vast majority of cases by serious emotional disorders on the part of one or both of the spouses predating the marriage. Now if that's the case then there are two possibilities. Either the emotional disorders are curable in which case they should be cured or they're not in which case it would be insanity to give the person a legal right to have another go.

⁸³

Maureen Gaffney, Clinical Psychologist: I'd like to rebut the idea that it's established in the psychological literature that only the mad and the bad have marital breakdown. I think that's nonsense. There is absolutely no empirical evidence for that. There are cases where people have longstanding emotional troubles but the vast majority of people who have marital breakdown are simply breaking down because they don't get on any longer ... Most people, in my experience, and that has been the experience of people who have studied this elsewhere in other countries, is that in the vast majority of marriages one partner has been trying for a very long time every single thing they could think of to try and make their marriage better and it hasn't worked.

Kenny: The argument might be raised, 'you have made your bed, you lie on it. If you want to split up, fair enough, but why do you need the right to remarry, maybe you should pay a lifelong price for your mistake?'

Gaffney: Well yes that's one point of view. I suppose my answer to that would be that if people are concerned about the long-term welfare of people in broken marriages and their children then the evidence the, empirical evidence, seems to suggest that the possibility at least of actually making a happy relationship with somebody else improves people's psychological functioning, it gives them some chance to become independent and not a burden on others and on the State.

⁸³ Ibid.

Certainly, from the point of view of children it's important that the people who care for them and the people in whose hands their entire life lies, that is their parents, should both be jointly responsible for them and should both have as good a chance to live proper lives. Can I say as well that again in the vast majority of marriages it is merely a popular stereotype that marriages break down because there is some available floozy who is going to run away with somebody's husband. It's not just in England but in America between 75% and 80% of all divorces are initiated by women and this isn't because women have been already left by their husbands, there is no basis for that.⁸⁴

Again, in a very tightly formatted programme there was just time for Kenny to bring in Alice Glenn, who had vigorously campaigned for the 'Right to Life' Amendment three years earlier. Glenn was equally anti-divorce and, as before, based her argument on statistics – in this case aimed at minimising the demand for the right to remarry:

We have in the country at the moment 750,000 marriages, registered marriages, and I believe there are 25,000 marriages take place annually. Now, the only reasonable and meaningful statistics that have emerged were those that came out of the Labour Workforce Survey and they found that there was a total of 24,000 people in this separate situation. When that was broken down you found that about two thirds of those people would not have any interest in remarrying.

Kenny had just under five minutes to bring Tánaiste Dick Spring back in, as he had announced at the outset, to give Spring an opening to counter some of the charges that had been made:

Kenny: What about William Binchy's reservation? He says it's open, looking at the constitution, and some future supreme court could have a look at it and say you can have divorce tomorrow as long as you can prove that there was no marriage.

Spring: That was the first thing which I wanted to refute and it's a prerequisite for getting divorced that a couple will be separated for five years or for periods amounting to five years.

⁸⁴ Ibid.

Kenny: Are you willing to look at the wording of the Amendment and have it checked out by your lawyers?

Spring: That is the intention and that is what it will be.

Kenny: Alice Glenn.

Glenn: Pat may I say that the wording presented is that we are deleting 'no law shall be enacted providing for the grant of dissolution of marriage' and we are substituting the following: 'a marriage has failed', that is one reason. 'The failure has continued for a period or periods of five years and that there is no reasonable possibility of reconciliation'. Those are the exact words that had to go into our Constitution. Now constitutional language is very specific and that is not saying anything at all about periods of separation.

Kenny: Right, OK Alice we take your point. That's William Binchy's point again. Tánaiste.

Spring: I would refer you to the accompanying document from the Department of Justice last night which says that: 'the divorce legislation to be proposed will require that before a spouse will be entitled to apply for [a] decree dissolving the marriage and enabling that spouse to remarry the spouses will first avail themselves of either the separation procedures mentioned at paragraphs 10 and 11'. There will have to be a separation and a failure for five years as a prerequisite.

Kenny: Are you willing to look at the wording of that Amendment in case there is a problem?

Spring: I am confident that that is the intention and that's what will be effected in the legislation.

Kenny: I'll just take a shout from William Binchy in the back row. If the Tánaiste does get that wording sorted out would you be in favour of the Amendment as written?

Binchy: Well I mean we now are in a situation that a day after this Amendment is produced the Tánaiste appears to be conceding or perhaps

Kenny: No, he's not conceding but you raised the point, I'm asking you; I'm trying to get your position on it. If that point was sorted out would you be happy with the proposal?

Binchy: The position is that a bill has been forward on the basis that it deals with five years separation. In fact, it does not do that and that is a vitally important point if people are going to vote on it. The second point that I made, namely, that the constitutional protection for families under Article 41 for the right to educate their children under Article 42 is removed once the divorce takes place. That's a vital point.

Kenny: Briefly, Tánaiste would you like to respond to that?

Spring: I do not accept that there will be any weakness in the family's position in Irish society after this divorce legislation is passed.

Kenny: You think it's all written in there?

Spring: Yes, I do believe so.

Kenny: What about the point that it is rather loose language?

Spring: And the accompanying legislation in relation to the restructuring of the conciliation situation for marriages will be of benefit because it has to be a five-year period during which reconciliation, if possible, will be affected.⁸⁵

This was the first substantial programme following the publication of the proposed Amendment and much of its value lies in the opportunity it provided for contenders to present the arguments they would deploy in the course of the campaign just initiated on foot of the Government announcement. It also highlighted what proved to be the flaw in the proposed Constitutional wording which stipulated a period of 'failure', not 'separation'.

The programme also illustrated how the debate over divorce might progress in the course of the next month. William Binchy adhered rigidly to his agenda, challenging the actual wording

⁸⁵ Ibid.

to be put to the voters while doggedly refusing to admit the contents of the legislation the Government had committed itself to presenting to the Oireachtas should the voters accept the Amendment. Binchy was quite right to say that voters were being asked to consider exactly what was on the ballot paper. By refusing to argue about the proposed legislation, he effectively denied the existence of the Government's legislative proposals and focused viewers' minds exclusively on the concept of marriage *failure* which, again, he effectively argued could mean anything. As the campaign progressed it will be seen that the Government had made a fatal error in not publishing heads of legislation. This error was not repeated by the then Minister for Law Reform in the second divorce referendum in 1995, which succeeded, albeit by a very small margin.

3.10. PUBLIC SUPPORT FOR DIVORCE REMAINS HIGH; THE CHURCH ENTERS THE CAMPAIGN

Two days after *Today Tonight*, the Church released its first statement of the campaign proper. In a direct criticism, the hierarchy described the Government's action as 'regrettable'. They focused particularly on the interpretation of marriage 'failure' and the Government assertion that the legislation would be for a 'restrictive' form of divorce procedure:

The grounds suggested could scarcely be broader. 'Failure' of a marriage is in fact the basis for the most advanced and most unrestrictive form of divorce in the world today.⁸⁶

On Monday 5 May, the *Irish Times* carried the latest poll the newspaper had commissioned from MRBI. Field work had been carried out a week previously on Monday 28 and Tuesday 29 April, following the bishops' statement at the weekend. The result showed 57% intending to vote for the Amendment, 36% against and 7% with no opinion. When the 'don't knows' were excluded, MRBI calculated a 61%/39% breakdown.

⁸⁶ Statement by the four Catholic Archbishops on behalf of the Irish Bishops' Conference (Maynooth), 26 April 1986.

The poll results were published along with an analysis by the MRBI Chairman, Jack Jones. Although the percentage in favour was 5% higher than the poll published in February, Jones reminded readers:

The electorate at large is no longer assessing the issue on a purely hypothetical basis' the campaign proper has not yet commenced and many potential, indeed committed voters, will quite possibly be influenced, when the respective issues are more fully developed and promulgated'.⁸⁷

The same edition of the *Irish Times* that carried the poll results included an interview by Joe Carroll with Dr Jeremiah Newman, Bishop of Limerick, under the heading 'Issue like Mother and Child Scheme'. The sub headline read:

Bishop Newman of Limerick is 'dismayed and disappointed' at the Government's proposal to introduce divorce and he certainly will be telling his own flock that they should oppose it.⁸⁸

Carroll asked the bishop whether the Catholic Church should be telling people that they should vote against the proposed legislation, effectively telling the people how to vote:

Bishop Newman, again pointing out that that the Hierarchy have yet to meet on the matter, believes the answer is yes. 'I will certainly be doing that as far as my people are concerned. The Church has the right to tell people what to do in these matters.' Had not Bishop Cassidy said that the Hierarchy would not be telling people how to vote? 'Maybe, but I'll be telling them'.⁸⁹

3.11. THE CAMPAIGNS ARE OFFICIALLY LAUNCHED

The following day, Tuesday 6 May, the DAG held their first public rally. The ADC launched their campaign officially on Friday 9 May. Jean Tansey told reporters that the Amendment would

⁸⁷ Jack Jones, 'Poll Shows 57% intend to vote for Amendment', *Irish Times*, 5th May 1986.

⁸⁸ Joe Carroll, 'Issue like Mother and Child Scheme', *Irish Times*, 5th May 1986.

⁸⁹ Ibid.

be carried, but the campaign would be divisive. She said the Catholic Church should concentrate on discouraging its people from availing of divorce, rather than trying to ensure that State law was in keeping with Church law. She expected that lay Catholics, even if they did not want divorce themselves, would not deny a second chance to others.⁹⁰

At the ADC news conference on Friday 9 May, Senator Des Hanafin, Bernadette Bonar and William Binchy launched what some commentators and opponents later dubbed the ADC's 'fear campaign'. Binchy and other ADC spokespeople had hitherto tended to focus on foreign statistics, the divorce experience elsewhere, and comments such as that the mere assertion of marriage failure by a discontented spouse could qualify for a divorce. Now, at their campaign launch, the ADC leadership shifted gear and set forth a range of misfortunes they predicted would befall the divorced wife and children of the 'first family', should the Government plan prevail:

William Binchy, ADC: May I just mention one of the most important implications which as yet has not been called attention to by the Government? If this divorce Amendment were to be introduced into our law a divorced family would lose all the constitutional protection under article 41 and the new family would have all the constitutional legal rights. In practice this means in the area of maintenance, succession and the protection of the family home it's the second family who would be given the rights and the first family who would lose all constitutional protection.

⁹¹

Alan Shatter later reflected:

What Binchy said was predictable coming from that source. The issues he was raising as spectres that would befall the women of Ireland should we have divorce were already the difficulties the women of Ireland whose marriages had broken down and indeed men in Ireland were experiencing with simple marriage breakdown. These were all the issues that needed to be addressed whether we did or didn't have divorce and they're the issues that the Oireachtas committee recommended be addressed and which were ultimately addressed in the judicial

⁹⁰ 19860506 A.

⁹¹ 19860509.

separation legislation that I published after the divorce referendum in 1987. So, what Binchy had to say about this was entirely predictable.⁹²

Binchy blamed the media for not highlighting these dire consequences he claimed would occur. However, although he had the opportunities, he had not highlighted them himself in previous media appearances although he had presented them in his book, *Is Divorce the Answer?*⁹³ In it Binchy had marshalled a range of international studies, and built arguments condemning any attempt to introduce divorce in Ireland. The book provided the ADC with its essential strategy in the campaign. Yet, Fergus Finlay admitted, in response to a question by then *Irish Press* journalist, Geraldine Kennedy, members of the coalition fighting the campaign had not read this book.⁹⁴ It was, however, read by then Fine Gael back-bencher, Alan Shatter, whose expertise was as a family law solicitor and who had been shown a copy of the proposed wording by the then Taoiseach, Dr Garret FitzGerald. But his expertise was not called upon by the Government:

Shatter: My perspective was there was no advance planning or insight on the part of the Government, nor did it seem that any of those the Government put forward to speak on the issue had the necessary expertise initially to address Binchy's issues. They were constantly playing catch up. I think – and my recollection may not be accurate – but I think in the dying days of the referendum campaign there was some attempt made to announce the sort of substantive legislation that would ultimately be enacted if the referendum was successful. But at that stage all of the nightmare scenarios had been painted by Binchy and, basically, I couldn't get on the airwaves to debate with him because my party was nominating ministers and others and I was entirely sidelined.⁹⁵

As Fergus Finlay later remarked ruefully - it was a case of 'fail to prepare, prepare to fail.'⁹⁶

⁹² Alan Shatter, interviewed for this thesis, 23 May 2018.

⁹³ Binchy, *Is Divorce the Answer?*

⁹⁴ Fergus Finlay, *Snakes and Ladders* (Dublin: New Island Books, 1998) 33.

⁹⁵ Alan Shatter interview.

⁹⁶ Fergus Finlay in an email to the author, 26 January 2018.

It is impossible to know from this remove whether the spokespeople the Government sent out to the media could have made any difference to the result. As it was, there was no one who could match Binchy's conviction and fluency. He had, after all, written the book:

The effects of divorce on the law of succession would be significant. The losers would be divorced women ... Under divorce law, the second, or subsequent wife rather than the first wife, has first claim on the man's property when he dies. If a middle-aged man divorces his middle-aged wife in order to marry a younger woman, the younger woman rather than the former wife will be entitled to most of his property when he dies ... However, one feels about the result, the important fact to note is that if divorce is introduced into our law, the present succession rights of married women will be reduced, as they have been in other countries, in favour of the new wife.⁹⁷

However, there are two big 'ifs' earlier in the section:

How would women fare as regards succession rights under divorce? All the evidence from other countries shows that they would fare badly. The general tendency is to reduce the succession rights of divorced women, and in some cases to abolish them completely ... Similarly, in Ireland, **if** no-fault divorce were introduced and **if** the legislation followed the example of other countries, a wife whose husband had deserted her would lose some or all of her existing rights of succession to his estate.⁹⁸

Senator Des Hanafin, as Chairman of the ADC, emphasised to the news conference that not only would divorcees suffer the loss of succession rights, but so too would they lose rights as regards the upbringing of their children:

Divorced wives would lose their rights under the Succession Act. Divorced parents would lose their constitutional rights as guardians of their children. Divorced parents would lose all their constitutionally protected rights to provide for the religious,

⁹⁷ Binchy, *Is Divorce the Answer?* 40, 41.

⁹⁸ *Ibid.* 40.

moral, intellectual, physical and social education of their children as laid down by Article 42.⁹⁹

The ADC launch received coverage in all three national dailies and Joe Carroll's report made the front page of the *Irish Times*. According to Nick Lowry, writing later in *Fusion or Fission*, Joe Carroll later told members of the ADC that the debate had been won the day they launched their campaign:

Three days after the news conference, he said, there had been a consensus in the newsrooms of the national dailies that the ADC arguments would win if presented intelligently.¹⁰⁰

Jean Tansey of the DAG also began to feel that the anti-divorce side could come from behind and defeat the Amendment:

We had done a lot of work trying to get a referendum. And, we had campaigned to get a referendum. A lot of our energies went into that. A lot of our arguments went into that. We had people speaking who had been in difficult marital circumstances, who wanted divorce, and there was sympathy towards them. Some of that would explain the high positive vote in favour at the beginning of the campaign. But, possibly what happened after that was that the other side had been preparing and gearing up for, when a referendum might be called, and they came out fresh with their arguments full of energy where we were a bit tired and our arguments had been aired quite a bit at that stage'.¹⁰¹

Having their press launch on the Friday was a wise choice for the ADC because it gave them coverage in both the Saturday and Sunday newspapers.

The Dáil debate began on 14 May 1986 and was heated from the beginning with Dr Michael Woods TD (FF) echoing Lord Campbell who had introduced the Divorce Act in England in 1857 and later bewailed that he had unleashed a monster:

⁹⁹ 19860509.

¹⁰⁰ Binchy et al. *Fusion or Fission*, 57.

¹⁰¹ Jean Tansey, interviewed for this thesis, 28 July 2011.

Could it be that the Government have unwittingly created a 'constitutional Frankenstein' which may sleep for a time but then rise and stalk the land? ¹⁰²

Oliver J. Flanagan, a long-standing and trenchant critic of what he saw as liberal tendencies among members of the coalition parties, had no doubt what the outcome would be:

Irish people young and old have made up their minds that divorce is not in the interest of Irish society. ¹⁰³

Is this not an opportunity for all Deputies to speak out against the real motive behind this, which is to put the cloak of respectability on adultery? That is what we are doing when we ask people to vote 'yes'. That is the issue. In Dublin, in the heart of the midlands, in the mountains and valleys of Kerry, among the rocks of Connemara, our people are being asked to give the seal of respectability on adultery. ¹⁰⁴

During the same debate, some more liberal-minded deputies commented on the role of the Catholic Church:

Mary Harney TD, PD: I always thought it would be difficult, particularly if the Catholic Church got involved in the debate. One would hope at this stage that it would be a meaningful and rational debate and that the issues would be discussed and that matters that aren't involved would not be presented to the people in a dishonest way. ¹⁰⁵

Prionsias de Rossa TD, WP: I'm sure it (the debate) will be influenced to some degree (by the Church). Certainly, the speeches will be influenced. No doubt those who oppose the whole idea of civil divorce will be strengthened in their opposition in the Dáil and for myself, those of us who are concerned about the separation of church

¹⁰² Dáil Éireann, Volume 366, 14 May 1986. *Tenth Amendment of the Constitution Bill, 1986: Second Stage*. <http://www.oireachtas-debates.gov.ie/D/0366/D.0366.198605140005.html>. Accessed 2 August 2011.

¹⁰³ 19860514.

¹⁰⁴ Dáil Éireann - Volume 366 - 15 May, 1986. *Tenth Amendment of the Constitution Bill, 1986: Second Stage* (Resumed).

¹⁰⁵ 19860514.

and state on this island will be more committed than ever that this referendum succeeds.¹⁰⁶

An Tánaiste Dick Spring TD, Lab.: There is a fundamental difference in their (Catholic Church's) position and my position and that of the Labour Party and that is in relation to the right to remarry. We in the Labour Party are firmly committed to giving people the right to remarry in cases where marriages have failed and failed utterly.¹⁰⁷

Two weeks later, Fine Gael launched its own campaign. At the news conference, it was clear that the ADC had made strides towards capturing the campaign agenda as reporters' questions focused on the doubts it had raised on succession and welfare issues. In one of the first questions, Minister for Justice Alan Dukes was asked to comment on the rights of the first family. Even the use of the term 'first family', an ADC phrase popularised by William Binchy, could be interpreted as a sign of the ADC's success in framing the message reminiscent, of PLAC's framing of the 'pro-life' message in 1983:

Alan Dukes: That's precisely why we had to make that proviso; to protect the first spouse. The first spouse would lose statutory rights of succession and that's the area, I think, that most people are talking about. The proviso in the Amendment substitutes constitutionally for that.¹⁰⁸

The other main issue for the media was the question of what the Catholic Church might do in the campaign:

Peter Barry TD (FG), Minister for Foreign Affairs: Well I understand that the Church's attitude is that they wish to inform their members what they see should be the attitude of their members in this campaign. Ours is precisely the same. We wish to inform people as well and ask them to vote 'yes' on this. We don't intend to in any way argue with the Catholic Church's right to inform its members.¹⁰⁹

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ 19860529.

¹⁰⁹ Ibid.

Five days later, *Today Tonight* held the first of its outside broadcast debates on divorce. It took place at the Great Southern Hotel in Galway between Alan Dukes and Michael O’Kennedy (FF), the former European Commissioner. Jean Tansey appeared for the DAG and William Binchy for the ADC. Dukes opened on a compassionate note but was immediately followed by O’Kennedy who said that the property argument was against divorce and that people had to be aware of all the consequences in terms of succession rights. The presenter, Brian Farrell, put it to Binchy that he was drumming up fear but Binchy said he was expressing alarm at what the Amendment said, because it would grant rights to establish a second family - thus removing succession rights from the first family. Dukes tried several times to argue that the legislation which would follow the Amendment would protect divorced wives and the children:

William is wrong in saying that certain things have been established. It has been established quite clearly that the constitutional and succession rights of the first family are unaffected. They are not affected any more than they would be than if there more children in the first family. That is beyond doubt. The constitutional right of the first wife is unchanged. The first wife’s rights of succession under the Succession Act must be changed and that is why we have written in a constitutional substitute for what is now a statutory right under the Succession Act. As regards divorce against the wishes of the first person unfortunately (that) is always the case in marriage breakdown. The wife wants a barring order. There is one of the parties who initiates separation proceedings. There is one party who initiates divorce. It is always the case that one party decides that things have gotten to the point where they want to begin this ... there are already people suffering, not from divorce but from marital breakdown.¹¹⁰

Perhaps under time pressure, Farrell cut off Dukes’ efforts to elaborate on the accompanying legislation. Binchy returned to his theme of the deprivation of the first wife’s rights and attacked Dukes about a *Sunday Press* article ten days previously. Quoting Dukes, he said:

It is only the relationship between the spouses that is dissolved. Divorced persons can no longer invoke Article 41 so far as the relationship between themselves is

¹¹⁰ 19860603.

concerned'. There is a change in that Article 41 will not apply to divorced wives. That is not what you said five minutes ago. ¹¹¹

(APPLAUSE)

Dukes: Divorce breaks the union, not the relationship to the children. The point is to address the fallacy put about by William Binchy. ¹¹²

In quick succession, ICTU, the Labour Party and the Workers' Party launched campaigns calling for a 'yes' vote.

Today Tonight transmitted its second outside broadcast debate, this time at the Imperial Hotel, Cork, a week after the Galway debate, and again presented by Brian Farrell. The panellists were Dick Spring, Tánaiste and leader of the Labour Party; Mary O'Rourke, Fianna Fáil spokesperson on education; Senator Catherine McGuinness, who was in favour of the referendum; and Joe McCarroll of the ADC. The latter was also the author of *Marriage or Divorce: The Real Issue*. McCarroll's approach differed from Binchy's and others on the ADC side in that he did not rely so much on international statistics and the dire consequences which would befall the 'first family'. In the introduction to his book, McCarroll wrote:

I have tried to develop an analysis of marriage based on an analysis of the human person, human sexuality and the ascent of love which is our life's work as adults, and an analysis of divorce based on the contemporary understanding of marital breakdown and an analysis of social rationalisation. ¹¹³

To McCarroll, the removal of the divorce ban would be a corruption of Ireland's marriage laws and a betrayal of the 'human person'. It would be a 'serious spiritual fall by us from democracy into totalitarianism'. ¹¹⁴ McCarroll did not contribute a great deal to the Cork discussion though this may have been due to his then unfamiliarity with live debate programmes. The

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³ Joseph McCarroll, *Marriage or Divorce: The Real Issue* (Dublin (Kill Lane Blackrock Co. Dublin): Position Papers, 1985) 6.

¹¹⁴ Ibid. 127.

Cork programme did not contain what Senator Catherine McGuinness later called ‘scaremongering’ but did contain several contributions from separated as well as deserted people recounting their situations and views. It also focused to a greater extent than before on the kind of society people wanted for Ireland, part of which, inevitably, centred on how far that society would be prepared to go to facilitate the desires of many of those who were separated or had been deserted:

Brian Farrell: David Riordan, what about the issue that people have been raising where one spouse doesn’t want to get involved in a divorce situation?

Yes, well I’ve been working in this area for about the past nine years now as a lawyer and invariably it is the wife who is the petitioner for divorce. It has been put about that the wife is the exposed party in this. If anything, it’s the husband (who) is the reluctant party to consent to a separation. I’m talking about legal separations now. The procedure to be gone through before a divorce decree can be granted is as follows. There has to be an attempt at reconciliation. If that fails, there must be an attempt at conciliation and then there must be a legal separation, divorce *a mensa e thoro*, or separation agreement and thereafter a divorce decree might issue, provided proper provision is made. Well at that stage it is for the court to determine if the marriage has failed. And quite clearly if reconciliation doesn’t work, if conciliation doesn’t work, if the court is satisfied at that stage that the marriage has failed, then quite clearly it should be granted.

Farrell: Father Brian McKeivitt, what’s your overall view on this one? ¹¹⁵

Well, I think that there are a number of people in second unions or in broken marriages and would like to establish a second union and certainly I think that they do deserve compassion. If that was the beginning and the end of the argument about divorce, and about this referendum, then perhaps we could agree that divorce might be allowed. But it is not the beginning and the end of the divorce issue. There are many other issues involved in this thing and these also must be faced up to. We must realise the devastating consequences of divorce in our society. That gentleman said that ... it is mostly ladies or women that apply for divorces and that is correct.

¹¹⁵ Fr Brian McKeivitt O.P. is a Dominican priest and, at the time of writing, is editor of *Alive*, a freesheet presented in broadsheet format claiming a circulation of 250,000.

Because in countries where divorce is the normal way to get separation and the normal way to get maintenance rights, is through divorce. But in our country, we can have those without divorce. Now because of the devastating consequences of divorce, I think we have to weigh up the rights of the, or the so-called rights of the minority to enter into a second liaison and call it marriage against the rights of so many other people. ¹¹⁶

McKevitt then reiterated international statistics and the ADC strategy of turning the compassion argument around so as to characterise divorce and remarriage as anti-woman and anti-child. He also echoed comments of Fr Michael Noonan aired previously, concerning the pain of children who endlessly hope their divorced and remarried parents might reunite:

Farrell: (Senator) Catherine McGuinness, what about that, that it's not really compassion because you're compounding the problems, particularly of children?

Well, I think that we are rather getting away from, in all this kind of scaremongering that's been going on, we're rather getting away from the fact that what the referendum is trying to do is to deal with a social problem in this country ... But with regard to the effects on children, it is the separation of the parents and, more still, the conflict that leads up to the separation of the parents, that affects children. ¹¹⁷

There had been suggestions up to and during the campaign thus far that church annulments could provide a form of remedy. According to Dr Garret FitzGerald, Cardinal Ó Fiaich had proposed that the State effectively might turn a blind eye to those who remarried having obtained a church nullity. However, there was little enthusiasm among RTÉ audiences for Church nullities as a solution:

Sheila O'Connor: I'm a legally separated woman for the last five years, living in a second relationship with two children in the second relationship. Two points I wanted to make. One was divorce. Unless I can remarry I (and) my two children will never be legally entitled to belong to a family unit, [a] legally recognised family unit, and the second point about church nullity is I would prefer to tell the children of my

¹¹⁶ 19860610

¹¹⁷ Ibid.

first marriage that I didn't get on with their daddy and now we live apart than to tell them that there's something wrong with me or something wrong with my husband. The church nullity will only give you grounds on incapacity.

Farrell: Joe McCarroll, would you like to take up the nullity?

Well I think listening to Sheila ... I think it's clear that there are people on both sides who on grounds of compassion have an appeal to us. And because there are people on both sides, the arguments from the grounds of compassion doesn't solve it so you have to turn to the two other criteria, the balance of social stability and the balance in pluralism.¹¹⁸

This *Today Tonight* programme transmitted from Cork encompassed most of the Church nullity issues associated with divorce and remarriage at the time. However, it was noticeable that those denouncing divorce as devastating had little response to the argument that entrapment in an abusive marital relationship could be equally devastating. There was concern over the material consequences of divorce but there seemed to be a disconnect between some people's understanding of divorce and their understanding of marital breakdown. Finally, when the presenter raised the question of what kind of society Ireland needed, the main contributors were two obviously traditionalist Catholic priests and the Protestant independent senator from Dublin University, Catherine McGuinness:

Farrell: Mary's trying to get in.

Mary Sheehan (deserted wife): I'm just telling you and I want to tell the people at home I do not want divorce brought in. I'm quite content about my life the way it is ...

Woman in audience: Excuse me, I would like to take issue with the speaker over there. I am also a separated person. I would like to agree with Senator Catherine McGuinness in the sense that I think that nullity is an absolute cop-out. It is an insult. I don't want to tell my children that I never had anything going for them and I think that most separated people certainly want divorce. We want to be able to give our

¹¹⁸ Ibid.

children the right to belong to a second union and to have it legalised. And we would like to have a second chance.

Farrell: Could we shift the argument a little bit to the consequences and perhaps the very material consequences and I know that Jim Long down there has something to say on this topic?

Jim Long: Yes. First place I would like to start is take the family farm in Ireland. People have striven for generations to hold on to that land. If divorce comes in, you'll arrive at a situation whereby the farm may have to be sold or broken up in order to arrive at a settlement. The same can happen to a family business. The same can happen to a private home, even despite the family home protection act. Now these are very serious social consequences and as divorce progresses, as progress it will, because it does in every country. You start with a small number and the number grows and grows and grows until you get to where it is in California at 95% at the present time. These problems will multiply across the land. How are people going to borrow money, how will they pay back the money? Who's going to have first call on the money? Will the bank have first call on the money, will the person who owns the property have it, will the divorced spouse have it, will the new spouse have the first call? Enormous problems.

The 95% divorce rate in California cited by Jim long was not challenged. The divorce rate in California in 1986 was just over 20 per 1,000 married women. ¹¹⁹

Farrell: Isn't the argument though that this has to do with marital breakdown, not specifically divorce.

Long: But all this is tied into marital breakdown, because if it breaks down and there is divorce, provision has to be made for the spouse who is divorced and possibly for the new one coming in. If the individual can't take it up, then the state will have to

¹¹⁹ Monthly Vital Statistics Report.

https://www.google.com/search?q=divorce+rate+in+California+in+1986?&tbm=isch&source=iu&ictx=1&fir=CxIZX0ISgIbR2M%253A%252CS_FbcyfWjSu7fM%252C_&vet=1&usg=AI4_kRenA9XJLGXjq9swFWMFJgLwKlig&sa=X&ved=2ahUKEwjis-S6fzhAhUCQxUIHaO1CXM09QEwEHOECAkQBg#imgrc=CxIZX0ISgIbR2M. Accessed 2 May 2019.

take it up. The taxpayer is over pressed at the present time and he's going to have to pay more money in order to facilitate people to have divorce.

Farrell: Thank you, Jim. Can we take the answer to that perhaps from Kevin Cross?

Kevin Cross: Well I think the point is that as things stand now, the courts dealing with separation of properties and dealing with all the points that Mr Long has raised and there's nothing new that this referendum introduces except the right of some people who want to remarry and the whole issue of property is a red herring with the exception that this referendum introduces to the Constitution for the first time a constitutional right for the dependent spouse that until the court is satisfied that that dependent spouse is properly provided for and will be properly provided for, there can be no divorce. So, the whole issue of property is, in a sense, a red herring.

Liam Chambers: As a farmer I'd just like to take issue with the contention that family farms will be split up because of the introduction of divorce to the constitution. As our legal person has said already, the division of family farms will be no different. The problem is caused by marital breakdown, not by divorce.

Farrell: And they'll be having a chance to it in a couple of weeks. Joe McCarroll?

I think one point I'd like to take up, Kevin's point that it will give some kind of a constitutional right to the dependent spouse and children. I think the little phrase to watch for there will be 'having regard for circumstances' because that seems to mean, what clearly the wording does not say that the man cannot get a divorce unless he has made an arrangement which will mean that the woman and children will not suffer a worsening of their economic situation. I mean, marriage, or divorce doesn't multiply a man's income by two. I mean if a man can just about barely scrape by on one income and then he sets up a second relationship, I think the society is being unwise to transfer the stamp of social approval to that as if it were something responsible when in fact the money isn't multiplied by two.

Dick Spring: About 25,000 people are in receipt of benefit, be it deserted wives, single parent allowances or split allowances and this obviously is in the range of £50 million and there will be similar payments in the new situation. Secondly, irrespective of whether this campaign ever took place or otherwise, I personally have felt very strongly for a long time we need new family courts system and we need to strengthen our conciliation services. And that was where the costs will come in. But

I believe irrespective of this campaign which I obviously hope is carried, that we're going to have new family courts anyway because they're very necessary. They're necessary to deal with this very serious problem in a non-adversarial manner which we have presently.

Farrell: I know many of you want to get in on this, but could I please ask you to move to this over very important topic and perhaps Father McKeivitt would lead us off on this: many people say this is a debate about the kind of society we have, the kind of democracy we have.

McKeivitt began by referencing the common good and then brought his argument on to a reminder of God's plan:

I think that many people in this country are personally opposed to divorce. But perhaps would be reluctant to try and impose that on other people. But I think that's a wrong way of looking at it. Because what the real issue here is, what kind of society do we want? What is for the common good, for the best of our society? Divorce or no divorce? Now, during this referendum we are the legislators. And it is up to us to create the kind of society that we want, because if we do not create the kind of society that we want, then we will be given a kind of society that other people want. Now many of us are people of faith and I think it would be a very strange thing if our faith did not influence the way we think, the decisions we make and the actions that we take, and the kind of society that we are going to have.

Farrell: John A. Murphy,

Professor John A. Murphy, Historian, UCC: Brian, could I say that before taking about the kind of society that you want, let us concentrate on the society that we have. We have a society which is quite different to California. I know West Cork as well as Jim Long, and as far as I can see there's no likelihood that there's going to be a galloping 95% divorce rate. I think one of the most alarming and irresponsible approaches by the anti-divorce people in this campaign has been to conjure out of the air figures without any relevance to the cultural and social ... so that citing figures in a vacuum simply isn't helpful to say the least

Fr Scanlon (audience member): I would have to say that the most compassionate person that ever walked this earth was Jesus Christ and he did say 'no' to divorce. It is not a Church law; it is not a law of the Pope. It is the law of God.

McGuinness: There is no major group in this country who has advised a no vote other than groups that are attached to the Roman Catholic Church one way or another. And I would suggest that they look not only at all the different people who belong to minority religions, but they look also to the very large number of sincere Catholics like my colleague (Senator) Brendan Ryan who are capable of being devout, being sincere, being committed and yet being able to be tolerant and to accept that society has more views than just their own.

Spring: There seems to be a fear in the people who are opposed to this referendum that we're going to have an instant divorce culture overnight in this country. Now, I don't believe that is going to be the situation. I don't believe that anything is going to change that dramatically in our society.¹²⁰

On 11 June 1986, the day after the *Today Tonight* programme from Cork, the Catholic bishops, meeting in Maynooth College, said that the ultimate decision rested with the people. At the same meeting Bishop Joseph Cassidy, while condemning divorce, said that Catholics with an informed conscience could conscientiously vote 'yes' to remove the constitutional ban.¹²¹ The following morning's front-page story by Joe Carroll of the *Irish Times* reported:

Bishop Cassidy was asked to clarify if a Catholic could vote 'yes' without incurring guilt. 'If a person has tried to inform himself and has weighed the thing up carefully, done his or her best to consider all the implications, can go into the polling booth and before God say, 'this is the way I want to vote,' then of course it is possible. Conscience is the ultimate arbiter,' he said.¹²²

¹²⁰ Ibid.

¹²¹ 19860611.

¹²² *Irish Times*, 12 June 1986.

Bishop Cassidy's statement on conscience seems somewhat at odds with that of Bishop Jeremiah Newman of Limerick, also interviewed by Joe Carroll, who made it clear that he would be telling his people how to vote.¹²³

The bishops, at their conference on 11 June, issued a very strong statement, their second of the campaign, condemning divorce as weakening the stability of marriage and society as a whole. The statement contained a far more pointed attack on the Government than did the bishops' statement of 26 April. Legislators, they said, had to take account of those who did not accept the teaching of the Catholic Church. They have to make laws giving citizens the maximum freedom which is consistent with the common good:

Their first concern as legislators or as voters, however, is for the well-being of society as a whole: and it can scarcely be denied that the well-being of society is bound up with the stability of marriage and the family. In the forthcoming referendum voters must ask themselves whether other factors outweigh the damage which divorce would certainly cause to individuals, to families, to children and to the whole of society'.¹²⁴

An unpublished MRBI survey conducted on behalf of the Government and dated 14 June showed an even split. Jack Jones later interpreted this as the tipping point when the totality of public opinion reversed.¹²⁵ The latest the fieldwork could have been done for that poll would have been 12 and 13 June, following the publication of the bishops' statement which received wide coverage on RTÉ on 11 June, the day it was issued, and in the print media the following day.

On the 12 June the ADC called a news conference and released a statement again turning the pro-divorce compassion plea around:

Compassion is the central issue. The ADC accepts the pro-divorce lobby's statement that they are motivated by compassion'. But however good their intentions the fact

¹²³ Ibid. 5th May 1986.

¹²⁴ Summer meeting of the Irish Bishops' Conference, 10-11 June 1986. 'Statement on the Proposed Constitutional Amendment on Divorce'.

¹²⁵ Jones, *In Your Opinion*. 78.

is that such compassion is at the expense of other family members. Where is the compassion for the wife who is divorced against her will? Where is the compassion for the wife who loses all her pension rights? Where is the compassion for the wife who loses all her succession rights? ¹²⁶

At the news conference, the Chairman, Senator Des Hanafin, denied that the ADC was using scare tactics. 'One man cannot support two families' he said and repeated the ADC's warning that a divorced wife would be worse off financially and that parental right to rear their children would be weakened and even destroyed.

William Binchy was interviewed for RTÉ News by Caroline Erskine. As was his established practice in the campaign, he ignored the Government's intention to pass legislation accompanying the Amendment, if passed, which had been detailed by Dick Spring in the *Today Tonight* debate from Cork two days previously. Binchy's strategy was to focus the voter's mind solely on the wording contained in the Amendment to the exclusion of any proposed legislation. ¹²⁷

3.12. ENDGAME – FITZGERALD VS BINCHY

The penultimate *Today Tonight* campaign programme, transmitted on Tuesday 17 June, just over a week before polling day, was not a debate but consisted of two separate, 'end-to-end' interviews rather than a joint interview where each guest could comment on or challenge the other. The first interview was with William Binchy, the second with Taoiseach Garret FitzGerald. For reasons not stated in the programme catalogue, or in the programme itself, the interviews were conducted separately by two presenters. Brian Farrell introduced the programme and handed over to John Bowman to interview William Binchy. At the end of that interview Farrell took over and interviewed FitzGerald. It made for a curiously disjointed programme, with each guest stating his positions over a range of topics which had surfaced in the campaign while being interviewed vigorously by Farrell and Bowman.

¹²⁶ Anti-Divorce Campaign Press Release 12 June 1986 [In private hands].

¹²⁷ 19860612.

Binchy returned to his theme that marriage would no longer be for life and denied that the ADC was endeavouring to impose its beliefs on the population. He and Bowman spent considerable time arguing about nullity, which was never really a referendum issue once the campaign was launched. Bowman pursued Binchy on the religious question and Bishop Cassidy's acknowledgement that Catholics could, in good conscience, vote 'yes'. Michele Dillon criticised the way the interview was handled:

Again, with these questions, John Bowman was not able to match Binchy's argumentative style and command of the issues, well-illustrated by the authoritative way in which he dealt with Bowman's challenging questions on the North.¹²⁸

Dillon commented on what she called 'Binchy's peremptory style ... and his tendency to redefine the questions asked of him did not allow for an in-depth exploration of these key issues'. Her view was that his forceful style was all the more significant because he appeared so often, which, as she had pointed out earlier, was because the ADC had designated him as their leading, authoritative and most strongly recognisable spokesman.

FitzGerald referred to opinion polls only to say that public opinion for some time had been in favour of changing the Constitution. This may not be surprising since he must have been aware of the Government/MRBI poll mentioned above, which showed an even split between the 'yes' and the 'no' – a split Jack Jones of MRBI identified as the tipping point.¹²⁹

If FitzGerald knew that the weight of public opinion had been swayed, then his closing remarks take on a particular significance:

FitzGerald: Indications have been, up to now, that there was a majority in favour. I think the majority will be small, but I believe that likelihood is that there will be, it will be passed by a small margin.

Farrell: And if you are wrong, won't you have put back the introduction of divorce by ten years?

¹²⁸ Dillon. *Debating Divorce*, 132-133.

¹²⁹ See 3.11 above.

Well, maybe, but I mean there are always reasons for doing nothing. The most tempting thing for any politician is to do nothing in any difficult situation. I believe it is the duty of politicians to avoid that particular temptation at least and get on with their job and give a lead.¹³⁰

FitzGerald's, perhaps rueful, comment came near the end of the *Today Tonight* programme. He may have taken some comfort nine years later when another Fine Gael-led coalition introduced a second divorce Amendment and saw it carried.

As observed earlier, this programme, catalogued as *Today Tonight no. 800. FitzGerald v. Binchy on Divorce*, in fact comprised two separate interview segments, conducted by two different presenters and discussing a range of different issues. However, there were two themes upon which the interviews converged. These were the meaning of 'the *failure* of a marriage' and the issue of succession and other rights of the first wife and family. To compare the FitzGerald and Binchy comments more easily, for the purpose of this work, the author has edited together relevant segments of the transcript out of transmission sequence, bearing in mind that Binchy preceded FitzGerald in the programme as it was transmitted.

On the interpretation of what is meant by 'marriage failure' Bowman asked whether Binchy did not trust the judiciary:

Oh, I very much trust the judges, I think we've got a tremendous judiciary in this country, but unfortunately, they do have to administer the law and if we were to, in fact, introduce this Amendment, the judges would be obliged constitutionally to withdraw constitutional protection for the first wife in relation to her husband after divorce ... there are two key expressions, I think, in this Amendment. One of them is the concept of a failure of a marriage and I would like at this rather late stage just to clarify this position because there's been so much uncertainty about it. What the people are voting on, on 26 June, is to introduce into our constitution a basic criterion for divorce; that of the failure of a marriage. They are not introducing into our law anything to do with a divorce law based on separation. That is a matter of legislation which can change at any stage by the Oireachtas at any time.

¹³⁰ 19860617.

Bowman: Other lawyers, as distinguished as yourself, Mary Robinson for instance, disagree with you. They say that it would be reasonable to conclude that where a conflict arose as between the rights of the first family and the second, that preference might have to be given to the rights of the first family.

Binchy: No, Mary doesn't at all disagree with me that the basic criterion for divorce is the failure of the marriage. The other point that you mentioned there is on a separate question. Let's just take the failure of the marriage. The notion of failure, just for a moment, when does a marriage fail? You could say it fails when the goals in the marriage fail, when the marriage turns out to be unsatisfactory for one partner. When one partner feels the other partner is behaving obnoxiously or boringly or unpleasantly. The very notion of failure, I would suggest to you, John, is one that neither you nor I are in any way certain about. Yet that very notion of failure is to be the basis of our divorce law.

FitzGerald: There will be some cases where there'll be disagreement. But remember that in such cases, the partner who doesn't want the divorce, who believes that the marriage hasn't failed, who believes there is a chance of reconciliation, will put that case to the judge and unless the judge is satisfied that that partner is wrong and that the marriage has failed contrary to what that partner says, and that there is no reasonable possibility of reconciliation, despite what that partner says, constitutionally, a divorce cannot be given. So, the situation is not quite as you present it.

Bowman: You've been accused of scaremongering on your side.

Binchy: Absolutely not, John. If I could just, instead of making assertions myself, if I could just mention what the Minister for Justice himself has said about the Amendment and I think that if that is scary, well then, I think it gives an indication that the Amendment in fact is a source for concern. The Minister for Justice, Mr Dukes, has pointed out that under the Amendment the first wife would lose her succession rights. He's pointed out that the second wife would have full constitutional protection as a member of a new family and he has also very interestingly pointed out that in the relationship between the divorced wife and the divorced husband, that divorced wife would have no constitutional protection under Article 41. This is what the minister has said. The minister has not said clearly yet what the effect on pensions will be. But from that the Taoiseach just yesterday said

on that particular theme, it's quite clear that that pension rights of first wives will be reduced. Finally, if I could say, just if one looks at the Amendment itself, it's quite plain that this Amendment contains not one word of protection for the psychological welfare of children. A divorce may be granted under this Amendment even if that divorce would be damaging for the psychological welfare of children and in that regard, this divorce law is the most inhumane insofar as children are concerned that I'm aware of.

FitzGerald: Well, let's examine the different aspects of this. I heard William Binchy earlier on saying that the present law protects maintenance, the family home and succession rights. I'm a little taken aback about part of this. First of all, as far as maintenance is concerned, that of course will be protected in the case of divorce just as it is in the case of separation. There is no change in that respect. As far as the family home is concerned, there is not protection in the sense of giving the spouse, the dependent spouse, normally the wife, any right to the family home unless she, out of her own monies, her own resources, has contributed to the purchase of that home. She has no right to it whatever. She has a right to prevent it being sold without her consent, something which skilful lawyers frequently get around, but she hasn't got any such right. We're giving for the first time in the legislation we propose to introduce a right to the wife to claim a share in the family home or the family home itself on the basis of what she's put into the marriage as a wife and mother which at the moment under the present law is given no value whatever and gives her no entitlement whatever. It's the first time that there will be a recognition of what is due to the wife in those circumstances. So far as succession rights are concerned, the first wife will lose succession rights but will have the right to compensation and must be compensated and indeed if that compensation were not given, the divorce would be unconstitutional because it would not have made adequate and proper provision ... in relation to the circumstances so there couldn't be a divorce in those circumstances, so all these statements are incorrect contrasting the situation of a divorce or a separation at present. And indeed, a lot of the arguments that are made at present are not arguments against divorce, they're arguments against marriage breakdown but it happens, and we can't prevent it, we can try ... some of the measures we're taking are going to help to minimise marriage breakdown by raising the age of marriage and insisting on two months' notification.

Farrell: Couldn't one argue that all of these extra protections could be brought in by legislation without ever introducing divorce?

FitzGerald: Well you can bring in a number of these protections, there is a constitutional doubt about whether you can without changing the Constitution as we're doing, provide the protection in the family home in the way we're doing as to the right of the wife to an interest in the family home where she has not made a monetary contribution to it. There's a constitutional doubt on that. That doubt will be resolved by this Amendment and that right will be ensured.¹³¹

As usual, Binchy ignored the Government's insistence that it would introduce legislation to ensure that the wife to be divorced would be compensated. But that matter was not put to him. Similarly, FitzGerald was not asked to distinguish between the wife's right to compensation and the right, under law, not to have the family home sold over her head. It could have been put to him that the first wife, facing a divorce procedure, might realise that in the future ahead of her she would be far worse off, even with compensation.

The following Sunday, 22 June, Gerald Barry, political correspondent of the *Sunday Tribune* who had sight of the MRBI poll on behalf of the Government, revealed its details on the front page. The poll showed a much closer result in the divorce referendum than any poll published thus far, with 51% in favour and 49% against. Barry also reported that the survey was done at the same time as the *Sunday Independent*/IMS poll from which it differed considerably. He wrote that the MRBI poll was in line with what Government TD's were reporting back from the constituencies. However, the worst news for Fine Gael and Labour was from Dublin:

Dublin has turned out to be the major obstacle for the pro-divorce campaigners. The Fine Gael poll showed slightly closer than a 60% - 40% divide which, according to party strategists, would not be adequate for the measure to be passed. Their findings are echoed by the other parties which have been canvassing in Dublin.¹³²

¹³¹ Ibid.

¹³² 'Fine Gael secret divorce poll shows voters are evenly split' in the *Sunday Tribune*, 22 June 1986.

3.13. THE COUP DE GRÂCE

On the same day, 22 June, the bishops fired their last broadside against the Amendment. The *Sunday Independent* quoted Cardinal Ó Fiaich on 'the plague of divorce'.¹³³ Seven other bishops followed with letters read to their congregations reminding them of God's plan and the challenge it now faced:

Dr Kevin McNamara Archbishop of Dublin: Some of you may have been confused by some recent media interpretation of the bishops' position on the matter. The fact is that in our statement of June 11 we expressed our emphatic opposition to the introduction of divorce I cannot reconcile it with God's clear 'no' to divorce I shall be voting 'no' to the constitutional Amendment.¹³⁴

Dr Thomas Morris, Bishop of Cashel and Emly: The most frightening consequences of introducing divorce would be the damage it could do to families.¹³⁵

Dr Michael Murphy, Bishop of Cork and Ross: I am confident that you, as responsible people, will bear in mind that how you vote on Thursday will affect not only you, but your children and your children's children.¹³⁶

Dr Thomas McDonnell, Bishop of Killala: With divorce as an option, spouses will not struggle as they should to save a difficult marriage. The growth of divorce may be slow here, but it will come with time, and we are likely to have divorces among our relations in the next generation It would not be fair to say that by voting 'no' one was imposing Catholic principles on those who did not accept them. It would be more just to say that you are defending a legal concept of marriage that prevailed in all Christendom until recent time.¹³⁷

¹³³ *Sunday Independent*, 22 June 1986.

¹³⁴ *Irish Times*, 23 June 1986.

¹³⁵ *Ibid.*

¹³⁶ *Ibid.*

¹³⁷ *Ibid.*

Dr Joseph Cassidy, Bishop of Clonfert: Although marriage would be legal if the Amendment was passed, it would be immoral. ¹³⁸

Dr Diarmuid Ó Súilleabháin, Bishop of Kerry: Divorce falsifies the true compassion of Christ and, where it has been introduced, has damaged respect for lifelong marriage. ¹³⁹

Dr Jeremiah Newman, Bishop of Limerick: The fact that other Christian Churches have allowed it (divorce) must not weigh with us Catholics. The fact that a few of our own priests and theologians would seem to favour it must not weigh with us either. There are always people like that, but we must stand by the faith. ¹⁴⁰

Alan Shatter who, as a member of the Oireachtas Committee on Marriage Breakdown, had listened to Church representatives, was not surprised by the stance the Church had taken:

The Catholic bishops, triumphant from the success of the so-called pro-life Amendment, engaged in a similar approach to the divorce issue they'd previously engaged in. So there was widespread commentary from bishops and priests and in the churches adding to the nightmarish spectre that was going to befall the entirety of society and the collapse of marriage as we know it as part of the public narrative ... and the government, I believe as a tactic, decided they didn't want to further upset the bishops and they just literally would keep their heads down and ride the tide and it would be all right on the night ... What actually happened with that referendum was a classic example of utter and complete political incompetence on the part of those in government who decided to go ahead and hold the referendum and those who controlled how the campaign or non-campaign was run. ¹⁴¹

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ *Sunday Tribune*, 22 June 1986.

¹⁴¹ Alan Shatter interview 23rd May 2018.

3.14. NOT 'ALRIGHT ON THE NIGHT'

MRBI conducted the field work for their final *Irish Times* poll on Thursday 19 and Friday 20 June, a week before the actual vote. But the newspaper did not publish it until Wednesday 25, the eve of the vote. The poll showed, for the first time, a majority against the Amendment (see Table 3).

Table 3: The Irish Times/MRBI poll 25 June 1986

<i>'As you probably know, a Referendum is to be held on Thursday next to remove the ban on Divorce from the Constitution, and in its place to provide - through the Courts - for the possibility of Divorce where a marriage had failed for at least five years, and there is no possibility of reconciliation. In this Referendum, will you vote Yes, for this Amendment, or No, against the Amendment?'</i>								
Answer	Total	Dublin	Urban	Rural	Farmers	65+	Male	Female
For	40	45	42	38	33	23	49	31
Against	49	44	46	53	55	69	42	56
D.K.	11	11	12	9	12	8	9	12
Source: <i>Irish Times</i> . 25 June 1986								

The *Evening Herald* reported Jeremy Hennessy, the ADC press officer, as saying: 'We are very confident now. We lost the *Late Late* debate but when the bishops came together on Sunday the swing was remarkable'.¹⁴²

The following day, the Tenth Amendment of the Constitution Bill, 1986, was emphatically defeated with 63.5% voting against it, and only 36.5% in favour.

¹⁴² 'Landslide defeat is predicted', *Evening Herald*, 25 June 1986.

3.15. 'THE DEBATES AFTER THE REFERENDUM ARE BETTER THAN THE DEBATES BEFORE IT.' ¹⁴³

So said Senator Michael D. Higgins to the *Today Tonight* presenter Pat Kenny on a link from the Galway studio to the referendum results programme, on the afternoon of the count. Higgins, a member of the Labour Party, had campaigned for change. He said he believed that although the divorce debate had ended with a result against the constitutional change project it had accomplished things which may not have been immediately evident:

Sen. Michael D. Higgins: Can I give you an example that today for the first time I heard adequate debates about the church-state dimensions of all of this rather than the other aspects of it? It has immense church-state implications. There's no doubt at all in my mind that everything has now changed and that many of the people who want a more genuine open pluralist society just simply have to take on the [religious] denomination that has been seen to be victorious in this referendum in areas like health and education and so on.

Kenny: At the end of the day though, Michael, do you take comfort from the fact that if you work out the figures that probably somewhere between 30 and 35% of the Roman Catholics in this country said no to their bishops.

Higgins: Well at 38% in Galway West and I'm sure that is a very promising sign. What I think has been damaged, and here I can only speak personally has been the relationship of people with their church, when the chips were down, I emphasise (in) a minority of cases, very crude approaches to fear were made. It was the distinction between, if you like, that 38 – 40%, many of them choose to vote. In the case of many of the others they were told to vote. In one church the suggestion was you should listen carefully, reflect and then obey. And in other cases, people were told very straightforwardly that if they voted for divorce that they were voting against their religion and children of divorced parents would not be entitled to the sacraments and so on. And I must say one point here and it's again I hope ... because I see this not as the end of a debate, Pat, at all. I think that there is a debate now open in Ireland that I hope will continue and flourish. What is the nature of the state

¹⁴³ 19860627.

we live in and is it in fact a state that is under the ethos of a single denomination?

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While Higgins was a critic of some of the Church's tactics in 1983 and 1986, he was not anti-Catholic but drew a clear distinction between the role of the State and the role of the Church, as he saw it, in Irish political life. This was raised in the evening edition of the *Today Tonight* results programming. Pat Kenny was interviewing Dr Laurence Ryan, Coadjutor Bishop of Kildare and Leighlin together with Bishop Walton Empey, Church of Ireland Bishop of Meath and Kildare. There had been much controversy over the Catholic Church's activities during the campaign, especially as Bishop Cassidy had stated that the Church would not campaign but would teach:

Bishop Laurence Ryan: Well, the Catholic bishops considered it their right to speak on, as you called it, the religious aspect of divorce and marriage. But also, on the moral dimensions of divorce in the civil order, just the same as it would speak on the moral dimensions of violence or justice or redistribution of the goods of the earth or caring for the old or Travellers or anybody like that ... and its position was stated in a pastoral letter, *Love is for Life*, issued 15 months ago.

Kenny: However, the government did, as the civil authorities say, 'we are going for divorce'. We recognise a problem here for tens of thousands of people, we want it sorted out, didn't you in effect say 'look, we don't want you to sort it out and we're going to try and prevent you doing so'?

Ryan: I think that's putting it a bit strongly.

Kenny: Isn't that putting it simply though?

Ryan: It's putting it strongly. What we did was we examined the matter, we restated what had been stated before the issue was put to the people, and we gave what were our convictions, but we also said it's over to the people to weigh these up and put them into the balance to make the decision themselves. But we did all this ...

¹⁴⁴ 19860627.

Kenny: But weren't you effectively electioneering from the pulpit? Didn't that happen on a very wide basis?

Ryan: But if it were another matter, I don't think that objection would be raised. If we used the pulpit to talk about redistribution of wealth or something like that, I don't think any objection would be raised and I don't think it should be here either. But I think I should make this point that we did this in the context of preserving marriage ... and this was announced in the pastoral Love is for Life.

Kenny: Dr Empey, can I turn to you, talk to you about the reaction within the Church of Ireland to today's decision. A democratic decision must be accepted of course in law. But what do you think the feelings are this evening?

Bishop Walton Empey: Well I'm sure there's a feeling of great sadness throughout many members of the Church of Ireland, again as I've said here before ... we ourselves do not marry divorced persons but we still believe that it is a right for people to make a choice. I am going to find it rather difficult in my relations with people in the North of Ireland for instance, where the Church of Ireland has (the all-Ireland) General Synod and I am eternally saying to the people in Northern Ireland, our Church of Ireland in Northern Ireland, you know, that things are dramatically changing in this state, that attitudes are changing in this state. I feel now that the rug is somewhat pulled from under my feet.

Kenny: Dr Ryan, understanding the problem of marriage in contemporary society and coming to terms with it ... isn't an understanding of marriage in contemporary society understanding that marriages do break down and break down completely and that some people do want – for good or ill, in sin or otherwise – want to marry again?

Ryan: Yes, and therefore every effort must be made to try to minimise the incidence of breakdown, to prepare people for marriage, to help them to strengthen their marriages, to help them in difficulties.

Kenny: Do you accept that they will still break down in some numbers?

Ryan: They will. And every effort must be made to try to find ways of preventing them from breaking down. Now the experience of course everywhere, including

Northern Ireland, has been that divorce has not lessened the incidence of breakdown, so we should now be starting to do something more.

Kenny: On the subject of the number of your flock who did vote yes, does that mean that 30% of the Catholic population have actually said 'no' to their bishops ...?

Ryan: Well, I think what they did was they accepted the instruction of the bishops to make up their own minds, conscientiously. And I mean I think we have to remember all the time that that issue was divorce in the civil order and as Bishop Empey said, the issue did become blurred in the campaign and I think these people – and I say people in general – in their vote, voted on the civil issue and weighed up the social aspects of the question and the social implications.¹⁴⁵

Among defeated campaigners for divorce, however, there was no doubt as to what had happened: the voters had been frightened by the ADC and cowed by the Church:

Lylie Doyle (DAG): (I'm) very disappointed and angry but not surprised. In the last week the scare tactics that the other side have put out have changed the minds of a lot of people as regards losing their pensions, losing their homes which was ridiculous.

Interviewer: Do you think the opinion polls were perhaps wrong or do you think the campaign for divorce perhaps never really got off the ground?

Doyle: I am most angry about this thing about second families created. There were second families created all down the years by church annulments where people were allowed to marry in the Catholic Church but were not able to legalise that and children were illegitimate. They could not get birth certificates for those of the second family.

Interviewer: Do you think the church stuck by its promise of telling people how to vote, or not telling people how to vote?

¹⁴⁵ 19860627.

Doyle: No. I think in some churches they really said to people, you know, that they would be so morally wrong to vote yes that they changed their mind.¹⁴⁶

Appearing on the results programme for the ADC, Joe McCarroll had sympathy for those in second unions who had hoped they would now be able to marry:

I have friends of my own who will cry tonight because they haven't got a mandate from the Irish people to have their unions, second unions, raised to the status of a marriage. But I think the meaning of the vote is that the Irish people don't want to take the institution of marriage out of the security that it has in the Constitution and hand it over to the politicians.¹⁴⁷

The theme that 'you can't trust politicians' was raised by a proponent of direct democracy. This was taken up later in the programme by Alan Dukes, Minister for Justice:

Alan Dukes (FG) Minister for Justice: Now I think it's very important that we scotch that. What people trust politicians with even in relation to the Constitution is the formulation of the question that is going to be put to them, the formulation of any change they want to make in the constitution. We can equally say that ... the people have said and agreed with politicians when the politicians say 'look, the Constitution does not sufficiently define what we want'. We've had all the family protection legislation, all the civil rights legislation that has been required and that has been politicians giving effect to what is in the Constitution for people and I think we would be doing a gross disservice to political activity in this country and indeed to democracy by suggesting that a referendum can be interpreted as meaning that people do not trust their political system.¹⁴⁸

¹⁴⁶ 19860627.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

3.16. POST-REFERENDUM OPINION POLLS IN FAVOUR OF DIVORCE RECOVER

Table 4: Attitudes toward divorce in 1986, by demographic group (extract)

Table 5: Attitudes toward divorce in 1986, by demographic group (extract)						
	Remove ban				Permit in some cases	
	Feb	Apr	Jun	Oct	Feb	Oct
Co. Dublin	62	67	45 (-22)	64	82	72
Urban	59	64	42 (-22)	59	81	73
Women	48	58	31 (-27)	49	75	70

Source: *Irish Times*/MRBI poll extracts in Darcy and Laver¹

Darcy and Laver wrote in *Public Opinion Quarterly*¹⁴⁹ that, since 1983, there had been a gradual increase in those favouring divorce in certain circumstance, such as domestic violence and drunkenness. There had also been a gradual increase in those prepared to remove the constitutional ban entirely and they noted a near constant differential between the two graphs. They took account of studies by Dr Richard Sinnott and others on the volatility of urban voters as well as the tendency of people to behave conservatively in a referendum. The biggest opinion shifts were among Co. Dublin and urban voters, and among women.

As Table 4 above shows, the percentage favouring removal of the ban declines in the June poll field-worked the week before the vote. It then recovers to an extent in the October poll after the June referendum. The largest variation between April and June 1986 was in the case of women, where there was a fall of 27%, while the Co. Dublin and urban collapse was 22%.

¹⁴⁹ Darcy, R. and Laver, M., 'Referendum dynamics and the Irish divorce Amendment' in *Public Opinion Quarterly*, Vol. 54, No. 1 (Spring 1990) 1-20.

This work will argue that collapse and then recovery of women's support is a reflection of the fears engendered during the campaign while the decline in Dublin and urban support reflects the vigorous efforts of the Church in general and the Archbishop of Dublin in particular. In addition to this Brian Girvin reiterates Jack Jones' argument that there is a close correlation between those acknowledging the Church as their main influence and their vote.

Moreover, the poll findings show that those sectors of Irish society most closely identified with the Church were those who, between April and June, changed their opinion (Jones 1986).¹⁵⁰

In their treatment, Darcy and Laver saw a sophisticated voting public. These voters were inclined to permit divorce under certain circumstances, and many were prepared to remove the ban altogether. But, as the campaign progressed, those who were inclined to allow divorce under certain circumstances began to doubt that the Government would confine divorce to those circumstances. For its part, the Government built a proposal on what it said were restrictive criteria. But the voters rejected this. In other words, they did not so much change their minds on divorce *per se* as express a judgement on the Government's proposal. When the campaign was over voters then felt comfortable enough to respond to pollsters' questions as they had done before the campaign began.

3.17. SOME OBSERVATIONS ON CHAPTER THREE

There is a sense of a continuum between the referendums of 1983 and 1986. Many of those who campaigned on the PLAC side in 1983, and several members of the PLAC leadership, campaigned also on the ADC side in 1986. Similarly, some of those campaigning for the AAC in 1983 may be found supporting the DAG and Government proposals in 1986. As O'Leary and Hesketh observed in *Irish Political Studies*:

The opening (ADC) press conference indicated the grounds on which the ADC wished the campaign to be fought – strictly constitutional and legal, with no reference to Catholic doctrine. They argued that the pre-eminent position of the family in the

¹⁵⁰ 'The Divorce Referendum in the Republic: June 1986' by Brian Girvin in *Irish Political Studies*, Vol.2, Issue 1, 1987, 97.

Irish Constitution would be jeopardised by any law permitting divorce; that the primary protection would be transferred to the second family of a divorced person; that the first family would lose its rights of succession; that there was no established criterion for determining marital success or failure; that divorce might be granted even when the spouse and children were totally dependent on social welfare and that the Amendment would allow future government to widen the scope of the divorce law.¹⁵¹

By concentrating on constitutional, legal, social and political issues the ADC might be viewed as eschewing religious considerations from the outset or at least seeking not to appear reliant on Catholic hierarchy support. The FitzGerald Government on the other hand made a point of publicly consulting the religious denominations. As Dr Brian Girvin comments, in his article in *Irish Political Studies*, while the FitzGerald Government might have thought the time was right to remove the constitutional ban on divorce, public opinion was quickly polarised. The Catholic hierarchy reiterated its view, expressed at the New Ireland Forum, that divorce was an attack on society. Perhaps not surprisingly women, who in earlier polls had been ready to support divorce under certain circumstances, changed their minds. Many women feared that the status of marriage, childbearing and housekeeping would be impaired by change:

The collapse of the female vote in favour of divorce between April and June (1986) is evident from the opinion poll figures. Rejection of change was particularly strong among females over 35, the section of society most closely committed to traditional family values.¹⁵²

Girvin, referencing Jack Jones of MRBI, also noted evidence of:

... a close correlation between those who identified the Church as the main source of influence on their views of divorce and their subsequent voting pattern in the referendum. Moreover, the poll findings show that those sections of Irish society

¹⁵¹ 'The Irish abortion and divorce referendum campaigns' by Tom Hesketh and Cornelius O'Leary in *Irish Political Studies*, Vol: 3, 1988 Issue: 1 56, 57.

¹⁵² Girvin, 'The Divorce Referendum in the Republic', 93-99.

most closely identified with the Church were those who, between April and June (1986) changed their opinion.¹⁵³

It was left to Dr Michele Dillon, now Professor of Sociology at the University of New Hampshire, to evaluate the television coverage of the divorce debate. In the chapter entitled 'Television's Framing of the Debate' contained in *Debating Divorce*, Dillon criticised the coverage, noting that:

... *Today Tonight* emphasised the divisiveness regarding divorce, the unrestrictiveness of the proposals, and their economic costs. It was the stress on conflict and divisiveness, however, that constituted the primary frame of the representations of the debate as presented by *Today Tonight*.¹⁵⁴

As evident from *Today Tonight* extracts above, the series tended to focus on political confrontations as in the divisions within Fine Gael, the conflicts between the coalition and the professed neutrality of the Fianna Fáil party and, of course, the Catholic hierarchy and clergy. Dillon considers that *Today Tonight* was preoccupied with political rows and, to an extent it could be argued that such was *Today Tonight's* stock-in-trade. It has also been noted by Dillon that *Today Tonight* avoided 'human interest' content lest it might appear that the series favoured one side or the other. Human interest, well-presented, can make for better television than talking heads arguing political points. (RTÉ's reluctance on this account in 1986 contrasts with the transmission of the highly personalised RTÉ Radio series of *Abortion Stories* within *Drivetime* during the 2018 campaign to repeal the Eighth Amendment¹⁵⁵).

Dillon goes on to explain why Binchy's arguments prevailed against FitzGerald's in 1986. They were easier to understand and more likely to strike a chord:

The preference *Today Tonight* showed for themes of (political) conflict was accentuated by the fact that in the case of the divorce campaign, FitzGerald was presenting something new; in arguing for the introduction of divorce, he was arguing for societal change. Binchy, on the other hand, was defending something that was

¹⁵³ Ibid.

¹⁵⁴ Dillon, *Debating Divorce*, 137.

¹⁵⁵ See 5.17 below.

already well embedded in the culture. In arguing for change FitzGerald put forward complex views, but, as abstract arguments, they were easier to dispute than the straightforward concrete arguments of William Binchy and the ADC.¹⁵⁶

It has already been noted how unshakeable William Binchy appeared whether in large format programmes or one-on-one interviews with, his effortless command of the international statistics backing up his arguments and his talent as a game-changer who remained in control of studio debates. The wisdom of the ADC in insisting on Binchy as their spokesman for such programmes should have become clear to the other side. But they had not even read the book. To repeat Fergus Finlay's words: 'Fail to prepare. Prepare to fail.'¹⁵⁷

¹⁵⁶ Dillon, *Debating Divorce: Moral Conflict in Ireland*.143.

¹⁵⁷ Fergus Finlay in an email to the author, 26 January 2018.

4. 1992-1996: 'TURNAROUND – 'X' CASE AND FOUR REFERENDUMS'

4.1. THE 'X' CASE

Divisive and abrasive though the anti-abortion Amendment of 1983 had been, there followed little protest activity after the insertion of the Eighth Amendment into the Constitution. Increasing numbers of women travelled to Britain for abortions. 3,677 travelled in 1983 increasing to 4,254 in 1992, the year a 14-year-old girl also travelled to Britain with her parents to terminate the pregnancy forced upon her in the rape by an adult neighbour. While the family were still in Britain, the Attorney General secured a High Court injunction forbidding her to travel. As law-abiding citizens, they returned without having proceeded to an abortion.

Few of those who had voted for or against the Eighth Amendment would have thought that the amended Constitution would be used to prevent pregnant women, especially a 14-year-old rape victim, leaving the country. After all, PLAC itself through its chair, Dr Julia Vaughan, had assured voters that the Amendment would not place any new restraints or restrictions on anyone wishing to travel for whatever reason.¹

When the news broke in February 1992 many considered the situation grotesque. Barrister and cabinet member, David Andrews, commented that the 14-year-old, a victim, had ended up a defendant in her own country.²

In *Today Tonight* Dr Mary Lucey, President of SPUC and a leading anti-abortion campaigner, reminded viewers that the prohibition on abortion which SPUC and its allies had helped secure was absolute:

I tramped this country from Enniscorthy to Clifden and tried to make it very clear that there were no exceptions to the prohibition on abortion, that there would be none and that the so-called special cases – pregnancy following rape, incest,

¹ 19830303.

² 'Dublin poll shows shift on abortion', *Daily Telegraph*, 24 February 1992.

mother's life in danger, baby to be born with gross congenital abnormalities, that abortion would not be considered to be the solution in these particular cases.³

Opponents of the Eighth Amendment, such as Dr Mary Henry, argued that voters in 1983 could never have envisaged what Dr Lucey termed 'so-called special cases' such as this; SPUC and PLAC always said they were not targeting women leaving the country for abortions:

When we talked about cases of rape, they said that these cases hardly ever arose. It is not true to say that the general public felt that they were voting for this sort of situation where we would end up with a 14-year-old rape victim with the entire panoply of the law against her and against her parents who seem to be the most responsible people and who were only trying to do what they felt was best for their child in these circumstances ... Indeed, I remember on the count someone who is now a government minister coming over to me because I was obviously upset and saying 'it won't happen that the law will go after individual women, that just won't happen. That isn't the Irish way of doing things'.

Reporter: But did you anticipate that this might happen in light of the referendum of '83?

Henry: Well, I think that this case is particularly heart-breaking but yes, certainly one of our very strong arguments was that there would be cases that would make for very hard law and it wasn't only the anti-Amendment campaign of course. All the Protestant churches in this country opposed the Amendment precisely on the grounds that they felt that they would accept that, while they were opposed to abortion, there would be exceptional cases and rape was one of them in which abortion should be considered.⁴

Lucey: I don't know the details of this case, it would appear that these people brought the fact that they were seeking an abortion in Britain to the notice of the authorities, that they did it themselves and in so doing I presume the law had to be carried out. But as I say, this is an exceptional case and we will stand over that we

³ 19920218.

⁴ Ibid.

have no desire to stop people travelling abroad for any reason, but we would be pleased of course that abortions on Irish babies would not take place. I am very sorry for the 14-year-old child involved but I must say to you that the important point is that life exists, not how it happened. And I also know, I know from personal experience and from people who have telephoned me in the last couple of days, that it is possible to carry this child to term. We will help her afterwards if she wants it.⁵

As the 'X' Case became publicised, fears began to arise that pregnant women might be prevented from travelling for abortions; that third parties might inform the Gardai, who might be obliged to take action. William Binchy who, as legal advisor to PLAC, had campaigned for the Eighth Amendment, said that courts would take a minimalist rather than a maximalist approach. But on the same programme, Michael McDowell SC, leader of the Progressive Democrats, challenged him.

[Binchy] wrote articles predicting this and very similar things including the arrest of people at the time, in what circumstances Irish women would be arrested if they went abroad and came back, could you criminalise abortion, could you criminalise foreign women who came to Ireland having had abortions, should it be residence related and the like? So a good deal of thought has in fact gone into this and this is in fact the tip of an iceberg and the end of a long agenda, I think, and Mary Lucey honestly admitted, that she was in fact satisfied with the outcome of the particular case before (High Court) Judge Costello.⁶

A very fraught situation had occurred, and the early legal opinions seem to be that the Attorney General had to take action and might have to do so in future cases although, as William Binchy said, it was not a crime to go to Britain to have an abortion and the courts had taken a very minimalist position in cases of abortion referral. On the other hand, there was the absolutist position taken by SPUC and the Government, undoubtedly mindful of the cohorts mobilised by PLAC and SPUC in the past, had to act quickly to calm the situation and decide how to proceed. To the Dominican anti-abortion campaigner, Fr Brian McKeivitt, the media were again promoting abortion:

⁵ Ibid.

⁶ Ibid.

It seems to me that the underlying assumption in all of this debate, particularly as it's hyped up by the media, is that having an abortion in some way would benefit this young girl, that putting her through the violence of an abortion because abortion is a very violent operation or procedure, that adding this violence to the violence that she has already undergone would in some way benefit her. In fact, I think proper care for the young woman would be to help her to recover from the rape and to support her in protecting her child. And I think that that's an aspect that we've totally forgotten

Brian Farrell: So, you'd put that judgement against what the Constitution says about the family as the primary social unit, because that family made a decision, didn't it?

McKevitt: That family, I think, may not have been aware of the devastation that an abortion could cause. The physical and the psychological devastation an abortion could cause to their daughter. A devastation that could last in many cases for the rest – perhaps in her case – for the rest of her life. I don't think she should be subjected to something like that. I think it's also an abuse of all victims of rape. What we are saying is that the implicit thing in all of this again is that it should be all right for a victim of rape to have her child aborted. What we're saying is her child is less precious and less valuable than the children of other women ... ⁷

On Wednesday 26 February, the Supreme Court ruled by a majority of four to one in favour of Miss 'X', thus overturning the High Court injunction preventing her from travelling for an abortion, issued on 17 February. The judgements were delivered in full on 5 March and it became clear that not only had Miss 'X' the right to travel for an abortion, but four of the five judges had interpreted Article 40.3.3 – the Eighth Amendment – as meaning that there was a right to have an abortion in Ireland, albeit in limited circumstances. Chief Justice Thomas Finlay spelled that out clearly in his recognition that there was a clear risk that Miss 'X' would take her own life:

⁷ Ibid.

If it is established as a matter of probability that there is a real and substantial risk to the life as distinct to the health of the mother which can only be avoided by the termination of the pregnancy, such termination is permissible.⁸

The news was greeted with anger and dismay by the anti-abortion side. *The Guardian* reported:

The Irish Catholic bishops urged the Irish government to strengthen the constitutional prohibition of abortion but refrained from suggesting particular measures to accomplish the objective. The anti-abortion lobby wants a referendum, and the government wants to allow overseas travel for abortions.⁹

Within weeks, the Pro-Life Campaign (PLC) was launched. It was headed by Senator Des Hanafin who had chaired the Pro-Life Amendment Campaign, which had fought for the Eighth Amendment in the first place. Senator Hanafin said there was to be no abortion in Ireland either through the Oireachtas or the courts. By allowing abortion in certain circumstances, he said, the Supreme Court had not taken the spirit of the people into account.¹⁰

The PLC now wanted another referendum to overturn the Supreme Court Ruling that a pregnant and suicidal woman had a right to an abortion in Ireland if her life depended on termination. They campaigned hard and the Government made two attempts in referendums to remove suicide as a justification for termination; the first that year, 1992, the second in 2002.

While neither the PLC nor the Government could prevent pregnant women travelling, the PLC opposed the Government's plan to allow lawful information about abortion. This was in the context of the Maastricht Treaty on European Union wherein the Government sought a protocol recognising Ireland's abortion laws. If 'lawful information' meant anything beyond non-directive counselling, such as information on where to obtain a safe, legal abortion

⁸ Supreme Court.

<http://www.supremecourt.ie/supremecourt/sclibrary3.nsf/pagecurrent/9FA0AA8E8D261FC48025765C0042F6B3?opendocument&l=en> Scroll to no. 22. Also cited in Ruadhán Mac Cormaic, *The Supreme Court* (Dublin, Ireland: Penguin Ireland, 2016) *The Supreme Court*, 294.

⁹ 'Restore protection for unborn, say Irish Bishops', *The Guardian*, 12 March 1992.

¹⁰ 19920310.

outside the State, the PLC were opposed. Mary Harney, formerly a Fianna Fáil TD and later a founding member of the Progressive Democrats, discerned contradictions in the PLC position:

I think if we want people to travel abroad and don't want to stop them, we should also want them to have correct information and non-directive counselling to help them in the decision they might make. And I believe it's important that in addition to any referendum in the context of Maastricht, in addition to the addendum to the Maastricht protocol, that we would also follow that up with appropriate legislation to put into practice in Ireland the terms of the Supreme Court decision.

Olivia O'Leary, RTÉ: Which would allow limited abortion?

Harney neatly identified the crux of the problem:

The Supreme Court have not brought in abortion. It's ironic the very Eighth Amendment that has allowed the Supreme Court to interpret the Constitution in such a way to say that where, on the balance of probabilities, the mother's life is in danger, a pregnancy can be terminated. The Eighth Amendment to the Constitution talks about the rights of the unborn and the rights of the mother. And sometimes those rights cannot be reconciled and it's a matter for the legislators, in my view, to bring in the kind of legislation that will specify who will give counselling, what information will be available and in what circumstances and who will decide that a pregnancy can be terminated.¹¹

The remainder of the year was taken up with political wrangles over how to ensure a smooth passage into the Maastricht Treaty while avoiding a constitutional crisis at home.

4.2. ABORTION REFERENDUM ANNOUNCED

On 8 April 1992, the *Irish Times*' headline read 'Abortion referendum to be held: right to travel and to information is Government's aim'.¹² It was a confusing campaign. The main political parties did not engage in campaigning apart from some leafleting by the Labour Party. PLC merely declared itself against abortion. The Catholic bishops at first said that Catholics could

¹¹ 19920325.

¹² Headline, *Irish Times*, 8th April 1992.

vote either way in good conscience. A number of bishops later broke ranks and called for a 'no' vote. The most striking aspect of the campaign was the appearance of Youth Defence modelled on the US 'Operation Rescue' groups. Their members attacked pro-choice groups, picketed politicians' homes and rang in death threats to Radio Dublin when the station refused to have them on air.¹³ Following the result, the Life Institute hailed it as a victory for the pro-Life movement, on the grounds that a defeat would have opened the way to legislation for abortion.¹⁴

The Anti-Abortion lobby had demanded another referendum to copper-fasten the Eighth Amendment and link rights to travel and information to the abortion ban. Mr Justice Rory O'Hanlon, a judge of the High Court and President of the Law Reform Commission, also called for another referendum to vote into the Constitution an inescapable clause confirming the unborn's right to life:

The unborn child, from the moment of conception, shall have the same right to life as a child born alive.¹⁵

O'Hanlon, a highly regarded legal mind and a committed Catholic, later said in an interview that Ireland should withdraw from the European Union if its membership entailed the legalisation of abortion in the country. This resulted in his dismissal from the Law Reform Commission. He later dedicated himself, as chair of the 'No Divorce' Campaign, to opposing renewed efforts by the Government to remove the constitutional ban on divorce.

As the date for the referendum drew near the public discourse grew more heated with calls to withhold travel rights from women wishing to have an abortion and to limit the right to information where such information could be considered an assistance to abortion.

¹³ Workers Solidarity Movement website: 'Background to 1992 referendum – anti-abortionists told to 'SPUC Off'. <http://www.wsm.ie/c/ireland-1992-anti-abortionists-spuc-referendum> 1993. Accessed 10 December 2013.

¹⁴ Life Institute: <https://thelifeinstitute.net/about-us> .Accessed 10 December 2013.

¹⁵ 'Another referendum is urged by judge', *Irish Times*, 28 March 1992.

The Fianna Fáil/PD coalition called the referendum for 25 November 1992, the same day as the general election. There followed a very confusing campaign wherein voters were to be asked to consider three proposed Amendments of the Constitution:

4.3. THE 1992 REFERENDUM ON THE 12, 13 AND 14 AMENDMENTS

Twelfth Amendment of the Constitution: rejected

The Twelfth or 'Right to Life' Amendment read: 'It shall be unlawful to terminate the life of an unborn unless such termination is necessary to save the life, as distinct from the health, of the mother where there is an illness or disorder of the mother giving rise to a real and substantial risk to her life, not being a risk of self-destruction'.¹⁶

This was rejected 65.35 to 34.65%; an apparent reversal of the 1983 result. Although the voters were not being asked to support abortion on demand, they were being asked to allow it in very precise circumstances.

Thirteenth Amendment of the Constitution: passed

'This subsection (of article 40.3.3 - the Eighth Amendment) shall not limit freedom to travel between the State and another state.'¹⁷

Fourteenth Amendment of the Constitution: passed

'This subsection shall not limit freedom to obtain or make available, in the State, subject to such conditions as may be laid down by law, information relating to services lawfully available in another state.'¹⁸

¹⁶ Referendum Ireland: <https://www.referendum.ie/archive/referendum-on-the-thirty-third-amendment-of-the-constitution-court-of-appeal-bill-2013-12-3-5/> Accessed 4 September 2016.

¹⁷ Electronic Irish Statute Book (eISM): <http://www.irishstatutebook.ie/eli/1992/ca/13/enacted/en/print#sched-partii> Accessed 4 September 2016.

¹⁸ <http://www.irishstatutebook.ie/eli/ResultsTitle.html?q=fourteenth+Amendment>

The acceptance of the fourteenth Amendment overturned injunctions obtained by SPUC against the Well Woman Centre, Open Door Counselling and three student unions. The injunctions had prevented them distributing information on abortion services outside the state.

4.4. THE SECOND DIVORCE REFERENDUM

On 28 November 1995, the Fifteenth Amendment of the Constitution ('Dissolution of Marriage') was carried by 818,842 (50.28%) for, 809,728 (49.72%) against. The margin was narrow: 9,114 votes nationally (0.56%), but it was the first time that the electorate had voted against the virtually unanimous advice of the majority Church as well as the articulate and well-funded Catholic and conservative lobbies.¹⁹

In the first divorce referendum campaign in 1986, the ADC held the ground for those opposing reform. In 1995 another, harder line group joined in the fray. This was the No-Divorce Campaign (NDC) whose Chairman was the late Mr Justice Rory O'Hanlon and whose campaign manager was Peter Scully, later associated with Youth Defence and Human Life International. This referendum campaign survives in popular memory through such outbursts as that of Úna Bean Mhic Mhathúna, a member of the No-Divorce Campaign: 'G'way, ye wife-swappin' sodomites!' as well as the famous 'Hello Divorce ... Bye Bye Daddy' poster.²⁰

4 September 2016.

¹⁹ <http://electionsireland.org/results/referendum/refresult.cfm?ref=1995R>
ElectionsIreland.org . Accessed 2 January 2016.

²⁰ The 'wife-swappin' sodomites' incident took place at the Royal Dublin Society (RDS) count centre during a live link between the RTÉ referendum studio and the RDS (location produced by the author). Úna Bean Mhic Mhathúna was being interviewed live with Frances Fitzgerald TD (FG). At the conclusion of the interview she rounded angrily on the RTÉ crew, other reporters and photographers present and uttered the imprecation.

Figure 7: 'Hello Divorce...Bye Bye Daddy...'



Poster from the author's personal collection.

The FG/Lab./DL coalition had learned lessons from the 1986 failed attempt to remove the constitutional ban on divorce by the then FG/Lab. coalition. That Government's campaign received meagre support, even from its own party members, and left itself open to challenge by its failure to explain to voters the exact circumstances under which divorce, and thereby the right to remarry, would be granted. A judge had to be satisfied that the marriage had 'failed'. This was such a loose definition that the then Anti Divorce Campaign and its primary spokesman, the academic and barrister, William Binchy, had little difficulty demolishing it on air leading up to the 1986 referendum. Another element was what Government spokespeople called the ADC's 'fear campaign', asserting that women and children would be severely disadvantaged through divorce. This was traceable through opinion polls taken during 1986 wherein high levels of support dropped precipitously during the campaign, only to begin recovering afterwards.²¹

²¹ See Table 2: Opinion reversal in 1986 divorce referendum and Table 4: Attitudes towards divorce in 1986, Darcy & Laver.

In 1995, the then Labour Party Minister for Equality and Law Reform, Mervyn Taylor, a solicitor, sought to persuade voters that a 'yes' vote would not be 'opening the floodgates' to 'quickie' divorces:

They will know, on the regime that the government will be putting forward for this vote hopefully on 30 November, that they will understand the terms, the terms will be debated and made very clear.²²

As Taylor spoke, the opinion polls were showing a 60% support for divorce – almost identical to that in 1986, before the campaign. Joe McCarroll of Family Solidarity had fought the 1986 campaign and said the marriage breakdown rate still did not warrant introducing divorce:

The question that we have to ask ourselves is whether bringing in a divorce jurisdiction will be in the best interests of all families on the balance of advantage and I think to me the signal that's been sent out by Mr Taylor, first of all by this proposal which he hasn't really explained yet, and secondly by his conspicuous absence here this evening is that they have the jitters.²³

A significant difference between the 1995 campaign and its 1986 predecessor was the wellbeing of the children of marriages ending in divorce. In 1986 much of the public discourse, on and off the air, concerned property, compensation, the welfare of the divorced wife as well as the children. In 1995 there was far more focus how a divorce in the family could affect the children.

In earlier programmes, the argument of the pro-divorce side tended to be that constant exposure to the trauma of continual parental conflict was more harmful to children than exposure to a divorce and remarriage situation, wherein they might find themselves in a calmer, more loving situation:

Maura Wall Murphy, Family Mediation Service: A certain amount of conflict is normal in every family but when it is regular and when the issue is not being dealt with, then the children get very upset. Also, children are very aware of what's just

²² 19950504.

²³ Ibid.

and fair and if they feel one parent is being unfairly treated or if there's violence in the home or they feel that one parent is getting a raw deal, they will side with that parent and that only brings them into the conflict.

Cathy Moore, presenter: Since the 1986 referendum, the number of people declaring themselves to be separated had increased by almost 50%. As a result, a growing number of children have had to cope with the separation of their parents. So, would the introduction of divorce make any difference to them at all?

Don Lydon, Head of Psychology, St John of God Hospital: At the moment in this country we've probably the best legislation of any country in the world when it comes to separation and the rights of people. The only thing divorce would mean in this country is the right to remarriage. And unfortunately, it's been shown that in most (remarriages) 46% of them break up again anyway.

Joe McCarroll, Family Solidarity: See, again divorce doesn't end the problem. That's one of the things that comes out of the studies, that the effects come on surfacing year after year after year ... I believe that the social policy question is are we weakening the support that we give to the vast majority, the 96% of marriages that are intact by changing the definition of marriage to make it terminable, without actually conferring any real benefit on the others, which research everywhere else shows those bad effects don't go away by calling them remarriages? ²⁴

There was little original about the 1995 Divorce Amendment campaign. Most of the arguments, especially those predicting poverty for the divorced first wife and children were familiar themes from before, during and after the 1986 campaign. However, much interest was stirred by the appearance of the 'No Divorce' Campaign and its Chairman, Judge Rory O'Hanlon.

Introduced on the final *Questions and Answers* programme prior to the vote the presenter, John Bowman, described O'Hanlon as publicly opposed to sodomy, pornography, artificial means of contraception, abortion and divorce. Bowman said that O'Hanlon also denied that the fundamental law of the State was what was declared by the people in a referendum. The

²⁴ 19950727.

fundamental law, O’Hanlon said, was the law of God. In the same programme Minister Michael Noonan said O’Hanlon’s organisation was linked to the American Catholic anti-contraception, anti-abortion and anti-divorce organisation founded by Fr Paul Marx and this inspired his opponents to question whether the ‘No Divorce’ Campaign was being funded in part by fundamentalist groups in the United States. Noonan, legally barred from using state financial resources in the Government’s efforts to, as it said, inform the people, demanded to know where the ‘No Divorce’ money was coming from:

There is a significant influence from America in the Anti Campaign. They’re following the moral majority agenda. They’re getting advice, they’re getting money from the United States. Now this raises an issue. Should, in an Irish referendum, should the government be put in a position where it can’t give information to inform the electorate and could forces outside the state who have exaggerated every position since this agenda started? You have to remember that in the case of contraception, we were told it would be gloom and doom if it came in. In the case of decriminalisation of homosexuality, there was going to be absolute disorder on the streets if it came in. In the question of divorce now, apocalypse is around the corner and we’ve had this agenda being pursued all the time, with the help of outside forced and outside money. And on this occasion, the fears of women, in particular, are being targeted.²⁵

O’Hanlon admitted that some funds were coming from America but could not be specific. Although he stated that most of their campaign funds were raised locally, he was vague on details and gave the impression that he did not wish to answer or was simply above financial considerations. The other panellists, Rosemary Swords of the ADC and Robert Ward of the ‘Right to Remarry’ Campaign, insisted their funding was entirely local. Bowman read out what he introduced as an advertisement from an American Catholic newspaper:

‘Holy Matrimony under attack in Ireland. Anti-family forces declare war on marriage in world’s most Catholic country. Attack funded by Irish government, militant feminists, pro-abortionists. Send your thousand dollars.’ It says here; ‘Last minute help urgently needed. Your financial help is urgently needed now for help to pay for

²⁵ 19951120 B.

last minute essential advertising posters across Ireland. Thousands of Irish voters are still undecided on legalised divorce and an all-out eleventh-hour campaign is needed to defend the holy state of matrimony in Ireland.'

Judge Rory O'Hanlon: Well all I can say is that the people of Ireland are very generous in fighting for what they perceive to be a just cause and they've come up to me round the country and pressed sums of money in my hand, to my great embarrassment. ²⁶

The debate, such as it was, rarely rose above marriage as a transactional activity though Noonan and Ward managed to catalogue the advances that had been made since 1986, leaving O'Hanlon to fall back on the old argument that divorce begets divorce:

O'Hanlon: It will involve the division of whatever property is available to the husband and wife. The court can make any order it likes, it can put out the husband ...

Peter Ward: It does that now, Judge, as well you know.

O'Hanlon: I'm sorry ...

Ward: It does that now as well you know, Judge, you've presided over cases, you know that.

O'Hanlon: I do.

Ward: Then you know that that's the situation right now.

Health Minister Michael Noonan: You must have done judicial separation work to know the law and you know the law is not being changed.

O'Hanlon: I know.

Noonan: So, why do you pretend?

²⁶ Ibid.

O'Hanlon: Well tell me this: I am well aware that in judicial separation as in divorce, the court may divide up the family property. I believe that if divorce is introduced, there will be a huge escalation in the number of broken marriages.

The second Divorce Referendum to remove the constitutional ban on divorce was passed the following Friday, 24 November 1995, but by less than one percentage point. 13 years later, as she celebrated the removal of the Eighth Amendment along with thousands of other in the Upper Castle Yard on 26 May 2018, the former Supreme Court Judge and Senator, Catherine McGuinness summed up the changes that had happened since she began campaigning:

Ireland really has changed. You know as well as I do – all the kerfuffling that we had over the contraceptive pill. You remember all the women whose periods were irregular who had the contraceptive pill? And about divorce? And we were told that if we had divorce that every woman in Ireland would be deserted, that every man would go away with a floozy but actually we have a low rate of divorce in the end. Our rate of divorce is about a third of the English rate of divorce and we don't necessarily follow what England does. It annoys me what they did in the 'no' campaign in that they kept saying 'we will be like England' Why should we be like England? We resisted them for 700 years.²⁷

²⁷ 20180526.

5. 2018: REPEAL

5.1. THE ROAD TO REPEALING THE EIGHTH AMENDMENT.

If there is a waypoint to be found in the series of events leading up to the repeal of the Eighth Amendment in 2018, the death of Savita Halappanavar on 28 October 2012 would be a reasonable choice. In the 17th week of her first, and much-wanted pregnancy, she had been admitted to University Hospital Galway suffering from back pain. Her condition deteriorated over several days to the point where medical staff concluded that a miscarriage was inevitable. On Tuesday 23 October, suffering from even more severe pain, Halappanavar, a 31-year-old Indian-born dentist, and her husband Praveen asked for delivery to be induced to hasten the inevitable end to her pregnancy. This was refused on the grounds that Irish law forbade abortion where there was a foetal heartbeat and the mother's life was not at risk. The following day, Wednesday 24 October, the hospital plan was to induce delivery when no foetal heartbeat could be detected. Halappanavar's condition deteriorated into septic shock. The hospital decided to induce but, before they could proceed, she spontaneously miscarried. Although transferred to the High Dependency Unit, Savita Halappanavar's condition continued to worsen until Sunday 28 October, when she suffered cardiac arrest and died.

Kitty Holland of the *Irish Times*, alerted by Pro-Choice members who had been contacted by people from Galway's Indian community, broke the story of Halappanavar's death under the headline: 'Woman 'denied termination' dies in hospital'. The publication date was 14 November 2012.¹

Prior to the Halappanavar case there had been criticism that Government had not legislated for the Supreme Court judgement in the 'X' case, 20 years previously. *The Irish Catholic* published an article headlined 'Fine Gael push to introduce abortion', in which they reported Minister for Health, Dr James Reilly (FG), saying that 'Ireland must bring in abortion along the

¹ <https://www.irishtimes.com/news/woman-denied-a-termination-dies-in-hospital-1.551412>. Accessed 9 August 2018.

lines of the Supreme Court 'X' decision'.² Cardinal Seán Brady indicated that clergy might canvass public representatives on abortion. Pat Rabbitte (Lab.), then Minister for Communications, said that the Church should not be involved in any political debate; this drew charges that he was trying to muzzle debate.³ The Government decided to hold hearings on abortion and 2013 began with the PLC's 'vigil for life' reported by *The Irish Catholic* as numbering 25,000 participants.⁴

Figure 8: Vigil for Life, Merrion Square, Dublin. 19 January 2013.



Photo courtesy of thejournal.ie⁵

The next five years were to see many mass demonstrations which began to be mounted by both sides well before decisions were made by Government to go again to the people on the abortion issue.

² *Irish Catholic*, 5 August 2012.

³ *Irish Times*, 28 August 2012.

⁴ *Irish Catholic*, 24 January 2013.

⁵ thejournal.ie. <https://www.thejournal.ie/vigil-for-life-abortion-pro-life-761653-Jan2013>.

Accessed 9 August 2018.

On 28 August 2012, a month after the ‘vigil for life’ rally, the *Irish Times* published an opinion poll indicating strong public support for abortion in certain circumstances such as the threat of suicide. Opposition came mainly from over 65s and the farming community.⁶

5.2. SAVITA HALAPPANAVAR BECOMES AN ICON OF THE PRO-CHOICE SIDE

In April 2013, a coroner’s inquest was held into the death of Savita Halappanavar the previous October. Speaking as an expert witness, Dr Peter Boylan, former Master of the National Maternity Hospital, told the court that Mrs Halappanavar would probably have lived had the law allowed the termination she and her husband had requested. He said that, because of the Eighth Amendment, obstetricians were working on ‘very sticky ground’ in that they could not intervene unless a woman looked as though she was going to die.⁷ The following Sunday, on RTÉ Radio’s *Marian Finucane* programme, Boylan appeared along with Breda O’Brien, a teacher and *Irish Times* columnist, best-known for her commentaries on moral and religious issues, and also a patron of the socially and religiously conservative Iona Institute which, according to its website, ‘promotes the place of marriage and religion in society ... freedom of conscience and religion and the right to life’.⁸

There followed a fractious exchange between Boylan and O’Brien which was characteristic of the many arguments about the cause of Savita Halappanavar’s death that would follow, right up to the repeal of the Eighth Amendment in 2018. Boylan’s argument was that, had the pregnancy been terminated, the infection which developed into septicaemia would have been avoided.⁹

Boylan said that, given Mrs Halappanavar’s condition, with ruptured membranes, the chances of the baby’s survival would have been very small, at less than ten percent. In other countries, he said, the medical team would have discussed the baby’s dismal outlook with the mother

⁶ *Irish Times*, 11 February 2013.

⁷ ‘Expert says Halappanavar likely to have lived if law allowed termination’, *Irish Times*, 18th April 2013.

⁸ The Iona Institute <https://ionainstitute.ie/about-the-iona-institute/>. Accessed 10 August 2018.

⁹ 20130421.

and father, whose views would have been taken into account. Mr and Mrs Halappanavar's views would have been considered by the medical team. The couple would have said either that they wanted to continue with the pregnancy or that the outlook was so bleak that they wanted to terminate the pregnancy. The medical team would have given the couple time to think, returned to them and whatever the couple had decided would have been accepted. But, Boylan said, 'we can't do that here':

Breda O'Brien: I'm really alarmed at a couple of things that Peter has said. First of all, that the law would not have allowed intervention on Monday because John Bonnar, who would be universally acknowledged to be deeply conservative on this, said he would have gone, he would have been in there like a light.

Boylan: That's incorrect.¹⁰

Boylan and Dr John Bonnar, Professor Emeritus of Obstetrics and Gynaecology, had appeared together on RTÉ's *Prime Time* current affairs television series the previous Friday, 19 April 2013. Bonnar said on *Prime Time* that the presence of a foetal heartbeat would never have stopped him treating a woman who needed treatment. He specifically mentioned cases such as ectopic pregnancy, cervical cancer and others which were not relevant to Mrs Halappanavar's condition.¹¹

O'Brien: Can I clarify, Peter? When I said he would have been in like a light I was talking about in terms of the care. The care is the crucial issue here. I spoke to three obstetricians over the week, two in person and one by email to clarify this point. They said, one of them said. that there were glaring signs on the Sunday night which should have triggered a whole series of interventions, in terms of standard, bog standard care.

Boylan: On Sunday night?

O'Brien: That, yes.

¹⁰ Ibid.

¹¹ 20130419.

Boylan: On the night she was admitted?

O'Brien: They said, that ... one of them said to me that because she was fully dilated and ...

Boylan: She wasn't.¹²

Thereafter Savita Halappanavar became a symbol for individuals and various organisations demanding abortion rights and campaigning for the repeal of the Eighth Amendment in 2018.

Figure 9: Savita Halappanavar: a symbol for those demanding abortion rights.



Protest outside Dail Eireann, 14 November 2012. Photograph: Brenda Fitzsimons, *Irish Times*.

5.3. THE PROTECTION OF LIFE DURING PREGNANCY BILL

The Government presented the heads of its proposed legislation on 'Protection of Life During Pregnancy' (PLDP) in May. The key section of the 20 head draft was the fourth, which provided for a 'risk of loss of life from self-destruction'. The explanatory note states that three doctors must 'jointly certify that a termination is required to avert a real and substantial threat to the life of the mother'. The proposed bill did not require the three doctors to examine the woman together but did require that their committee be formed within 7 Days of the woman

¹² 20130421.

expressing a desire to end her own life.¹³ Reaction was swift. David Quinn of the Iona Institute wrote in *The Irish Catholic* that the Government appeared ‘hell-bent on abortion regardless of the evidence.’¹⁴ John Waters, writing in the *Irish Times* predicted that the Bill would be ‘a further step along the way to industrial abortion’.¹⁵

As the Bill entered the closing stages of the legislative process, Cardinal Seán Brady condemned it but the Bill was passed by the Dáil by 127 votes to 31 on Friday 12 July 2013

5.4. ACCUSATIONS OF MEDIA BIAS IN FAVOUR OF ABORTION

The mainstream media had been accused of a liberal bias in its coverage of contraception and the various referendums on abortion and divorce. Over the years, Pro Life Campaign (PLC) criticism of the media, particularly of RTÉ and the *Irish Times*, had become more intense. In an *Irish Catholic* article headlined ‘The chattering class and its enemies’, David Quinn of the Iona Institute commented:

RTÉ’s liberal bias is colossal and getting worse ... the chattering class is overwhelmingly liberal and overwhelmingly favours same sex marriage, liberalised abortion laws and putting the Church in its place.¹⁶

On 12 March 2015, the PLC organised a rally outside Leinster House protesting alleged pro-abortion bias in the media. As reported that evening by thejournal.ie:

‘The Pro Life Campaign maintains that, in the space of a single fortnight, Irish newspapers ran 33 articles characterised by the group as being ‘pro-choice’ Only one article in that period was ‘pro-life’ they contend. ‘The decision to hold this evening’s event was not taken lightly. But media bias on abortion has reached a point where we simply cannot afford to ignore what is going on any longer,’ campaigner Cora Sherlock told the crowd ... The public are being continually deprived of the opportunity to hear

¹³ Irish Government News Service. <https://merrionstreet.ie/en/News-Room/News/government-publishes-general-scheme-of-the-protection-of-life-during-pregnancy-bill-2013.html> Accessed 7 June 2016.

¹⁴ *Irish Catholic*, 2nd May 2013.

¹⁵ *Irish Times*, 3rd May 2013.

¹⁶ *Irish Catholic*, 13 February 2014.

the case against abortion.’ The fortnight examined was in December of last year but ‘could have been any fortnight that the abortion issue is in the news,’ Sherlock said.¹⁷

Figure 10: Demonstration against alleged media bias favouring abortion, 11 March 2015.



1Gr8 2 see so many people here 4 the #hearbothsides protest outside Dáil. We need public service broadcasting @RTÉnews'.¹⁸

At the PLC annual conference in October 2016, a stall was dedicated to Hear Both Sides leaflets and cards highlighting 'Ireland's Pretend Abortion Debate' and encouraging people to protest directly to media outlets.

¹⁷ 'Pro-Life march: 'Media bias on abortion has reached a point we cannot ignore' In *thejournal.ie*, 11 March 2015: <https://www.thejournal.ie/pro-life-media-bias-1986774-Mar2015/>. Accessed 12 August 2018.

¹⁸ Tweet by #hearbothsides. <https://www.thejournal.ie/pro-life-media-bias-1986774-Mar2015/>. Accessed 12 August 2018.

Figure 11: Media bias allegations: 'Ireland's Pretend Abortion Debate'.



Leaflet from the author's personal collection

The leaflet, published by 33To1¹⁹, part of the Pro-Life Campaign, contained serious assertions about RTÉ's coverage of the abortion issue on *Prime Time*, which the author put to RTÉ and which elicited comprehensive rebuttals from RTÉ. These rebuttals are contained in Volume Two, Appendix Three of this study.

¹⁹ 33To1 stands for '33 to 1'. The title is an assertion by the Pro Life Campaign that, in the period 18 to 30 December 2014, 33 articles appeared in national newspapers pushing hard for more abortion. In the same period, it is claimed, only 1 pro-life article was published. See *Ireland's Pretend Abortion Debate* (Dublin: 33To1, 2015).

If complainants to RTÉ are dissatisfied with RTÉ's response, they have the statutory right to appeal to the Broadcasting Authority of Ireland (BAI). The BAI found no case for RTÉ to answer in respect of complaints of bias.²⁰

Elsewhere, the Pro-Life Campaign's booklet about the media asserted that 'it is very obvious that the goal of most media driven polls on the issue is to promote abortion'.²¹

The same booklet attacked RTÉ's television's main current affairs series, *Prime Time*, alleging 'Prime Time's open bias':

RTÉ has been openly pushing abortion where unborn babies have a terminal illness. In the past few years, *Prime Time* held five decidedly biased studio discussions on the issue. The *Late Late Show* and the *Saturday Night Show* have also conducted highly emotive one-sided interviews on the issue.²²

²⁰ 'All complaints on referendum on Eighth Amendment rejected by BAI', *Irish Catholic*, 18 October 2018: <https://www.catholicireland.net/complaints-referendum-8th-amendment-rejected-bai/> Accessed 3 November 2018. Earlier, in the 2013 'Protection of Life During Pregnancy' campaign, similar accusations of bias were made and were also rejected: 'BAI rejects six complaints against RTÉ's coverage of abortion debate', *Irish Times*, 5 April 2013: <https://www.irishtimes.com/culture/tv-radio-web/bai-rejects-six-complaints-against-rt%C3%A9-s-coverage-of-abortion-debate-1.135061> Accessed 16 May 2015.

²¹ PLC. *Ireland's Pretend Abortion Debate* (Dublin:33to1, 2015) 7.

²² Ibid.



RTÉ – Views Dressed Up as News. www.hearbothsides.ie. Accessed 27 September 2018.

5.5. 'P'

Just two days before Christmas 2014, several newspapers published the story of a young pregnant woman, clinically dead, but kept on life-support. Her parents, reportedly supported by the father of the child, sought the withdrawal of life-support so she could die naturally. But medical staff, aware of a foetal heartbeat and unsure of their legal position with respect to the rights of the unborn as per the Eighth Amendment, were reluctant to accede to the parents' wishes. There were questions about the legal consequences of withdrawing life-support from the clinically dead mother and from the unborn child. The *Irish Times* headline read:

Three judges to rule on woman on life support: 'Time is of the essence' says judge as High Court to hear application from parents. Thirteen lawyers in court representing woman, her family, foetus and HSE. ²³

The Christmas Eve newspapers reported the young woman's father telling the court that the family wanted his daughter to be buried 'with dignity' and that they had been told that the chances of the child surviving were minimal. The court heard that the woman had been declared dead on 3 December, three weeks previously, that her body was infected and that

²³ *Irish Times*, 23 December 2014.

her brain was rotting. A former master of the National Maternity Hospital said that to keep her on life-support would be 'going from the extraordinary to the grotesque'. A consultant neurologist said he had 'seen dreadful things in his professional life but never anything like this. Dr Peter Boylan said that in any other jurisdiction the woman would be allowed to die with dignity.

Ruadhán Mac Cormaic of the *Irish Times* noted:

While this wasn't an abortion case, it did engage article 40.3.3 of the Constitution – the Eighth Amendment – which sets down the equal right to life of the mother and the unborn and stipulates that the State will defend these rights as far as is 'practicable'.²⁴

For the judges, the medical evidence was straightforward. Had it not been unanimous, though, they would have been in 'an impossible situation':

The court inevitably found itself coming up against article 40.3.3, which although designed to ban abortion, is worded more broadly than that. The court approached it as follows: it found that when the mother dies, the rights of the unborn 'must prevail over the feelings of grief and respect for the mother who is no longer living'. So, the question then became one of 'how far the court should go in terms of trying to vindicate that right in the particular circumstances which arise here'.

Not as far as keeping a brain-dead woman on life support when there is virtually no chance of the foetus surviving, it concluded. To do so 'would deprive her of dignity in death and subject her father, her partner and her young children to unimaginable distress in a futile exercise which commenced only because of fears held by treating medical specialists of potential legal consequences'.²⁵

²⁴ Ibid. 27 December 2014.

²⁵ Ibid.

5.6. 2015: A VOTE FOR MARRIAGE EQUALITY: A DRY RUN FOR A REFERENDUM TO REPEAL THE EIGHTH

On 4 January 2015, the *Sunday Independent* published John Drennan's political column under the headline:

Abortion genie back out of the bottle and poised to dominate Dáil in 2015: Already, it's a case of new year, new crisis as abortion replaces Irish Water as the political hot potato that's set to haunt the Coalition.²⁶

The year was to be dominated by the 'Marriage Equality' referendum,²⁷ the right of same sex couples to marry.

In his column in *The Irish Catholic* at the beginning of the year, Dr Martin Mansergh acknowledged the increase of tolerance evident in Irish life:

No one wants to succour prejudice. We should value couples willing to devote themselves to each other long-term, regardless of gender sameness or difference. Legal rights and protections have been put in place, and public attitudes today are more disposed to inclusion than exclusion ... no one should be under any illusions, however. The referendum is a dry-run for a sequel, the repeal of the Eighth (pro-life) Amendment, if politicians need no longer fear religious factors weighing on voters.²⁸

Mansergh's analysis was prescient in that the rise of voter sympathy and compassion for others, first detectable in the referendums following the 'X' case and the second Divorce Referendum, was still evident in the vote to allow same-sex couples to marry. A second factor may have been evident in the failure, yet again, of voters to follow the call of the Catholic bishops and vote 'no'. Commentators also noted the strategy, particularly by the 'yes' campaigners to maximise a personal approach on the doorsteps. There were also moving

²⁶ John Drennan, Political Columnist, *Sunday Independent*, 4 January 2015.

²⁷ Thirty-fourth Amendment of the Constitution (Marriage Equality) Act 2015. <https://www.oireachtas.ie/en/bills/bill/2015/5/?tab=bill-text> Accessed 17 September 2016.

²⁸ 'Same-sex marriage poll is dry run for repeal of the Pro-Life Amendment' by Dr Martin Mansergh, *Irish Catholic*, 29 January 2015.

personal stories such as that written by Ursula Halligan, political editor of TV3, in the *Irish Times*:

For me there was no first kiss; no engagement party; no wedding. And up to a short time ago no hope for any of those things.²⁹

The signs were that the country had turned a corner. Fear that abortion might come to Ireland won the day in 1983. Fear that divorce in Ireland would destroy marriages consigning women and children to poverty in Ireland won the day against appeals to compassion in 1986. But similar warnings seemed, at least according to polls, unlikely to prevail in the Marriage Equality Referendum while personal stories of abortion came to the fore in the 2018 referendum.

Figure 12: Marriage Equality referendum: opposing posters.



Photographed by the author.

²⁹ Ursula Halligan, *Irish Times*, 15th May 2015.

On the Monday of the week of the vote the Catholic bishops united in a call for a 'no' vote. The following day, in the *Irish Times*, Archbishop Diarmuid Martin of Dublin showed that he was sensitive to the changes in the times in an opinion piece under the headline:

I encourage everyone to vote and reflect carefully: Marriage is about love, commitment and family; you cannot talk of family without talking about children.³⁰

While he stated that his view was that of the Pope's and was in opposition to same-sex marriage he was aware of the way gay and lesbian people had been treated by the Irish Catholic Church in the past.

A reasoned No vote is not homophobic. A reasoned No vote does not deny that gay and lesbian people can be good parents, just as heterosexual people can be bad parents.³¹

Three days later, on 22 May 2015, the Marriage Equality Amendment was passed by 62.1 to 37.9% on a turnout of 60.5%.

The following Monday, the *Irish Times* published a comment by Denis Staunton on the front page:

Perhaps the central lesson is that it is less effective to simply demand rights than to persuade through personal testimony. It was stories such as those of Ursula Halligan, Pat Carey (former Fianna Fáil Minister) and Una Mullally (*Irish Times* columnist) that cut through the noise and appealed to the better nature of undecided voters. And straight allies such as Mary McAleese and Noel Whelan were eloquent in making the case that marriage was so important to them that they wanted to allow equal access to it.³²

³⁰ *Irish Times*, 18th May 2015.

³¹ Ibid.

³² *Irish Times*, 25 May 2015.

Celebrations had begun on 23 May, the day of the count, as thousands took to the streets. The upper castle yard of Dublin Castle was filled with crowds exuding an atmosphere of liberation as the result was announced on giant screens and loudspeakers.

5.7. 2016 – AN ELECTION YEAR AND THE FORMATION OF THE CITIZENS’ ASSEMBLY

As the general election approached, Kitty Holland, the *Irish Times* Social Affairs Correspondent who had broken the story of the death of Savita Halappanavar in 2012, wrote that abortion was likely to be an issue in a general election.³³ She was right. Just four days later the then Minister for Health, Leo Varadkar, in an interview with Mary Minahan of the *Irish Times*, said he believed that abortion was justified where a woman’s health was at risk:

What we have at the moment . . . is this kind of absolute right to life where the unborn's life is equal to that of a pregnant mother, I don't agree with that. I think that is too restrictive. The current line really is that a termination is possible if there's a risk to the life of the mother, but what about the risk to the long-term health? There are pregnancies that involve, we'll say, a woman who has very severe heart disease, high blood pressure. I think there should be a mechanism where decisions like that are a matter for the woman and her doctor, not the law.³⁴

The following day, Patsy McGarry, Religious Affairs Correspondent of the *Irish Times*, reported that the bishops had entered the fray urging Catholic voters to ask candidates whether they supported ‘the sacredness of human life’:

The Catholic Bishop of Elphin, Dr Kevin Doran, said he would ‘find it very difficult to see how any Catholic could, in good conscience, vote for a candidate or a political party whose policy it is to legalise abortion’. He added: ‘We need to convince our politicians of the importance of supporting and promoting a culture of life that recognises the unique value of every human person, and we need to actively support those who do.’ Dr Neary invited voters ‘to ask their constituency candidates whether or not they support the sacredness of every human life, and to provide clarification

³³ ‘Now is the time to tackle the lies told about the Savita case’ by Kitty Holland, *Irish Times*, 25 January 2016.

³⁴ ‘Varadkar backs abortion when woman's health at risk’ by Mary Minahan, *Irish Times*, 29 January 2016.

about defending the weak and those who are easy to otherwise dismiss, and whose constitutional protection is now at risk. ³⁵

The bishops' statement calling on the public to vote for 'pro-life' candidates, denying support for candidates favouring repeal of the Eighth Amendment, was published the following day:

The Constitution of Ireland embraces the right to life of the unborn child. It is a fundamental affirmation of equality, where the right to life of no child is considered of less value than that of another. We strongly oppose any weakening of the affirmation of the right to life of the unborn. ³⁶

On 23 February, the *Irish Times* published an opinion poll from Ipsos/MRBI which explored attitudes to, *inter alia*, the repeal of the Eighth Amendment.

The Eighth Amendment of the Constitution gives equal rights to the mother and to the unborn child. Are you in favour of repealing this Amendment so that terminations in, for example, the case of rape or fatal foetal abnormality, could be made legal, or are you in favour of keeping the Amendment? ³⁷

Table 5: Irish Times/Ipsos MRBI poll on Repeal of the Eighth Amendment, 23 Feb 2018

Category	% Yes		% No	% D/K
All	64		25	11
Female	67		24	9
Male	60		26	13

³⁵ 'Bishops urge voters to quiz candidates' by Patsy McGarry, *Irish Times*, 17 February 2016.

³⁶ 'Bishops urge public to engage with and challenge election candidates', in *Western People*, 18 February 2016.

³⁷ 'Irish Times/Ipsos MRBI Opinion Poll February 2016' in 'Appropriate women to chair group on Eighth Amendment', *Irish Times*, 23 February 2016.
<https://www.irishtimes.com/news/politics/appropriate-woman-to-chair-group-on-eighth-Amendment-1.2545261> . Accessed 8 May 2019.

The election result on 26 February did not give any party an overall majority and saw an increase in support for independent candidates.

On election day, the market research company Behaviour & Attitudes conducted an exit poll of voters on behalf of RTÉ. 4,283 interviews were conducted at 223 polling stations across all 40 Dáil constituencies. There were three questionnaires. Five questions were common to all three, with voters being asked about their first preferences, second preferences and other questions seeking information regarding the outcome of the election. Of the subsets, version 2 contained questions regarding support for abortion and to what degree.

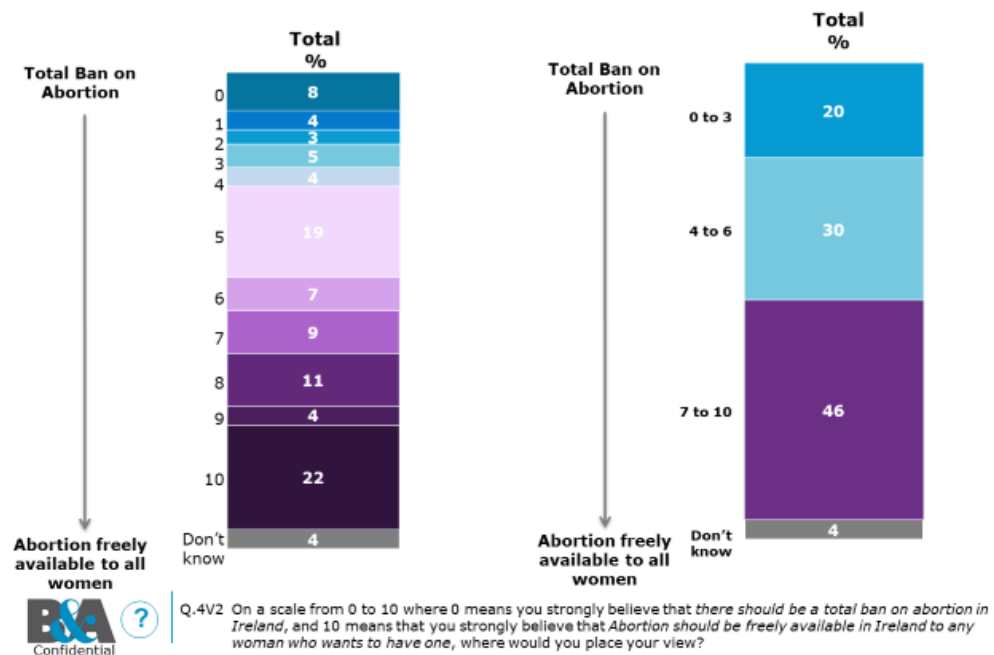
The margin of error across the responses common to all versions was calculated at $\pm 1.5\%$ while the margin across each of the three subsets was $\pm 2.6\%$.

The first question on abortion (see overleaf), with an estimated margin of error at $\pm 2.6\%$, was: 'On a scale of 0 to 10 where 0 means that *there should be a total ban on abortion in Ireland*, and 10 means that *abortion should be freely available in Ireland to any woman who wants to have one*, where would you place your view?' ³⁸

³⁸ RTÉ/Behaviour & Attitudes Exit Poll, 26 February 2016:

Availability of Abortion Support Levels

Base : All General Election 2016 Voters



The RTÉ Exit Poll results were roughly comparable with those of the *Irish Times* and might be expressed as follows:

Table 6: Irish Times poll 23 Feb 2016 and RTÉ Exit Poll 26 Feb 2016 (Version 2)

Media	Yes	Yes, in certain circumstances	No	D/K
The Irish Times poll 23 February	64	-	25	11
RTÉ Exit poll 26 February Version 2	46	30	20	4

Although with different questions, survey methods and sampling circumstances, here were two polls taken within a few days of each other showing majorities favouring abortion in some or any circumstances. There were to be further *Irish Times/Ipsos MRBI* polls leading up to the referendum on whether to repeal or retain the Eighth Amendment on 25 May 2018. Commentators, perhaps recalling earlier referendum outcomes, usually expressed health warnings to the effect that apparently liberal attitudes could change on the day of the vote.

5.8. THE CITIZENS' ASSEMBLY

During the campaign the Taoiseach Enda Kenny committed to holding a Citizens' Assembly

It's 33 years since the Eighth Amendment was introduced. Our society has changed completely. Many brave women have come forward with their stories about the trauma, the hurt and the sensitivities of all of this,' he said 'I think this is an issue where all of the legal, medical and human stories need to be taken into consideration.' ³⁹

The Assembly was formed and held its inaugural meeting on 15 October 2016. Established to consider some of the most important issues facing Ireland's future, It was a body comprising the Chairperson, Miss Justice Laffoy, and 99 citizens, randomly selected to be broadly representative of the Irish electorate.⁴⁰ It met 12 times in all. Five meetings were held on the Eighth Amendment. Cora Sherlock, speaking for the Pro-Life Campaign, had dismissed the Assembly claiming, on RTÉ's *Morning Ireland*, that it had been created only as a pre-courser to an abortion referendum.⁴¹

Pat Leahy, political editor of the *Irish Times* wrote:

Ireland's abortion wars are set to rage again: A new generation of people, many born since 1983, want to have their say. ⁴²

Writing as another mass protest march took to the streets, in this case the 'Repeal the Eighth' side, Leahy compared the Citizens' Assembly to a political 'kick to touch':

But it also offers some chance to hear the middle ground on the issue. And in the end, it's what the middle ground decides that will be decisive. ⁴³

³⁹ *Irish Independent*, 6 February 2016.

⁴⁰ The Citizens' Assembly: <https://www.citizensassembly.ie/en/About-the-Citizens-Assembly/>. Accessed 20 August 2018.

⁴¹ *Pro Life Campaign says Citizens' Assembly has Pre-Arranged Outcome*. 10 September 2016 <https://www.RTE.ie/news/2016/0728/805346-abortion/>. Accessed 20 August 2018.

⁴² *Irish Times*, 24 September 2016.

⁴³ *Ibid.*

Leahy noted that polls showed growing support for repeal of the Eighth Amendment and legalisation of abortion where pregnancy is the result of rape, or there is fatal foetal abnormality. He did not believe that Irish voters would wish for a 'UK-style regime'. A few days later, Dr Eamon Martin, Archbishop of Armagh, defended the Amendment, describing it as 'something precious and wonderful' and in the same sentence alluding obliquely to euthanasia. Later, after the referendum had been held, Bishop Crean of Cloyne drew a similar picture when he warned that: 'when we lose sensitivity to care for the unborn we risk becoming equally insensitive to the frail and elderly' ⁴⁴

It is a very clear statement at the foundation and substructure of our laws that everyone has an equal right to life . . . the mother, an elderly person who is terminally ill, and the unborn child.⁴⁵

The spectre of euthanasia had been raised. If it was to be acceptable to kill a child in the womb wouldn't it be equally acceptable to put the very elderly or terminally ill out of their misery? Crean was saying that no Catholic could support the taking of life in any circumstances.

I think if you are a Catholic who wishes to be informed by the teaching of your church, you will not find in the teaching of the church a statement that says you can support the deliberate and intentional taking of human life at any stage.⁴⁶

The *Irish Times* published another opinion poll on 7 October 2016, a week before the first meeting of the Citizens' Assembly, showing a 'strong consensus' for repeal:

Table 7: Irish Times Opinion Poll on support for Repeal of the Eighth Amendment

Retain the Eighth Amendment	18%
Repeal the Eighth but abortion limited to rape & fatal foetal abnormality	55%
Abortion on demand	19%

⁴⁴ Dr William Crean, Bishop of Cloyne. *Pastoral Letter on the Right to Life*, 7 May 2018.

⁴⁵ *Irish Times*, 3 October 2016.

⁴⁶ *Ibid.*

When the new Citizens' Assembly convenes later this month to discuss the Eighth Amendment, today's *Irish Times* Ipsos/MRBI poll suggests, a three-quarters-strong majority is likely to endorse repeal to allow abortion in cases of rape and of fatal foetal abnormality. If, that is, the assembly - as billed - is accurately representative of the population as a whole - the poll is remarkably consistent in showing only small variations by gender, region and age in the strong majorities for repeal. Another abortion referendum is surely on the way.⁴⁷

Ten days later, researchers from the Universities of Texas, Princeton and Edinburgh reported on Irish women's demand for abortion pills illegally obtained by post:

More than 5,600 women in Ireland tried to buy abortion pills online over a five-year period using a leading web supplier based in the Netherlands. Pills were shipped by the Women on Web (WoW) site to 1,642 women in Ireland between 2010 and 2012.⁴⁸

Much of the newspaper opinion, supported largely by published polls, was that change was on the way. A referendum was a virtual certainty, with voters supporting abortion in very limited circumstances (e.g., pregnancy due to rape, or presence of fatal foetal abnormality).

Some of the recommendations of the Assembly, therefore, came as a surprise when reported first by thejournal.ie on the afternoon of Sunday 23 April, as the Assembly announced them.⁴⁹

5.9. CITIZENS' ASSEMBLY RECOMMENDS ABORTION

Thejournal.ie provided a summary of the recommendations of the Citizens' Assembly:

An overwhelming 87% voted to recommend against retaining the Eighth Amendment of the Constitution, as it currently exists.

⁴⁷ *Irish Times*, 7 October 2016.

⁴⁸ *Irish Times*, 17 October 2016.

⁴⁹ 'Citizens' Assembly recommends abortion to be allowed without restrictions up to 12 weeks' in thejournal.ie, 23rd April 2017. <http://www.thejournal.ie/citizens-assembly-vote-3354416-Apr2017/> Accessed 21 August 2018.

It recommended to replace or amend the Eighth Amendment of the Constitution – and not to repeal it.

It recommended to provide a provision in the Constitution for the Oireachtas to legislate on abortion, the rights of the unborn and any rights of pregnant women.

It recommended that terminations should be allowed without restriction up to the 12th week of pregnancy.

It recommended that terminations should be allowed due to ‘socio-economic reasons’ up to the 22nd week of pregnancy.

In cases of fatal foetal abnormality where the child is likely to die shortly before, or after, birth it recommended abortion be permitted during any period of the pregnancy.⁵⁰

Two recommendations stood out: that abortion should be available without restriction to 12 weeks gestation and that it should be permitted for socio-economic reasons. These were far more liberal than had been expected by most commentators or interested parties. Praise and criticism came quickly. Senator Ivana Bacik hailed the Citizens’ Assembly as having provided ‘a clear direction’⁵¹ while *Irish Times* columnist Breda O’Brien denounced the ‘dreadful inhumanity of the Citizens’ Assembly’.⁵²

The Pro Life Campaign (PLC) had opposed the Citizens’ Assembly from the outset. In June 2016 following the Government announcement that the setup date was to be brought forward, Cora Sherlock of the PLC wrote on the group’s website:

This Assembly is being set up with one purpose only and that is to pave the way for a referendum to strip the unborn child of its last remaining Constitutional protection ... The Ministers who have been attacking the Eighth Amendment at every turn in

⁵⁰ Ibid.

⁵¹ *Irish Times*, 27th April 2017.

⁵² Ibid. 29th April 2017.

recent days have totally abandoned the rights of the unborn child and the tens of thousands of lives that have been saved by the Eighth Amendment.⁵³

Approval of the Citizens' Assembly as a unique exercise in democracy came from some foreign media including the liberal, and increasingly sold in Ireland, *Guardian* newspaper:

Ninety-nine random strangers, a North Dublin hotel and a lot of cups of tea and coffee – not exactly the stuff of political revolution. Yet little more than a year later, it appears that an unlikely assemblage of housewives, students, ex-teachers, truck drivers and others has brought Ireland to the brink of radical change to its abortion laws. They met as a Citizens' Assembly at the end of 2016, a mix of pro-lifers, pro-choicers and undecideds whose views broadly reflected opinions in the wider Irish population.

In all, it took five weekends. But at the end of it, they voted for change. In doing so, they did not just pave the way for an abortion referendum in May, details of which were announced today. They showed the world what democrats can do with a little imagination.⁵⁴

The Oireachtas Committee on the Eighth Amendment of the Constitution was formed on 4 April 2017, with 22 members from both houses of the Oireachtas, and dissolved on 20 December 2017. The Assembly report was submitted to the Oireachtas on 29 June as Assembly members warned politicians not to engage in 'delaying tactics'. Earlier opinions were that the Oireachtas Committee would propose more restrictive provisions. Pat Leahy of the *Irish Times* predicted that a referendum campaign, when it began, would be bitter.⁵⁵ A month later, on 1 July 2017, the anti-abortion side mounted another show of strength and determination in a 'rally for life' march estimated by Gardai as 10,000 to 20,000 strong.

⁵³ 'Citizens' Assembly announcement is knee-jerk reaction to one-sided UN report says PLC': <https://prolifecampaign.ie/main/portfolio/detail/14-06-16/>. Accessed 12 January 2019.

⁵⁴ Patrick Chalmers reporting from Dublin in the *Guardian*, 8 March 2018: <https://www.theguardian.com/world/2018/mar/08/how-99-strangers-in-a-dublin-hotel-broke-irelands-abortion-deadlock>. Accessed 12 January 2018.

⁵⁵ *Irish Times*, 30 June 2017.

Figure 13: Anti-abortion 'Rally for Life' 1 July 2017.



Image: <https://rallyforlife.net/dublin-2017/>

On 27 September, *The Times* reported:

Ireland is to hold a referendum on legalising abortion next summer, only months before a planned visit by the Pope. Leo Varadkar, the Irish prime minister, confirmed yesterday that the national ballot would be held in May or June 2018.⁵⁶

An *Irish Times* editorial stated that Fine Gael Ministers believed that only a restrictive abortion regime would pass, and that the Citizens' Assembly recommendations would not pass Party, Dáil or Country. That weekend, Eilis O'Hanlon wrote what was, with the benefit of hindsight, a prescient article in the *Sunday Independent* under the headline: 'Hectoring Irish people about abortion won't win a referendum':

Campaigners on both sides of the abortion debate should speak the language of Middle Ireland, not of ideological zealotry. This time next year it may all be over. For years the country has been squabbling fiercely over abortion; the issue has divided families and friends, ruining many a social gathering, and regularly turning the Dáil

⁵⁶ *The Times*, 27 September 2017.

and countless TV studios into battlegrounds. Now that a referendum on repealing the Eighth Amendment, which gives equal weight to the life of an expectant mother and the child in the womb, is finally set to take place next year, an end may be in sight. At least, that's the theory. (The debate has) been left in the hands of those who represent extremes. Only 5% of people are opposed to abortion in all circumstances, including rape, incest, a risk to the mother's life, or fatal foetal abnormality. At the other end, only 23% want to enshrine a woman's right to abortion in all circumstances, no questions asked. Yet these are the only voices which seem to get heard.⁵⁷

The definition of a zealot depends on who was calling whom 'a zealot' although some campaign posters were more graphic than others and there was some aggression in televised debates. However, as will be seen from the RTÉ Exit Poll conducted on the day of the Referendum, 25 May 2018 (see 5.16 below), respondents were less influenced by the on-air debates or posters and more by the stories of women who had terminated their pregnancies and those who did not for a variety of reasons.

Senator Rónán Mullen attracted a storm of criticism following an appearance on RTÉ Radio's *Today with Seán O'Rourke*. Asked whether Savita Halappanavar would still be alive if she had been provided with the termination she had requested, he said:

'If there was abortion on demand she wouldn't have been in the hospital because she wouldn't have been pregnant, and she wouldn't have been having a miscarriage.'⁵⁸

Members of the Oireachtas Committee strongly objected as did members of the Indian Community in Galway.

Not long after his comments about the late Savita Halappanavar Senator Mullen was reported as saying that he was not talking about Ms Halappanavar's personal circumstances and 'never would' do so. He said: 'To suggest I was is bad faith.'⁵⁹ He

⁵⁷ *Sunday Independent*, 1 October 2017.

⁵⁸ *Irish Times*, 19 October 2017.

⁵⁹ *Ibid.* 24 October 2017.

was further reported saying that his comments on *Today with Seán O'Rourke* 'could be reworded to more accurately express [his] meaning'.⁶⁰

Senator Mullen's comments were followed by the insistence by Professor Sir Sabaratnam Arulkumaran, who chaired the Health Service Executive (HSE) Inquiry into the death of Savita Halappanavar, that she died as a direct result of Ireland's abortion laws and not simply because she contracted sepsis. He was speaking during a meeting of the Oireachtas Committee on the Eighth Amendment along with Dr Peter Boylan, former Master of the National Maternity Hospital:

Asked specifically by Independent senator Lynn Ruane 'if the presence of the Eighth Amendment cost Savita her life', Prof Arulkumaran said: 'It was very clear the things holding the hands of physicians was the legal issue. Anybody, any junior doctor, would have said this is a sepsis condition, we must terminate.

'She did have sepsis. However, if she had a termination in the first days as requested, she would not have had sepsis. We would never have heard of her and she would be alive today,' he said.

The comment was challenged by Independent TD Mattie McGrath, who said there is 'lots of differing opinion on that'.

However, Dr Boylan said both he and Prof Arulkumaran 'had the opportunity of reviewing her medical notes' so 'have an unfair advantage' over the TD.⁶¹

Notwithstanding the evidence given by Professor Arulkumaran and Dr Boylan, the PLC and others campaigning to retain the Eighth Amendment continued to insist that the Eighth Amendment had nothing to do with Savita Halappanavar's fate, arguing but that her death was entirely due to medical mismanagement.

The Savita argument has all the characteristics of a permanent quarrel between opponents of abortion in any circumstances and those who claim the right of women to autonomy over

⁶⁰ *thejournal.ie*, 25 October 2017:: <http://www.thejournal.ie/mullen-savita-comments-3664472-Oct2017/>. Accessed 6 September 2018. thejournal's Facebook page put it more trenchantly: 'A defiant Mullen rejected all criticisms of his comments in a statement today': <https://www.facebook.com/thejournal.ie/posts/a-defiant-mullen-rejected-all-criticisms-of-his-comments-in-a-statement-today/1667186953301722/>. Accessed 7 September 2018.

⁶¹ *Irish Examiner*, 19 October 2017.

their own bodies. In becoming such a powerful symbol, Ms Halappanavar personified a threat to those who feared that the Amendment would be swept away. In death, Savita could not be attacked personally, but her status as a martyr to the legacy of the Eighth Amendment could be, and was, challenged. Pro-retainers had a simple assertion based on two written reports (from the HSE and HIQA enquiries) and an inquest: that she died specifically because of medical mismanagement. However, those enquiries were not empowered to comment on the law. Boylan and Arulkumaran, experts who studied the notes of the medical team who treated Savita, insisted that while she died of septicaemia, the sepsis resulted from chorioamnionitis (an inflation of the foetal membranes due to infection).

The legacy of the death of Savita Halappanavar was a collision of mutually exclusive values in a permanent zero-sum game.

Figure 14: Passing a mural of Savita Halappanavar in run-up to 'repeal the Eighth' referendum.



Within a week of the Oireachtas Committee report deadline, Senator Katherine Zappone, Minister for Children and Youth Affairs, made a speech at Dublin City University in which she said that the Eighth Amendment should be repealed, not replaced, and that abortion should be 'legal, safe and freely available to anyone who wants it' and available on request up to 12

weeks gestation.⁶² That weekend, David Quinn, Director of the Iona Institute, wrote in *The Sunday Times* that abortion in Ireland would be a rubber stamp for eugenics. He gave the example of Denmark where, he wrote:

Last year in Denmark, 137 women were found to be carrying a child with Down's syndrome. Only four opted to have the child, the other 133 had abortions. That is a termination rate of 97%. A further 20 babies with Down's syndrome managed to make it out of the womb alive, but that is because they were not prenatally diagnosed. So, in Denmark last year, 24 children with Down's syndrome were born while another 133 were aborted.⁶³

Quinn stated that a 'philosophy of eugenics' was taking root in Ireland and cited the evidence given by the Master of the Rotunda Hospital, Dr Fergal Malone, to the Oireachtas Committee:

The Master of the Rotunda defended his hospital's record on Down's syndrome babies. He said that, in 2016, the Rotunda had 26 cases in which Down's syndrome was diagnosed prenatally. 'Some 57% of patients chose to travel to the United Kingdom and 43% chose to stay and continue with their pregnancy,' he said.⁶⁴

Two days later, the *Irish Times* reported that a majority of Committee members supported abortion without restriction up to 12 weeks.⁶⁵

Then came the British Department of Health figure for the number of women who sought abortions in Britain and gave Irish addresses. The figure was 3,265. It was announced by Minister for Health; Simon Harris, and the figure was to be repeated often during the referendum campaign.

More than 3,250 women, from every county in the State, travelled abroad for abortions in 2016 and they should all be acknowledged, Minister for Health Simon

⁶² *Irish Times* and *The Times, London* (Ireland Edition) 8 December 2017.

⁶³ *Sunday Times*, 10 December 2017.

⁶⁴ *Ibid.*

⁶⁵ *Irish Times*, 12 December 2017.

Harris said. It is estimated that at least 170,000 Irish women have travelled to other countries for abortions since 1980. ⁶⁶

In announcing the figure in the Dáil, Harris personalised the issue in a way that was reflected verbally and visually in the campaign:

These are not faceless women. They are our friends and neighbours, sisters, cousins, mothers, aunts, wives. Each woman is dealing with her own personal situation and making what is a deeply difficult decision. ⁶⁷

As the debate developed the Taoiseach worried publicly about whether the Oireachtas would approve legislation favouring the 12-week provision. Then the Fianna Fáil leader, Micheál Martin, stunned his party and most commentators by going against the position adopted by his own Árd Fheis and most of the Fianna Fáil Parliamentary Party, declaring that he favoured repeal and cautiously approved the 12-week provision:

Mr Martin saw ‘the logic and the basic approach proposed by the Committee’ but ‘wants to see proposals about how it might operate’. He also pointed to it being indisputable that ‘thousands of Irishwomen have an abortion every year. ⁶⁸

Martin said that following his period of assessment and reflection, he believed that the country’s ‘middle ground’ was changing. Varadkar cleverly, perhaps reflecting an apparent conservative and cautious attitude among voters, himself adopted a carefully crafted demeanour. His reluctance to articulate outright support for termination without restriction up to 12 weeks gestation echoed the 20% undecideds in the opinion polls. The Tánaiste, Simon Coveney TD, had even greater, and widely publicised scruples, although these were calmed following clarifications to the legislation proposed in the event of a vote to repeal.

Towards the end of March, the Government announced the draft heads of legislation to be tabled if and when voters decided to repeal the Eighth Amendment. The proposed legislation would allow termination where there was or were:

⁶⁶ Ibid. 18 January 2018.

⁶⁷ Ibid.

⁶⁸ *Irish Independent*, 19 January 2018.

1. Risk to life and health of the woman.
2. Risk to health in an emergency.
3. Conditions likely to lead to the death of the foetus.
4. In order to deal with rape and incest, the Joint Committee recommended that termination of pregnancy be permitted up to 12 weeks without specific indication.

5.10. REFERENDUM ON THE THIRTY-SIXTH AMENDMENT OF THE CONSTITUTION BILL 2018

The government reportedly favoured a short campaign. With the heads of proposed legislation already published, the way was clear and a date of 25 May was set for the 'Referendum on the Thirty-Sixth Amendment of the Constitution Bill 2018'.⁶⁹ Irish people would be asked if they agreed with the proposal:

(i) to delete the following subsection from Article 40.3 of the Constitution:

'3' 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.

This subsection shall not limit freedom to travel between the State and another state.

This subsection shall not limit freedom to obtain or make available, in the State, subject to such conditions as may be laid down by law, information relating to services lawfully available in another state.', and

(ii) to substitute that subsection with the following:

'3° Provision may be made by law for the regulation of termination of pregnancy.'

⁶⁹ Referendum Ireland. <https://www.referendum.ie/archive/referendum-on-the-thirty-sixth-amendment-of-the-constitution-bill-2018/> Accessed 2 September 2018/

Figure 15: 'Together for Yes' and 'LoveBoth' campaign posters.



Photographed by the author.

Statements from all interested parties issued quickly. The main bodies on the anti-abortion side were the 'LoveBoth'⁷⁰ project, a sub-set of the long-established Pro Life Campaign and 'Save the 8',⁷¹ in turn associated with the Life Institute. On the repeal side, 'Together for Yes'⁷² included individuals and groups from several backgrounds and organisations. Amnesty International (Ireland) campaigned separately led by its Executive Director Colm O'Gorman. Government and Opposition TDs also campaigned. The main political campaign was led by Simon Harris, Minister for Health occasionally accompanied by Taoiseach Leo Varadkar. The Fianna Fáil Leader, Micheál Martin, also campaigned in spite of the fact that so many of his own Parliamentary Party were opposed.

⁷⁰ <https://loveboth.ie/>. Accessed 1 September 2018.

⁷¹ <https://www.save8.ie/>. Accessed 1 September 2018.

⁷² <https://www.togetherforyes.ie/about-us/who-we-are/>. Accessed 1 September 2018.

The Catholic Church and the Church of Ireland issued statements. On 6 March, the Irish Catholic Bishops' Conference produced *Our Common Humanity* in which it said that to repeal the Eighth Amendment would 'leave unborn children at the mercy of whatever permissive abortion laws might be introduced in Ireland in the future' and they invited people of faith to pray earnestly that Ireland will choose life'.⁷³ The Church of Ireland Archbishops of Armagh and Dublin issued a joint statement on 28 March, after the Government announced the heads of legislation. They said 'unrestricted access to abortion in the first twelve weeks of pregnancy, or indeed at any stage, is not an ethical position we can accept. There is, for Christians, a very clear witness in the Scriptures that all human life, including before physical birth, has a sacred dignity in the eyes of God. We therefore ask Church members to think through the issues involved carefully and with prayer over the coming weeks'.⁷⁴

The status of these documents merits comment. The Catholic bishops issued a statement, not an admonitory pastoral letter. The Church of Ireland Archbishops began: 'We offer the following remarks for the consideration of members of the Church of Ireland'. Neither church was issuing a directive to its members.

Our Common Humanity in 2018, unlike the pastoral letter, *Human Life is Sacred* in 1975, which was directed primarily at the increasing popularity of contraception as well as the perceived threat of abortion, acknowledged the plight of women made pregnant through rape, women learning that their baby may be terminally ill, or women facing some other crisis as a result of pregnancy. In the 64 pages of *Human Life is Sacred* pregnancy through rape is not mentioned, nor any other crises a woman might be subject to through pregnancy.

⁷³ *Our Common Humanity*: statement issued on the second day of the Spring 2018 General Meeting of the Irish Catholic Bishops' Conference, Tuesday 6 March 2018.

⁷⁴ *A statement on the forthcoming referendum on the repeal of the 8th Amendment to the Irish Constitution in relation to proposed legislation by the Archbishop of Armagh and the Archbishop of Dublin*, 28 March 2018: <https://www.ireland.anglican.org/news/7872/a-statement-on-the-forthcoming> . Accessed 2 September 2018.

5.11. THE FEROCITY OF THE 2018 CAMPAIGN

Figure 16: Pro Life marchers pass Pro Choice protestor, O'Connell Street, Dublin (Stock Image).



Once the referendum date had been announced, the campaign settled into shows of force coupled with rounds of accusations and counteraccusations. The masters of the two main maternity hospitals, the National Maternity Hospital and the Rotunda, both called for repeal. The LoveBoth Campaign claimed that Minister for Health, Simon Harris, was using the masters to 'win votes' for repeal.

Anti-abortion campaigners picketed the National Maternity Hospital displaying graphic posters of aborted fetuses which attracted much criticism from those who felt that pregnant women and their relations, entering the hospital, would have been deeply disturbed by the spectacle.

Figure 17: Anti-abortion demonstration at National Maternity Hospital, Dublin, 8 May 2018.



Image courtesy of Peter Murtagh, reporter, *Irish Times*.

The *Irish Times* itself was also targeted by anti-abortion activists carrying graphic posters:

Figure 18: Anti-Abortion demonstration posters at the Irish Times, 30 January 2018.

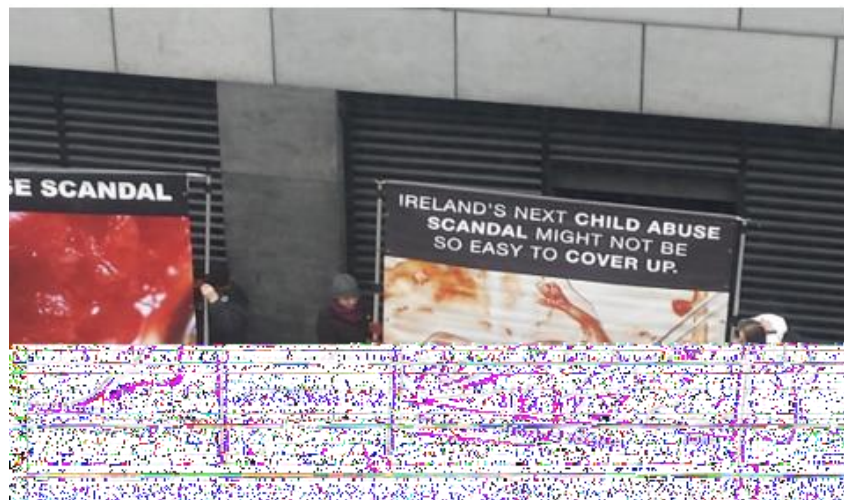


Image courtesy of Kitty Holland, Social Affairs Correspondent, *Irish Times*.

The appearance and involvement of medical professionals on both sides of the campaign contrasted with the 1983 precedent. At that time Dr Julia Vaughan, a gynaecologist and obstetrician, was chair of the Pro-Life Amendment Campaign. The then Master of the Rotunda, Dr George Henry, opposed the Amendment on the grounds that, if implemented, it could

endanger the health and possibly the lives of some women. Beyond these two, not many medical professionals publicly supported either side in 1983, whereas nurses, general practitioners and consultants were among the many health care personnel arguing publicly in 2018 to repeal or retain the Eighth Amendment. Broadly speaking, their arguments could be summed up to two contrasting basic positions:

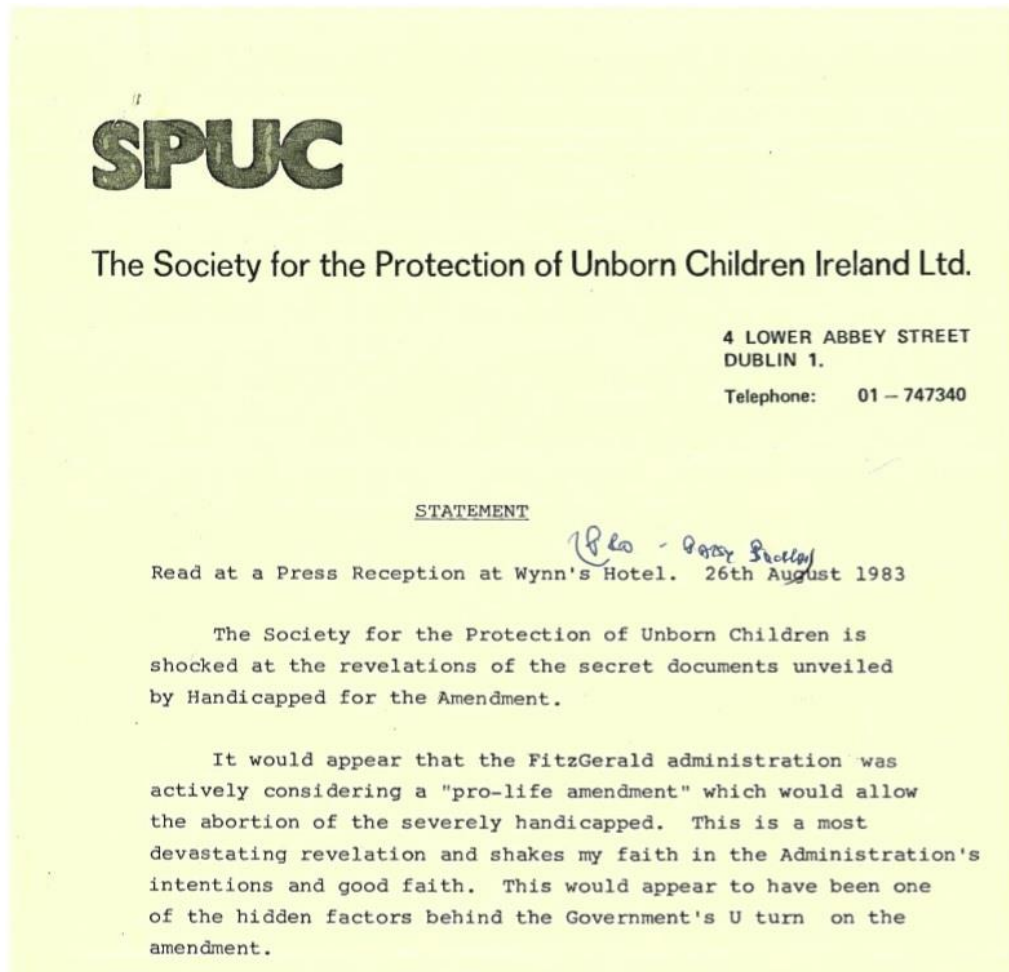
1. Those who maintained that the existence of the Eighth Amendment had never conflicted with the treatment of their patients.
2. Those who maintained that the existence of the Eighth Amendment had to be a barrier to the provision of full care because the patient's life had to be in danger before a medical team could intervene.

Doctors and other medical professionals appeared throughout the campaign. Some formed groups to publicise their support. One of the earliest was Doctors for Choice, which had been initiated by a GP to oppose the Twenty-Fifth Amendment of the Constitution in 2002, the second attempt by a Fianna Fáil-led government to overturn the Supreme Court judgement in the 1992 'X' Case and remove the threat of suicide as grounds for legal abortion. Both the 2002 and 1992 Amendments were rejected.

The anti-abortion side in 2018 deployed arguments very similar to those used in 1983. The key argument was that, once abortion was introduced into any country, notwithstanding whatever array of regulations might have been installed by a government, abortion on demand would triumph and become the norm. Ireland, they insisted, had to be steered away from going down the road whereon lay the inevitable 'massacre of the innocents'.

Among those innocents were the unborn who showed symptoms of handicap and might be selected for abortion. In 1983, the anti-abortion group SPUC accused the then Fine Gael/Labour coalition of considering exactly that. The organisation called a news conference to publicise government documents that another organisation, 'Handicapped for the Amendment', claimed to have obtained. Patsy Buckley, PRO for SPUC, told journalists that the documents showed that the Government was actively considering a policy which would have permitted abortion in cases of severe handicap:

Figure 19: SPUC statement, 26 August 1983, claiming Government considering allowing abortion of severely handicapped.



Document from the author's personal collection.

In the 2018 campaign, one of the earliest posters on display was the Save the 8/Life Institute controversial Down syndrome picture. Down Syndrome Ireland issued a statement calling on campaigners not to use images of children with Down syndrome. The charity, quoted in thejournal.ie, said:

This is very disrespectful to both children and adults with Down syndrome and their families. It is also causing a lot of stress to parents. People with Down syndrome should not be used as an argument for either side of this debate.⁷⁵

Figure 20: Save the Eighth poster: 'In Britain, 90% of babies with Down syndrome are aborted'.



Photographed by the author.

Thejournal.ie conducted a fact check on the 'Save the 8th' poster claim. The online news service noted that the poster did not clarify that the 90% refers to prenatally diagnosed Down syndrome and that the poster should have read: 'In England and Wales, 90% of pregnancies with prenatally diagnosed Down syndrome are terminated'.⁷⁶ It is worth noting that Dr Fergal Malone, Master of the Rotunda Hospital, appearing before the Oireachtas Committee in December 2017, stated that while the number of prenatally diagnosed Down syndrome cases

⁷⁵ 'Charity's warning ahead of referendum: 'Stop exploiting children and adults with Down syndrome', *thejournal.ie*, 24 January 2018: <http://www.thejournal.ie/eighth-Amendment-campaign-down-syndrome-3813917-Jan2018/>. Accessed 25 January 2018.

⁷⁶ *thejournal.ie*, 3 February 2018: <http://www.thejournal.ie/factcheck-babies-abortion-3823611-Feb2018/>. Accessed 7 September 2018.

was small, more than half the women with pregnancies so diagnosed chose to travel to seek an abortion.⁷⁷ David Quinn, Director of the Iona Institute, had quoted Malone in an article for *The Sunday Times* in which he wrote that a ‘philosophy of eugenics’ was gaining ground in Ireland.⁷⁸

In 2018, a much more highly organised campaign was mounted against the anti-abortion side. A key factor was that repeal of the Eighth Amendment and its replacement by legislation had been developed as Government policy and was supported by a majority of members of the Oireachtas including the leaders all political parties. Beyond the Oireachtas were the main Repeal groups. These were Together for Yes who organised quickly and successfully crowd-funded themselves. The other main campaigners were Amnesty International (Ireland). In addition, there were various groups of medical and legal professionals as well as small groups of individuals. The Repeal side embraced three main objectives:

1. Provide abortion facilities within specific limits so that women with unwanted pregnancies would no longer have to travel to Britain or elsewhere to terminate those pregnancies.
2. Provide abortion facilities without restriction up to 12 weeks gestation so as to make abortion available to women made pregnant by rape.
3. Provide abortion facilities to women whose pregnancies have been diagnosed as having fatal foetal abnormalities.

This study has argued that the ‘X’ case in 1992 where a 14-year-old, pregnant following rape, had been forbidden by the High Court to travel for an abortion meant that she had been effectively ordered to carry the pregnancy to term. This, together with the three referendums which followed later that year had re-awakened the public mind to the range of complexities surrounding unwanted pregnancies and abortion. The referendums upheld the people’s right to information, their right to travel and refused the Government’s effort to overturn the

⁷⁷ See 5.9 above.

⁷⁸ *Sunday Times*, 10 December 2017.

Supreme Court ruling. Taken together these votes may be seen as signs of a more compassionate and less compliant voting public.

Poster campaigns provide insights into the atmosphere of the 2018 Referendum. There was a marked difference in approach. The repeal side poster themes appealed for compassion towards those with unwanted pregnancies. These were often personalised in an effort to link the observer with a wife, lover, daughter or friend. For the most part the repeal posters featured the logo or name of the organisation. Apart from the Solidarity/Right to Choose posters, direct reference to ‘abortion’ or ‘termination’ was avoided, a fact that was picked up by spokespeople for the anti-abortion side.

Figure 21: Pro-choice posters in the 2018 campaign.



Figure 22: Anti-abortion posters in the 2018 campaign.



Photographed by the author.

Anti-abortion posters, in contrast, linked abortion with killing and, specifically, killing babies. To link expressions such as 'the right to choose' or 'termination of pregnancy' with the act of 'killing children' was and is a key component of the message of anti-abortion groups worldwide. As far back as 1976 Cardinal Conway linked abortion with euthanasia.⁷⁹ The anti-abortion poster campaign of 1983 for the most part avoided depictions of foetuses and

⁷⁹ 19760907.

preferred mother-and-baby images, evoking motherly love and the bonds between mother and child. The 2018 campaign had a much harder edge, seeking to stir revulsion in the observer. Images of fetuses and infants often appeared, prompting the impression that repealing the Eighth Amendment would result in killing children.

A further differential between 1983 and 2018 was the presence of an iconic figure on the repeal side in the latter campaign, the late Savita Halappanavar. The medical professional who emerged as most articulate on the death of Savita was Dr Peter Boylan, a strong proponent of repeal. As such he became one of the principal targets for the anti-abortion side as will be seen in 5.12 below.

5.12. FIRST OF THE TELEVISED LIVE DEBATES ON *CLAIRE BYRNE LIVE*

The first of the live debates took place on RTE's *Claire Byrne Live* on 14 May 2018. The studio line-up consisted of a panel of six and an invited audience equally divided between anti-abortion supporters, known throughout the campaign as the 'no' side, and pro-repeal people known as the 'yes' side. The panellists were: Orla O'Connor, Co-Director, Together for Yes; Dr Peter Boylan, Chair, Institute of Obstetricians and Gynaecologists (Yes); Mary Lou McDonald, President of Sinn Féin (Yes); Maria Steen, the Iona Institute (No); Dr John Monaghan, Consultant Obstetrician/Gynaecologist (No); Mary Butler TD, Fianna Fáil (No).

Antagonism towards Boylan appeared early in the programme when the discussion turned towards the 'Miss P' case. This was the young pregnant woman described in 5.5 above who, though brain-dead, was kept on life support because there was evidence of a foetal heartbeat. In studio during *Claire Byrne Live*, Dr Monaghan described as 'noble' the effort to keep the woman alive until her child was delivered. Boylan said her face was so swollen that she had to be made up to try and disguise her appearance. At this point, Maria Steen intervened asserting that Boylan had told *Hot Press* in an interview that Miss P had died because of the Eighth Amendment:

Steen: It is completely disingenuous that poor lady died because of the Eighth Amendment. She was brain dead already.'

Boylan: I didn't say she died of the Eighth Amendment.

Steen: You said in a *Hot Press* interview, you said there were four women who died as a result of the Eighth Amendment, and that poor lady did not. I think it is very important that the people at home and also important that your five

Cheers and applause from the 'no' side audience.

Claire Byrne: Can I come back to John Monaghan

Monaghan: No woman has died because of the Eighth Amendment.⁸⁰

In the *Hot Press* interview with Boylan published on 9 May 2018 the reporter, Jason O'Toole, put it to him that Dr Eamonn McGuinness, a consultant obstetrician and gynaecologist, had said that no woman had ever died because of the Eighth Amendment. Boylan replied:

Well, Savita Halappanavar died as a result of the Eighth Amendment. Michelle HaRTÉ, who was looked after by Professor Louise Kenny, died as a consequence of the Eighth Amendment. Sheila Hodggers died as a consequence of the Eighth Amendment. We have the Miss P Case ...⁸¹

In the interview, Boylan said three, not four, women died as a result of the Eighth Amendment. He did not say, as Maria Steen alleged, that Miss P died as a result of the Eighth Amendment.

Contacted by the author, the editor of *Hot Press*, Niall Stokes, said that Dr Boylan had not claimed in the interview published on Thursday 10 May 2018 that Miss P had died as a result of the Eighth Amendment. Stokes said that the previous day, Wednesday 8 May, a person employed in public relations had circulated other journalists erroneously mentioning that Boylan had said four women had died because of the Eighth Amendment. This was quickly corrected but Stokes' guess was that one of the recipients of the earlier circulation had contacted the 'No' side and the error was recycled by Maria Steen on the *Claire Byrne Live* debate. Had Steen or others on the no side consulted *Hot Press* following its publication on

⁸⁰ 20180514.

⁸¹ Extract from interview with Dr Peter Boylan, *Hot Press*, 9th May 2018.

Thursday 10 May, four days before the televised debate, they would have seen that Boylan referred to three women, not four.⁸²

Mary Lou MacDonald: There's no nobility in dragging a dead woman's family through the courts. When Savita happened, when Miss P happened (they) said this can't happen anymore.⁸³

The programme, which was intended to be a debate, began to descend into verbal attacks and sloganeering. Bríd Smith, the People before Profit TD on the 'yes' side, said that she had had an abortion because of a 'crisis pregnancy'. A key Repeal argument was that Ireland already had abortion but was exporting it and thus exiling women. Steen said she admired Smith's honesty whereupon Smith retorted that she did not admire Steen's 'lying'. Byrne tried, unsuccessfully, to restore calm.

Steen: What we're being asked to decide is whether we take away the right to life of every child in the womb in this country so for all the viewers at home watching tonight who are expecting a baby if this referendum is carried on 26 May your baby will lose his or her right to life.

Loud applause and shouting.

Steen: I'm not finished.

Smith: Yes, you are finished.

Lawyer in audience (Lorcan Price): At the moment women, if pregnant through rape, are forced to carry the baby to term. It is mandatory, and to abort that baby carries a mandatory sentence of 14 years. Doctors may not intervene unless a woman has reached the threshold and the threshold is the risk of death. That's what happened to Savita.

Mattie McGrath TD and others on the 'no' side: No! No! No!

⁸² Niall Stokes, editor, *Hot Press*, emails to the author ending 27 July 2018

⁸³ 20180514.

A woman on the ‘yes’ side said that, once pregnant, a woman’s rights become diminished. Lorcan Price, BL, of the LoveBoth campaign, answered that the balance as it exists favours the mother. Catherine Noone TD (FG), chair of the All-Party Oireachtas Committee, said that there would be a doctor-led framework which would be better than travelling for an abortion or taking (abortion) pills unsupervised. Rape and incest cases, she commented, are very difficult to legislate for. Senator Aodhán Ó Ríordáin of the Labour Party said that the issue was not about Irish abortion but was about keeping Irish abortion in England:

Ó Ríordáin: In 1992 (following the ‘X’ case) we voted for the right to information and the right to travel. If we trusted women to go to England for a termination, why can’t we trust them to stay in Ireland? ⁸⁴

Part of the problem with the programme was that much of it consisted of sloganeering or attempts at making speeches, which meant that cohesion, where participants actually debated with each other, rarely happened. Instead participants, particularly on the ‘no’ side often merely attacked, shouting down the ‘yes’ side.

On the subject of pregnancies due to rape Senator, Rónán Mullen, Independent, articulated the ‘no’ side theme that politicians were not to be trusted:

The Government has the opportunity, if they wish, to amend the Constitution to allow for ‘hard cases’. Instead, it’s abortion on demand. I’m a politician. You can’t trust politicians on this issue. ⁸⁵

Voice from audience: Why not legislate for the hard cases?

APPLAUSE

Mary Lou McDonald: This is like a clapogram. We are trying to assist people to reach the bottom line. Legislation is the place to democratically agree a framework on this matter. We need to woman up – we need to man up. ⁸⁶

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid.

Dr Boylan, who had been accused by Mattie McGrath TD of spreading lies about Savita Halappanavar earlier in the programme, managed to give an account of her treatment and the subsequent investigation into her death:

There followed an argument between Boylan and Monaghan over whether a baby is fully formed after 12 weeks, the point of gestation prior to which proposed legislation would permit unrestricted abortion. Boylan's opinion was that the baby was not fully formed whereas Monaghan claimed it was:

Monaghan: There is nothing new after 12 weeks. If you didn't know that maybe you need to go back to school.

WHOOOPS AND CHEERS FROM THE 'no' SIDE.⁸⁷

The above exchanges are representative of the level of debate reached during a programme wherein several participants struggled to make reasonable points while the presenter struggled to keep order and achieve cohesion.

Several on the 'no' side stated that there would be a liberal abortion regime in Ireland just like the UK and the US in the 60s and 70s. Mary Lou McDonald responded:

McDonald: The reason why we need to remove the Eighth and we need to legislate is because we need to learn from decades of experience. We need to cater for our people including the hard cases that you disregard.

'no' woman in audience: This is what is always said. 'It's not going to happen. There are not going to be high numbers. Every jurisdiction that has legislated – it's impossible to put a lid on it.

Boylan: In every jurisdiction where illegal abortion has been legalised the numbers have come down with the passage of time.

⁸⁷ Ibid.

Steen: Mary Lou favours abortion on demand. Sinn Féin supporters need to know that.

McDonald: 'Not only Sinn Féin supporters. Everybody knows my position on this ... I'm also pro-life. I'm the mother of two children.

RTÉ audience research, reported by Pat Leahy of the *Irish Times*, showed that the programme was watched at some stage by 650,000 viewers with an average audience of 360,000. His analysis was that the 'no' side's campaign received a 'significant fillip' in the programme, that they were better organised, better led by Maria Steen, and had a more enthusiastic audience which was antagonistic to speakers for the 'yes' side. Leahy noted that Dr Boylan had a particularly uncomfortable time.⁸⁸

The 'no' side might have had a good night were the encounter to be judged in terms of simple pugilism. As Leahy noted, the 'yes' side speakers and audience seemed quite taken aback by what was happening, The *Today Tonight: Referendum Special* of 25 August 1983 (see 2.5. above) could be considered a forerunner of the *Claire Byrne Live: Referendum Special* in its displays of hostility. That 1983 programme contained sufficient vitriol to count as a landmark in the coarsening of public discourse. Nonetheless, it still contained some elements of a serious debate. If a new pointer to the coarsening of public discourse were needed, the *Referendum Special* of 2018 might qualify. Not only was the behaviour of the 'no' side and, to a lesser extent, the 'yes' side, dominated by hostile displays but many of the contributions consisted of crude point-scoring rather than real debate.

The fieldwork for the last *Irish Times*/IPSOS MRBI poll before the referendum was conducted on Monday 14 and Tuesday 15 May, the day after the *Claire Byrne Live: Referendum Special*. Excluding undecideds, it showed 58% of respondents planning to vote 'yes' for Repeal and 42% voting 'no'.

⁸⁸ *Irish Times*, 16th May 2018.

5.13. SECOND TELEVISED LIVE DEBATE ON *PRIME TIME: ABORTION REFERENDUM DEBATE*

The following week, RTÉ's *Prime Time* series mounted a further debate. The *Prime Time* staff sought leading spokespeople from both sides other than those who had appeared on the *Claire Byrne Live* programme the week before. RTÉ's experience is that many viewers who watch *Claire Byrne* also watch *Prime Time* and the staff wanted their audience to have a fresh debate which did not appear repetitive. They contacted Simon Harris, Minister for Health and Dr Mary Higgins, a consultant obstetrician at the National Maternity Hospital and lecturer at UCD. Both would represent the argument for 'yes'. On the 'no' side *Prime Time* reached Peadar Tóibín TD (SF) and Cora Sherlock, Secretary of the Pro Life Campaign both of whom agreed to appear.

The LoveBoth Campaign, which is part of the Pro Life Campaign organisation, later contacted *Prime Time* to say that Cora Sherlock would be unavailable and that only Maria Steen of the Iona Institute could attend. LoveBoth did not give a reason for Sherlock's cancellation. *Prime Time* reminded LoveBoth that, when the invitation was made, *Prime Time* had made it clear that guests had to be spokespeople other than those who had appeared on *Claire Byrne Live* on 14 May. *Prime Time* suggested Wendy Grace or Caroline Simons as alternatives. However, LoveBoth refused to consider anyone other than Maria Steen. The programme staff went in search of other pro-life people who had not been on the *Claire Byrne Live* debate, but to no avail. RTÉ, in the interest of balance, had to reduce the panel to one on each side. Dr Higgins was placed in the participating audience. Ms Steen was not present.⁸⁹

There is an interesting parallel here with the *Today Tonight* debate on divorce on 24 April 1986. RTÉ staff on that occasion contacted the ADC for a spokesperson and asked for the ADC Chairman, Senator Des Hanafin. The ADC insisted on William Binchy. Programme staff privately felt that Binchy was being over-exposed and that a fresh face was needed. However, RTÉ's Steering Committee, fearing that the ADC would accuse the organisation of partiality, instructed *Today Tonight* to accede to the ADC's demand. Michelle Dillon, in *Debating Divorce*, wrote that Binchy's frequent appearances may have enhanced his recognisability and credibility, thus strengthening the appeal of the ADC and its cause.⁹⁰ *Prime Time*, finding itself

⁸⁹ David Nally, managing editor, Current Affairs TV, in an email to the author, 9 July 2019.

⁹⁰ Dillon, *Debating Divorce: Moral Conflict in Ireland*.141.

in a similar situation 32 years later, perhaps reflecting the unwritten rule that it is a mistake to allow pressure groups or lobbyists to dictate to programme makers, simply rebalanced the panel following Sherlock's withdrawal.

This *Prime Time* programme was less frenetic than the previous RTÉ televised debate. Although there was a participating audience and some partisan displays, those present were more controlled. The fact that there were but two panellists, Minister Harris and Deputy Tóibín, in contrast to the *Claire Byrne Live* event, seemed to contribute to a calmer, yet forceful exchange of views on a highly emotive issue. Two presenters, Miriam O'Callaghan and David McCullagh, were on hand to manage panellists and audience while on air.

When the Halappanavar topic arose, Dr Higgins, for the 'yes' side, was able to make her points without being harassed or called a liar:

The week after Mrs. Halappanavar died I was working in Canada. I was doing my training there and I was looking after a woman who came in exactly the same clinical circumstances as she did with ruptured membranes. We sat down, and we discussed: 'there is a low risk that your baby will actually survive. There's a high risk of infection'. She was in a country that did not have the Eighth Amendment. She was in a country where she could, because of a significant risk of harm to her health, have an intervention. She was incredibly sad because it was an incredibly wanted pregnancy. But she had a termination of that pregnancy and she came back again with a subsequent pregnancy and she's had children since. That's what makes a difference to us.⁹¹

On the other side Dr Trevor Hayes, also an obstetrician, stated:

I don't believe that the Eighth Amendment killed Savita Halappanavar. The HSE (Health Service Executive), the HIQA (Health Information and Quality Authority), the Coroner's case have all pointed towards misdiagnosis, a lack of recognition of sepsis. There were 13 separate occasions where sepsis could have been identified and moved upon.

⁹¹ 20180522.

When I have a complicated case, I get that patient into a room of safety by the labour ward with appropriate monitoring ... I don't look up the Eighth Amendment. I will not hesitate or procrastinate. I will take that patient to theatre even with the foetal heart and I will remove that baby to save the woman.

David McCullagh, RTÉ: But, with respect, not all doctors treating women have the same confidence or perhaps the experience. Some of them, at least, are happy to consider the legal position before they consider the medical position.

Hayes: I haven't had that problem.

McCullagh: But some doctors do. ⁹²

Since the participants in this programme, for the most part, were more measured and concentrated on argument rather than point-scoring, the debating strategies of the two sides was more easily discernible. For example, a key 'no' side accusation, mirrored in some of their posters, was that 20% of babies in England were aborted and that a vote for 'yes' would mean the same in Ireland.

Figure 23: Poster with a key 'no' side assertion: 20% of all babies in England are aborted.



Photograph courtesy of the *Irish Times*.

The 'yes' side spokespeople's strategy was to avoid becoming entangled in British abortion statistics or policies. When so challenged in *Prime Time*, Dr Mary Higgins replied:

⁹² Ibid.

I am an obstetrician working in Ireland. I don't work in the UK. I look after women with complex medical issues – I have to wait until there is a real and substantial risk to the life of the mother where a termination of pregnancy is the only option for them.⁹³

Dr Higgins also said that 81% of obstetricians had signed up in support of repealing the Eighth Amendment. In the audience there were medical practitioners who did not support repeal:

Dr Kirsten Fuller, Medical Alliance for the Eighth: At the end of the day what we're being asked to do is end the life of one of our patients. That defies all medical ethics. It goes against the very core of what medicine is about – to do good and do no harm.

Simon Harris, Minister for Health: The question here is about a balance of rights. No one wants to see unborn life unprotected, but it is about a balance of rights.⁹⁴

Peadar Tóibín had already said that he viewed the campaign as a human rights campaign. He accused the Minister of seeking to remove the rights of one to protect those of another:

Minister Simon Harris: I have to call you out on the issue of 'abortion on demand'. Women in this country are not going around demanding abortion. They're women in crisis and that is why they're leaving the country. Nine a day.

Tóibín: The Oireachtas Committee itself stated that the majority of women are leaving this country for abortions in Britain for socio-economic reasons. Now the socio-economic conditions that they are experiencing are actually a product of your government. Yourself and Leo say you are pro-choice, but the economic policies that you're involved in making women feel that they don't have a choice.⁹⁵

In the proposed legislation, abortion was to be illegal in all circumstances after 12 weeks gestation, except where there was a risk of mental or physical illness. (Head 4: Risk to life or health). Diagnosis of disability in the foetus would not be grounds for abortion.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

Tóibín frequently referred to ‘abortion on demand’. He also referred to abortion being requested ‘with no reason’. Harris replied, ‘there is always a reason’.

It’s your view that if a woman is raped that she should carry her baby to full term ...
You will not support any woman who has been raped (and) asking for termination.
Isn’t that correct? ⁹⁶

The ‘no’ side noticeably avoided answering the question as asked. Their usual strategy was to turn the compassion argument around. Tóibín answered as per the established strategy.

My view on this is that the life of one person should never be lost to save another person. We can’t take the life of one person to fix another person’s solution.

The debate also turned to the increasing popularity of the abortion pills which could be dangerous in some situations. If a woman consumed pills obtained by post and suffered ill effects, she risked prosecution if she sought medical assistance. Proposed legislation would allow abortion pills to be taken under medical supervision.

A prominent theme in the ‘no’ side’s argument was that advocates of repeal focused on the so-called ‘hard cases’ which, they argued, inevitably involved exceptional circumstances. They claimed that such ‘hard cases’ could be dealt with while keeping the Eighth Amendment:

Harris: What the ‘no’ side were proposing was not possible under the Eighth Amendment.

Lorcan Price: The Minister did not ask whether the Constitution could accommodate an Amendment to deal with those kinds of (hard) cases.

Harris: That would indeed be extraordinary if it was true. We have just come through an extraordinary deliberative process. We asked citizens in the Citizens’ Assembly to look at the issue. We asked the Oireachtas on a cross-party basis to look at the issue. We asked for medical input. We asked for legal input. The Government looked at it. The Attorney General looked at it. Vote ‘yes’ or vote ‘no’ on Friday in accordance with your conscience. But don’t suggest that there’s a magical alternative over there

⁹⁶ Ibid.

and we just couldn't bother bringing it forward. It is a once in a generation opportunity to repeal the Eighth Amendment and make this country just a little bit more caring for women in crisis pregnancies.⁹⁷

Towards the end of the programme Peadar Kirby repeated the anti-abortion claim that in every country where abortion has been introduced there is a radical increase and that as a result of the existence of the Eighth Amendment tens of thousands of lives have been saved. This argument derives from an actuarial report commissioned by the Pro Life Campaign, which calculated that in excess of 100,000 induced abortions would have taken place in Ireland had the Eighth Amendment not been in place.⁹⁸

5.14. THIRD TELEvised LIVE DEBATE ON *THE PAT KENNY SHOW: REFERENDUM DEBATE*

TV3 hosted the last live debate on 23 May just two days before the vote. Presented by Pat Kenny, it exerted a strict time control. TV3 staff timed 'yes' and 'no' contributions to ensure that the duration of the debate was shared equally between the two sides. Kenny announced this policy at the outset and repeated it several times during the programme.

The TV3 panellists were Colm O'Gorman, Executive Director Amnesty Ireland (Yes); Regina Doherty, Minister for Employment and Social Protection (Yes); Maria Steen, the Iona Institute (No); Senator Rónán Mullen, Independent (No). There was also a participating audience divided equally between the two sides. Kenny dealt firmly with speakers he felt were eating time or were avoiding his questions. He immediately tackled the 'no' side's insistence that all pregnancies, apart from those where the mother's life or health was at risk, must go to term.

I'm wondering does this not boil down to a very simple proposition. On the 'no' side you want every pregnancy, irrespective of the circumstances of its conception to go to term. And in this ('yes') side you want every single pregnancy to be in the gift of

⁹⁷ Ibid.

⁹⁸ PLC. <https://prolifecampaign.ie/main/actuarial-report-8th-amendment-saved-100000-lives/> . Accessed 1 June 2019.

the mother to decide whether it goes to term or not and that to be a free choice up to 12 weeks. Is that a fair analysis of the choice our voters must make on Friday? ⁹⁹

Maria Steen: We think that all babies deserve their chance at life the same as you or I do or anybody else in this room. And what the Government has proposed here is an extreme law. This is about taking away a right to life in order to make way for a right to kill and putting the power over life and death into the hands of politicians. So that's what we object to. What is interesting about this campaign is that, you know, we will hear a lot of talk tonight about the exceptional cases like rape and incest and fatal foetal abnormalities. What's interesting about this campaign is that while it is made up of people like me who believe that every baby deserves their chance and shouldn't be deliberately killed, we have also been joined by pro-choice people who don't agree with me about the exceptional cases but who recognise that this proposal by the Government is a step too far.

Kenny: OK but when you say that it is to suggest that if the Government had come up with another arrangement, be it constitutional or legislative, which allowed for the hard cases like incest or rape, you would in some way go along with it and I'm putting it to you that is not your position. Your position is 'every conception is precious'.

(STEEN TALKING OVER)

Steen: I've been very honest about my position in this. My position is, as I said, every child deserves the right to life. What I said is I've been joined by people who agree with me.

Kenny: Maria, the question I'm asking you is: 'irrespective of the circumstances of conception, you believe, rape, incest?'

Steen: It isn't about what I believe.

Kenny: It's what I'm asking you.

⁹⁹ 20180523.

Steen: It's about what the Minister, Simon Harris, has put before us. The Government Regina is here to represent

Kenny (interrupts Steen and addresses Regina Doherty): Minister. It's just too extreme is what Maria is saying irrespective of whether she would support a different proposition or not. It's just too extreme.

Regina Doherty: Well I don't believe ... and I will call out the 'no' vote for the stunt they've pulled this week insofar as trying to get people to think that if this wasn't as has been constructed, if it was some other way, if it was just to address the issues of rape or fatal foetal abnormality diagnoses, so then they could look at it and support it. But ... the reality is that they haven't been willing to look at or support anything in 35 years. What I believe is that the reality in Ireland at the moment is 3,650 women left this country last year to avail of terminations for their own difficult personal choices and I think we should be minding those women in Ireland.

Kenny: But aren't they right in one way – for any reason or no reason up to 12 weeks someone can go for a termination?

Doherty: There's always a reason Pat. No woman makes a decision lightly to terminate a pregnancy. There's always a reason. And usually that decision is made having explored all the other options because it isn't the simplest or easiest option and it isn't made in any callous manner. It's usually the option of last resort and these are crisis pregnancies. These are women, Irish women in crisis and what we're proposing to do is continue to ignore them if we vote 'no' on Friday and keep them going, exporting them to the United Kingdom to avail of their services that we agreed in 1992 that it was okay for them to access.'

Kenny to Senator Rónán Mullen: It might happen here if it's a 'yes'. It will certainly continue to happen in the UK if it's a 'no'.

Mullen: What the Eighth Amendment has achieved is top quality care for women in pregnancy.'

Kenny challenges Mullen: That the insertion of the Eighth Amendment in 1983 improved obstetrics? Now I'm not sure you can make that claim.¹⁰⁰

Mullen ignored the challenge. He switched to the low rate of Irish abortions and O'Gorman said that such rates have declined in countries where abortion has been legalised. Mullen called that an insult to common sense. Doherty recalled that the 'no' side campaigned against the Protection of Life During Pregnancy Bill, legislating for the 'X' Case ruling of the Supreme Court. She said they claimed the floodgates would open, and large numbers of women would seek abortion on the grounds that they were suicidal – which did not happen.

25 terminations happened in this country in the last year, 16 of which happened on the basis of emergency. The remainder happened on the basis of threat to life through suicide. It's a tiny number compared to the 65,000 women who delivered babies.

Kenny: Rónán voted against that bill.

Mullen: Yes, because mental health has no evidence base.

(PROTESTS FROM 'yes' SIDE)¹⁰¹

Mullen claimed that experts support this criticism of the use of mental health as grounds for abortion and that the Government wanted to imitate the UK and was proposing a regime that would mean death for thousands of unborn children in the future.

Doherty: 'Rónán will tell you and have conversations with you in the absence of acknowledging the situation in Ireland that there are already 3,650 Irish women in crisis pregnancies that were forced to travel in 2016 which is the last year we have data for He wants to pretend that this is something new. It's like as if we introduced it on Friday or Saturday and if we voted on Saturday Ireland was going to change and I can categorically tell you that the only thing that will happen if we vote 'yes' on

¹⁰¹ Ibid.

Friday is that Ireland will show that we actually are compassionate towards women in crisis pregnancies and we won't force them to leave this country and export them to the United Kingdom.'

Kenny to Steen: It's happening. It will continue to happen irrespective of the result.

Steen: No one here is denying reality. As we have said, the numbers of women who are having abortions from Ireland is significantly lower than in other European countries. The Government can't have it both ways. They can't say, like Josepha Madigan said, she wants to bring Irish law into line with 21 other European countries and then say that the high level of abortion that results in these countries won't happen here. That is not facing reality ...

O'Gorman: The Eighth Amendment has not stopped abortions, it has stopped some abortions and by doing so it has forced some women who would not want to continue pregnancies for a wide range of reasons whether it was because they had significant, serious health problems that meant they can't travel, disabilities, that they're women living in poverty, that they're migrant women that don't have a status that allows them to travel. It's forced them to continue with pregnancy regardless of the impact, the harm that it might do to their lives or their health or their families.¹⁰²

Some, particularly on the 'no' side, seem to have missed the point that the Eighth Amendment was not meant to 'stop' abortion. It was only meant to stop abortion occurring in Ireland, as was pointed out in the 1983 *Today Tonight: The Origins of the Pro-Life Amendment Campaign*:

Julia Vaughan, PLAC: The new Amendment to our Constitution will give effect to the right to life of the unborn, that is the intention and it will not in any way invalidate any laws that exist in this country at the moment and it won't put any new restraints or restrictions whatever on anyone.

O'Callaghan: Will it have any other practical effects?

¹⁰² Ibid.

Vaughan: I know of none. ¹⁰³

An example of 'double effect' thinking (see 2.2 and 2.5 above) surfaced in the Pat Kenny Show when Maria Steen instanced terminations sometimes carried out with the intention of saving the mother's life and where the intention is not to kill the baby. Her criticism of the Government policy was that its intention was always to kill the baby. Colm O'Gorman challenged her:

We have to occasionally call out some of the very distorted thinking that comes from the 'no' side in this. You seem to be suggesting, Maria, that ending a pregnancy by induced delivery before viability is not an abortion ...

Steen: 'No, and can I tell you this ...

O'Gorman: No, no Maria, let me ... I would love to be able to finish my point without the 'no' side shouting me down. So, termination of a pregnancy by induction before viability is not an abortion?

Steen: It's to save a woman's life.

O'Gorman: That's what the abortion pill does. It induces early delivery of a pregnancy pre-viability. It is an abortion.¹⁰⁴

The studio atmosphere became more antagonistic towards the end of the programme. It was noticeable that most of the interrupting was done by the 'no' side while Doherty and O'Gorman on the 'yes' side seemed almost content to let them waste time which, if it was a deliberate strategy, gave them more time in the all-important closing minutes.

Audience – unidentified woman: You've let the 'yes' side run this Pat.

Kenny: No. Enough of this. We are balancing time as best we can. You go on and you take the time from Maria and Rónán. (Winding up) One minute each. Rónán.

¹⁰³ 19830303.

¹⁰⁴ 20180523.

Mullen says the 'no' side are a coalition.

We are looking at abortion clinics (opening up in Ireland). There will be abortion at 23 weeks. Injections to the foetus. Late term abortions will be done.

Kenny: It's not proposed here.

Mullen: It's Head Five Pat.

Kenny: No. You have to get the facts straight.¹⁰⁵

Mullen refers to Head Five of the General Scheme of a Bill to Regulate Termination of Pregnancy. Head Five is 'Risk to life or health in emergency' and states that 'it shall be lawful to carry out a termination of pregnancy in accordance with this Head, where a medical practitioner is of the reasonable opinion formed in good faith that – (a) there is an immediate risk to the life of, or of serious harm to the health of, the pregnant woman, and (b) it is immediately necessary to carry out the termination of pregnancy in order to avert that risk.'¹⁰⁶ However, Mullen seemed intent on painting a picture of wholesale abortions in abortion clinics and did not mention that Head Five was included to deal with emergencies such as life or death situations or serious harm to the mother's health.

O'Gorman: Mental health is real and minimising by the 'no' campaign is scurrilous.

Steen: Heads five and six allow for abortion up to birth where there is a risk of serious harm to the mental health of the mother. We think that woman in those situations deserve better than an abortion. It also allows for children to be killed where there is a likelihood that they might die before birth or shortly after. That is nowhere near approaching certainty than a coin toss. 50% is the difference in law whether a doctor can lawfully abort a child. We think this is a step too far.

Doherty: Maria sarcastically said that I am pro-life and that I've gone on a journey. I am pro-life. I have four beautiful children. All of them are alive and it's got nothing to do with the Eighth Amendment. They were much wanted, much loved and still

¹⁰⁵ Ibid.

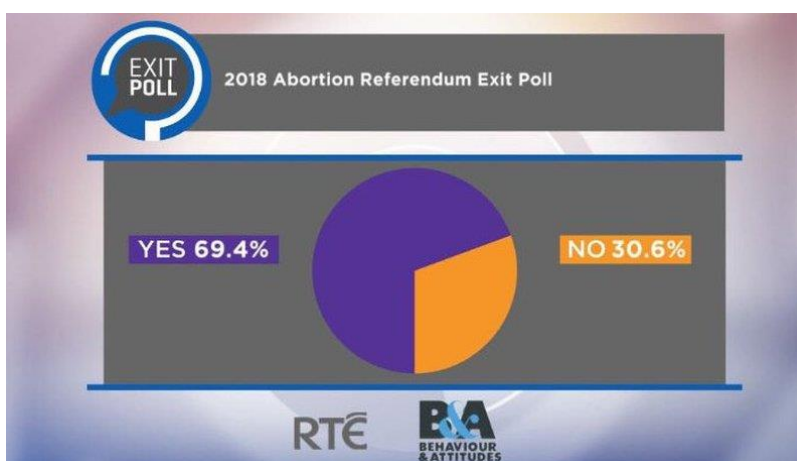
¹⁰⁶ *General Scheme of a Bill to Regulate Termination of Pregnancy:*
<file:///C:/Users/Paul/OneDrive/Academic/PhD%20in%20Modern%20Irish%20History/Referendum%20Campaign%202018/Heads%20of%20proposed%20legislation/General-Scheme-for-Publication.pdf>. Accessed 13 April 2019.

are. That's true for the vast majority of people in this country. But for a small number of women there are crisis pregnancies. There have always been crisis pregnancies and I'd love those people at home who are pro-life to consider how we intend to treat those women after Saturday. Do we want to treat them with the dignity, the respect, the care, the compassion that they deserve in their own country, by their own doctors, their own GPs?

For years we've shamed women because they've had babies. We've shamed them because they haven't had babies. It has to stop. Irish women deserve to be treated fairly and at home. And it's time those 3,650 women were allowed to be treated in their own home.¹⁰⁷

(INTERRUPTIONS AND APPLAUSE TOWARDS END OF SPEECH) ¹⁰⁸

5.15. REPEAL



A face-to-face exit poll, commissioned by RTÉ and undertaken by Behaviour & Attitudes, was conducted among voters immediately after leaving polling stations in all forty Dáil constituencies, with an expected margin of error +/- 1.6%. It predicted that the Irish people had voted to repeal the Eighth Amendment by 69.4% v. 30.6%.¹⁰⁹

¹⁰⁷ 20180523.

¹⁰⁸ Ibid..

¹⁰⁹ RTÉ/Behaviour & Attitudes Exit Poll 25 May 2018: <https://static.rasset.ie/documents/news/2018/05/RTÉ-exit-poll-final-11pm.pdf>, 9. Accessed 3 January 2019.

The *Irish Times* also commissioned an exit poll in all constituencies. This was conducted by Ipsos/MRBI and made a similar prediction. (v. 32%).¹¹⁰

The actual result following the count showed a slightly lower majority but still a landslide in favour of repealing the Eighth Amendment, registered by the seventh largest turnout since the foundation of the State (64.13%). The ‘yes’ votes were 66.40%; the ‘no’ votes 33.60%. It was almost a precise reversal of the vote which had inserted the Eighth Amendment of the Constitution, 35 years earlier. (66.9% v. 33.1%).

5.16. REPEAL – INSIGHTS FROM THE EXIT POLLS

The RTÉ/Behaviour & Attitudes Exit Poll had a slightly smaller (3,779 vs 4,500) research population than its *Irish Times* counterpart but was more extensive and complex. The RTÉ/B&A project deployed three questionnaires. Five questions were common to all versions and these were followed by six to eight questions unique to Version One, Two or Three. This enabled RTÉ to ask five core questions of all 3,779 voters while spreading their remaining questions among subdivisions of the overall survey population.

Thus, the core questions, with a base of 3,779 voters, sought answers on:

1. How the respondent had just voted.
2. Which party or independent candidate the respondent would vote for were there a general election the following day.
3. The extent to which the voter favoured a total ban on abortion vs abortion freely available to any woman wanting one.
4. The religion, if any, practised by the voter.
5. How often, if at all, the voter attended religious services.

The five core questions were combined with one of three sets of additional questions:

¹¹⁰ ‘Irish Times exit poll projects Ireland has voted by landslide to repeal Eighth’, *Irish Times*, 25 May 2018: <https://www.irishtimes.com/news/politics/irish-times-exit-poll-projects-ireland-has-voted-by-landslide-to-repeal-eighth-1.3508861>. Accessed 3 January 2019.

Version 1 with a base of 1,264 voters: attitudes towards abortion.

Version 2 with a base of 1,268 voters: view on abortion.

Version 3 with a base of 1,247 voters: understanding of referendum issues.

Access full poll: <https://static.rasset.ie/documents/news/2018/05/RTÉ-exit-poll-final-11pm.pdf>

The RTÉ/B&A exit poll was organised in cooperation with political scientists based at UCD, UCC, DCU and KU Leuven. It was designed to provide the lowest margin of error to the five core questions, +/- 1.6% and a slightly higher margin of error, +/-2.8% to the additional questions. The five core questions were to provide the essential 'who won?' answers and, coupled with the demographic data, the essential 'who voted which way and where did they come from?' answers. The questionnaire, with its three versions containing 20 questions additional to the core questions, was designed to provide answers and insights in relation to a far greater range of issues than could be accommodated in a typical opinion poll containing around ten questions. Given that each of the three versions had a sample base more than 1,240, the RTÉ/B&A poll can claim a margin of error of +/-2.6% which is better than the +/- 3.2% typically claimed for poll samples of 1,000 – 1,100.

Many of the additional questions were prompted by developments, comments and criticisms before and during the campaign. For example, the 'no' side frequently criticised the Citizens' Assembly, claiming that a group of 99 individuals could not possibly represent the population of Ireland. There were also claims that the Assembly was 'stacked', that participants were chosen because they favoured repeal. Cora Sherlock, speaking for the Pro Life Campaign dismissed the Assembly, stating on RTÉ's *Morning Ireland* that it had been created with a pre-arranged outcome.¹¹¹ Thus, two of the additional questionnaire versions asked respondents whether the following statement was true or false: 'Randomly selected Irish citizens discussed the topic of abortion in the Citizens' Assembly'. 70% of the first group of respondents said the statement was true, while only 11% said it was false. 57% of the second group said the statement was true while 11% said it was false; however, 31% of that group said they did not know. A 65% majority in the first group also rejected the proposition that 'Only citizens that

¹¹¹ 20160910.

were in favour of a repeal of the 8th were represented in the Irish Citizens' Assembly.' In short, a majority of respondents did not believe that the Assembly had been 'stacked'.

The exit poll also provided evidence of an electorate that had made efforts to inform itself and had made up its mind early. A 74% majority agreed that using a referendum to decide on abortion was fair. Only 22% agreed that they found it difficult to see the point of view of people who have different views than themselves on abortion and 74% accepted that there are two sides to the issue of abortion and tried to look at both before casting their vote. 75% said they always knew how they would vote. 12% said they made up their minds during the campaign and 8% following the public disclosure of the Savita Halappanavar case which indicates that while the circumstances of Savita's death were not a major influence her story had remained in the minds of many.

A further indication of an informed electorate was evident in their news consumption; 96% listening to radio news at least one to three days a week with more than half listening to news six to 7 *Days* a week; 93% watching television news one to three times a week and 64% six to 7 *Days*. 79% said they read newspapers on average three days a week, but 20% said they never read a newspaper at all.

Figures were lower for Facebook, Twitter and online news sites. While levels of trust for radio, television and print media were high they were far weaker regarding Facebook, Twitter and Instagram.

The television debates did not appear to have been factors which influenced respondents on how they voted. 22% said they did not watch them at all 43% watched them and thought they 'yes' side had won as against only 14% for the 'no' and 17% for neither.

Respondents were shown a list of factors which might have influenced them in how they voted and asked: 'Which of these factors were important to you in making your decision as to how to vote in the Referendum?' Their responses in order of choice were:

Table 8: Factors influencing voting decision, RTÉ/ Behaviour & Attitudes Exit Poll, 25 May 2018

Women's right to choose	62 %
The risk to the health or life of the woman	55%
The question of pregnancy as a result of rape or incest	40%
The question of fatal foetal abnormalities	39%
The right to life of the unborn	36%
The right to life of those with Down syndrome or other disabilities	24%
The question of trusting politicians to make laws on abortion	15%
My religious views	12%
The handling of the cervical cancer controversy	11%
Other	4%

The demographic analyses pointed to a range of important, though not necessarily surprising indications. The 'yes' vote was particularly strong in the Dublin area amongst those aged between 18 to 34 years, and female voters. A relatively modest majority of those aged 65 and over voted 'no'. Although more women than men voted 'yes', the difference was relatively modest at 6%. There were also comfortable 'yes' majorities across the social classes, urban and rural and regional distribution.¹¹²

¹¹² RTÉ/Behaviour & Attitudes Exit Poll, 10:
<https://static.rasset.ie/documents/news/2018/05/RTÉ-exit-poll-final-11pm.pdf>. Most recently 10 May 2019.

The demographics also showed a difference between men and women in the Referendum Influencing Factors when asked the question: (V3 Q.7) Which of these factors were important to you in making your decision as to how to vote in the Referendum? ¹¹³

Table 9: Factors influencing voting decision by male/female responses

	Total	Men	Women
Women's right to choose	62%	57%	66%
The risk to the health or life of the woman	55%	50%	58%
The question of pregnancy as a result of rape or incest	40%	33%	45%
The question of fatal foetal abnormalities	39%	35%	42%

Exit polls were not carried out following any of the 1983, 1986, 1992, 1995 and 2002 referendums, so there is no opportunity to compare samples.

In the 2018 RTE/B&A poll one set of responses is, perhaps, the most telling of the data the exit poll provided. Under the heading: 'Referendum Influencing Factors' in Version 2 of the questionnaire, the question was: 'Which of these sources of information were important to you in making your decision as to how to vote in the Referendum?' ¹¹⁴

The survey population base was 1,268 with a margin of error +/-2.6%.

Table 10: Sources of information influencing voting decision

Campaign Posters	10%
Direct contact with campaigners	7%
The experiences of people I know	34%
People's personal experiences as covered in the media	43%
Other	24%

¹¹³ Exit Poll, 128.

¹¹⁴ Exit Poll, 111.

The demographic data indicates that women and voters under the age of 24 years, as well as voters aged 24-34, were most likely to have considered the recounting of people's personal experiences as most important in making their decision.

What is shown is that real life experiences of others weighed heavily in voters' decision-making and that, at 43%, the personal experiences they learned of through media weighed most heavily. The significance of this may lie in the fact that, in contrast with 1983, accounts of personal experiences related to unwanted pregnancies and abortions featured only peripherally, if at all, in the public conversation or in any media at the time of the 'Right to Life of the Unborn' referendum of 1983. As has been noted, while in the late '70s and early '80s there was discussion about the numbers of Irish women travelling to Britain for abortions, the only sympathetic comments appearing in the RTÉ Archive about the plight of unwed mothers seeking abortions were made by Bishop Edward Daly and Fr Pat Scanlan.¹¹⁵

5.17. PERSONAL EXPERIENCE AND ABORTION STORIES

The narration of personal experiences of women who underwent or rejected abortion, was to prove a major influence in the vote to repeal the Eighth Amendment.

RTÉ TV's *Women's Programme* had featured two programmes on unwanted pregnancies two years after the passing of the Eighth Amendment. The first, on 18 October 1985, was titled 'Just how many single Irish women get pregnant each year? What do they do about it? The *Women's Programme* examines the statistics and the stories behind Ireland's *unwanted* pregnancies.' The programme featured interviews with two young women from a home for unmarried mothers.¹¹⁶

¹¹⁵ 19750502 and 19830310.

¹¹⁶ 19851018.

The second programme, which aired on 29 November 1985, was called 'Abortion Trail: Two girls give their account of going to London to have abortions'.¹¹⁷ One of the girls was interviewed in full vision; the other was masked by lighting.

However, these stories were the exception rather than the rule. The personal element was markedly missing in earlier debates on abortion. It was not until the 2018 campaign to repeal the Eighth Amendment that personal experiences began to have a significant impact on voters.

The 'In Her Shoes: Women of the Eighth' Facebook page, launched as a platform for women impacted by the Eighth Amendment, became an immediate success. The founders, calling themselves *Mná na hÉireann*, explained that the page was set up to:

...offer the opportunity for undecided voters to 'take a walk in her shoes'. We know that when given the chance to look a person eye to eye, when we stop and take a moment to place ourselves in their shoes - we gain empathy and compassion for their lived experience.... Every parish around the country is home to a woman that has travelled for a termination, has sourced illegal abortion pills, has needed or wanted an abortion but was unable to access one, or has been pregnant under the 8th amendment.¹¹⁸

At about the same time, RTÉ's *Drivetime* began to examine some of the narratives of people who either had, or opted not to have, abortions. The stories, each roughly ten minutes in duration, were included in 16 of the Monday to Friday *Drivetime* programmes, starting in March. They were researched, produced and reported by Philip Boucher-Hayes.

Boucher-Hayes said that, in thinking about broadcast coverage early in the growing campaign to repeal the Eighth Amendment, he reached the conclusion that, as public service

¹¹⁷ 19851129.

¹¹⁸ While this quotation is no longer on the 'In Her Shoes' Facebook page, it is cited by a number of sources, including 'In Her Shoes - the Irish Facebook page detailing the stories of women suffering under the 8th amendment', *Irish Post*, 20 March 2018.

broadcasters, he and his colleagues were missing a large segment of the listening public. He said that RTÉ were covering the controversy only as arguments between the various sides:

Debates, that very often become heated, descend into shouting matches or are characterised by very heavy medico-legal terminology which excludes an awful lot of people. We are human beings. We communicate by anecdote and by human interest and that wasn't reflected in the way that this issue had been covered in referendums before.¹¹⁹

Boucher-Hayes went to the Irish campaign groups, seeking people with personal abortion stories who would be prepared to talk. He made it clear that he would include no campaigning or sloganeering in the broadcast pieces. He was interested only in the personal narratives. He also visited online chatrooms, Facebook groups, Twitter, and messaged people explaining what he aimed to do. His plan was to anonymise people, changing their locations and other elements but using their real voices. The majority of his contributors were women, but he also interviewed three men speaking of their wives:

We were talking about people who had been raped, we were talking about people who had had abortions behind their partners' backs or hadn't told their families, whose voices would be identifiable. But on the whole, there was surprisingly little fall-off.¹²⁰

Abortion Stories began transmissions in March 2018 as a variable ten-minute segment in *Drivetime*. Audience ratings in radio are measured in 'Timeblock Reach' which gives the number of listeners listening to the programmes within a particular time frame. The reach for *Drivetime* Monday to Friday 4.30 – 7.00 pm from January to June 2018 totalled 223,000 over the full two-and-a-half hours. Measured quarter-hourly, the audience averaged 108,000.¹²¹ Given the exit poll figure of 43%, the size of the audience, the duration of each story consisting

¹¹⁹ Philip Boucher-Hayes, RTÉ, interviewed for this thesis, 24 July 2018.

¹²⁰ Ibid.

¹²¹ Dr Gareth Ivory, head of audience research RTÉ, in an email to the author, 2 August 2018.

largely of the voices of the women and three men, in the period leading up to the referendum, it can be said that they contributed in no small way to the debate taking place at the time.

Boucher-Hayes was not the first to cover abortion stories for RTÉ. In 1979 and 1980 both Mary McAleese and the late Marian Finucane separately accompanied Irish women to Britain for abortions. McAleese was a reporter/presenter on the *Today Tonight* team at the time. She reported that the number of Irish women travelling for abortions in Britain had reached 2,700. 80 percent of them were unmarried.¹²²

In 1979 Marian Finucane accompanied another Irish woman and reported on her for radio documentaries. For this programme Finucane was awarded the Prix Italia for radio in 1980.¹²³

Boucher-Hayes' contribution was to research, produce and present an extended series of abortion stories rather than a one-off. His reason for so doing was because he believed RTÉ was neglecting real-life human-interest stories in the 2018 campaign and treating the campaign as a political studio debate. Such used to be a typical fall-back approach for many RTÉ programmes and is one Professor Michele Dillon observed when she interviewed *Today Tonight* presenter Brian Farrell in her research on RTÉ's coverage of the 1986 Divorce referendum campaign. She had asked Farrell why *Today Tonight* had not called on experts to appear on a particular episode. Farrell said that the production team's decision not to call on experts was because they did not wish to appear to favour either side.¹²⁴ Farrell's reply is emblematic of the concern RTÉ producers and series editors often felt lest viewers might perceive any content as partisan.

Boucher-Hayes contacted both the Pro Choice and Abortion Rights (ARC) campaigns and:

... found myself pushing at an open door. They had both recognised the centrality of personal narratives to the success of their campaigns and were only too willing to help.¹²⁵

¹²² 19800115

¹²³ *Marian Finucane: A feminist trailblazer, vital to the women's movement* by Dr Mary McAuliffe. *The Irish Times* 4th January 2020

¹²⁴ Dillon, *Debating Divorce: Moral Conflict in Ireland*. 141.

¹²⁵ Philip Boucher-Hayes email to the author 16th January 2020

The ARC organised ‘speak outs’ and training sessions to help women discuss their experiences. They also gathered 60 personal stories for inclusion in their submission to the Citizens’ Assembly but were not invited to present at the Assembly’s sessions. The Together for ‘Yes’ campaign provided the *Abortion Stories* series with contacts for people willing to discuss their experiences.¹²⁶

In Her Shoes, a Facebook page, received and published many postings by anonymous women and others detailing personal stories.

During the 2018 campaign, the ‘Yes’ and ‘No’ sides had meetings with the RTÉ Steering Group Committee. Neither side made any complaints about the *Abortion Stories* series.

Edited selections from the *Abortion Stories* series are included in Appendix Two of this thesis.

5.18. ABORTION REFERENDUM 2018 RESULTS PROGRAMME 26 MAY 2018

The *Results Programme* was broadcast over four hours on the afternoon of the count. There was a noticeable absence of ‘no’ supporters, although Mattie McGrath TD was on the permanent panel of three along with the columnist and broadcaster, Olivia O’Leary, and Professor Gary Murphy of DCU.

An Taoiseach, Leo Varadkar, was quoted saying that the vote was the culmination of a quiet revolution and reminded viewers that ‘politics can bring about change – it can be clunky but can work’. The ‘no’ side obviously considered the result a disaster. Senator Rónán Mullen was quoted saying, ‘we have lost something beautiful’ and that ‘a lot of unborn children will lose their lives’, while Bishop Kevin Doran of Elphin, a strong supporter of the pro-life movement, was quoted as saying ‘we need to find new ways of helping Irish women and men in this generation to rediscover the dignity of human life from conception to natural death’.¹²⁷

¹²⁶ Emails to the author from Ciara, Abortion Rights Campaign Administration, Philip Boucher-Hayes, RTÉ 18th January 2020, Yvonne Judge, Together for ‘Yes’ 20th January 2020

¹²⁷ 20180526.

Gary Murphy PhD, Professor of Law and Government at DCU, said that there had been an enthused electorate and that young people had come out to vote:

This is the march of the Irish Nation from 1992 onwards. Irish people are becoming more progressive and are willing to vote in that context. The vote transcended class, gender and age. Even Roscommon, which had voted against marriage equality, voted for repeal. ¹²⁸

Professor Murphy's reference to 1992 recalled the vote on the three referendums which followed the Supreme Court judgement on the 'X' case. The Government, under pressure from the Pro-Life Campaign and others, had sought to overturn the threat of suicide as a reason for allowing abortion. But voters, while supporting the right to travel and the right to information, refused to overturn the Supreme Court ruling. Murphy also noted that in 2015 the Catholic Church had made a late intervention in the Marriage Equality campaign:

It (the Church) was routinely and basically ignored by the population and I think something similar has happened here today. ¹²⁹

Olivia O'Leary noted that, in contrast to 1983, obstetricians came out of their 'ivory towers'. In another contrast to 1983, clerics did not feature in any of the 'no' campaigns:

The 'no' side obviously decided not to include clerics in their presentations and when they went on air ... and they obviously did that for a reason. They obviously decided this would not actually help them to fight their case. And I thought it was interesting that at certain communion events and masses the number of people in the congregation who objected when they felt they and their children were being subjected to proselytising on the issue. So, I think that the Catholic Church which played such an enormous part in the 1983 referendum were not much to be seen in this one. ¹³⁰

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Ibid.

Given the vigorous involvement of the Irish Catholic Church in the 1983 campaign an equally robust intervention could have been expected in 2018 but Catholic priests or lay champions were not seen in any of the major debate programmes. It is widely held that the Irish Church's influence waned with the revelations about clerical sex abuse of children beginning with Fr Brendan Smyth in the UTV Counterpoint programme *Suffer Little Children* in 1994, then Mary Raftery's RTÉ documentaries *States of Fear* and *Cardinal Secrets*. A series of investigations followed; most particularly the Ferns and Ryan reports and the revelations of cover-ups by senior church officials. The declining influence of the majority church is further addressed in 5.19.

Savita Halappanavar was remembered by Shampa Lahiri, herself an immigrant resident in Ireland for 18 years who campaigned in the referendum:

I think regardless of which side of this debate you were on in this referendum everybody has to admit that what happened to Savita Halappanavar should never happen to anybody in a modern, public hospital - for someone to die under care in the space of a week. It should never have happened. And if there's a piece of legislation that stands in the way of the provision of health care in a modern, public hospital change needs to happen. And I've been living in Ireland for eighteen years and I've never voted before but this was an incredible emotional time and, when Savita died, I just think as migrants we come here for a better life and we come here to work and to build better lives than what we have at home. We leave our homes. We leave our families. We leave our friends and none of us expect to come here and die and she didn't either. And I voted 'yes' for her.¹³¹

Several commentators remarked on the personal stories which had surfaced in the media and comments suggested that the RTÉ *Drivetime* series had made a particular impact:

Olivia O'Leary: You can talk about things in principle and in theory. And one woman describing being in great, great pain actually (as) she waited to take that 'plane and arrived wherever it was – in Liverpool or London – to a consultant who said: 'How could the Irish have sent you over to us in this state?' And for our doctors that must have been such a consideration that they knew that they couldn't give the care that

¹³¹ Ibid.

they were trained for and that they were capable of giving. So that there was an element of shame, shame about Savita, shame about the women that we were sending away, criminalising women, even women who were stuck in a situation of having a pregnancy that they had to take to full term with. It was a sort of punishment attitude of mind that's always been there and, hopefully, this is the end of it. ¹³²

In the results programme the RTÉ Exit Poll was extensively mined to seek a greater understanding of the referendum outcome. Keelin Shanley and David McCullagh analysed the poll data along with some who had helped devise it. These included Dr Theresa Reidy, a political scientist teaching at UCC, and Johnny Fallon, political analyst at Carr Communications. Fallon sought to emphasise how great the change in Irish society had been and how this had been reflected in the result and in the Exit Poll. He selected Longford as an example:

Longford was a battle ground whereas it wasn't before. Longford was pro-life and that was it. The fact that it was even appearing like a battleground hinted that there was some change. The scale of the change that we've seen today is so dramatic that I think it's a challenge now for a lot of political parties who have been behind the curve and the Irish people have really put it up now for a more liberal, progressive society and it has exploded the myth that was there that there was a silent majority waiting to act upon something. Those days are gone. There's no silent majority. This is the people. This is the kind of society that we are. We're open, we're progressive and we want to move on. Politicians, media and everybody has to get on board on that. ¹³³

Gary Murphy wryly observed that some politicians did not bother to tell their constituents which side they supported. However, it is worth remembering that politicians are very mindful of their constituents' support. Those inclined towards repeal may have recalled the actions of Catholic bishops prior to the 2016 General Election when they called on their flock to determine their local candidates' positions and, if it was pro-legalised abortion, to deny them

¹³² Ibid.

¹³³ Ibid.

their support.¹³⁴ The PLC continues the practice of informing voters of candidates' 'pro-life' views.¹³⁵

Theresa Reidy noted the stronger 'yes' vote in urban areas with some Dublin constituencies 'within touching distance of 80%'. The contrast with 1983 was dramatic. 1983 was particularly rancorous, she said:

Absolutism was the dominant value in favour of the (1983) Amendment. The opposition position was regarded as invalid. The exit poll shows that people tried to look at both sides in 2018 which is the sign of a more open society.¹³⁶

Reidy found that there was a strong issue-based motivation behind the vote. In the past, she said, there was the opinion that 'you can't trust politicians' underpinning the vote.

Reidy: Now there is no longer the monolithic political system where FF and FG held 80% of the vote between them.

O'Leary: And I think what we really need to remember is that it has been a long time since people had an opportunity to cast their vote on this issue and that perhaps ten years ago we might well have found that there was a majority for taking the Eighth Amendment out of the Constitution. It might not have been the enormous landslide vote that we've had today but it would have been there had any government had the courage to put it to the people.

Reidy: We also have a lot of evidence that tells us that this was an informed decision by the electorate, so we know that they felt informed about the decisions they were making. And we have a lot of very specific information about the proposals or parts of proposals that are included in the legislation so that in relation to things like fatal foetal abnormality and abortion for people who are victims of rape or incest there's

¹³⁴ 'Bishops urge public to engage with and challenge election candidates', *Western People*, 18 February 2016.

¹³⁵ 'Who Should I vote for?' PLC information on local and European Election candidates 2019 <https://mail.google.com/mail/u/0/#search/pro+life+campaign/FMfcgxwCgfsKqNbwmNqBdDZGRDWRNGzq>. Accessed 10 May 2019.

¹³⁶ Ibid.

three quarters of voters who actually support the provision in these circumstances so that there's nothing marginal about the decision that's been taken today ... even in relation to the twelve-week proposal which, I suppose, was the most controversial (part) of the debate, there is actually a majority in favour of that according to the exit poll figures. It's a small majority but is, nevertheless, a majority. Those were the key points of the debate and the campaign. And probably with hindsight now it's probable that the Government was right to put those proposals out there because they did get an airing and there was a lot of discussion and a lot of explanation and there will be legitimacy towards progressing with the proposals.

O'Leary: And the way they learned that lesson, if you remember (was) from the Divorce Referendum (1986) because the first time they hadn't really prepared the ground legislatively. But the second time Mervyn Taylor (Minister for Law Reform) had the heads of a bill, and I know it was only narrowly passed, they took away the confusion from the debate and people knew what it was they were voting for: Evidence-Based Policy.¹³⁷

On 20 December 2018, the Regulation of Termination of Pregnancy Act was signed into law by President Michael D Higgins.¹³⁸

5.19. 2018: DECLINE IN INFLUENCE OF THE MAJORITY CHURCH

In 1973-4, the first national survey of religious practice, attitudes and beliefs in Ireland was carried out among a national sample of 3,309 adults. Of the 2,623 valid responses, 2,499 were lay Catholics. 91% of respondents said they attended mass at least once a week.¹³⁹ By 1984, this number had gone down to 87%; and to 82% in 1988-9. As Louise Fuller points out, this was still very high in relation to European levels.¹⁴⁰

¹³⁷ Ibid.

¹³⁸ 20180526.

¹³⁹ *A Survey of Religious Practice, Attitudes and Beliefs in the Republic of Ireland*. Research and Development Unit, Catholic Communications Institute of Ireland, 1975.

¹⁴⁰ Fuller, *Irish Catholicism*, 250.

J.H. Whyte, in the literature above, noted economic growth, population growth, and urbanisation were all factors associated with cultural change. A population which is young, affluent and metropolitan is likely to have different values from one which is poor, elderly and largely rural.¹⁴¹

Roy Foster, also cited in the literature above, notes the impact in Ireland of 1960s international radicalism, youth culture, television and the expansion of education at all levels. In his chapter, 'How the Catholics Became Protestants', he tracks a growing decline in the notion of Catholicism as inseparable from nationalism over the period 1970-2000.¹⁴²

Given the fertile ground for a more secularised society, it is surprising that the movement towards this was so slow. However, this next available survey of mass attendance was to signal a significant change. The figures fell from 82% in 1988 to 64% in 1995. The interim period was marked by significant events which strongly suggest that, in the end, the decline in church influence was not caused by (or not significantly) rising affluence and urbanisation, nor the global and amoral media and entertainment influences so feared by church and state in the early years of independence. The decline came from within the church. In the seven years leading up to 1995, the secret families of Bishop Eamon Casey and Fr Michael Cleary – the stars of Pope John Paul II's wildly successful visit to Ireland – had been revealed in 1992 and 1994 respectively. The activities of infamous paedophile, Fr Brendan Smyth, had been exposed in the UTV *Counterpoint* programme 'Suffer Little Children', also in 1994.

Then came Mary Raftery's RTÉ documentaries, *States of Fear* (1999) and *Cardinal Secrets* (2002). On foot of these came the Ferns, Ryan, Murphy (Dublin) and Cloyne Reports, with their harrowing descriptions of institutional abuse of children. Dr Carole Holohan, commissioned by Amnesty International to examine these reports, wrote that they: 'demonstrate mass violations of international human rights law. The Ryan Report in particular describes how

¹⁴¹ Whyte, *Church and State in Modern Ireland*. 381.

¹⁴² Foster. *Luck and the Irish*. 8-37.

children in residential institutions were subject to physical, sexual and emotional abuse and gross neglect at the hands of both religious and lay staff.¹⁴³

Despite all this, 78.3% of Irish people described themselves as Catholic in the 2016 census. However, in the same census, weekly mass attendance had dropped to 35 percent, but less than 20 percent in the Archdiocese of Dublin, with some urban parishes reporting attendance at less than two percent. Tom Inglis captures the disconnect:

The changes in Irish Catholic religiosity can be associated with an ongoing detachment from the institutional church. An orthodox adherence to institutional rules and regulations appears to be giving way to a collective identification with a religious heritage. What was once defined as a 'la carte Catholicism' seems to be giving way to a smorgasbord approach in which Catholics not only pick and choose which institutional rules, beliefs, and practices they prefer, but increasingly mix these with ingredients from other religious traditions. These findings suggest a new typology of Irish Catholics.¹⁴⁴

¹⁴³ Carole Holohan. *In Plain Sight* (Dublin: Amnesty International Ireland, 2011) 47.

¹⁴⁴ Tom Inglis, 'Catholic Identity in Contemporary Ireland: Belief and Belonging to Tradition' in *Journal of Contemporary Religion*, May 2007. 205.220. Available at:

https://www.researchgate.net/publication/233473365_Catholic_Identity_in_Contemporary_Ireland_Belief_and_Belonging_to_Tradition1?enrichId=rgreq-d790883ad401fb6262ace65f78a1bcf0-XXX&enrichSource=Y292ZXJQYWdlOzIzMzQ3MzM2NTtBUzo2Njk2OTU0MzA2NDc4MThAMTUzNjY3OTI0MTUzNw%3D%3D&el=1_x_3&esc=publicationCoverPdf Accessed 27 January 2020.

CONCLUSIONS AND KEY FINDINGS

RESEARCH QUESTION

A central research question was whether and how the very fact of ventilating arguments over the issues of contraception, abortion and divorce in public debates through broadcast media effected change.

The study also set out to identify key protagonists and advocacy groups over time; to evaluate the efficacy of major arguments, vehicles, strategies and tactics of the debates; and to note significant shifts in position, themes, tone and content.

THE IMPACT OF VENTILATING ARGUMENTS

‘The debates after the referendum are better than the debates before it.’ Michael D Higgins spoke these words on the *Today Tonight Results Programme* following the resounding defeat of the Tenth Amendment on divorce in 1986. At the time, they sparked a question for the author, leading ultimately to this study 30 years later. Higgins believed that although the divorce debate had ended with a result against the constitutional change project, it had accomplished things which may not have been immediately evident.

Through tracking the emergence and evolution of key arguments on both sides, as aired on key RTÉ television and radio programmes and debates over the decades, this study concludes that the answer to its central research question must be that the very fact of ventilating arguments over the issues of contraception, abortion and divorce in public debates through broadcast news, current affairs, and light entertainment programming, served to bring about change.

A recent and striking example of this is in the Repeal of the Eighth Amendment, where RTÉ Exit Polls show voters heavily influenced by the personal experiences of women as told on RTÉ *Drivetime’s* ‘Abortion Stories’. Elsewhere, the poll shows voters discussing the issues and taking an interest in the views of people they did not agree with.

When the author references RTÉ ‘ventilating arguments’ it is not to say that RTÉ itself was making the arguments. RTÉ’s role across the whole span of study was to provide platforms for those articulating the positions of the various sides.

KEY PROTAGONISTS AND ADVOCACY GROUPS

A close reading of the timeline and transcript content sheds light on the main actors on all sides, thus leading to a greater framing and understanding of the narrative. They are listed and commented upon in Volume Two, Appendix Six of this thesis.

MAJOR ARGUMENTS AND STRATEGIES, AND THEIR EVOLUTION OVER TIME

Contiguity

While the chapters of this study are arranged in chronological sequence, the timeline and the content extracted from Mediaweb searches do not show a pattern where one controversy follows another. A series of debates on contraception are not followed by a pause; then followed by a controversy on abortion, with another pause; and then a controversy on divorce. What the timeline and the cited transcripts show is that, while these periods of controversy may have looked sequential, they are more accurately described as contiguous and the controversies over contraception, abortion and divorce run in parallel. As this study described, public discussion, as reflected on-air, about inserting a constitutional amendment outlawing abortion and removing the power of the Oireachtas or the Courts to rule on it ran parallel to discussions about removing the constitutional ban on divorce. Public discussions about contraception and its eventual legalisation also paralleled discussions about abortion and divorce but began earlier.

This led the author to construct Boolean searches and assemble them in word files (Appendix One in Volume Two of this thesis describes the construction of these searches), which reveal that the 50 year period from *Humanae Vitae* to the Repeal of the Eighth Amendment, is one of almost continuous controversy, argument, legislation and direct democracy leading to a revolution in sexual politics.

Distrust of Parliamentary Democracy

A striking and sustained theme emerging from the transcribed debates on the side of those opposing change has been an implicit and explicit distrust of parliamentary democracy.

At the heart of the reformist versus traditionalist contest were fundamentally different views on how the country should be governed. The emerging view of PLAC/SPUC and their supporters, as they built up pressure for a referendum on ‘the Right to Life of the Unborn’ in the early 1980s, was that elected representatives could not be trusted to carry out the will of the people. The ‘will of the people’ was to be firmly linked to the imperative of a complete and unalterable prohibition on abortion with no reference to elected representatives or the courts.

The belief that elected representatives, i.e. ‘the politicians’, cannot be trusted informs the thinking of many, if not all, supporters of direct democracy. Speaker after speaker in the programme transcripts examined in this study promote ‘the will of the people’ which they claim to articulate. This is evidenced in transcripts cited in the thesis, including *Today Tonight* (two programmes) in 1983¹⁴⁵, *Today Tonight* in 1986¹⁴⁶

The pro-Amendment side’s preference for direct, rather than representative, democracy in the issue of the proposed Eighth Amendment received a thorough defence by PLAC’s legal panellist on *Today Tonight* on 10 March 1983 in an exchange with other lawyers on the programme, wherein it was clearly asserted by the pro-Amendment side that democratically elected representatives, and Supreme Court judges appointed by such representatives, were to be put to one side with regard to this issue.¹⁴⁷

The view that elected representatives could not be trusted was also the view expressed by the Anti-Divorce Campaign (ADC) spokespeople in 1986, many of whose leaders and foot soldiers were PLAC and/or SPUC veterans. Following the PLAC/SPUC victory in the 1983 Right to Life referendum and the ADC’s 1986 victory in the Dissolution of Marriage referendum, there had

¹⁴⁵ 19830303, 19830825..

¹⁴⁶ RTÉ Archives. CA/P/TT056 CA.

¹⁴⁷ 19830310 A&B.

been much discussion about the wisdom of resorting to direct democracy in the governing of the country.

The trope that politicians cannot be trusted continued. As this study shows, it was apparent 35 years after the Eighth Amendment in the 2018 campaign to repeal that Amendment. RTÉ Radio and Television, following a long-established policy, mounted a series of debates between the various participants in the 2018 campaign. Some debates consisted of panellists facing a studio audience of interested individuals or groups. Other programmes were simply one-to-one debates between ‘yes’ and ‘no’ advocates. One such was *Today with Seán O’Rourke* at 10.00 am on 30 April 2018, less than a month ahead of the referendum date on 25 May. In studio were Declan Ganley, entrepreneur and pro-life activist, arguing to retain the Eighth Amendment, and Colm O’Gorman, Executive Director of Amnesty International (Ireland), arguing for repeal. During the debate Ganley raised the question of trust in politicians:

The idea that we should trust politicians (that) we should remove a human right belonging to this part of our people, our pre-born boys and girls, we remove that and trust politicians to legislate exactly what will happen to those boys and girls is too big an ask.¹⁴⁸

Tracking the Debates

Among the tasks set for this study was to evaluate the efficacy of major arguments, vehicles, strategies and tactics of the debates; and to note significant shifts in position, themes, tone and content.

Contraception

Of the three major issues under examination, contraception, divorce and abortion, and reform, the contraception issue was the least abrasive and it became legal without resort to a referendum or attempts to bypass the Oireachtas and the Supreme Courts. While there were strong differences of opinion, these did not reach the streets. The public discourse was

¹⁴⁸ 20180430.

moderate. Language had not become inflammatory, as when proponents of abortion were berated on television as ‘liars and murderers’ or when divorce was denounced in the Dáil as ‘giving the cloak of respectability to adultery’. Instead there was a Supreme Court decision on a case brought by a woman who needed contraception for health reasons and the passage of several bills through the Oireachtas leading to eventual resolution and the availability of artificial contraception.

The Tenth Amendment (Right to Life of the Unborn)

Those campaigning for the 1983 Eighth Amendment to the Constitution protecting the right to life of the unborn accepted that there was not a wide public demand for abortion in Ireland, but claimed that there was a significant abortion lobby with political and media support ready to move in support of abortion legislation. To forestall any pro-abortion legislation, they believed that the country had to act to remove from the Oireachtas the power to legislate for abortion in the future and the power of the Supreme Court to rule in favour of abortion. As Fr Paul Marx had warned those later to become leaders of PLAC, there was what he called an abortion industry in the United States and many other countries and Ireland would not be immune. However, in passing an amendment, Ireland would become an ‘abortion-free shining light’, as John O’Reilly of the Responsible Society and PLAC had written.¹⁴⁹

In its 1983 campaign literature and posters PLAC employed positive arguments and deployed positive imagery of the Irish family and the mother’s love for the infant child. While individual campaigners might deplore abortion per se and might be saddened that so many Irish women were travelling to obtain abortions, their campaign was not against abortion but against abortion ever taking place in Ireland. PLAC leaders recognised the impossibility of preventing women going abroad for abortions. PLAC wisely confined themselves to the things which had a chance of success.

The AAC had been formed in reaction to the appearance of the PLAC/SPUC axis and its political success in getting commitments to holding a referendum and securing an amendment wording from Fianna Fáil. The AAC emphasised that PLAC’s campaign would not prevent a single

¹⁴⁹ *Response*, Vol. 1, no. 1., 4.

abortion, as women would still travel. Anti-Amendment campaigners in 1983 warned that the proposed amendment could kill women if passed. The threat was that certain treatments currently available could be prevented by an amended constitution. This was vigorously denied by PLAC supporters. Both sides fielded medical professionals voicing support.

Perhaps the cleverest thing PLAC did in its earliest days was to employ a psychologically powerful communications technique identified by the economist and BBC *Newsnight* presenter Evan Davis as ‘framing’.¹⁵⁰ PLAC may not have invented the designation ‘pro-life’, but it took possession of it efficiently when it styled itself the Pro-Life Amendment Campaign. By its use of the word ‘life’ it also set at an immediate disadvantage any other pressure group which might establish itself in opposition to PLAC. When an opposition group, the AAC, was formed a year later it designated itself the ‘Anti Amendment Campaign’, a manifestly less assertive name. The AAC was further hampered by the difficulty its leadership and supporters had in getting their message understood, whereas the PLAC message was simple and to the point. It was pro-life and anti-abortion.

AAC were left arguing that the Constitution was no place for such an amendment and that the issue was for the Oireachtas. Beyond that, their only recourse was to try sowing doubt in voter’s minds as to women’s future safety.

The FF wording was clear, concise and, for its PLAC and SPUC supporters, inspirational. Dr Garret FitzGerald, having described the FF wording in a *Today Tonight* programme as ‘the best Amendment you could get’ during the November 1982 election campaign¹⁵¹ had to reverse his position once in power when advised on the FF amendment wording by the new Attorney General Peter Sutherland. The pro-amendment side quickly accused him of performing a ‘U-Turn’ when he announced that the AG had advised him that the FF wording might result in serious problems. The alternative wording formulated by Sutherland was defeated in the Dáil.

¹⁵⁰ Davis, *Post-Truth: Why We Have Reached Peak Bullshit and What We Can Do About It*.

152. An example he gives is how those promoting gay marriage avoided the word ‘gay’ in association with marriage but preferred instead the term ‘marriage equality’. They reasoned, rightly, that the association of ‘equality’ with ‘marriage’ would have a greater appeal.

¹⁵¹ 19821104.

That PLAC's arguments were effective is evidenced by the decisive 2:1 result in favour of the Eight Amendment.

Divorce 1 & 2

There are several intriguing aspects marking the first Dissolution of Marriage referendum in 1986. The first is that it came so soon after the Right to Life of the Unborn Amendment, passed fewer than three years earlier. Unlike that referendum campaign, it originated not with a pressure group but the then FG/Lab government's policy seeking to remove the constitutional ban on divorce and remarriage. Again, in contrast with the 1983 campaign, the opponents of constitutional change in 1986 were in large measure those who had sought constitutional change in 1983. As shown earlier, there were many veterans of 1983 among the anti-divorce leadership of 1986: Senator Des Hanafin and John O'Reilly as organisers and William Binchy, as chief spokesperson. Carrying the campaign to the doorsteps of Ireland was Family Solidarity.

When, in 1995, the 'Rainbow Coalition', now including Democratic Left with Fine Gael and Labour, went to the people in another attempt to remove the constitutional ban on divorce, they were faced by two opposing organisations, a reorganised ADC and the No Divorce Campaign. But the opponents of divorce had no new arguments and the Coalition had learned from their predecessor's mistakes in 1986. Moreover, the polls showed strong voter support for reform and that support, unlike in 1986, held up - if only just.

The evidence suggests that the ADC's warnings of how divorce would bring poverty and misery to divorced women and their children worked in 1986 but not in 1995. Neither did warnings that the floodgates would open, and Ireland would be swamped with divorced couples. According to the 2016 census Ireland had a low divorce rate of 4.7 percent of people who were ever married in the year the census was taken.

Repeal of the Eighth

A recurring theme in the study is the escalating perception of media bias by those opposed to change. This peaked in the 2018 referendum, with the anti-Repeal movement mounting a

well-organised campaign against RTÉ News and Current Affairs (and also the *Irish Times*). The Broadcasting Authority of Ireland found no substance to these allegations.

A particularly important finding has been the measurable rise in voter compassion for others. Glaringly absent from debates on the 1983 Right to Life campaign was any human interest. The narrative was all about ‘killing babies’, but no attention was paid to those who sought abortions for themselves. This was not the case in 1992 where there was a real person, Miss ‘X’, and voters ignored both the Church and the anti-abortion activists. This compassion became more evident in the 2015 Marriage Equality referendum, and in the salience and influence of personal ‘abortion stories’ in the 2018 ‘Repeal the Eighth’ referendum.

The RTÉ/Behaviour & Attitudes Exit Poll (see 5.15. and 5.16 above) led to the realisation that what influenced the largest cohort of respondents were people’s personal stories of all aspects of abortion as covered in the media. While all media carried personal stories, perhaps the most influential were the Abortion Stories broadcast on RTÉ’s daily *Drivetime* programme (synopsised in Volume Two, Appendix Two of this study). This personal element was markedly missing in earlier referendums on contraception, divorce and abortion.

The 2018 Exit Poll also prompted questions relating to earlier referendums such as the extent to which voters may have understood the intricacies of what they were being asked to vote for.

‘A dialogue of the deaf but not the mute?’ The coarsening of the public discourse.

Not only were key arguments ‘aired’ (in both senses of the word), but listeners and viewers had a unique insight into those making the arguments. Print media can describe the arguments made, but they do not convey the dogmatism, vitriol, lack of compassion, refusal to listen that became so evident in the on-air debates. Historian J.J. Lee, writing in the aftermath of the Eighth Amendment in 1983, describes the debate as ‘a dialogue of the deaf, but not the mute!’ He cites an unpublished paper by JP Carroll:

‘dialogue was never entered into at a conscious level’. The opposing groups talked past each other, reflecting ‘an almost total lack of a well-developed public sphere in our society. Public debate on issues of moral principle were (*sic*) so underdeveloped

in the political culture that neither side was able to relate to the assumptions of the other.¹⁵²

As this study illustrates, the live debate programmes on abortion in 2018 confirm that nothing has changed in this context since Lee wrote the above in 1989. While the *Today Tonight: Referendum Special of 25 August 1983* (see 2.5. above) contained sufficient vitriol to count as a landmark in the coarsening of public discourse, nonetheless, it still contained some elements of a serious debate. The *Claire Byrne Live: Referendum Special* of 2018 shows a further decline (see 5.12 above). Not only was the behaviour of the ‘no’ side and, to a lesser extent, the ‘yes’ side, dominated by hostile displays, but many of the contributions consisted of crude point-scoring rather than real debate.

DID THE FLOODGATES OPEN?

The study begins with the 1968 papal encyclical, *Humanae Vitae*, forbidding all forms of artificial contraception. It ends with the repeal of the Eighth Amendment of the Constitution of Ireland, which had introduced a constitutional ban on abortion to prevent the Oireachtas legislating for abortion or the Supreme Court ruling on it. At the outset of this period contraception, divorce and abortion were legally unobtainable in Ireland and forbidden by the Catholic Church. Fifty years later, all three have become legally obtainable: contraception through legislation; divorce and abortion by referendums followed by legislation. All three continue to be forbidden by the Catholic Church, yet condoms are on display in many, if not all, pharmacies around Ireland.

Divorce was signed into law in Ireland in 1996, following the passing, by the narrowest of margins, of the 15th Amendment: Dissolution of Marriage, in 1995. The Anti-Divorce Campaign issued grim warnings that divorce would bring poverty and misery to divorced women and their children. The argument proved very effective in 1986, but not in 1995. Neither did warnings that the ‘floodgates would open’. According to the 2016 census, Ireland had a divorce rate of 4.7 percent of people who were ever married in the year the census was taken. Internationally the crude divorce rate is used. This measures divorces per 1,000

¹⁵² Lee, *Ireland*, 655.

persons. According to Eurostat, the statistical office of the European Union, Ireland had one of the lowest crude divorce rates in the EU with a rate of 0.7%. Our divorce rate has not exceeded this figure in five successive years. The EU average is 1.9%.¹⁵³

It is less than a year since the 36th Amendment, Regulation of Termination of Pregnancy, repealed the Eighth Amendment. Although figures for the number of women actually obtaining an abortion according to regulations in Ireland will not be available until later in 2020 Dr Peter Boylan, at a public meeting attended by the author in December 2019, was confident enough to predict that more women than before may decide not to terminate unwanted pregnancies. Prior to repeal, he believed, women would be desperate as they searched for an abortion clinic in Great Britain. Once on the ground they were committed and underwent the operation. Now, Boylan thought, given the legal requirement that women seeking an abortion have to discuss their situation with a doctor in Ireland, there will not be the same pressure, desperation and panic. Boylan seemed to think that the Repeal referendum and regulation would be followed by fewer abortions than many had predicted.

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THE END OF AN ERA?

Contraception and divorce are no longer issues. However, not all voters have moved on from what some might have regarded as the myth of Irish exceptionalism. The anti-abortion movement still exists. 33.6 percent of the electorate voted against the Repeal of the Eighth Amendment, and thousands continue to join the Rally for Life marches. There are now far more 'pro-life' organisations in Ireland than there were when the struggle began. These include:

¹⁵³ [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Crude_divorce_rate,selected_years_1960-2017\(per_1_000_persons\).png](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Crude_divorce_rate,selected_years_1960-2017(per_1_000_persons).png) Accessed 8 January 2020..

However, this figure of 0.7% for Ireland may not be an adequate measure of marriage breakdown in Ireland, because of the four year 'living apart' provision for couples applying for divorce.

¹⁵⁴ Dr Peter Boylan in conversation with Roisin Ingle at the Lexicon, Dun Laoghaire on 9 December 2019.

One Day More	Life Society UCD
Youth Defence	Students for Life (TCD)
The Life Institute	University of Limerick Life Society
Love Both Project	Galway University Life Society ¹⁵⁵
Precious Life (Northern Ireland)	

A general election takes place in February 2020. As in previous elections, the Pro Life Campaign promotes candidates it identifies as ‘pro-life’ and has issued lists of all constituencies ‘giving guidance on voting for pro-life candidates in each area and information on issues supporters may wish to raise at the doorstep when candidates call seeking votes.’ As an example, overleaf is the PLC’s list of general election candidates’ voting record on pro-life issues in the Dun Laoghaire Rathdown constituency. This has been sent by email to all their subscribers.

¹⁵⁵ <http://www.thetricolour.com/Articles/346/politics/8th-Amendment/List-of-Pro-Life-Groups-in-Ireland/l4466296/> accessed 8th January 2020

If you have any new and verifiable information on any candidates listed, please email us without delay to elections@prolifecampaign.ie ¹⁵⁶

 Strongly pro-life	 Position unclear	 Mixed Re
 Pro-life	 Supports abortion	

Rating	Surname	Forename	Position	Party	Details
	Boyd-Barret	Richard	T.D.	SOL-PBP	Signed up to National Women's Council Pledge which supports Repeal of the 8th Amendment. Voted for abortion bill in amendments.
	Carroll MacNeill	Jennifer	Cllr.	FG	Signed up to National Women's Council Pledge which supports Repeal of the 8th Amendment.
	Devlin	Cormac	Cllr.	FF	Opposed Repeal of the 8th Amendment.
	Hanafin	Mary	Cllr.	FF	Opposed Repeal of the 8th Amendment.
	Mitchell O'Connor	Mary	T.D.	FG	Supported Repeal of the 8th Amendment. Voted for abortion life amendments.
	O'Brien	Shane		SF	Party has pro-abortion position.
	O'Connell	Juliet	Cllr.	LAB	Signed up to National Women's Council Pledge which supports abortion position.
	O'Laoghaire	Con Óg		IFP	Position unknown/unclear or did not respond to survey
	Quinn	Dave		SD	Party has pro-abortion position.
	Smyth	Ossian	Cllr.	GP	Party has pro-abortion position.
	Tóibín	Mairéad		AON	Campaigned to keep the 8th Amendment.
	Ward	Barry	Cllr.	FG	Supported Repeal of the 8th Amendment.
	Waters	John		IND	Campaigned to keep the 8th Amendment.

¹⁵⁶ The Pro Life Campaign email 15th January 2020:
<https://mail.google.com/mail/u/0/#inbox/FMfcgwxGCKlNxdKWvzbzSCLrvfSBLVrP>

Accessed 18 January 2020.

FUTURE STUDY

The far greater part of the programme transcriptions contained in this study originate from television. As referenced above, television viewing tapes were more easily accessible through the RTÉ Archives and Library Services in Donnybrook while most of the audiotaped Radio material is held in the Limerick studios. Digitisation of these tapes is taking place, but it will be some years before completion.¹⁵⁷ As digitisation nears completion future researchers will find a much enhanced range of reports, analyses, commentaries and other primary source material to explore in radio news and current affairs programmes. These include *Morning Ireland*, *Today with Pat Kenny* and later *Seán O'Rourke*, *This Week*, *Liveline* with Marian Finucane and later Joe Duffy, *Drive Time* and many others. *Women Today* and *Liveline*, arguably could be worth studies in their own right.

¹⁵⁷ Malachy Moran, RTÉ Radio Archives, text to author

BIBLIOGRAPHY

- Biever, Bruce Francis. *Religion, Culture, and Values: A Cross-Cultural Analysis of Motivational Factors in Native Irish and American Irish Catholicism*. New York: Arno Press, 1976, 1965.
- Binchy, William. *Is Divorce the Answer?: An Examination of No-Fault Divorce against the Background of the Irish Debate*. Dublin: Irish Academic Press, 1984.
- Bowman, John. *Ireland: The Autobiography. One Hundred Years in the Life of the Nation Told by Its People*. Dublin: Penguin Ireland, 2016.
- Byrne, Gay. *To Whom it Concerns*. Dublin: Gill & Macmillan, 1972.
- Callahan, Brian. *Jim Kemmy - Stonemason, Trade Unionist, Politician, Historian*. Dublin: Liffey Press, 2011.
- Catholic Church. *Catechism of the Catholic Church*. Vatican City: Libreria Editrice Vaticana, 2012.
- Cooney, John. *John Charles McQuaid: Ruler of Catholic Ireland*. Dublin: O'Brien Press, 1999.
- Cross, F. L. *The Oxford Dictionary of the Christian Church*. Oxford: Oxford University Press, 1958.
- Daly, Mary E. *Sixties Ireland: Reshaping the Economy, State and Society 1957-1973*. Cambridge: Cambridge University Press, 2016.
- Davis, Evan. *Post-Truth: Why We Have Reached Peak Bullshit and What We Can Do About It*. Great Britain: Little Brown, 2017.
- Desmond, Barry. *Finally and in Conclusion: A Political Memoir*. Dublin: New Island, 2000.
- Dillon, Michele. *Debating Divorce: Moral Conflict in Ireland*. Lexington, Ky.: University Press of Kentucky, 1993.
- Egan, Sean. *50 Years of Coronation Street: The (Very) Unofficial Story*. London: JR Books, 2010.
- Fennell, Desmond. *Nice People and Rednecks: Ireland in the 1980s*. Dublin: Gill & Macmillan, 1986.
- Fennell, Nuala. *Irish Marriage: How Are You?* Cork: Mercier Press, 1974.

- Ferriter, Diarmaid. *Ambiguous Republic: Ireland in the 1970s*. London: Profile Books, 2012.
- . *Occasions of Sin: Sex and Society in Modern Ireland*. London: Profile Books, 2009.
- Finlay, Fergus. *Snakes and Ladders*. Dublin: New Island Books, 1998.
- FitzGerald, Garret. *All in a Life: An Autobiography*. Macmillan London, 1991.
- . *Reflections on the Irish State*. Dublin: Irish Academic Press, 2003.
- Foster, R. F. *Luck and the Irish: A Brief History of Change, 1970-2000*. London: Allen Lane, 2007.
- Fuller, Louise. *Irish Catholicism Since 1950: The Undoing of a Culture*. Dublin: Gill & Macmillan, 2002.
- Garvin, Tom. *Preventing the Future: Why Was Ireland So Poor for So Long ?* Dublin: Gill & Macmillan, 2004.
- Gillespie, Elgy (ed.). *Changing the Times: Irish Women Journalists 1969 – 1981*. Dublin: The Lilliput Press, 2003.
- Girvin, Brian. 'The Divorce Referendum in the Republic: June 1986' in *Irish Political Studies*, Vol.2, Issue 1, 1987, 93-8.
- Hesketh, Tom. *The Second Partitioning of Ireland?: The Abortion Referendum of 1983*. Dublin: Brandsma Books, 1990.
- Hill, J.R. (ed.) *A New History of Ireland: 1921-1984*. 9 vols. Vol. VII, Oxford and New York: Oxford University Press, 2003.
- Holohan, Carole. *In Plain Sight*. Dublin: Amnesty International Ireland, 2011.
- . *Reframing Irish Youth in the Sixties (Reappraisals in Irish History)*. Liverpool: Liverpool University Press, 2018.
- Horgan, John. *Broadcasting and Public Life: RTE News and Current Affairs, 1926-1997*. Dublin: Four Courts, 2004.
- Inglis, Tom, 'Catholic Identity in Contemporary Ireland: Belief and Belonging to Tradition' in *Journal of Contemporary Religion*, May 2007, 205-220.

———. *Moral Monopoly: The Rise and Fall of the Catholic Church in Modern Ireland*.

2nd ed. Dublin: University College Dublin Press, 1998.

Irish Catholic Bishops. *Human Life Is Sacred: Pastoral Letter of the Archbishops and Bishops of Ireland to the Clergy, Religious and Faithful: Complete Text with Introduction and Guidelines*. Dublin: Veritas Publications, 1975.

———. *Love Is for Life: A Pastoral Letter Issued on Behalf of the Irish Hierarchy*. Dublin: Veritas, 1985.

———. *Marriage, the Family and Divorce: A Statement of the Irish Bishops*. Dublin: Veritas, 1986.

——— and Consultative Group on Bioethics & The Council for Healthcare of the Irish Catholic Bishops' Conference. *Code of Ethical Standards for Healthcare*. Dublin: Veritas, 2018.

Ivory, Gareth. 'The Provision of Irish Television in Northern Ireland: A Slow British–Irish Success Story' in *Irish Political Studies*, 29:1, 2014, 134-153.

Jones, Jack. *In Your Opinion: Political and Social Trends in Ireland through the Eyes of the Electorate*. Dublin: TownHouse and CountryHouse Ltd, 2001.

Lee, J.J. *Ireland 1912-1985: Politics and Society*. Cambridge: Cambridge University Press, 1989.

Mac Cormaic, Ruadhán. *The Supreme Court*. Dublin: Penguin Ireland, 2016.

Manly, Doris *et al.* *The Facilitators*. Dun Laoghaire: Brandsma, 1987.

Marx, Paul OSB. *Confessions of a Pro-Life Missionary*. Gaithersburg, MD: Human Life International, 1988.

———. *The Death Peddlers: War on the Unborn*. Minnesota: St John's University Press, 1971.

McCarroll, Joseph. *Marriage or Divorce: The Real Issue*. Dublin: Position Papers, 1985.

Meehan, Ciara. *A Just Society for Ireland? 1964-1987*. Cambridge: Cambridge University Press, 2013.

Morash, Christopher. *A History of the Media in Ireland*. Cambridge: Cambridge University Press, 2010.

Newman, Jeremiah. *The State of Ireland*. Dublin: Four Courts Press, 1977.

- O'Leary, Cornelius and Tom Hesketh. 'The Irish Abortion and Divorce Referendum Campaigns' in *Irish Political Studies*, Vol:3, Issue: 1, 43-62.
- O'Leary, Zina. *The Essential Guide to Doing Your Research Project*. London: Sage Publications, 2004.
- O'Reilly, Emily. *Masterminds of the Right*. Dublin: Attic Press, 1992.
- O'Reilly, John. *Contraception: The Baited Hook*. Dublin: The Council for Social Concern, 1977.
- . *Is Contraception the Answer?* Dublin: Irish Family League, 1974.
- . *Contraception: The Baited Hook*. Dublin: The Council for Social Concern, 1977.
- . *The Gift of Life*. The Knights of Saint Columbanus, 8 Ely Place, Dublin 2. 1978.
- Paul VI. *Encyclical Letter, Humanae Vitae, of the Supreme Pontiff, Paul VI to His Venerable Brothers the Patriarchs, Archbishops, Bishops and Other Local Ordinaries in Peace and Communion with the Apostolic See, to the Clergy and Faithful of the Whole Catholic World, and to All Men of Good Will, on the Regulation of Birth*. Rome: Libreria Editrice Vaticana, 1968.
- Purcell, Betty. *Inside RTÉ: A Memoir*. Dublin: New Island, 2014.
- Rafter, Kevin and Mark O' Brien. *The State in Transition: Essays in Honour of John Horgan*. Dublin: New Island, 2015.
- Runciman, David. *Politics: Politics: Ideas in Profile*. London: Profile Books, 2014.
- Savage, Robert J. *Irish Television: The Political and Social Origins*. Cork: Cork University Press, 1996.
- . *A Loss of Innocence?: Television and Irish Society, 1960-72*. Manchester: Manchester University Press, 2010.
- Sheehan, Helena. *Irish Television Drama: A Society and Its Stories*. Dublin: Raidió Teilifís Éireann, 1987.
- Simms, Madeleine and Keith Hindell. *Abortion Law Reformed*. London: Peter Owens, 1971.
- Whyte, J. H. *Church and State in Modern Ireland 1923-1979*. 2nd ed. Dublin: Gill and Macmillan, 1984.

Unpublished Works

Loughlin, Paul. 'Church, Property and Income versus Compassion: The Defeat of the 1986 Divorce Referendum.' Unpublished M.Phil. thesis in Modern Irish History. University of Dublin, 2011.

Loughran, James. 'Your Earth' (memoir in preparation).