

**APPENDIX D****REFORM OF MARRIAGE LAW****REPUBLIC OF IRELAND****Initial response by the Marriage Law Sub-Committee (RI) to the Republic of Ireland Government's document "Bringing Civil Registration into the 21<sup>st</sup> Century"**

I write on behalf of the Marriage Law Sub-Committee (members listed below) of the Standing Committee of the General Synod of the Church of Ireland

- to make an initial submission to the aforementioned document concerning Civil Registration,
- to express concern that, notwithstanding the fact that our group has been in contact with the Registrar General for a period of almost two years in relation to matters pertaining to marriage law (including some aspects of the registration of marriages), there was no prior contact with the Church of Ireland before the consultation document was issued,
- to make an initial and outline response only to that part of the document which relates to the registration of marriages.
- and, therefore, to request a meeting on behalf of the Church of Ireland with the architects of the proposals contained in the consultation document.

In general terms, our group welcomes the intention outlined in the consultation document signalling a desire to modernise and improve the Civil Registration Service. In particular we welcome any consequent alteration of forms, registers and certificates which would render the existing materials consonant with subsequent and amending legislation such as the Family Law Act, 1995.

In the light of our on-going contacts with the Registrar General on matters of mutual interest in this area we regret that no prior communication took place with our group which has been established by the Standing Committee of the General Synod of the Church of Ireland to monitor issues and to address specific tasks in the arena of the practice of marriage law. Most recently we issued a Marriage Law Guide and Code of Good Practice to all clergy in the Church of Ireland working in the Republic of Ireland.

I note that the deadline for submissions to the consultation document is 31st May 2001. While this may allow sufficient time for submissions by individual citizens, it does not allow adequate time for consultation and reflection within and formulation of responses by institutions such as the Church of Ireland. To that end, I underline that this is an initial response, and that following consultation within a realistic timeframe, we should like to have the opportunity of making a further detailed response. Churches, such as the Church of Ireland, act on behalf of and in partnership with the State in the area of Marriage Law, and I am sure you would be happy to accede to this request for a consultative process and engagement with us.

As the Government Ministers affirm in their preface to the consultation document, Civil Registration was introduced in Ireland in 1845. Since the passing of the Marriages (Ireland) Act, 1844, the Church of Ireland and certain Protestant Churches in Ireland (such as the Presbyterian Church in Ireland and the Methodist Church in Ireland) and the Jewish Community in Ireland, have been implementing that system of Civil Registration as agents of the State.

Our principal and initial concerns (and on further detailed consultation within the Church others may be identified) are:

- The proposals for registration of marriages appear to take no cognisance of the Marriages (Ireland) Act, 1844, and seem to be based exclusively on the Marriage Law (Ireland) Amendment Act, 1863 which provided for the recognition by registration of a common law marriage.
- This results in an apparent failure to acknowledge inter alia that in fulfilling obligations under the 1844 Act, clergy of the Church of Ireland, for example:
  - (a) are acting as agents of the State
  - (b) have custody and administration of Marriage Registers which are not, in fact, Church registers in any sense, BUT ARE STATE REGISTERS.
  - (c) issue extract certificates of marriage from such registers which have full efficacy as such in law
- The difference between the two Acts is significant as the one results in the recognition of marriages by a quite different legal route from the other.
- In the same way that the 1844 Act does not affect marriages celebrate according to the Roman Catholic rite (section 3), the 1863 Act does not affect marriages according to the rites and ceremonies of the Church of Ireland (section 11).

All of this raises crucial questions about the future implementation of the Marriages (Ireland) Act, 1844. Is it intended, for example, to repeal, amend it or replace it?

An apparent failure to take cognisance of the 1844 Act at the time of the passing of the Family Law Act, 1995 resulted in inconsistencies at that time, in confusion in practice since and in pastoral difficulties in very real and painful human circumstances.

The churches in Ireland and their clergy are to the fore in the implementation, the day to day working and in fielding the consequences of administrative legislation such as what may be proposed. We hope that, what at this stage may necessarily only be, our preliminary response will receive your urgent and detailed attention, and furthermore that the opportunity will be afforded to us, on behalf of the Church of Ireland, to enter into more detailed consultation before these proposals are carried into effect.

**Members of the Sub-Committee**

The Right Reverend Paul Colton, Bishop of Cork, Cloyne and Ross

The Right Reverend John Neill, Bishop of Cashel and Ossory

The Venerable Robin Bantry White, Archdeacon of Cork, Cloyne and Ross

Canon Michael Burrows, Rector of Bandon and Member of the Standing Committee of  
the General Synod

June 2001

**REFORM OF MARRIAGE LAW****REPUBLIC OF IRELAND****BRINGING CIVIL REGISTRATION INTO THE 21<sup>ST</sup> CENTURY****Report to Standing Committee of a meeting between  
the Marriage Law Sub-Committee, the Registrar General and Representatives of  
the Department of Social, Community and Family Affairs**

A meeting was held at the Department of Social, Community and Family Affairs, Goldsmith House, Dublin 2 on Wednesday 27th June 2001.

**PRESENT**

**Church of Ireland:** The Bishop of Cork, Cloyne and Ross and the Ven RE Bantry White

**The Registrar General:** Mr Séamus Ó Cléirigh

**Department:** Ms Vera Dervan and Mr Paddy Doherty

**PURPOSE**

The meeting afforded an opportunity for a briefing on the proposals of the two government departments (Social, Community and Family Affairs, and Health and Children) for the modernisation of the registration process established in 1845 and for our part, to clarify the consequences of such changes for the Church of Ireland.

**SUMMARY**

It was noted that we have been the only Church to seek a meeting and appreciation of this was expressed.

The proposals are those described in the booklet made available to the general public entitled Bringing Civil Registration into the 21st Century. In essence it is intended to achieve:

- the electronic capture of all future life events within three months
- the capture in electronic format of all current paper based records
- the registration of events at any Registrar's Office
- and to provide access to Registration data at any Registrar's Office.

**MARRIAGE**

While the document concerns all main life events our submission concerned registration of marriage.

It was intimated that this process is seen as Phase I of a two phase process. Phase II will address matters pertaining to the formalities of marriage. We indicated even at this juncture and asked that the Church of Ireland's interest in being consulted about Phase II be noted formally already at this stage.

In Phase I (the current phase) the two key elements in relation to marriage are:

- standardised procedures for notification and registration of marriages
- the couple as qualified informants.

#### **REGISTRATION OF MARRIAGE IN PRACTICE**

The proposals provide for

- a new marriage registration form for all marriages
- such form will incorporate the notification details
- Such form will be given to the couple
- It will be signed at the ceremony by the couple, the witnesses and the solemniser
- The responsibility for sending the form to the Registrar will rest with the couple.

It was agreed that this is a process not unlike that provided for in Section 11 of the Registration of Marriages Act, 1863.

#### **CONSEQUENCES FOR THE CHURCH OF IRELAND**

Heretofore, and in contrast, the practice prescribed in law for Church of Ireland marriages is that articulated in *The Marriages (Ireland) Act, 1844*.

It appears we were correct in assuming that these provisions were, in the main overlooked. However, in any case, it has been decided to repeal the relevant sections of the 1844 Act in order to put the new system in place.

The consequences for the Church of Ireland are as follows:

- Clergy will no longer act on behalf of the State in the registration of marriages.
- Duplicate Registers will be closed and no longer in use.
- The obligation to make Quarterly Returns will be removed and the onus placed on the couple to return the certificate duly signed and witnessed.

In such a scenario the Church of Ireland will have to consider whether to provide its own church registers of marriages.

#### **TIMEFRAME**

The legislation to facilitate this change is being prepared and the Bill will be made available to us when it is ready in September. It is intended to effect this change at the end of the first quarter of 2002.

**CONCLUSION**

It appears that this process is part of the current legislative programme, and we are being asked to partner it and to assist with communication of the change to practitioners (clergy) who will be affected.

While some may view this as an erosion of historic prerogatives (albeit such as were imposed by legislation in the mid-19th century) it seems to us (interpreting the meeting we attended) that this is an inevitable and *bona fide* process designed to modernise the civil registration process.

June 2001