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CS AND THE POLITICS
ABORTION

- 8 a.m. Albery.
- 9 a.m. I strongly object
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- 1 p.m. this issue.
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 account in attempting to formulate a strategy seeking to resolve it.

First of all it is necessary to distinguish between political
stance and political policy. The stance of the three major
 parties until 1978 at least, has been that the abortion issue is
 one upon which the respective organisations would formulate no
 party commitment binding upon their Parliamentary representatives,
 but would leave the matter to a 'free', or so called conscience
 vote. In nearly all other areas of importance in the life of the
 nation, however it is accepted that parties should have policies
 which are binding upon the Member of Parliament whether he likes
 it or not. To put matters another way, in nearly all other matters
 a Parliamentarian is free to exercise his conscience only at the
 price of resigning from his party. On the abortion issue however
 his conscience choice is totally without cost to him in terms of
 what his party, as distinct from his electorate might do.

The question of whether this stance was one which was adopted as a
 result of an agreement, explicit or tacit, between the major
 parties is an interesting one which will be considered at more
 length later in this paper, what is beyond doubt is that the major
 parties had such a stance.

On a first impression it is very surprising that all three parties
 should take up this stance. On the face of it they all ran the
 risk of offending the very large pro-choice majority. Why then
 did all three major parties take what appeared to be a risky
 approach to the problem? As far as the ostensible reasons put
 forward go they really do not bear examination (they run something
 like this: "Questions such as capital punishment and abortion
 involve 'life' and 'death' issues, and the moral questions bound
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 Members of Parliament should decide:" ---- If this were really so,
 then one may reasonably ask why were conscience votes not taken
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The following paper is a draft discussion document produced by a Wellington Labour pro-choice group and it is confidential to members and supporters. It does not represent a finished statement of the problem but is an attempt to start discussion.

ABORTIVE POLITICS AND THE POLITICS OF ABORTION

This paper is not about the merits of the abortion question. Its authors hold a pro-choice position, but they are concerned to examine the politics of the issue rather than rehash familiar arguments for and against abortion itself. Specifically the concern of this paper is to look at the issue from the point of view of the effect it has had, and is having upon the Labour party and the Labour movement.

Increasingly there is a crisis of belief among New Zealanders. On one hand they have been brought up to believe that they live in a democracy where the will of the majority prevails over that of the minority. It is abundantly clear however that as regards the abortion legislation of recent years the will of the overwhelming majority of the nation has, thus far, had to give in to what is undeniably the wishes of a small minority. It is not the purpose of this paper to lay stress upon statistical material, but it is clear that in excess of two thirds of the adult population of New Zealand wanted more liberal abortion laws than the country actually got in December 1977. In the House of Representatives however the proportion is almost exactly reversed. 44 M.P.'s voted for the repressive laws actually passed while 26 voted against them. This rather remarkable discrepancy between the opinion of the people, and the voting performance of Parliamentarians, is almost always passed over in silence by the official spokesmen of the major parties, and yet this anomaly lies at the heart of the problem and certainly must be taken into account in attempting to formulate a strategy seeking to resolve it.

First of all it is necessary to distinguish between political stance and political policy. The stance of the three major parties until 1978 at least, has been that the abortion issue is one upon which the respective organisations would formulate no party commitment binding upon their Parliamentary representatives, but would leave the matter to a 'free', or so called conscience vote. In nearly all other areas of importance in the life of the nation, however it is accepted that parties should have policies which are binding upon the Member of Parliament whether he likes it or not. To put matters another way, in nearly all other matters a Parliamentarian is free to exercise his conscience only at the price of resigning from his party. On the abortion issue however his conscience choice is totally without cost to him in terms of what his party, as distinct from his electorate might do.

The question of whether this stance was one which was adopted as a result of an agreement, explicit or tacit, between the major parties is an interesting one which will be considered at more length later in this paper, what is beyond doubt is that the major parties had such a stance.

On a first impression it is very surprising that all three parties should take up this stance. On the face of it they all ran the risk of offending the very large pro-choice majority. Why then did all three major parties take what appeared to be a risky approach to the problem? As far as the ostensible reasons put forward go they really do not bear examination (they run something like this: "Questions such as capital punishment and abortion involve 'life' and 'death' issues, and the moral questions bound up therein are so many and complex that only the consciences of Members of Parliament should decide:" ---- If this were really so, then one may reasonably ask why were conscience votes not taken when New Zealand went to war in 1914 and 1939?) The real reasons however, as distinct from the ostensible reasons are based on very much more hard headed assessments.

It is suggested that they are as follows: In NZ as in many other parts of the world, there exists a sizeable minority of the population which believes far more intensely in the rightness of their anti-liberal approach to abortion laws than does the admittedly more numerous section having a liberal viewpoint. Because of the intensity of their belief, and because the believers in the anti-liberal side of the debate belong to an extremely well organised force, with cohesion, finance and organisational structure, the minority has far more political clout than the less intense, less mobilised and less structured liberal majority.

To put the matter more simply; in the perception of the leaders of the main parties, to the extent that they were not already personally anti-choice, the capacity of the anti-liberal majority on the abortion issue to punish their enemies, and reward their friends, was far greater than the capacity of the liberal majority to do the same thing in a reverse direction. This in a nutshell was, until 1978 at least, the 'received' opinion of the leaderships of the main parties. Readers must form their own judgment of whether the above stated perception was an accurate reading on the part of those leaderships of the realities or not, the important thing to recognise is that this perception governed their approach to the problem. There was however only one possible way in which the anti-liberal minority could be safely permitted to get its way. If political parties adopted anti-liberal policies which could be seen to run counter to the wishes of the huge majority of the nation and their own members then serious problems of credibility with the rank and file of each party would result. On the other hand if the whole matter were to be lifted right out of the realm of party policy and all three groups adopted a stance of conscience voting for individual M.P.'s, then the superior organisational and structural clout of the anti-liberal minority could ensure victory for that side by achieving its objects in the selection process of Parliamentary candidates, so as to provide a sufficient majority in Parliament for the anti-choice, anti-liberal lobby.

To borrow a phrase from the language of mathematicians, the conscience vote stance provided an 'elegant solution' at every level. In this way the huge majority of the population would at least have some representation in Parliament. They would not be tempted to criticise the very basis of representative democracy in the same way as they would if all three parties had adopted anti-liberal policies, and two thirds of the people in the country were thus seen to have a zero voice in the House of Representatives. Again, on the basis of the conscience vote stance the mirority of pro-choice Members of Parliament would not have the dilemma of representing the majority of New Zealanders at the cost to them of breaking party discipline, as they would have had to do if anti-liberal policy positions were taken up by the parties. In the conscience vote stance curiously there was even a bonus in it for M.P.'s who, though they were personally pro-choice, were unwilling to fight for a pro-choice policy commitment from their party, because of the horrendous destabilising effect this would certainly have on their own party and the political system generally. These people could thus gain a reputation for liberalism at the same time as they did nothing towards getting the only thing which would reflect the will of the majority. There were however some pro-choice M.P.'s who are thought to have honourably fought for a policy commitment to the pro-choice position.

The more one thinks about it, the more one can see the conscience vote stance as the only possible way in which the wishes of the great majority could be thwarted with the least possible 'backlash'. One surmises that the supporters of the conscience vote stance must have told themselves something like the following. "Nowhere is it written that politics is a bed of

roses, and the name of the game in politics lies in packaging unpalatable things in such a way as to persuade those most likely to be injured into acquiescing in what is proposed to be done." Against all the considerable pluses, the leaderships of the main parties could only set such minuses as the fact that the life and health of many New Zealand women of fertile age would be put at risk, and that the less politically active majority, and a few stirrers would have their wishes frustrated. Is it really any wonder then that having regard to the political perceptions of those leaderships, that the free vote stance won out when all the things mentioned above were weighed in the balance?

It follows from what has been said above that the writers of this paper believe that the tactic concentrated upon by many well intentioned pro-choice activists viz. lobbying individual M.P.'s was largely a wasted effort. Far better in our view would have been the tactic of massive political intervention inside the major parties to counteract the use of this tactic by the anti-choice minority, and ensure that the number of pro-choice M.P.'s in Parliament actually reflected the strength of the pro-choice people in the nation.

Where does all this leave the Labour Party as a specific organisation? As a political party, if it does not attempt to represent the interests of the least wealthy in the community it fails totally to fulfill its function. While repressive abortion laws such as the ones passed in December 1977 affect all women of fertile age in a formal sense, there cannot be the slightest doubt that their effect will bear most heavily on those women with the least money. After all every wealthy woman with an unwanted pregnancy has the abortion on request option in her purse in the shape of the price of an air ticket to Sydney. In a word while the 1977 legislation was blatantly anti-women it was infinitely more oppressive in its effect on poorer women and it follows inevitably that the Labour Party had a much greater responsibility upon it to concern itself with their plight than their opponents. In this connection it cannot be forgotten that the decision to refer the whole matter to a Royal Commission was agreed to by a Labour Government and the composition of the Royal Commission was determined by Labour Party decision-makers. Both of these actions were in our view profoundly anti-choice moves made to mesh in with the conscience vote strategy. i.e. to achieve an anti-majority result with the outward appearance of non-partisanship.

In 1977 after the anti-choice report of the Royal Commission was made public a Labour Abortion Lobby was set up in Wellington prior to the holding of the 62nd Conference. The approach of the Lobby was to call for a pro-choice policy commitment by the Labour Party with a conscience concession for Labour M.P.'s limited to the right to abstain, but not permitting them an affirmative vote for anti-choice legislation denying women a conscience decision in matters affecting their own fertility. This initiative was embodied in a branch resolution submitted for consideration at the 61st Conference. It was defeated at that Conference on a voice vote but the Lobby continued with its efforts to rid the Party of the free vote stance by calling for a Special Conference devoted solely to the Abortion issue. It did not succeed but one branch which took up the Lobby's call by means of a letter to the Council of the Party received the following reply from the President Mr A. Faulkner. It read as follows:

"Thank you for your recent letter regarding a policy commitment for Conference on the abortion issue. It is considered that if a Conference were to be held a policy commitment would be impossible, mainly because members of Parliament have the right to exercise their vote on this issue in accordance with their conscience. Any attempt

to formulate a commitment which could be seen to remove this free vote, would cut across agreements and understandings which could not be broken.

As you are probably aware this particular subject was well and truly canvassed at our May Conference and the decision arrived at then appeared to be the best compromise available.

Under these circumstances it would appear inappropriate to involve the party in expenditure of finance for the purpose of holding a special Conference which was debated extensively in Christchurch.

Kind regards.'

It is interesting in the light of subsequent statements to note that the 'right of M.P.'s to exercise a conscience vote is one which rests on agreements and understandings which cannot be broken'. Party members are surely entitled to know something of the specifics of these accords made (presumably) with opponent parties, which are so strong and hallowed that they, like the laws of the Medes and Persians, could not be broken. Unfortunately no light has been shed on this interesting aspect. One is provoked to wonder what precisely was the 'compromise' worked out at the May Conference which was the best available. The fact is that 'conscience' voting for M.P.'s was reaffirmed and the only sop to pro-choice opinion was the decision to permit Labour Party women to have their opinions surveyed. (As we know, the results of that survey were decisively pro-choice but have never been officially released).

We also know that in December 1977 15 Labour M.P.'s exercised their consciences with 29 Tories to enact legislation which has the effect of denying individual women the right to exercise their consciences.

The passing of the laws however proved not to be the end of the matter as the antichoice lobby hoped. The intense revulsion and upsurge of public opposition which the laws provoked has forced some among both major parties to reappraise the situation and it seems that the whole free vote stance has now been called in question.

The first evidence of this came early in 1978 when the National Party's Auckland regional organisation (embracing 26 electorates) endorsed a call to repeal the 1977 laws by 30 votes to 28. It is impossible to predict what the National Party as a whole will do, but the decision of the Auckland section of that party must be seen as a decisive rejection of the 'free vote stance' by a not negligible element in it.

Clearly the mounting opposition to the new laws has evidently had some effect on prominent figures inside the Labour Party, and it is worth considering in some detail what they are reported to have said. The President of the Labour Party A. Faulkner said, among other things on 28th March 1978 'the abortion issue could not be solved by members of Parliament alone . . . it may be in the end that some form of referendum will be required, but for my part I will be doing everything . . . to work for a genuine meeting of minds and to put behind us the extremist positions which divide the community.' We have great difficulty in understanding what is meant by avoiding extremist positions in the situation in which New Zealanders find themselves in 1978. This country has possibly the most extremely repressive and anti-liberal legislation to be found in any advanced country, and in opposing it, how is it possible for pro-choice people inside the Labour Party to be anything other than extreme and resolute in their opposition?

Bill Rowling the leader of the Party was reported on 13th April

as saying "the system of conscience voting did not produce fair and acceptable law. When we look at what has happened over the last decade or so it is clear that conscience votes have failed to produce effective legislation." We cannot do anything but agree with the leader of the Labour Party in what he is quoted as saying but we are simply amazed that his recognition of this fact has arrived so late in the day. Was it not patently obvious at the time of the passing of Gerard Walls Hospital Amendment Bill over three years ago that conscience voting produced unworkable (and unjust) legislation? One must also wonder what has happened to 'the agreements and understandings' with opponent parties 'which could not be broken'. Bill Rowling went on to say that while he has never been an advocate of referenda . . . when all else fails the referenda is the only answer. At this point the leader of the Party proceeded to make a qualification of his earlier remarks which went a long way to nullifying any positive effect they may have had. He said 'there must in all this be a clear respect for the rights of those who disagree with the majority viewpoint . . . there must be the right for any M.P. to abstain or if necessary cross the floor and vote against his party if he cannot reconcile his personal beliefs with the proposed legislation.

We are bound to say that this last qualification in our view makes utter nonsense of the original statement that conscience voting did not produce fair and acceptable law. While the position previously was that no party had an official position and every M.P. voted as his conscience dictated now the position will be, in Bill Rowling's present proposal the Labour Party will have an official position but any Labour M.P. who disagrees with it will be perfectly free to abstain or cross the floor of the house. If this is not going back to, or staying with, the 'conscience' vote system, what is? At its most charitable the leader of the Labour Party has merely offered the party a distinction without a difference.

Reluctantly we are forced to the conclusion that there remains within the Labour Party an enormous fear of what the anti-liberal lobby can do by way of reprisal, if the party gives effect to the wishes of the majority in the country and the party itself, and as a consequence there remains a powerful force seeking to blur and fudge the issues out of all recognition. In other words while it may very well be that the Labour Party in its forthcoming Conference votes to support Repeal, this in itself will have very little practical effect unless accompanied by a number of other resolutions to give it "teeth".

The following recommendations for action are based on the foregoing analysis.

1. Irrespective of what seemingly "progressive" or enlightened policy stand may be adopted on the abortion question at the 62nd Conference it is a vital necessity for pro-choice party groups to set up a national as well as regional and local monitoring groups to co-ordinate strategy and tactics to give effect to those resolutions. (An internal newsletter to inform members would be worthwhile).
2. In the last analysis it is likely that the anti-choice groups will fight to the last ditch in an attempt to preserve the present repressive laws and accordingly the main thrust of the struggle for the principle of majority rule must be towards selecting as party candidates for Parliamentary elections, people who identify with the pro-Repeal majority opinion. In practical terms this implies calling for the re-opening of the selection process in areas where anti-Repeal Labour candidates have already been nominated. It may

also mean in the long term a change in the selection mechanism whereby greater weight can be accorded to the wishes of party activists in the electorates.

3. That pro-choice and anti-Repeal forces seek to establish the principle that in any instance where a member of the Parliamentary Labour Party votes against or abstains on legislation embodying policy directives laid down by an annual or Special Conference of the Labour Party such M.P. be expelled forthwith from the party for life.
4. The terms of a referendum (other than possibly a Yes/No vote on Repeal) will in the nature of things, in a subject as abortion, be biased. Inasmuch as the terms of such a referendum would have to be approved by a Parliament, whose membership in the next tri-ennial period will probably be just as preponderantly anti-choice as the present one, we can certainly expect that the questions posed will be loaded against the pro-choice side of debate.

In conclusion we would note that already criticism has been levelled at those who have acted to convene a meeting of Repeal people inside the Labour Party on the grounds that they are being divisive-threatening Party unity etc. It is implicit in what we have said in the foregoing paper that the anti-choice lobby has for several years, in one guise or another struggled successfully to defeat the majority. In a word they have acted against party unity and it is to them that the above criticism should be directed.

(We have in places referred to both the leader of the Labour Party and the President by name, but in all other cases where we have referred to the leadership of the Party, we do not attribute any particular viewpoint to, or made any criticism of, any particular leading personality either directly or by inference. *The same applies to other parties.*)