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3RD SEPTEMBER, 1983.

Statement on the Amendment issued by The Taoiseach
and Leader of Fine Gael, Dr. Garret FitzGerald.

Many of you, I know, are distressed at the division, and even bitterness, that the amendment campaign has brought into our lives. This division and bitterness are all the more tragic because for the most part they have been created between people who are in fundamental and total agreement in support of human life from its very beginning.

I share this distress, all the more so because I have to accept my share of responsibility for this matter being now before us in its present form. In accepting the wording now before you, in good faith, but without first securing adequate legal advice, I have contributed to this situation. In what I have to say now I shall try above all to avoid exacerbating these divisions.

I must, however, do my duty in this matter. I must do it at this point, first as Head of the Government that alone has

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access to the most authoritative legal advice on the possible or likely effects of adopting this particular wording. I must also do it as leader of a party which decided by an overwhelming majority to reject this wording in the Dail in favour of another wording. You are entitled to have the reasons for our Party's action placed before you again now, as some time has elapsed since those events.

Let me at the outset reiterate that the disagreement about this amendment is, so far as the vast majority of us are concerned, an honest disagreement between people who are pro-life; I would say committedly and passionately pro-life. There is of course a minority in Ireland who have a different view on abortion. But we who reject their view absolutely must not under any circumstances allow ourselves to be distracted by them from considering the effects of our actions next Wednesday upon the law and medical practice - upon the safeguarding of life. To allow our feelings about a small pro-abortion element in our midst to distract us from the actual issue before us could be to play into their hands. We would not easily forgive ourselves afterwards if through allowing that to happen, we actually put at risk life that we want to protect.

There is one issue, and one issue only before us next Wednesday: that is, what are the possible, or likely effects upon our law and medical practice of inserting the proposed

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words in the Constitution? Many still believe, as I did when I first saw these words, and as some representatives of the Protestant Churches also seemed to do at the time, that these words fulfil our wish to introduce a constitutional safeguard to what has come to be known as 'the right to life', and that they do so in a manner that would safeguard also the right to life of the mother.

But when this wording was examined by the Attorney General and his advisors, it was found by them that the words were ambiguous and unclear, and could even have the opposite effect to what we all intended.

Now the Attorney General is the authoritative legal adviser to the Government, who has available to him the legal and constitutional resources of the State. No Government can responsibly ignore or dismiss his advice on how the Supreme Court might interpret the law. While, of course, others may, and often do take a different view from him on many issues, and while of course he is fallible like the rest of us, it has to be taken that if he advises that the Supreme Court might interpret the law in a particular way, then this is a possibility that we cannot responsibly ignore.

Moreover many hundreds of lawyers, (including many barristers from whose ranks the Judges are drawn who in the years ahead

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will have to decide these issues), have expressed their agreement with the Attorney General's opinion, as to the uncertainty of this wording. It is of course true that other lawyers have asserted that they know with certainty how all future Supreme Courts will interpret the three different ambiguous phrases in the wording of the present amendment. But in the face of the body of professional legal opinion led by the Attorney General which has identified these multiple uncertainties about the meaning of the wording, any person who insists that he or she knows that the Supreme Court could not interpret the law in such a way, is self-evidently taking an extraordinary responsibility on himself or herself.

The Attorney General has advised that the vagueness of the term 'unborn' in this amendment, standing on its own, creates the possibility of an interpretation by the Supreme Court that would permit abortion up to the stage in pregnancy where the baby is capable of being born. If, therefore, we adopt this amendment we could be opening up the very possibility that we are all attempting to close off - the introduction of abortion. It may, as the Attorney General himself has suggested, be unlikely that this would happen, but we have to ask ourselves - as I had to ask myself, and the Fine Gael Parliamentary Party, unanimously pro-life, had to ask itself: are we entitled to take any risk in this matter of abortion? When the issue faced us we in the Party overwhelmingly decided that we were not so entitled.

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In this fundamental pro-life stance we were reinforced by information specially given to the Attorney General by the Director of Public Prosecutions, in the course of a statutory consultation between them. The Director is an officer totally independent in the exercise of his duties, who alone has the power to initiate prosecutions on behalf of the State for offences such as abortion. He informed the Attorney General that if this amendment were passed he would experience grave difficulties in maintaining a prosecution in many abortion cases. Thus we are faced with the position that if this amendment is passed, people who now are careful not to undertake abortions in this State, would know that they could in future do so with less likelihood of being prosecuted and convicted.

Those of us in Fine Gael who were faced with a decision on the amendment had to decide whether in conscience we could allow such a situation to be created. You who are about to vote on this issue now have to make that same decision, in full knowledge of the facts as I have stated them, plainly.

There is yet another issue that has been raised by the uncertainty of the wording of this amendment. That is whether, if this amendment is passed, legal actions taken in our Courts on the basis of its wording could preclude medical or surgical interventions necessary to save the life of the

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mother, which are at present carried out in all our hospitals in accordance with the medical ethics and theology of all our Churches.

The Attorney General has advised that if this issue were at some point to be raised in our Courts, this could happen, is even perhaps likely to happen, because the wording of the amendment places the lives of the mother and the unborn child on an equal footing, thus casting doubt on the legality of an intervention in favour of the mother. This issue might not, of course, come before our Courts in the years immediately ahead, but the fact that it could at some point do so, and that the outcome of such an action could put at risk the lives of women that are at present protected, is also a compelling consideration.

Of course, on this and on other points, there are strongly dissenting views. If and when this issue came before the Supreme Court, this interpretation might not be upheld. Please God, if the amendment is passed, and if the issue ever arises it will not be. But those who assert that this could not happen, are taking a quite extraordinary responsibility on themselves. They - and very many of them are not lawyers at all, and have no competence in the matter of constitutional interpretation - are asserting that they know with certainty that any future Supreme Court that might be faced with this

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issue will interpret this wording in a manner contrary to that which the Law Officer of the State, the Attorney General, says is possible - even, on this medical point, likely. You must decide whether you can bring yourself to share this certainty, and whether, if you cannot, you wish to allow words to be added to the Constitution which could have the effect at some point in the future of changing fundamentally present medical practice, in a manner that would affect the right to life of very many women.

Those of you, the vast majority, who share with me the commitment to the right to life have to make up your minds as to whether you feel you can take the moral responsibility for these different risks that lie in the insertion of this wording, which we now know to be ambiguous and uncertain, in the one place, the Constitution, where, above all, wording affecting life requires to be clear and certain.

Some of you, many of you perhaps, will decide that you can take this moral responsibility, and will vote in favour of this amendment on other, perhaps more general grounds. It is your right in conscience to do so. But it is my duty to ensure that you know what are the possible effects of such an outcome from this referendum.

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There is another issue that has arisen in the course of this debate, one that was not present at the outset, but which I feel we cannot now ignore, in weighing up the balance between the cases for and against adoption of the wording now before you. That is, the divisions between the Churches, and thus broadly between the two traditions in this island, that have arisen as this debate has proceeded.

When it became clear to the Protestant Churches, as it became clear to us in Government and in the Fine Gael Party, that the wording of the amendment contained uncertainties that must give rise to doubts as to how it might eventually be interpreted by the Supreme Court, these Churches expressed themselves as opposed to an amendment of this kind. For the first time in the history of the State a clear division on a crucial issue has thus arisen between the Churches, as well as between the two traditions in this State.

The greatest single challenge to all the men and women in this island is reconciliation. It is a challenge that faces not just our society, but each of us as individuals. Many of us have had to ask ourselves from time to time, what can I do to further this most fundamental Christian objective. Many of you will have found yourselves at times frustrated because you have not been able to see what you might do individually in this cause.

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Does this amendment provide an opportunity for individual action that will help towards reconciliation, or on the other hand make reconciliation more difficult? Some of you will, for one reason or another, reject this suggestion, and will feel that you can legitimately leave this element out of your consideration. Others, like myself, will find it difficult to separate the issues in such a way. You must decide for yourselves whether this is important for you, as it is for me.

From what you have read and heard of this debate you will already be aware that the issues are complex. I have tried, within the limits imposed by the fact that they are so complex, to explain why my Party decided overwhelmingly to reject this wording in the Dail and to replace it by a different wording - recognising that in so doing we had nothing to gain politically and a lot to lose. I have told you of the doubts, and therefore dangers, that lie in the present wording, seen from the pro-life viewpoint that we all share. I have also drawn your attention to an issue which you may or may not consider relevant - that of reconciliation between the different Churches and traditions in this island.

You will have to make up your minds in the light of all this, and of other considerations that weigh with you, as to how you will vote next Wednesday. I hope at least that you will vote,

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on an issue which, however much many may regret the way it has come before us, now has to be decided.

For myself, as you will know from what I have said, I believe that my duty as a Christian, concerned above all with the protection of human life, from its start, and concerned with peace and reconciliation in this island, is to vote against this wording.

May I end by expressing a hope, a prayer indeed, that when the referendum is over, and whatever the result, the division, and even rancour and bitterness, that has been so tragically aroused amongst our people by this most fundamental issue will end, and that no one will contribute to keeping it alive in any form.