

# **Referendum Campaigns in Ireland**

(Campagne del referendum in Irlanda)

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As comparative studies testify, the referendum is exceptionally important in Ireland. Among western European countries, only in Switzerland and in Italy are more referendums held. Traditionally, Ireland lagged behind France in the frequency of referendums, but in recent years it has overtaken that country. This makes the phenomenon itself significant, as well as offering a good deal of material for analysis. In this paper we shall review the experience of referendum campaigns in Ireland. We will look at the constitutionally-defined circumstances under which referendums take place, the main actors involved in referendum campaigns, the regulations concerning referendum campaigns, the influences on the vote, and the outcomes of the campaigns.

First, it is necessary to clarify the constitutional provisions that define the circumstances under which referendums take place.

### **CONSTITUTIONAL PROVISIONS**

Constitutional provisions are important because they define and limit the context of referendums. In principle, referendums might take place under a whole range of circumstances. The most fundamental distinction is between initiatives, under which a specified number of people may themselves bring about a popular vote, and a referendum proper, when some other actor (government, MPs, the courts) is responsible (Uleri 1996a; Uleri 2003). Quite clearly, this distinction is particularly important when we are examining referendum campaigns: a popular vote initiated by citizens may be expected to produce a very different campaign dynamic from one brought about by government. In Ireland, none of the popular votes to have taken place was an initiative – although there was provision for the initiative in the 1922 constitution, this was abolished in 1928 and was not included in the 1937 constitution (Gallagher 1996a, pp. 86–7). The abolition of the initiative in 1928, when the main opposition party was about to use it to bring about a popular vote on the Anglo-Irish Treaty (the main political issue of the 1920s and 1930s) has been said to be the only case in the world where the right to hold a popular vote has been narrowed (Butler and Ranney 1994, p. 262). Clearly, had a popular vote taken place in the late 1920s on the issue of the oath – in effect, a surrogate for the entire Treaty settlement with Britain – this would have provided fascinating material for analysis. In an era long before opinion polls raised their head in Ireland, the popular vote would have given us a unique insight into Irish public opinion on this key issue. It would also have provided a fascinating case for analysis – but this was not to be.

This affair produced what is, surprisingly, the only real debate that has taken place in Ireland to date on the intrinsic merits of the initiative and the referendum (Gallagher 1996a). Fianna Fáil speakers argued in favour of both in principle, portraying them as valuable elements of democracy. They observed that at general elections many issues of policy, together with personalities, are mixed up together, so to ascertain the people's view on any one issue it was best to hold a nationwide vote on that issue alone. For the government, ministers argued that while referendums might be all very well for a village deciding where to site the parish pump, they were not suitable for nationwide votes because of the impossibility of citizens generally becoming adequately informed about the issues at stake. Needless to say, both parties also had a strong sense of their own self-interest in the debate.

Fianna Fáil came to power in 1932, and a few years later its leader, Eamon de Valera, began to draft a new constitution, which was debated and passed by the Dáil in 1937. Although technically this could have been adopted by the Dáil as one large amendment to the 1922 constitution, it was vital symbolically that it be seen to be adopted by the Irish people themselves, and this required a referendum. On 1 July 1937, the same day as a general election, the first referendum in Ireland was held (it was in fact termed a plebiscite), on the adoption of the new constitution. Having been approved by the people, it came into effect on 29 December 1937.

The 1937 constitution makes provision for the referendum in two circumstances (Gallagher 1999). First, any amendment to the constitution requires, under Article 46.2, the consent of the people voting in a referendum held specifically for that purpose. Any article of the constitution can be amended in this way. Amendment involves a two-stage process. First, the parliament must agree to put a proposal to the people (it is worth emphasising that parliament does not vote on the *substance* of the proposal, only on the question of whether the proposal should be put to the people). Second, the people must vote in favour of the change. There is, then, no provision for the people to initiate change. The issue at such a referendum is decided by a simple majority among those casting valid votes.

Second, Article 27 contains provision for the rejective referendum on ordinary legislation in the event of a clash between the Dáil and the Seanad (the indirectly-elected upper house of parliament). In such cases, a majority of members of the Seanad and at least a third of the members of the Dáil may petition the President not to sign into law a Bill passed by the Dáil but instead to submit it to a referendum. If the President takes this course, a simple majority of those voting does not suffice at such a referendum. Instead, the bill that the Dáil has passed is deemed to have been vetoed by the people only if a majority of voters vote against it *and* this majority amounts to at least a third of those on the electoral register (Article 47.2.1). De Valera

inserted the latter requirement to ensure that the will of the Dáil could not be overridden by a small but committed minority with the majority indifferent – the 33.3 per cent barrier would mean, as he put it, that silence would be interpreted as consent (*Dáil Debates* 67: 1904, 4 June 1937). No petition seeking such a rejective referendum has ever been presented to a President. Given that the government of the day almost always has majority backing in the Seanad, the likelihood of a referendum being held under Article 27 is low.

Constitutional provisions, then, are important in circumscribing the occurrence of referendums and thus in determining the nature of campaigns. The Irish constitution rules out referendums arising from voter initiatives. It also rules out referendums that a majority of members of the Dáil is not in favour of holding. In addition, although it does not expressly prohibit ad hoc referendums, the only kind of referendum it explicitly envisages is the referendum on a specific proposal to change some article(s) of the constitution. Thus, there are no referendums on broad and general policy issues (except in so far as these are reflected in constitutional changes), nor are there advisory referendums on public issues.

Consequently, Ireland has no experience of the initiative that is so common in, for example, Switzerland, Italy, or a number of western states of the USA. Nor does it have experience of the rejective referendum brought about by a minority of parliamentarians, as has occurred or could occur in such countries as Denmark, Austria or Sweden. Instead, barring exceptional situations such as the breakdown of party discipline in parliament, only two actors are in a position to initiate a popular vote. The first of these is the government, using its parliamentary majority, which may bring about a referendum to make a change to the constitution. The second actor is the courts, which may strike down an attempt by the Dáil to pass some law or by the government to take some action on the ground that this would be contrary to the constitution, therefore obliging parliament to put to the people a proposal that the constitution be changed if the policy in question is to be followed. Of course, these two routes are very similar, in that in the second case the impetus to make the substantive change comes from the government, while in the first case the government's action is likely to be prompted by the expectation that if it does not succeed in getting the constitution changed, the courts will block its policy proposal.

## **THE HISTORY OF REFERENDUM CAMPAIGNS**

Within this context, there have been, to date, 28 referendum campaigns in Ireland (see Table 1). While this is not the place to embark on an exhaustive analysis of them

(accounts can be found in Gallagher 1996a, pp. 89–94; Gallagher 1999, pp. 79–82) it is worth outlining the history of referendums in order to establish the kind of issues over which referendums have been fought.

#### TABLE 1 ABOUT HERE

The very first referendum (number 1 in Table 1) belongs in a category of its own, since it was an ad hoc referendum held outside the provisions of the 1922 constitution on the question of whether that document should be superseded by a new constitution. The people agreed to this proposition, and the new constitution came into operation in December 1937. Each of the remaining 27 referendums has taken place on a proposal to make an amendment to a specific article (or sometimes more than one article) of the constitution. They can be grouped into four issue-areas: institutional, European integration, moral, and technical.

#### **Institutional issues**

The issue in the first (1959) referendum (number 2 in Table 1) was to replace the PR-STV electoral system (proportional representation by means of the single transferable vote) by the British-style single-member plurality (SMP) method. It was promoted by Fianna Fáil, which, as the largest party (and then in a single-party government), stood to gain if the change were made (though the party claimed that it was concerned only to ensure the likelihood of stable government). It was opposed by all the other parties, and after a heated campaign was narrowly defeated (see Sinnott 1999, pp. 102–3). In 1968 Fianna Fáil put the same issue to a further referendum (number 3 in Table 1) – the argument about stable government was even less convincing this time, given that Fianna Fáil had been in power in single-party governments for 11 years. Once again Fianna Fáil promoted the idea, but the other parties accused it of self-interest and opposed it strongly. Predictably, the proposal was defeated much more heavily than in 1959. It was coupled with a scheme (number 4 in Table 1) to allow the over-representation in parliament of rural areas (no doubt by coincidence, these were the areas where Fianna Fáil tended to be strongest), and this proposal too was defeated (see Sinnott 1999, pp. 103–4).

In 1972 a proposal to lower the voting age was warmly approved (number 6 in Table 1), and in 1979 an even larger majority, in a low turnout, agreed to change the constitution to permit parliament to amend details of the laws regulating university graduates' right to elect three of the 60 members of the Seanad (number 9 in Table 1). In 1984, the people voted to allow parliament to extend the vote to non-citizens (number 11 in Table 1). In practice, the only non-citizens that proponents had in mind were British citizens, and the proposal was designed to remove the anomaly whereby Irish citizens resident in Britain could vote in elections there but not vice versa. No

party opposed the proposal explicitly, though as polling day approached there were reports from various parts of the country that local branches of Fianna Fáil (which was then in opposition) were advising a No vote. Even though the referendum took place on the same day as the second direct election to the European Parliament, turnout in both contests was low.

The 1997 referendum on cabinet confidentiality (number 20 in Table 1) could also be seen as entailing an institutional change. This arose out of a tribunal of inquiry into allegations of corruption in government circles, when the Supreme Court ruled that the constitutional prescription of collective cabinet responsibility (Article 28.4.2) meant that all discussions at cabinet meetings must be kept confidential, apparently for ever. This seemed an extreme interpretation of the article, and the judgment threatened to hamper the work of the tribunal. The eventual response of the political authorities was to propose a change to the constitution that would allow the secrecy of cabinet discussions to be breached if this was essential to the work of a tribunal of inquiry. An evenly divided vote in a turnout of 44 per cent (see Table 1) might suggest that this was a keenly fought campaign that engaged the Irish public. That is not the case: turnout reached this level solely because a presidential election was held on the same day. Opposition to the proposal came not from people who disapproved of loosening the bonds of silence on ministers but, rather, from those who felt that the proposed change was minimalist and inadequate.

In April 1998 the Irish and British governments, along with most of the Northern Ireland political parties, reached agreement on a settlement variously known as the Belfast Agreement or the Good Friday Agreement. Part of this package was that the people of the Republic of Ireland would amend Articles 2 and 3 of the constitution, replacing the existing territorial claim to the whole island by an aspiration to a united Ireland. This was put to a referendum the following month (number 22 in Table 1) and, as Table 1 shows, was overwhelmingly passed. The package was subject to a simultaneous referendum in Northern Ireland, and although the vote there was 71–29 in favour, the Protestant community was evenly split (Hayes and McAllister 2001).

In 1999, on the same day as European Parliament elections, a referendum took place on amending the constitution to provide explicit recognition of the existence of local government and to specify that local elections must take place once every five years (number 23 in Table 1). This was a very low-key proposal that engendered hardly any debate, and it was apparent that many of those turning up to vote in the EP election were unaware that the issue was even up for decision. The proposal was passed comfortably.

## **European integration**

Joining the European Community required a change to the constitution, which contained a number of clauses (for example, on the sole and exclusive right of the national parliament to make laws for the state) that were in conflict with membership of the EC. Both Fianna Fáil and Fine Gael supported EC membership, as did the employers' and farmers' interest groups, while Labour and the trade unions opposed it. The proposal was approved by a margin of about five to one in the May 1972 referendum (number 5 in Table 1). As a result of EC membership (which occurred the following January), the Irish parties joined party groupings in the European Parliament: Fianna Fáil joined the Union for Europe along with the French RPR and Forza Italia – though this group suffered upheaval following the 1999 EP elections – Fine Gael the European People's Party (the Christian Democratic group) and Labour the Socialist group.

Ratification of the Single European Act in 1987 also required a constitutional change (number 13 in Table 1), after the Supreme Court decided that the constitution as it stood did not allow the state to ratify the SEA. The parties of the centre and right – Fianna Fáil, Fine Gael and the Progressive Democrats (a party founded in 1985 and a member of the Liberal group in the European Parliament) – supported the change, as did the employers' and farmers' organisations, while most members of the left-wing parties (Labour and the Workers' Party) opposed it. Many on both sides seemed to see the issue as one of Ireland's continued membership of the EC, and, given Ireland's position as a net recipient of EC funds, it was no surprise that the Yes side had a comfortable victory (see Gallagher 1988).

The Supreme Court's decision on the SEA meant that future steps towards European integration would also require referendums. The next came in 1992, after the Maastricht Treaty on European Union was signed (number 14 in Table 1). The same forces that had opposed the SEA in 1987 were again active, and when the Danes said No to Maastricht just 16 days before the Irish vote, there was uncertainty about the likely outcome. In the event, the size of the Yes vote was virtually the same as in the SEA referendum five years earlier (see Holmes 1993). This referendum was complicated by the subject of abortion; the aftermath of the "X" case of early 1992 (see below) led some anti-abortionists to oppose Maastricht because of a fear that the treaty could have the effect of legalising abortion in Ireland.

In 1998 there was a referendum on the Amsterdam Treaty (number 21 in Table 1), though since this took place on the same day as the vote on the Good Friday Agreement (see above) it was largely overshadowed by that topic. The vote in favour, at 62 per cent, was noticeably down on the earlier referendums.

In 2001 this decline in support for EU integration was dramatically highlighted by the defeat (on a low turnout) of a proposal to ratify the Nice Treaty (number 24 in

Table 1). This unexpected development prompted a flurry of questions about how the EU could continue the integration process, and eventually, as had happened in 1992–3 in Denmark, the decision was taken to hold the referendum again. On the second occasion (number 28 in Table 1), although the number voting against remained the same, the number voting in favour doubled and the proposal was passed comfortably.

### **Moral issues**

The least contentious referendum in this area took place in December 1972 (number 7 in Table 1), when the people voted to remove the constitutional reference to the ‘special position’ of the Roman Catholic church (over 90 per cent of the population is Catholic). Although all the Dáil parties backed the change and the Catholic church offered no objection, some particularly conservative Catholics opposed it.

In contrast, the ‘pro-life’ referendum of 1983 (number 10 in Table 1) was bitterly fought (see FitzGerald 1991, pp. 440–6; Girvin 1986; O’Leary and Hesketh 1988; Hesketh 1990). It concerned what its proponents (primarily an anti-abortion pressure group that in 1981 secured pre-election promises from both Fianna Fáil and Fine Gael to put such an amendment to a referendum) called the ‘pro-life amendment’, designed to ensure that abortion (already illegal) could not be introduced either by law or by a decision of the courts. Many Catholic bishops and priests spoke out in favour of the amendment, but all the other mainstream churches opposed it. Fianna Fáil backed the proposal, Fine Gael was divided, and the parties of the left (Labour and the Workers’ Party) and liberal forces generally opposed it, while all stressing that they were not advocating the legalisation of abortion. After a long and acrimonious debate, the proposal was passed by a majority of about two to one.

Many of the same forces were involved three years later in the first referendum on divorce (number 12 in Table 1), which the constitution prohibited parliament from legalising (Article 41.3.2 stating that ‘No law shall be enacted providing for the grant of a dissolution of marriage’). In 1986 the Fine Gael–Labour coalition government launched a referendum to remove the constitutional ban. Once again, the Catholic church was active in the fight against change, and Fianna Fáil, while ostensibly neutral, was also in practice opposed. With Fine Gael divided, the majority in favour of divorce that had been found by most opinion polls in the 1980s was whittled away, and the proposal was heavily defeated (see Coakley 1987; Girvin 1987).

In 1992, three referendums on abortion were held on the same day as a general election. These followed the ‘X’ case, which concerned a 14-year-old girl who had become pregnant by an older man and who had been prevented by a court order from travelling to Britain to obtain an abortion there. The resulting Supreme Court

judgment had declared that abortion was legal in some circumstances (thus displeasing conservatives) but had not affirmed that women had a right to travel out of Ireland (thus displeasing liberals). The government addressed the implications of this case by means of three proposed constitutional amendments. The first (number 15 in Table 1), termed the 'right to life' amendment, restricted the availability of abortion, thereby failing to satisfy either liberals (who preferred the status quo) or conservatives (who wanted abortion completely outlawed). Fianna Fáil, the main party in the government, hoped that even though the 'extremes' were unhappy, a moderate centre ground of voters would ensure the approval of this amendment. Labour and Democratic Left (a smaller left-wing party) opposed it, as did the Progressive Democrats (the junior partners in the coalition government until they withdrew early in November 1992, thus precipitating the general election), and Fine Gael, the main opposition party (Girvin 1993; Kennelly and Ward 1993). The amendment was heavily defeated. The second (number 16 in Table 1) proposed amendment affirmed a right to travel; this was backed by all the parties but opposed by conservatives, who insisted that a right to travel could not be absolute if travel would result in the death of an unborn child. The third amendment (number 17 in Table 1) related to the freedom to provide information on obtaining abortions outside Ireland; this too was opposed by conservatives, who said it would lead to more Irishwomen seeking abortions. Both this and the second amendment were carried.

In 1995, the people voted on whether to replace the absolute constitutional ban on divorce by a clause allowing divorce in cases where a couple had lived apart for four of the previous five years and there existed no reasonable prospect of reconciliation (number 18 in Table 1). By this time, a legislative framework existed addressing many of the concerns that had contributed to the defeat of the 1986 proposal, and a series of scandals involving Catholic bishops and priests seemed to have weakened the moral authority of the church's continued opposition to liberalisation. Moreover, the issue did not, as in 1986, divide government and opposition; not only did the Fine Gael–Labour–Democratic Left coalition government campaign unitedly for the measure, but the main opposition party, Fianna Fáil, which had been 'neutral against divorce' in 1986, this time officially supported the measure, though many members (including some TDs) made no secret of their intention to vote No. The only reservations were expressed by the other opposition party, the Progressive Democrats, who wanted a complete liberalisation of restrictions on divorce and remarriage, but they reluctantly backed the proposal as at least an improvement on the existing situation. Opinion polls earlier in the year had shown backing for legalisation running as high as 69 per cent, but, as in 1986, opponents of change fought a vigorous

campaign and Yes support eroded as the campaign progressed, the ultimate winning margin being very narrow.

Although there was little enthusiasm among most of the political class for returning to the subject of abortion, in 2002 the government instigated a further referendum on this issue (number 27 in Table 1 – see Murphy 2003, p. 16). The proposal was, essentially, the same as the one rejected in November 1992 (number 15 in Table 1). On that occasion, as we have seen, liberals were opposed while conservatives were split, with some supporting it and others rejecting it on the ground that it did not go far enough. In 2002 the battle lines were more clearly drawn, with liberals (now a larger group than in 1992) opposing it and virtually all conservatives supporting it: some on the basis that it was what they wanted, others out of a realisation that while it was not perfect, it might represent their last chance to insert a restrictive clause into the constitution before the tide of liberalism reached a level that would make any such amendment impossible. However, a small section of conservative opinion, led by the MEP Dana Rosemary Scallon, opposed it, as in 1992, on the purist ground that it would merely restrict rather than completely outlawing abortion, and this group proved decisive, as the proposal was defeated only very narrowly.

### **Minor and technical amendments**

The mandatory referendum for constitutional amendment means that even the most minor change requires a popular vote. In 1977 some doubt was raised about the validity of certain child adoption orders, requiring a constitutional amendment to place their status beyond question (number 8 in Table 1). In the absence of any opposition, the proposal engendered massive apathy and was approved almost unanimously on a low turnout, disproving the old maxim that in a democracy people do not vote 99 per cent for anything.

In 1996 the government responded to public concern about crimes committed by persons on bail awaiting trial by proposing a constitutional amendment that would allow the courts to refuse bail to those seen likely to commit crimes (number 19 in Table 1); this, too, inspired widespread indifference and was passed comfortably on a low turnout.

Finally, in 2001, on the same day as the first Nice Treaty referendum, there were two other referendums (numbers 25 and 26 in Table 1). One permitted the state to sign up to the International Criminal Court, and the other would remove from the constitution all references to capital punishment (the death penalty itself had long been abolished). Both were entirely overshadowed by the Nice Treaty debate.

## CAMPAIGNING AT REFERENDUMS

### A typology of referendum campaigns

The nature of referendum campaigns, like the pattern of voting, depends significantly on the issue at stake. Two key factors, clearly, are

- (i) the extent to which the issue at stake corresponds to the structure of the party system, and
- (ii) the inherent importance of the issue or, put more objectively, the salience of the issue in the eyes of the public.

The approach of parties to referendum campaigns will be affected by both of these.

To take the first, when the issues at a referendum correspond to the existing lines of party cleavage, parties are most likely to see the referendum campaign as a continuation of the 'normal' political struggle, almost as another general election. The line-up of forces is the same, and inevitably the referendum campaign becomes 'contaminated' by arguments from the regular political world. For example, if a referendum proposal has emanated from an unpopular government, the opposition of the day will seek to mobilise opinion on the basis of the unpopularity of the government generally rather than confine its rhetoric to the specific issue up for consideration (it does not follow, though, that this is the pattern in all referendums, as implied by Franklin et al 1995, p. 115 – see the discussion in Gallagher 1996b, pp. 239–40). A defeat for the government's proposal will mean not merely the rejection of a specific proposal but a victory for the opposition in the ongoing political 'game'. In such cases, parties are likely to be central actors in the referendum campaign and can be expected to commit serious resources to the campaign.

On other occasions, the issue at stake may be one that does not run along the same cleavage line as the party system. This could come about for several reasons. It may simply be a low-salience issue of little interest to the parties. Alternatively, it may divide parties internally rather than distinguish them from each other. A third possibility is that the issue might be salient for some parties but not for others.

Looking at the 28 Irish referendums in these terms shows that only a small number have tapped the same cleavage that structures the party system. This is true of the first four (the adoption of a new constitution and changes to the electoral system), each of which was promoted strongly by the Fianna Fáil government and opposed vigorously by the main opposition party or parties. (It might also be seen as applicable to the referendum on granting votes to British citizens, which Fianna Fáil seemed to oppose *sotto voce*, though on balance this is probably better placed in the fourth category.) There are two main reasons why so few referendum issues coincide with the main cleavage underlying the party system. The first is that it is very hard to identify any

particular cleavage underlying the party system; as many analysts have observed, the Irish party system is quite unique (Mair 1999). There is no great policy difference between the two main parties on any issue; when members of Fine Gael were asked in 1999 how their party differed from Fianna Fáil, the plurality response was that there was no policy difference, the main difference in fact being 'integrity' (Gallagher and Marsh 2002, pp. 182–3). The second is that given that referendums occur only on subjects with constitutional implications, other topics (such as left versus right economic issues) do not feature as referendum issues.

The other 24 referendums did not quite coincide with party lines, though in some cases this categorisation could be disputed. In some referendums, all the parties took the same approach, as in the 1998 Good Friday Agreement vote when every party with parliamentary representation advocated a Yes vote. In others, most parties were internally divided, as in the 1983 'pro-life' referendum (number 10) when liberals from all parties were opposed to the proposal while conservatives from all worked for a Yes. There are also some cases when the issues did separate the parties, but not along the same lines as the regular political battles. This tends to be true of the EU-related referendums. In each of these, the two main parties, Fianna Fáil and Fine Gael, have been in favour, while some or all of the smaller parties have been opposed. Thus, in 1972 Labour spearheaded the campaign for a No vote, and even in 1987 most of its members and supporters seemed opposed to the SEA although the leadership expressed support. In subsequent EU-related referendums (numbers 14, 21, 24, 28) some smaller parties (the Greens and Sinn Féin) have campaigned vigorously against the measures, while the larger parties have been in favour, sometimes lukewarmly. In the second divorce referendum, too, while the larger parties showed signs of internal division, smaller parties such as Labour, the Progressive Democrats, Democratic Left and the Greens were fairly solidly in favour. We need to bear in mind, when trying to decide whether a referendum issue taps into the same cleavage that underpins a party system, that in a multi-party system many permutations of parties are possible.

The second factor is the salience that the electorate attaches to the issue. This, of course, is a variable quantity, and indeed we can expect that over the course of a referendum campaign virtually any issue will grow in importance in the minds of many voters. However, it seems fair to say that certain issues (such as the 1998 Northern Ireland settlement) are universally perceived as innately more important than others (such as reorganising graduate representation or amending cabinet confidentiality). Turnout at the referendum is one measure of salience – though, of course, it can tell us only about salience at the end of the campaign and in any case we know that there are many other influences on turnout. Even using this imperfect measure is complicated by the fact that issues that do not appear to have been at all

salient nonetheless achieved respectable turnouts because they were held on the same day as other, higher-profile contests (this would apply to votes for British citizens in 1984, the cabinet confidentiality vote of 1997, and the Amsterdam Treaty vote of 1998).

Putting these two factors together, as in Figure 1, we find potentially six kinds of referendum. In the first, which we might call quasi-elections, the main parties are on different sides of the argument and the electorate is interested. The prime examples are the 1937 vote on adopting a new constitution, and the attempts by Fianna Fáil to change the electoral system to SMP. On these occasions, we expect the campaigns to be dominated by the main parties, who will commit resources heavily to the campaign, and voting to take place largely along party lines.

#### FIGURE 1 ABOUT HERE

In the second (top right-hand box of Figure 1), we find issues that divide the main parties but signify little to the voters. We would not expect to find such issues being put to the voters unless the parties are so out of touch that they believe that an issue of concern only to them is in fact of wider interest. The referendum on giving votes to British citizens (number 11) might possibly be seen as fitting in this box, though since, as already noted, Fianna Fáil did not explicitly oppose the proposal, it is better placed in box 6. Cases in this segment of the Figure might be termed party world disputes: arguments within the 'party world' remote from the voters (Katz and Mair 1995), issues that the parties argue about but that are of little interest to the voters generally. We could expect these to be low-key campaigns, with the parties disinclined to commit resources because of a sense that little is at stake.

In the third box are issues that are important to the voters but do not relate so unambiguously to the party system as do those in the first box. These are issues that see some parties on one side and other parties in another state: perhaps on the other side, perhaps internally divided, perhaps uninterested. Characteristically in the Irish context, we find issues on which minor parties hold a strong position while major ones do not. The cases that seem to belong in this box are EU-related referendums, where in most cases there have been minor parties firmly opposed to the project whereas the major parties have been supportive, though rarely fervently or unanimously. In 1972, for example, Labour was opposed to EC entry while Fianna Fáil and Fine Gael supported it, and at recent referendums, as already stated, integration treaties have been far more salient for the Greens and Sinn Féin (which have opposed them) than for the larger parties. In these cases, we can expect the minor parties to be very active since they see the referendum campaign as a chance not only to defeat the major parties' substantive proposal but also to heighten their profile and energise their members.

In the bottom left-hand corner are issues that are important to the electorate but do not pit parties against each other. For the most part, moral issue referendums belong here. We might term these referendums non-party or divided party, indicating that parties might keep out of the argument or might be too divided internally to be effective campaign actors. In Ireland, not many of these are likely to be non-party, since the absence of any provision for the initiative means that every referendum proposal must have come from the party-dominated parliament, and so it is unlikely, and does not in practice occur, that there is a referendum on an issue that is salient to the voters but on which the parties do not take a stand. Non-party referendums, then, do not really exist in Ireland. More common are divided-party referendums, when the main parties are internally divided. In either case we can expect the parties to conserve their resources for, say, the next general election;

Finally, in the sixth box we find referendums where the parties are indifferent. These would typically be instances where a judicial decision, say, means that some article of the constitution needs to be changed, but where the public is either uninterested or is virtually all on one side (or both). Turnout in these cases is likely to be very low unless the referendum vote is staged to coincide with a higher-order vote, and a genuine campaign is likely to be noticeable mainly by its absence.

### **The conduct of referendum campaigns in Ireland**

Before going on to look at voter behaviour at referendums, we should say something about the way referendum campaigns are conducted. The mechanics of holding a referendum are prescribed by law. All voters receive a card telling them where to vote, and this also contains a brief description of the proposal at issue. Voters mark an “X” beside either YES or NO on the ballot paper. The conduct of campaigns changed significantly after 1995. Up to and including the divorce referendum of that year, the government of the day frequently employed public money to finance a campaign in favour of the option it advocated. For example, in the pre-1996 EU referendum campaigns, and in the divorce campaigns, governments spent public money on advertising, opinion polling and so on, all designed to increase public support for the proposal they were advocating. However, a week before the 1995 vote took place, this practice was declared unconstitutional in a judgment handed down by the Supreme Court in a case brought by Green Party MEP Patricia McKenna. The court ruled that the government was not entitled to use public money to propagate only one side of the case, since not all citizens supported this side.

This decision was very unpopular with the political class, which saw it as unreasonable that the government of the day should be prevented from using state

money to promote its policies. A senior Labour Party adviser expressed himself on the subject of the McKenna judgment as follows:

Sooner or later, people are going to realise that there is something deeply undemocratic about a government being unable to promote its own legitimate policies, and being forced to pay for the promotion of policies to which it is opposed – and which, by definition, it cannot see as being in the public interest. No real public interest, and no democratic value, is ever going to be served by the crazy McKenna judgment. Instead, the judgment paves the way for absurdities, like tax revenue being spent to encourage people to vote against the Peace Agreement (Finlay 1998, p. 297).

Part of the ire of Finlay and others was created by the manner in which succeeding governments responded to the McKenna judgment. The judgment, it should be noted, simply prevents governments from spending public money in support of just one side of the case. It does not prevent government members campaigning as actively as they wish (in other words, Finlay is wrong to claim that the government is ‘unable to promote its own legitimate policies’), nor does it prevent government parties from spending their own money. It seems, too, that governments are entitled to spend public money on their own case provided they do not spend it only on their own case – in other words, the other side must be funded too.

For each referendum since 1995, the government of the day has established a ‘Referendum Commission’, composed of non-political figures (usually, senior civil servants and a judge) whose brief is to inform the public about the issues and arguments. From 1996 to 2001 inclusive it did this by making a public call for arguments (from individuals, interest groups or parties), and then putting these together in leaflets, newspaper advertisements, and television and radio broadcasts. These invariably consisted of a number of arguments in favour of the proposal and an equal number of arguments against it. This approach was generally seen as unsatisfactory (Mansergh 1999). Voters were often more confused or turned off than enlightened by the Commission’s sometimes turgid presentation of the arguments. In particular, its highlighting of arguments against the 1998 Good Friday Agreement, indeed its ability somehow to find as many arguments against it as for it when all the political parties and 94 per cent of the voters favoured it, led to allegations that it was not so much creating a level playing pitch as tilting the pitch heavily in favour of a small minority.

The Commission’s presentation of the arguments in the first Nice Treaty referendum of 2001, when its final broadcast was a kind of soup of alternating pro- and anti-Nice claims by actors playing partisans, was the last straw. Since then, its role has been changed (Kennedy 2002, p. 117). It is no longer required to present

(what it sees as) the main arguments for and against a proposal; its remit is simply to make the electorate aware that a referendum is taking place and to familiarise it with the issues at stake. Its performance in the second Nice referendum (2002) was described as having been a 'much more organised and accessible information campaign' than the 2001 equivalent (Hayward 2003, p. 128).

### **Campaign actors at Irish referendums**

As Figure 1 might imply, political parties these days are not necessarily the main actors at referendums. Although parties certainly make their views known, increasingly the running tends to be made by interest groups and umbrella organisations, the latter being formed on an ad hoc basis. In the abortion referendum of 2002, for example, press statements were issued by a number of groups on both sides of the argument. In the 2001 Nice Treaty referendum the main sectoral interest groups issued calls for a Yes vote, while groups such as the Peace and Neutrality Alliance and the Irish National Platform campaigned vigorously for a No (O'Mahony 2001, pp. 204–5).

The 2002 Nice Treaty referendum also featured extensive interest group involvement (see Hayward 2002, pp. 124–8). On the No side there were again the Peace and Neutrality Alliance, No to Nice, Connemara against Nice, the Alliance against Nice, Democrats against Nice, Trade Unionists against Nice, Equal in Europe, Women against Nice, and others. On the Yes side could be found, once more, the major economic sectoral groups along with smaller ones such as 'Women for a Yes Vote' and the Disability Alliance. A new group formed especially for the referendum, the 'Irish Alliance for Europe', which featured academics (not including the present writer), politicians from all parties, artists and writers, was particularly prominent, bringing to the campaign the kind of enthusiasm and commitment that had previously characterised only the No side.

However, it is worth noting that the political parties played a greater role in the second Nice Treaty referendum than in the first one. In particular, the main government party, Fianna Fáil, acknowledged that complacency on its part had been partly responsible for the defeat of the first Nice referendum, so in 2002 it committed €500,000 to the second campaign compared with only €60,000 to the first one (Hayward 2002, p. 124). The Green Party and Sinn Féin were again active on the No side. As already indicated, EU issues do relate to the party system, though by dividing major parties from minor ones rather than from each other.

### **Voting behaviour at referendums**

We can expect two features of the vote to be related to the type of the referendum: the extent to which the vote follows the same lines as voting at general elections, and the stability of voting intentions over the course of the campaign.

Specifically, if the referendum falls into the first (or, to a lesser extent, the third) category of Figure 1, we can expect the vote to follow party lines and voting intentions to remain as stable during the campaign as they would in a general election campaign. Conversely, if a referendum falls into the fifth (or to a lesser extent the sixth) category, we can anticipate that voting patterns will be only weakly related to those we observe at general elections, and that voting intentions may change greatly over the course of the campaign.

Looking first at the extent to which voting runs along party lines, we find, as we expect, that voting behaviour at early referendums was, as one writer puts it, 'heavily conditioned by the positions taken by the political parties' (Coakley 1981, pp. 25–6). For example, the correlation between the vote for Fianna Fáil and for the new constitution in 1937 (both votes were held on the same day) was 0.92 (Pearson's  $r$ ). Similar relationships can be found in analysis of the votes on changing the electoral system. At the moral issue referendums of the period in the 1980s and the 1990s, there were some pronounced negative correlations between the liberal position and Fianna Fáil support (Gallagher 1996a, p. 98). This indicates that although both main parties – indeed all the parties – were internally divided, the issues at stake still coincided to some degree with inter-party differences, showing that they might have been classified in the third instead of the fifth box in Figure 1. At the EU-related referendums, though, there is evidence of declining impact of party cues when it comes to influencing the referendum vote (Gallagher 1996a, pp. 95–6).

Examining the three main referendums of 2001–02 allows us to consider the extent to which party allegiances structured the vote (see Table 2). In the Nice 2001 referendum, it appears that party did not have a great influence on the vote, since only among the smaller groups was there much deviation from the overall Yes–No ratio. However, we need to bear in mind that although the poll was conducted only about a week before the referendum took place, the picture it presented was significantly different from the actual vote (46 per cent Yes and 54 per cent No). In the abortion referendum of 2002, it is clear that all parties' supporters were divided, although there is a clear difference between supporters of Fianna Fáil – whose leader was, after all, the main instigator of the vote – and other parties. The second Nice vote in October 2002 shows a sharper distinction. The pattern of support reflects clearly the support given to the treaty by Fianna Fáil, Fine Gael and the PDs and the opposition of the Greens and Sinn Féin. Only Labour supporters are anything like evenly divided.

TABLE 2 ABOUT HERE

Turning to the shift in voting intentions, LeDuc suggests that the impact of a referendum campaign is liable to be greater the more certain elements are involved, and more limited the more other elements are involved (LeDuc 2002a, pp. 146–8; see also LeDuc 2002b). Specifically, if a referendum touches on ideology, core beliefs or is dominated by political parties, or if the issue is familiar and long-standing, the campaign has less potential to make a difference to the outcome. Conversely, the more it involves campaign events, the media, the state of the economy, government actions or an issue that is unfamiliar to the voters, the more scope the campaign possesses to lead to changes in voting intention. He illustrates that in the cases of Ireland's referendums on divorce (1986 and 1995), abortion (1992) and Maastricht (1992), a large swing in voting intentions appears to have occurred on each occasion. The growth of negative sentiment during the course of the divorce referendum campaigns has been discussed in greater depth elsewhere (Darcy and Laver 1990; Gallagher 1996a, pp. 96–7).

We will not go over this ground again, but in the light of this discussion it is worth looking at the main referendums of 2001–02: two on the Nice Treaty and one on abortion. We should note, though, significant shortages of data. In the first two cases there were very few opinion polls, and even the earliest was conducted not long before the poll itself. This reflects both the shortness of the campaigns and the relative lack of interest shown by the mass media (the sponsor of such opinion polls) in these referendums. In the case of the second Nice vote, it is difficult to say exactly when the campaign began, in that as soon as the first vote was defeated in May 2001, there was an expectation that a second vote would take place at some stage.

Making allowances for this, the pattern is mixed. In Nice 1 there was a clear fall in support during the campaign which, as we have said, evidently continued after the last poll. Contemporary analysis attributed this less to any innate conservatism or 'fear of the abyss' than to indifference combined with complacency, i.e. an assumption that it would be passed comfortably. This is borne out by the pattern at the second Nice referendum, where support for the treaty grew steadily. That might seem to conflict with the general cross-national pattern of declining support for change during referendum campaigns, but arguably it does not: the change entailed in the Nice treaty was minimal, while many Yes campaigners conjured up the fear of the abyss to warn voters what might happen if Ireland proved so awkward an EU member as to veto the carefully constructed Nice Treaty. In other words, voting No to the proposal was the radical step that opened the door to unknown consequences. The 2002 abortion referendum, contrary to the divorce referendums, did not show significant changes during the campaign. This may be because for once the more 'conservative' option was not the status quo option – as in Italy's 1974 divorce referendum (where the

object was to use the abrogative initiative to strike down the existing laws permitting divorce), moral conservatives advocated change while liberals preferred the status quo (Uleri 1996b, p. 112). Hence it is perhaps not surprising that the campaign seems to have shifted few voters' intentions.

TABLE 3 ABOUT HERE

## CONCLUSION

We have seen that referendum campaigns in Ireland offer many interesting research opportunities. In the first section of this paper, we outlined the constitutional provisions specifying the circumstances under which referendums take place, noting that referendums are tied to constitutional amendments and do not occur on salient political issues unless these have constitutional implications. In the second section we reviewed the history of referendums in Ireland, emphasising the way in which the number of referendums, which has been in decline in a number of countries, has increased in Ireland, with popular votes on moral issues and on EU integration occurring frequently.

Focusing specifically on referendum campaigns, we have suggested a six-fold categorisation of party involvement in these, depending on the salience of the issue to the public, and on the extent to which a referendum issue divides the electorate along the same lines as the party system. Consequently, not many referendums have seen the two main parties pitted against each other on opposite sides of a referendum campaign. Some issues have seen minor parties strongly committed, with the major parties being non-committal, internally divided or indifferent. Others have seen all the parties, minor as well as major, sidelined by internal divisions or indifference. Not surprisingly, then, at a number of referendums the running in campaigning has been made less by the political parties than by established interest groups, by ad hoc groups, or by umbrella groups. We have also seen how the regulation of campaigns has itself been an issue in recent years following a judicial decision of 1995.

Finally, examining voting behaviour at referendums, we see that at some early referendums, when the referendum issue coincided with the cleavage between the two main parties, party allegiance strongly structured the vote. At most recent referendums, party allegiance has had less influence, though in many cases it has not been negligible. As we would expect, when party allegiance does not strongly determine voters' stance towards the referendum issue, there is significant scope for the campaign itself to make a difference to voting intentions, and in virtually all cases, though with interesting exceptions, the impact is to reduce support for change and to increase support for the status quo option.

**Table 1: Referendums in Ireland 1937–2003** (Referendum in Irlanda 1937–2003)

|    | <i>Date</i> | <i>Proposal</i>                                  | <i>Yes %</i> | <i>No %</i> | <i>Turnout</i> |
|----|-------------|--|--------------|-------------|----------------|
| 1  | 1. 7.37     | Approve Bunreacht na hÉireann                    | 56.5         | 43.5        | 68.3           |
| 2  | 17. 6.59    | Abolish STV electoral system—replace by SMP      | 48.2         | 51.8        | 56.1           |
| 3  | 16.10.68    | Abolish STV electoral system—replace by SMP      | 39.2         | 60.8        | 62.9           |
| 4  | 16.10.68    | Allow over-representation of rural voters        | 39.2         | 60.8        | 62.9           |
| 5  | 10. 5.72    | Permit membership of EC                          | 83.1         | 16.9        | 70.3           |
| 6  | 7.12.72     | Lower voting age from 21 to 18                   | 84.6         | 15.4        | 48.0           |
| 7  | 7.12.72     | Remove “special position” of RC church           | 84.4         | 15.6        | 47.9           |
| 8  | 5. 7.79     | Legalise contested adoptions (technical change)  | 99.0         | 1.0         | 27.9           |
| 9  | 5. 7.79     | Permit reorganisation of graduate representation | 92.4         | 7.6         | 27.4           |
| 10 | 7. 9.83     | Insert “pro-life” (anti-abortion) amendment      | 66.9         | 33.1        | 53.4           |
| 11 | 14. 6.84    | Allow votes for non-citizens                     | 75.4         | 24.6        | 45.5           |
| 12 | 26. 6.86    | Allow legalisation of divorce                    | 36.5         | 63.5        | 60.5           |
| 13 | 26. 5.87    | Ratify Single European Act                       | 69.9         | 30.1        | 43.9           |
| 14 | 18. 6.92    | Permit ratification of Maastricht Treaty         | 69.1         | 30.9        | 57.3           |
| 15 | 25.11.92    | Restrict availability of abortion                | 34.6         | 65.4        | 64.9           |
| 16 | 25.11.92    | Affirm freedom to travel (abortion-related)      | 62.4         | 37.6        | 65.3           |
| 17 | 25.11.92    | Affirm freedom of information ( ” )              | 59.9         | 40.1        | 65.2           |
| 18 | 24.11.95    | Allow legalisation of divorce                    | 50.3         | 49.7        | 62.0           |
| 19 | 28.11.96    | Greater judicial power to refuse bail            | 74.8         | 25.2        | 29.1           |
| 20 | 30.10.97    | Regulate confidentiality of cabinet discussions  | 52.6         | 47.4        | 44.0           |
| 21 | 22. 5.98    | Permit ratification of Amsterdam Treaty          | 61.7         | 38.3        | 55.0           |
| 22 | 22. 5.98    | Approve Northern Ireland Agreement               | 94.4         | 5.6         | 55.6           |
| 23 | 11. 6.99    | Recognise existence of local govt                | 77.8         | 22.2        | 47.2           |
| 24 | 7. 6.01     | Permit ratification of Nice Treaty               | 46.1         | 53.9        | 34.3           |
| 25 | 7. 6.01     | Permit ratification of Internatln Criminal Court | 64.2         | 35.8        | 34.2           |
| 26 | 7. 6.01     | Delete references to death penalty               | 62.1         | 37.9        | 34.3           |
| 27 | 6. 3.02     | Restrict availability of abortion                | 49.6         | 50.4        | 42.7           |
| 28 | 19.10.02    | Permit ratification of Nice Treaty (second time) | 62.9         | 37.1        | 49.3           |

*Note:* Turnout is measured as valid votes as a percentage of electorate.  
Source: Updated from Coakley (1999, p. 372).

**Table 2: Party preference and voting behaviour at referendums, 2001–02**

Preferenza del partito e comportamento di voto ai referendum, 2001–02

| Current<br>voting<br>intentions | Nice 1<br>Jun 01 |    |    | Abortion<br>Mar 02 |    |    | Nice 2<br>Oct 02 |    |    |
|---------------------------------|------------------|----|----|--------------------|----|----|------------------|----|----|
|                                 | Yes              | No | DK | Yes                | No | DK | Yes              | No | DK |
| Fianna Fáil                     | 51               | 23 | 26 | 46                 | 24 | 30 | 55               | 18 | 27 |
| Fine Gael                       | 45               | 32 | 23 | 28                 | 35 | 37 | 48               | 25 | 27 |
| Labour                          | 50               | 36 | 14 | 23                 | 42 | 35 | 38               | 35 | 27 |
| PDs                             | 65               | 25 | 10 | 43                 | 46 | 11 | 59               | 22 | 19 |
| Green Party                     | 49               | 30 | 22 | 24                 | 43 | 33 | 23               | 55 | 22 |
| Sinn Féin                       | 34               | 34 | 32 | 23                 | 45 | 32 | 17               | 62 | 20 |
| Ind / other                     | 39               | 33 | 28 | 30                 | 33 | 37 | 40               | 33 | 26 |

|     |    |    |    |    |    |    |    |    |    |
|-----|----|----|----|----|----|----|----|----|----|
| All | 45 | 28 | 27 | 35 | 31 | 34 | 42 | 29 | 29 |
|-----|----|----|----|----|----|----|----|----|----|

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Sources: *Irish Times* / MRBI poll 5593/01, 29–30 May 2001; *Irish Times* / MRBI poll 5902/02, 25–26 February 2002; *Irish Times* / MRBI poll 6229/02, 14–15 Oct 2002.

**Table 3: Campaign effects at Irish referendums, 2001 and 2002**

Effetti di campagna ai referendum irlandesi, a 2001 ed a 2002

**3a: Trends in yes, no and don't know**

Tende dentro sì, no e non sanno

|                    | Percentage support for |           |            |           |                   |           |
|--------------------|------------------------|-----------|------------|-----------|-------------------|-----------|
|                    | <i>Yes</i>             |           | <i>No</i>  |           | <i>Don't know</i> |           |
|                    | First poll             | Last poll | First poll | Last poll | First poll        | Last poll |
| Nice Treaty Jun 01 | 52                     | 45        | 21         | 28        | 28                | 27        |
| Abortion Mar 02    | 39                     | 35        | 34         | 31        | 26                | 34        |
| Nice Treaty Oct 02 | 30                     | 42        | 27         | 29        | 43                | 29        |

Note: The last group refers to those who responded 'don't know' or 'will not vote', or refused to answer.

**3b: Trends excluding don't knows**

Le tendenze a parte 'non sanno'

|                    | Percentage support for Yes |                  |                   |
|--------------------|----------------------------|------------------|-------------------|
|                    | <i>First poll</i>          | <i>Last poll</i> | <i>Referendum</i> |
| Nice Treaty Jun 01 | 71                         | 62               | 46                |
| Abortion Mar 02    | 53                         | 53               | 50                |
| Nice Treaty Oct 02 | 53                         | 59               | 63                |

Note: The figures for Yes in Table 3b represent Yes supporters as a percentage of those expressing support for either Yes or No (i.e. don't knows are excluded).

Nice Jun 01: first poll 14–15 May 2001; last poll 29–30 May 2001; referendum 7 June 2001.

Abortion Mar 02: first poll 21–22 January 2002; last poll 25–26 February 2002; referendum 6 March 2002 (Yes vote was 49.6%)

Nice Oct 02: first poll 18 December 2001 (IMS poll); last poll 14–15 October 2002; referendum 19 October 2002.

**Figure 1: A typology of Irish referendum campaigns**  
 Una tipologia delle campagne irlandesi del referendum

|  |   | Salience of issue in eyes of public  |  |
|--|---|--|--|
|  |   | <i>High</i>  | <i>Low</i>   |
| Extent to which issue and party system divide electorate along similar lines | <i>High</i><br>(major parties in conflict with each other)            | <u>Quasi-election</u><br>4 (1, 2, 3, 4)                                    | <u>'Party world' dispute</u>                                   |
|  | <i>Medium</i><br>(inter-party conflict but not between major parties) | <u>Major-minor</u><br>5 (5, 13, 14, 24, 28)                                | <u>'Party world' dispute</u>                                   |
|  | <i>Low</i>  | <u>Non-party or divided-party</u><br>9 (7, 10, 12, 15, 16, 17, 18, 19, 27) | <u>Indifferent</u><br>10 (6, 8, 9, 11, 20, 21, 22, 23, 25, 26) |

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