

Bangladesh Is Really Next Door

The heroism of plain people, soldiers and civilians alike, in the evacuation of Dunkirk some 30 years ago caused someone to say that the name Dunkirk would live as long as there is an English language.

In recent times, there has been an evacuation of another sort in this war-scarred world. Thousands of men, women and children, carrying their life belongings, sought refuge in India from the civil and military conflict raging in their own land, East Pakistan.

Their numbers swelled to 10 million in quickly erected refugee camps in India, a country already kin to famine in its own house.

In addition to the social and military ravages, cholera threatened, the monsoons turned the camps into fetid swirls of mud, pneumonia took its toll. Full-scale war broke out, played its bloody role, and as usual left more torment than it ended.

Indeed Dunkirk, easily identifiable, did strike a heart chord and served as inspiration to those involved in dismantling the Nazi juggernaut.

But do words such as Bangladesh, Moslem, cholera rouse any general empathetic

feelings in these distant shores? Probably not, although there have been isolated drives and concerned people doing their part.

And on a large scale, one group is doing its usual yeoman duty. Catholic Relief Services took on the great challenge of aiding these refugees without neglecting its ongoing aid programs in 70 other countries throughout Asia, Africa and Latin America.

To date, Catholic Relief Services has provided more than 85,000 tons of emergency supplies, valued at more than \$14 million, for aid to refugees on the Asian subcontinent. Since the nation of Bangladesh was formed in December, CRS has sent \$200,000 in cash to Dacca for the local purchase of relief supplies and has shipped 8,000 tons of food, clothing and medicine to that area.

It's a warm and Christian record and you can become part of it by contributing to the CRS collection at churches this Sunday. Or you can send your contribution directly to Catholic Overseas Aid, Empire State Building, New York, N.Y. 10001.

Don't let the little children suffer because they live in places with names like Bangladesh. For all that matters, they might be the kids next door.



Court Upholds Constitutionality Of Abortion Law

New York —(RNS)— The State Appellate Division here affirmed the constitutionality of the New York State abortion law and reversed a State Supreme Court ruling that could have halted abortion in city municipal hospitals.

In its 4-1 decision, the court said it did not dispute contemporary medical views that "the child begins a separate life from the moment of conception." But on legal grounds the court ruled that the unborn child was not a "legal person."

A challenge to the New York abortion law which permits abortions up to the 24th week of pregnancy was filed in a suit by Robert M. Byrn, 40, a Roman Catholic bachelor and law professor at Fordham University.

He had been appointed special guardian of all unborn fetuses whose mothers were awaiting abortions in city municipal hospitals.

In his suit, Byrn charged that the state law violated the 14th Amendment to the Constitution, which holds, in part, that no state shall "deprive any person of life, liberty or property without due process of law."

On Jan. 5, Justice Francis X. Smith in Queens issued a temporary injunction to prevent

abortions. He said a fetus was "a living human being." But the ban was automatically stayed by an appeal filed by the city and Atty. Gen. Louis J. Lefkowitz. There has been no disruption of abortion services.

Written by Justice Marcus G. Christ, the Appellate Division's majority opinion stressed the legal aspects of the case. "This court is not required to weigh and choose between the competing values urged by those who support the law and those who oppose it," the opinion said.

Byrn, a specialist in criminal law, and his attorney, Thomas J. Ford, announced they will appeal immediately to the State Court of Appeals. Byrn called the Appellate Division decision "a human and legal tragedy."

"It is a legal tragedy because for the first time in this state, a court has held that a 'child' is not entitled to the law's protection," Byrn said. "Judges in the past have held blacks, Indians and women not to be legal persons. We should have come to realize that the human family is one and entire for legal as well as biological and other purposes. For 20th Century judges to perpetuate ancient errors that exile any human being from the law's protection is untenable."

Pro-Life Lawyer Finds Optimism

By A. L. WASHBURN Jr.

(Washburn is legal counsel for The New York Legal Defense and Education Fund for the Unborn)

The New York test case on the constitutional right of the unborn child is now assured of a ruling in the state's highest court, and in the United States Supreme Court.

The reason for this is that the Appellate Division, Second Department, of the Supreme Court of the State of New York (the intermediate appeal court in the state system) ruled directly on the constitutional question after brushing aside the procedural objections of

the "abortion reform" movement and of the New York City Health and Hospitals Corporation and of the state attorney general.

There were eight procedural objections with which the abortion reform movement sought to prevent the direct ruling on the constitutional issue. They were:

(1) That a fetus is "not a person" (in the procedural sense) and has no rights which a guardian can protect until it is born alive. (Page 9 of the opinion.)

(2) That the guardian should not have been appointed without notice to the prospective mothers and the putative fa-

thers of the unborn children. (Page 9 of the opinion.)

(3) That this is not a proper case for a class action because there may be different "defenses" available with respect to a fetus resulting from rape or incest, or a fetus likely to be born with a severe mental or physical defect. (Page 10 of the opinion.)

(4) That the class is not sufficiently definite or ascertainable to be legally cognizable under New York law. (Page 10 of the opinion.)

(5) That the guardian has been guilty of gross laches in waiting 18 months after the

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Byrn Says He'll Appeal

By ROBERT M. BYRN

On Dec. 2, 1971, Hon. Lester Holtzman, a justice of the New York Supreme Court, Queens County, appointed me guardian of Infant Roe, an unborn child scheduled to be aborted in Queens Hospital Center (a municipal hospital owned and controlled by the New York City Health & Hospitals Corporation) and all other unborn infants between the 14th and 24th weeks of gestation who are, or will be, scheduled for abortion in municipal hospitals in New York City for reasons other than necessary to preserve their mother's lives.

The purpose of the guardianship appointment was to bring a law suit on behalf of these children seeking (a) a permanent injunction against such abortions, and (b) a declaration of the unconstitutionality of New York State's amended abortion law. Ultimate success in the action would result in the restoration of New York's abortion law as it was prior to the 1970 amendment, i.e., abortion would be permitted only upon a physician's "reasonable

belief that such is necessary to preserve the life of (the pregnant) female."

The law suit was commenced on Dec. 3, 1971 by service of a summons and complaint upon the defendants, the New York City Health & Hospitals Corporation, the attorney general, and the parents of Infant Roe. Also on Dec. 3, an order was signed requiring the defendants to show cause why abortions should not cease in New York City municipal hospitals during the pendency of the lawsuit and until its final de-

termination. The hearing on the order to show cause was held on Dec. 9 before the Hon. Francis X. Smith in the Queens County Supreme Court. At the same time, there was a hearing on defendant's motion to vacate the guardianship and on several subsidiary motions.

On Jan. 4, Judge Smith granted the motion for a preliminary injunction and denied the motion to vacate the guardianship.

Consistent with the undisputed testimony of plain-

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Terror Continues

Belfast — Two women were killed and more than 100 persons injured as a bomb exploded in a crowded restaurant in Belfast Saturday. For other Ulster stories turn to Page 25.