

Social forces and the abortion law.

Francome, C.

Middlesex Polytechnic

Middlesex University

**BEST COPY**

**AVAILABLE**

Variable print quality

## Abstract

This research analyses the social and political forces underlying the laws of abortion in Britain and the United States. It sets out to explain the apparant paradox that the United States now has an abortion law which is more liberal than Britain despite the fact that in many ways it is a more conservative society. Furthermore it aims to set this recent situation in a historical context and to examine recent and likely future developments.

It analyses the major social forces on either side of the debate and considers these over four separate periods. The first section analyses the early debate. It explains the reasons for the growth in 'Victorian' attitudes to sexual morality and the fact these were more pervasive in America. It then looks at the relationship between the general climate of opinion and the debate on birth control and abortion and shows a fairly close relationship in that the slight liberalisation of attitudes towards birth control in Britain reflected the fact that attitudes were less conservative and that there was a pressure group available to push for reforms.

Between the wars there was a strong liberalisation of attitudes towards sex. The so called 'roaring twenties' did reflect the growth in a commercial youth culture and an environment in which birth control information could spread. In Britain the fact that the birth control battle was won more convincingly enabled some to begin to put pressure for an extension of abortion rights.

In post war years both Britain and the United States greatly liberalised their abortion law. But a key difference is that

the law in America was more comprehensibly overthrown and women were given the right to choose in the early months of pregnancy. The reasons for this contrast are explained.

In the final section the reasons for the continuance of abortion as an issue in both countries are analysed and some suggestions as to future possibilities are made.

In the conclusion the implications of the research for deviancy theory are drawn out.

### Acknowledgements

During the course of this research I received help from many people. My two supervisors David Downes and Jock Young gave me immense support and I benefitted greatly from their advice.

I would also like to thank the many activists in the field who freely gave me their time even when they knew I did not share their views. In particular I would like to thank Diane Munday, Bill Baird, Ellen McCormack, Phylis Bowman, Paul Cavadino, Vera Houghton, Madeleine Simms, Sarah Waddington, Judy Cottam, Christopher Tietze, Grant Harrison, Jo Chambers, Dyllis Cossey, Virginia Andary, Karen Mulhauser, Emily Moore, Susan Vogel, Peter Huntingford, Sharon Spiers, Nellie Gray and Debbie Sanders.

During the course of the research I had financial help from the Lalor Foundation and the Social Science Research Council. I also benefitted from a year at Nassau Community College organised in conjunction with the Central Bureau.

The bulk of the typing was by Marlene Mascarenhas but she was assisted by Marcia Harris, Donna Carson and myself.

Colin Francome

Middlesex Polytechnic

July 1980.

Social Forces and the abortion law

Contents

Introduction .....	1
The Early Debate .....	45
The debate Between the wars .....	106
Legalisation in Britain .....	161
Legalisation of abortion in America .....	194
British Debate after 1967 .....	231
The United States after the Supreme Court Decision, ....	270
Conclusion .....	318
References .....	342

Appendix 'Abortion Policy in Britain and the United States'

Reprinted from 'Social Work' January 1930.

## INTRODUCTION

During the period 1967 - 77 there was a worldwide movement towards liberalisation of abortion laws. Between those years thirty-three countries relaxed their prohibitions and only three made them more restrictive.<sup>1</sup> Furthermore those countries which tightened their law were all within the 'communist' block and so in this period none of the societies where there was Western style democracy decided to restrict the grounds for abortion.

However, the fact that during these years none of the anti-abortion groups were successful in having a restrictive law passed does not mean they have given up hope of introducing such legislation in the future. For in both Britain and the United States there has been sustained pressure towards cutting back the right to legal abortion. In other countries too the anti abortion groups have been active and they had their first success when in 1978 New Zealand introduced a restrictive law which did not even allow abortion on the grounds of rape.<sup>2</sup> With this change the anti abortion groups have been able to see some effect of their efforts and those in other countries will be encouraged to increase their opposition. So it must be expected that the grounds for legal abortion will be a contentious issue for many years to come. In this thesis the main aim is to consider the background to the debate on fertility control in Britain and the United States and to explain the reasons for the current controversy.

One of the problems in considering the subject of abortion is that those who are most interested in the subject and who publish most of the information are usually committed politically to one of the major groups and thus inclined to stress such evidence that they feel will

support their cause. This problem is not specific to abortion but it seems that in the area of fertility control emotions are raised to a greater extent than is the case with other issues and so it may be more difficult to get accurate information.

Another reason for the conflicts over fertility control is that the problem is seen by many as related to social order. There are those people who regard the family as a crucial institution and take the view that the extension of fertility control will destroy both it and eventually the society. Others regard the control of births as being opposed to the will of God and a sign of increasing atheism in the society. A third group feel that fertility control is 'anti life' and view it with the same horror that is reserved for Hitler's concentration camps. They regard it as a dangerous lowering of the values of society and paving the way for totalitarian regimes in the future. Supporters of fertility control dismiss such claims. In order to explain the differences I shall set out the rationale of the most prominent groups.

In this section I shall outline five perspectives which have been the most important politically. These are not by any means the only ones possible and I shall be drawing attention to certain alternatives but these five chosen are the most important in terms of explaining the debate on the issue.



A. Neo-Malthusians Malthus had introduced his conservative doctrine in the wake of the French revolution. He believed that there was a natural tendency for population size to outstrip food supply and hoped that the poorer groups would engage in self restraint in order . . . to control their family size. The neo-Malthusian movement altered his doctrine by substituting contraception for restraint and after the Bradlaugh/Besant trial of 1877 it became a major force for change. Its principles were clearly set out in each copy of the Malthusian as follows:

1. "That population has a constant tendency to increase beyond the means of subsistence."
2. That the checks which counteract this tendency are resolvable into positive or life destroying, and prudential or birth restricting.
3. That the positive or life-destroying checks comprehend the premature death of children and adults by disease, starvation, war and infanticide.
4. That the prudential or birth-restricting check consists in the limitation of offspring by abstention from marriage, or by prudence after marriage.
5. That prolonged abstention from marriage - as advocated by Malthus - is productive of many diseases and of much sexual vice; early marriage, on the contrary, tends to ensure sexual purity, domestic comfort, social happiness, and individual health, but it is a grave social offence for men and women to bring into the world more children than they can adequately house, feed, clothe and educate.
6. That over-population is the most fruitful source of pauperism, ignorance, crime and disease.

7. That the full and open discussion of the Population Question is a matter of vital moment to society, and such discussion should be absolutely unfettered by fear of legal penalties.

I shall show in the next chapter that the Neo-Malthusian movement was the dominant force in the British movement for fertility control until the first World War.

Between the wars Malthusianism was at a relatively low ebb as other organisations became much more active and the ideas of Malthus seemed outmoded. However, after the second world war there was increased concern with the size of the world's population. The sheer size of the increase was of course one factor but the appeal was much wider than this owing to the stress on population growth in the dominant economic doctrines. A good example is the argument put forward by Walt Rostow<sup>3</sup>. His view was that the poor countries of the world should 'take off' into self sustained economic growth. However, he saw problems in the expanding population because if it were growing at around 2% or 3% per annum the surpluses that could have been used for investment would instead be needed for immediate consumption. The clear implication of this is therefore that the poor countries should make extra efforts to control their population size.

There was then some support for the spread of fertility control from a section of the business world and the Rockefeller Foundation helped to finance various projects. It seems the extent of the concern about population size was much greater in the United States than in Britain. Paul Ehrlich's book "Population Bomb" had a wide circulation and caused a

great deal of interest. It was for example distributed to the Hawaii legislators who were to subsequently introduce the first Act to give women the right to choose abortion in the early months of pregnancy.<sup>4</sup> Ehrlich in his later work tied in his concern with overpopulation with the ecological movement which gave it wider appeal and the Zero Population Growth movement gained a measure of popular support.<sup>5</sup>

So variants of Malthusian ideas have continued to be important and one of their attractions is that they seem to offer a solution to social problems without any change in the social order. It will be shown this was their basic appeal in the early 19th century and it is still relevant today. A second reason for their appeal to those in the more dominant positions in the society is that their recommendations are usually aimed at the poorer sections of the community and are a possible agent of social control. In Britain in the nineteenth century contraception was regarded as a way of reducing the number of the poor working classes. More recently others have possibly suggested them as a way of reducing the number in minority groups.

Where this pressure has been strong there has often been an element of compulsion in the spread of fertility control. There have been a number of documented cases of forced sterilisation in the United States<sup>6</sup> and the major organisation for abortion rights in New York is called CARASA (Campaign for Abortion Rights and Against Sterilisation Abuse).<sup>7</sup> So the advocates of the extension of fertility control on Malthusian grounds do not necessarily support the individuals right to choose and in fact may argue that this should be controlled for the good of society.<sup>8</sup> They tend not to challenge the dominant social order but regard the problems of the poorer groups as being in large measure of their own making.

B. Socialist/Feminist I have used the term Socialist/Feminist to distinguish those who while feminist may well take a conservative point of view on many issues. Socialists are necessarily feminists but feminists are not necessarily socialist.

In contrast to the Malthusians the socialist feminists are not concerned with the problem of overpopulation but instead emphasise the rights of the individual to control her own life. It was German feminists at the beginning of the twentieth century who first made this demand and in Britain Stella Browne publicly advocated this position from 1915 onwards.<sup>9</sup> These socialists demand the freedom of choice in both contraception and abortion as part of a series of changes designed to restrict the role of the state. They regard it as simply one of a number of measures which will be a step towards fundamental and large scale changes in the structure of society.

A clear exposition of one socialist/feminist position is given by Marie Alice Waters.<sup>10</sup> She argued that women have not always been treated inferior to men and excluded from many productive roles. On the contrary, she suggested that in earlier societies women were equal to men and "developed or invented the basic skills that placed humanity on the road to civilisation - agriculture, tanning, weaving, pottery, architecture and much else. Women were relegated to an inferior social position only with the rise of class society .... With the division of society into classes - those who owned versus those who did not, those who could live off the work of others versus those who must work to live - the patriarchal family also came into existence as a basic social unit. Women were relegated to domestic servitude and second class status in society, not because it served the needs of men in general, but because it served the needs of those men who owned property."

She continued to argue that the restrictions on women's sexual behaviour were designed to support the patriarchal family and to help ensure the safe transfer of property to the next generation.<sup>11</sup> In her view, a revolutionary socialist society would eliminate totally the economic need for the oppression of women and in this society the state would not be involved in primary relationships.<sup>12</sup>

"'Marriage' and 'divorce' would become totally personal decisions, subject to no laws, contracts or restrictions. Abortion and contraception would be available on demand."

So, in this view, the fight for sex equality is part of an overall struggle for a changed society. It is not isolated from the other necessary political changes and Linda Jennes, the Socialist Workers Party Candidate for the United States Presidential election in 1972, placed these demands in perspective.<sup>13</sup> She argued that by fighting for day care facilities, equal opportunities for employment and education and for the abolition of all laws against abortion, women would not only improve their own position in society but would help to encourage the struggle of other oppressed groups. She continued to say, however, that women could not be fully liberated within the constraints of American society but that this could only come with a socialist revolution.

The fact that socialists have stressed the priority of the revolution has meant that where fertility control has been regarded as anti revolutionary they have opposed it. In the next chapter I shall show that the linking of contraception to a conservative doctrine in the nineteenth century led to the socialists becoming the major opponents of the spread of birth control in Britain. Although socialists have recently tended to support

increased sexual rights, they have been wary of the spread of certain kinds of sexuality which they feel will not help the development of meaningful relationships and they have therefore opposed the tendency to exploit sex commercially. For example Linda Gordon has suggested that some developments have been reactionary:<sup>14</sup>

"The marketing of sex cookbooks for the "connoisseur" is moving, as commoditization always does, in an antihuman direction, that is, it is carving up the human experience so that sex becomes severed from economic, social, political and emotional life."

So the view of socialist/feminists is much different from that of those who see liberalisation largely in terms of increased opportunity for profits.

So far I have set out the position of the socialist/feminists but the question arises as to how far they differ from those of feminists who work for sex equality without believing in the necessity of a socialist revolution. One debate on this subject revived the discussion between the hippies and the radicals in the sixties.<sup>15</sup> Rita Laporte argued in the gay magazine "the Ladder" in October 1971 that: "Unconsciously Marxists apply male supremacy no less than other men. In reasoning that the means of productions should be in the hands of the people, they conclude that women, as one means of production - the production of babies - must likewise be in the hands of the people".<sup>16</sup> She continued to state that there is no need for revolution for "The inner liberation of women IS the revolution."

From this analysis, women should be altering their perspective at the personal level and there is a great stress on consciousness raising groups. However, unlike many hippies the women's

groups have tended to combine their personal development programme with a wider strategy for change especially on issues directly related to women.

A second criticism Laporte makes of the Socialist/Feminists is that a socialist society is not viable. She argued "Some of us will continue to garner a greater share of the Gross National Product than others. A society that tries to give equal material regard for unequal contribution will not last long."

This statement in questioning the possibility of socialism succeeding is implicitly suggesting that women should work for their own equality without attempting to alter the capitalist system. This position probably has a wider following amongst women than that of the socialist/feminists, although socialist feminist make up a disproportionate number of activists.

In terms of more specific beliefs the perspective of the socialist/feminists leads them to take a totally different position on certain social institutions from other groups.

One of the crucial differences from all the others discussed here is their perspective on the nuclear family. They regard it as a repressive institution which prevents full personality development and which tends to exclude those who are left outside such a relationship. They, therefore, welcome the extension of rights of control over fertility together with the improvement of working conditions and expansion of welfare rights. These they regard as ways in which individuals and particularly women are able to control their lives without being forced into relationships which they would not otherwise have wished to enter. Furthermore, they regard

the development of alternatives outside the family with favour in that they provide opportunities for those who are in unhappy relationships to break out of their constrictive situation.

A second important difference is that they do not accept that population increase is the key fact in terms of poverty. This they would put down to the capitalist system and for this reason socialists in the past have sometimes opposed movements to extend fertility control. This was particularly true in Britain in the nineteenth century as will be shown in the next chapter.

In terms of their political activities the socialists, in stressing the rights of the individual, are less willing to compromise than other

groups. One key issue is how late to allow abortions occur. The majority of groups will agree to a time limit of usually 20 - 28 weeks based on estimated viability. However, the socialists are much more inclined to argue for no abortion laws at all.<sup>17</sup> They stress that a woman should have absolute control over her own body.

Another important point is that socialists have been unconcerned with parts of the debate which others have concentrated upon. For example they see as irrelevant the controversy over the change in number of illegal abortions. They stress that the women should have the right to choose and the effect on the total number of abortions should not be a matter of concern.<sup>18</sup>



C. Reformist Those who accept a reformist position on fertility control tend to look for moderate changes. They differ from the socialist/feminists in that they accept the nuclear family and regard the extension of the law as a means of protecting it by excluding unwanted children who may place strains upon the family unit. Historically the reformers have included people with a wide variety of beliefs, depending on the issues involved and the political situation at the time. One of the problems for reformers is that they may be willing to support a degree of social change but become unhappy if the developments appear to them to be too radical.

A reformer may at one time be on the side of those working for changes but at a later stage may join with the conservatives in opposition to further liberalisation. The clearest example of this was the switch in sides of Aleck Bourne. In the 1930's he had been a member of the Abortion Law Reform Association and had worked for a liberalisation of the law. In the celebrated case he performed an abortion for rape and was cleared in the subsequent trial, thus opening the way for operations in similar circumstances in the future. However, he opposed the law being extended too far and in the 1960's he joined the Society for the Protection of Unborn Children and worked against the Bill sponsored by ALRA the organisation for which he had been such a prominent member.

The 1967 Abortion Act was debated in reformist terms and the kind of argument advanced was that the legalisation of abortion would help women with problems. Greenwood and Young set it out as follows:-

"Abortion was seen as a means of ensuring social responsibility, of maintaining a stable family structure, and minimising the number of inadequates, delinquents, deprived and depraved."

One of the aims of the reformers was to assert that the change they were proposing was not threatening to the social order but would help to improve it.

It was also argued that the Act would not greatly increase the number of abortions. The proponents said there were already a high number of illegal operations and that legalisation would transfer these to the legal sector. They also stressed that there was no attempt to give women 'abortion on demand' and that doctors would still have the ultimate control. This absence of the claim of a 'right to choose' differentiates the British campaign from that in the United States, as will be shown.

One of the crucial features of the reformist perspective is a gradualist theory of change and for this reason they tend to limit their demands to a 'realistic' level. So within a reformist campaign there may be many people holding very radical views but who for political reasons do not express them publicly. Although the 1967 Act was argued in reformist terms, there were many in the Campaign for change who would have liked an even more liberal Law.

D Conservative Those with this perspective value stability and oppose changes which they see as threatening to their beliefs and norms. They tend to accept the dominant myths of society that act as a method of social control and regard the problems as being due to certain deficiencies within individuals rather than caused by structural weaknesses within the system. Poverty

is regarded by conservatives as being due to the unwillingness of the poor to work or to their 'wastefulness'. For the conservative the solution is to persuade those who have failed in material terms to change their ideas and to adopt a new system of values. They do not fully understand the problems of those living in poor conditions and with only enough resources to plan for the near future.

Jock Young has set out the conservatives' view on drugtaking.<sup>20</sup> They regard the world as a whole with various people playing their different roles. They accept certain kinds of drugs such as alcohol and tobacco which come within their overall perspective. However, they regard others as problematical, being taken by a 'tiny minority of deviants'. So their solution to the drugs "problem" (as they define it) is to persuade the non-conformists of the error of their ways, either by argument or by punishment. However, as Young points out, some drinking of alcohol is acceptable because it is regarded as the reward for hard work and thus 'deserved'.

The conservative view of sexual behaviour is similar. Sex is regarded as acceptable in certain contexts. However, it is also in some degree threatening. While sexuality is regarded as 'normal' within the confines of the nuclear family, it tends to be proscribed for single people who would be engaging in it without responsibility and so not have 'earned' the right to participate. Conservatives are concerned with any extension of rights to abortion or contraception even if they take advantage of such facilities themselves. They are worried that some may enjoy sexual intercourse without taking on the responsibilities.

For similar reasons they may well welcome venereal disease and illegitimacy and regard them as 'punishments' for unacceptable behaviour.

Elsewhere, I have shown that in both Britain and the United States those politicians who are opposed to abortion are also very likely to be opposed to homosexuality being legal and to capital punishment being abolished.<sup>21,22</sup> This finding is not at all surprising in the light of the above reasoning.

Those who take an extreme conservative view regard capital punishment as a deterrent to murder, homosexuality as deviant behaviour in need of treatment if not punishment and abortion as a prop to irresponsibility in sexual relationships.

Conservatives tend to regard the social structure as vulnerable. They see threats in social changes and so oppose movements towards greater liberalism. However, once the changes have occurred and been seen to have limited adverse effect, they may well be accepted and even defended. Thus, the hierarchy in the Church of England once opposed contraception but now accepts the right of individuals

to use it. More recently the British Medical Association opposed the passage of the 1967 Abortion Act, but when it had been in operation for a few years medical opinion supported the new law and an Editorial in the British Medical Journal attacked restrictions in the Act proposed in 1975.<sup>23</sup> Conservative individuals and bodies by their perspective tend to support the status quo but the more right wing want a greater adherence to their values. They are concerned that even those rules that do exist are not adequately followed and they may look back to a "golden age" in the past when "right was right" and "wrong was wrong".

Catholic Ideology

Various religious groups have at different times been opposed to either contraception or abortion. The Church of England used to oppose both but now support birth control and have no official position on abortion. The Mormons and Orthodox Jews currently oppose abortion. However, in post war years the Catholic Church has provided the major opposition to the extension of fertility control both because of its size and its belief system.

One reason for this, which has distinguished Catholicism from many of the protestant groups, is that sexuality has a crucial place in its beliefs. The church has placed a high value on virginity, and its doctrines are determined by those who have chosen to forego sexual intercourse. There have been many other groups who have valued sexual abstinence but none of them has had the political power of the Catholic Church

Official Catholic teaching traditionally said the primary purpose of sexual intercourse was the procreation of children. Artificial birth control was regarded as being unnatural and against the will of

God. In the 1930's it was often looked upon as murder.<sup>24</sup> With changing attitudes and the acceptance of the safe period the Church's concern with contraception has diminished although Church leaders still try to limit information.

In June 1978 Monsignor McHugh stated that the United States Catholic Conference was: "opposed to contraceptive advertising ..... questions the use of public service announcements, and (has) serious reservations about broadcasting programs unless carefully devised criteria can be established to ensure objectivity, honesty and fairness."

He said advertising for contraceptives is 'totally unacceptable' because it would lead to an increase in venereal disease, would not be able to provide 'adequate scientific information' on contraceptives and would be objectionable to parents of young children.<sup>25</sup>

Possibly the clearest exposition of the Church's modern theory concerning the problem of sexuality and fertility control is that put forward by Bishop Joseph Bernardin in the New York Times on the fifth anniversary of the Supreme Court's decision legalising abortion.<sup>26</sup> He stated that he very much doubted whether "more and better contraceptive information and services will make major inroads in the number of teen-age pregnancies ..... (for) .... It will motivate them to precocious sexual activity but by no means to the practice of contraception. In which case the 'solution' will merely have made the problem worse."

He continued to argue that the answer - although not an easy one - was to tell young people that there was no such thing as sex without consequences and, furthermore, to teach them that: "Sex is not merely for fun or for the expression of transitory affection. It is an enriching and serious business between mature people who are emotionally, socially, and even economically able to accept the consequences, of which pregnancy is hardly the only one." He then called for more education or indoctrination of teenagers in such things as family values, stability of marital relationships and the willingness to accept the consequences of one's actions.

Leading British anti abortion activists tend to take a similar position.

Phyllis Bowman, a Catholic convert who leads Britains Society for the Protection of Unborn Children, does not see contraception as the answer.<sup>27</sup>

She told me "When I became involved with the Abortion Act I thought contraception was quite definitely the answer to abortion but I don't now". She continued to say that she felt contraception on demand would lead to an increase in abortion on demand. However, although she did not see contraception as the answer she did not oppose the right of women to use it. "As far as I am concerned a girl can take pills 'till they come out of her ears.' She's then doing what she wants with her own body." With this statement she is echoing the dominant position amongst British Catholics which is to concede on contraception and concentrate on the issue of abortion. <sup>28</sup>

One reason for this is the belief that from the moment of conception there is human life and that a soul enters the foetus from the moment of conception. This doctrine has led to some bizarre practices in the past owing to concern with what would happen to a soul that was unbaptised. <sup>29</sup> Fortunately, these have stopped but a number of Catholics still seem very concerned with the fate of the soul. Dr. William Bergin began an article in the Hawaii Medical Journal in 1966 with the following words: <sup>30</sup> "Since the soul of an individual comes into existence at the moment of fertilization of the ovum, interruption of pregnancy at any stage compels a soul to 'wander the reaches of limbo' eternally. It is considered that this is a sufficient reason for refraining from interruption of any pregnancy whatever, for any reason whatever."

This argument explains the strength of the Church's opposition to abortion. It has been argued by advocates of fertility rights that one of the reasons the Church has stressed the abortion issue is that it is one social issue on which regular supporters <sup>31</sup> agree.

It has helped to unite the church which, they suggest, is hopelessly divided on such matters as contraception. This allegation is hotly disputed by Catholic leaders.

The church often allies itself with conservatives .

on fertility and in some countries such as Spain, Italy and France is closely identified with right wing groups. However, there is no necessary connection in this direction and in other circumstances the church has taken a very radical stance. In both Britain and the United States the dominant rationale for opposition to abortion has been linked with a radical analysis of society.

While their right wing allies have been opposed to increased help to deprived groups, Catholics have been more likely to see the need to support these. For example John Quinn president of the National Conference of Catholic Bishops is quoted in 1979 as saying "If you want to defend the preborn effectively ..... see to it that the aged and handicapped are treated decently ..... support the rights of the hungry and disadvantaged wherever and whoever they are".<sup>32</sup>

In Britain too the anti abortion Catholics have taken a radical position on a number of issues. Phyllis Bowman, director of S.P.U.C. was an anti Vietnam war activist and Paul Cavadino, an executive member and their major academic, works for N.A.C.R.O. (National Association for the Care and Resettlement of Offenders).<sup>33</sup>

Furthermore, both in Britain and in the United States the movement is inclined against capital punishment although this is not a universal position within the Church.



So there are clear difference between the Catholics and the conservatives and in some cases there are strange alliances.<sup>34</sup>

These then are five different perspectives on the issue of fertility control. They are not mutually exclusive, for some socialists have been neo Malthusians and possibly more importantly, some conservatives may also have religious beliefs opposing fertility control. In these cases the individuals may well be doubly motivated and spend a great deal of their time actively working for their chosen cause. There are also a number of activists who do not clearly fit into any of the groups outlined. However, the table below distinguishes the groups on just two variables.

---

	Individual right to control	Societal need to control
Radical	+	+
Socialist/ Feminist	+	-
Malthusian	-	+
Catholic	-	-
Conservative	+-	+

---

Although the diagram above helps to distinguish the groups, in order to set out some of the major beliefs more fully a table can be prepared as follows:

	Socialist/Feminist	Radical	Neo Malthusian	Conservative	Catholic
Objective					
Social order	Needs to be radically changed	In favour of tinkering with the system. Confident of its ability to withstand some alteration	No need to change system.	Concerned with instability of the social system and so is threatened by any changes	Concerned with instability and anxious to avoid change. However, sometimes believe in radical change
Concern with over population	Deny problem	Usually somewhat concerned with problem	Very concerned	Possibly concerned with excess reproduction of 'poorer stock'	Deny problem
Solution to social problems	Complete restructuring of the social order	Minor changes in the social system	Reduce excess numbers in problem groups and so cut down extent of the difficulties	Persuade those in the poorer groups to adopt more middle class values	Persuade individuals to change their values (aided possibly by social changes)
Family	Negative. Nuclear family is a repressive institution which should be destroyed	Positive, but regard some changes as possibly desirable	Positive. Believe birth control can strengthen	Positive, but believe vulnerable and in need of protection	Positive. Believe strong family units are crucial for the good society
Sexual Freedom	Positive. Regard it as a healthy development	Ambivalent. Regard it as being good in some cases but harmful in others	Ambivalent. Concerned that increased freedom will not harm overall case they are making.	Negative. Take the view that sex should take place within marriage (especially female sex)	Negative, believe sexuality should be restricted for good of society
Sex Equality	Positive	Positive	Positive	Negative	Negative
Sexual abstinence	Negative	Largely negative	Largely negative	Positive. Good to exercise self control	Positive. Good to exercise self control
Sexual Deviation	Positive and accepting	Tolerant to some degree	Tolerant but try to minimise	Negative. Possibly regard it in need of punishment	Negative. Possibly regard it as sick
Right of fertility control	Individuals right of personal choice	Individuals right as far as society can allow	Regard as important part of societies plan for development. May enforce restrictions	Allowable so long as does not undermine family or lead to promiscuous or irresponsible behaviour	Negative. Individuals should look after themselves or trust God to deal with number of children.
Possibility of compromise	Opposed to compromise on principle	Willing to compromise	Willing to some compromise	Accept compromise	Oppose compromise in principle

Predictions and explanations      The table shows the major perspectives of the different groups and these in turn lead to certain beliefs. In his book on marijuana Erich Goode set out some of the problems in evaluating what is ostensibly empirical information.<sup>35</sup>

He set out two distinct possibilities. Sometimes those on either side of the debate on legalisation will agree upon the facts but will make differing value judgements. He states, "both groups may agree that marijuana usage leads to increased sexuality but the opponents regard this as grounds for condemnation while supporters cheer society's resurgent interest in the organic, the earthy, the sensual."<sup>36</sup>

On other occasions, however, the opponents in the debate will attempt to bolster their position by seeking out facts that support their view and by negating or ignoring evidence contrary to their stand. Goode argued: "A man is not opposed to the legalisation of marijuana because (he thinks) it leads to the use of more dangerous drugs, because it causes crime, because it produces insanity and brain damage because it makes a person unsafe behind the wheel, because it creates an unwillingness to work. He believes these things because he thinks the drug is evil."<sup>37</sup>

He continued to give the example of a report produced by Mayor La Guardia. The proponents of usage took heart in its conclusions and reprinted nearly the whole of the report in its literature. However, the opponents found in the study solid evidence of the damaging effects of the drug.<sup>38</sup>

These conclusions Goode drew from the marijuana debate apply equally well to the debate on abortion.

This applies particularly to the socialists and anti abortionists who agree on a number of facts. They concur that the extension of rights over the control of fertility increases non marital intercourse. However, whereas the socialists feel that this is good , the anti abortionists, in most cases, regard it as a "lowering of moral standards".

Secondly, both socialists and anti abortionists agree that abortion is likely to cause the breakdown of the nuclear family. However, in this case, whereas the anti abortionists regard the family as the "cornerstone" of society and see its defence as very important, the socialists are opposed to it. They criticise it on a number of grounds including the fact that it restricts child socialization patterns, that it excludes those who are outside the basic unit and that it supports the capitalist system.

Thirdly, socialists may agree with anti abortionists that the increase in availability of contraception will not reduce the number of abortions.<sup>39</sup> They may argue that this does not matter much, for what is important is that women can control their own fertility. However, the anti abortionists regard this as a crucial point. For if it is true it supports their view that the high number of abortions cannot be reduced by better sex education and increased availability of contraception.

In these and other ways the socialists and anti abortionists agree on certain facts.<sup>40</sup> However, within the abortion debate the most striking feature is not this limited agreement but rather the extent of disagreement between the groups. The radicals for example tend to disagree with all of the foregoing. They argue that easier abortion will protect , rather than

destroy, the nuclear family. NARAL the major U.S. abortion pressure group put out the following statement in 1978.<sup>41</sup>

"Legal abortion helps women limit their families to the number of children they want and can afford, both emotionally and financially, and reduces the number of children born unwanted. Pro-choice is definitely pro family."

Radicals argue that contraceptives stop unwanted pregnancies and that most young people are not promiscuous.<sup>42</sup> Furthermore, they maintain that even if a few irresponsible young people take the pill or have abortions this is better than them having children they cannot look after.

So the radicals dispute facts with which both anti abortionists and socialists agree. During this research it became clear to me that the dominant pressure groups within either side of the debate believed totally different facts about the effects of legalised abortion.

Members of both sides have believed that they should put out the facts as the following quotations show.

PRO CHOICE

ANTI CHOICE

"opposition is mainly based on the religious and moral convictions of a minority of the population, who try to persuade the majority with a series of arguments which frequently rely on myths about abortion ..... Benyon himself stated at an anti-abortion meeting in Birmingham on 7th Nov. 1976 that he had been convinced of the case against abortion by what he called the 'pro life movement', because "its members had stuck to the truth and produced fact after fact in a responsible way." It is, therefore, worth looking at some of these alleged facts and judging how responsible these people really are."

Forward from 'Anti-abortion myths', New Humanist Jan. Feb. 1977.

"I always beat the anti-abortionists in debate because I give them the facts. I remember the exact references from the medical journals."

Bill Baird, abortion activist, personal interview April 78.

"Pro abortionists work by propagandistic rhetoric, so their arguments are hard to dismantle. They hide the ugly facts while playing on emotions. It is a technique to use the ignorance of others by keeping the evidence of science and common sense from opening peoples minds. Yet it is truth shall make us free"

Fr. Paul Marx, Our Sunday Visitor Feb 13 1977.

"The only way we can get change is for people to have the facts. I am not afraid of people having facts. We are not going to be able to change the hard cases - for example doctors making money out of abortions - but people will be able to see the problems."

Ellen McCormack Right to Life Presidential candidate in 1976. Personal interview 14th December 1978.

The four main disputes about facts concern:

- the effects of abortion on attitudes to life,
- the effect of legalisation on 'backstreet' abortions,
- the medical effects of abortion,
- public opinion on abortion.

The anti abortionists believe that legalisation leads to an anti life attitude. They take the view that in legalising the right to 'kill unborn children' the way is open for euthanasia and the killing of certain handicapped groups. They often draw a comparison to the situation in Hitler's Germany which they say is the only other modern society where the right of the individual to life was systematically abrogated. The best selling American book states that the abortion laws:

43  
"Represent a complete about face, a total rejection of one of the core values of Western man, and an acceptance of a new ethic in which life has only relative value ..... this is a momentous change that strikes at the root of western civilisation".

In contrast those in favour of legal abortion dismiss the charge that legal abortion devalues life. They stress the fact that the vast majority of abortions are carried out early in the pregnancy and argue that at this stage a baby cannot be said to exist. They may give the examples that an acorn is not an oaktree nor an egg a chicken. In answer to comparisons with Hitler's Germany they point out that Hitler was opposed to abortion and argue that in many respects legal abortion can be regarded as pro life.<sup>44</sup> Thus they say it is pro life in the sense that it saves women from dying from illegal abortions and because it allows them to look after their chosen children more adequately.

There is disagreement on the effects of legalisation on the

number of 'backstreet' abortions. The supporters of legal abortion usually argue that before legalisation there was a division between the access of the rich and the poor. Rich women were able to pay high fees for abortion from a reputable doctor while poor women were forced to make use of the services of unqualified and possible unskilled illegal operators. They argue that the major effect of legalisation is to transfer abortions from the illegal to the legal sector and in support of their case they point to the decline in number of police prosecutions and deaths from illegal abortions. Thus, in assessing the effects of the New York law Christopher Tietze argued that 70% of the legal abortions would have occurred even if abortion were illegal.<sup>45</sup> British observers have made similar comments.<sup>46</sup>

In contrast the anti abortionists take a totally different perspective on the changes. With a few exceptions they argue that the number of abortions before legalisation was relatively small but that the change in the law altered attitudes. They claim that the number of illegal abortions has in fact risen, either because the availability of abortion has given rise to irresponsible attitudes towards contraception, or because of the actual increase in the number of 'promiscuous pregnancies in unmarried women'.<sup>47</sup> In order to support their case they criticise the evidence that the deaths from illegal abortion have declined. They say this reduction is due to the development of improved drugs and the fact that many deaths are not reported.<sup>48</sup>

A third area of disagreement is on the likely sequelae of abortion. The supporters of legalisation point to medical evidence that abortion is much safer than childbirth. A document produced by NARAL stated: "Approximately 87% of abortions are performed in



the first trimester when it is eight times safer than delivering a baby. The death rate for legal early abortion for 1974 is 1.7 per 100,000 abortions compared to 14.6 deaths per 100,000 live births for 1974. The total death rate for legal abortions is 3.1 per 100,000."<sup>49</sup>

Proponents also argue that the psychological effects of abortion are not very great. To quote the NARAL document again "There is no indication that abortion leads to any detectable increase in the incidence of mental illness. Any depression or guilt feeling associated with legal abortion are described as mild. One study shows an incidence of post abortion psychosis ranging from only 0.2 to 0.4 per 1,000 legal abortions as compared to a rate for post-partum psychosis of 1 - 2 per 1,000 deliveries."

British organisations quote similar results but opponents of abortion question these figures.<sup>50</sup> The Willke's claim that the extent of under-reporting is so great that the number of deaths from legal abortion should be ten times as high as those recorded.<sup>51</sup> In place of the official figures for New York of 2-5 deaths per 100,000 abortions the figures 20-50 should be substituted. They also give some figures for Sweden and Denmark where the death rate from abortion is given as higher than that of childbirth. They criticise Hungarian data showing a low deathrate and argue it is due to under reporting and censorship by the Communist Bureaus before publication.<sup>52</sup> Phyllis Bowman of SPUC argues furthermore that those women who die of childbirth are those who are older and unfit whereas it is often healthy young girls who die of abortion.<sup>53</sup>

In respect to the effects on mental health the anti abortionists publicise totally different evidence to their opposition. The Willke's draw

attention to a Japanese survey which reported 73.1% of women as feeling "anguish" about their abortion. They also discuss a number of studies which show that women with prior mental problems are more adversely affected by the abortion.<sup>54</sup>

A fourth important difference between the groups is in their perception of public opinion. A NARAL document reported three surveys all of which showed support for liberal laws. One was a New York Times/CBS News Poll that found 67% of Americans agree that "the right of a woman to have an abortion should be left entirely up to the woman and her doctor." Another showed that the majority of Catholics did not support the Church's position that abortion should not be allowed in any circumstances. In contrast the Willke's criticise these surveys. They say polls are often wrong and draw attention to the two referendums on abortion in North Dakota and Michigan in 1972. They argue that the sheer size of the voting reduced to insignificance all previous polls. They state that opinion polls in Michigan showed 60% in favour of abortion, though 62% voted against in the referendum. In North Dakota 78% were against. They further argue "two months later this overwhelming expression of the wishes of the citizens of the United States was totally ignored and their mandate nullified by the decision of seven Supreme Court Judges."<sup>55</sup>

In Britain the advocates of free choice have drawn attention to a series of polls from NOP Research Services Ltd. which asked people whether they agreed or disagreed with the statement "Abortion should be made legally available to all who want it". In the poll of March 1979 56% agreed

15% neither agreed or disagreed and 29% disagreed. So according to this poll, which was distributed to all Labour and Conservative M.P's by the Abortion Law Reform Association, a clear majority of British adults wanted an extension of the law.<sup>56</sup> Other polls have also shown support for liberal abortion.<sup>57</sup>

The response in opinion polls depends heavily on the wording of the question. The term 'abortion on demand' obtains a lower response in favour of abortion than asking about the 'right to choose'. In their evidence to the Select Committee SPUC gave the results of a Gallup poll taken in 1975. This asked whether people agreed with abortion on demand (18%) whether they disagreed with abortion under any circumstances (12%) or whether they agreed with abortion only under certain circumstances (62%). Those in the latter category were asked whether they considered that abortion should be available only "for grave risk to the life or of grave injury to the physical or mental health of the mother". A total of 72% of the sub sample agreed with this statement thus SPUC were able to argue that a total of 62% of the total sample would favour such a restriction in the law 'or would prefer even more stringent legislation'.<sup>58</sup> So both sides of the abortion debate were able to quote polls supporting their political position.

Overall the information that opposing forces on the abortion issue receive gives them a totally different perspective on the facts. At one level the pressure group operators may be criticised for lack of objectivity but they take the view that their position is similar to that of lawyers. There are so many pieces of evidence that it is not difficult for those on either side to select that which is favourable to their point of view. The Willke's book is a good example. So is the book by the

Wynn's which purported to be an objective study of medical effects.<sup>59</sup> The authors had, however, scoured the medical literature and just selected evidence suggesting adverse sequelae. Pro choice people have also been selective at times. One day I read what purported to be a summary of all British opinion polls. I noticed that the Gallup Study was missing. I asked the author the reason for the exclusion and she told me she did not see why she should help to publicise facts helpful to the other side.

Most within the pro choice movement have felt selectivity is unethical.

The leaders of the pressure groups know

the views of the other side because

they read each others literature and meet in debates etc., but

at lower levels supporters are not well aware of opposition arguments.

Social analysis The introduction has set out some of the major perspectives and the rest of this thesis aims to examine the contribution of various groups to the debate over fertility control. It will concentrate on abortion as this is the major controversial subject, but a full analysis cannot be developed if birth control is not considered. The major interest is in the events of the sixties and seventies but they will be set in their historical context. This is particularly important in the case of the United States as the debate on legalisation revolved very much around the reasons for making abortion illegal in the nineteenth century. Furthermore, the analysis of the process of social change in sexual norms will facilitate predictions as to future changes.

In examining the process of liberalisation a number of different factors will

be taken into account. It will be suggested for example that there is a relationship between the social climate and the development of birth control and abortion rights. This is an important factor and the term 'social climate' needs some explanation. It is not simply public opinion although this is obviously a factor of some importance. However, when public opinion is seen to be contrary to the wishes of reformers they may well suggest that the public is not appraised with all the necessary facts and that 'informed opinion' is more relevant. The prime example of a reform push through against the wishes of the majority of the population is the British legalisation of the death penalty. As Paul Rock has rightly noted about informed opinion:

"It may be employed to neuter the effects of a wider contrary 'opinion'; despite mass demonstrations and considerable support in Gallup Polls, members of the 1966 parliament could turn to informed opinion as a support for their proposal to finally abolish capital punishment".<sup>60</sup>

So politicians can fly in the face of public opinion in terms of British Politics and indeed the politician has a responsibility to do so if this is what he believes is correct. For British politics is still under the sway of Burke's conception that the legislator is elected to make decisions on behalf of the electors but not to necessarily follow their wishes on every issue.<sup>61</sup> In the United States it seems public opinion has more influence. There are, for example, more ways that the public can exercise their views such as with proposition 13 in California, and there are more ways of influencing politicians through the 'primary' system which simply does not exist in Britain.

However, even in the United States effective opinion is different from the simple views as expressed in the polls. In fact I shall show that the 'official' views of leading American politicians on the abortion issues are on the whole much more conservative than those of the population suggesting that the anti abortion groups are having political influence out of line with their level of support in the general population.

The climate of opinion is very important for placing constraints on social change and I shall set out different periods.

1) in the Victorian era up until the first world war it will be suggested that the general sexual climate inhibited the development of birth control practices, especially in the United States.

- 2) After the first World War there was a liberalisation of attitudes toward sex and a breakdown in many aspects of Victorian morality. During these years birth control became much more readily available and there was even some pressure for abortion rights.
- 3) After the second World War there was no comparable liberalisation of attitudes until the sixties and the growth of what the press was inclined to call the 'permissive ideology'.
- 4) In the fourth period after the liberalisation of the sixties there was a slight retrenchment in the late seventies and fertility rights once again came under strong attack.

Although I shall be arguing that there is a relationship between the prevailing mood in the society and the possibilities for change various other factors will be considered. The evidence will show that in a very real sense people make history. That the presence of well organised groups can produce important changes while the opportunity may be lost if the necessary pressure groups or mass parties are absent or ineffective. I shall also show that certain belief systems may be relevant to society but may become much less important when social conditions change.

The predictions made by different groups will be considered in the light of subsequent events. I shall also show that possibilities of change depend on the structure of the social institutions. In particular comparative analysis of the situation in Britain and the United States will show that the role of the constitution in the latter country facilitated the development of much more radical abortion laws than exist in England, despite the fact that the population in the United States is more Conservative.

So the aim of this thesis is to examine the social and political forces leading to liberalisation of the laws in the two countries involved and to make predictions for future developments.

In order to develop the major points to the fullest extent certain decisions had to be made in terms of priority. I decided to concentrate on the evidence from Britain and America and not to supplement it with information from other countries. Furthermore, I have not included any data within the main body of the thesis as to the number of abortions being performed in the two countries. I have therefore included it as an appendix an article I wrote for the Journal 'Social Work'.<sup>62</sup>

Theories of Deviance Related to Abortion

In recent years there have been two major developments in criminological theories of deviance, labeling theory and radical criminology. In this section I shall consider these in contrast to the two older traditions of Fabianism/liberalism and conservatism/functionality.

I have already set out some aspects of the conservative perspective and its relevance to sexuality. From a theoretical position one of the crucial beliefs of the conservatives and their functionalist apologists within sociology was that there is within society a basic consensus. That those who do not necessarily obey the social norms and succeed through legitimate channels nevertheless accept the basic values of the society in most cases. They can therefore be persuaded by punishment or other means to refrain from deviating from the norms and to accept legitimate ways of succeeding in the society.

This belief in shared values has been attacked by those such as Becker who have noted that certain subcultures have totally different values from the rest of the society.<sup>63</sup> The dance band musicians he studied had their own culture which in many respects was antipathetic to the dominant belief system. The radical sociologists' criticism is of slightly different emphasis. They agree with Becker's suggestion of cultural diversity but also stress the differences in power in society. They suggest that the rules are made to serve the property interests of the elite and where consensus appears to exist they identify it as "False consciousness which is necessary to legitimate what is in reality an

inequitable set of social arrangements."<sup>64</sup>

In other words they totally reject the perspective of functionalist sociologists such as Talcott Parsons who they say assumes society as on the whole a 'healthy organic social system' and regard criminals as under-or mis-socialised by products.

The fabian/liberal position of social change is similar to that of the conservative in accepting a large part of the legitimacy of the social situation. They accept the existing order in part but want to work for some further changes. In explaining deviance they look to deprivation as 'root' causes. Thus the continuing existence of poverty is regarded as reprehensible and crime producing. So an important part of liberal ideology has a great appeal in that it can be developed in ways to avoid conflict with the interests of the most powerful groups. For example it can be argued that the best way to get rid of deprivation is not to redistribute wealth and attack the privileged position of the upper class but rather to pursue a policy of economic growth which will in time bring greater wealth for everyone. The classic example of this kind of argument is of course contained in Tony Crosland's 'Future of Socialism'.<sup>65</sup>

In the long run the removal of deprivation is regarded as the key to crime but in the short run deviants are regarded as undersocialised and threatening to the social order. Therefore under certain circumstances they must be repressed.

This part of their belief system is of course similar



to that of the conservatives, however, they differ from conservatives in their view that the system can change and indeed should change. Liberals therefore support many reforms in the criminal law. They are for example inclined to support the decriminalisation of 'crimes without victims' and also tend to be in favour of a liberalisation of the criminal justice system towards less vindictive policies.

A good example of the liberal approach to crime without victims is the Wolfenden report in the middle sixties<sup>66</sup> which argued against too much reliance on the criminal law and stated further:

"There must remain realm of private morality and immorality which is, in brief and crude terms, not the law's business."<sup>67</sup>

The notion of an area of privacy was a factor in the various social reforms in Britain in the sixties.

### Labelling Approach

The work of Becker heralded a radical departure from the conventional perspectives on deviance. He had spent a great deal of time observing the culture of jazz musicians and marijuana users and realised that these subcultural groups did not share the values of the dominant society. He took an extreme relativistic view of deviance and stressed the role of labelling:

"Social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labelling them as outsiders. From this point of view, deviance is not a quality of the act the

person commits, but rather a consequence of the application by others of rules and sanctions to an 'offender'."68

So Becker regarded the process of interaction as important between the person who commits an act and those who respond to it. However, in his view there is no objective deviant act. What is deviant at one time and in one place will not be deviant in another place or in the same place at a different time. So a second question is who makes the rules and here Becker suggests the important thing is political and economic power - the more powerful make the rules for the less powerful to follow. So the young are made to follow the rules of their elders, women follow the rules of men, blacks must follow the rules of whites, the working class must follow the rules of the middle class and so on.<sup>69</sup>

Another important feature of the rule makers in Becker's view is that they are moral entrepreneurs. Becker writes of the crusader.

"He operates with an absolute ethic; what he sees is truly and totally evil with no qualification. Any means is justified to do away with it. The crusader is fervent and righteous, often self-righteous.

It is appropriate to think of reformers as crusaders because they typically believe that their mission is a holy one."<sup>70</sup>

In his analysis of the moral entrepreneur, Becker leaned heavily on Gusfield's analysis of the American Temperance Movement<sup>71</sup> and took up his point that the moral crusader can often have strong humanitarian overtones.<sup>72</sup> I Shall

show evidence of this in the debate on fertility control. Gusfield had other valuable insights, not taken up by Becker, but of particular value to the study of abortion. Thus he suggested that temperance was one way in which a declining social elite tried to retain some of its social power and leadership. That one of the reasons the temperance movement grew so strong was that it was a way of protecting the status of the middle class and distinguishing them from the immigrant groups.

Gusfield divided activists into two groups. The assimilative reformer was sympathetic to the plight of the urban poor and hoped to persuade the drinker to raise himself to middle class respectability and lifestyle.<sup>73</sup> In contrast Gusfield suggests the coercive reformer is not interested in socialising the deviant into new ways of thinking but rather to use the law to enforce the values of the dominant group. Gusfield writing at a time when abortion was illegal suggested that the value in having abortion proscribed was that those who wish to keep their values dominant were able to see them upheld at the public level. Those who did not share these cultural values were, however, not in a position of too much disadvantage because they could still get an illegal abortion or one with a physician granting a medical diagnosis.<sup>74</sup> Gusfield's assertion of the ease of obtaining an illegal abortion may appear too facile to many. However, his point about the reduction of conflict seems valid.

Becker is the best known of the labelling theorists but it was Schur's book 'Crimes Without Victims' that most clearly

dealt with the issue of abortion.<sup>75</sup> In this and his later work 'Victimless Crimes' Schur argued that there were a group of offences in which there were no complainant.<sup>76</sup> These include abortion, drug use, prostitution and homosexuality. He argued for the decriminalisation of these kinds of issues because the law should not be used in these areas.

"The more cogent issue is not whether we approve or disapprove of the behaviours in question, but rather whether we approve or disapprove of efforts to curb them through the criminal law."<sup>77</sup>

He suggested that there were many adverse effects of laws against victimless crimes. The fact that there is no complainant means they are unenforceable. They create large profits for the providers of the services and a poor quality of merchandise. They can, furthermore, lead to a disrespect for the law both because people will be breaking it on a regular basis and because the underground culture can lead to police corruption. He also stressed the class availability of the services.

Schur answered some of the criticisms that could be raised by opponents:

"Many persons would contend that these situations do involve victimisation. The drug addict, they would argue, is a victim of his condition; the prostitute is victimised by her condition; some would assert even that the fetus is a victim in the case of abortion."<sup>78</sup>

Against these kinds of arguments Schur stated that the persons involved do not see themselves as victims. In fact

he argued that in large part the efforts to control human behaviour by means of criminal legislation have been due to a wish to achieve ends and maximise values believed essential for social well being.<sup>79</sup>

I have included this discussion under the general heading of labelling theory for Schur is identified with this movement. However, it is possible to argue the case for 'Crimes Without Victims' being decriminalised even from a conservative perspective. Schur realised this and included in *Victimless Crimes* a quote from a book endearingly entitled 'The Honest Politicians Guide to Crime Control'.<sup>80</sup>

"We must strip off the moralistic excrescences of our criminal justice system so that it may concentrate on the essentials. The prime function of the criminal law is to protect our persons and our property; these purposes are now engulfed in a mass of other distracting, inefficiently performed legislative duties."

So there is nothing necessarily radical about Schur's perspective in terms of challenging the wider order of the society.

There have been many criticisms of labelling theory. Indeed Ginsberg forcibly challenged the whole concept of relativism in the Huxley Memorial Lecture as long ago as 1953.<sup>81</sup> He concluded that "Amidst variations moral codes everywhere exhibit striking similarities in essentials."

Taylor, Walton and Young also criticised the relativism of Becker's work. They pointed out that while it is true that the act of killing someone could be regarded as patriotism or murder according to the social context, there are limits within which these labels are acceptable. They say that

patriotism is a social definition largely limited to war time.<sup>82</sup>

Various other criticisms of labelling theory have been put forward but Plummer has recently made a spirited defense.<sup>83</sup> Further Becker's point about the relevance of moral entrepreneurs has not been seriously challenged and this is the part of his work most relevant for my research. I shall be analysing the social position and rationale of the major groups on either side of the debate on fertility control.

### Radical Criminology

The radical criminologists follow a Marxist analysis. They point out that about 96% of all offences known to the police are related to property<sup>84</sup> and suggest that if the nature of society changed it would be possible to get rid of crime:

"Insofar as the crime-producing features of contemporary capitalism are bound up with the inequities and divisions in material production and ownership, then it must be possible via social transformations to create social and productive arrangements that would abolish crime. Critically we would assert that it is possible to envisage societies free of any material necessity to criminalise deviance."<sup>85</sup>

They continue to state that many aspects of life are labelled and regarded as criminal when they should not be subject to control. In terms of property crime they suggest that it should be better understood not as the product of faulty socialisation or inaccurate labeling but rather as a normal and conscious attempt to amass property.<sup>86</sup>

In an essay on working-class criminology Jock Young

argues that the strategy should be to show up the law as an instrument of the ruling class. He states that its legitimacy is a sham that the 'rule-makers are also the greatest of rule breakers',<sup>87</sup> and that the ruling class attempts to hide its interests behind a universalistic ideology.

The radical criminologists differ from the labeling theorists in their attitude to offenses in the general area of "Crimes without Victims". They criticise the unconditional support for freedom of those such as Schur<sup>88</sup> and state that the meanings of activities such as marihuana smoking, prostitution and heroin use vary according to time and place. To quote Young again:<sup>89</sup>

"There is nothing implicit in the heroin molecule which is either progressive or reactionary, but heroin addiction, for example, in the black ghettos is without doubt an insidious expression of exploitation, and an agency for passivity and defeat. To call for absolute freedom in a population driven to the edge of desperation is to invite the exercise of the laws of the laissez-faire market and the continuing rule of the powerful. Who is to say that the Black October group, who made it part of their programme to eliminate heroin pushers in the black slums of the U.S.A. were not acting progressively."

He continued to state that deviant actions should be evaluated in terms of their relationship to the overall struggle but without recourse to the judgement of legality created by the powerful in their struggle against the powerless.<sup>90</sup>

On the question of birth control and abortion the socialist thinkers in recent years have supported the extension of individual rights of control. Linda Gordon, for example, has argued that birth control was originally prohibited in defence of class interests and that the high point of the struggle was when it had maximum integration into larger political movements.<sup>91</sup> In this respect she highlights the links with socialism in the second decade of the twentieth century. She said the formation of a single issue birth control movement was a mistake because:

"The majority of those who lack reproductive freedom experience the problem as part of a system of social and economic problems, in which, most often, lack of birth control is not the major one. Thus the chances of winning long-term broad popular support for a single-issue birth control campaign are not good and never were."<sup>92</sup>

There is of course an alternative rationale which is that it is better to have a single issue campaign to avoid losing the support of those who favour birth control but not other aspects of a socialist programme. This view has predominated amongst activists on both sides of the Atlantic. Jock Young set out his own perspective on abortion in a book he wrote with Victoria Greenwood.<sup>93</sup> In this they outline three major positions in the debate. First the abolitionists who are totally opposed to abortion (with possible exceptions for strict medical cases). Secondly, the reformers who in general are in agreement with the 1967 Abortion Act but who are split into two opposing camps—those who support the



Act and those who want restrictions introduced. Greenwood and Young suggest these groups both share the same 'reformist political philosophy'- neither oppose abortion, but both oppose abortion on demand. Thirdly there are those who support abortion on demand. They state it was the 'reformers' who forced through the 1967 Act and compare it to the other similar measures that passed during the period.

Greenwood and Young attack the perspective of the reformers from a socialist standpoint. For example, they state the reformers do not question the role of the family,<sup>95</sup> and that they regard the women needing abortion to be on the fringe of society and to be physically inadequate. They continue:

"Abortion on demand is strongly resisted by the reformers because its existence would threaten their most cherished beliefs as to the nature of society. For to make abortion available because of economic circumstances would be to admit that the system is unable to provide women with a real choice regarding their family size. To concede that economic reasons drive so many women to abortions is to make a hefty indictment of the present social order.<sup>97</sup>"

They continue to state that the image of society held by the reformers did not correspond to reality. They suggest reformers did not realise that the change in the law would lead to an abortion boom, In the event richer women became able to

gain abortion on demand and this resulted in a split between the conservative and progressive reformers.<sup>98</sup> They rightly point out anti abortionists could, for example, argue that abortion on demand was available and this was not the stated intention of the Act. So Greenwood and Young continue:

"The inadequacies of reformism provided the substance on which anti-abortionism thrived." <sup>99</sup>

They conclude that if abortion on demand had been available there would have been less opportunity for the anti-abortionists to put forward their arguments and that it was the shortcomings of reform which provided political arguments for the anti abortionists.

So, although Jock Young has attacked freedom of action in the area of heroin use , he supports it in terms of fertility control. This is not to say he has no reservations about the way it could be used and in a later essay he argued that, while progressive abortion legislation involved gain at the level of women's rights, it 'nevertheless is a control measure on the part of the population controllers." <sup>100</sup>

There are therefore several perspectives and in analysing the social forces behind the birth control/ abortion movements in Britain and America I shall consider evidence relevant to various predictions. In the final chapter I shall therefore examine the relevance of my research for earlier theorists.

## CHAPTER 2

In Britain in the nineteenth and early twentieth century there was some political pressure towards the acceptance of birth control. However, even by the outbreak of the First World War there were few who would publicly support the practice. In the United States the position was even more repressive and the Comstock laws of the 1870's onwards criminalised the spreading of birth control information.

With opposition at this level it is not surprising that there was no effective political pressure for the legalisation of abortion on extended grounds in either country. The purpose of this chapter is, therefore, to examine the social and political forces which characterised the period and to explain the reasons for the lack of progress of the movement for the extension of fertility control in both societies. The chapter falls logically into three sections. In the first part the general climate of opinion is examined. The reasons for the growth in what is now called 'Victorian morality' is explained and some differences between British and American society are considered. It will be argued that in some respects the United States was more conservative than Britain and that this was a key factor in the late development of a movement for birth control.

In the second part the early British birth control movement is examined. In this part the early social forces for its development are set out and particular attention is paid to the belief systems of the major groups concerned. One of the crucial factors which prevented the spreading of birth control knowledge in the period was the opposition of the socialists. Given the climate of opinion at the time the advocates of contraception

could hardly expect support from the church, the medical profession or the political conservatives. However, they might have expected it from the political radicals. This support was not forthcoming because until the First World War the most prominent advocates of birth control were the neo-Malthusians who linked their support to a conservative ideology. The nature of this problem is set out together with its eventual solution.

In the third section the origins of the American birth control movement is analysed. It had greater opposition from the conservatives than did the British as will be shown. However, an important difference from Britain is that there was no development of a neo Malthusian League of any influence. Consequently the socialists took a different line. Whereas in Britain they were the most vocal opponents of fertility control, in the United States they were willing to see it as one of their many demands. In fact it will be shown that it was from the ranks of the socialists that the most effective birth control agitation developed.

Thus this chapter will help substantiate one central argument that the social climate is an important factor limiting the possibilities of change.

#### The growth of restrictive attitudes in the nineteenth century

All the evidence suggest that in the nineteenth century attitudes to sexuality became much more conservative than during any other period of history in both Britain and the United States. Chastity became valued to a degree not before known and even within marriage the dominant belief system was that it should be strongly controlled. This contrasts markedly with earlier periods for in pre industrial times there seems to have been little valuation of chastity.

In her book 'The decline of Merry England' Storm Jameson dates the growth of the 'Puritan' tradition back to the English revolution. She suggests that the word itself has come to refer to something totally different from its earlier religious meaning, and that the events of the seventeenth century revolution irrevocably destroyed part of the English heritage. She looks back to a golden age and argues that even after the restoration of the monarchy the restrictive attitudes continued:

"The open licentiousness of the court advertised the revolt: but it was little but advertisement. The cardinal virtues in the middle classes: industry and thrift.... still flourished. The bourgeoisie had tasted the blood of commercial success". She continued to state that the puritan "Became the highest exponent of all the acquisitive instincts which his forefathers would have been the first to rebuke".<sup>1</sup>

The analysis is useful in explaining some of the reasons for the growth in restrictive attitudes, however, it was only a small part of society that had such views.

Amongst the peasant groups there was a clear recognition that young people would want to express their sexual feelings and the main problem was to enable courtship to continue without a premature pregnancy occurring. In the absence of contraceptives various garments were devised, for example, in Wales girls in their teens would be given a 'courting stocking' a garment which completely covered the girl from the waist down with room for both legs. Young people were allowed to sleep together on condition this was not removed and the practice was called bundling.<sup>2</sup> It also occurred in many other rural areas, in Scotland a board was often placed between the young couple and in other areas they wore some clothes 'the women having her petticoats on and the man his breeches' as Gentleman's Magazine noted in 1747.<sup>3</sup>

Bundling was also practised in some areas of the United States. It became common in Pennsylvania and New England where it was stated that the couple kept their clothes on to save fuel.<sup>4</sup>

Once a couple began to court seriously the social pressure against intercourse diminished. Probably the most systematic evidence on this matter is the excellent work of Hair who used British Parish registers to determine the number of births conceived premaritally in seventy seven different Parishes.<sup>5</sup> He calculated that nearly half the brides were pregnant on their wedding day.

The evidence, therefore, shows that chastity was not the dominant practice nor even the dominant ideology and the change in view is linked to the social and economic changes occurring during the early part of the nineteenth century.

It is possible to set out a variety of reasons for this and to explain the difference in the degree of puritanism between Britain and America.

### 1. The worsening position of the Working Class

The peasantry had been driven off the land by the economic pressures linked to the enclosure movement and they were pressed to work in factories where the conditions were far worse than they had encountered in the rural areas. The factory system destroyed much of family life as people were working such long hours that their homes became almost a dormitory. Under pressure from the employers the traditional holidays were reduced and the hours of work extended so that even children were working down the mines for fourteen hours a day. When the Children's Employment Commission published the first two volumes of its report in May 1842 one of the observers described the condition of the children as 'chained, belted, harnessed like dogs in a go-cart, black saturated with sweat, and more than half naked, crawling upon their hands and feet, and dragging their heavy loads behind them'.<sup>6</sup> As late as 1887 Booth found that 30% of the population was in grinding poverty and these kind of conditions obviously did not lead young people to act with forethought and restraint. Furthermore the movement from the rural setting broke down the informal sanctions on sexual behaviour. So the rural norms were no longer applicable and its traditional sanctions irrelevant. The situation can best be described as one of anomie and one of the Commissioners wrote of these young people in employment "A lower conditions of morals could not, I think, be found. Moral feelings and sentiment do not exist among them

They have no morals".<sup>7</sup>

Francis Place was not one of those inclined to bewail the current lack of morality but he nevertheless commented in 1832 about the working class poor "Girls become unchaste at a very early age as a matter of course; the whole family live in one room; and ... hearing what they hear and seeing what they see; they never arrive at any notion of self respect, and the consequences are certain".<sup>8</sup>

The lack of control over sexuality reflected a general lack of control in their lives. In the poorest areas the people were left with few choices and in their condition morality had little relevance. Thus an observer of the London poor was led to comment "Ask if the men and women living together in these rookeries are married, and your simplicity will cause a smile. Nobody knows. Nobody cares. Nobody expects they are. In exceptional cases only could your question be answered in the affirmative. Incest is common; and no form of vice or sensuality causes surprise or attracts attention. Those who appear to be married are often separated by a mere quarrel, and they do not hesitate to form similar companionships immediately".<sup>9</sup>

The worsening position of the working classes had a great influence on the middle class groups who in many cases were insecure in their status. The changes meant that in chastity was, therefore, associated with poverty, filth, drunkenness and other features of life from which the middle classes wished to distinguish themselves. Thus there were status reasons which linked the middle classes to chastity. These were buttressed by ideological factors. Many of the middle classes who had recently risen up the social hierarchy had adopted the values expressed by the religious

leaders. John Wesley, for example, had taught in the eighteenth century that his followers should work hard in their job and be frugal in their way of life. "We must exhort all Christians to gain all they can and to save all they can; that is in effect to grow rich".<sup>10</sup> Though Wesley himself opposed wealth and gave much of his money to charity his followers did not follow his example but used it to help their rise in social status. So chastity was one of a number of beliefs that the middle classes saw as distinguishing them from the poorest group in society.

American commentators made similar points linking work with a puritanical regime. For example in 1812 Benjamin Rush recommended that constant employment in bodily labour or exercise, close application of the mind to business or study of any kind, the total abstinence from alcoholic liquor and cold baths to cut down the sexual appetite.<sup>11</sup> A later observer stressed the strong correlation between work and chastity "Everyday employment should be as much of a necessity to every man (and woman) as is eating. A man who is constitutionally lazy and careless about working is nearly always a licentious man. An idle life and a chaste and continent life cannot possibly be found in the same individual".<sup>12</sup> This comment was typical of the middle class perspective at the time and it was the combination of these status and ideological factors which must count as the major reason for the strength of the belief in chastity amongst the middle classes .

## 2. The Changing Position of the Middle Classes.

The role of urbanisation in breaking down traditional sanctions has been mentioned and it had a number of other effects. First of all it increased the possible segregation of the sexes. In the countryside there had been less of a distinction between work and leisure and women often had their own



tasks in the household. However, in the town there were few acceptable jobs for middle class women. Only the working class wives worked and middle class women spent their time in various pursuits such as developing various accomplishments like piano playing to enhance their possibility in the marriage market. This sexual segregation had of course occurred to some degree in the eighteenth century but the number involved grew and the divisions hardened. Women were, therefore, restricted in the ways they were able to develop their personalities and consequently were not valued on any grounds approaching equality. They were placed on a pedestal and were supposed to embody the virtues of society and not soil their hands with the "evils of the world". This led to their chastity being greatly valued. As Hannah Gavron rightly pointed out: 'The more a society places women on a pedestal, as in modern Brazil or Victorian England, removed from the realities of life, the greater will the virginity of brides be prized. However, the less the division between male and female the less is virginity considered important'.<sup>13</sup>

The movement to the towns also made it more possible that the middle classes could ignore sexuality. In the countryside this is difficult for it is ever present in the normal cycle of animal life. However, amongst the urban middle classes it was possible to shroud sexuality in mystery and to keep it hidden from view. Sex could increasingly be seen as something aberrant rather than as a natural and necessary part of life.

### 3. Increase in Illegitimacy.

On top of these factors predisposing towards restrictiveness there was also treatment of the one parent family. At this time illegitimacy was regarded as the punishment for immoral conduct and the child involved was subject to various legal and social disabilities. The mother

was also ostracised especially in the better off groups and even in the working classes she could find herself abandoned.

At the end of the eighteenth century there was a great deal of dislocation due to the Napoleonic wars to add to that caused by the movement to the towns. So the illegitimacy rate which had been as low as two per cent at the beginning of the eighteenth century rose to 3.6% by the middle of the century and reached a peak of 8.0% in the decade 1791 - 1800.<sup>14</sup> Furthermore, the woman had to increasingly bear the brunt of illegitimacy. Previously in the rural setting most people would have a fair idea of the possible father and he had some responsibility over his child. Also as pregnancy was in many areas a precondition for marriage the woman was often likely to be regarded as someone who had been 'let down' rather than a person who was imprudent. After 1790 it seems an increasing number of fathers were soldiers and those who were not were less identifiable in the urban setting.<sup>15</sup> Illegitimacy, therefore, became a worse experience for the woman as she lost her potential social support.

Harsh treatment was justified in terms of the salient effect it would have on others who might be tempted to deviate from the norm of chastity.

#### 4. Myths about sexuality.

One of the notable facts about the period is the strange beliefs about sex emanating from what were regarded as highly reputable sources. Many of the beliefs were further sources of suppression, especially as they related to women. One of them, which was widespread, was that excitement shortened life. There was a limited quantity and it was necessary to conserve it.<sup>16</sup> In the sexual field the ideas of conservation were interpreted to indicate that men had better restrict their number of

emissions - hence the use of the term 'to spend' rather than 'to come' for orgasm.<sup>17</sup> Benfield says this meant that women were a potential threat to men and furthermore that "Woman's latent boundlessness posed a threat to male energies, and through them to civilisation. A woman was a sperm absorber".<sup>18</sup> Thus, the general idea of 'saving' when transferred to the sexual field accentuated the sexual divisions.

It also seems that the middle classes in the United States had a much greater fear of sexuality than their British counterparts. Hence, in 1907 Robinson noted the great fear of loss of semen amongst his patients and complained "A patient who notices a drop or two of semen is sure he is on the way to the insane asylum."<sup>19</sup> Such extreme views did not seem to exist in Britain neither did the incredible practice of removing the clitoris.

Ben Barker Benfield discusses the fact that in the United States the belief existed that it was so abnormal for women to enjoy sex that clitoridectomy was often performed.<sup>20</sup> There is evidence of operations from 1867 at least to 1904 and he points out that in contrast the British gynaecologist who reinvented it in 1858 was expelled from the London Obstetrical society almost immediately after publishing his results.<sup>21</sup>

##### 5. Effect of the French Revolution.

The growth of the middle class with its rigidly puritanical attitudes was the key factor in the nineteenth century. The group who were most likely to oppose them were, of course, the upper classes and there is no doubt it had a great deal of effect in reducing some of their excesses. In fact this is one of the major structural factors distinguishing Britain from the United States. The British elite were not enamoured by the beliefs in hard work, abstinence from drink and chastity. They knew that most of the people of real wealth had inherited their money rather than worked for it and their whole tradition militated against restraint.

There was, however, one argument that was put forward to encourage them to be less indulgent. The upper classes were very worried by the French Revolution and it was argued that there was a connection between and immorality. This was stated clearly in the 1978 edition of the Annual Register: "The French revolution illustrated the connection between good morals and the order and peace of society more than all the eloquence of the pulpit and the disquisitions of moral philosophers had done for many centuries.... The levity and licentious of French manners had already made alarming progress in the higher, and what were called, the fashionable circles, from whence they must pass on to the other circles".<sup>22</sup> It is doubtful whether such an argument would encourage the upper classes to be chaste but it is likely that it made them less open in their conduct. In this respect I would concur with McGregor's suggestion that: 'Few aspects of the period are more astonishing than the successful imposition of middle class standards on the overt sexual behaviour of the aristocracy. "That damned morality" which disconcerted Lord Melbourne, covered mid Victorian England like a fog.'<sup>23</sup>

There were also suggestions that the upper class gambling habits set a bad example to the working classes. These were, however, strongly resisted and Downes et al quote the chair of the Middlesex Quarter Sessions<sup>24</sup> in 1844:

"I do not think that one apprentice more or less would go to the copper hells because the first gentlemen in the land did or did not gamble". Others even argued that England would not be a fit place to live in if gambling were prohibited.

#### 6. Power of the Middle Classes.

One of the key factors in the spread of middle class and religious ideas was the growth of the school system which became an ideal channel for the middle classes to teach the working classes their value system. One of the early pioneers in Britain was Joseph Lancaster who had in his teens dreamt of going out to Jamaica 'to teach the poor blacks the word of God'.<sup>24</sup> In the event he established a school in London and his movement expanded until in 1808 he formed the Royal Lancastrian Society later renamed the British and Foreign School Society. In 1811 the Anglicans responded by founding the "National Society for Promoting the Education of the Poor in the Principles of the Established Church" which took over many of the Schools.

Between 1815 and 1830 the number of Anglican Schools increased from 564 to 2,609 and by 1855 over a million children were under instruction. In this year too the Government agreed to give money towards church building costs and so the first steps towards a national system of education were taken. A system which was strongly influenced by conservative attitudes and where religious instruction was mandatory. So the restrictive ideas of the middle classes which in early times had been minority beliefs increasingly became to be considered as the "proper" behaviour which should be accepted as a matter of course.

#### Differences in puritanism between Britain and the United States

Most of the factors so far discussed applied to both countries. In both societies there was a spread of education, a growth in the power and influence of the middle classes, similar myths about sexuality and increased segregation of women. However, there were two factors in particular which led to the degree of puritanism in the United States being more marked than it was in Britain. America was a society with a very high proportion of immigrants and this was important for a number of reasons.

First of all the fact that the immigrants came from widely differing backgrounds raised problems in communication. In cultures where members have been together for a number of generations there is a gradual build up of informal cues of behaviour. Thus, for example, an invitation for a social event such as a dinner party may be phrased in such a way that it is just a pleasantry and both members of the same culture may understand it as such. However, in an immigrant society many such nuances of social behaviour will be misinterpreted. So the members must develop a directness in communication. In legal terms too there are problems. Thus when the country was formed there was no common culture on which to rely.

The rules had, therefore, to be spelled out to a marked degree and the United States has had a much greater tendency to constrain behaviour by legal means and by carefully drafted rules of behaviour.

The high proportion of immigrants also affected the degree of the double standard. For example, in a leaflet published during the Second World War Margaret Mead stressed the fact that in the nineteenth century there was often a great shortage of women in the United States. In California for example there was only one woman for every three men in 1860 and in Washington State the ratio was one to four. So men had to be assertive if they wished to make an impression.<sup>25</sup>

Furthermore many of them came from countries where the sex divisions were marked and the double standard was very strong. Many of the immigrants retained the values of their country of origin and in this way the double standard was imported to the United States.

A final point, but one which is very important, is that when the immigrants entered the society they had low status and were expected to learn the local norms and become socialised into the American way of life. When the American middle classes saw deviant behaviour in the working class and predominantly immigrant groups they regarded it as a result of lack of knowledge and an underdeveloped sense of propriety. Analysis of records at the time reveals that the moral entrepreneurs would, whenever possible, draw attention to the high proportion of recent immigrants in deviant activity. Just to give one example, at the annual meeting of the Society for the Suppression of Vice in 1874 the nationality of those arrested under the pornography laws were given as follows: forty six were Irish, twenty four were English, thirty four were American and twenty were other nationalities.<sup>26</sup>

It was pointed out only just over a quarter were native born Americans and the view of the Society for the Suppression of Vice was that it should work to socialise these into the 'straight and narrow.' The American middle classes were very confident that their ideas of chastity were correct and that their role was to spread this knowledge.

A second difference between the societies was a lack of an upper class in the United States to restrain some of the excesses of the middle classes. Thus, while in Britain the movement to the right meant that it was possible to introduce laws against male homosexuality and obscene literature there were limits to this movement towards greater sexual restriction and the upper class were an important source of restraint.<sup>27</sup>

Thus, Bowdler, the man who produced the non bawdy version of Shakespeare, was behind an unsuccessful attempt to introduce laws against adultery in the 1820's. However, when the Matrimonial Causes Act was passed in 1857 it liberalised the law and enshrined the right of men to commit adultery without being liable for divorce solely on this count. Similarly, when the Obscene Publications Act was passed in 1857 it was only the working class literature which was to be suppressed. The Upper class managed to insert a clause excluding works of 'literary merit' from the statute. Furthermore there were no laws prohibiting alcohol, or pre-marital sex of the kind that existed in the United States.

This evidence, therefore, shows the major reasons for the differences between the two countries and the effects of these on the debate will now be considered.

### The Debate about Birth Control

The importance of the French revolution in facilitating conservatism has been discussed and the origin of the debate about birth control can also be traced back to its aftermath and the debate which led Thomas Malthus to write his 'Essay in Population'. The revolution had brought a great amount of controversy and any work dealing with the principles of politics was sure of a market.<sup>28</sup> One of the many appearing during this period was Godwin's "Enquiry Concerning Political Justice" 1793. Godwin believed that the actions and character of people were not something they were born with but were developed by the socialisation process. Hence, the cause of misery and injustice was human institutions which needed to be changed in order that people would be able to strive towards perfection. He suggested that what was needed was a removal of the inequalities in society and for everyone to be given a decent environment. Malthus attacked this view and argued that if the kind of utopia Godwin suggested came into existence there would be such a massive population increase that the standard of living would take a precipitous fall. His argument was not new but it came at a time when the upper classes were terrified that the French revolution would be repeated in Britain and were looking for a justification of the existing order.<sup>29</sup>

This was undoubtedly one factor which led to the popularity of his ideas and Marx talked of the theory as being 'greeted with jubilation by the English Oligarchy'.<sup>30</sup> The solution Malthus proposed for the population increase was moral restraint by which he meant delay in marriage.

He believed that prudential restraint by narrowing the supply of labour in the market would raise its price. The man in spending a few years working before marriage would be able to save enough money so he could enter into it without fear of the consequences. He argued that without



controls good production only increased in arithmetic proportion but that evidence from the United States showed that population increased by geometric proportions. He did not intend to be apologist for poverty but was often interpreted in this way.<sup>31</sup>

The debate between the Malthusians and the socialists was to continue at a high level of acrimony for well over a hundred years and indeed still occurs occasionally today. However, a solution to the problem was provided by the radical Francis Place in 1822 with his Principles of Population.<sup>32</sup>

His suggestion was to both institute social changes to improve the lot of the worker and to also introduce contraception:

"If, above all, it were once clearly understood, that it was not disreputable for married persons to avail themselves of such precautionary means as would, without being injurious to health or destructive of female delicacy, prevent conception, a sufficient check might at once be given to the increase of population beyond the means of subsistence, vice and misery, to a prodigious extent might be removed from society, and the object of Mr. Malthus, Mr. Godwin, and of every philanthropic person, be promoted, by the increase of comfort, of intelligence, and of moral conduct, in the mass of the population".<sup>33</sup>

Place also noted that Malthus opposed contraception and

that one of the arguments was that it would lead to in chastity. Place countered that, while a few people passed through much of their lives in keeping with the rules of chastity, those who lived their lives in poverty did not do so. He continued to state that, as the working classes had little chastity either before or after marriage, it could not be destroyed. He further suggested that restraint would not work and that the most effective method of diminishing 'promiscuous intercourse' was young marriages. He stressed this change would radically reduce the need for

prostitution and this argument is one that the Neo Malthusians would take up in a militant fashion in the latter part of the century.<sup>34</sup>

In the summer of 1823, a year after the publication of his theoretical work, Place began his public propaganda. He published three pamphlets on contraception and had them distributed to the working classes through radical sources. For the following four years there was a certain amount of agitation for contraception. It seems that it was Place who persuaded John Stuart Mill to write and distribute literature in favour of birth control for which he spent a few days in prison. Place had some success and in 1830 wrote "I have received a multitude of thanks from persons who have been saved from poverty and misery or whose circumstances have been improved by the practice recommended".<sup>35</sup>

Place's effort also can be traced to the early birth control agitation in the United States. He convinced the editor of the "Republican", Carlile, to support it. Carlile advocated contraception in his journal and published a pamphlet "Every Woman's Book". Robert Dale Owen re-published this at New Harmony, Indiana, and became the first neo-Malthusian in the United States.<sup>36</sup> After a brief battle with a Christian group he published a tract entitled 'Moral Physiology' which was the first booklet published on birth control printed in the United States. It had nine editions in its first five years and possibly had a circulation of twenty or twenty five thousand copies in the United States.<sup>37</sup> In the following year it was published in Britain and by 1877 had totalled 75,000 sales.<sup>38</sup>

Owen was also important because he gave encouragement to Dr. Charles Knowlton who in 1832 published, at first anonymously, a pamphlet the "Fruits of Philosophy".<sup>39</sup> This was republished in England a year or two later and remained in circulation on a limited scale until the Bradlaugh and Besant

trial of 1877.

Most observers have suggested that from the 1830's until 1877 there was little discussion of birth control. This view has been challenged by McLaren and the period was by no means totally barren.<sup>40</sup>

One of the major pieces of Birth Control propaganda during the nineteenth century was Dr. George Drysdale's work published in 1854 and which went through thirty five editions by 1905. This claimed to be "An exposition of the true cause and only cure of the three primary evils, poverty, prostitution and celibacy". The case he referred to was 'Preventive Sexual Intercourse' and he suggested in neo Malthusian fashion that by this method people could satisfy their sexual needs without overcrowding the population. He also stressed it was the only possible solution to prostitution.

This argument was quite powerful at the time because there was great concern about what was called 'the social evil'. In 1868 Bertrand Russell's father presided over the first birth control meeting of which there is a definite record.<sup>41</sup> It took place at the Dialectical Society and it was the rationalists and freethinkers who were the major proponents of contraception. The opposition of the socialists naturally restricted progress amongst working class groups so without mass support even in the middle classes the pressure for birth control seemed to have had little effect up to 1877.

The Royal Commission on Population in 1948 reported "although many thousands of these (books and pamphlets on contraception) were distributed and the subject was discussed in many periodicals, this movement had no traceable immediate effect on birth rate."<sup>42</sup> In fact for a long period contraception was something that was usually linked to prostitutes. However, in 1876 an incident occurred which led to a great amount of publicity.

Henry Cook a Bristol Bookseller was sentenced to two years hard labour for issuing the 'Fruits of Philosophy' interleaved, it is alleged, with obscene pictures. Charles Bradlaugh together with Annie Besant decided to challenge the law and republished Knowlton's pamphlet in order to precipitate a test case. They were duly charged and the trial began on June 18th. 1876.<sup>43</sup>

It was given extensive coverage in the Times. The Solicitor General argued that the question the trial raised was whether people had the right to distribute such books which tended to create morbid feeling and led to 'unlawful practices'. He continued to argue that the real aim of the book was 'to suggest to people that they might with or without marriage enjoy the pleasures of sexual intercourse and yet avoid offspring'.<sup>44</sup> Later in the trial he set out the criteria on which to judge the book 'The proper test of it is this - that it is a book which no decent man would dare to place into the hands of a decent woman'.<sup>45</sup>

The defendents conducted themselves admirably at the trial and used a whole battery of arguments to support their case. Their main thrust was, however, the neo Malthusian position that the population was being restrained by the enormous mortality amongst the poor. They pointed to the fact that many of the children were unwanted and Annie Besant stressed the high amount of infanticide.

She also argued strongly against late marriages as a means of restricting population. "How foolish it is to suppose that men and women will become as monks and nuns during the very holyday of their existence, and abjure during the fairest years of their life, the nearest and dearest of social relations."

As mentioned below one of the arguments often used against contraception was that it would promote promiscuity. Annie Besant tried to counter this and she argued that it was a 'false and scandalous' charge to make on the character of British women, to suggest they were only kept chaste by the fear of maternity. However, the Lord Chief Justice presiding did not accept her argument and in his summing up clearly stated an argument that was destined to be used over and over by the opponents of fertility control:-

"Though these means are recommended to those who are married, they may equally be used by those who are unmarried, and that if at present unlawful intercourse is restrained by the apprehension of its natural result - in the birth of offspring - the removal of that restraint may remove one of the restraints on vice and one of the safeguards of morality."

One of the witnesses was Dr. Drysdale and Annie Besant questioned him about abortion. He stated it was common among both rich and poor women and then agreed with her comment that it was better for health if people used contraception. He continued to clearly distinguish abortion from contraception.

'To produce abortion is to commit a serious crime, for it is to take away life; but I consider it is not wrong to prevent conception. If it were then all unmarried people would be prosecuted.'

Not surprisingly the defendants were found guilty, although the foreman of the jury absolved them of any corrupt motives in publishing the book. They were sentenced to six months imprisonment and fined 200 pounds but were freed on appeal. The trial was a watershed in birth control history.

The publicity surrounding it and the subsequent appeal brought contraception to the forefront of public discussion. Sales of Knowlton's pamphlet grew from about 1,000 a year before the trial and sold 125,000 copies between March and June 1877.<sup>46</sup> Branches of the Malthusian league were set up in many towns and "The Malthusian" Newspaper was formed, its main slogan being 'A crusade against Poverty'. As discussed earlier the birthrate began to fall rapidly and, although there were a few occasions in later years when people were prosecuted for disseminating information, the cases were rare. The Malthusian, supported by an array of medical men and women, gave information on a continuous basis with no trouble from the authorities.<sup>47</sup>

#### Popularisation of birth control.

During the period 1877 - 1915 the neo Malthusians were the only significant group working to spread birth control knowledge. Their name came from the Dutch Minister of the Interior and it was in Holland where the movement gained its most spectacular successes and where the world's first birth control clinic was set up in 1878.<sup>48</sup> The objects of the organisation were set out clearly at the front of each issue as follows.

That the objects of this Society be:

1. To agitate for the abolition of all penalties on the public discussion of the Population Question, and to obtain such a statutory definition as shall render it impossible, in the future, to bring such discussions within the scope of the common law as a misdemeanor.

2. To spread among the people, by all practicable means, a knowledge of the law of population, of its consequence, and of its bearing upon human conduct and morals.

The Malthusians believed that with the universal knowledge of hygienic contraceptives enlightened self interest would reign and people would have just as many children as they could afford and there would be "the elimination of destitution and all the more serious social evils and to the elevation of the race."<sup>49</sup> This standpoint is different from that taken by Place and can be considered somewhat reactionary for subsequent history has clearly shown that people in poverty have very little control over their lives and are forced to live from day to day. It is only when the poverty is diminished that they can gain the necessary forethought and control to restrict their family size by contraceptive measures.

The ideas of laissez faire of course were similar to the theory of evolution and the survival of the fittest put forward by Darwin and others. So it is not surprising that in 1878 a member of the league wrote to Darwin to try and convert him to birth control.<sup>50</sup> He was reportedly horrified and, despite the fact that he spelt out his links with Malthus in the 'Origin of Species', he used a similar argument to the Lord Chief Justice that if the married did not think contraception immoral 'would there not be a great danger of extreme profligacy amongst unmarried women.' It seems from the comment that Darwin, unlike the Lord Chief Justice, was not perturbed by the sexuality of young men. Although the Malthusians were conservative in some respects, in other ways they shared radicalism with the socialists. Like the socialists, they supported equality of the sexes and this was an important part of their platform.

Malthus himself talked of the fact that women were almost driven from society for sexual relationships which men engaged in practically with impunity as 'undoubtedly a breach of natural justice.'<sup>51</sup> Geoge Drysdale in his book spoke out clearly for the rights of women and the Malthusian often attacked the church's attitude to women. Hence in 1887 it published an article by Mrs. Heatherly in which she argued that the church had used its influence to keep women in servitude.<sup>52</sup> She continued to say that St. Augustine thought prostitutes were a necessity and that the church was still of the same opinion. As evidence she drew attention to an article she had recently read in which a Christian man had argued prostitutes were indispensable - 'These miserable women are the guardians of our domestic purity'. The Malthusians attacked this view because they believed the solution lay in early marriage with sexual satisfaction equally for both sexes.

Their views on equality together with support of contraception meant that their anti sexist feelings were fully roused when in 1879 Annie Besant's children were taken away from her by her estranged clergyman husband. The Malthusian as usual did not mince its words "By the law of England, a married woman is the only slave in the British dominions. She has nothing to do with her children if her husband so please."<sup>53</sup>

Annie Besant was the best known neo-Malthusian but there were various other female workers. Possibly the woman with the greatest influence over the movement in the long term was Alice Vickery. She fought hard to gain a medical degree and became one of England's first woman doctors.<sup>54</sup> She married George Drysdale's brother Charles and her husband and son-C.V. Drysdale-were the Presidents of the Malthusian league for many years. The Malthusians regarded feminine equality as a necessary part



of their emancipation from excessive and undesired maternity.<sup>55</sup> This was often where they linked up with the socialists. In 1886 they praised Jeanette Wilkinson the secretary of the Upholstresses Society as a brave fighter for women's suffrage and at the Annual General Meeting in 1889 Alic Vickery said enfranchisement for women would bring greatest blessings to men, women and children. Later she tried to persuade the feminist groups working for female suffrage to adopt birth control as one of their aims. Margaret Sanger tells how she welcomed the radical feminists, never missed a suffrage meeting and was always intent on telling the audience to get down to basic subjects such as birth control.<sup>56</sup> Many young feminists visited her home in Hampstead for political advice despite the fact that the suffragettes did not espouse birth control as one of the central points.

The men in the movement also supported the women's claims. In 1909 C.V. Drysdale wrote a pamphlet entitled 'Why men should help women in their claim for enfranchisement' and in subsequent years he spoke at women's meetings pointing out the relevance of birth control as part of the overall process of emancipation<sup>57</sup>.

A second way that the Malthusians were radical was in their general attitude to sexuality. George Drysdale's anonymous book, in fact, was too radical to be politically useful at early stages. He argued that sexual intercourse was necessary to the health and virtue of both men and women and that its omission by medical and moral philosophy was a fundamental error.<sup>58</sup> This was of course an argument that was not too radical at the time. However, he continued to contend that even unmarried people should be able to have intercourse and it was an error to assume only constant and unvarying love was honorable. He attacked the idea that prostitution was wholly evil and stressed it was better than total sexual abstinence, although

he felt an honorable provision for unmarried love would reduce the need for it.<sup>59</sup>

It would not have made political sense for the Malthusians to argue this case as it would have been counter productive but they often quoted from the book and sold it.

They also frequently told of the activities of other sexual deviants.

One group they sometimes mentioned was the Oneida community in New York State.<sup>60</sup> This was a group started by John Humphrey Noyes in 1848 with 78 members and lasted until 1880 when pressure from outside clergy and changing attitudes of the members led to it altering its aims. Noyes followed the belief that seminal fluid should not be wasted through to its logical conclusion. He taught that couples could have sexual intercourse within the group between whoever they liked but that the man should not reach orgasm. In 1893 the Malthusian called the group a 'wonderful Neo-Malthusian Bible Christian Community' and the fact that it supported the group, despite its open advocacy of sex outside the marital relationship, indicates that there were in the neo Malthusian movement those who were willing to go much further than the restrictive norms of the time.<sup>61</sup> Much further, in fact, that the Malthusian itself would find to be politically astute.

#### Neo-Malthusians and Abortion.

Although the Malthusians were radical on contraception in the period up until 1915 they were totally opposed to abortion. There were a number of reasons for this, the most important being the belief that abortion was dangerous. In this respect the major piece of research to be quoted during the period was that of Tardieu. Thus, the Malthusian in May 1881, carried

**Text cut off in original**

an article on 'an excellent pamphlet on the great danger to human life of criminal abortion.' It continued to comment that the pamphlet pointed out that 'Dr. Tardieu, of Paris, had shown that 60 poor women had lost their lives out of 116 cases, when criminal abortion had been made use of, either from loss of blood or from inflammation'. This research was widely quoted even after the first World War and despite the fact that the Lancet criticised it in 1902.<sup>62</sup> The Catholic Encyclopedea published first in 1907 quoted Tardieu's research and changed the figures to make abortion seem more dangerous. "To tear out the living produce of conception by the roots is, in most cases, to give the pregnant woman gratuitous transportation to eternity. Tardieu alone records seventy women who died out of one hundred cases".<sup>63</sup> By the thirties the further experience of abortion was making observers more critical and Parry, for example, talked of Tardieu having had an exceptional series.<sup>64</sup> However, in the intervening period it was generally accepted that abortion was very dangerous and to be opposed for this reason. This was the major argument used by C. V. Drysdale when giving evidence before the Birthrate Commission in October 1913. He stated:

"The attitude of the Neo-Malthusians, at any rate in this country, is absolutely against any non medical interference when pregnancy has once commenced. They accept the evidence that all attempts at abortion by drugs or unskilled interference are most dangerous to the health of the mother".

The belief in the dangerous nature of abortion was the crucial factor. He did not say anything about legal abortion in this speech but later (1915) in response to Stella Browne's challenge the Malthusians at first maintained its anti abortion stance as is discussed below.

A second reason for opposition was that abortion was wrong because it resulted in the removal of potential life. They also believed abortion was foolproof

Thus J Symes was quoted in the Malthusian "Every Woman should have the right to say whether she will be a mother or not".<sup>65</sup> However he continued to say that birth control would remove all abortion and infanticide.

Another reason for opposing abortion was a political one. The Malthusians tried to distinguish abortion from contraception in order to facilitate the wider acceptance of their arguments. In the 'Law of Population' Annie Besant pointed out that Dr. Fleetwood Churchill had legally given many methods of inducing premature labour and inducing<sup>66</sup> abortion. She continued to argue 'surely the prevention of conception is far better than the procuring of abortion'. This kind of argument that contraception was a substitute for abortion is one that was continuously used in the following years and is still relevant. However, as will be shown, the groups using the argument have changed considerably over the years.

#### Opposition to Fertility Control in Britain.

When the Malthusians started their propaganda they faced almost total opposition from the major bodies, despite the fact that the individual members of these organisations may well have been using various techniques in their private lives. This meant that information did not get to the poorer groups and resulted in a differential birthrate, which in turn worried many people as being anti genetic. The Malthusians argued it was just a temporary situation and that once the information had been adopted by the middle classes it would eventually percolate through to the working classes.

In the United States we will see that the Society for the Suppression of Vice was very strong. In Britain this organisation did not, however, have the same influence. In the period after the Bradlaugh/Besant trial

It was quite active but it lost a great amount of support by attacking the freedom of the Press. In doing this it was taking on the establishment which was a totally different matter from attacking individual book-sellers and those of similar social status. Another factor which greatly diminished its credibility was what the Malthusian gloatingly referred to as 'certain delinquencies committed by an official of the Society.' The treasurer of the society stole £2,300 from their funds and was sentenced to a long period of imprisonment.

### Medical Profession.

The official attitude of the doctors in the 1860's and 70's was totally opposed to control of births. For example in a lecture to the Liverpool Medical Institution Dr. Ewing Whittle read a paper on infanticide and abortion.<sup>67</sup> He referred to a statement of the London Dialectical Society suggesting to the medical profession that it should devise some scheme to limit the number of births. He argued that fathers of large families had ever been looked up to with respect, and quoted passages from Holy Writ, teaching that large families were a special blessing from heaven. He further suggested that the idea of making a legitimate practice of infanticide and artificial abortion excited a feeling of disgust and horror.

It was unanimously agreed that it was necessary for the profession to show their disapprobation of the subject.

This argument in favour of large families was one that was stressed many times in the next sixty or so years. In 1871, six years before the Bradlaugh/Besant trial, the Lancet extended the argument and said that all forms of prevention of births led to the debasement of morals:-

"Our object is rather to point out that the production of abortion is only one of the ways in which men and women seek to avoid the responsibilities of parentage, and that it is a resource which seems to suggest itself naturally after the failure of some of the others. What is called "preventive copulation" is a form of bestiality that has, we believe, secured to itself the favour of some eminent moralists, philosophers, and would-be social reformers; and it is quite manifest that any reasoning by which it can be justified will equally justify a recourse to the skill of the abortion-monger, if the measures of prevention should from any cause have failed of their expected effect." <sup>68</sup>

This is possibly the first time that the argument was used that as soon as women get used to extending their fertility control by one method they will want to broaden their rights in this matter. History has indeed shown that where a woman has used a contraceptive method which fails she is likely to regard abortion as an alternative to an unwanted child. It has, however, also shown that women have not shared the Lancet's horror of contraception.

After the Bradlaugh/Besant trial and the increase in birth control agitation there was increased opposition which came to the fore most strongly in 1887 with the publication of a book "Wife's Handbook".

This was written by Dr. H. A. Allbutt to make contraceptive knowledge available to the poorer groups.

He was selling the book at 8 pence and was attacked first by the Royal College of Physicians of Edinburgh, an attempt at suppression which

failed in the wake of public opinion. However, he was then called in front of the General Medical Council and they voted to remove his name from the medical register. The professional body found he was 'guilty of infamous conduct in a professional respect' for having publicly sold the Wife's Handbook at too low a price. Allbutt was furious beyond measure not only because he was disbarred but also for the reasoning behind the decision. He pulled no punches in his attack of the Council. He pointed out the book had never been attacked in any court of law and continued;

"I deny the right of thirty-two medical gentlemen to stigmatise the book as 'indecent', 'immoral', 'unprofessional', etc., simply because it is so low in price.

The truth is this - the heads of the medical profession in England are opposed to cheap medical knowledge for the people. They like to keep the poor hard-working man and woman in ignorance of certain important facts. They do not like a poor married woman to know the means by which she can keep from the workhouse by having only as many children as she can bring up in comfort. Knowledge may be all right for the rich lady who can afford to buy a guinea medical book and pay a big fee to a doctor, but it is an offence of an infamous character for a physician to write and sell a book at sixpence showing the poor how to better their hard lot." <sup>69</sup>

It may well be that the objection to Allbutt's work was not just the price but the fact he was distributing what doctors might have felt were medical secrets. Allbutt received a fair measure of support even in the regular press. The Pall Mall Gazette,<sup>70</sup> for example, called the decision "one of the most glaring illustrations of professional prejudice and human folly" and the pamphlet sold well and was still on sale in 1927 when Himes reported buying a copy of the 50th edition.



In the 1890's the opposition of the medical profession began to weaken somewhat. Their members began to use it in their private lives although as late as 1905 the Lancet quoted with approval the works of a Professor Simpson who had spoken against the decline of the birthrate and had praised the Jews for fulfilling the commandment 'Be fruitful, and multiply and replenish the earth'.<sup>72</sup>

Others were arguing a more liberal view. The subject of birth control and its relation to the Treatment and Prevention of abortion was discussed by Taussig in his book published in London in 1910. He noted:

"There is a natural reluctance on the part of physicians and text books to discuss this subject, since it is apt to lead to abuses in one form or another".<sup>73</sup> He advocated contraception at least when pregnancy is dangerous to the health of the mother and continued:

"The gratification of the sexual impulse is not a crime, and the mere fact that an effort is made to prevent the coitus from resulting in a pregnancy that may endanger the mother's life does not constitute an immoral act. There had been much prudery and prejudice in the views of Americans on this subject".<sup>74</sup>

In the same year the British Medical Journal attacked the view that there is some connection between mental disturbance and contraception stating if it is the case "The proof has yet to be furnished".<sup>75</sup>

This movement continued through the early part of the twentieth century so that by 1914 the Malthusian could claim that medical opposition to contraception had collapsed and that definite support had begun as evidenced by the growth in the number of medical vice Presidents.<sup>76</sup>

Doctors and Abortion.

The medical profession in the late nineteenth century was firm in its opposition to abortion especially when performed illegally. However, its general beliefs and system of ethics was such that it often took a more sympathetic view than might have been expected. Three examples will illustrate this view:

The first made by the Lancet in 1896 was that, while illegal abortion was wrong, it was unfair that women should have to shoulder the blame. "We believe we are right in saying that the procuring of abortion otherwise than for reasons which can be medically justified is banned by the civil and ecclesiastical law of every civilised country, and as constructive murder it is right it should be so. But the whole question teems with difficulty. It certainly appears unjust, and very possibly is actually so, that a woman who is driven and harassed by shame and fear resorts to the questionable remedy of abortion should be liable to severe punishment, while the man who is equally responsible for the child goes free. Of course he is not responsible for the criminal act of the woman; but he is morally responsible in so far as he shared in bringing about the condition which made her resort to crime, and morally he is guilty, although we fail to see how he can be made legally accountable."<sup>77</sup>

A point made by the B.M.J. was that abortion should be treated less harshly. In 1898 an editorial discussed the uncertainty of the law on criminal abortion.<sup>78</sup> It pointed out in one case a person was sentenced to death (commuted), in another there was a conviction for manslaughter and in a third, where the mother did not die, the sentence was just eight months. Later (December 3rd) a further editorial discussed whether abortion should be classed as murder. It concluded that

under the law as it stood this was correct but suggested a law to change the charge to manslaughter.

A third area where the medical men took a lenient view in the treatment of an aborted woman and the question of disclosure.

In 1896 Lord Brampton told a grand jury:

"I doubt very much whether a doctor called in to assist a woman, not in procuring an abortion, for that in itself is a crime, but for the purpose of attending her and given her medical advice, could be justified in reporting the facts to the Public Prosecutor. Such action would be a monstrous cruelty. ...There might be cases when it is the obvious duty of a medical man to speak out, and it would be a monstrous thing for a medical man to screen a person going to him with a wound which it might be supposed had been inflicted in the course of a deadly struggle."<sup>79</sup>

Lord Brampton's remarks were brought to the notice of the Royal College of Physicians of London which obtained the joint legal opinion of Sir Edward Clarke and Mr. Horace Avory. They advised that a medical practitioner was not liable merely because he does not give information in a case where he suspects that criminal abortion has been practised.

The issue was raised again in 1914 when Mr. Justice Avory had to deal with a situation where three successive doctors had attended a woman who had received an illegal operation but had not given information to the police.<sup>80</sup> There were, therefore, no grounds for conviction. He argued that the often quoted references of 1896 had been misunderstood and "It may be the moral duty of the medical man, even in cases where the patient is not dying, or not likely to recover, to communicate with the authorities when he sees good reason to believe that a criminal offence has been committed."<sup>81</sup>

These comments were drawn to the attention of the Council of the B.M.A. and a deputation sent to the Lord Chief Justice. Following this the Council of the B.M.A. passed a resolution:

"That the Council is of opinion that a medical practitioner should not under any circumstances disclose voluntarily, without the patient's consent, information which he has obtained from that patient in the exercise of his professional duties.

That the Council is advised that the State has no right to claim that an obligation rests upon a medical practitioner to disclose voluntarily information which he has obtained in the exercise of his professional duties." <sup>82</sup>

Just over a year after this the B M J summarised the position as follows:

- "1. Any one who, knowing of the commission of a criminal offence, attempts to conceal his knowledge from the authorities may himself be guilty of the offence of misprision of felony - an offence, however, which is practically obsolete.
2. An ordinary citizen, not being a barrister or solicitor, is under a moral duty to inform the authorities when he has knowledge of the commission of a criminal offence.
3. A medical man, however, is under no such moral duty where his knowledge is obtained in his professional capacity, so far, at any rate, as the offence of abortion is concerned." <sup>83</sup>

Thus, in these three ways the doctors took a view on abortion that was much less vindictive than might have been the case. In fact in some ways there seems to have been a degree of empathy with the woman who often found herself in difficult circumstances.

Religious opposition.

The Church of England was initially opposed to birth control but at first does not seem to have used its institutional power to oppose its development. Individual clergymen took up the debate with the Malthusians on certain occasions. John Rothwell was a neo-Malthusian who seemed to delight in baiting the opposition as the following report shows

"I need hardly say that the question of limiting the population is one upon which clergymen hold opposing views. A rector, for example, favored me with his opinion that it was the duty of a married couple to have children, even though they lived upon a small island which could only support two persons. My humble suggestion that, if they did so, either the parents must be starved outright or the whole family must be half starved, was met by the almost incredible rejoinder that, for aught I knew, they might discover how, out of the very stones of the island, to make bread." <sup>84</sup>

However he recorded that another vicar had written to him and stated that people should not have more children than was consistent with their circumstances and had requested birth control information.

Some institutional opposition to contraception came in 1888 when the Primate of all England made reference to the great evils of drunkenness and early marriage in Bethnal Green and stated "Self restraint was that which Christian men and women of Great Britain must bring to bear on their fellows." <sup>85</sup> The Malthusians had an alternative solution and invited various Bishops to their A.G.M. The Archbishop of Canterbury declined to attend as did the Bishop of Manchester with the comment:

"I fear I am not on all points in harmony with your society". <sup>86</sup>

However, by no means all clergymen were opposed. A youthful Rev. Dawson came out publicly in their favour and in response to his support and that

of certain others, the Malthusian announced a 'thaw' in Church opposition and that the younger churchmen were increasingly in favour of contraception. This optimism was, however, somewhat premature and in 1908 the Lambeth conference officially came out against birth control. Its resolution stated:-

"The Conference regards with alarm the growing practice of the artificial restriction of the family, and earnestly calls upon all Christian people to discountenance the use of all artificial means of restriction as demoralizing to character and hostile to national welfare.

The Conference affirms that deliberate tampering with nascent life is repugnant to Christian morality."

In later parts the resolution praised those medical men who had 'borne courageous testimony against the injurious practices spoken of'. This resolution coming from the bishops probably did not represent the views of the lower clergy who were younger and less inclined to restraint. But it seems that for the next six years or so the conservatives were in control and the document prepared for the Birth Rate Commission in January 1914 put forward a very restricted idea of sexuality within marriage.<sup>87</sup> It suggested that in all marriages the man should go for certain periods without sexual intercourse; that for some fertile people "a considerable proportion of married life may have to be lived in abstinence" and for others abstinence may even be permanent. 'Christian Chastity', the document continued, 'means the power to bear all this without injury to the wife or sinful indulgence with others' and it condemned those who 'allow indulgence without fear or restraint'.

Thus, in its evidence before the Commission the Church was putting forward a viewpoint very similar to the traditional Catholic position. However,

There was some fragmentation in the ranks. The Dean of St. Pauls emphasised the need for control of population, other ministers called for limitation of births amongst the poor and the Church newspapers began to take a more liberal line. 'The Guardian' which had stopped a correspondence on the subject in 1912 published a letter from a doctor pointing out that medical opinion on the subject had modified in the previous few years. In 1914 the Malthusian (again) saw in the changes signs that the Church was coming round to its point of view and argued 'its conversion will mark the final step in the acceptance of our doctrines'.<sup>88</sup> The enthusiasm was still a little premature but from this time onwards there were always a number of prominent clerics who were willing to take a liberal line on contraception. When the Birth Rate commission finally reported in 1916 it talked of the increasing number of high minded lay people in the Church who were justifying the use of contraceptives and the weakening of the opposition of the clergy. However, it was not until 1930 that the church officially moved to limited acceptance.

The Catholic church was also against contraception but politically its opposition was not very important because of small numbers and the fact that they were less powerful politically than their size may have warranted. A further factor which diminished the churches credibility was the fact that the Malthusian had discovered that it had soft peddled on contraception in France in the nineteenth century. The French consistently had a lower birthrate than Britain due to the fact that Frenchmen practiced coitus interruptus. The Cenomatic Bishop France wrote to the holy see and explained that the young married men did not want to have many children and yet could not 'morally restrain themselves from the sex union'.

He pointed out that if the men were questioned too closely about their practices 'they become dissatisfied with the father confessor, absent themselves from the Sacraments of the Mass' furthermore 'all effort is unavailing to convince anyone that he is to be considered in a conditions of mortal sin unless he either lives absolutely chaste in marriage, or runs the risk of having an unlimited family.' The Holy High Court of Doctrine ruled on 8th June 1842 that the Father Confessor need not investigate the matter, if the wife herself confesses 'he should deal with it in the most tender manner of which he is capable' but otherwise he should be silent. Those in favour of birth control brought this fact home at every available opportunity.<sup>89</sup>

The free churches took the most liberal line of the religious groupings. Thus as early as 1893 the Christian World, one of the influential voices of the Nonconformist Press, published a leading article which gave considerable support to family limitation:

"There was a time when any idea of voluntary limitation was regarded by pious people as interfering with Providence. We are beyond that now and have become capable of realising that Providence works through the common sense of individual brains".<sup>90</sup> This is the earliest known support of birth control from a respected conventional religious source and the free churches continued to take a liberal line. At the Birth Rate Commission W.F. Lofthouse distinguished the Wesleyan Methodist attitude from that of the Catholic Church and had an altercation with its representative Monsignor Brown.<sup>91</sup> He argued in his prepared evidence that the Catholic Churches official theology misunderstood the New Testament standpoint and showed mistaken asceticism. He stated he could see no grounds for condemning contraceptives as immoral and that they were only wrong if they were unsafe or dangerous. On these grounds he



approved of the condom but not of the pessary which he felt was likely to be harmful.

Thus, the evidence shows that in the early days the major religious opposition to birth control came from the Church of England but that even this was weakening somewhat by the First World War.

### Opposition from the Socialists.

The opposition of the socialists to the Malthusians was crucial in preventing the spread of contraception to the working classes.

The dispute dates right back to Malthus as has been shown and it seems to have continued undiminished. Thus, in a letter published in 1837

Place complained that 'some who really are ardent friends of the working people, occupy themselves in persuading people to disregard me'.<sup>92</sup>

It was also the radicals who opposed Robert Dale Owen's work in the United States. Skidmore wrote a pamphlet entitled "Moral Physiology

Exposed and Refuted".<sup>93</sup> In it he stressed the Iron Law of wages and

that reduction of the size of the family would lessen the subsistence necessary to maintain workers. It would cause wages not only to fall, but to fall more rapidly than the decrease in needs, so that after the reduction in the size of labourers families they would be less well off than before. Owen countered by arguing the reasoning was specious and could apply against any economy the workers could employ to eke out their wages.

This debate was quite acrimonious and Skidmore's pamphlet contained a great deal of personal abuse. Later conflicts were also often conducted with little charity and reflected a difference in policy proposals between two groups who in many respects could be regarded as having similar aims:

As shown both Malthusians and socialists were committed to women's equality, both rejected the victorian ideas of the family, both groups were alienated from the established religious groups and most important they both wanted radical changes in the society. However, they disagreed in their analysis of the causes of the problems and therefore in the kind of action necessary to rectify the situation.

As we have seen Malthus wrote his theories in order to attack the radical ideas of the socialists and Marx, felt Malthus had totally misunderstood the social situation.

In 1865 Marx called Malthus's work a 'libel on the human race' and in Capital argued Malthus said nothing new and called his work 'nothing but a schoolboyish, superficial, and parsonish pompous plagiarism'.<sup>94</sup>

However; Marx did soften his criticism somewhat by saying that at least Malthus remained celibate unlike other clergymen who 'contribute everywhere to an increase of population to a really indecent degree, while at the same time they preach to the workers the "principle of population"'.<sup>95</sup> In general socialist's felt that the first priority was to create a revolution, to nationalise land and thus to be able to have a much more equitable distribution of resources. This redistribution would lead to the product being transferred from unnecessary and wasteful goods

towards fulfilling real needs. They pointed out that the worker only received a small part of the wealth he created and that the rest went to the owners of the means of production, most of whom had inherited their wealth. In the face of these necessary changes they believed the Malthusians by stressing contraception for the poor were diverting attention

from the real issues. That they were seeking to blame the poor for having too many children when it was necessary to have a redistribution of the nation's wealth so that their children could be fed.

The Malthusians, however, opposed the idea that a revolution was necessary. They felt that contraception should first of all be taught to the middle classes who would restrict the size of their family and then teach the techniques to the working classes.

The issue came to the fore with the publication of George Sims Pamphlet 'The Bitter Cry of Outcast London' in October 1883. This has been alluded to earlier in the chapter and it raised a great deal of interest in the condition of the working classes. In its December issue the Malthusian published the main details of the report and included a letter Sims had written in the Daily News. He said the terrible condition was due to low wages and over-population and stated that those who allege drink is the cause of poverty are making a mistake. For, though it is a curse, it is also true to say that poverty is the cause of drink. He also argued it was poverty which forced young girls, often as young as eleven or twelve years old into prostitution and which made young boys into thieves. He then set out to give his solution:

"If we are challenged to find a remedy, we have to go into a question which thousands of excellent people refuse altogether to discuss. The deserving poor could all be better housed now without a single brick being laid or a single Act of Parliament passed if they had fewer children."

He continued to suggest a gradualist approach and proposed the slums should be weeded out by degrees. At first the most decent among the workers should be encouraged and then reformers should 'get down the lower

strata step by step. Leave the poor wretches who are impossible in any but rookeries a rookery or two to finish their careers in. Encourage everything that will keep their rents down, and encourage everything that will give labour a better return. If the process of elimination is gradual, we shall in time improve the condition of all who are not beyond help. As for the rest, they will solve the riddle in time for themselves by dying off, and leaving the ground free for the well paid, well educated, healthy labourer, with two little children and a contented mind, who is the dream of the modern social reformer."

This solution was mainly Malthusian in its approach. But Sims clearly did not ignore the role of poor wages and high rents which kept the workers in poverty. So there was no necessary conflict between the Malthusian techniques and socialistic policies, in fact in the editorial comment on Sims work the Malthusians stated that land reform and socialism were good in their way. Two differences were the question of emphasis on population and the fact that the Malthusians were stressing gradual changes instead of a large scale revolution.

A third difference leading to socialist opposition was their belief in the iron law of wages that workmen would only be paid enough to keep them fit physically. If this were the case then restriction of family size would not lead to a relief of poverty. A socialist sympathetic to contraception set out this argument as follows:

"Now suppose the Malthusian League are able, as I hope they will be, to persuade the working classes to have smaller families, the labourer then will be in a position to live on less if compelled to do so. Let us now recall the condition that governs the labourer's income. It is that he is only paid an amount sufficient to keep him up and doing, and it follows that if he becomes able to live on less by reducing his family,

the present system will see that he does live on less by paying him a smaller wage. No; I fail to see how limitation of families will abolish poverty." <sup>97</sup>

There was a further variant of this argument which was that if the workers had few children and the conditions temporarily improved it would make them less inclined to be revolutionary. So for these reasons the groups were in opposition although there was a strong realisation that they had much in common. As early as 1880 a letter had appeared in the Malthusian suggesting that there should be ties between the groups.<sup>98</sup> This did not, however, prove possible and in the early days it seems it was the socialists who were the most aggressively opposed to links.

John Rothwell in 1884 regretted that socialists: "Do not endeavour to diminish the stain of rudeness and misrepresentation which is at present associated with their character in dealing with opponents".<sup>99</sup>

A couple of years later he modified his views somewhat and commented with some surprise:

"The other day I had the unusual pleasure of hearing a lecture by a civilly-spoken Socialist; one who has the wisdom not to imitate that intolerant table-banging style by which violent leaders disgust all who are not violent like themselves." <sup>100</sup>

In the following year the Malthusian commented in a similar vein:

"Fortunately for the reputation of Socialists as reasonable human beings, there are some exceptions to the almost universal rule that they are, ex officio, determined opponents of Malthusian theory of population, and consequently liable to be classed amongst the optimistic utopians who are not only dreamers themselves, but the cause of dreaminess amongst their fellow men."<sup>101</sup> The piece went on to quote an article in the socialist journal "Today" which had discussed the relationship between

Malthusianism and Socialism and their inter-relationship was a continuous topic in their respective papers. The Malthusian on at least two occasions in the 1880's even published poems setting out their differences.

One stated:

"We neither oppose those who aim for the land  
Nor, when commonly civil the socialist band  
Their plans may be better than our plans indeed  
But ours is essential until they succeed." 102

The gradualist argument advanced in the poem was made more forcibly by Alice Vickery at the Malthusian Annual Meeting a few months later:

"Some may tell us that every couple could afford to have a dozen children if we have socialism, or six at least if we had nationalisation of the land; but, however this may be, we have not yet got either of them, nor does it seem likely that we shall get either of them for years to come".

This antipathy between the socialist and the Malthusians continued over the years but one key factor leading to its diminished importance was the development of Fabian Socialism with its emphasis on gradual change. This is clear from the attempts to teach birth control in W.C. areas.

In the early days the Malthusians had hoped that the educated groups would begin to teach birth control techniques to 'their poor and unfortunate neighbours'.<sup>103</sup> Thus in 1879 G. A. Gaskell wrote:

"Mr. Kittle and myself have set ourselves the task of distributing Malthusian tracts and leaflets through the poorer parts of Bradford. We are doing it systematically, street by street, and giving advice as we go. I may say we have been very well received, and the poor mothers have so practically felt the evils of large families that they listen eagerly to what we have to say. Sometimes we find the knowledge has gone before us".<sup>104</sup>

This kind of foray was, however, opposed by the socialists and the pressure from them against Malthusians was a key factor in preventing their activities in the working class areas for a long period of time. However, in 1913 the Malthusians renewed their drive to give information in the working class districts. In January of that year they began sending a van with rose colour flags and lanterns into the East End of London and in September they produced a leaflet describing the simplest methods of birth control.<sup>105</sup> C.V. Drysdale in describing the work pointed out they faced some heckling and that sometimes the socialist's spoke out against them. However, he commented that the opposition from the socialists was much less than it was in the early days of the campaign, although at this stage, apart from the Fabians, most socialist leaders were still opposed to birth control.<sup>106</sup>

There were other signs that by 1914 public opinion was increasingly accepting the idea of contraception. Hence, in an editorial published on June 29th the mass newspaper the Daily Mirror came out in favour of the restrictions of family size. From the socialists too opposition continued to diminish. In 1915 Stella Browne argued that there were strong possibilities of combining birth control and social reform.<sup>107</sup> However, things were brought to a head when in 1917 the Malthusian published a moderately worded defence of socialism by F. A. Wilmer in which he suggested that Socialism and Malthusianism were mutually complementary and the numbers of socialists involved with the organisation were increasing.<sup>108</sup> Despite the general trend and seemingly for no particular reason Drysdale set out a detailed attack on Wilmer's article in particular and socialism in general. He tabulated the differences between the philosophies in two columns and this article was something of a watershed. In the face of the changed climate of opinion

it seemed singularly inappropriate and aroused a great deal of opposition. H.G. Wells, possibly the Malthusians most eminent supporter, was absolutely furious. He said he did not want to resign from the organisation because people would say we had been converted away from neo-Malthusianism, however: "On the other hand, I cannot lend my name to back preposterous attacks on socialism. If I am not to withdraw immediately from association with the Malthusian Society. Then you must permit me to say, without any ambiguous civility, not merely that I disagree with the opinion of Doctor Drysdale or anything mild of that sort, but that I think the article in your issue of May 15th utterly silly."<sup>109</sup>

Stella Browne defended Drysdale from this attack but from this letter and other opinions that were being formed it became clear that another organisation was needed to promote the birth control campaign.<sup>110</sup> In 1916 the Malthusians announced it had received many letters suggesting it should give up its economic doctrine and proposed that perhaps the time was ripe for an organisation to promote contraceptives simply on humanitarian grounds.<sup>111</sup> Two years later Clifford Chance suggested that those who differed from Malthusian principles should:

"so soon as the war is over definitely embark on the formation of a Birth Control League, whose chief function shall be the spread of the knowledge of the present methods of birth control".

Chance already knew that Drysdale welcomed this suggestion and the Malthusian commented:

"not a single member of our League will be other than a cordial well-wisher for the success of any society that may be formed."<sup>112</sup>

So in post war years the way was open for a new approach to the spreading of knowledge in Britain.

As far as socialists were concerned the ideological solution was that combination proposed by Place nearly a hundred years previously.



### United States Experience

In the period up to the first world war there were a number of important differences in the debate in the United States. First of all in Britain there was no campaign to make abortion illegal while in the United States the abortion laws were introduced in response to well organised campaigns largely dominated by the medical profession. Secondly, there was no effective campaign for the legalisation of birth control in the nineteenth century and this only began to have any success in the period after 1912. Thirdly, as briefly mentioned, the social pressure for legalising birth control had a different social origin from the source of the change in Britain due to the fact that in the United States the socialists were much more involved especially in the early stages. These differences will now be considered in more detail.

### The campaigns on abortion

It is not necessary for us to document here the process by which abortion was made illegal in the United States. This has been discussed at length elsewhere and so it is only necessary to make a few comments on the differing interpretations.<sup>113</sup> In the academic literature there have been two rival explanations. The first is that put forward by Cyril Means in two articles which were to have a great deal of influence on the United States Supreme court in 1973. Means explanation was in terms of maternal health and he argued that in the early part of the nineteenth century abortion was a dangerous operation. He gave figures to suggest that the death-rate from sepsis from abortifacient surgery, even when performed in hospital was over 30% in 1828 when New Yorks first abortion law was passed.<sup>114</sup>

Further, he argued, this was much higher than the maternal mortality rate of below three per cent and this danger of the operation was the key factor behind legal restrictions. He also pointed out in support that at the time the New York legislature passed the 1828 Act they proposed to restrict

any surgical procedure which might endanger life such as amputation of a limb "unless it appears that the same was necessary for the preservation of life."<sup>115</sup> Although this section was not passed Means stated it showed the concern at the time with the dangerous nature of all operations. There had been those who proposed the laws were passed to discourage promiscuity but Means argued this view was mistaken for if it were the case, they would have excluded rape victims and married women from their provisions.

This explanation by Means seems eminently plausible but it has been challenged by Mohr who pointed out that Means was openly politicising for a repeal of the abortion laws at the time he wrote his articles.<sup>116</sup> Mohr argued it is very unlikely that the death rate from abortion was above that of childbirth and in fact that many of the contemporary observers were likely:

"To bemoan the ease and impunity with which irregular practitioners, greedy physicians, and folk women themselves were able to induce abortion." Mohr continued to document the campaign of physicians to make abortions illegal and alleged that the main propelling force behind their political pressure was a desire to professionalise medicine. He argued that many of those working as physicians were not graduates of medical schools and that between 1820-1850 unrestricted entry of the unqualified into the medical field harmed the income of the regular doctors.<sup>117</sup> He also said many patients were opposed to the rigid regulation of medicine, and that on the grounds of equality in general the medical profession had fallen into disrepute. Mohr suggested that the 'anti abortion crusade was nearly perfect' as a method of establishing the position of the regulars.<sup>118</sup> By raising its dangers and abuses the regular doctors could encourage the state to employ sanctions against their competitors.<sup>119</sup>

Mohr and his associates have unearthed a large amount of data to support the thesis and there is obviously some truth in his analysis. However, he is at his weakest when trying to devalue Means' explanation about the concern with the danger of the operation. For even if abortion was not dangerous it was certainly believed to be so. The major advocate of tighter abortion laws was Horatio Storer and he certainly used the argument about safety. In fact Means quotes him as follows:

"A larger proportion of women die during or in consequence of an abortion, than during or in consequence of childbed at the full term of pregnancy."<sup>120</sup>

Although Mohr does not give this quotation, at times he seems to recognise the danger of abortion for in another part of the book he points out<sup>121</sup> that the Ohio state medical society gave the opinion that it was an extremely dangerous operation.<sup>122</sup> So Means was at least partly right, and Mohr overzealous in his criticism. In fact it can be seen that the two explanations are complementary rather than competitive and both factors could well be of importance. Furthermore, it is likely that, even if abortion were not considered a dangerous operation or if the issue of professionalisation had not been important anti abortion laws would still have been introduced. For we shall now see that in the 1870's even contraceptive information was proscribed.

The Campaign Against Birth Control.

While the thrust of the British change in the period 1870-1910 was towards greater liberalisation in terms of contraceptive use, in the United States there was a popular movement against sexuality led by Anthony Comstock. Although Britain too had the staunch supporters of the vice society, there was various differences in the social conditions between the two countries that were relevant to the changes.

The fact that the puritanism was less solidly based in Britain has already been discussed. Also important is the lack of a neo Malthusian movement. The United States did not form the kind of social movement that had such a powerful influence in Britain and Holland. It has already been shown that the earliest pressure for contraception originated from the debate on Malthusian ideas. But in the United States with such a low population density, fears about overpopulation were less pressing. Robert Dale Owen, for example, believed that a population problem did not exist in any country of Europe and he also stressed the possibilities of much greater increases in production with the new technology.<sup>123</sup>

Later commentators also felt the lack of appeal of arguments relating contraception to overpopulation in a country which was relatively sparsely populated. There was some practice of contraception amongst the middle classes. But still it was not advocated on Malthusian grounds and when discussing this fact in a generally approving way in 1888 Thomas Pope commented:

"Malthus, perhaps forgot when he wrote that almost one half of the world was unpopulated".<sup>124</sup>

This argument would be supported by others. Pomeroy attacked Malthus because in practice it was the most intelligent who did not have children and so the acceptance of his views would lead to a lowering of the

125

quality of the race. This argument was also used in Britain, of course, but it had particular force in the United States because the high rates of immigration roused fears that the newcomers would become a disproportionately large part of the society.

So there was no neo Malthusian movement and this affected not only the birth control movement at the time but also the abortion debate in the twenties and thirties.

A third reason was the increasing urbanisation in the United States.

Those living in the cities noted the presence of a very high number of young people who had moved into their areas. This was a factor that Comstock felt to be important when he started operating and throughout the rest of his life the process continued. Thus, between 1880-1920 the percentage of people in the United States living outside the rural areas rose from 28% to 52%. This, together with general population increase, meant a much greater number of people living in places where they were relatively free of community norms and so able to choose their own patterns of behaviour. Those concerned for sexual morals worried in case they should not follow the traditional norms.

The process of urbanisation also occurred in Britain but largely during an earlier period and by the latter part of the nineteenth century some of the worst aspects in respect of young people had been ameliorated. For example in young people were given an extra half day off work on Saturday and furthermore in some of the traditional holidays which had been opposed by the capitalists were restored to the people.

126

However, a crucial factor during the period was the relative strength of the purity campaigners in the United States and the fact that they had no

effective opposition. In Britain the upper classes were willing to oppose the worst excesses of the moral entrepreneurs and the press was also willing to attack some of the overt manifestations of prudery.<sup>127</sup> In contrast the United States campaigners were in status terms from the highest reaches of their society and they had strong support from the press. The leading campaigner in the United States was Anthony Comstock and his personality dominated the debate from the 1870's to 1915. When he began to be active, the social conditions were ripe for the kind of purity campaign he was to embark upon. The growth in number of abortions led to a great deal of concern in the New York Times. Furthermore the growth in pornography during the late sixties and early seventies led to the possibility of repression. The YMCA drew attention to the traffic in 'bad books' and called for action. Comstock was more than willing to provide it. In 1872 with financial help from YMCA members he began to attack virtually all aspects of sexuality. He lumped together pornography, abortion and birth control using a variety of tactics.

One tactic he used was copied from New York Times reporters and their method of gaining information about abortion by pretending to seek one for a friend.<sup>128</sup> Thus in 1872 in an important case he arranged for a police captain to knock on the door of an abortionist and to say that a previous patient was dangerously ill. They then raided the premises to find 'a young girl in a semi nude condition lying on a sofa'. She told the police she was six weeks pregnant and had gone there for an abortion and Comstock prosecuted the doctor involved.<sup>129</sup>

Comstock's attack on such abortionists was just part of his whole attack on any sexually related activity. He was, however, concerned that the law was not strong enough and he agitated for a Federal statute. This was introduced in Congress by C. L. Merriam on March 1st 1873 in a speech which

praised Comstock . He told of the fact that in a relatively short time Comstock had seized and destroyed 182,000 obscene pictures, more than 5 tons of obscene books, and over 30,000 obscene rubber articles (condoms). He also announced he had arrested over 50 dealers and 6 more were dead all "with the exception of about three arrests ... accomplished by myself, or under my supervision".

Comstock, flush from these successes became America's primary moral entrepreneur and a law was passed making the spread of birth control and abortion knowledge through the post illegal. This was a Federal statute and so applied in all the States. It gave Comstock the legal backing he needed to suppress literature and to prevent advertisements for contraceptive appliances. He therefore set about preparing the Society for the Suppression of Vice for a great campaign. At its first Annual Meeting in 1874 Comstock wrote "The Society which has for some months past been in contemplation, is now organised and ready for aggressive action". It had the backing of many businessmen and Comstock was the major driving force right up to his death forty years later.

There were a number of factors which led to zeal with which he and his supporters fought for their cause. One fact is the myth about sex and their view of its potential danger. They had an inordinate belief in its power which came from the prevalent view that it was an animal feeling which lay just below the surface and needed to be kept in strict control. Comstock told the Annual meeting 'I have heard gray haired men say "I have never had to pray for anything so much as to be rid of the visions of an obscene book which I saw when a boy at school".' They also believed that sexuality could lead to serious illness and in 1881 the society reported that a young girl had been given pornography with the result that 'this child has been brought near death's door from

the direct results of this curse upon her mind'.<sup>131</sup> Pornography was alleged to have a direct link to crime. In 1873 the Prison Association of New York claimed that nearly all criminals had possession of works of pornography and the Vice Society kept a scrap book of the arrests of young people which it said showed that the vast majority of crime was due to evil reading.<sup>132</sup>

They believed so strongly in the truth of their cause and the evil of the opposition that they showed no charity to their opponents. In 1873 Comstock reported that a number of relatives stated that he had worried certain people to death.<sup>133</sup> He commented 'Be that as it may I am sure the world is a better place without them'. Similarly, after the suicide of Madam Restelle a well known abortionist he commented 'it is a cause of profound thanksgiving that this city is rid of the disgrace of this woman.'<sup>134</sup>

There was a little opposition to Comstock from the National Liberal League, an organisation of non Christians, which was formed in 1876. This passed a resolution attacking the Comstock law but the league was never very strong and in the early days it seems the major effective opposition was from the artists.

Comstock and the purity campaigners believed that there was something almost magical about the naked body and that its exposure to the general population would 'deprave' people.<sup>135</sup> This meant that there were great problems involved in accepting the work of artists and, although the Society claimed at its annual meeting of 1879 that it had never interfered with any work of art or medical work except to keep them in their own special sphere, its view of the restrictions that should be imposed on exhibition differed from that of the artists themselves. At the annual meeting of 1882 the society argued that the plea for the public exhibition of nude men and women because it was 'high art' was not defensible and



further commented "The silly cant of modern apostles of 'high art' and aestheticism deserves, as we are glad to see it is receiving, the contempt of the intelligent public".

That Comstock could make such comments with impunity shows the difference the lack of any strong opposition made. In Britain there would have been a number of people to publicly resist such proposed restrictions.

Thus, the whole tone of the debate in the United States was different from Britain.

It was not until Comstock changed the focus of his attack from pornography to birth control that he met any real opposition. He had all along opposed contraceptive use but once the presence of pornography had become less visible he altered his attack and this was of necessity going to lead him into more trouble.<sup>136</sup>

There had been birth control usage amongst the middle classes for a number of years and, although there was open discussion, Comstock at first did not concern himself with it. For example the Medical and Surgical Reporter in 1888 carried a whole series of articles and in one of them D. E. Matteson described four procedures - the syringe with astringent, withdrawal, condoms and finally recommended a silk sponge 1½" in diameter with a thread attached.<sup>137</sup> Comstock did not take any action, despite the fact this discussion was illegal. However, as the amount of overt pornography declined, he began to take a much greater interest in the activities of the birth controllers. This, however, brought him into conflict with totally different groups than he had been fighting over pornography.

He was effectively attacking a segment of the middle class and they were more willing to fight back.

The major early pioneer for birth control in the United States was William Robinson. He began his Campaign in 1903 and in 1907 made his opposition to Comstock's activities quite clear in an article in the journal (Critic and Guide) he edited.<sup>138</sup> He said he was not opposed to laws against obscene literature and in fact felt they were necessary: "But unfortunately the man who is at the head of the vice crusaders is a stupid ignoramous utterly devoid of sense and judgement". He continued to state that if Comstock had just attacked obscene pictures there would be no reason for opposition but "He has started to prosecute retail druggists and supply houses who sell, and manufacturers who produce a certain kind of rubber or fishskin article".

This comment could have warned Comstock of the problems he would meet. He was facing a new opposition. Naturally he did not like the Critic and Guide but he could do nothing about it especially as Robinson was careful not to print information about contraceptive methods.<sup>139</sup>

Comstock might have steered away from the birth control issue somewhat in order to concentrate on less controversial subjects but it was not his personality to back away from difficulties. So when Margaret Sanger decided to challenge the birth control laws by publishing information Comstock set out to prevent her.

She was out of the country in December 1914 and so Comstock sent one of his agents to try and buy a copy of her pamphlet "Family Limitation" from her husband. The agent said his name was Mr Heller and Sanger, thinking he was a fellow socialist, gave him a copy. On January 19th Comstock appeared and arrested him. The case did not, however, come to trial until September and by the end of 1915 the question of birth control had been brought very much to the forefront of debate.<sup>140</sup> Although in sending

his agent Comstock was simply following the practice he had developed over the years, times were now different and the issue had changed. This time there was a great deal of opposition to his action and the media used the surrounding publicity to carry articles on the subject.

Pressure on Comstock to retire began to build although the New York Times stepped to his defence and said his 'retirement would be something of a public calamity, not a cause for exultation'.<sup>141</sup> He managed to keep his job but when he finally brought Sanger to court in September he faced an unrepentant adversary who was strengthened by having the court filled with his socialist and anarchist supporters.<sup>142</sup> Sanger, who accused Comstock of offering him a suspended sentence if he pleaded guilty, launched into a prepared attack and claimed that it was not he who was on trial but the law. On being found guilty the magistrates<sup>143</sup> decided they did not want to send him to prison but offered him a fine or thirty day in gaol. Sanger refused the fine and the court erupted with the cheers, & handclapping of his supporters who stood on the benches in the court.

The strain of the trial seems to have taken its toll on Comstock. The next day he was taken ill with pneumonia and died ten days later. So in 1915 the United States opponents of birth control lost their best known figure and from that time the tone of the debate altered.

### Origins of the birth control movement

As has been shown the medical profession had been giving birth control information to some patients for a number of years but William Robinson was the first member to organise a regular campaign on the issue. He differed greatly from the Malthusians in his general views and argued that birth control and social reform should be developed together.

He also disagreed with competition and stressed that the rich usually did not become so by hard work but rather by inheritance or by unsavoury means. Thus he was more radical than Malthusians in some ways. However, on other issues he was rather reactionary. For example he did not have the Malthusians belief in female equality and would often make comments detrimental to women.

He was also inclined to stand on his medical qualifications and treat those of inferior social status with some disdain. For this reason he at first would have nothing to do with Margaret Sanger who after all was 'only a nurse'. He also accepted some of the common prejudices against excessive masturbation which led him to perform some gruesome forms of treatment.<sup>144</sup>

Despite his foibles Robinson was an important activist for over thirty years until his death in 1936. One of his most notable successes was to convince L. Jacobi of the need for birth control. Jacobi was arguing in favour of it at least as early as 1906 and, when in 1912, he was made president of the AMA he supported contraception in his inaugural address, stressing that it was unjust to prohibit its usage amongst the poor while the better off groups already had access.

On the question of abortion Robinson took a pragmatic approach. In a

paper he read before the Eastern Medical Society in 1911 he said that it was much better to teach contraception but that as long as illegitimacy was viewed as being such a matter for shame there would be a great demand for abortion.<sup>145</sup> Furthermore, he stated that if the operation were not performed by a professional it would be carried out by non medical people and so in certain circumstances it was justifiable. Although he took this view, he publicly claimed he had never carried out an abortion and he did not regard it as the pressing issue. One of his major criticisms was that the law treated abortion and contraception as if they were the same thing. In 1916 he called for birth control to be separated from both abortion and pornography in the statute (he felt it was not politically possible to legalise it) and in his writings he continually attacked those who treated the different issues together.<sup>146</sup>

So, Robinson was the founder of one of the major strands of the birth control movement. However, there was an alternative source of pressure which, in contrast to Britain, came from the socialist movement and rooted in the subculture largely located around Greenwich Village. It was the socialists and anarchists who questioned the traditional attitudes. Emma Goldman was one of the most prominent members and she had been introduced to birth control ideas when she was taken to a meeting of the French Malthusians in 1900.<sup>147</sup> She became one of the major early proponents and was also in contact with Margaret Sanger who she influenced a great amount. There were various other birth control advocates but for various reasons it was Margaret Sanger who became the largest single influence in the United States. She was initially a socialist and in the early years of her marriage she and her husband spent a great deal of their time in Greenwich Village listening to ideas of revolution, feminism and sexual radicalism.

She eventually moved away from the socialistic approach towards the idea of direct action put forward by the anarchists.

Her story of her beginnings in the campaign told of a poor woman who was very ill from an illegal abortion. She finally recovered and then asked the doctor the secret of preventing conception. He told her "You want to have your cake and eat it too do you? Well, it can't be done."

The doctor then advised the woman to tell her husband to sleep on the roof. This singularly useless advice resulted in the woman becoming pregnant again and this time she died from her attempt at a self abortion.

Margaret Sanger said that this was the incident that triggered off her immense concern for contraception. In her autobiography she says that

she found it impossible to find out about contraceptive methods and,

therefore, had to go to the continent to find out about them. <sup>148</sup> Margaret

Sanger sailed from France for New York in December 1913 and in 1914 began

publishing a magazine "Woman Rebel" which said that it would stimulate working women and encourage them to break the bonds imposed by machines,

bourgeois morality and wage slavery. It also announced that it would

advocate the prevention of contraception and would give the knowledge

in the columns of the paper.<sup>149</sup> The Woman Rebel was a wildly radical

magazine but did not carry much information about contraception.

Margaret Sanger had decided that she would give out this information in a

small pamphlet called 'Family Limitation' of which she had 100,000 copies

printed. With this she intended to challenge the Comstock law.

However, a complication arose when she was charged by Comstock for the

publication of Woman Rebel. She was indicted on nine counts but the

major objection was to an article entitled 'A defense of assassination', a

title which itself shows the diverse message of the magazine. As Kennedy

ably showed this indictment confused the situation for she was charged

with the wrong offense from her point of view and it would be difficult

for her to maintain her credibility in challenging the birth control law if she were already in prison on a different charge.<sup>150</sup> She therefore decided to leave the country.

She travelled up to Canada and from there to England. On landing in Liverpool she went to London where she met the major English proponents of birth control. Her visit to England was an important part of her intellectual and political development. In her autobiography she describes how she was welcomed by the Drysdales, Binnie Dunlop and Stella Browne and she contrasted the situation with that in the United States. 'I was immediately certain I had come to the right place. In the United States I had been alone, pulling against all whose broad, general principles were the same as mine but who disapproved of my actions. But these new friends saw eye to eye with me. Instead of heaping criticism and fears upon me, they offered all the force of an international organisation as well as their encyclopedic minds to back me up'.<sup>151</sup> Later the Malthusians arranged for her to meet Havelock Ellis and he directed her reading at the British museum. However, although the English birth controllers gave her emotional support and helped her educationally, it seems that the most important function they performed was to make her change political direction. In her previous activities she had attacked on a wide number of fronts but Ellis and the Drysdales persuaded her to concentrate on just one issue and to leave the denunciations of capitalism, marriage and the churches to others.<sup>152</sup> Ellis told her to guard against being 'too reckless and smashing your head against a blank wall, for not one rebel, or even many rebels, can crush law by force'. Bessie Drysdale gave her advice on clothes and suggested that the more radical a person's ideas the more conservatively she must dress. She accepted this argument. Arrangements were also made for her to visit the state assisted birth control clinic in Holland.<sup>153</sup> So by 1915 when her husbands

trial took her back to the United States she had a much clearer idea of what she was going to attempt to do. She accepted many arguments of the English Malthusians but an important difference was their emphasis on economic factors. She thought that this approach on the subject was too narrow and she simply wanted people to have greater freedom to decide the number of children they wanted.<sup>154</sup> This decision prevented any conflict with the socialists and it was the radical groups who distributed 'Family Limitation' and furthermore who provided a network through which other information could be distributed.

So the United States birth control movement was closely linked to the socialists in the early days and this contrasts with British situation.<sup>155</sup> However, by the end of the war the United States was similar to Britain in having a birth control movement not tied to other general ideologies which might restrict the flow of information.



Chapter 3

Debate Between the Wars

The struggle for control of fertility in the two countries differed markedly after the first world war. In the previous chapter it was shown that the changes within the pressure groups were such as to facilitate widespread acceptance of birth control. But in the United States the legal restrictions were an important factor inhibiting the flow of information. Furthermore, the fact that the radicals were far from winning this battle meant that those concerned to spread birth control information did not diversify into recommending legalisation of abortion in the way that happened in Britain.

This chapter will, therefore, examine the major changes in the post war sexual climate, the reasons for the spread of birth control information in Britain and the relationship between the birth control movement and abortion movement. It will show that in the United States there were calls for legalised abortion in the 1920's but that this movement declined in importance. It will also discuss the social forces opposed to liberalisation and will outline some of the major arguments they used.

## The New Morality

In the 1920's commentators on both sides of the Atlantic became increasingly concerned with the change in sexual morality.

Some United States observers date an increased freedom of sexual behaviour even to before the war.<sup>1</sup> However, it was during the twenties that the new attitudes became widely discussed on both sides of the Atlantic.

One focal point was the behaviour of young people with the growth of youth culture and a distinctive style of dress. In the United States the young girls became flappers, a term coined in England, and used to describe those who were assertive, independent, who had casual courtships and possibly granted 'permissive favours' to young men.<sup>2</sup> There was even talk of a youth revolt. Calverton and Schmalhausen, set out the position as follows:-<sup>3</sup>

"The younger generation is behaving like a crazy man who for one lucid moment has suddenly realised that the physicians in charge are all demented, too. The elders who have for so long been the sacred guardians of civilisation have bungled their task so abominably as to have lost irrevocably their influence for sobriety and sanity with the youth of the world."

In the twenties one of the strongest defenders of youth was Judge Lindsey.<sup>4</sup> Based on his experience with young people in general and delinquents in particular, he came to the conclusion that it was important to bring sex out into the open for it was impossible to restrain adolescent sexuality. He said furthermore that the social conditions had changed. He maintained that there had always been a revolt of youth "But now the gun is loaded. These boys and girls can do what boys and girls never were able to do in the past".

In Britain too there was a good deal of discussion about the new freedom of the young. Bertrand Russell predictably welcomed it as did other radicals.<sup>5</sup> In an attempt to keep up with the times the Malthusian changed its name in 1922 to "The New Generation" and in the twenties it found itself increasingly in the mainstream of thought on the matter of birth control. However, the best discussion on the changes of morals was that contained in a series of articles in the "New Leader" the organ of the Independent Labour Party. The author, a social scientist, wrote under the pseudonym of '27', presumably his age<sup>6</sup>. He argued there had been a great change in sexual behaviour and that those under the age of thirty differed in their attitude from those above that age. He stated "there are today really two kinds of people - divided roughly according to age - living together in the same country, in the same town". He continued, "youth has burst its bonds - and now it is trying to find out what to do with the freedom it has won".<sup>7</sup> Under an article entitled "Is the Revolt of Youth a Myth" he quoted a doctor as follows<sup>8</sup> "On the whole the fundamental change is, I consider, the passing of the sense of sin in connection with sexual life. In my experience, almost universally up to the time of the war, sexual gratification was considered in some measure sinful. Any form of sexual experience including very often sexual experience within the marriage bond, was felt to be a descent from some abstract standard of purity....now purity no longer means sexual abstinence - purity means rather kindness, understanding, and skill in mutual adaption over the whole field of human relationships." This view he suggested was not outmoded and he described the basic change in attitude of the new generation which must be grasped.<sup>9</sup> "What then is this change? Let us put it in one bold sentence. Many people under 35 no longer regard the act of sexual intercourse as in itself sinful .... (but) to refuse to regard the sexual act as sin is not a new or original piece of

wickedness suddenly evolved in the present generation. In almost all times and in almost all parts of the world humanity has regarded sexual experience, simply and naturally, as one of the most desirable things in life. Actually, it is only in the Britain and America of the last 100 years (and perhaps to a lesser extent on the continent of Europe) that sex has been thought of as a sin. So we must conceive of the present tendency, not as a strange aberration but as a return to the normal". This statement was an accurate assessment of the situation and shows that '27' had a clear view of the historical changes.

The socialists were more radical than the average population on sex and there were a number of letters of support. One of the arguments used was that the new sexual freedom of young people was not necessarily a deterioration from the past but that in some ways was an improvement because young men were resorting to prostitutes to a lesser degree.<sup>10</sup> Although, it is not clear what percentage of the population had adopted this position the fact that at least a section of the middle class had rejected the ideal of chastity was a significant development.

In the United States the extent to which the liberalisation occurred is a matter of some controversy. After examining the data Linda Gordon suggested those women reaching their teens after 1910 had twice the amount of premarital sex as those reaching puberty in the years immediately preceding.<sup>11</sup> This suggests a liberalisation may have occurred earlier in the United States and without the effect of the war. Another piece of evidence that supports this suggestion is the decline of chaperonage. In the 19th century it was common, thus Ms. J. Borden Harriman<sup>12</sup> told of her visit to her first ball in 1888 and commented "No girls ever went anywhere except with a chaperone or maid". It seems to have declined with the rise in economic wealth and Scott Fitzgerald commented in the twenties "As far back as 1915 the unchaperoned

young people of the smaller cities had discovered the mobile privacy of the automobile at 16 to make himself reliant".<sup>14</sup> However, in contrast it does not seem that chaperonage ended in England until the wartime conditions made it difficult to enforce. Thus in her autobiography The Testament of Youth Vera Brittain told of the way she was closely observed at first during the war but that 'the free-and-easy movements of girl war workers had begun to modify convention' so she was able to go and meet her boyfriend on her own.<sup>15</sup> After the war there was no attempt to reintroduce the same restrictions and she observed "How different was the peaceful independence of a post war courtship from the struggle against intrusive observation which had harassed Roland and myself in 1914".<sup>16</sup>

This decline in chaperonage led to much greater freedom.<sup>17</sup> Thus an observer in 1923 noted that as a result "Boys and girls between the ages of 17 - 25 come home together from a dance at any hour of night or early morning" and that intercourse must have occurred in a percentage of cases.<sup>18</sup>

Thus far, the discussion has been concerned with changes in young people's morals and this was certainly the main emphasis of the debate especially in the United States. However, the liberalisation went deeper than that. There was for example improved status for the single parent. In Victorian times those who tried to help their 'fallen sisters' risked being accused of encouraging immorality. After the war this argument became less important and in Britain in 1918 the National Council for the Unmarried Mother and her Child was set up. While the attitudes and treatment in the homes for single mothers now seem very harsh and unfeeling, they were an improvement on the past. Evidence for liberalisation can also be seen in the 1926 illegitimacy act which allowed children born outside marriage to be legitimised if their parents married.

These various changes improved the situation for some but it seems that the major innovation was a recognition that sex within marriage could be talked about freely and engaged in without guilt. In 1918 the first birth control clinic was opened and in that year Marie Stopes published her book Married Love in which she stated that sexual problems are the root of much marital unhappiness and claimed that her ignorance on such matters caused the breakdown of her unconsummated first marriage.<sup>19</sup> The reaction to the book was positive in Britain. She went just about as far as she could without risking public censure and by 1923 it had had eleven editions, fifteen further reprints and had been translated into most of the Western European languages.

It seems that the United States was still more puritanical than Britain. Married Love was at first banned and it seems behaviour was more conservative. Thus, the Lynds in their major work of the period reported some liberalisation by 1929 especially amongst the younger generation but that in general there was 'a heavy taboo supported by law and by both religious and popular sanctions' against sexual intercourse between people who were not married and that in general it was as strong as forty years previous.<sup>20</sup> Their analysis suggests that such changes as there were occurred to a greater extent in the larger cities rather than the small towns or rural area.

In fact even when the Lynds published their second book on Middletown in 1937, they reported that by and large the people believed 'sex was given to man for purposes of procreation not personal enjoyment.'<sup>21</sup> This view of marital sex had few adherents in Britain.

Most of those defending sexuality in Britain were only willing to defend it within marriage, however, there were those who went further. An American

widow Mrs. Grace Burnham caused a stir on both sides of the Atlantic by openly and deliberately having a baby<sup>22</sup> and in 1928 at a lecture to the British Society for the Study of Sexual Psychology Mr. George Ives discussed the probable changes in sexual customs. He pointed out that less than half the women in the educated classes were marrying but that many of them had decided to have babies and that in twenty years time such cases would be so frequent that they would hardly cause a remark.<sup>23</sup>

Judge Lindsey proposed two kinds of marriage - one where the young couple would live together but use contraceptives and the second kind where they would make a stronger commitment and have children. In Britain Bertrand Russell argued that in the absence of children sexual matters were purely a private matter and Dora Russell suggested that people should have different sexual morality according to their position in the child bearing cycle.<sup>24</sup> She proposed that at first there should be free sexual experimentation with contraception but that when children were being born people should be monogamous. She next suggested that when the required family size had been reached the parents should indulge in sexual adventures with mutual confidences and absence of jealousy.

Dora Russell was one of the women behind the formation of the Abortion Reform Association in the 1930's. Two others were Stella Browne and Janet Chance and they were also arguing for substantial changes in the sexual morality. Stella Browne was very forthright and called for free love which she said implied responsibility and sex equality.<sup>25</sup> Janet Chance was less provocative but nevertheless in 1929 attacked the view that sex outside marriage was wrong and made a nine point indictment of some of the ideas people held. She suggested the following aspects of morality needed replacing and that she disagreed with those who believed:<sup>26</sup>

1. That sexual happiness is not an end in itself.
2. That any breach of the marriage convention is in itself a wrong thing and not to be judged by its results; and that jealousy on the part of the wronged parties is justified.
3. That sex is on the whole unpleasant, if not degrading.
4. That knowledge of sex-matters is dangerous.
5. That purity is a finer ideal than vitality.
6. That spirituality consists in rising superior to the body.
7. That there is not vulgarity nor cruelty in exposing the private sex-life of unmarried persons.
8. That the best interests of marriage are served by legal restrictions and penalties aimed at its preservation.
9. That there is too much sex in modern life.

These arguments for sex outside marriage were too radical to be widely espoused at the time but the fact that people were beginning to feel it worthwhile to put them forward shows the extent of the movement from the situation even twenty years previously. These comments also show that major advocates of abortion reform were in general sexual radicals influenced by the post war ideas.

#### What Caused the Sexual Changes

There were a number of contemporary attempts to explain the liberalisation of attitudes but by far the best was that included in '27's series of articles these will therefore serve as our starting point.<sup>27</sup> The war, he suggested, was the greatest single cause.<sup>28</sup> He proposed that towards its end there was a revolt against the prevailing moral standards which people felt had precipitated the conflict and that many people's revolt was expressed by a



derision of contemporary sexual conduct. He suggested a successful play illustrated the way many people had behaved. In it, The Fanatic a young man wishes to show his disgust at 'the old men who had caused the war' and did so by having pre marital intercourse. Thus he argued a 'make love not war' theme which was to re-emerge in the 1960's. He also suggested that those who were young during the war period 'poured out through a gaping rent in the old world' and that in many ways the barriers which had kept them under control had been removed.

Secondly he drew attention to the increase in youth culture and the economic fact that young people under the age of twenty five could earn three to four times more than they could before the war. This had led to the growth in cinemas, motor cycles, cars, cafes, and dancing places which catered for those even with little to spend. He commented on these changes "Youth has gone out into the world, a world that lies open to it." Thus he regarded the war and its effect on the young people as the major reason for the liberalisation. but he also drew attention to a number of other factors.

He pointed to the findings of the psychologists which showed sex to be an integral part of a person's being and furthermore had 'robbed sexual repression of its moral sanctions'. Also he mentioned the finding of a cure for venereal disease. He stated that scientific knowledge had become sufficient to stamp it out and that people were realising disease was not an inevitable concomitant to sexual behaviour.

Finally, he discussed the role of birth control. He quoted an informant on the question as to whether it promoted extra marital relationships;

"There is another side, however, which is often overlooked. In my experience, birth control has often been responsible for turning illicit

relationships into permanent and often happy marriages." '27' continued to suggest that before birth control became widely known those who were unmarried and had a relationship either had to face sexual frustration or 'the haunting fear' of an unwanted pregnancy.

This article is basically correct but it is worthwhile considering the effect of the war more fully. One of its major influences was the freeing of women from their traditional roles. The labour shortage meant that the Government was anxious to persuade women to work in occupations that had been traditionally the province of men. For example, at this time women first became conductors on British trams. After the war was over women were given the vote partially as a reward for their work and, although the number of women workers declined to below the pre-war level, there were fundamental changes. Restrictions on women entering the professions were removed and it seems that middle class women were under less compulsion to marry for financial reasons. Vera Brittain, for example, commented "The war had little enough to its credit, but it did break the tradition that venereal disease or sexual brutality in a husband was amply compensated by an elegant bank balance." <sup>"29</sup> There were however, other problems especially for middle class women. One was the high death rate in the war and the grave shortage of husbands. There was even some talk of practising polygamy as a way out of the situation although the major thrust of the debate was single motherhood as discussed above. So conventional morality was regarded as being in need of revaluation.

In the United States the role of the war seems more problematical. It is evident that many of the changes had started before it had begun and in some respects the war had a conservative effect on the dominant

ideology. Boyer suggests that the war was sold to the public as a conflict between good and evil.<sup>30</sup> The Americans learned that the Germans were a depraved people whose soldier would laugh as 'he mutilated virgins and impaled infants on his bayonet.'<sup>31</sup> In opposition to this Americans were idealized as paragons of virtue and changes were introduced to try to ensure that their soldiers did not engage in sexual behaviour or get drunk. Later the idea grew that the whole population should receive a spiritual renewal. During this period (1917) alcohol was prohibited nationwide, prostitutes were harrassed and girls were encouraged to keep the soldiers on the straight and narrow with such slogans as "Do your bit to keep him fit". The vice societies also grew in importance as the traditional conservative values received support. However, despite all the official puritanism, the reality of behaviour was somewhat different. The problems of venereal disease and unwanted pregnancy meant that in 1917 the decision was taken to give condoms to the troops and it seems that in general sexual behaviour became more free and the gap between official attitudes and actual behaviour widened. One contemporary observer even talked of the "sexual revolution" and stressed the strong effect of the great war in 'remoulding the conventional mind in the direction of sexual anarchism'.<sup>32</sup>

Judge Ben Lindsey also stressed the role of the war in liberalising sexual behaviour, suggesting that many young men became 'innoculated with 'continental standards'.<sup>33</sup> He said that before the war he talked to a hundred boys and half admitted they had been with prostitutes in the red light district. However, with the changed conditions the boys were turning to girls in their own class. He further suggested that with this loosening of conduct "Once a 'nice' girl would have considered such advances an insult. Now, though she may refuse, she is not likely to be offended".

So it seems that despite the attempts of the authorities, the dominant effect of the war was towards greater liberalism but that the United States differed from Britain because the changes were not openly recognised.<sup>34</sup>

Another important factor and one not mentioned by '27' was the findings of the anthropologists. In this respect the works of Malinowski and Margaret Mead were the most influential. Malinowski lived amongst the Trobriand Islanders from 1914-1918 and Havelock Ellis wrote the introduction to his book The Sexual Life of Savages, published in 1929. The Trobriands had free and easy attitudes towards sex with children beginning their experimentation well before puberty. They had no belief in chastity and multiple sexual relations were the norm. In 1929 in a book published in the United States, Ellis drew out the implications of Malinowski's findings and suggested that, while in some respects the Trobriands could learn from the west, "their art of love is, in the best sense more 'civilised' than ours usually is".<sup>35</sup> Margaret Mead's work amongst the Somoan girls pointed in the same direction. She showed that they had relaxed attitudes and that masturbation was almost universal amongst girls over the ages of six or seven. Particularly in the early editions of her book she specifically attacked the conservative views present in American culture and pointed out that many such practices as homosexuality were not censored in Somoa. She claimed that by this liberal approach they 'legislate a whole field of neurotic possibilities out of existence'. This book obviously had great implications for those who wished to maintain Victorian sexual attitudes and Ellis challenged those who did not want to change to read Mead's book claiming that it "enables us to realise how rapidly a new sexual order, if on a reasonably natural foundation, may grow and become fairly stable".<sup>36</sup>

One final factor that should be mentioned was the increased confidence of the upper classes in Britain to speak their mind. Bertrand Russell has already been discussed in this respect and the role of Lord Dawson and Justice McCarthy will be considered below. In the United States, too, the elite had become less enamoured by the conservative middle class ideal and were looking for more relaxed standards.

These then were the major reasons for the liberalisation. But there were limits to how far it could spread. The conservative forces of the nineteenth century were still in operation. The church was still largely opposed to contraception and the education system was still under its strong influence. The mass media, the radio stations, the movie business and the literature were under very strong censorship. Furthermore it seems likely that the great crash of 1929 affected the general climate within which sexual behaviour would occur. We know that the growth of unemployment led to a resurgence of right wing policies in some countries and concomitant repression of women together with restrictions on sexual behaviour. This will be more fully discussed below, but suffice it to say that in the inter war years there were two major trends. An immediate liberalisation after the war and then a slowing of the rate of change in the thirties and in some matters even a move towards greater restrictiveness.

The effect of these changes on the debate on fertility control will now be considered.

#### Debate on Contraception in Britain

The liberalisation of attitudes that occurred after the war facilitated the spread of contraceptive knowledge in both countries. Furthermore, the formation of Marie Stopes Society for Constructive Birth Control was a key

development. She had been a member of the Malthusian League in the war years but gradually began to reject their overall theories of society. She let her membership lapse and after the war began fighting for birth control as a single campaign without bothering about the economic doctrines which provoked so much resistance.<sup>37</sup> She was the foremost populariser and while she was spreading information widely amongst the population others fought the political battles. One was to persuade the labour movement to accept birth control and thus to get government financial support for facilities for poor women, and another was to overcome the resistance of the Church of England.

Stella Browne was a major link between the left and the Malthusian movement and the latter used her at every available opportunity to help break down the lingering doubts socialists felt about birth control. She would inevitably sign her articles in The New Generation 'from a socialist woman' or some such phrase. Dora Russell also took an active role and in 1924 she was one of the founders of the Workers Birth Control Group. This attacked the idea that poor women had less right to reproduce and stressed the right of choice. It did not take long for the socialist women to be convinced and the Labour womens conference of 1924 passed a resolution for birth control by the overwhelming vote of 1,000 to 8.<sup>38</sup> However, the men were less willing to give their support possibly because they saw political risks.

In 1926, Ernest Thurtle introduced a bill to enable local authorities to establish Birth Control centres.<sup>39</sup> In the course of his speech he specifically dissociated himself from the traditional Malthusian arguments which suggests that feelings against them were still strong "I am a socialist and I would be the last person to pretend that this restriction of families is any cure really for the root problem of poverty. The social inequalities and

difficulties ... have roots much deeper than this. But even as a socialist I do say that knowledge which would enable working class people to exercise a wise restriction in the size of their families would have an immediate ameliorative effect on the conditions of those workers, and it is for that reason, I am prepared to advocate this Bill. These are the days of sex equality, and if the House is honest, it must realise some indications of that sex equality. I submit that one of them is that a woman is entitled, as far as practicable, to decide what the size of her family should be".

He was, however, opposed by the traditional socialist argument: "If we had only wise production and just distribution there would be ample for all the people", and in the vote that followed Thurtle lost by 167 votes to 81.<sup>90</sup>

The party breakdown is instructive and was as follows:

	For	Against	Total	% For
Tory	53	113	166	31.9%
Lab	26	43	69	37.7%
Lib	3	10	13	23.1%

The figures show that, although the labour percentage of votes for was slightly higher, Thurtle received far more votes from the Tories and that two thirds of his own party opposed him. Thus, the almost solid support of the Labour party for fertility control in later years was by no means evident at that time. Three years later, however, there was a general election and the pro birth controllers made a concerted effort to bring pressure on all the candidates.<sup>41</sup> The question they chose was: "If elected, will you support legislative and administrative measures to permit the giving of information on methods of birth control by the medical officers at Maternity and Child Welfare Centres in receipt of Government grants."

The campaign was a combined effort of a wide variety of groups and covered 1727 candidates in 585 constituencies. It was successful and by March 1931 twenty-one public authorities were giving birth control advice.

The last great political obstacle to contraception was the Church of England and it seems that Lord Dawson was a key person in persuading it to change its mind.

There had been some hopes that the Church of England would come out in favour of birth control at the Lambeth Conference in 1920. However, the bishops passed an equivocal resolution which seemed to imply that sexual intercourse should only take place for the purpose of procreation. In the following year at the Church Congress Lord Dawson, the King's physician, caused a tremendous stir in a speech which attacked restrictive attitudes towards sexuality. In a widely quoted passage he stated "To tell you the truth, I am not sure that too much prudent self restraint suits love and its purport. Romance and deliberate self control do not to my mind, rhyme very well together. A touch of madness to begin with does no harm. Heaven knows, life sobers it soon enough. If you do not start life with a head of steam you won't get far."<sup>42</sup>

He continued to call for the churches support for birth control and this speech did much to break down resistance of the middle classes.

Most of the press comments were favourable yet it was the Daily Express in a hostile editorial entitled "Lord Dawson must go" which most clearly drew out the implications of the speech.<sup>43</sup>

"Hitherto Malthusianism has been a stealthy and furtive cult, which has never dared to show itself openly and shamelessly in the light of day. Now



for the first time in our national life, it appears, of all places in the world, on the platform at the church congress. Lord Dawson has given the imprimatur of medical science, the hall mark of the Court physician, and the aegis of the established church."<sup>44</sup> The Express made a correct assessment of the impact of Dawson's views and from that time on discussion could be much more open.

Birth control was accepted at the Lambeth Conference of 1930 by 193 votes to 67. The statement declared "where there is a morally sound reason for avoiding complete abstinence, other methods may be used". It was, however, limited approval and the conference pressed for legislation forbidding the exposure for sale and unrestricted advertisement of contraceptives. The resolution also stated that the bishops were concerned that they were being used by the unmarried.

Lord Dawson's role in this decision did not come to public attention until 1934 when he introduced a bill into the House of Lords to create restrictions on contraceptive advertising as the bishops had requested. Predictably it passed by 46 votes to 6. At first the proponents of birth control were horrified that their ally had seemingly deserted them. However, Drysdale then disclosed that Dawson had promised to introduce a bill in order to get "the valuable pronouncement of the Bishops at the last Lambeth Conference".<sup>45</sup>

Dawson's bill died as he must have realised it would and so he can be seen to have outmaneuvered the Bishops.

So by the 1930's . . . organised Church opposition to contraception within marriage was over except for the Catholics. The Malthusians had become

eminently respectable and their Ball of 1933 was patronised by a princess and presided over by a High Court Judge.

There was, however, some opposition and it is instructive to consider its social background.

### Social Characteristics of the Opposition.

The opposition had two major sources of support. First there was the right wing and secondly there was the Catholic church and this provided a basis from which opponents of change could work.

In his excellent summary of Catholic attitudes internationally Noonan explains that the opposition of the Catholic Church to fertility control only became important after the first world war.<sup>46</sup> Before that time it had taken a rather liberal view in practice or at least had not campaigned actively to persuade non catholics to adopt its viewpoint.

In part its reaction after the war may have been a backlash against more aggressive methods of the birth control proponents and an attempt to arrest some of the social changes that were beginning to take place. In the twenties the liberalisation of attitudes was disturbing to those of traditional views. Contraception was considered reprehensible because it allowed people to enjoy sex without fear of conception and also might lead to people even having sex without being married. This, they felt would give people too much laxity. Sin would not be punished and morality would be undermined.

G. K. Chesterton set out the position quite clearly in an article in the New Witness in 1923.<sup>47</sup> He suggested "even the alleged necessities of birth control might possibly be met by self control" and called for volunteers for a life of honorable self denial. If authorities

did this: "They would get them by thousands upon thousands, as they got them when whole mobs became monks and nuns in the first days of Christendom".

This view that there should be abstinence and that the world was 'oversexed' was also made by non-Catholics opposing fertility control in the early twenties. Thus the Bishop of Guildford told the birth rate commission that contraceptives would lead to the destruction of self control.<sup>48</sup> He continued "it removes the last bulwark, though only a prudential one, against man's natural passions ... the crying need today is not birth control but self control."

A second and very practical reason for the Catholic church to oppose fertility control was their realisation that most members of the church came in through birth. So, a high average family size was necessary in order to keep up numbers. Furthermore, as it also wanted a proportion to become priests and nuns, those who married had to have extra children to compensate.

Sometimes the Catholics believed that the churches view of birth control would lead to it becoming increasingly important because it would out-breed the non Catholic.

Thus a catholic doctor speaking to the Southend Branch of the National Council for Women in 1923 stated "Our people will never adopt these practices, and we shall breed out the protestants and England will become Catholic again".<sup>79</sup>

The best known of the opponents to contraception in Britain was Dr. Halliday Sutherland a Catholic convert. In the early 20's he wrote a book entitled Birth Control which included the following: "The ordinary decent instincts of the poor are against these practices and indeed, they have used them less than any other class. But owing to their poverty, lack of learning, and helplessness, the poor are the natural victims of those who seek to make experiments on their fellows."<sup>50</sup>

He criticised Marie Stopes who sued him for libel and the case wound its way to the House of Lords in 1923. The Catholic church gave financial support and Sutherland finally won. This was regarded as a major victory by the anti-birth control forces. However, the Malthusians felt the libel case had been unnecessary and were so confident in the way things had moved their way that they took a benevolent view. They argued that it would have been unfair if Catholics had not supported Dr. Sutherland and further commented 'we have always had rather a liking for Dr. Sutherland, who has from time to time afforded us much amusement.'<sup>51</sup>

Sutherland was very happy with his new fame and became the fulcrum of an attack on fertility control. After the trial he stated, "This propaganda of birth control had spread through the country with little to stop it until it reached the invisible and invincible frontiers of the Catholic Church, but there the battle had been joined."<sup>52</sup>

At first the opposition was unorganised but in 1926 he was behind the formation of the League of National Life which aimed to be undenominational and non political with a membership open to anyone, although it did not disguise the fact that it was largely supported by Catholics. 53

Dr. Sutherland met a group of Anglican clergymen to try and enlist their help but with little success. Undaunted he challenged the proponents: 54 "The medical misstatements of the advocates of contraception will be answered by expert gynaecologists; the statistical blunders of our opponents will be exposed by statisticians".

The Malthusians, however, were not concerned by the opposition: 55 "When its ethical experts get to work, they will soon discover that we have far abler ethical experts....It will be still more amusing when their gynaecologists begin to hold forth. Then they will discover there are eminent gynaecologists even on their own side, who smile at their alarmist statements."

This smugness on the part of the Malthusians came from a realisation that the opponents of birth control would have great problems in having any success in Britain. The general climate of opinion was against them, the percentage of Catholics in the population was relatively low and the teaching on rhythm undermined many of the arguments. This also was realised by Sutherland and when in 1947 he reflected on the problems he and his allies faced he commented: 56 "Knowing that it was useless to quote religious sanctions in neo pagan Britain, we sought to defeat the contraceptives by proving their propaganda to be contrary to the laws of biological, economic, and ethical science. We failed. We witnessed the medical profession betray its trust; we saw the white flag hoisted over Lambeth Palace; we were in Whitehall in 1931 when the Ministry of Health first permitted advice on contraceptives to be given in antenatal clinics."

Realistically, however, the opponents of birth control had no hope of making it illegal in Britain and the major issue revolved around whether the Government should give help to poor people. In 1923 the following motion was made to the Prime Minister: "The Catholic Confederation of England and Wales protests against any Government action facilitating the extension of birth control knowledge among the poor ..... and urges His Majesties Government to protect our fellow citizens from this dehumanising de-civilising and de-Christianising propaganda by legislating against voluntary provision of the said nature".<sup>57</sup>

The pressure they were able to exert did have some effect for a time and the Labour Party tried to soft pedal the subject. In 1927 the Labour Womens Conference again voted for birth control information to be given to the poor. This time by 581 votes to 74. However, the full Labour party itself rejected the motion. The three main opposing speakers were Irish Catholics and Stella Browne accused the Labour leadership of surrendering "in abject and avowed compliance with Roman Catholic threats".<sup>58</sup>

One of the arguments was that many Catholics would leave the Labour party if it endorsed contraception. Marie Stopes attacked this view in a letter to the New Leader and argued that the Church through its approval of the safe period was now in favour of birth control.<sup>59</sup> In drawing attention to this fact she was pointing to a problem for those defending the churches position. Once the rhythm method was widely known to be acceptable many of its traditional arguments against birth control had much less plausibility.

However, it is instructive to consider the major arguments of the church in the light of the comments made in the introduction and the need it had to

support its position with various 'facts'.

As mentioned Sutherland stressed the need to develop secular arguments and broadly speaking the reasons his group put forward fell into two main categories.<sup>60</sup> First there were those which the members of the Catholic church might find persuasive and secondly there were those which were used in order to convince a wider audience.

Many of the subsequent arguments are still in use and to a large extent have been transferred to the abortion debate. In setting them out I will concentrate on British evidence in large part but I will also include some information from the United States.

#### God Will Punish Those Who Practice Birth Control.

This argument would obviously only carry sway with believers. Noonan pointed out that some Catholic theologians assumed contraception was an evil "that they had found a punishment to fit the crime and that God would back them up: the perpetrators would be punished by the premature death of their children."<sup>61</sup> He pointed to a number of authorities who argued this case. In 1909 it was endorsed in a major statement by Belgium bishops and it was cited with approval by Merkelbach as late as 1944.

Another argument was that God would punish the perpetrators themselves.

Thus in his encyclical dated January 8th 1931 Pope Pius XI stated "Intercourse even with one's legitimate wife is unlawful and wicked where the conception of the offspring is prevented. Onan the son of Judah did this, and the Lord killed him for it."

This argument was a popular one and the birth control advocates had therefore

to continuously point out that Onan's sin was not that he practiced birth control but that he had disobeyed the law. Onan's brother had died and according to the Jewish law Onan should have made his brother's wife pregnant. However, he 'spilled his seed on the ground' and the Bible reports God decided this was a sin deserving of death.

There was also an argument that birth control was the cause of the first world war. In his speech at Christmas 1915 the Bishop of Liverpool argued that "Death was teaching us the value of life" and that, as people were restricting the size of their families, sin was finding them out.

Thus in various ways the church attempted to frighten people from using methods of contraception. However, the Malthusian countered such comments by pointing out that since the Trial of 1877 there had been a decline in the deathrate and infant mortality rates for those countries that were using birth control techniques.

### Birth Control as Murder.

Noonan states that the tendency to treat contraception as some form of murder is derived in part from the ancient rhetoric that made all destruction of semen murder.<sup>63</sup> In 1914 the Daily Mirror, the newspaper with the largest circulation in the world carried an article supportive of birth control. In reply the Catholic newspaper "The Universe" argued that the regulation of the birth rate meant the killing of the unborn child and the suppression by intention of the potential child in conception. "It is open and unashamed war upon babies ... What care we for the future of family or fatherland? Confront the natural law of life with the hedonists law of death. Kill, Kill, Kill, and let us eat drink and be merry for tomorrow we die".<sup>64</sup>

The bishop of Birmingham was in favour of birth control and the Sunday Chronicle



attacked his views and conjured up a picture of the bishop walking in his cathedral "with packets of child killing drugs bulging out of each lawn sleeve".<sup>65</sup>

This quotation seems to confuse birth control methods with abortifacient pills and the lumping together of birth control and abortion was also a common error in the United States as the following letter to Margaret Sanger shows:<sup>66</sup>

Mrs. Margaret Sanger:

You will think differently about birth control, or the murder of innocent, defenseless children, when you stand before the judgment-seat of God and are hurled into Hell. Marriage was instituted by God for the propagation of children, and those who do not want children are privileged to remain unmarried or live as virgins. You have but one life to live, which will decide your eternity in Heaven or Hell. Why not spend it doing good instead of evil?

On Judgment Day, those children you have murdered and have influenced others to murder will stand before you and, pointing their fingers of denunciation at you, demand of God to punish you.

From the instant of conception, a soul is united to the body by Almighty God, which you will have to give an account of. Instead of rearing that child for Heaven, you murder it.

Your money will have no influence with God.

A Catholic.

This allegation of murder did not worry the neo Malthusians too much.

They argued that "Although the parental cells are certainly living bodies, they are produced in large numbers and are constantly escaping and being destroyed in all unmarried adult persons ... every celibate priest or nun is in exactly the same position in this respect as the person who uses

contraceptives".<sup>67</sup> However, although the argument was not very logical, it continued to be used. For example, in 1927 the Archbishop at Birmingham

told the Birmingham branch of the Catholic Womens League that Birth Control was constructive murder.<sup>68</sup>

This kind of argument was not heard too much in post war years. But in 1957 the Roman Catholic bishops of India forthrightly attacked contraception on these grounds arguing: "It is against the primary ends of the holy state of matrimony. The deliberate destruction of life in potency is a crime close to murder."<sup>67</sup>

So even in the period after the second world war some Catholics were being encouraged to feel extremely guilty about the use of contraceptives.

### Birth Control is Unhealthy.

The previous arguments were applicable to believers. But one with more general appeal was that birth control was physically harmful.

One of the arguments was that it would lead to sterility. Thus on April 1st 1914, Dr. Amand Routh, consultant obstetric physician at Charing Cross Hospital, told the Birthrate Commission: "I know nothing about the physical results in the case of the man, but in the women the result is that the pelvic organs become congested and catarrhal. the womb becomes enlarged, and the result is that later on, when the parents are perhaps better off and want a child, they are not able to have one".<sup>70</sup> Halliday Sutherland stated in the British Medical Journal in 1921 that birth control practices are harmful to men and women and the fact that it leads to sterility can be seen from the higher rates of fertility in Ireland and Spain.<sup>71</sup>

He was supported by another correspondent: "An experience of well over 40 years convinces me that the artificial limitation of the family causes damage to a womans nervous system. The damage done is likely to show itself in an inability to conceive when the restriction voluntarily used is abandoned because the couple desire offspring."<sup>72</sup>

Other people would go even further. Dr. F. J. McCann a surgeon at the Samaritan Hospital argued during the libel case brought by Marie Stopes against Sutherland "Contraception is always prejudicial to a woman's health, and is sometimes dangerous to her life".<sup>73</sup>

Such views would however, appear eccentric except to those within the pressure groups opposing contraception. For, although as late as July 1916 the B.M.J. argued there was a risk of injury from contraceptives, in the post war years the great majority of young British doctors supported birth control. At the birth control conference of 1922 there was a special meeting of 164 members of the medical profession. The attenders were not likely to be a cross section of the profession. However, all but three of them supported a resolution that "There is no evidence that the best contraceptive measures are injurious to health".<sup>74</sup> Furthermore, when in 1925 the conservative National Council of Public morals appointed a committee of twelve medical men to investigate the effects of contraceptives, they reported that contraceptives are advisable and that usage brings an improvement in general health.<sup>75</sup> The last known reference to birth control causing sterility by a reputable British authority was a comment by Professor Phillips to this effect in a 1938 meeting debating a change in the abortion laws. However, he was roundly criticised by Aleck Bourne and in the post war years the argument was not used until recently.

In the face of such medical evidence some stated that, even if women escaped the physical effects of contraception there would be mental problems.

Dr. Mary Sharlieb wrote to the B.M.J. in 1921, and said birth control caused mental disturbance. In support Halliday Sutherland commented "Even if birth control gave rise to no physical disabilities, its psychological results need to be considered".

Some people argued the reason contraceptives increased mental problems was that they increased sexuality and this could lead to lunacy, epilepsy and consumption. Such statements are not always easy to refute. However, the Malthusian did its best by saying the argument was false because the greatest increase in lunacy was amongst the Irish who had no birth control.<sup>77</sup>

### Destruction of the Family.

It was shown in the introduction that this is still an important argument in terms of abortion. In between the wars it was a major one against contraception. In 1932 Canon Newman stated "We are threatened by a system of morality which would mean the end of the family." Similarly in 1929 a leaflet issued by the British 'League of National Life' argued that birth control "leads to a disintegration of the family upon which nation and Empire are founded".<sup>78</sup>

The Malthusian countered this argument by stressing that "the strain of bearing and rearing large families are frequent causes of nervous disorders and we fail to see why these influences should be disregarded and contraceptive measures specially condemned." So in its view contraception could improve family relationships. An almost identical argument to this was made by the Rabbinical Assembly of America in 1935 when it stated birth control "will not destroy but rather enhance the spiritual values inherent in the family".<sup>79</sup>

It is in fact very difficult to see why small families should be seen as destruction. There was, however, an extension of the argument. This was that the fall in the numbers meant that the ends of families were not being reached and that for this reason many great men would not be born.

The British Catholic Herald argued this on June 2, 1923 under the heading "Big Families Produce Great People" and then it gave a list of large families which produced saints. The Malthusian, however, commented "some millions in our midst do not think of the above characters as great people".<sup>80</sup> Two year later President of the Royal philosophical Society argued a similar case "Who was to say whether a potential human being was not a potential Newton or a Darwin a Shakespeare or a Lister."<sup>81</sup> John Wesley, the fifteenth child, was also often mentioned in this respect. Thus, in 1917 a congregational preacher from Brooklyn said, "One of the greatest perils in America today is that women do not permit themselves to bear children. Think of the crime to unborn generations! Think of the children who might become John Wesleys and George Washingtons. Thank God Susannah Wesley was not that kind of a women!"<sup>82</sup> A similar argument was used by the Catholic Archbishop of New York in justification of instructions from his office to close one of Margaret Sangers meetings. He argued (wrongly) that John Wesley was the 18th child and that "one of the reasons for the lack of genius our day is that we are not getting to the end of families".

Against this kind of argument the birth controllers often stressed the fact that many great men were born high in the birth order. For example Jesus and John the Baptist. Furthermore sometimes they even made tables up showing the performance of various people compared with their birth order. Another argument they used was that it would have been better if some men had not been born. Thus William Robinson wrote in his Critic and Guide: "Think of the misery, torture and murders society would have escaped if the mothers of Dillinger, Hitler, Al Capone, Goering and Oswald Mosley had used birth control".<sup>83</sup>

There was a third aspect of the decline of the family and this was that contraception 'lowered' women. Halliday Sutherland writing in the B.M.J. in 1921 stated "The man who adopts these measures is simply using his wife

as he would a prostitute".<sup>81</sup> Similarly Father McNabb was quoted as asserting in 1924 "Sexual gratification without the risk of conception is a mortal sin and marriage so abused is harlotry".<sup>85</sup> This view seems even to reject the safe period and Catholic commentators were by no means consistent on this in the twenties. For, although the central hierarchy had approved of the rhythm method in the nineteenth century, the information had not percolated very deeply by the 1920's. In fact it was only in the 1930's that the church made a strong effort to spread the information.

### Race Suicide.

There were a number of elements in the argument that birth control was race suicide. One of them was that discussed earlier that there would be reverse Darwinism for the 'better' people would have fewer children. This charge seems to have been particularly important in the United States where immigrants had the highest number of children and it seems to have been used to keep women from working or having education. Linda Gordon points out that Theodore Roosevelt used the race suicide argument to attack birth control in 1905 and she suggests that the controversy was at its height from about 1905-1910.<sup>86</sup> In Britain the argument came under attack from the very Rev. Dean Inge writing in the Church Family Newspaper in 1916 when he scorned the "floods of hysterical nonsense about 'race suicide', 'depopulation' and 'empty cradles', which, by a strange irony, seem to emanate especially from celibates".<sup>87</sup> However, it was still a popular argument amongst those opposed to fertility control in the 1920's. In 1921 Dr. McIlroy, a professor of gynaecology, stated in a speech before the British Medico-Legal society 'race suicide brought about the downfall of Greece and Rome'.

Six years later in a pastoral letter to all Scottish Catholics, the bishops called birth control 'race suicide and argued "The Catholic Church, which, as you know is infallible in its teaching ... with full knowledge of all that is

implied in the practice of birth control, teaches now as she has ever taught, that it is a grave sin separating us from the friendship of God and rendering us liable to eternal punishment."

A second aspect of the 'race suicide' argument is that those countries who use it will have a decline in population and be defeated in battle.

Dr. Louise McIlroy one of the major opponents of birth control set out the argument in 1921 to the Medico Legal Society.<sup>89</sup> She stated a nation was maintained in strength and power according to the strength and fertility of its members. Also that just as the low fertility of France in 1870 opened up danger from Germany so did the low fertility of Britain in 1914. She continued, "If other nations controlled their production of population there would be no danger to the British empire. But Germany was not beaten, and she would welcome any influences which lowered reproduction of the population of her potential enemies".

The argument was feared to some extent by the birth control advocates. With the movement to the right in Germany and Italy birth control clinics were closed and abortion was made illegal. An Italian law in 1926 made it an "offence to distribute Malthusian teaching or any other means of prevention of conception or any regulation of female fertility".<sup>90</sup>

The birth control advocates in Britain and the United States found a 1913 statement from Mussolini supportive of birth control and they used it to attack his change of views as he became a fascist.<sup>91</sup> However, the argument was also important in France and on May 7th 1918 as the war drew to a close the French bishops used the military argument against birth control "Let the lesson not be lost. It is necessary to fill the spaces made by death, if we want France to belong to Frenchmen and to be strong enough to defend herself and prosper". Two years later France banned birth control, and

this was seen as a victory by the Catholic Church. The Catholic Times praised the decision and stated the French Government had realised that 'race suicide' was fatal to national power.<sup>92</sup> The proponents of birth control attacked this and were amongst the greatest opponents of the general movement to the right.

William Robinson was particularly affected and almost became obsessed with the evil of Adolf Hitler in the latter years of his life (until 1936) and wrote a book attacking him. However, the fascists had a very clear view of the sex divisions. Herr Von Papen, Hitler's 'right hand man,' was quoted "The German pacifists failed to understand the significance of that great old soldier song which said there was no finer death in the world than that to be found at the hands of the enemy ... That which makes for eternal life is to be found only in sacrifice. Mothers must give themselves to the bearing of children and fathers must fall on the battlefield to assure the future of their sons."<sup>93</sup>

Mussolini also argued on numerous occasions that the Italians were a prolific people and needed more land. As at the same time he banned fertility control, it was obvious that problems were to arise. Hence the New Generation had more than a hint of exasperation in the following report:

"Mussolini is surely the most inconsistent of men. He has again and again told the world that Italy is terribly overcrowded, and that to accommodate her growing population she must have more territory, even if she must get it by war. Yet he had repeatedly spoken contemptuously of Malthus, and said there is no such thing as pressure of population. Which Mussolini are we to believe?"<sup>94</sup>



Just as the New Generation was predictably opposed to the fascists the League of National Life was sympathetic. Sutherland called the work of Hitler and Mussolini in this area "heroic efforts" and commended the Nazi penal code of November 1936 which made the "public ridicule of marriage or of maternity, and all propaganda in favour of birth control and abortion into criminal offences".<sup>95</sup>

In the race suicide argument the opposers of birth control had found one that concerned the Malthusians. In 1921 they said the "only objection to birth control which has any appearance of reason is its supposed effect on the defensive power of the nation".<sup>96</sup> They tried to counter it by suggesting that a reduction in the birth rate may not reduce the population for the death rate may also fall and by arguing that there may also be an increase in the quality of the people. Furthermore, as mentioned, they were helped by the Catholic churches acceptance of the safe period. The argument of race suicide was greatly weakened as long as the church accepted any method of birth control at all.

#### Other Arguments.

There were a number of other reasons used by the opponents. One was that birth control is no substitute for social reform. This was used by Sutherland on occasions but had much less importance in the 1920's than in earlier times.

Another argument was from nature. That the insertion of foreign bodies cannot be good practice. This was used a great deal in the early thirties when the churches approval of the safe period became more widely known. It usually received short shrift however, for example, Margaret Sanger countered that if it was true that God disapproved of tampering with nature why did the priest wear eye glasses.<sup>97</sup>

A further point was that people were making unsavoury profits. Thus a Church of England clergyman talked of "Manufacturers, enriching themselves by the lusts of men and women". He anticipated the criticism that if one is going to criticise those who make contraceptives one may as well condemn brewers for making drink. "It is natural to like and drink alcohol. It is unnatural to use contraceptives".<sup>98</sup>

This argument ended up by assuming what it was attempting to prove and so did not appear particularly plausible.

#### The Origins of the Movement for Abortion Reform.

The fact that there was little resistance to the spread of birth control in Britain meant that more pressure could be exerted on the abortion laws.

As long as the battle for contraception was still of primary importance it made little sense for the pressure group members to diversify their efforts into the more controversial question of abortion especially as one of the key arguments for contraception - that it would make abortion less common - would have much less validity.

There were few calls for legal abortion in the nineteenth century.

According to Storer writing in 1868 only one doctor was openly in favour of it.<sup>99</sup> He was a Leipsic doctor called Jorg who believed the fetus to be

"only a higher species of intestinal worm not endowed with a human soul, nor entitled to human attributes". In 1888 the Italian Balestrini published a

book calling for all penalties to be removed but the first systematised demands were those of the German feminists and from 1897 onwards they began to claim that the fetus was not an independent human being and that every woman should have the control over her own body.<sup>100</sup>

The German woman's congress of 1905 passed a resolution demanding that abortion should only be illegal when performed against the woman's will and various German doctors supported these claims, a Professor Kocks being widely quoted for his view that all restrictions should be abolished.

### Russian Experience

Although there were the calls for legalisation in Germany it was in Russia that abortion was first legalised in modern times and this affected the debate in both Britain and the United States. As early as 1914 the most eminent society of physicians had called for all laws on abortion to be removed.<sup>102</sup> In 1920 the Soviet Government faced with a birth rate of about 40 per thousand and a high number of illegal operations passed a law legalising abortion. The measure was guided through by the woman who was appointed the People's Commissary for Public Health in the First Soviet Government and was very important for the abortion debate in other countries.<sup>103</sup> It provided for the operation to be performed free of charge in hospitals although it seems that the shortage of facilities meant that the law could not be enforced.<sup>104</sup>

The Russian law had two main effects on the debate elsewhere. First of all it was a prime example to show that change was possible and Radical groups were able to point to it as an example of what could be accomplished. Secondly, - and this was probably more important - it revised the estimates of the safety of the operation. Until that time it had been widely believed that abortion was an unsafe operation. Its authorities drew comparisons with Germany where in 1924 4% of abortions were estimated to have resulted in death. In Moscow it was less than one tenth of one per cent.<sup>105</sup>

The Russians publicised their results and in 1929 send a delegate to the First Congress of the World League for Sexual Reform in London. <sup>106</sup> Their representatives gave figures to suggest that mortality and morbidity had decreased "almost to vanishing point" and British medical men took an interest and on a number of occasions visited Russia to watch the procedures. One such observer L. Haden Guest reported in the Lancet in 1931 that in a Russian series of 40,000 cases there were only two deaths. <sup>107</sup> A few months later the journal commented that if the evidence of the Russian experience of safe abortion is accurate "They will from the strict medical point of view, deserve serious consideration by those planning new legislation appropriate to the outlook and habits of our time". <sup>108</sup> The Birkett Committee drew attention to the Russian figures in 1938 and American medical men also made comparisons. <sup>109</sup> Taussig visited Russia in 1930 and devoted a whole chapter in his influential book to legal abortion there.

#### Abortion Movement in Britain.

The first known call for a change in the British abortion laws was that of Stella Browne in 1915. <sup>110</sup> She suggested a number of reasons for liberalisation. First she pointed to the fact that a reliable contraceptive had not been discovered and pregnancy might occur even when the greatest care had been taken and there were overwhelming reasons why a child should not be born to the people concerned. Secondly, the education of young people in sexual matters was only just beginning and she argued it was grossly unfair to penalise ignorance. Thirdly, she stated the laws then in existence left people open to blackmail because of their secrecy and the fact that the operation had mainly fallen into the hands of the criminal class. She also pointed out that those performing the operation were unskilled and often produced permanent injury although, despite these factors, those with "any knowledge

of the lives of working class women will prove that the professional abortionist is sometimes the truest friend and benefactor".

Fourthly, she stated that it is seldom realised that prejudice against abortion was not due to medical science but was based on Christian Canon law which stated at the time of conception there was a right of baptism. She argued that thinking people would wonder why embryonic life alone should be considered sacred. She then referred to the war and argued that the world should be made fit for children to be raised. Finally, she argued that some women are not maternal and are not necessarily on a lower ethical plane for that reason and society should support their decision.

Just after this article was published reports began to arrive of the problems of French and Belgium women who were pregnant because they were raped by German soldiers. The British Medical Journal noted the claims that such women should have a right to abortion and that there was some support for a change in law.<sup>111</sup>

The Malthusian stated it was pleased to see the question raised but that history had shown societies passed through a number of stages. At first there was infanticide, then abortion but in contraception the highest level had been reached. It argued that the earlier methods of fertility control, in some degree involved the destruction of life and that as regards abortion "we have a better remedy, and it would be folly for us to waste our energy and resources in championing an imperfect one".

It continued to state that when the knowledge of preventive methods became universal abortion would only become necessary in rare cases where prevention has not been employed or has failed and where there were serious medical or eugenic reasons against offspring. In the meantime it said it

was going to confine itself to advocating contraception and that the real advocates of abortion were their opponents, on the birth control issue.

Thus, at this stage the Malthusians were not prepared to endorse abortion. But three years later a book was published in London which called for its legalisation on the grounds that it was a 'crime without a victim.' Charles Merriar a criminologist, argued "The procuring of abortion with the consent of the woman harms no one. It prevents the fetus from attaining complete development, but the life of the fetus has scarcely begun, and is yet far from being conscious, and has not even an independent existence. It would strain the meaning of words intolerably to look upon the action as wrong done to the fetus, nor can it be considered a wrong to the mother, who freely and eagerly consents to it. I can discover no sound reason in ethics for the great severity with which the procuring of abortion is punished by law". 112

This argument was of course very radical for its time and it was not taken up by many although it was requoted in the Lancet in 1920. However, there is evidence that after the war was over a significant minority of people were willing to openly espouse abortion. Thus, one correspondent to the Malthusian in 1920 noted that abortion like contraception was regarded with horror but commented "Today all intelligent and well informed persons realise that both attitudes are unwarranted and foolish". 113

The Malthusians's treatment of abortion also changed. Although their Journal did not openly espouse it there was sympathetic treatment of the writings of Stella Browne and others on the subject. One of the key tactical factors which must have influenced its approach was that by the 1920's the Malthusian league was no longer the major pressure group working for birth

control and so the old argument about fighting one campaign at a time did not apply. Throughout the twenties comments of statements favouring the legalisation of abortion were treated sympathetically in the New Generation although the Malthusian league did not make it part of its official policy. In the early thirties it began to seriously consider the necessity of an organisation to fight the abortion laws. An article to the journal in 1931 commented:

Instead of a new society being formed, it would be better if the Malthusian League were to take the matter up. It would be fitting that the first society in the world which advocated birth control should also be the first to advocate legalized abortion by a qualified surgeon. Indeed, it was the first in a sense; for Miss Stella Browne, a prominent member of that League, had been advocating this reform by speech and pen for sixteen years. We hope the Malthusian League will not miss a chance of so much glory. It was a great achievement to be the first to advocate a reform which Professor Graham Wallas calls the greatest since the discovery of fire; but to be the first advocate of two world-shaking reforms would be an achievement to which history provides no parallel.

Although the Malthusian League did not take up the suggestion, throughout the twenties and early thirties it was the only organisation carrying abortion information on a regular basis. Furthermore it was the members of the Malthusian League who set up the Abortion Law Reform Association in 1936.

### Marie Stopes and Abortion

The attitude to abortion of the Malthusian League contrasts markedly with that taken by Marie Stopes. She had a strong emotional feeling of opposition and also wanted to distinguish it from birth control for political reasons. Thus she felt that if she supported abortion she would harm her fight for birth control. At the time many people confused the two methods and typical were the comments she made at a meeting in May 1923 when she said her members should differentiate between birth control and abortion and "let the world know" that the society for Constructive Birth Control would have nothing to do with abortions, in spite of the numerous and often pathetic appeals.

"One of the societies tasks was to get the public to realise that it was  
115  
wrong".

At the time abortion was still the regular method of fertility control of working class women and the journal "Birth Control News" had regular letters asking for details of the best method of procuring one.

Periodically the paper would publish a few of them always with the same disclaimer which was presumably kept set up in type. It read primly as follows:

Editor's Note

Dr. Marie Stopes asks us to state that tho' the pathos' of such cases may wring her heart she will not and cannot answer such letters. To do so in a manner approved by the writer be a criminal offence. The letter itself is an indictment and the writer of it is guilty of a criminal offence.

Dr. Stopes and the Society for Constructive Birth Control, as well as the clinic, all receive such letters so frequently that it is evident that there still exists a large amount of ignorance of the law on this subject. For we feel sure that no respectable person understanding what they are doing would incite Dr. Stopes to commit a crime.

That there should be such ignorance though tragic, is perhaps not surprising owing to the suppression of sound knowledge and understanding of such subjects and in addition to the deliberate confusion accorded by the opponents of sex instruction who are quite aware what they are doing, and disseminate the idea that birth control and abortion are the same or comparable things. Dr. Stopes utterly condemns abortion, as does the Constructive Birth Control Society and this paper.

This kind of answer might be regarded as lacking in sympathy. But from a political point of view Marie Stopes had come to the conclusion it was better to be a single issue campaign and that nothing should divert her from her task. We shall see that she criticised Margaret Sanger for not taking this position.



Justice McCardie and the Abortion Law

During the 1930's as many European countries moved to the right the movement might have expected to receive serious set backs. However, a number of factors prevented this and amongst them were the actions of Justice McCardie.

McCardie had grown convinced that the 1861 abortion act was out of touch with the realities of life so on November 30 1931 he publicly attacked the law. <sup>116</sup>Two women had come before him and pleaded guilty to aborting themselves. He could have sent them to prison for life. However, in his summing up he argued that birth control should be widely extended especially to those who lived in unhappy circumstances. He continued "I go further. I express the view clearly that in my opinion the law in regard to illegal operations should be substantially amended. It is out of keeping with the conditions that prevail in the world around us".

Then addressing himself to the first woman, Mrs. Elsie Golding, the Judge said: "Your case illustrates well what I have just said. You are a woman of most excellent character. You have been brave in the midst of sorrow to bear the burden of providing for your family. You had seven young children born in poverty and almost doomed to poverty for all their lives. You had no money. Your husband is lazy and you feared that another burden was to fall upon you. I can well believe you, because judges know more of human life than many people think. I shall not send you to prison but will bind you over for two years". He then asked if the woman had any money to get home, and the chief warder replied that she would be provided with a ticket.

After addressing the women, the Judge, turning to the jury with raised hand, said: "A mother of seven children, gentlemen."

He then dealt with the similar case of Charlotte Ann Geeson, who he also bound over. In addressing her he said: "It should be recognised that we live in the world of 1931 and not in the world of mediaeval times, not in the world of a century ago. The social problems are wholly different from what they were. You had been a brave woman and had borne a child that was suffering from a mental disease, and it might well be said that you feared bearing another that would also be born to suffering."

Two weeks later, on December 11th 1931, McCardie went even further and refused to sentence a woman who had committed an abortion on another.

He said to her: "You are charged under an Act that was passed seventy years ago. Since then, the national point of view has been greatly changed. The knowledge of men has grown and I am glad to see that a new and a wide vision has grown up. I think these abortion cases will continue so long as the knowledge of birth control is withheld."

He continued more generally: "In my opinion, and I say it plainly and publicly, the law of abortion should be amended. The law as it stands at present does more harm than good. In my view, and I speak designedly, it is a moral duty in many cases to procure miscarriage, and those who so loudly support the present law of abortion are either devoid of experience or have given no thought to the subject. I need not deal today with the numerous cases where women are utterly exhausted and worn out with childbearing, nor with cases where exceptional circumstances may render the birth of a child undesirable. I feel deeply on these grave matters, and the wider my experience grows the deeper my feelings become."<sup>117</sup>

These attacks on the law by McCardie were widely publicised. The New Generation said that the speech would make history in every country where the

English Language was spoken and, although McCardie reportedly faced criticism from his peers, it was influential in changing attitudes.<sup>118</sup> For example, L.A. Parry, the leading English authority at the time, had originally taken a very restrictive position. However, in a lecture to the British Medical Association he drew attention to the fact that McCardie's remarks had encouraged him to become more open minded.<sup>119</sup>

It also seems that McCardie's actions were important in stirring the BMA to consider the law. In July 1932 it passed a resolution calling on its council to "consider the question of setting up a special committee, including members of the legal profession, when the finances of the association allow it to be done, to consider any modifications of the law dealing with abortion".<sup>120</sup> In proposing the motion Dr. G. Pollock stated that it should not be the purpose of the association to see abortion as a solution to problems caused by moral laxity but that "there are many cases where the problem ought to be looked at from the point of view of Justice McCardie". This resolution was passed and the BMA set up a committee.

#### Origins of the Abortion Law Reform Association

I have already shown it was the women's groups that were the most forthright in the matter of birth control and they were also prime movers of the pressure group for the reform of the abortion law.

A notable victory for the pro choice groups in the early thirties was to obtain the support of the Cooperative Women in 1934.<sup>121</sup> There were 1360 delegates and the following resolution was passed with only twenty dissidents.

"In view of the persistently high maternal death rate and the evils arising from the illegal practice of abortion, this Congress calls upon the Government to revise the abortion laws of 1861 by bringing them into harmony with modern conditions and ideas, thereby making of abortion a legal operation that can be carried out under the same conditions as any other surgical operation. It further asks that women now suffering from imprisonment for breaking these antiquated laws, be amnestied."

Stella Browne was euphoric about the success of such a strong resolution and the rejection of an amendment deleting the call for an amnesty for the women in prison. Among the arguments used in favour of abortion was the case for a woman's right "For our bodies are our own, the rights of children to be born when they are wanted, the reduction of illegal abortions and the need for a back up method when contraceptives were to fail." Thus the pro choice groups had found a solid basis of support amongst the women of the left and two years later on the 17th of February 1936 the Abortion Law Reform Association was set up. The leaders in the movement had been working for change for many years and so the movement was not particularly an innovation but more an extension of previous activities. It was chaired by Janet Chance and to a large extent financed by her husband Clinton who was very active in the birth control movement at the time of the First World War and who provided the money for Margaret Sanger to set up her birth control clinic in 1922.<sup>122</sup> Stella Browne had been originally offered the position in the chair but refused it and became vice chairwoman. Possibly she felt this would leave her freer to take a less compromising position. She was the most militant of the three principal organisers and the secretary Alice Jenkins noted in her history of the movement "Stella never wavered from her uncompromising belief in the 'woman's right to abortion up to the viability of her child'. Janet and I shared her opinion, but, mistakenly or not, believed that we could further our views better by a less forthright declaration".<sup>123</sup>

This division of opinion about how far to reduce demands for political reasons is one that became important in both Britain and the United States at a later date.

Although the movement for abortion freedom was dominated by women there was no particular prejudice against men being involved on the grounds it was a woman's issue. Thus at the first conference ALRA held in May 1936 Stella Browne specifically thanked the men who had "Come forward under circumstances of difficulty and possibly embarrassment to stand beside us and express their sympathy"<sup>124</sup>. Throughout its subsequent history ALRA has welcomed the help from men who were willing to further its ends. In the early years it was facing an unsympathetic social environment which made it difficult to find acceptance for its ideas. However, by 1938 it had 274 members, hardly a mass movement, but a reasonable size for the kind of organisation it was.<sup>125</sup>

#### The Bourne Case

The greatest victory of ALRA in the 1930's was the trial of Aleck Bourne which extended the law to cover rape and other factors related to the health of women.

Bourne had been a member of the committee set up by the British Medical Association. This reported in 1936 that the law was somewhat confused and was in need of clarification.<sup>126</sup> Bourne decided he would try and find a suitable subject for a test case. He was a consultant gynaecologist in West London and was also a member of ALRA's Medico-Legal council.

The opportunity came in 1938 when a girl aged 14 years 9 months was raped and became pregnant. Joan Malleson, who was also a member of ALRA's Medical

Legal Council, saw her and wrote the following letter on 21st May 1938: <sup>127</sup>

"Dear Mr. Bourne,

I have been consulted by the organizer of the Schools Care Committee about a girl of 14 called ..... It is possible that you saw in the paper some three weeks ago that this girl was assaulted in Whitehall by some soldiers. The actual facts were that she was with two girl friends, who ran off and left her, and she was held down by five men and twice assaulted. It appears that she is free of venereal infection, but the Z.A. test has just come back positive.

I gather from the lady who brought her that everybody connected with the case, i.e. the police surgeon, the doctor at her work, the school doctor, etc., all feel that curettage should be allowed her; and I understand that Dr. ...., and possibly some other psychiatrists of good standing, would be prepared to sponsor 'therapeutic abortion'. I presume they must mean on grounds of prophylaxis, because there does not appear to be any nervous disorder present. All this, of course, gets us nowhere unless someone of your standing were prepared to risk a cause celebre and undertake the operation in hospital.

Many people hold the view that the best way of correcting the present abortion laws is to let the medical profession gradually extend the grounds for therapeutic abortion in suitable cases, until the laws become obsolete, so far as practice goes. I should imagine that public opinion would be immensely in favour of termination of pregnancy in a case of this sort.

If there is any chance that, given adequate professional backing, you feel prepared to consider this, I would take a lot of trouble to get people of high standing to see this girl, and should of course feel that it was most valuable if the case was conducted publicly in hospital.

I am told that a rather grim twist is added to this case by the fact that the girl's parents 'are so respectable that they do not know the address of any abortionist'; and are I gather, having to set about to find one, for they 'could not possibly let her go through with this'. She seems a normal, healthy girl, and on medical terms there is obviously nothing to be said.

I hope you will forgive me for troubling you about this.

With kind regards,

Yours sincerely,

JOAN MALLESON.

P.S. Unfortunately, the matter is made a little more difficult by the fact that the girl was admitted to St. Thomas's Hospital under Mr. .... who I think from the report of his attitude must be Catholic. He took the conventional standpoint that 'he would not interfere with life because the child may be the future Prime Minister of England' and 'that anyhow, girls always lead men on'. But she is not any longer under his care, nor is it yet public that the Z.A. test is positive'.

128

On May 27 Mr. Bourne replied:

"I am interested in the case of rape which you describe in your letter. I shall be delighted to admit her to St. Mary's and curette her. I have done this before and have not the slightest hesitation in doing it again. Therefore please let me have the girl's name and address or ask her parents to send her to see me. I have said that the next time I have such an opportunity I would write to the Attorney-General and invite him to take action.

Bourne admitted the girl to hospital and observed her for eight days.<sup>129</sup> The morning he performed the abortion the police arrived and he told them he wanted them to take action against him. It was not clear who, in fact, contacted the police in the first place. It seems Bourne did not do so as he had promised the girl's father that he would keep matters as secretive as possible in order to save the girl's mother from worry.<sup>130</sup>

In his summing up Mr. Justice MacNaghton stated that the traditional view was that an abortion is justified only if it were done to preserve the life of the woman. However, he said that too narrow a view must not be taken of the meaning of these words. It was not merely a question of saving the mother from instant death. Any serious impairment of health may reach a stage where there is a danger to life, and anything which threatened such impairment of health might justify the operation.

In fact he went further and stated that it might be the duty of the doctor to perform the operation and that religious scruples would be no excuse for not

doing so. "If the life of the woman can be saved by an operation and a doctor did not perform it because of his religious views he would be in great peril of being brought before this court on a charge of manslaughter for negligence".<sup>131</sup>

Bourne was acquitted and the decision passed into English case law.

The position at the outbreak of war was therefore that rich women could get a quasi legal abortion but that poor women were unable to do so. The New Generation set out the situation as follows:<sup>132</sup>

"Abortion is permissible, not merely to prevent the immediate death of the mother, but to prevent serious injury, mental or physical to her health ... one thing is certain, that money will have a tremendous influence in deciding whether or not there is to be an abortion. If the unmarried daughter of a millionaire gets pregnant, there will be no difficulty in finding two reputable doctors who will consider an operation the best possible thing for her health. If a penniless girl gets pregnant, we fear it will be much more difficult to get the necessary approval. Regarding abortion, at least, there will certainly be one law for the rich, and another for the poor."

This then was the situation as the outbreak of war forced an end to political activity in this area.

#### American Debate Between The Wars

The first modern activist for birth control - William Robinson - also became the first systematic proponent of the legalisation of abortion. This compares to Britain where the Malthusians were the first agitators on both issues. However, it will be shown that in the United States the fledgling abortion movement died out in the thirties.

William Robinson seems to have taken a consistent position on abortion which can be summarised as follows:<sup>133</sup>

1. Abortions occur in great numbers and the operations are



usually carried out by doctors.

2. This is a situation which should be deprecated and it is much better to substitute contraception.
3. Although contraception is much better abortion is a relatively simple and safe operation and cannot be regarded as murder for only a few cells are destroyed.
4. The law on abortion should be repealed to allow it in the early months of pregnancy.
5. Although approving abortion he would never perform one as it would restrict his possibilities in campaigning on the issue.

Robinson's estimation of the number of abortions rose from one million a year in the 1910's to two million in the 1930's. He knew that most of the operations for the richer groups were carried out by doctors and that they could make a great deal of money out of it. He said he had little respect for the professional abortionist but that he was morally superior to the judges and hypocrites who  
134  
condemn him. 'He has saved many a family from shame and humility, and many an unfortunate young girl from a suicide's grave'. In a later book in 1933 he also pointed out that "An altruistic physician does it, when necessary for a nominal fee, and often altogether gratis". 135

He believed that the law on abortion was illogical but in his early years he was circumspect in his views on the subject. Thus when in 1908 The New Orleans and Surgical Journal reported a symposium on illegal abortion he  
136  
criticised it in the following terms:

"(It was) one physician vying the other in his expression of execration of the crime of abortion, the same talk that the fetus is a living human being from the moment of conception". 137

But, despite this criticism, he did not at this stage call for legalisation. His views did not become known until 1913 when he criticised the radical Statements of the German Professor Kocks. Kocks called for abortion throughout pregnancy but Robinson said he did not agree that all restrictions should be abolished irrespective of gestation. He just called for legalisation

early on stating "Abortion is a nasty business ethically, esthetically and physically, although not infrequently it is fully justifiable as the lesser of two evils."

He maintained this position in 1920 when an American commentator Herman Dekker began calling for legal abortion. Robinson gave him space to write a series of articles in Critic and Guide. Dekker's basic argument was that attitudes to birth control had gone through two stages. First it was socially approved in the sense that it was widely used but people were imprisoned for discussing it. However, after a time it became accepted legally. He continued to suggest that abortion was now in the position that it was widely used and that 'in the process of becoming ethically approved the first stage of widespread practice has already been completed.'" <sup>138</sup>

One of the arguments underlying Dekker's proposals for abortion was that the 'lower' classes did not use contraceptives and so those of poorer quality were reproducing themselves to a greater degree. He said if both contraception and abortion were practiced it would eliminate the effects of what many saw as 'reverse Darwinism'.<sup>139</sup> The British Neo Malthusians had faced that problem as we have seen and argued, rightly, that once the middle classes adopted birth control it would spread to the working classes. Robinson took a similar view and opposed Dekker's standpoint as being too radical and not giving enough weight to the possible problems of abortion. It should in his view only be used in exceptional cases where for one reason or other contraceptives had failed.

This view of Robinson that abortion should only be used sparingly led him to be very critical of the attitudes of some young people who took a much more relaxed attitude. One day in 1929 a young lady came to his office and

requested an abortion. She had already had three and Robinson, angry at her carelessness, commented, "I do dislike a certain type of modern young women who indulges promiscuously, uses contraceptives rather reluctantly, preferring repeat abortions, which she regards as lightly as tossing down a cocktail or a glass of whisky".<sup>140</sup> This comment is revealing in suggesting that at the time many young people were using abortion as a contraceptive.

As shown in the early days Robinson soft pedalled the abortion issue in the belief that birth control was the major fight. However, in the twenties and especially from 1928 onwards he took the view that this issue was won and that he was permitted to go a step further and devote some of his energy to the subject of abortion. In his book 'Sex Love and Morality' he made a forthright call for legalisation.<sup>141</sup> "Abortion up to the end of the third month should be made perfectly legal, when performed by a physician and at the request of the woman" and five years later he devoted a whole book to abortion in which he reiterated his earlier views.<sup>142</sup>

By the early thirties other doctors were supporting Robinson's call. Possibly the most forthright of these was Abraham Rongy who argued for extension and called for legalisation on seven different grounds.<sup>143</sup>

- |                         |                               |
|-------------------------|-------------------------------|
| 1. Illegitimacy         | 5. Husband dies               |
| 2. Incest               | 6. Woman has several children |
| 3. Mental Defectiveness | 7. Woman lives in poverty     |
| 4. Woman Deserted       |                               |

Unlike Dekker and Robinson he did not believe the birth control battle had been won. However, like Robinson, suggest that once contraception was legal 'the time will be ripe for a valid code on abortion'. He was concerned with medical opinion and maintained that doctors would hesitate to take a radical stance on

such a moot issue until the public had indicated a wish for a change in the law.

Rongy also argued that the laws on abortion were having a very bad effect first of all because they prevented improved practice and secondly because as it was illegal high profits could be made and young doctors were being diverted from other areas.

So a minority within the medical profession was willing to come out openly for change. There was also some pressure for the reform of the laws from a women's group who formed the Association for Reformation of the Abortion Law in 1932.<sup>144</sup> This aimed to broaden the indications to include cases of rape, seduction, mental or physical hereditary, infirmity, destitution and divorce. However, this organisation does not seem to have been very strong and could have little hope of success in a society which has not yet legalised the spread of contraceptive information.

### Margaret Sanger and Abortion

Margaret Sanger seems to differ from her English counterpart Marie Stopes in that her antipathy to abortion was not because of strong personal feelings on the subject but for political reasons. This becomes clear from an analysis of her writing on the subject.

In her pamphlet 'Family Limitation' first published in 1915 she approved abortion stating "No one can doubt that there are times where an abortion is justifiable but these will become unnecessary when care is taken to prevent<sup>145</sup> conception". In 1919 she pointed out that abortion could be a safe operation "We know that abortion, when performed by skilled hands, under right conditions, brings almost no danger to the life of the patient and we also know that particular diseases can be more easily combated after such an abortion than during a pregnancy allowed to come to full term".<sup>146</sup> A year

later she again took a less than censorious attitude "The woman who goes to the abortionist's table is not a criminal but a martyr - a martyr to the bitter, unthinkable conditions brought about by the blindness of society at large".<sup>147</sup> She continued to argue the case for contraception as the substitute.

The British Birth Controllers were critical of her stance on this matter and in 1915 the Malthusian when reviewing 'Family Limitation' criticised its passage on abortion.<sup>148</sup>

"It is unfortunate that in Mrs. Sanger's otherwise excellent pamphlet she tells women that if they intend to have an abortion they should do so without delay. She does not, however, give any instructions concerning how to perform it. The Malthusian League does not countenance abortion, not because it approves of the savage penalties which most Christian countries inflict upon those who practice it, but because it considers that if preventive methods were generally known there would be practically no need for abortion, except in definite medical cases. Mrs. Sanger has informed us that she has not advocated abortion, but that the practice is so common in America, and so generally spoken of, that she felt it desirable to warn women against the use of drugs and against delay if abortion had been determined upon."

Marie Stopes was also very concerned that by her attitude to abortion Margaret Sanger would weaken her position. When Margaret returned to the United States to face trial for breaking the Comstock law with 'Family Limitation' a group of nine English birth control supporters including H.G. Wells and Marie Stopes wrote to President Wilson pointing out that the United States was the only 'civilised' country in the world where the spreading of birth control information was a criminal offence and asking for presidential action.<sup>149</sup>

This letter was of course influential, the president apparently being particularly impressed that H.G. Wells had signed it. Marie Stopes, however, was worried by the passage on abortion.

She therefore wrote a further letter in which she stated, "The fact that Mrs. Sanger had even apparently condoned abortion may be seized upon as a

justification for her condemnation. But, if this is truly and impartially considered, it will be seen to be, on the contrary, a condemnation of the system against which she is so valiantly fighting, a system under which it is possible for secret abortionists to have practices so flourishing that queues of poor women stand outside their doors as if waiting for a popular theatre to open".<sup>150</sup>

This pressure from the British and their encouragement for Margaret Sanger to fight a single issue campaign eventually paid off and after the early twenties she did not argue the case for abortion but simply stated that with contraceptive usage it would become unnecessary. However, this does not mean that she changed her fundamental position on the subject. In fact according to some evidence unearthed by James Reed it seems at least from 1933 onwards Sanger felt sufficiently secure to begin to do something for women who went to her clinic after missing their periods and who were often pregnant. <sup>151</sup> Reed discovered one documented case of a woman being given a pregnancy test and referred to a sympathetic physician. Given the risks involved it is surprising that evidence of even one case was available and it suggests there may have been a system of referrals. There would, for example, be very little risk in referring regular patients at the clinic who had suffered contraceptive failure.

#### The Lack of a Movement for Abortion Reform

We have seen that there were in the early thirties a number of people calling for abortion reform and there was an attempt in 1932 to form a movement. However, there was never anything in the United States of comparable influence to ALRA. The reasons for this are partly historical and partly due to the differing social conditions operating at the time.

In Britain the Neo Malthusian movement had by the 1920's lost its role as the major organisation pushing for birth control reform and was therefore looking for a new issue. It was therefore able to alter its policy on abortion and to provide an immediate structure within which pro choice agitation could flow. In the United States no similar organisation existed. William Robinson and his subscribers to the Critic and Guide played a similar social role to that of the Malthusians but he was very much a lone organiser. He was, as has been shown, agitating for abortion in the late twenties but he was very much a 'one man band' and when he died in 1936 his magazine closed. He had made no contingency plans for others to carry on his work.

Perhaps a more important factor was, however, the failure of the birth control movement to break down the Comstock Laws until 1936 and the fact that the American Medical Association did not accept contraception until 1937. If this breakthrough had come at a time when Margaret Sanger was younger she may well have been the person to launch off in a new direction. As it was she went into semi retirement. Planned Parenthood was formed but those in charge of the organisation regarded their major task to be one of spreading contraception. They took the view that any espousal of abortion as an issue would frustrate their main aim. In this respect they took the same line as Marie Stopes and the Family Planning Association in Britain.

So the United States was lacking the effect of an official pressure group for abortion.

CHAPTER 4

The British abortion Act (1967) came into effect on April 27th 1968 after a long and hard fought campaign. Its passage was a watershed in terms of worldwide laws and was the result of a wide variety of factors.

They can be conveniently grouped into three main headings - the general climate of opinion, the relative strength of the pressure groups and the composition of the House of Commons.

Climate of opinion

In successive chapters the changes in attitudes towards sexual behaviour have been observed and in particular the liberalisation occurring after the first world war. However, after the second war it does not seem such changes occurred and with some exceptions the period of the late forties and fifties were not those of tremendous upheaval in terms of sexual morality. The war produced deep seated social changes in British Society.<sup>1</sup> It did much to reduce the social class difference and the position of women in society changed.<sup>2</sup>

But in the case of sexual morality it appears that the closing of the social distance between the classes meant that the middle class values such as chastity were more easily acceptable to the working class at least in theory.<sup>3</sup>

In the early fifties even a number of social commentators were likely to accept chastity as an ideal and to state that the problem of morality was being able to persuade young people to accept it.<sup>4</sup> In fact Rowntree and Lavers put the causes of promiscuity down to the poor conditions of the working class and suggested that if these were improved and there was a well conducted campaign in favour of chastity there might be a great improvement in the nations moral fibre.<sup>5</sup>



This argument would seem very much an anachronism within fifteen years but it reflected the dominant middle class view at the time. The problem was seen to be to persuade the working classes to accept the middle class values of deferred gratification. There were obviously some opponents of this view amongst the radical members of the middle classes and such groups as the beats but all the countries of Europe chastity was accepted as the ideal pattern of behaviour by the dominant groups.<sup>6</sup>

This of course changed in the 1960's with the growth of what the press liked to call the "permissive ideology" and this radicalisation of beliefs reflects certain social changes that occurred within the middle classes. In the nineteenth century the growth in chastity as an ideal was linked in part to the increased power of the church and the education system. However, after the war the influence of these two sets of institutions changed somewhat.

The attendance at the Church of England declined and whereas, at the turn of the century seventy per cent of people married in an Anglican church, by 1962 it was down to 47%. Furthermore, in 1962, nearly one third of people were married in civil ceremonies and so were not directly involved with church's injunctions to chastity.<sup>7</sup> There was also a change in doctrine and a movement within the church against the idea that life should be governed by strict rules. Bishop John Robinson's book 'Honest to God' challenged many of the religious assumptions and said that it could not be argued that 'sex relations before marriage' are wrong for the only intrinsic evil is the lack of love.<sup>8</sup> These ideas meant that Conservative influence of the church of England declined a great deal during this period.

Other religious groups also began to challenge the contemporary standards. The report "Towards a Quaker view of sex" published in February 1963 stated unequivocally "We reject almost completely the traditional approach of the organised church to morality with its supposition that it knows what is right and wrong". The report continued to propose that the new morality should be based upon tolerance and understanding on the issues of homosexuality, pre marital and extra marital sex.

These challenges to the traditional position were opposed by the Archbishop of Canterbury in September 1963 and by the Convocation at York but these statements came some time after the main debate and just served to suggest that the church was divided on the issue. <sup>9</sup>

The nature of the education system also changed. There was during the post war period a large expansion of higher education and this was particularly important. The whole atmosphere at the universities and colleges was different from the schools and the growth meant that an increasing number of young people were ending their education in a liberal environment.

So one factor leading to the "new morality" was the changed nature of the traditional conservative forces but possibly more important was the growth in strength of new groups within the middle class who were more radical in their attitudes. The mass media managed to break free from some of the constraints it had faced in earlier periods. In terms of literature a key factor was undoubtedly the trial of Penguin books for publishing D. H. Lawrence's book 'Lady Chatterly's Lover' which ended with acquittal in 1960. The well publicised case re-evaluated many values within the middle classes in terms of what it was permissible to publish and led to a liberalisations of standards in other media. There were also widespread

changes in the theatre, television, newspapers and films which were largely the result of the middle class media people feeling free to challenge the restraints that had previously been placed upon them.

There was further more growth in the size and strength of the radical middle class youth. The post war birth boom led to an increased number of young people in the nineteen sixties and these had been brought up with little knowledge of the post war privations. As I have analysed more fully elsewhere the whole issue of youth changed from its position in earlier years.<sup>10</sup> In the fifties when people talked about the generation gap they were referring to the fact 'Teddy boys' and girls were not following the middle class patterns of deferred gratification. However, in the sixties the generation gap referred to the differences in values between the younger middle class and their parents age group. A significant minority of these young people had the confidence to challenge many of the assumptions of the dominant ideology and with the growth in availability of contraception they were able to engage in pre-marital intercourse with fewer worries. George Carstairs was able to say in his Reith Lectures "It seems to me that our young people are rapidly turning our own society into one in which sexual experience with precautions against conception is becoming accepted as a sensible preliminary to marriage, a preliminary which makes it more likely that marriage, when it comes, will be a mutually satisfying partnership".<sup>11</sup>

This statement made in the course of the annual group of lectures to honour Lord Reith was received with much publicity and a great deal of acceptance. As I have shown a number of previous writers had challenged the notion of chastity but the social conditions were such that their views

had not gained widespread acceptance. However, by the 1960's the climate of opinion had changed sufficiently and from this time it became socially acceptable to challenge the traditional norms. For the second time this century people were talking of the 'new morality' and the notion of 'permissiveness' gained a great deal of vogue. It was to a large extent a middle class phenomena.

One of the ironies of the British social climate is therefore that in the nineteenth century it was the middle class who were the most conservative and who gradually imposed their morality. However, by the time it had gained widespread acceptance amongst the working class the middle class changed its attitudes. So today it is the middle classes who are most open about their non marital sexuality and who are the most likely to approve of people living together without being married.

The sixties were, therefore, a period of liberalisation of attitudes towards sexual matters and this provided an environment within which changes could be brought about. There were also a number of events specifically relevant to abortion and these had an important impact on public opinion.

One was the drug Thalidomide which was first marketed in 1957 and was by 1962 known to be responsible for deformed children. It was an American woman Sherri Finkbine who focussed attention on the problems of women who had taken the drug when she was refused an abortion in the United States and had to fly to Sweden for a legal operation.<sup>12</sup> In July 1962 the question was raised in the British Parliament as to whether women who had taken thalidomide could get an abortion. The minister replied that abortion was legal on the grounds of physical or mental health of the woman, but not on the grounds of possible deformity of the foetus.

The Daily Telegraph attacked Lady Summerskill for asking the question but the opinion polls at the time revealed there was public support for abortion in this case and, therefore, a change in the law.

Thalidomide was a reason for some of the major activists becoming involved. Diane Munday told me:<sup>14</sup>

"I joined at the time of Thalidomide. I was offered it when I was carrying Nick my third son. I was sleeping badly - he was laying on a nerve - and I had two babies at the same time to look after. I was nearly going mad and my doctor actually gave me a script for it. It sat on the mantelpiece of the living room downstairs and I never took it. Sometimes I was very tempted after a sleepless night and then I realised what could have happened. It was at this stage when somebody from the nearly defunct ALRA did write a letter to the Observer, that was my first intonation that such an organisation existed and I wrote and I joined ..... That was the jumping off ground that brought all of us in, we were so appalled. For people who were in the process of having babies then and who had children it was a case of 'It could have been me'. That made me join. Then of course I became pregnant for the fourth time. I had a rotten time with the other three and in no way could I face having another from a physical point of view. I was in bed most of the pregnancies and I was toxic. I went through the N.H.S. originally and I was treated so abominably - as though I was a kind of moral imbecile - so I went to Harley Street. .... It seemed to me to be iniquitous that because I could get £100 I could get safely what other women were having to go to the backstreets for".

So thalidomide was a key factor in showing the inadequacies of the law.

Support for the change in the law

The major pressure for change in the law came from liberal left, but during the period up to the passage of the 1967 Act it was the Abortion Law Reform Association which dominated the activities. It was the only pressure group solely concerned with abortion and in some senses the 1967 Act shows what it is possible to achieve without mass support but with good organisation.

After the war ALRA had a meeting to decide policy. Should it, for example, try and get a Bill through Parliament or bearing in mind the success with Bourne should it rely on working through the law courts. No firm decision was reached and during the forties and fifties two cases consolidated the Bourne decision. However, it appears that for fifteen or so years after the war there was little activity within the Association. Hindle and Simms state:<sup>16</sup>

"From the 1950's onwards direct political activity increased until it eventually came to supercede the Associations education function. The scale of this activity was, however, limited by the small number and the increasing age of the Association's members".

During the early sixties younger members began to become increasingly involved and during a few months up to March 1964 the leading positions on the ALRA executive changed hands. The chair was taken over by Vera Houghton who had been actively involved with International Planned Parenthood for many years and Madeleine Simms and Diane Munday also joined.<sup>17</sup>

The new committee composition led to a much more energetic approach.

The three women mentioned seem to have been the dominant figures and in some senses they complemented each other. Madeleine Simms, an active Fabian,<sup>18</sup> was in terms of her personal behaviour and outlook the most conservative of the three. She recalls she was appalled when Diane Munday told her about her abortion for that was the first time she had met anyone who had admitted to one.<sup>19</sup> She drafted the news letter and did the major part of the writing for the Association. Diane Munday combined a flair for public speaking with an enormous tenacity so she did the larger part of the broadcasts.

There were almost inevitably tensions within the organisation given the fact that the personalities were very strong and one of the most important roles Vera Houghton played was to reduce the conflict.

She also helped to mould the executive committee to give each member an area of responsibility. Madeleine Simms says of her:<sup>20</sup>

"Cool, detached, objective, and tolerant, within a short space of time she had acquired an unquestioned authority over all the disparate elements on the committee".

The committee also contained a number of men who made an important contribution to its work and the aims of the organisation were not geared to feminist ideals. This was something of a change from the days of Stella Browne but those involved could see some of the advantages.

Madeleine Simms told me that one of the benefits they had at the time of liberalising the Act compared to the feminists in later years who were largely responsible for defending it was that they were supported by their husbands. They were, therefore, relatively free to work for the cause.<sup>21</sup>



In later years the increase in female employment meant there were fewer supported women to take an active role and full time workers had to be paid.

One of the crucial decisions the Association had to make was whether to aim for the total repeal of the abortion law up to a specified time in the pregnancy. This question was brought to a head by the suggestion of Glanville Williams at the A.G.M. of October 1963 that abortion be legalised until the thirteenth week and after that to save the woman's life. This suggestion was not as radical as Stella Browne's proposal of legal abortion up to viability but it would have been a very great change. In support he claimed that limited changes related to the 'hard cases' would leave untouched the mass of illegal abortions in the country.

Glanville Williams had a fair amount of support for this aim. Lord Gardiner agreed with him as did Ms. Dorothea Kerslake ALRA'S most prominent female gynaecologist. He also had some support from regional groups thus the North West London group at its meeting 3 December 1963 passed the following resolution by fourteen votes to one:

"That the North West London Group of ALRA supports Dr. Glanville Williams' view as expressed in his recent address to the AGM that 'doctors should be authorised to terminate any pregnancy of less than thirteen weeks' and that this should become the official aim of the Association, if the medical, legal and political authorities connected with the association agree that this is tactically advisable against existing aims".

The question therefore arose as to what decision the ALRA executive would take and on 14th February 1964 Vera Houghton wrote to Madeleine Simms and Diane Munday with a statement of future aims of the organisation to be brought up at the next meeting.<sup>23</sup>

"The Association's aim is to secure such changes in the law as will provide that a registered medical practitioner may lawfully terminate or advise termination of pregnancy up to the 13th week if he considers it to be in the best interests of the patient. Terminations after the 13th week would only be undertaken to preserve the life of the mother ..... To the question Does the Association advocate the complete freedom for women to decide whether or not they will bear a child, the answer is 'Yes, provided that there is a clear indication that this is what the public wants'."

However, four days later the executive reversed the last sentence and its reply became 'No, it depends on the medical opinion of the doctor, not the personal opinion of the patient.'

With this decision ALRA therefore turned its back on aiming for a woman's right to choose and it seems that it was a tea party at the House of Lords (12th February) which clinched the argument against such a step.

In a letter (23rd March) Vera Houghton said of the event:<sup>24</sup>

"It was pretty clear from the discussion which followed that the Association would not stand a chance of getting a bill introduced, in the present climate of opinion, along the lines recommended by Dr. Williams".

So the main aim became to introduce a 'reform' rather than a 'repeal' bill and all ALRA's resources in the next three years were geared in this direction.

One technique the organisation used was to obtain as much institutional support as possible. By the time the new group took over there had been some support from different organisations.

The Magistrates Association passed a resolution in favour of reform as early as 31st October 1955 and by 1963 an ALRA leaflet claimed support from:  
25

The National Council of Women  
The Family Planning Association  
The British Social Biology Council  
The Eugenics Society  
The Woman's Co-operative Guild.

However, others were needed.

In August 1964 a special leaflet was prepared as follows:

"We feel sure that recent articles in the Press and feature programmes on television and sound radio about the social problem of illegal abortion will not have gone unnoticed and that they reflect a growing public awareness of the unsatisfactory state of the law. We are therefore writing to voluntary organisations, particularly women's groups, which have shown an interest in our aims, to suggest to them that now is the time to make their feelings more strongly known about the need to revise the hundred-year old Offences Against the Person Act, 1861.

May we count on your organisation to support us in this renewed fight for a more humane law? If so, would you consider whether you can help us in one or more of the following ways:-

1. By submitting a resolution along the lines attached to your next Annual Conference. If this has already been done, would you kindly send us the terms of the resolution? If put to a past conference, please let us know with what result.
2. By circulating copies of the enclosed leaflet "What is Alra?" to your members. We need more new members to build up our strength. Please let us know how many copies you will require and we will do our best to supply them. Also enclosed are

samples of two further leaflets, "A Clergyman's View" and "What help can Alra give ?".

3. By becoming a regular contributor to ALRA. Your organisation could do this by applying for affiliate membership, the annual fee for which is one guinea which entitles affiliated bodies to send one member with voting power to General Meetings and to receive two copies of the ALRA Newsletter; or, if affiliation is not feasible, by a donation or an individual subscription (minimum 10/- a year).

Our overheads are kept to the absolute minimum: we have no office premises and no salaried staff, all work in a voluntary capacity. This enables us to devote all our resources to the main task. Any help that your organisation can give will therefore contribute to the extension of our work."

In the next three years support was gained by a whole host of organisations. These resolutions fell into two main categories. A few were calls for repeal of the law up to a certain stage in the pregnancy. In 1964 the University Humanist Group Federation Annual Conference supported a resolution which called for it to be lawful to perform an abortion "on any grounds provided that the termination of pregnancy is performed before thirteen weeks of pregnancy are completed". The following year the Socialist Medical Association passed a similar motion and called for 'Legislation to enable abortions to be carried out under the National Health Service before the twelfth week of pregnancy'. These two organisations specified that the abortion should be carried out early but this was not the case with the resolution of the Progressive League at its AGM in 1964.

This simply called for a change so that "the termination of pregnancy by a qualified medical practitioner if the expectant mother so requests should be lawful".<sup>26</sup>

However, these kinds of resolutions were in the minority and far more common were the ones calling for limited extension. Typical of these was that of the National Union of Townswomen's Guilds which in 1965 urged "Her Majesties Government to introduce legislation to legalise abortion, when personally desired by the woman concerned and when advised by a medical panel and performed by a suitably qualified member of the medical profession in the following circumstances:<sup>27</sup>

1. Where it is necessary to preserve her physical or mental health.
2. Where there is serious risk of a defective child being born.
3. Where the pregnancy results from a sexual offence such as rape or incest."

Other organisations which passed similar resolutions to this were:

- 1965 National Women Citizen's Association A.G. M.
- 1965 National Secular Society<sup>28</sup>
- 1965 National Association of Women's Clubs Annual Conference
- 1965 Scottish League of Young Liberals
- 1965 Church Assembly Board of Social Responsibility.
- 1966 Free Church Federal Council National Congress Resolution.
- 1966 Co-operative Women's Guild Annual Conference.
- 1966 National Council for Civil Liberties 'supports efforts already being made'.
- 1966 Church of Scotland General Assembly Moral and Social Welfare Board.
- 1966 Royal Medico Psychological Association-memorandum
- 1966 Conservative Political Centre - support Wingfield Digby's Bill.

- 1966 Congregational Union of England and Wales - Christian Responsibility Committee.
- 1966 Methodist Conference Resolution.<sup>29</sup>
- 1967 Law Society and British Academy of Forensic Science Joint Committee.
- 1967 British Council of Churches .
- 1967 National Conference of Labour Women.
- 1967 United Free Church of Scotland General Assembly.

So during this period there was a widespread movement for change, however, there were differences in the degree of support. The British Council of Churches resolution, for example, called for a clause in the bill so that the Act could be reviewed after a period of five years and others were worried that the Act went a little too far. In 1966 the Free Church Federal Council objected to the severely overstrained mother clause in David Steel's bill. However, even with such reservations there was widespread support.

ALRA also attempted to build up its individual membership. In the early sixties it had less than two hundred members but with the impetus of the new leadership and a more aggressive approach it grew steadily and by 1966 had passed the thousand mark. The membership was of course atypical in comparison with the composition of the general population. Nearly two thirds were women, two thirds had a higher education and a fifth were doctors or para medical. A third of the women had required an abortion at some time and politically there was a higher than average number who were left wing. Thus 51% were Labour supporters, 21% Conservatives and 13% Liberal. A fifth were members of the Fabian Society.<sup>30</sup> Although

The membership was to the left of the general population. There was a degree of support from the right wing. David Steel's medical adviser was Peter Diggory and he was a member of the Conservative party. This kind of support gave ALRA a broader base upon which to campaign.

Another technique it used was to monitor public opinion and show it supported a change in the law. To this end ALRA carried out a number of polls.

A National Opinion Poll in July 1962 asked "Would you be in favour of a change in the law allowing doctors to terminate a pregnancy where there is a good reason to believe that the baby would be born badly deformed. In reply 72% of the public agreed with the statement and only 23% disagreed. So nearly three quarters of the population were in agreement with an extension of the law on this ground at least.

In March 1965 N.O.P. Research Services Ltd. carried out a survey on behalf of the Abortion Law Reform Association. It asked "Do you think that abortion should be legal in all cases, legal in some cases or illegal in all cases. 6.4% said legal in all cases, 66.1% said legal in some cases and 24.1% said illegal in all cases. The other 3.5% did not know. Those who answered 'legal in some cases' were asked further to specify the grounds and their replies showed that 70% agreed with abortion if the woman's physical health would be seriously affected, 69% agreed with it if the woman's mental health would be seriously affected, 62% on the grounds of rape and 58% if the child would be deformed. Thus a clear majority favoured a change towards a more liberal bill.<sup>31</sup>

This finding was confirmed in the following year when ALRA again sponsored a survey. This time it was of Women's attitude and experience. Three-quarters felt abortion should be easier to obtain and only one in five felt it should not be liberalised.<sup>32</sup>

In 1967 ALRA sponsored two polls to make the total four in three years. These occurred in February and September and showed that 65% of people agreed that abortion should be legal 'if the pregnant woman is unable to cope with any more children' and 80% agreed with abortion if there was a serious risk that the child would be born deformed or if the pregnancy was due to 'A sexual crime such as rape'.

All these surveys indicated public support for a change in the law. ALRA also tried to monitor clergy and medical opinion to show that support was coming from these also. To this end, in 1966 the South East London group distributed a questionnaire to non Catholic clergy. A total of 459 replies were received and the results showed a huge majority favoured a change. Only 6% said they were satisfied with the law and 89% said they were not happy with it.<sup>33</sup> This result is striking even taking into account the fact that the response rate was only 46%. A medical survey was carried out by NOP in 1967. This gave the first and major clause of the Act and asked doctors if they agreed with it. A total of 1,180 interviews were reported (65.5% response). 65% thought the grounds were satisfactory or too restricted, 21% felt the proposals were too liberal and 10% disagreed with all abortions (4% were undecided).

So with these results ALRA was able to claim support for change from these groups.<sup>34</sup>



ALRA attempted to keep abortion in the news and to gain publicity for the cause by a variety of techniques. Sometimes it would simply exploit an event as with thalidomide but on other occasions it actually set out to make newsworthy discoveries. A good example of this was a study of the Abortifacient Drugs Racket under the direction of Dr. Martin Cole a member of the ALRA executive.

Three investigators, two women and a man, visited 40 shops in London and Birmingham asking for products to bring on a delayed period and a twelve page report was produced. This said "The impression was gained that this sort of request was so common as to occasion no distinctive reaction...." and that, while the preparations are never labelled 'abortifacients', they made claims such as bringing 'swift and blessed relief'. The findings showed that the use of pills, a practice which dates well back into the nineteenth century were still being tried by women unable to obtain a legal abortion.<sup>35</sup>

ALRA was able to make political capital out of this fact and Madeleine Simms wrote in her press release :

"Our present antique abortion laws have the effect of encouraging women to resort to drugs when they wish to end unwanted pregnancies, instead of consulting their doctors to discuss the problem. It is suspected that these drugs rarely produce the desired results but may sometimes poison the mother or damage the foetus if taken in large doses".

ALRA could, therefore, argue that, if the law were changed, it would lead to a great improvement in the health of women who would not need to resort to such remedies.

In terms of style of argument those in favour of change stressed the fact that they were not particularly radical on other issues. When speaking they always dressed conservatively and attempted to distance themselves from those with wildly radical views. They felt there were sound political reasons for this because they wished to get the support of the majority.

The large part of the ALRA speaking both to local groups and on the media was by Diane Munday and her lecture notes are indicative of the issues raised in the campaign.<sup>36</sup> The ten major points she made in lectures were as follows:

1. In a survey over half the doctors polled said they did not know how to interpret the current law.
2. Rape and incest were far more common than expected. She read a letter as example.
3. Arguments against abortion used by the opposition dealt with:
  - a. physical dangers of the operation
  - b. depression and guilt
  - c. Argument that it leads to promiscuity.
4. Present situation - there are now 1,500 abortions on the National Health Service compared to 100,000 illegal.
5. Catholic church not consistent on its teaching.

Until 1869 it allowed abortion to quickening. Catholic church from 1211 to 1869 recognised two types of foetus. Male became animated at 40 days, females at 80 days.<sup>37</sup>
6. Before 1803 abortion was legal in Britain.
7. Personal belief and inconsistencies of present day church.

Catholic members do not accept its position.
8. What has been done B.M.A. report 1936, Birkett Committee 1939, 1951 and 1961 Bills.

9. The same arguments against contraception are used against abortion.
10. The law is 'permissive'. Nobody will be forced to do anything against their conscience.

This speech shows clearly the approach taken by the supporters of change. They emphasised the problem of illegal abortions and their danger, the hard cases in terms of women who were raped and the opposition to the church imposing its theological beliefs which have not been consistent.

The personal problems associated with lack of availability of abortions were particularly emotive and an effective leaflet entitled 'In desperation' contained 'a small selection from many such letters received by the Abortion Law Reform Association each week'. One of these read as follows:

"I went to the hospital to terminate my pregnancy. I was only a few weeks and I had to wait to see one doctor and then another, and so on till I got into such a state I thought it would be done, but they said 'No'. I begged them as this is my tenth child. My husband has a bad heart and is off work a lot. My children's ages run from 16 years to my youngest who is 13 months and it's just too much for me. I go mad sometimes with worry, also I get so upset I sit and cry for hours. If I could have had £15 I could have got it done from a woman, but who would have that amount of money with all my children. I can tell sometimes I wish I had the nerve to end it all, that is how I get, so I think if a woman wants it done she is entitled to it".

So ALRA was able to show the suffering of women faced with poor social conditions or with resorting to the illegal abortionist. They used this to mobilise public support.

Overall ALRA was a highly effective pressure group.

Its success was, however, aided by a number of other factors.

### Opposition.

The opposition to the abortion act was at first relatively weak and it faced the problem that the law was on its side and so it was difficult to generate enthusiasm. Diane Munday set out their problem as follows

"If you are a fighter you fight against something. There is no glory or pleasure or satisfaction in fighting for something that exists".

So the opponents of the Act had to attempt to overcome the feelings of apathy of its potential supporters especially in the early part of the campaign. Norman St. John Stevas Britain's "leading layman noted the lack of opposition from Catholics at the time of the second Reading.<sup>39</sup> Writing in the Catholic Herald;

"Last Friday was a bad day for public morality in Britain.....The response of Catholic M.P.'s was all the more disappointing because of the very considerable effort made by the Catholic Union to rally opposition to the Bill. An excellent brief was provided and a number of meetings were held in the House to inform members on the issues involved".

Only 14 out of the 32 Catholic M.P.'s turned up to vote at the Second Reading and it seems that the Catholic Church was caught off guard.<sup>40</sup>

Lord Craigmyle, leader of the Catholic Union which represented the elite of Catholics in Britain said that the vote 'was a shock to us' and talked of 'the appalling weight of the abortion lobby'.

The Church was, therefore, not ready for this particular political battle and, furthermore, the fact that it was

maintaining a stance against contraception diminished its credibility in the eyes of the British Public on related issues. It was, therefore, easy to see the truth in Lord Craigmyle's comment.<sup>41</sup>

"If a Catholic makes a speech on abortion, his views are dismissed, he is not heard with respect.....we are, as it were, being persecuted for Christ's sake".

The Catholic Church was, therefore, not in a particularly strong position especially as certain prominent Anglican Clergymen were willing to attack its stance. An article in a popular newspaper, by Nicholas Stacy, the rector of Woolwich, entitled unambiguously "Why Rome is wrong" blamed the church for being responsible for a large number of illegal abortions because of its attitude to birth control.<sup>42</sup> It also charged one of the problems for the Pope was:

"If he now sanctions the use of mechanical methods of contraception, he had to admit that his church has been wrong in the past. This would cut at the roots of its authority".

This kind of attack raised questions about the reasons for the church's position and the fact that it was already in a state of change further weakened its stance. On top of these problems there was also the fact that the leadership was not particularly astute in putting forward its views. One particularly clumsy attempt, which was well publicised, was at the Annual Conference of the Institute of Directors on November 10th 1966 when Cardinal Heenan attacked the Bill and then astonished his audience by saying:<sup>43</sup>

"You directors, if you stand off men, may be responsible for the death of countless unborn children".

The supporters of the Bill were quick to point out that unemployment was not a criteria for abortion according to the Act and the attack was counterproductive.

The feelings against Catholic intervention therefore grew and when the Society for the Protection of Unborn Children was formed in January 1967 it excluded both Catholics and members of Moral Rearmament from the Committee.

However, although the Catholic hierarchy was not involved in the organisation of the major pressure group it was, nevertheless, Catholic pressure which became one of the major sources of opposition. Peter McDonald, a

wealthy Manchester lawyer, distributed a pamphlet entitled "To be or not to be..." of which 305,000 were in circulation by December 1966.

This was possibly the first of the emotional pieces emanating for the opposition. It drew comparisons with Dachau and Belson and said "if the Abortion Bill goes through, Herod will laugh in Hell. There will be perpetuated in our name a massacre of the Innocents more dreadful than any Herod could have imagined". It also opposed abortion for rape and so was stressing the need for a tightening of the British law.

Eventually there was a growth in the Catholic grass roots movement. One based in Manchester duplicated 1,500 copies of a petition against the Bill.<sup>45</sup>

The Union of Catholic Mothers urged its 30,000 members to write to their M.P.'s opposing the Bill and several leagues representing 6,000 Catholic doctors announced their members would perform no abortions. This pressure built up through the latter part of 1966 so that the Scotsman ran an extensive article stating:<sup>46</sup>

"In the last few days, an immensively powerful Roman Catholic lobby against the Private Member's Bill to reform the antiquated abortion law has been

gathering momentum throughout Britain. Suddenly the country is flooded by anti abortion petitions, M.P.'s are inundated with letters, huge meetings of Catholics express passionate opposition to the principles of the Bill.....In Scotland M.P.'s who might have been expected to support David Steel's reform are taking a different line; in Paisley last Sunday, John Robertson, Protestant Labour M.P. for a constituency with 9,000 Catholics in it pledged a mass meeting of 1,000 Catholic anti abortionists that he would vote against the Bill. Other Glasgow M.P.'s are known to be swithering".

Thus there was pressure building against the Bill but it was too late and in some senses could be dismissed. For example the point about the quote from the Scotsman above is not just the information it gave but also the fact that it located the pressure to be from the church. This made it much more easy to discount.

#### Society for the Protection of Unborn Children

SPUC had its beginnings in the correspondance columns of the Church Times in the Autumn of 1966. One of its proponents was Espeth Rhys-Williams, a daughter of the late Lady Rhys-Williams who had been a member of the Birkett Committee in the 30's. Its aims were devised by Lord Barrington who had fought against Silkin's abortion Bills in the Lords and the Bishop of Bath and Wells became the most prominent churchman on its Governing body.<sup>47</sup> Possibly its biggest coup was gaining the support of Aleck Bourne and the credit for this is taken by Phyllis Bowman their press secretary at the time. She heard Bourne speak and take the view that if he could have saved the raped girl from suffering and save the foetus he would have done so. He was against any extension of the grounds beyond the effect of his case and so he was a willing supporter and able to provide a great deal of credibility to the SPUC campaign.<sup>48</sup>

His presence also prevented SPUC from making the absolutist position the official policy of the organisation even if it would have been inclined to do so. Two other prominent supporters were Professor Peter Huntingford, a gynaecologist who was later to change his mind on the issue and C. B. Goodhart a Cambridge based academic who wrote extensively on the subject of the number of illegal abortions.

The ploy of not having any Catholics on the executive took into account some of the factors mentioned above and SPUC used the usual techniques to attempt to sway parliament.<sup>49</sup> One of the petitions it distributed called upon the Government to set up a Royal Commission to consider all the relevant facts. This was distributed in April 1967 and all of the 10,000 Anglican vicars were asked to collect signatures. However, it seems that they were not sympathetic.<sup>50</sup> One vicar pointed out in a circular letter that the petition was launched by two Roman Catholic M.P.'s Norman St. John Stevas and James Dunn and at this time the British Council of Churches met and concluded that Christian compassion in the face of human suffering did require a measure of reform.<sup>51</sup>

The aim was to get a million signatures on the petition. SPUC did not reach this figure but on Just 1st 530,000 names were taken to 10 Downing Street in the company of the two main sponsors together with Jill Knight, M.P., Gordon Oakes, M.P. and various medical personnel including six uniformed nurses.

Apart from organising various other activities such as lobbies and letter writing campaigns SPUC also commissioned a Gallup Poll. The questions were directly related to the Bill and tried to show support for its position on various aspects. For example one question asked



if a Lord's amendment was rejected the Government should set up a Royal Commission. They took heart from the fact that a majority of the population said they would support a Commission in these circumstances. This would have postponed a change in the law indefinitely.

In fact SPUC became quite skilled in a short time, however, the overall social conditions were against its success.

### Medical bodies

The leaders of the major medical groups were opposed to much change in the law. A short time before the Second Reading in April 1966 the Royal College of Gynaecologists produced a report which suggested a major change was not necessary as no gynaecologist hesitated to induce an abortion under the exististing law whenever he took the view that 'the continuation of the pregnancy would be detrimental to the physical or mental welfare of the woman'. It set out its misgivings as to the dangers of the operation and stated categorically 'the majority of gynaecologists in this country can see no urgent need for reform of the law governing abortion'. 53

However, it recognised that some kind of change was inevitable and so took the view that the following were among the constraints which should be imposed.

1. the grounds should be strictly limited.
2. they should be authorised by a consultant gynaecologist.
3. they should only be carried out where there was 'substantial risk that the child if born would suffer from such physical or mental abnormalities as to deprive it of any prospect or reasonable enjoyment of life'. 54

4. No abortions should be carried out on the grounds that conception took place under the age of consent as this might lead to promiscuity and pressure being placed on doctors.

The preservation of the freedom of the gynaecologist was a recurring theme in the report and it warned that legislators should be reasonably sure of the gynaecologists co-operation before deciding on any alteration of the law.

The B.M.A. report published in July 1966 was similar to that of the Royal College. The major difference between the two organisations being on the suggestion that abortions should be restricted to consultant gynaecologists.

One of the activists told me it was the medical profession which was their major opponent during the passage of the Act and a key factor was its belief that too much change could result in women telling their doctors what to do. It, therefore, strongly concurred with the suggestion of the Church of England that nobody other than the doctor could make the assessment whether the pregnancy should be terminated.

#### Tactics of the anti abortionists

In the introduction I drew attention to the necessity of those who disagree with an issue on ethical or moral grounds to formulate their argument in a way that will be acceptable to the rest of the population. As has been seen the main argument of the advocates of reform was that there were many illegal abortions each year often performed in dangerous circumstances and with great risk to the woman. The main effect of legalisation would be to transfer these from the illegal to the legal sector. Furthermore, they stated rich women have always

been able to gain access to doctors willing to perform abortions if the fee is right and so reform would 'give poor women what rich women have always been able to afford'.

This was a powerful argument for legalisation as it suggests that there would be little change in the overall number of abortions.

The opponents of the bill had, therefore, to try and promote an alternative scenario. They argued that the number of illegal abortions was relatively low and that the advocates of reform were inflating the number for political reasons. Furthermore, they suggested a change in the law would not lead to a reduction in illegal abortions but would just make people more 'abortion minded' so that both legal and illegal abortions would increase in number. They also argued it would fundamentally alter the moral values of society and lead to a lack of respect for life in general.

It is interesting to contrast the statements of two Conservative M.P.'s in the Committee on David Steel's Bill.<sup>55</sup>

Pro Choice Sir George Sinclair:  
The object of this Bill, as I see it is not to encourage abortion on demand, but to help women in cases which it defines, as clearly as is practicable, to obtain abortions legally and not to be driven, as many of them are today, to seek illegal operations.

Anti Choice Norman St John Stevas:  
It is essential, therefore, that we should have the maximum amount of information available so that action will be taken if necessary. My belief is that action will be necessary, because not only will it be found that the illegal rate of abortion will rise but that the legal rate will

Pro Choice (cont.)

As it now stands, the Bill seeks to transfer as many of these defined cases as possible from the illegal to the legal list. If it is successful it will considerably increase the number of legal operations and reduce the number of illegal ones.

Anti Choice (cont.)

will bound up as well, and there will be a general increase in demand for abortion throughout the country.

This argument that the number of illegal abortions would increase was used by virtually all those opposed to liberalisation.<sup>56</sup>

The findings of the academics also refelcted their side of the debate. The suggestion that there were 100,000 illegal abortions a year was made first by an ALRA member, David Glass in the late thirties and <sup>57</sup> given widespread publicity after the war.<sup>58</sup> However, SPUC academics were giving a much lower figure. C. B. Goodhart :

wrote a series of articles suggesting that 100,000 was much too high and 'that the true figure could not have exceeded 20,000, and was probably nearer 15,000 criminal abortions a year in Britain before 1967'.<sup>59</sup>

He also raised the spectre of the abortion rate continuing to rise to enormous levels rather than tapering off as the abortions in the illegal sector were transferred.

So even at the academic level there was serious dispute and it is interesting to note that in their report the Royal College of Gynaecclogists suggested a figure of 14,600 criminal abortions each year rather than 100,000 and that liberalisation might not eliminate illegal abortion but rather make the population 'abortion-minded' as it claimed had happened in Japan, Hungary and

The anti abortionists also argued there were many dangers to the operation, in particular they often said it was more dangerous than childbirth. SPUC claimed this in its literature calling for signatures for a Royal Commission. We shall see this was an important factor in the final shaping of the law.

### Action in Parliament

The fact that abortion is considered an issue of conscience meant that the law could only be changed if one of the top six M.P.s in the Private Members ballot chose to introduce it and that the conditions in the Commons were suitable for its passage.

There were a number of attempts to introduce legislation. In 1952 Joseph Reeves drew a place in the ballot and decided to introduce an abortion bill. He was, however, not well placed in the order and only had one and a half minutes in which to speak. Lord Amulree, a liberal peer attempted to introduce a bill into the Lords and in 1961 Kenneth Robinson had the Second Reading of a liberalising Bill in the Commons. This latter attempt was talked out without going to a vote. In 1965 Renee Short attempted to introduce a Bill under the ten minute Rule - a device for airing the subject - but this was also talked out as was a Bill introduced by the Conservative M.P. Simon Wingfield Digby. Lord Silkin introduced two Bills into the House of Lords but it was not until David Steel drew third place in the Ballot that a change in the law looked likely.

There were a number of factors that had changed in terms of Parliamentary situation. First of all Labour had a large majority in the House and it was the left wing who seemed most sympathetic to abortion law reform. Secondly, there were people in certain key positions who could be relied upon to facilitate its passage. Roy Jenkins the Home Secretary was known to

be a supporter of change and the Minister of Health was Kenneth Robinson who as shown had introduced his own bill. Douglas Houghton was in the cabinet and ALRA had in him an impeccable contact in the Government. Apart from these advantages there was also a Long Parliamentary session due to the timing of the election which made it easier for the bill to pass through all of its stages.

There was no attempt from the opposition to talk out the bill and it passed its second Reading on July 22nd 1966, by 223 votes to 29 an overwhelming victory. Of the twenty nine opponents fourteen were Catholics but as mentioned these were a minority of the 32 Catholics who were in the House. The vote, however, showed up clearly the left wing nature of the support. Fifty one Conservatives voted for the Bill which was about a fifth of their total strength whereas 161 Labour members were in support which was more than two fifths of their total.<sup>61</sup> The Liberals supported the Bill by ten to one.

Thus it had the overwhelming support of the House and the problem of forcing through its passage was in part a technical one, although there was also the danger that the medical profession might become too alienated and would refuse to co-operate with the Act. A further problem was that it would be amended and it seems it was the 'social clause' that was particularly under attack. In fact in November 1966 after pressure from the British Medical Association, the Royal College of Gynaecologists and the Church of England, David Steel issued a statement that he intended to withdraw the social clause which had provided for abortion where the woman's capacity as a mother might be overstrained. This action was regarded as a betrayal by some of the members of ALRA who had to face the fact that

they did not have control over the Bill. This point was made to me by Vera Houghton 'There comes a time when your Bill becomes their Bill'. Members of Parliament are not the puppets of the pressure groups.<sup>62</sup>

It was not until January 18th 1967 that the Bill went into committee and it contained 22 people who had voted for the bill. three who opposed it and five who abstained. The opponents of the Bill did what they could to slow its progress by introducing as many amendments as possible and the Bill's supporters did their best to oil the passage. The unofficial whip of the Bill's supporters was Peter Jackson and he told me that for the most part the policy for those on his side was to keep quiet.

After the committee the Bill returned to the House for the report stage. There were a number of attempts to prevent progress of the Bill at this time. But after an all night sitting the Bill passed its third Reading on 13th July 1967 by 167 votes to 83. This was a much smaller victory than the Second Reading but reflected the fact that some, like Leo Abse, voted for the bill at an earlier stage even though they were basically anti abortion.

It then moved to the Lords. Lord Silkin seemed the obvious person to try and pilot it through but he at first was doubtful feeling that the bill was too weak as the social clause had been 'given away by the sponsor to pacify the opposition'. He felt it might be better to introduce a stronger bill at a later time but eventually changed his mind. In the Lords a number of amendments were introduced. The 'consultant' clause was introduced at one stage but then voted out again and various other changes were suggested. By far the most important came at the very end of the debate.

One of the problems was in defining the risk to the pregnant woman that would be necessary for a legal abortion . Lord Parker, the Lord Chief Justice, who was generally opposed to the Bill, noted that all the suggestions such as 'grave risk' or 'serious risk' would cause problems in definition in the courts. He therefore proposed a much simpler criterion that abortion should be legal if the risk to life or the risk of injury to health is greater by continuing the pregnancy than by terminating it. This amendment seems to have been accepted with little thought. The Home Office said it was not a profound change, for example.<sup>63</sup> However, Norman St John Stevas realised its importance and said that if abortion was really as safe as Rene Short and the other reformers claimed then abortion would always be legal. However, the anti abortionists were in a difficult position on this matter, for, as we have seen, they had been claiming abortion was more dangerous than childbirth.<sup>64</sup> They were caught out by their own arguments and the Amendment was included as the Act received the Royal Assent on 27th October 1967. The opponents had failed although they did succeed in delaying it coming into effect for six months until April 27, 1968, almost two years after the Bill was first introduced into the House.



Chapter 5

LEGALISATION OF ABORTION IN AMERICA

The abortion laws in the United States were overthrown in a campaign that only lasted around ten years. During this relatively short period

Americans found their situation had changed from having very restrictive laws to one where they were amongst the most liberal in the world.<sup>1</sup> This change was much more marked than the liberalisation in Britain and was due to a combination of social, medical, political and legal factors.

In discussing the background to the British 1967 Act it was pointed out that one of the important influences was the liberalisation of sexual attitudes and many of the factors leading to this in Britain also applied in the United States. The situation was similar in that there was a growth in the power of the radical middle classes with the expansion of education and a decline in the conservative forces. The number of young people had increased as it had in Britain. In fact Coleman has pointed out that the baby boom beginning in 1946 had caused a 50% increase in the age group 14 - 24 by the decade 1960 - 1970.<sup>2</sup> With an increasing proportion of students in higher education the percentage increase in this highly visible group was even greater.<sup>3</sup>

There was also a growth in availability of contraception in the United States. The Supreme Court decision of 1965 overthrew restrictions on married people using birth control on the grounds of the right to privacy and other decisions in the courts were important in a move towards liberalisation. The legalisation of Lady Chatterly's Lover was discussed above and these kinds of changes paralleled those in Britain. However,

there were a number of social differences and three are particularly important. First of all the acceptance of 'permissiveness' was much less universal than in Britain due to the greater heterogeneity of the society and the different religious composition. Secondly, the sexual divisions in the United States were stronger. One of the most important reasons for this being that in the States fewer women were in the higher prestige occupations. For example, in the early 1970's only around 5% of American doctors were female compared to approximately 25% of British ones.<sup>4</sup> Betty Friedan put this difference down to what she called the 'Feminine Mystique' - the belief that women should have a totally different role in society to men.<sup>5</sup> This concept seems to have been much more prevalent in the States and frustrated women's attempts to gain equality. Furthermore in Britain the grants system promoted equality amongst the middle classes.

Particularly between the ages of eighteen and twenty one, students of both sexes were living on the same amount of money and with the expansion of higher education this was necessarily going to lead to a reevaluation of traditional roles. In the States many of the students had jobs and were wealthier which meant it was much easier to keep up traditional patterns of relationships with the men paying for evenings out and women playing the more passive role. The fact that these traditional sex differences are more deeply delineated in the United States has meant that the woman's movement had far more problems in obtaining a reevaluation of roles. In terms of sexual behaviour the double standard is stronger in the United States and, although a liberalisation of attitudes occurred, it was more that sexuality began at an earlier period of the relationship rather than that whole nature of the relationships were re-evaluated.<sup>8</sup>

Thirdly, the change in the attitude towards radicalism was much stronger in the States. In Britain in the sixties there was a great deal of idealism

amongst the young but in many respects it was a little remote. While major groups in Britain were concerned with world poverty or nuclear disarmament these issues were not of immediate impact on their own lives. Britain was not actively involved in Vietnam and the students did not on the whole take issue with glaring instances of social injustice at home. In contrast in the States the student radicalism developed from issues which deeply affected their lifestyle. The civil rights movement grew from activists involved in the summer project of 1962 and concerned itself with manifest and institutionalised racism at home. The war in Vietnam was not just an ideological issue but involved many of the students who were threatened with the draft. The direct relevance of these issues led to a much more fundamental reevaluation of the basic values of the society than occurred in Britain.<sup>7</sup>

So in these ways there were important background differences between the two societies and together with other factors they led to the United States campaign ending in a very different way from that of British liberalisation. In fact in the States there was not really one campaign but two separate ones. First a campaign for liberalisation and then a demand for repeal.

#### Revival of reform movement

I showed that during the 1930's the movement for legal abortion faded away. After the second World War there was at first no pressure to get it restarted. Planned Parenthood took the view that it should push for contraception as an alternative. A pamphlet entitled "Planned Parenthood's Campaign for 1945" argued that one reason for birth control was the high number of abortions which were 'The second largest cause of maternal mortality and, for every woman who dies, three are made sterile or invalid'.

This argument that abortion was dangerous and that the numbers could be reduced by contraception meant that Planned Parenthood continued to take an anti abortion stance even until the 1960's. In fact as late as 1963 one of its pamphlets stated "Abortion requires an operation. It kills the life of a baby after it has begun. It is dangerous to your life and health".<sup>8</sup> Despite such comments, it does seem that Planned Parenthood was the source of the first major event to consider abortion. In 1957 it held a conference of various specialists to discuss the problem.<sup>9</sup> The participants proposed the establishment of consultation centres for women seeking termination along the line of those in Scandinavia. It also called for a study of the various abortion laws by authoritative bodies such as the Council of State Governments or the American Law Institute in order to frame a model law that could be presented to the states to replace existing statutes.

The American Law Institute responded to the call in Dec 1959 when its model bill was revealed.<sup>10</sup> It recommended that a doctor be permitted to terminate a pregnancy:

1. if continuation of pregnancy 'would gravely impair the physical or mental health of the mother'.
2. if the doctor believed 'that the child would be born with grave physical or mental defects', or
3. if the pregnancy resulted from rape or incest.

This proposed bill was revealed to the Public in 1962 as part of the Model Legal Code approved by ALI. Its presentation aroused a great deal of interest and Alan Guttmacher, President of Planned Parenthood, commented: "Its mere promulgation opened the medical profession's eyes to the preservation of health as being a justification for abortion".<sup>11</sup>

In the following year the American Medical Association took note of the ALI bill.

However, in the period up to 1967 there seemed to be little interest from the States in introducing it. From 1962 - 66 only five legislatures considered an ALI type bill and in no cases was the law changed.

The biggest pressure during this period seems to have been in California.

There was an attempt at reform in 1961. Two years later Assembly man Alan Beilenson believed he had a better opportunity for success when he had a clear majority in committee for a 'do pass' recommendation.<sup>12</sup>

However, the pressure against the bill from the anti abortionists grew and in this and subsequent years until 1967 he was unsuccessful. Furthermore there was organised opposition to the Beilenson Bill even from within the pro choice movement.

The first organisation to concentrate solely on abortion was set up in California by Patricia Maginnis and called the "Society for Humane Abortion".<sup>13</sup> Maginnis was the first woman to call for outright repeal of the law and she felt the Beilenson Bill was inadequate as it would not cover all the women in need.

A second abortion organisation to be set up was the Association for the Study of Abortion founded in 1964. One of its aims was to educate the public by providing speakers for civic gatherings, radio and television shows.<sup>14</sup> However, it would not carry out any political activities because they might endanger its tax exempt status and this limited its sphere of influence.

So at this stage in the middle sixties there was no national organisation pressurising for abortion reform and the early changes in the Law in 1967

were the result of local activity.

Reform v. Repeal.

At this stage the situation in the United States seemed to be moving as in Britain with a limited liberalisation of the laws and an extension of rights to some categories of women.

One of the most important campaigners during this period was Alan Guttmacher and he had consistently argued the case for reform rather than repeal.<sup>15</sup> In 1959 he had said "I do not want blanket permission to abort any woman who is unhappily pregnant; I do not think our civilisation is ready for this or that it ever should be".

Eight years later he reiterated his view that the path of reform was preferable. He pointed to the ALI Bill and the British one as the most significant statutes and commented:

"I believe with stubborn conviction that our archaic abortion laws should be overhauled. They should be made more lenient so as to grant legal sanctions for all women to be legally aborted for those indications which many doctors now recognize for their individual private patients. In addition certain social, humanitarian indications should be added which even today's more liberal factors deem untouchable. What would such a revision accomplish? It would not eradicate the legal, social and medical blight of illegal abortion. This can only be done by legalising abortion on demand, as has been done in Japan and Eastern Europe. I am opposed to this for the U.S. in 1967. I believe that social progress is better made by evolution than revolution. Today, complete abortion, license would do great violence to the beliefs and sentiments of most Americans. Therefore I doubt that the U.S. is as yet ready to legalise abortion on demand, and I am therefore reluctant to advocate it in the

face of all the bitter dissension such a proposal would create".

So Guttmacher at this stage still placed himself fully within the reformist camp and it seems the doctors groups were of the same opinion.

At its meeting in Atlantic City in June 1967 the American Medical Association House of Delegates considered a detailed report and policy recommendation on legal abortion. This suggested that the AMA adopt a policy which was a modification of the Model Penal Code of the American Law Institute. The statement with minor changes was accepted as the policy of the American Medical Association. It proposed abortion should be allowed for threats to the life or health of the woman, where the infant may be born with incapacitating physical or mental deformity, and where there was evidence of rape or incest. The policy also recommended that three doctors should examine the patient and the operation should be performed in a hospital.

So this kind of compromise Bill had institutional support and a number of states were successful in introducing Reform. Colorado was the first and California and North Carolina followed shortly afterwards. In 1968 Georgia and Maryland liberalised their laws and in 1969 they were followed by Arkansas, Kansas, Delaware, Oregon and New Mexico. It seemed at first that New York was also going to have a reform Bill. In 1968 Governor Rockefeller set up an 11 member commission to examine the Law and to make recommendations for change. It proposed an ALI model bill plus an additional clause allowing abortion on request for any mother of four children. This Bill was, however, rejected by the New York State legislature in 1969 and it must have seemed to many at that time that a repeal bill would have no chance of success. Yet in July 1970 the New York legislature passed a law giving abortion on request in the

first 24 weeks of pregnancy. This is a most unlikely sequence of events especially when viewed in the context of theories of gradualism in the process of social change. However, this is discussed fully below and the overall victory of the repeal forces was due to a number of factors specific to the situation in the United States.

First of all there was the lack of a recognised national reform organisation that had the allegiance of most of the activists. The Association for the Study of Abortion was possibly the nearest organisation to this but it was not political. So when a national organisation was set up it was not in competition with anyone. The formation of the National Abortion Rights Action League took place in 1967. Lader tells how he, Lonny Myers and Ruth Smith met in his apartment in late 1968 to discuss a national conference on abortion laws and it was arranged for February when the aim would be to set up the organisation for repeal.<sup>19</sup> That this was a possibility reflected the fact that there was a substantial body of support amongst the radical groups. The involvement of the feminists around the complete right to choose was one important factor and, furthermore, they were supported by those who had been setting up the referral services. Organisers of the clergy consultation service noted that the reforms being proposed would leave many women without access to legal operations.

"Our day-to-day work taught us how few women wanted abortions for the reasons most liberals conceded were justifiable. When we started, most of us favoured some liberalisation of the law, but within a six-month period every clergy believed passionately not in liberalisation but in repeal of the law".

Other radicals argued a similar case and furthermore by the time of the NARAL conference there was a solid base in the formation of New Yorkers  
for Abortion Law Repeal.



There was also a change of mind amongst some of the older advocates for reform.

Alan Guttmacher described

his conversion:

"The more I studied early results from the five states which had been the first to liberalise their laws, the more I began to espouse the opinion that abortion statutes should be entirely removed from the criminal code. The number of legal abortions being undertaken under the new liberalised laws, when contrasted with the figures for the previously undertaken illegal abortions, were far too low".

He continued to discuss the fact that in 1968 California had only 5,000 abortions under its new law and told of a visit to Colorado where there were many bureaucratic obstacles so he concluded:

"Abortion on request - necessitating the removal of 'abortion' from the penal codes - was the only way to democratic legal abortion and to sufficiently increase the numbers performed so as to decrease the incidence of illegal abortions. I came to this conclusion in 1969, forty seven years after abortion first came to my medical attention when I was a third-year medical student".

So with even the older generation of radicals supporting repeal it won out over the reform position. However, the question remains as to the social and political conditions that allowed it to become successful.

#### Role of the Constitution.

If the legislators pass a law it can be challenged on the grounds that it infringes guaranteed rights. The courts have a great amount of formal power and can decide a law is completely invalid. In Britain courts do have some power of interpretation as witnessed with the Bourne judgement

but it is much less clearly defined and works within narrow limits.

So it often makes much more sense within the United States system to work towards having a law totally annulled by a declaration of unconstitutionality. In this respect there were two important court decisions in 1969 which changed the nature of the abortion debate. On September 5th 1969 the California Supreme Court declared the State law unconstitutional after the trial of Dr. Leon Belous. In its decision the court defined the rights of a woman over her own procreation for the first time. The ruling was also the first state Supreme Court decision in United States history to declare an abortion statute unconstitutional.<sup>22</sup> It set a precedent for other cases that were pending. Belous had been tried under the pre 1967 law not the one that was in operation by the time the case came to court. However, a similar decision was taken two months later in the trial of Dr. Milan Vuitch who had been accused of breaking the abortion law of Washington D.C. On November 10th 1969 the law was declared unconstitutional and Washington became the first area of the country where abortion was completely legalised. According to the decision there was no necessity for hospital treatment and any licensed physician could perform abortion if his equipment met the required standards. So it was in the courts that the advocates of repeal had their first success.

### Medical Profession

A second factor, and one that was different from Britain was the attitude of the medical profession. In Britain the social researchers had found doctors largely opposed to change. A survey conducted in 1967-68 found that only 22% thought that a woman with several children should be able to have an abortion.<sup>23</sup> It was only after the Act had been in operation for two years that a liberalisation of medical attitudes was noted.<sup>24</sup>

In the United States it seems there was much greater support for change.

A survey by the Journal "Modern Medicine" in 1969 showed that 51% of U.S. physicians wanted abortion available to any woman upon her request to a competent physician.<sup>25</sup> This is a much different position to that taken by British doctors. It might reflect a more liberal view but it seems likely the finding is related to the different roles played by doctors in the two societies. In Britain there is quite strict control of medical practice especially in hospitals where a consultant is in charge of the medical care and where all other doctors are regarded in some sense as being in training. In the United States professional independence is much more guarded and individual doctors act more freely. They are allowed to enter hospitals and carry out operations based on their own professional judgement and the general practitioner has much greater freedom than a British doctor.<sup>26</sup> So the belief in non intervention of the law could in part be due to a general belief of freedom from interference. Furthermore, doctors in the United States stood to gain financially by legalisation, whereas the British surgeons were concerned that a large increase in abortion patients would draw resources away from other services.<sup>27</sup>

A third difference between the societies was the role of the woman's movement which was much more active in the pressure for change in the United States. Paradoxically it was a man - Lawrence Lader - who was the catalyst in this direction.<sup>28</sup> He told me that he first came to the conclusion of abortion as a woman's right after discussions with Margaret Sanger and in his book 'Abortion' published in 1966 he called the complete legalisation of abortion 'the one just and inevitable answer to the quest for feminine freedom.'<sup>29</sup> Lader had known Betty Friedan for a number of years and so when she became

the first President of the National Organisation for Women he persuaded her that abortion should be one of its main aims. This became NOW policy at its convention in 1967 and from that time the abortion movement in the United States had the backing of a strong and articulate woman's movement.

It is possible that if the British movement had adopted a more militant position it might have received more support from the women.

Lucinda Cisler pointed out in 1970 "Part of the reason the reform movement was very small was that it appealed mostly to altruism and very little to people's self interest: the circumstances covered by 'reform' are tragic but they affect very few women's lives, whereas repeal is compelling because most women know the fear of unwanted pregnancy and in fact get abortions for that reason."<sup>30</sup>

This comment was echoed by Assembly woman Constance Cook the sponsor of the New York repeal bill. She said "I knew that women didn't want reform, at least not enough to go out and work for it, whereas I suspected they would work for repeal, and they did."<sup>31</sup>

In Britain the woman's movement did not become involved with the abortion campaign until the Act had been passed.

A fourth difference between the two societies was the much greater appeal of confrontation tactics in the United States. As mentioned the movement towards radicalism in the States was much more relevant to the immediate position of those involved. They were also much more likely to engage in direct action as could be seen from the invasion of the segregated Woolworths shop in 1962.<sup>32</sup> This kind of approach to political activism

had direct relevance to the abortion campaign. Members of the movement not only worked for changes in the law but also set out to provide abortions and to effect a direct challenge. One of the earliest exponents of this tactic was Pat Maginnis and in 1966 the New York Times carried the headline "Abortion Classes offered on Coast".<sup>33</sup> The article reported that she was touring California giving advice on abortion methods and information on countries where they may be obtained. At the time Maginnis was 38 years old and had had three pregnancies and three abortions, two of these being self induced. Her organisation, the 'Society for Humane Abortion', had a mailing list of 2,000 and her lectures on abortion techniques were usually attended by 30-60 people. The police had taped her lecture but she had not been prosecuted.

She was arrested in the summer of 1966 by the San Francisco police who charged her with violating the cities anti abortion ordinance by distributing hand bills calling for a change in the law. But the court dismissed the charges as a violation of her rights of free speech.

It seems clear that her lectures were in breach of the law. This stated "Every person who solicits any woman to submit to any operation or to use any means whatever to procure a miscarriage, unless the same is necessary to preserve her life, is punishable by imprisonment." It also carried a prohibition on the passing of abortion information but still the police refused to prosecute. The Times reported a spokesperson of the San Francisco Police Department as saying "All we'd do is give her publicity. We believe the courts would turn her loose". The District Attorney made a similar point and said that he believed she had a constitutional right to state her position.<sup>34</sup> So Maginnis continued her lectures and her actions

suggested that the laws were unenforcible.

On the East Coast there were similar challenges to the legal system. One of the most important being the formation of the Clergy Consultation Service. The suggestion that the Clergy should take such action was first put forward by Lawrence Lader and the fact that twenty-one protestant and Jewish Clergymen were going to refer women for abortion was revealed in a front page article in the New York Times on May 22nd 1967.<sup>36</sup> Women who rang up were counselled and then referred to various doctors.

The clergy kept accurate records and so were able to afford the women

increased protection. Their actions were illegal within the letter of the law but they decided to be open about their referral system in the belief that it would be better to let everyone know what they were doing.

As Carmen and Moody put it: <sup>37</sup>

"The legal advice which gave us the most assurance was Mr. London's recommendation that we never assume or admit that we were breaking the law. At all times we were to behave as though we were acting within the laws of New York State and that as clergy we were bound to follow a higher moral law."

The fact that the clergy were able to set up such a service

seems at first very surprising. It is difficult to imagine a British group performing such a role. In part it reflects the changed attitude to abortion amongst the protestant clergy and the fact that they have much greater freedom of action than their

British counterparts. But it seems the crucial factors had been the

radicalising affect of other social movements. At the time of the

first meeting Moody and Carmen noted it was the clergy who had been

involved in the school integration battle in New York and in other areas of civil liberties who were willing to be most active in the abortion campaign.<sup>38</sup>

The service was in demand from the start and in 1968 6,500 women passed through the counselling service in New York City.

Furthermore, clergy in other areas began to follow suit. Moody wanted to prevent women from having to travel far and so he encouraged the setting up of consultation services in other major cities.

These clergy services decreased much of the mystique surrounding abortion and led to increased acceptance. The organisers tried to take a conciliatory attitude towards the Catholic church in order to reduce its opposition.

An article setting out the services objectives stated:<sup>39</sup>

"It is altogether fitting that the leadership for reform should come from the institution most responsible for its origin and perpetuation namely, the Christian Church, it cannot be expected that their theology nor the ethical directions drawn from that doctrine are going to be negated by the church fathers. However, that doctrine is applicable to Catholics and is not meant to provide any basis for civil law.....

As for Protestants who are basically responsible for the beginnings of the law as it now stands, we have a moral and theological imperative to correct this heartless and inequitable law against women".

Moody and Carmen state that on some occasions they were accused of being too conservative in terms of challenging the law but they believed they should not jeopardise their work unnecessarily and leave women without a source of help. Their agency lasted until the New York law came into operation in 1970.

Another referral service on the East coast and the only one with its own clinic, was that of Bill Baird in Hempstead, which also opened for abortions in 1967. Baird took a much more aggressive approach in his campaign for birth control and abortion rights and over a period of years was imprisoned eight times in five different states.

He organised the first abortion march from Times Square to St. Patricks and over the years became the person the opponents of abortion most regarded as their enemy. In 1974 the church refused to allow a mother to have her daughter baptised because she had publicly supported him.<sup>40</sup>

Baird was not, however, just opposed to the church he also attacked those on his own side who he felt were not active enough. At one point he organised a "sit-in" at the headquarters of Planned Parenthood and also picketed certain women's groups who he accused of sexism because they discriminated against him. His personality does not lead him to compromise and this has led to him being a controversial figure. Lader points out that many in Planned Parenthood were outraged by his inflammatory tactics, but: "Still, after each Baird hurricane, the movement made considerable progress. Each of his arrests affected the law in question. Each innovation - the mobile van for instance with which he brought contraceptive and abortion information directly into ghetto areas - set a pattern that was finally followed elsewhere".<sup>41</sup>

In the struggle for legalisation Baird scored some important victories. Possibly the most notable was the Supreme Court decision of 1972 which overthrew the laws against contraception for single people. His



activism did not cease with the Supreme Court decision and he continued to be involved in fighting restrictions :

Those like Pat McGinnis and Bill Baird who were willing to risk prison for their beliefs helped to bring the campaign into the open.

A fifth and final difference between the two societies was in the nature of the opposition. I have shown that in Britain the dominant opposition was in theory not totally opposed to abortion and furthermore in its early days remained separate from the Catholic Church. However, in the States the Right to Life movement was more overtly linked to Catholicism and was less willing to compromise. This meant that some of the right wing who may have been opposed to abortion on wide grounds were nevertheless alienated from the movement. The reasons for the opposition being so uncompromising is in part linked to the same cultural factors which led to the dominance of the repeal groups and is also partly due to the much greater proportion of those with a Catholic background. As was mentioned in the British context there is a tendency for pressure groups to take an extreme position as the activists are always those who are most strongly committed. In Britain, however, while both sides managed as far as possible to contain this tendency, in the States this did not happen. In fact the whole nature of the debate was far more acrimonious. When the first reform bill was being considered the opposition forces became so rowdy that two members of the Catholic Lawyers Guild left the hearing to draft a formal apology. With both sides entrenched in stances so widely divergent further confrontations were inevitable and have continued at a high level of intensity.

Two of the key anti abortion activists Dr. and Mrs. Willke used their book "Handbook on Abortion" as a basis for the campaign.<sup>44</sup>

They also used pictures of aborted foetus' and had some success in changing public support for abortion.<sup>45</sup> Possibly the most notable from their point of view was the change that occurred in Michigan. The referendum was due to take place in November 1972 and on October 15th it looked as if it was going to be supported. An opinion poll in the Detroit News showed support from 59% of the electorate with only 37% in opposition.<sup>46</sup> The reform would allow abortion on request up to 20 weeks of pregnancy. However, in the later stages the Willkes visited Michigan and ran an aggressive campaign appearing on television and radio in debates and helping to organise the distribution of the 'foetus brochure' to nearly all the two million homes in Michigan. There was also a massive amount of television advertising with one being repeated as much as 13 times a day in the two weeks before the election. This intense activity resulted in the referendum being defeated by 62% to 38% - an extraordinary turn around. A referendum in North Dakota was also defeated and by a larger margin. If the anti abortion forces could have mounted this kind of campaign all over the States the law may have never been overthrown the Supreme Court. However, they did not have the resources to carry out this task. Furthermore the opponents to abortion were not even guaranteed the support of all Catholics.

The changes in Church doctrine and the expectation of liberalisation on the teaching on birth control led to resentment when this did not come.

A further important argument was that put forward by Robert Drinan a Catholic Priest who was Dean at the Boston Law College.

At first Drinan was opposed to the abortion law changes. In 1965 he argued "any change of a substantial kind in America's abortion laws would be a notable departure from that body of Anglo-American law which regulates

conduct deemed to constitute a crime against society ..... However convenient, convincing or compelling the arguments in favour of abortion may be, the fact remains that the taking of a life, even though it is unborn, cuts out the very heart of the principle that no one's life however unwanted and useless it may be, may be terminated in order to promote the health or happiness of another human being"<sup>47</sup>

Furthermore during this period Drinan was one of the major debating opponents of those in the Clergy Consultation service. However, once the argument moved away from abortion on specific grounds towards removal of all the laws Drinan found it much easier to give his support.

In a paper at the International Conference on Abortion in Washington D.C. in September 1967 entitled "The Right of the Foetus to be born" he criticised the fact that certain states were considering passing reforming laws

"The Right of the fetus to be born, now protected in Anglo-American law may be seriously damaged within the near future by changes in the laws of England, Canada and several states in America. In eliminating the right of some foetus to be born the law enters an area which it has never entered before - an area where it will be required by what norms and by whose judgements what persons are to be born and what persons are to "die" before their birth".<sup>48</sup>

Although he opposed reform paradoxically he continued to accept the case for total repeal.

"One way to avoid making these choices would be for the law to withdraw its protection from all foetus during the first twenty six weeks of their existence. Under this arrangement the law would not be required to approve or disapprove the choices of parents and physicians as to who may be born or not born".

This argument at a conference sponsored by the Joseph P. Kennedy Foundation

where there was a general anti abortion feeling led to some urgent rethinking amongst many who had opposed any changes. His views effectively split the catholic opposition and gave respectability to the argument that, while abortion was wrong, the law should not be imposed on those who did not accept this view.

So there were a number of social and political forces which led to the possibility of repeal laws and in 1970 the states of Hawaii and New York passed them giving women the right to choose an abortion during the early part of her pregnancy.

#### Repeal in Hawaii.

At first Hawaii like many other states seemed to be moving towards reform bill along the Lines of the ALI proposal. in 1967 Senator George Loo introduced a reforming bill and in the following year the Republican party introduced a pro abortion reform plank into its platform. In 1969 four ALI type bills were introduced into State House and, as they were signed by a total of 33 legislators out of 51, there was already majority support for change. However, there was also support for a repeal law. Senator Yoshinaga had introduced a repeal bill in 1967 and similar ones were introduced in both the House and Senate in 1969.<sup>49</sup> So at this stage the legislators had a choice of a variety of bills and had to decide whether to pursue repeal or reform. A number of factors led to the repeal path being chosen. Steinhoff and Diamond suggest that one factor was the British expansion of legal abortions.<sup>50</sup>

They comment:

"The British experience made it more and more apparent that great numbers of women sought abortion for reasons outside the scope of the ALI provisions."

Again the ALI provisions were regarded as being too restrictive. A second factor was the views of Robert Drinan and in Hawaii they seemed to be particularly influential.

Father Dever, the Superintendent of Catholic Schools, often argued the case against abortion but nevertheless indicated that if some change in the abortion law were inevitable he would favour full repeal rather than reform.<sup>51</sup> Even more important was the conversion to the Drinan position of Senator Yano. Yano appreciated the fact that the Drinan argument allowed him to work for change in the abortion law while still maintaining his personal opposition at the level of individual choice. In September 1969 he announced his support for repeal and that he intended to introduce a bill in the next legislative session. So one of the two major leaders for the fight for abortion repeal in Hawaii was a Catholic legislator with ten children who had been honoured as a knight of the Pope.<sup>52</sup>

The support for the repeal over the reform position therefore began to increase and Steinhoff and Diamond report that by the fall of 1969 partial reform "was rapidly being swept aside in the mounting enthusiasm for total repeal". In their campaign the advocates of repeal followed the typical pressure group tactics. First they began to enlist support of various organisations and by the time of Senate Committee hearings on the subject in February 1970 they had the endorsement of 23 different groups. It seems that at that time the only formal opposition to repeal came from the Catholic Church.<sup>53</sup> It accounted for 28% of the population but with a number of prominent members adopting the Drinan argument the Catholic forces were divided.

Secondly they organised polls. A questionnaire was distributed to members of the Hawaii Medical Association and it showed that 96% wanted some changes in the law, a third supported total repeal and amongst obstetricians 56% supported total repeal.<sup>54</sup> They gave publicity to these results and opinion polls of the general public also showed a strong desire for changes and these were publicised.

A third technique they used was to organise petitions and Zero Population Growth (ZPG) collected 5,000 signatures from registered voters in a month.

Fourthly they developed contacts with legislators by telephone calls, letters, visits and other information. For example each was provided with a copy of Guttmacher's book "The Case for Legalised Abortion Now."<sup>55</sup>

The major arguments used in the debate were similar to those that had occurred elsewhere. The repealers stressed the high number of illegal abortions, the fact that poor women were being discriminated against, the need for abortion where contraception had failed, the fact that unwanted pregnancies led to social problems and the need for population control. This latter argument seems to have been more prominent in Hawaii than elsewhere and ZPG organised a number of activities. Apart from the petition it sponsored a tactical symposium on how to change the abortion law, canvassed virtually the whole of the legislature in person and provided support at various other activities.<sup>55</sup>

The arguments for the opposition also followed the usual pattern. They stated abortion was murder of innocent life, that it would lead to promiscuity, that illegal abortions would not decline, that euthanasia would follow and that abortion would lead to moral decay.<sup>57</sup> They also argued

a change in the law would lead to Hawaii becoming an abortion Mecca and drew attention to the situation in Britain.<sup>58</sup> This latter accusation led to a residency restriction being imposed.

However, the social forces were such that the opponents of abortion lost their defence in the legislature. The repealers were concerned that at the last moment the Catholic Governor would veto the Bill. However, in a statement in which he expressed his personal abhorrence of abortion, he drew attention to the traffic in illegal abortions and also argued a Drinan type case that it was "best at this point in time, our laws should remain totally silent on the question of abortion". In supporting his statement he also drew attention to the necessity of separating the roles of church and state authority.<sup>59</sup> With his decision the United States had its first repeal Law.

#### New York State Law.

Although Hawaii was the first state to repeal its law the stricture that the applicant should have been a resident for three months effectively prevented women from other states from using its services. The New York law had no such restriction and with the change legal abortion became possible for all American women who could afford it. The passing of the Act was, however, a complicated process and its success was due to a number of seemingly contradictory social forces coming together. As mentioned at first it seemed that New York would have a Reform Act, In 1964 the New York Medical Academy urged that the New York State law should be amended to permit abortions where there was danger of physical or mental health of the woman or her prospective child.<sup>60</sup> In the following year state obstetricians showed their support for change when a survey of 1,200 showed that 87% wanted the law liberalised.<sup>61</sup> So there was local medical support for a liberal law. Political support was also growing. At the

end of 1966 Governor Rockefeller called for liberalisation and in 1967 an  
ALI type bill was introduced.<sup>62</sup> Although it did not get out of  
committee into the Assembly.<sup>63</sup> In 1968 Senator Albert Blumenthal reintroduced  
an ALI type Bill and it seemed possible that it would be successful.  
Blumenthal seemed confident and was quoted as saying "I am delighted at the  
seeming willingness of the Governor to Act at this session of the legislature  
and to do so in a fashion which is consistent with the actions in three  
other states and in Great Britain".<sup>64</sup> His feelings seemed to be supported by  
public opinion. A poll of New York State residents showed that 75%  
were for liberalisation, 17% were opposed to it and 8% were undecided.<sup>65</sup> The  
poll also included a religious breakdown and showed that there was strong  
support in each of the three major religious groups. 98% of Jews, 83%  
of Protestants and 72% of Catholics were in favour of an extension of the  
law. However, despite the popularity of the proposed  
measure, it failed to get the necessary support. Blumenthal  
commented on the failure "The pressure was just too great in an election  
year. We had the four votes we needed and they backed out."<sup>66</sup> When he was  
asked the reason for the withdrawal he pointed to Charles Tobin secretary  
of the New York State Catholic Committee representing the states eight Roman  
Catholic Dioceses.

In 1969 the prospects looked even better. Having canvassed the  
Assembly Blumenthal was pledged 82 votes and only 76 were needed for passage.  
Furthermore, the Senate majority leader Earl Brydges, a Catholic opponent,  
had stated that, while he personally opposed the change and could keep it  
locked in committee, he would not use his power in this way.

Nevertheless, yet again the bill failed and this time in dramatic fashion.  
Assemblyman Martin Ginsberg, who had been considered pledged to the bill,  
gave a strongly emotional speech which led to 14 votes being lost. Ginsberg



had been crippled by polio in infancy and was dependent on heavy braces and a cane. In his speech he drew attention to his infirmity and argued that a law permitting abortion on the grounds of deformity could set a terrible precedent. "If we are prepared to say that a life should not come into this world malformed or abnormal then tomorrow we should be prepared to say that a life already in this world which becomes malformed or abnormal should not be permitted to live." In an emotional ending to his speech he postulated "God saw fit to let me live in this form and conditions ..... so that I could be here on April 17th to speak on this specific bill."<sup>67</sup> He sat down to loud applause and that was the end of the attempt at liberalisation for another year.

These two later defeats made the supporters of a change in the law somewhat wary in predicting their chances for 1970. The New York Times reflected this feeling commenting in January there were various alternatives but that there was "This time amidst a mood of uncertainty over whether to act on the controversial issue or to leave the decision to the courts".<sup>68</sup>

Despite these defeats the pressure for repeal had steadily built up. Lader reports:

"Starting with the New York Civil Liberties Union and the Unitarian-Universalists in 1965, repeal gained the backing of most protestant denominations in the state council of Churches, many Jewish groups like the National Council of Jewish women and the American Jewish congress, the Liberal Party, Americans for Democratic Action, National Organisation for Women, American Public Health Association, American Medical Women's Association, Physicians forum, National Association of Social Workers, Citizens Committee for children, and the New York Women's Bar Association, among others.

By January 1970 over fifty such organisations with millions of members supported repeal".<sup>69</sup>

Also by this time the effect of the pressure from the women's groups began to be effective. Margaret Mead was quoted in the New York Times as saying she would "repeal all abortion laws and give the responsibility to the church and the medical profession".<sup>70</sup> She continued to argue that all the states should take action at once so that none of them would be swamped with abortion requests. This statement by the best known American Anthropologist gave weight to the stance being taken by NOW.

The women's groups were also making a serious attempt to have the States laws overthrown in the courts in 1969 - 70. During the course of four linked cases much evidence of the problems of women in terms of illegal abortion and other factors were revealed. In the event the decision was not delivered because of the change in the law. But the fact that such a trial was taking place was important in terms of the overall debate. The women's groups also put direct pressure on the politicians. Of particular interest was the hesitant statement of Rockefeller to the Woman's Legislative Forum on January 13, 1970 that he would probably approve a repeal Bill.<sup>71</sup>

Mayor Lindsay was much less circumspect and in March 1970

added his voice to those calling for repeal. His statement echoed the comments of others who had been converted to the repeal position.<sup>72</sup> He drew attention to the fact that in 1967 he had favoured an ALI type Bill but since that time the evidence from the states which had passed such a Bill showed that still a large number of poor women had found abortions difficult to obtain. He commented that decisions in Washington D.C.

and California had "cast considerable doubt not only on the constitutionality of New York's law but on the right of the State to over regulate this area of medical needs on the grounds that it constitutes an invasion of privacy".

He also supported his position by similar argument to that put forward by Drinan "I realise that many people hold religious and philosophical convictions which find abortion to be an unacceptable solution to this problem. By removing this question from the penal law altogether, the state avoids making any moral judgements on this subject ..... I hope the N.Y. State legislature will now move forward and repeal the present law, leaving the decision to be made by the pregnant woman and her physician".<sup>73</sup>

The influence of Drinan's thinking on this statement is quite clear and two of the key workers behind the Clergy Consultation Service also drew attention to his influence. Carmen and Moody commented (Drinan) "never knew the influential role he played in developing the theological and legal position the Clergy Consultation Service finally took on the abortion issue ..... to have a Roman Catholic theologian of Drinan's stature writing an incredibly convincing argument for repeal as over against reform was a real boost in the battle ahead".<sup>74</sup>

So Drinan's argument could be seen to be very important but possibly its biggest single influence was on the views of Assembly man Ginsberg. Although he had been the key influence in stopping the bill in 1969, in January 1970 he announced that he would find a total repeal Bill acceptable as it would not discriminate against those with physical abnormality.<sup>75</sup>

It can be seen therefore that a seemingly more radical bill could have more support. However, the actual passage of the Act was not simply a

product of the social forces but also a result of a number of tactical errors on the part of the opposition and last minute changes in decisions.

Possibly the most important blunder was the introduction of a radical Bill into the Senate by the Majority Party Leader, Earl Brydges. Brydges, a Catholic anti abortionist had the power to keep an abortion Bill locked up in committee. He had also announced his distaste for the radical Bill of Constance Cooke on the grounds that it 'could allow an abortion of a foetus a day before normal birth'.<sup>76</sup> He set some of his staff members to work preparing a Bill and when he introduced it into the Senate it aimed to make abortion simply a question for the woman and her physician without any other qualifications.<sup>77</sup> In the light of Brydges known feelings and his past comment on the Cooke Bill it is not surprising that advocates of abortion were more than suspicious of his motives. Senator Thaler, for example, said that a more moderate reform measure could pass the Senate but that Brydges would not let such a Bill reach the floor. He continued to predict the Bill would fail and that the issue would be put off. However, the Brydges plan misfired. When the 57 men in the Senate passed the Bill by 31-26 votes, it simply read "An abortion act is justifiable when committed upon a female by a licensed physician".<sup>78</sup> The voting patterns mirrored those occurring in Britain with the opposition being made up largely of the right wing plus the Catholics. The split according to party can be tabulated as follows:

	Democrats	Republicans	Total
For Bill	18	13	31
Against Bill	6	20	26
	24	33	57

The vote shows that three quarters of the Democrats in the Senate supported the Bill while over sixty per cent of the Republicans opposed it. In terms of race it does not seem that the 'black genocide' argument held much sway and the New York Times reported that as well as pressure from the women's groups there was strong influence in favour of the Act from minority groups whose "members most often became statistics in the grim catalogue of women killed by crude illegal abortions"<sup>79</sup>.

Religion was important and the overall opposition of the Catholics was clear from the vote with 18 of 22 opposing the Bill. However, the Catholic opposition was more muted than it might have been. As has been argued Brydges could have bottled up any bill in Committee but it appears that an informal arrangement was made. The Church Schools were sorely in need of funds from public sources yet yet these were banned by the Blaine amendment. This set out the separation of church and state more clearly than did the United States first amendment and Lader suggests that the real Catholic target for 1970 was to abolish Blaine.<sup>80</sup> He continued to speculate that "Rockefeller may have assured the Senate Majority leader Brydges of his opposition to Blaine while giving lip service to the Cooke Bill". The New York Times also noted that Catholic opposition was muted and suggested that the Church was more concerned with Parochial School support. It stated:

"Recently, Catholics from Long Island jammed the lobby of the Senate to cheer Senator Edward Speno, a Long Island Republican, and a Catholic, who is pushing for more State money for Parochial Schools"<sup>81</sup>. The article continued to say that, as he had such support, Speno felt free to vote for the abortion Bill. So it seems that abortion was not regarded as the key issue for Catholics in the way that it was to become in later years.

When the Bill was passed down to the Assembly there were again anxious moments. In order for it to succeed 76 votes were needed out of the membership of 150 and in Committee two changes were proposed to the Brydge's Bill. First a time limited of 24 weeks from the moment of conception was imposed (except to save the womans life) and secondly, abortion was to be carried out on a woman only 'with her consent'. The former was introduced to quieten fears about very late abortions and the latter was suggested to allay concern about pressure on teenagers and poor members of minority groups. Those pushing for the change were confident that they had the necessary votes. But the first time round two members recorded their 'Yes' position and left the chamber and in a confusing decision their votes were discounted and the Bill failed. The members, nevertheless, raised it again and this time it looked as if the supporters were going to fail to meet the mark by one vote. However, in the last moments there was a change of mind. The New York Times reported: "Assemblyman George M. Michaels of Auburn, his hands trembling and tears welling in his eyes, stopped the roll call only seconds before the clerk was to announce that the reform bill had been defeated by a single vote. He said 'I realise Mr. Speaker that I am terminating my political career, but I cannot in good conscience sit here and allow my vote to be the one that defeats the bill - I ask that my vote be changed from 'no' to 'yes'".<sup>82</sup> Michaels prediction was correct and at the next election he was defeated on this issue. However, with his change the 76 votes were reached. The party background was as follows:

---

	Democrats	Republicans	Total
For Bill	46	30	76
Against Bill	24	49	73

---

The pattern was similar in the Senate. Two thirds of the

Democrats were supporters compared to just over a third of the Republicans.

The Bill, as amended, had then to return to the Senate for the fourth and final vote. In an emotional speech Brydges read from the "Diary of an Unborn Child" from the day of conception when "It is already determined that I will love flowers".<sup>83</sup> He didn't read it all but it ended "Today my parents killed me". He was opposed by Senator Laverne, a Catholic, who pointed out that 60% of Catholics did not uphold the churches view on the issue. However, by this stage the debate was simply the restating of known positions and the vote was identical to the first taken. The next day Rockefeller signed the Bill into law and the advocates of legal abortion had achieved what to them had seemed an impossible victory.

In subsequent years there were challenges to the Bill, which were vetoed by Rockefeller. These, however, came to an end with the Supreme Court decision in January 1973.

#### Supreme Court Decision.

The Supreme Court of the United States consists of nine judges who are appointed by the President for life. The fact that they do not have to fight elections and thus respond to political pressure distinguishes them from the majority of American judges. In theory they should just interpret the validity of laws in terms of the constitution. In practice, of course, they are influenced by the general climate of opinion.

Views on abortion continued to liberalise from the time of the passage of the New York Act and in August 1972 a Gallup poll showed that 64% of the public

in the United States, including a majority (56%) of the Catholics believed

the decision to have an abortion should be left solely to the woman and her doctor.<sup>84</sup> An article discussing the results in the New York Times suggested that there had been a continuous movement towards liberalisation. It stated that in 1968 less than 15% wanted liberal laws, but this percentage had risen to 40% in 1969 and 50% in 1971. So the final rise was a culmination of a series of steadily changing attitudes.

It also seems that medical opinion had by 1972 also moved towards a repeal position.

In March 1971 a survey of specialists in Obstetrics and Gynecology in New York found that two thirds of them favoured the new abortion law.<sup>85</sup> A couple of months later liberal laws were endorsed nationally when the American College of Obstetrics and Gynecology urged that the decision on abortion should be left to doctors and their patients.<sup>86</sup>

It seems that the working of the New York Act was one factor which led to the liberalisation of views.

in October 1972 the New York City Health Services Administrator stated the experience of two years of legal abortion on a mass scale, had cut the maternal deathrate, reduced the infant mortality rate and had reduced illegitimate births for the first time since the keeping of statistics had started in 1954.<sup>87</sup>

A further reason for the change in the general climate of opinion was the general movement to the left in response to the War in Vietnam. It is probable that the liberalisation of attitudes amongst students and anti war protesters was concentrated on the East and West coasts rather than the mid west or the south. However, in terms of political importance the liberal areas carried more weight. Thus effective public opinion was to the left of overall public opinion in the country.



These changes all worked together and Sarah Waddington, the Lawyer who argued the Texas case before the Supreme Court, told me in an interview in 1978 that the decision they finally took would not have occurred in the climate of opinion even two years earlier. She may well be right in this assertion but also of importance is the previous Court's decisions and the fact that the advocates of legal abortion to a large extent won the Academic argument about the genesis and maintenance of the abortion laws.<sup>88</sup> There were two major issues involved. First was the question of privacy and the second was the question of the background to the Laws and the question of the origins of life.

The right to privacy had already been decided in particular reference to the question of birth control. In 1965 in *Griswold v. Connecticut* the Supreme Court recognised the existence of a constitutional right of privacy within marriage.<sup>89</sup>

In this case it was decided that the states could not prohibit a couple from using contraceptives within their marital relationship. This decision had of course wider connotations as Barnett pointed out: "Despite the emphasis in the *Griswold* opinion upon protecting bedroom activities from the prying eyes of the state, it is possible to see in the decision a rather differing import. Instead of cloaking in privacy bedroom activities in general, the decision can be read as establishing the right of a married couple to decide if and when they wish to have children, that decision being an integral part of the marital relationship."<sup>90</sup>

This decision for married people was extended to single persons. In *Eisenstadt v Baird* it was argued that the marital couple were not an entity

but were two individuals who both had the right to ensure that the Government did not interfere in matters so fundamental as the decision whether or not to have children. It was, therefore on this right of privacy that the Supreme Court struck down the Texas law in Roe v Wade.

This development of a concept of privacy was therefore one key factor in the legalisation. A second was related to the concept of the foetus as an unborn child and the academic work of NARAL's legal adviser Cyril Means was particularly important on this point. Means wrote two articles on the background of the abortion laws and his work was quoted in the Supreme Court decision seven times.<sup>91</sup> Furthermore, even when he was not quoted his ideas seemed to have been important in guiding the thinking of the judges.

In his first article he made a detailed analysis of the major historical factors underlying the abortion laws.<sup>92</sup> He pointed out the fact that under English Common Law abortion had been legal up until quickening and further argued that from the moment of conception until quickening there was no protection under common law.

"The pre-quickened foetus is not now, and has never been, itself an object of protection by our criminal law; the common assumption that it is will be dispelled by a study of legislative history, herein revealed for the first time".

He produced various pieces of evidence to support his contention and suggested that in terms of the constitution birth was a precondition for personhood.

In explaining the reasons for the abortion enactments he stated that it had been an unsafe operation in the nineteenth century. He argued that

the main purpose for the laws was to protect the life and health of women with unwanted pregnancies. He continued to quote the evidence of Christopher Tietze that some time in the early twentieth century abortion became a safe operation and, indeed, safer than childbirth.<sup>93</sup> Thus it followed that the previous reasons for abortion restriction were no longer valid.

He drew attention to the fact that the British 1967 Abortion Act had reasoned in terms of safety and commented "as a matter of meaning it uncannily recaptures the intentions of all the British and American legislators on this subject in the nineteenth century.....the new British clause would not have looked 'radical' at all to the nineteenth century parliamentarians and legislators. It looks radical now only because it has so widely been forgotten what the real purpose of the abortion statutes was".<sup>94</sup>

He went on to question whether the legislators had the right to insist that a woman must risk the hazards of childbirth rather than be allowed a relatively safe legal abortion.

In Means second paper he produced further evidence to support his contention about the right to abortion under common law in the early months of pregnancy. But in fact he went further and argued that under common law women had the right to abortion throughout pregnancy.

One of the arguments with which he took issue was the argument of John Noonan and David Louisell that according to Coke, late abortion was murder.<sup>95</sup> He claims that they made a mistake and misquoted Coke as calling a post quickening abortion "A great misprison and so murder" when in fact he had not written 'so' but 'no'.<sup>96</sup>

Furthermore Means stated that Coke did not quote the common law correctly and that even after quickening abortion was not even a misprison (misdemeanour).<sup>97</sup> This finding obviously had important constitutional implications.

"Were the American Medical Profession now suddenly to remember the reason for the passage of these laws, they would grant an abortion to every woman in the first or second trimester who requested one; for, today, abortion is always safer than childbirth, as the New York figures now show, not only through the first trimester, but during the first 24 weeks of pregnancy."<sup>98</sup>

Mr. Justice Blackmun considered the relevant documents and recognised the importance of Means research in delivering the opinion of the court. He accepted his contention that Coke had been misinterpreted. The Judge also noted Means later point that even post quickening abortion was not established as a crime and accepted his view that the major reason for the introduction of the laws was to protect the health of the woman.<sup>99</sup>

In his ruling he outlined three major factors of interest. First, the right of privacy, secondly the interest of the state in protecting the health of the woman involved and thirdly the interest of the state in protecting potential life. He noted that some were arguing the woman's right of privacy was absolute throughout the pregnancy but he rejected this contention. He took the view that it applied during the first three months of pregnancy and that within this period the decision on an abortion should be left to the woman and her attending physician. After this time, however, the interests of the state in promoting the health of the woman became of increased importance and so the states could regulate abortion procedures in ways that are reasonably related to maternal health. Once viability had been reached the states could

proscribe abortion in pursuit of its interest in the potential human life except when it was necessary to preserve the life or health of the woman.<sup>100</sup>

This decision was won with a 7 - 2 vote and the only Catholic Justice was included in the majority. With it all the state laws were overthrown and even the New York law was unconstitutional because it did not allow abortion for 'health' after viability. At the time of the decision four States had abortion on request. These were Alaska, Washington, Hawaii and New York. Fifteen further states had relatively new laws based on ALI type conditions. They were Alabama, Arkansas, California, Delaware, Florida, Georgia, Kansas, Maryland, Mississippi, New Mexico, North Carolina, Oregon, South Carolina and Virginia. The other 31 States still had their traditional nineteenth century laws.

Not all advocates of legal abortion were fully happy with the Supreme Court's decision. For example Congress woman Bella Abzug said she would introduce a bill that would go further than its ruling and "Eliminate any state laws of any nature concerning the regulation of abortion."<sup>101</sup> However, a more serious problem in terms of the working of the future law was that it was imposed from outside. Although the polls showed most people in support there were various areas of the country which were very conservative and had strong opposition to abortion. So the ruling was necessarily going to introduce a great deal of conflict.

CHAPTER 6

British Debate After 1967

After the Abortion Act 1967 many people felt that the issue was over. There was a confidence about the changes. Suicide had ceased to be a criminal offence, the death penalty had been abolished, homosexuality legalised, and birth control had become openly available to single people. It seemed that the legalisation of abortion was just part of an overall change in attitude towards 'crimes without victims'.<sup>1</sup> However, in subsequent years there was a great deal of controversy and a seventh Bill to amend the Act before Parliament. This chapter will analyse the social forces since the passing of the Act.

In other chapters there has been a discussion of the change in the climate of opinion towards sexuality which has influenced the changes in laws and practice on birth control and abortion. Since the late sixties there has not been any marked change in the dominant ideology. However there does, appear to have been further liberalisation in behaviour. My calculations which reworked the data of two sex surveys to make them comparable showed a large increase in teenagers having non marital sex.<sup>2</sup> Furthermore, the changes of the sixties in terms of greater freedom of sexual morality seem to have been consolidated. Living together before marriage is now acceptable behaviour for the middle classes,<sup>3</sup> at least in the cities, and the continued movement towards sexual equality has enabled women to have greater control over their lives.

In the early seventies there was a reaction to the previous changes with the growth of the 'Festival of Light' movement. However, this pressure has died down. On the whole the British environment is more

liberal in terms of sexuality than the United States. For example there is no movement opposed to Gay rights nor is there any active movement opposing equal rights for women and overall British society is much to the left politically than the United States.

Attitudes to abortion have liberalised in comparison to the 1960's. Furthermore the medical profession has swung behind a more liberal position. In 1975 a survey of members of the Royal College of Obstetricians and Gynaecologists<sup>4</sup>, which had originally been very opposed to the Act, showed overall support. Thus 22% thought the Abortion Act was a major advance 60% felt it was a reasonable compromise and only 14% thought it was a tragic mistake.

So it does not seem that the pressure against the Act has come from disquiet amongst the general population nor from those performing the operations. Rather there were other factors involved. In fact the opposition can be divided into two separate periods. The first is up to the James White Bill in 1975 and then the experiences after that. The first period was marked by a relative change in the strength of the pressure groups.

#### Decline in pressure from ALRA

Once the abortion law had been passed many of the activists believed that the issue had been decided and so moved on to other campaigns. Prominent ALRA members wanted to spread birth control information in order to help reduce the number of abortions. Thus a passage from its annual report for 1969-70 read as follows:

"The executive committee believes that the abortion problem will assume a proper perspective in the eyes of many members of the public only when it is seen as part of an overall campaign to avoid unwanted

pregnancies. This suggests that the best course for ALRA, both from the point of view of reducing the need for abortion and of defending, and perhaps later extending, the Abortion Act, lies in a campaign for better facilities in this whole field".

At the AGM in 1970 it was decided to vote over a large part of ALRA's reserves to the Birth Control Campaign. This move displayed a confidence that the Act could be maintained fairly easily and it was passed despite the opposition of a few key workers. One of the <sup>5</sup> activists was particularly against the decision and told me "I was out on a limb. You see I was the one that was going to these anti abortion meetings and getting the feel of the audiences - seeing how unscrupulous they were in putting their case - and I've never underated the Catholic Church and I think so many of our people do.... It is the oldest pressure group in business. It is wealthy and powerful and one should never underate its power".

She took over the key post of secretary to the organisation which she kept until 1974 and ALRA operated with much less support than before the Act. In retrospect it can be seen that the confidence of those that the Law would not need much defence was misplaced. However, it is in some degree understandable that the change which had been worked for for so long should be regarded as safe while its effects were being evaluated.

#### Anti abortion pressure

While the pressure from the supporters of the Act declined pressure from the anti abortionists increased. When abortion was illegal those fighting the Law had a number of advantages. The presence of an



underground network providing abortions made a mockery of the provisions of the law and those with access to the services of a Harley Street doctor often felt an obligation to others who were having to make do with unqualified and possibly unskilled operators. However, after legalisation these advantages diminished and the opponents of the law were able to capitalise on the changes. First of all abortion became visible for the first time. Statistics were kept and these showed abortion to be relatively common. Furthermore the number of recorded abortions kept rising in the years until 1973 and seemed to give credence to the theories about people becoming 'abortion minded' and using abortion as a contraceptive.

There were also problems due to the fact that Britain was the first major country to liberalise and so increasing numbers of foreign women began to come over giving rise to comments about Britain being the 'abortion capital of the world'. Those arriving at the airports would not know where to go and so Newspaper reports began to appear talking about 'taxi touts'. Attempts were made to create a moral panic, and while these were not successful amongst the major part of the population, the fears helped recruitment amongst those whose backgrounds inclined them towards an anti abortion position.

At the time of the 1967 Act there was only one major anti abortion pressure group - the Society for the Protection of Unborn Children but in August 1970 SPUC was joined in battle by a second group 'Life'.

Life had its origins in the correspondence columns of the religious press and takes a position much closer to that held by the Catholic Church. When it was first formed Norman St John Stevas spent half his weekly column in the Catholic Herald attacking it for 'dividing the forces of righteousness'.  
6

There is the potential for conflict, as LIFE has the aim of stopping all abortions. In 1976 Professor Scarisbrick was asked under what conditions he felt abortion was justified. He replied that it was acceptable in the remote situation where both the mother and child were going to be dead 'before the baby is viable'. Presumably from this if only the woman were going to die abortion should not be tolerated.

This is spelt out a little more clearly in Professor Scarisbrick's booklet where he argues that 'the unborn child has as much right to life as his mother has.... It must be wrong deliberately and directly to kill either - even for the sake of the other'.

Life disagrees with abortion in rape cases arguing that it 'won't undo the horrible fact of rape and will add a new horror'. It therefore would not admit into membership many of those who would be able to join SPUC and disputes sometimes evolve between the organisations. In the midst of one of these Professor Scarisbrick wrote a letter to the Catholic Newspaper, The Universe, and stated:

"It would be a pity indeed if there were a lack of harmony between members of LIFE and SPUC. May I, on behalf of LIFE say that we have always supported SPUC and, as the huge LIFE turnout at the recent SPUC rallies showed, we do so more than ever! There is a difference of function and aim between us, but we can and do work together. We will not be content with merely returning to the pre-1967 situation, when thousands of legal abortions were performed.

We want to forbid all direct abortion, while ensuring that complete help for troubled mothers is available in every town and city. LIFE is convinced that this political goal is not 'pic-in-the-sky but, if we all stick at it and ask clearly for it, complete

protection for the unborn will come sooner rather than later'.

However, despite this confidence displayed by Professor Scarisbrick for a totally prohibitive bill, it is SPUC which carried much greater credibility with the politicians. Those introducing restrictive Bills such as James White and Bill Benyon have been careful to point out they are not totally anti abortion and LIFE has continued to appear too extreme within the British Context. It does not like this position and since 1976 when Scarisbrick made that conciliatory statement it has become less convinced of the case for gradualism and seems to be looking towards a much tougher line. An article in its newsletter examining the first ten years of the Act said "We have tried gradualism and found it does not work. We must be bold and go the whole 'hog'. We must fight on principles and openly tell the world that there can no more be a halfway house on this issue than there can on, say, piracy, blackmail, racism or torture. In the short run absolutism may seem absurd. In the long run it is the only thing that will succeed".

This is obviously a direct challenge to the gradualist stance taken by SPUC and it seems it was the lack of success of the Bernard Braine Bill which was responsible for LIFE's change of position on this matter.<sup>11</sup>

This debate of course mirrors the earlier one that appeared in the pro choice movement in Britain, and, as in that case, it seems the gradualists have kept in the predominant position. But LIFE is hoping for a change, its Newsletter commented:<sup>12</sup>

"We must take courage from America. After a debate similar to ours, the absolutists are in charge there. The right to life movement has rejected gradualism and makes no bones about going for total victory, an Amendment to the Constitution to override the fateful decision of the Supreme Court of 22 January 1973 which opened the floodgates of American abortion".

There is pressure to move towards this absolutist position because most of the key activists are absolutists and some of the LIFE literature (such as that above) implies that it would not support reformist measures. So when it was clear that John Corrie was about to introduce a Bill restricting abortion rights in 1979 I interviewed Professor Scarisbrick<sup>13</sup> and asked him under what conditions LIFE would support it. He told me it would not be in support if it only reduced the time limit to 20 weeks without altering the grounds. He explained that in his view, although it would save about 15500 babies who had passed twenty weeks, "day care would be stepped up and the amount of killing would increase".

In the event Corries' Bill as first published was relatively restrictive and Scarisbrook welcomed it as reducing the number of abortions by two thirds.<sup>14</sup>

#### The Society for the Protection of Unborn Children

After the Abortion Act had passed SPUC needed to rethink its tactics. One rule it changed was about not allowing Catholics onto the executive. Phyllis Bowman the SPUC press secretary became converted and in 1975 took over as Director. In an interview with her<sup>15</sup> I suggested SPUC had been more willing to compromise than LIFE. She disagreed with me but set out her organisations position as follows:

"With SPUC we have always stated categorically that we have people who accept abortion for general medical indications and those who take an absolute stand and these have come together to fight against the Abortion Act 1967. That is not compromising; it is an agreed stand. The other

thing is from my own point of view. I personally take an absolute stand on abortion. This is what I teach a child. On the other hand I have never fought for an absolute law. I do not think, in certain circumstances, if a woman were dying, you could force her to make a martyr of herself by law".

So she would like all abortions made illegal except to save the life of the woman. However, she continued "I feel on this with the doctors who carry out abortions for genuine medical reasons. Aleck Bourne put this in a nutshell. He once said to me that had he been able to save the baby of the girl who had been raped and saved the mother from her trauma he'd have saved both. But with the abortionist it is a deliberate act of killing to make sure certain humans don't survive".

It seems from these comments that SPUC is taking a more moderate line than LIFE, or any of the American organisations. So I questioned her further whether she felt by going for minor changes such as a reduction of the time limits it could weaken the pressure for a stronger bill later. I drew attention to the opposition to piecemeal changes in the United States on these grounds from Michael Schwartz<sup>16</sup>. She replied that she felt LIFE might take that view but 'Its rather like saying in Nazi Germany that you wouldn't save certain Jews because you couldn't save the lot. I find that argument arrogant".

So there is a tactical difference between SPUC and other major groups.<sup>17</sup> However, as long as it can maintain the support of LIFE on various amending bills its position is strengthened by appearing moderate.

One advantage SPUC has had is that the Catholic Church has been more open in its opposition. It has provided the main body of supporters and SPUC has been particularly strong in Scotland where a high proportion of its 20,000 + (1979) members live.

SPUC has provided the backing for the major attempts in Parliament to amend the law. It organised its first mass lobby on the House of Commons on November 28th 1973 and people attended from 450 constituencies.

Its literature claims<sup>18</sup>

"In all over 10,000 people attended. M.P.'s described it as the biggest mass lobby on a moral issue in the history of Parliament and the majority of M.P's considered our deputation to be extremely well informed. As a result most of the M.P's agreed to support amendments to the law".

This claim may be rather extravagant as others made in the leaflet are certainly contentious to say the least.<sup>19</sup> However, there is no doubt that by the early seventies SPUC had become a highly efficient pressure group. When in November 1974 James White drew a high place in the Private Members ballot the whole issue of abortion was brought into great prominence.

#### Early attempts at restriction

In July 1969 Norman St John Stevas tried to introduce an amending Bill into the House under the ten minute rule. His measure claimed to be merely rectifying certain abuses with the support of the medical profession. He was defeated by eleven votes and in the following year a similar bill was introduced by Bryant Godman Irvine. This bill was, however, facing defeat and so its supporters talked it out to prevent a vote being taken.

This defeat led to the view that the Abortion Act was safe so long as a labour Government was in power. When the Tories won in 1970 Norman St John Stevas began to seek out support for a change in the law. He explained in his column in the Catholic Herald however : "There is little chance of getting amending legislation without a preceding full-scale enquiry...  
I have worked for it for more than three years".<sup>20</sup>

The Lane committee was set up in June 1971 and in answer to a Parliamentary question<sup>21</sup> Sir Keith Joseph stated the enquiry would investigate the way the act was working and not its underlying principles. The committee consisted of sixteen members and met 33 times including four three day meetings. Evidence was received from 194 organisations, 529 individuals and overall the committee seems to have carried out its research thoroughly. Its report in April 1974 largely supported the way that the Act was being operated.<sup>22</sup>

"We have no doubt that the gains facilitated by the Act have much outweighed any disadvantages for which it has been criticised. The problems which we have identified in its working, and they are admittedly considerable, are problems for which solutions should be sought by administrative and professional action, and by better education of the public. They are not, we believe, indications that the grounds set out in the Act should be amended in a restrictive way. To do so.... would be to increase the sum of human suffering and ill-health, and probably drive more women to seek the squalid and dangerous help of the back-street abortionist".

The committee continued to note that its generally tolerant attitude might well have disappointed those who regarded the Abortion Act as a part of the general decline in sexual morality and it noted that there had been some over reaction against the sexual mores of the Victorian Age. However, it stated that abuse of freedom by a minority must be lived through for the sake of the greater advantages to the society.<sup>23</sup>

The report proposed some restrictions such as a reduction of the time limit to 24 weeks, but as the previous comments show the whole

tone of the report was liberal and was obviously a great blow to the anti abortionists. The committee had effectively stalled any parliamentary action for three years and not come out with the kind of findings they would have liked. SPUC produced a detailed report<sup>24</sup> by C B Goodhart attacking the major findings and criticising the evidence. This argued the Committee membership was not representative of the population as a whole:

"Since a large majority of electors are opposed to abortion on request which as the report frankly admits, is in practice permitted by the provisions of the Act".

Goodhart continued that the committee would have produced a better report if it had contained people with known views both for and against free abortion. He also said he was unhappy that some of SPUC's suggestions had not been accepted and did his best to cast doubts on the evidence.

However, Goodhart's academic style would probably have had little effect and the controversy over the Act may well have died down if the anti abortionists had not the fortune of the publication of a book 'Babies for Burning'.<sup>25</sup>

### Babies for Burning

After the Lane Committee had completed its findings but before publication of the report a series of articles began appearing in the 'News of the World' written by two freelance journalists Susan Kentish and Michael Litchfield. The story was first announced on February 24th 1974 and the following three weeks contained the 'full shocking facts'. Included in the allegations were that seven pregnancy testing agencies



had declared Susan Kentish pregnant when she was not and that four doctors had agreed with this finding.<sup>26</sup> When asked about the findings of the Lane committee Litchfield had commented "Investigate! They could not have uncovered the gravy in a steak and kidney pie". While he was an election candidate he extended his allegation, "Dear Sir, we regret you are pregnant" was the headline in the Daily Express (October 2nd 1975). Litchfield and Kentish published 'Babies for Burning' in December 1974. At this time Litchfield in particular had a great amount of credibility having been a Conservative candidate in the General Election of October 1974 and also in claiming to have won the Pullitzer prize for articles written about the Mafia and published in Life magazine. Furthermore he said he had taped all of the interviews on which the research was based.

The book contained a number of allegations including the following:

1. Not only did the pregnancy testing agencies declare Kentish pregnant also samples of his own urine received positive tests. Litchfield claimed that his urine was passed and sealed in front of an independent witness - Dr Peter McCormack a G.P. in Litchfield's home of Kettering.
2. There were strong Nazi sympathies amongst abortion doctors. He claimed that a chemist running a pregnancy testing agency had told him " My business is all to do with selective killing. That was the great dream and immense philosophy of Hitler... Euthanasia is next on the Agenda.... so that life will terminate for everyone on their sixtieth birthday... Most of the doctors involved in abortion whom I deal with are disciples of this cause".
3. That an unnamed gynaecologist committed murder and when Litchfield

posed as a manufacturer the man agreed to sell him foetuses to be processed into soap. The murder charges were alleged to refer to the doctor carrying out abortions so late that the foetuses were viable. An alleged quote from the doctor was "One morning I had four of them lined up crying their heads off. I hadn't the time to kill them then and there".

These and other allegations shocked many and influenced Parliament. All members were sent the book, and a proof copy was read by James White who later explained that it was after reading it he drafted his 1975 Abortion Bill.<sup>27</sup>

It was also read by Leo Abse who was White's mentor and at a later stage David Steel drew attention to the use he made of it.<sup>28</sup>

He pointed out that Abse had reviewed the book in the Spectator just a week or two before the debate on the White Bill and had said of the journalists 'Yet one cannot forbear to pay them tribute'.

Another report<sup>29</sup> also quoted Abse as saying the book 'corroborates' the "urgent" need for changes in the law.

On January 30th 1975 Ronald Butt made certain allegations based on the book in the Times and by the Second Reading of Mr James White's Bill on February 7th it was at its maximum impact. Apart from its influence on M.P's the pressure groups around the country read the book and it served to strengthen their opposition to the Act.<sup>30</sup>

Those in the abortion agencies knew that the allegations did not ring true and Diane Munday, now Press Secretary of BPAS, contacted the Sunday Times.

Its report was published<sup>31</sup> on March 30th 1975 under the headline 'Abortion horror tales revealed as fantasies' and it attacked all of the book's major allegations. The article pointed out that the administrator of the Pulitzer prize

had said it had not been awarded to Michael Litchfield and that in any case it was not given for articles in Life. Furthermore the three allegations referred to above were all strongly attacked. The authors agreed that the general practitioner did witness Litchfield passing urine and that all the testing agencies did receive samples from a Mrs. Duffy - the pseudonym Litchfield said he used - and all were positive. However, the agencies saw the samples three days before the stated date of posting. The Times report continued:<sup>32</sup>

"Could Litchfield have sent two sets of samples in his chosen name of Duffy. The agencies can only trace one set of that name. So did Litchfield by accident use another name on the set witnessed by Dr. McCormack.... on the same day that the "Duffy" samples arrived, February 13th, three of the agencies also received urine samples from an A Price, of 17 Haynes Road, Kettering. All were negative.

There are two interesting points about A. Price. One is that the only A. Price who then lived at that address was Arthur Price, an 87 year old widower at the time of his death on Boxing Day last year. Yet the letter accompanying the samples said: "I think I must be pregnant because I have missed two periods and I am not on the pill". The other interesting feature is that Arthur Price was the grandfather of Michael Litchfield".

The assertions about Nazi sympathies were also challenged. One doctor Litchfield said made favourable references to Hitler was Jewish, had lost his wife and son in Auschwitz, and was himself imprisoned in Dachau and Buchenwald. The Chemist Litchfield claimed to have quoted was also said by him to have books the titles of which

do not seem to exist.

Thirdly, Litchfield claimed to have on tape an interview with the doctor in which he agreed to sell fetuses for soap. However, nobody heard the tape except the anti abortion M.P. Leo Abse and he only managed to hear Litchfield making the appointment and was told:

"with the proper equipment it would be possible to hear the rest of the tape which it was too indistinct for me to make out". The unnamed doctor concerned was quoted as telling the Times.<sup>33</sup>

" I would have thrown him out of the window if any such thing had been mentioned".

This article discredited the book in the eyes of most people but Litchfield continued to maintain it was genuine. He and Kentish gave evidence before the Select Committee set up after the Bill and in September 1975 wrote a letter in the Church Times saying they had given forty hours playing time to it and further that they had tapes of a doctor talking of "Hitler's progressive thinking".<sup>34</sup> David Steel however, pointed out that this tape did not exist and commented "I have never seen such a pair of charlatans before a Select Committee".<sup>35</sup> By February 1976 James White and Leo Abse were trying to dissociate themselves from the book although Jill Knight Conservative M.P. for Edgbaston was still claiming that "None of the allegations in the book has ever been disproved".<sup>36</sup> Litchfield continued to defend it until in 1978 after a libel action he and Kentish had to apologise to British Pregnancy Advisory Service in the High Court.<sup>37</sup> However, despite this victory for BPAS it did not get anywhere near the publicity of the original allegations. For example the Daily Express<sup>38</sup> carried nothing about it and many who read the original allegations may have carried on believing them.<sup>39</sup>

James White Bill

This had its Second Reading on February 7th 1975 and passed by 203 votes to 88 although it did not proceed but went by agreement to a Select Committee. It set out to restrict the grounds for abortion. In particular it wished to exclude those performed for social grounds although the sponsor said that he did not take a 'hard line on abortion'<sup>40</sup> and that abortion should be available for women with problems. However, he argued that the Act was being interpreted too liberally. That a group of doctors will perform abortion on request<sup>41</sup> for cash and that this was against the wishes of the sponsors of the original Act. He stated he and his supporters "want to make the 1967 Act work as it was intended to work."<sup>42</sup>

Leo Abse drew attention to the statistical argument and stated "we have unwittingly given abortion on demand".<sup>43</sup> Those defending the Act in Parliament tried to argue that this was not true and that abortion on request was not being given. However, as early as 1971 Professor Peter Huntingford had said he practiced abortion on demand and so this was difficult to maintain, although in many areas of the country it was still very difficult to get an abortion.

SPUC gave great publicity to Huntingford's statement and also claimed the activities of ALRA, which had recently moved to supporting A Woman's Right to Choose were counterproductive and in fact aided their case. Paul Cavadino stated at their A.G.M. on March 1st 1975.<sup>44</sup>

"The ALRA campaign was an excellent campaign from our point of view in that again and again M.P's who were pressing to restrict the law pointed out that Abortion on Demand was being practiced very widely. Peter Huntingford, who is carrying out abortion on demand policies stated

this and he also stated that he thought they did not contravene in any way the working of the Act. The M.P's kept saying again and again, that abortion on demand was not the intention of Parliament. ALRA then proceeded to launch a campaign for Abortion on Demand but played very much into the hands of the M.P's proposing the Bill. Secondly, they had a Press Conference at which they produced Huntingford who stood up and said he was doing Abortion on Demand, they underlined what they were doing was not the wish of Parliament, and had their own man prove their point for them. At this stage I would like to welcome the spies from ALRA who are in the audience and thank them for all the work on our behalf".

With SPUC claiming ALRA's activities were working to its advantage it is clear there were doubts about its position. A new group of workers had taken over and they believed in a much more aggressive policy. Those who had been behind the organisation during the passage of the Act were critical of this development and the old issue of reform against repeal was revived.

However, this time it was those who were aiming for a 'Right to Choose' who gained the ascendancy in the movement. In this respect an important factor was the catalysing effect of the Bill on the Women's movement and from 1975 support for abortion rights grew. Demonstrations against the Bill led to the formation of the National Abortion Campaign a grass roots organisation in favour of free choice. On June 21st 1975 20,000 people went to a demonstration against the Bill and in October the group had its first National Conference. It called for:

MISSING

PRINT

1. Free abortion on demand on the National Health Service
2. Incorporation of private clinics within the National Health Service
3. Against forced sterilisation with abortion
4. For increased research and training
5. For the removal of anti abortion doctors from positions where they can obstruct women

The Bill also jolted the Labour movement into action and in 1968 the Trades Union Congress (TUC)/Women's Advisory Council, the TUC congress and the Labour Conference itself all opposed the Bill and called for abortion on request. With these developments the movement took a new turning and for the first time advocates of abortion rights began to develop mass support of a kind which could match the opposition.<sup>46</sup>

There was, however, by no means total support for abortion on request. Many of those in the agencies felt that the position should simply be defended and from a purely practical point of view the charity laws of the country are such that it was only possible for the major organisations to give money for the purpose of maintaining their position.<sup>47</sup>

The doctors organisations opposing restrictions reflected this divide. Thus one organisation called Doctors in Defence of the Act took the view that it would defend the Act but not call for an extension. However, a second group "Doctors for a Woman's Choice" aimed to give women the right to choose especially in the early months of pregnancy and in later years this has been increasingly important.



Select Committee

This was seen by the anti-abortionists as a second delaying tactic but set out to examine Mr White's proposals in some detail. It fell at the end of the session but was reappointed following a debate in the House on 9th February 1976. The committee was viewed by pro choice groups as simply a device for forcing restrictions. They believed that the talk of abuses of the Act was just a tactical ploy in order to cut back services and there is no doubt that in this they were at least partially correct. The Lane Committee had sifted the evidence so at best the committee could only repeat the material. At worst it could simply provide slanted anti abortion information. Faced with sitting through what they felt to be a charade the six pro choice members on the Committee resigned (March 19th 1976) and ALRA and NAC refused to give evidence. These decisions were later recognised as a mistake because they led to the committee being unable to hear both sides.

In the event when the Committee produced "Minutes of evidence"<sup>48</sup> it concentrated almost exclusively on information from the anti abortionists. Pride of place was given to the evidence of SPUC and LIFE while that of the major medical bodies was excluded. In some respects the emphasis of the report resembles the anti abortion books used by the campaigners. I therefore produced a pamphlet for the Abortion Law Reform Association pointing out some of the shortcomings.<sup>49</sup> Amongst the points made were:

1. The committee only published the result of one opinion poll whereas the results from four major organisations were available.

2. It spoke of the only doctors poll discussed as 'a completely false poll'<sup>50</sup> whereas there had been seven polls of doctors opinion by recognised bodies and all of these pointed in the same direction - that doctors supported the provisions of the Act.
3. The committee consistently argued that illegal abortions had not fallen and may have increased. In support it printed a discredited article from the British Journal of Criminology. This subject discussed more fully below.

The level of debate in the committee also left something to be desired. In the published evidence virtually all the old arguments against contraception were revised and used against abortion. Professor Scarisbrick talked of abortion as 'national suicide'<sup>51</sup>, the Rev. John Stevenson said abortion undermined the family unit.<sup>52</sup> Margaret White said it increased mental disturbance<sup>53</sup> and Life quoted the Wynn report's suggestion that abortion in a high percentage of cases led to sterility<sup>54</sup>. However, the most bizarre point was when Leo Abse used the argument that 'great men would not be born' against the Methodists. As has been shown this was one of the favourite arguments against contraception earlier this century and John Wesley was often mentioned in this respect. It was therefore strange that Abse as an earlier advocate of contraception should use the argument against the Methodists support of Liberal abortion.<sup>55</sup> For if it is a reason for not supporting abortion it was also an argument for not supporting contraception.

An uninitiated observer reading the evidence would have believed that the abortion Act had been an unmitigated disaster. However, the recommendations coming from the Committee was relatively mild.<sup>56</sup> It proposed a reduction in the time limit to 20 weeks with certain

exceptions for foetal or maternal health, that in private practice there should be restrictions on the signing of the forms between partners, that the police should have access to certain records when investigating offences and that all referral agencies which charge fees should be licensed. There was however, no advocacy on the change of grounds. On this issue the report stated "Your committee... make no recommendations a decision must be left to the individual consciences of members."<sup>57</sup>

These proposals were so mild that one of the pro choice campaigners toyed with welcoming the report as a justification that the Act was working well. However, others suspected the proposals were designed to obtain a large majority on a mild bill which could be stiffened at the committee stage.

The proponents of later Restrictive Bills said they were following the Recommendations of the Select Committee.

### Illegal Abortions

In the previous chapter it was shown that the anti abortionists argued that with legalisation the number of illegal abortions would not decrease but would in fact increase. Their belief that this was a good tactic was confirmed in 1967 when Gallup found that if liberalisation led to an increase in illegal abortion most people would oppose it. The question and the result was as follows:

"Would you approve or disapprove of increasing the number of illegal abortions by passing the Abortion Bill if it were shown that".

	<u>Approve</u>	<u>Disapprove</u>	<u>Don't Know</u>
a) it leads to a decrease in backstreet abortions	62%	9%	28%
b) it leads to an increase in backstreet abortions	8%	54%	38%

This result was republished in the minutes of the Annual General Meeting of the Society for the Protection of Unborn Children on 13th March 1976 and it shows clearly that public support for legal abortion would be very much lower if it led to an increase in backstreet operations. The anti abortionists therefore tried to find evidence to support their case.

At first they quoted an article by Detective Chief Inspector Brenda Reeve in the Police College Magazine (Summer 1973). In this she examined the statistics for the Metropolitan Police and found that the number of convictions for illegal abortion had remained almost constant between 1966 and 1970.

The figures she gave were as follows:

Statistics of the Metropolitan Police

	<u>Convictions</u>	<u>Number of cases</u>
1966	37	65
1967	18	37
1968	30	103
1969	27	57
1970	35	81

She was able to argue from these that the figures showed no significant change and Sir Bernard Braine quoted her in his winding up speech on the James White Bill as follows:<sup>58</sup>

"I feel that the incidence of illegal abortions by medical practitioners since April 1968 has increased quite considerably".

Other anti abortionists also quoted the article widely. But by the time the Act had been in operation for six years the figures began rapidly to decline. In 1972 there were 11 cases of illegal abortions known to the police. In 1973 there were 9 and in 1974 there were none.<sup>59</sup> So the figures had stopped supporting the case well before Sir Bernard Braine had used them.

The anti abortionists, however, were pleased when an article appeared in British Journal of Criminology in January 1976 written by Paul Cavadino one of their members of their executive.<sup>60</sup> This drew attention to the fact that David Steel had said his act would 'stamp out the backstreet abortions',<sup>61</sup> and considered various possible indexes. The article criticised the use of the decline in maternal deaths, the decline in number of women admitted with incomplete abortions through the 'emergency bed service' and even the decline in prosecutions - despite the fact that Cavadino had earlier used the Reeve article which was largely based on these.

It continued "The only index of illegal abortion which is even remotely reliable is the number of hospital discharges after treatment for incomplete abortions, and even the interpretation of these figures is fraught with difficulties".<sup>62</sup>

He gave figures from the Hospital In Patient Enquiry that the number of women discharged from hospitals in England and Wales after incompleated 'illegal' abortions rose from 220 in 1966, and 360 in 1967 to 1,110 in 1972 and 670 in 1973 and concluded that there had been no significant reduction in illegal abortions and there may have even been an increase.

My interpretation of his article was that he had tried to discredit all the possible indexes except the one that served to support his case.

The series of figures do not in any way ring true as they have such great fluctuations and in October 1976 I published my reply in the same journal.<sup>63</sup> I pointed out that Cavadino had made a mistake in double counting some of the figures, that HIPE was based on a ten per cent sample and so the number of cases were small and most important that there must have been an error in the Government figures.<sup>64</sup>

"There are sixteen different regions plus Greater London from which information is gathered, yet in 1972 70% of the illegal abortion cases came from two of these areas neither of them London. It is impossible that illegal abortions could be so distributed. The series of figures which Cavadino suggested are the nearest to a 'reliable index' are shown to be the most unreliable".

I also reported figures for Romania where the making of abortion illegal had led to an increase in maternal deaths suggesting a rise in illegal operations. I concluded there had been a significant fall in the number of illegal abortions.

At the request of Cavadino Mr Biggs Davison asked questions in the House of Commons on two occasions to discover if my analysis was correct and in both cases the minister confirmed the findings.<sup>65</sup> In fact the Government then produced new lower figures<sup>66</sup> for the number of discharges although even these showed such wide variations that they were of no use as an index.<sup>67</sup>

While working on a reply to Cavadino I noted that the main problem was with the 'dark number' and that once legalisation has occurred it is possible to make a good estimate of the number of operations

if you know the number of legal abortions occurring after the Act, the increase in abortions due to the Act and the proportionate change in illegal operations. I therefore set out to calculate these and suggested that the estimates of 100,000 abortions a year (80,000 illegal and 20,000 quasi legal) before the Act were largely correct and that by 1973 the number of illegal abortions was down to about 8,000 a year.<sup>68</sup>

However, despite the fact that use of the Hospital In-Patient figures has been discredited, the anti abortionists have continued to use them. The Conservative anti abortionist Bill Benyon M.P. used Cavadino's figures in support of his anti abortion Bill in April 1977 in a letter to a Birmingham doctor. This was well over a year after they had been refuted. Diane Munday wrote to him and set out his error.<sup>69</sup>

"These figures were quoted extensively by SPUC and in letters from you prior to the Second Reading of your Abortion (Amendment) Bill. At the time it may have been reasonable for you to accept them as accurate, as you may not have seen the Francome paper "How Many Illegal Abortions" in the British Journal of Criminology which detailed the false interpretations and basis of these statistics. However, on 16th February in a written Answer replying to a Parliamentary Question by your anti-abortion Colleague, Mr Biggs Davison the Minister of States at the DHSS made it quite clear that these figures are in error as they include the number of "Septic and illegal" abortions twice. After seeing that answer I hoped you would no longer quote false figures. Will you give an undertaking not to use them again?"

Benyon did not reply and the anti abortionists have continued to use the false data.

As late as September 1979 an article in the New Law Journal<sup>70</sup> quoted the Cavadino article with no discussion of the criticisms and the anti abortion leaders still use the evidence despite the fact that they are known to be incorrect.<sup>71</sup> A typical letter was written by John Smeaton the General secretary of SPUC in May 1979.<sup>72</sup>

"Liberal abortion does not stop illegal abortion. It merely condones and creates an abortion culture. It is therefore, no surprise that official hospital returns show an increase in discharges for incomplete illegal abortions (the only way in which one can properly assess back street abortion)".

There is no reason to expect that some anti abortionists will cease to argue that illegal abortion has increased despite the fact that the usual indicators all show this is not the case.<sup>73</sup>

#### Bills after the Select Committee

Since the Select Committee reported there have been three Bills which have attempted to legislate its recommendations or some variant of them. The first two introduced by William Benyon and Sir Bernard Braine both had little chance of success as the Government of the day was unsympathetic but the third introduced by John Corrie arrived in a much more sympathetic House of Commons.<sup>74</sup>

The general tactics behind all these Bills was to stress the fact that there had been abuses of the Act which needed to be tightened up. One of the crucial arguments was that the time limit should be



reduced from 28 weeks to at least 24 weeks (Lane Committee or 20 weeks as suggested by the Select Committee). In arguing for such a reduction there was little opposition. Members of the National Abortion Campaign have an official policy of legalisation of abortion to term but this does not have the support of other major organisations. So there is generalised support or at least an acceptance of some reduction of time limits. In this sense there is therefore support for a change in the Abortion Law.

However the anti abortionists do not just want this change.

As has been shown they fall into two separate camps. There are the absolutists who really do not want any legal abortions at all and who see any minor change as a step along the pathway.<sup>75</sup>

However, there are also the conservatives who recognise some need for abortion but do not want it freely available. These groups contain those with a wide spectrum of opinion. They range from those who would just like a reduction in time limits to ensure no viable foetuses are aborted to those who would allow abortions only on very restricted grounds such as rape and incest.

The key pressure group operators are all absolutists and so their role is to try and create a climate of opinion that will lead them to gain as many changes as possible. One of the divisions of opinion that has already been outlined is whether or not to accept a mild change which could then prevent other changes at a later date. This was a problem not only for the anti abortionists for the pro choice groups were also divided on this matter. For example at the time of the Benyon Bill in 1977 secret approaches were made to those

on the committee that a very mild Bill would be allowed through. There was support for this amongst some pressure group operators because they saw it as a way of getting the abortion issue out of the way for a while without having any real affect of availability. However, the Labour women on the committee took the view that they should not give way unless they had too<sup>76</sup> and that they would rather fight. The Benyon Bill therefore fell for lack of Government support on the question of time.

Sir Bernard Braine introduced a Bill under the 10 minute Rule which gained a majority of only five and fell through lack of time.<sup>77</sup> But this was in any way only a device to keep the issue in the public mind, while waiting for a more sympathetic Parliament.

#### John Corrie Bill

Once the Conservatives had won the election by a substantial majority it became clear that an anti abortion Bill was a distinct possibility and that it would have a good chance of becoming law. The Scottish M.P. John Corrie drew number one in the ballot and announced his intention to introduce a Bill which would among other things reduce the time limit of abortion to sixteen weeks.<sup>78</sup>

Strangely the Parliamentary conditions mirrored many of these present at the time of the passage of the original Act. First of all there was a Government with a substantial majority, secondly the timing of the election meant that there would be a long Parliamentary session, and thirdly there were people in positions of power who would favour the Bill - Norman St John Stevas for example was leader of the

House and in charge of the Parliamentary timetable. Furthermore, the Prime Minister was known to be in favour of some change.

The Bill was also aided by a well orchestrated publicity campaign. In the runup to the General Election there were three stories in the mass media of abortions resulting in live births.

Two of these had been "saved up" to be released at the time of maximum impact.<sup>79</sup> The Wanstead case occurred in July 1978 and was released in March 1979. The Whitston case was published at the end of April but referred to January. A third case in Barnsley occurred during the campaign when a woman was aborted after having German Measels and a 33% chance of deformity. The anti abortionists were clearly attempting to strike at the most sensitive area of legal abortion just as in the past, advocates of legalisation had concentrated on cases of rape. The tactics worked in that a great many Members of Parliament took the view that they should support John Corrie's Bill to reduce the time limit<sup>80</sup>.

The pro choice groups set out to attack these stories. "Breaking Chains" for example carried an article "Anti Allegations Refuted"<sup>81</sup> but although each of the stories carried errors there was little newspaper copy in printing them. They contributed to the high majority at the Second Reading.

There was a great deal of confusion but the official voting breakdown was as follows:

	<u>For</u>	<u>Against</u>	<u>Total</u>
Conservatives	176	14	190
Labour	54	82	136
Liberals	4	1	5
SNP	2	0	2
Plaid Cymru	1	1	2
Irish MP's	5		5
<u>TOTAL</u>	<u>242</u>	<u>98</u>	<u>340</u>

The results show that the Labour Party was the only one which did not have a majority in support of the Bill.<sup>82</sup> The Conservative support was overwhelming and more than 9 out of 10 voted for it. This wide difference between Labour and Conservative members in voting patterns is a continuation of the situation since the 1960's and also compares to the experience in the United States. The voting patterns in 1979 also confirm my earlier finding<sup>83</sup> that Members supported abortion rights were opposed to capital punishment. Thus 101 out of 102 Members who voted, or intended to vote<sup>84</sup> against Corrie also opposed the death penalty.<sup>85</sup> Supporters of Corrie voted for Capital Punishment by a majority of 128:97.

The voting patterns outlined showed that there is a wide gap between the voting of Conservative Members and their supporters. In this respect it is instructive to compare the attitudes of voters for the various political parties as shown by an opinion poll taken in February 1979.<sup>86</sup>

The question was "Do you agree or disagree with the following statement 'Abortion should be legally available for all who want it'". The replies were as follows:

	Agrees	Neither agree nor disagree	Disagree
Conservative	58	14	28
Labour	57	15	28
Liberal	61	11	28

Conservative supporters were slightly more in favour of abortion than Labour supporters (although the difference is not statistically

significant) and were in favour of the right to choose by a ratio of 2:1. The question therefore arises as to why Conservatives voted so much differently from the view of their supporters.

A number of reasons have been suggested for this for example that they are largely men and disregard the wishes of women, and that they are largely rich and so do not worry about the poor. It is suggested they know that their group will be able to get abortions. However, these explanations cannot be the total answer. First of all the Tory women M.P's such as Jill Knight and Margaret Thatcher voted for the Bill. Furthermore on the question of the poor there is a strain within conservative party thinking that the poor should be stopped from having too many children,<sup>87</sup> so further explanation is needed.

From my research it seems that the major reason can be gleaned from the perspective of conservatism as outlined in the introduction. The Conservative members are looking at the problem in a different way from their voters. The M.P's view their role as upholding the public order and in many cases regard liberal abortion as threatening to the social structure. They may believe for example that it will lead to irresponsibility, with a consequent "lowering" of moral standards and a threat in family life.<sup>88</sup> In contrast the individual conservative voter is more concerned with the rights to control her or his own life and there are a few people who wish to give up their rights. The results of this survey were sent to all labour and conservative M.P's with a covering letter from one of their Party Members<sup>89</sup> but it did not prevent the strong vote for restrictions.

At the time of the Second Reading the Bill had 11 clauses and aimed to produce changes in four main areas.

1. A reduction in the time limit for an abortion from 28 to 20 weeks. With an exception between 20-28 if there is a high possibility the resulting child would be severely handicapped.
2. A restriction of the grounds for abortion. The statistical argument was to be removed and abortion allowed "where there was substantial risk of serious injury to the physical or mental health of the pregnant women."
3. The referring part of the work of the charities would be hived off from the facility which carried out the abortions.

The likely effect of these changes was open to debate. Although Professor Scarisbrick was quoted as saying they would reduce the number of abortions by about two thirds<sup>90</sup>. Corrie denied this<sup>91</sup> and at a later date said he wanted to reduce the number of abortions by 20%<sup>92</sup>.

#### Committee Stage

The role of the Parliamentary Committee is to consider the Bill in some detail and to report back to the House of Commons for a Third Reading. The Composition of the Committee represents the vote at the second Reading and there were 10 supporters of the Bill and 5 opponents plus two from the ministry and Bonner Pink in the chair. This in-built majority meant that Corrie and his supporters had almost total control about what changes were to be introduced. However, supporters of the Bill were divided. The two representatives of the Government took one view. A group containing Ancram wanted the Bill to remain very stiff and Benyon and Corrie were more willing

to make concessions to get it through.

The tactics of the oppositions were clear. There was no opportunity to filibuster the Bill for the opposition would just pass a sitting motion as had been done at the time of the Benyon Bill. Nor could they expect to get any changes at this stage. They had therefore to wait to introduce any substantial amendments on the floor of the House of Commons where they felt the Bill could be watered down. Parliament's procedure is that the Committee discusses the Bill and that at Report the whole House can consider anything the Committee has missed. If an amendment has been called in committee it cannot be discussed again at Report. Their purpose, was, therefore, to change the Bill as far as possible by force of logic but not to introduce any amendment they felt could pass at Third Reading.

When the committee resumed after the summer recess Bill Benyon introduced a completely new crucial first clause which he had developed with help from the Government. It reintroduced the statistical comparison with the addition of the words "substantially" so it would read:

"the continuance of the pregnancy would involve risks to the life of the pregnant woman, or of injury to the physical or mental health of the pregnant woman or any existing children of her family substantially greater than if the pregnancy were terminated, such opinion having been formed on the basis of individual examination alone".

This change of wording seemed less extreme than the original and two Catholic members of the Committee proposed an amendment to add

an extra word and only allow abortion for "serious injury to the physical or mental health" of the woman.

When it came to the vote on this addition the committee was divided six all. Benyon voted with the five opponents of the Bill. Corrie himself abstained and Bonner Pink in the chair with the casting vote said<sup>93</sup> "I try to ask my vote to keep the status quo, and in my opinion this amendment keeps it within the Bill as approved on Second Reading".

The first clause also contained the upper time limit and there was much debate as to a suitable time limit of abortions. In the rough draft of his Amendment Benyon had suggested 24 weeks which was presumably the suggestion from the ministry, and would have brought the law in line with Lane, and the views of the major medical bodies. In his first speech the minister seemed to be moving towards suggestions of 24 weeks,<sup>94</sup> however later he appeared to be considering a lower limit than that.<sup>95</sup>

No amendment was proposed at this time for it was to be left for consideration at the report stage. When considering the separation of the charities<sup>96</sup> the Government was unhappy that it would have to increase the number of civil servants to enforce the law. This problem was not solved despite several attempts at redrafting.

The Bill came out of committee in a totally changed form and only one of the 11 clauses was left unaltered.



Report Stage

In the weeks leading to the Report Stage of the Bill due to start on February 8th 1980 it was clear that both sides would aim to organise as many events as possible to influence Parliamentary opinion.

The anti abortionists arranged their Mass Lobby of the House of Commons on January 30th and the pro choice groups organised theirs the following Tuesday (5th February). Estimates suggested at least 10,000 were present on each occasion and the opponents of the Bill were pleased that they were able to match the anti abortionists in organising this kind of event.<sup>97</sup>

It was also necessary to monitor public opinion and three polls were published between February 1st and Feb 6th. The first of these I helped to arrange. I had been unhappy for some time the Gallup Poll was continually bringing out polls for anti abortionists and knew there were some in the organisation who would like a more balanced approach.<sup>98</sup> I made some preliminary investigations as to cost and then rang Woman's Own.<sup>99</sup> They agreed to pay for a survey that would contain more questions than any previous poll. I made the first draft of the questions and took them to Gill Cox who agreed the final wording with Gallup. I was anxious that the questions should reflect the abortion decision as close as it could be arranged. The final wording of the crucial question on the right to choose was:<sup>100</sup>

"Do you think that the choice as to whether or not to continue a pregnancy should or should not be left to the woman in consultation with her doctor".

---

All figures percentages	Men	Women	All	
Should	71	81	76	
Should not	18	11	14	
Don't Know	11	8	10	sample 1004

---

The result shows that more than four out of five women and seven out of ten men agreed with the right to choose when the question was asked in this way. This result gained wide publicity and was carried in all the National Newspapers. The opinion of the women in the survey was considered particularly important. The Observer Editorial read for example:  
101

MR CORRIE'S BAD BILL

Mr John Corrie's Abortion(Amendment) Bill , which goes back to the floor of the House of Commons this week, is a partisan measure. Its supporters are many and various, but the backbone of the 'restrictive'movement is Roman Catholic. The Church abhors the destruction of the foetus as a'crime' against a'person' ; it is a matter of conscience. The Corrie Bill floats on a powerful tide.

Fortunately, it is not too late for Parliament to recognise that the right to exercise one's own conscience is not the same as to ram that conscience down the throats of others. The right of a woman to take responsibility for what happens to her own body is also a crucial part of the debate.

Four out of five women, according to a survey conducted last week for "Woman's Own", think the choice should be left to the woman concerned in consultation with her family doctor. A majority of all adults believe the law should be left as it

is or made more liberal. Members of Parliament-who are predominantly male and in that sense unrepresentative in an issue of this kind-should take serious note of the fact this proposed reform is not wanted by the public at large, and most definitely not wanted by women."

These results were broadly confirmed by a survey<sup>102</sup> in the Sunday Times. Although this also showed that most people were in favour of a reduction in the time limit. This poll had been suggested to the Times by Diane Munday of B.P.A.S. and by this time we were wondering if the anti abortionists had arranged a survey. This was released on Wednesday 6th February and asked people whether they agreed with "Abortion on Demand"<sup>103</sup> The results seemed to show most people were in favour of restrictions and the Daily Mail carried the following report:<sup>104</sup>

#### Make Abortion Rules Tougher

Most people believe there should be tighter controls on abortion, according to a Gallup Poll out yesterday. When questions were asked on various issues raised in the Corrie Bill to amend the law on abortion, a substantial majority supported each measure.

So within six days Gallup had published polls with contradictory findings and they clearly showed the divide in the organisation.<sup>105</sup> They also raised some questions of the ethics of the pollsters.<sup>106</sup>

Members were obviously confused and so I felt it necessary to produce a background paper analysing the major findings and explaining the apparent contradictions.<sup>107</sup>

Apart from polls and lobbying both sides used other techniques to show support. On 25th January Willie Hamilton put down an 'early day motion' pointing out that the Bill intended to change the criteria for abortion.<sup>108</sup> The opposition put down an alternative motion showing support.

The medical profession continued its opposition to the Bill. Seventy leading doctors, surgeons and professors of gynaecology wrote a letter to the Lancet stating:<sup>109</sup>

"Although the Bill was presented as modest measure aimed at eliminating late abortion, they regard it as 'a most swingeing attack'."

Furthermore Doctors for a Woman's Choice on Abortion organised their own lobby at the House.

These ways of influencing the climate of opinion were obviously important but it was clear that time was going to be a crucial factor. The future for the Bill looked very uncertain when the Speaker selected 28 groups of amendments for debate.<sup>110</sup> Ms. Jo Richardson told a group of women gathered to protest the Bill that with that number of amendments "I could keep going every Friday until July."

On February 8th only two groups of amendments were debated and it was clear that clauses needed to be dropped if any part were to succeed. However Corrie was reluctant to do this and he decided to carry on. The Members voted for a number of changes. They raised the time limit from 20 to 24 weeks, they removed the word "serious" that had been inserted in committee and they removed the proviso that would have made it easy to reduce the time limit further at a later date.<sup>111</sup>

The attempt by the opponents of the Bill to remove the word

"substantial" failed by just three votes and this may have been crucial in the failure of the Bill.

When Corrie finally withdrew most of the clauses he kept in the change in the grounds and with this feature remaining it could not be seen as a compromise measure. There was also evidence that Members of the House were moving against support of the Bill. On March 14th Corrie was given an extra day but when a vote was taken to close the debate and move towards a vote it was lost by seven votes. At this point it was clear the Bill was dead and the following week Corrie announced he was going to withdraw. 112

The opponents of the Bill were surprised they had succeeded in stopping it. The supporters were shocked at their failure especially on the vote for the closure and had then to decide their tactics. It is to be expected that future attempts at restriction will be very short measures aimed at tightening up just one part of the law. The abortion issue is therefore certain to return.

The United States After the Supreme Court Decision.

There are a number of reasons for the strength of the opposition to abortion in the United States. After the Supreme Court decision even States most opposed to liberal laws were prevented from keeping such legislation. Further, much of the general population is very conservative. The strength of the feeling in one area can be gauged from the fact that in the legislature of the Mormon stronghold of Utah the Supreme Court's decision was condemned by sixty-six votes to one. Overall, the Gallup poll results showed that person in five agreed with the statement 'Abortion should be illegal in all circumstances'. So there is a sizeable minority in the United States who are totally opposed to the activities of the abortion clinics.

Furthermore, there has been a perceptible move to the right. The student movement of the late sixties has faded almost out of existence and the right wing pressure groups have had increasing success. This can clearly be seen with respect to issues such as capital punishment, homosexuality and women's rights. It seemed in the early seventies that there were going to be liberal laws on all these issues. The Supreme Court struck down all the death penalty laws in 1972 and some thought that would be the end of capital punishment. However, in 1976 it ruled the death sentence could be constitutional if the law concerned gave the jury or judge discretion in imposing the penalty. In the period 1972-76, thirty-five States enacted new laws on Capital Punishment and early in 1978 even the relatively liberal New York State Legislature voted for its return although it was vetoed by the Governor. On the matter of homosexual rights, there has also been a great deal of controversy. Logically, the right of privacy established during the birth control cases should make laws against sodomy unconstitutional.<sup>2</sup> However, in May 1978 the Supreme Court allowed the North Carolina law to stand and so retreated

from the logic of its earlier rulings. Furthermore, there has been a populist movement opposed to statutes protecting the rights of homosexuals. The first loss of anti discrimination laws was in Florida after a campaign led by singer Anita Bryant and her movement has spread into many other states.

A third area where the right wing has been effective is in its opposition to the Equal Rights Amendment (ERA). In order for ratification to occur, thirty-eight States needed to support it and by January 1977 thirty-five had done so. However, in the next eighteen months no further States gave their assent in the face of skilfully organised opposition and furthermore four States voted to rescind their earlier approval. There has been an extension of the seven year time limit for ratification but no further progress has been made.

Although these issues show a movement towards the right in political terms. The question arises as to how far this is due to a hardening of public opinion and how far it is due to better organisation. While the evidence is fragmentary, it does appear that the general population has not become more conservative. Polls on women's issues such as the E.R.A. and abortion have shown, in fact, a movement towards liberalisation. In July 1978 at a time when the E.R.A. was stalled Louis Harris reported it had increased support in the population and that this was at the time 55 - 38 in favour of the amendment.<sup>3</sup> Various polls on abortion have also shown a steady movement towards a more liberal position.<sup>4</sup> On the question of homosexuality there is no clear evidence that the population has moved to the right. It is probable that with the increased militancy of gays there has been a polarisation and many have felt compelled to take a stand.<sup>5</sup>

The success of Anita Bryant in Florida seems to have been due to her ability to mobilise her potential support rather than to effect a change in attitude.

There is even evidence of a decline in the support of some of the conservative forces in the society. In 1963 73% of catholics went to mass every week , by 1974 the percentage had declined to 50% and by 1978 to 42%.<sup>6</sup>

Although this trend seems to be levelling out somewhat, there is clear evidence that American Catholics do not accept the church's teaching on fertility control.<sup>7</sup> By 1975 94% of Catholics using contraceptive methods were using those forbidden by the church<sup>8</sup> and it was not just the irregular church attenders who were not following the teaching.<sup>9</sup> Furthermore even the church hierarchy seems to be taking a more liberal line on sexuality since the events in the sixties and the Long Island Catholic noted a change as follows:<sup>10</sup>

"Unlike pre-Vatican days when the bishops automatically condemned a film if there was any nudity in it, official Catholic policy today allows nudity when artistically merited and when not used gratuitously or sensationally".

So there is a clearly stated movement within the largest conservative force and this evidence, while it is by no means conclusive, does suggest that the victories against liberal measures are mainly due to improved organisation amongst the right wing forces.



### Social Composition of Opposition to Abortion.

As in Britain the opposition has come mainly from the right wing plus the Catholics, but there are some differences between the countries.

Regional differences are more important in the United States. The south and Mid-West is generally more conservative, also American Catholicism is different.

There are twice the proportion of Catholics and also they are more often to the right than they are in Britain. Overall the Catholics are slightly more likely to be Democrat but there is still a sizeable minority of Catholic Republicans.<sup>11</sup> Another difference is that on top of the religious opposition of the Catholics there is the Mormon Church, the strict Jews and some fundamentalist religious groups.

### Catholic Opposition

Despite the support of other groups as mentioned above, there is no doubt that it is the Catholic church which has been the major driving force of the anti abortion campaign. One of the interesting points of conflict is that most church members do not share the official church view on the subject. Various polls have shown a wide disparity between official doctrine and the beliefs of the laity. Fr.

Andrew Greeley reported in January 1978 that 66% of Catholics said they would have an abortion or encourage their wife to have one if there was a chance of a defective child and seventy six per cent said they would favour one if there were a serious threat to the mothers health.<sup>12</sup> Similarly a Gallup survey in 1977 found that only 23% of Catholics felt abortion should be 'illegal in all circumstances' compared to 32% in 1975.<sup>13</sup>

However, a study I carried out amongst students on Long Island suggests reasons why the church pressure can succeed. Only a quarter of my sample of

nearly 600 Catholic students were opposed to abortion on request in the early months of pregnancy.<sup>14</sup> So it seemed again that the church hierarchy did not have the support of its members for its absolutist position. However, those who were regular church attenders were much more likely to support the official teaching. I divided the sample into those who had been to church in the past week, those who had been in the past month and those who had not been in the past month. Amongst those who were in church in the past week 41% disagreed with the right to legal abortion in the early months of pregnancy compared to 17% of those who had been to church in the past month and 16% of those who had not been to church in the past month.<sup>15</sup> So there was a wide difference between the regular attenders and the rest. Furthermore older people take a more restrictive view so it is clear that the older regular communicants would take a much harder line.

This difference is then one factor allowing the church to keep up its pressure. A second is its hierarchical structure. The power to make decisions is concentrated in the higher levels of the bureaucracy and the question for the individual is largely one of whether to follow.

These two factors therefore explain part of the churches interest in the question and its ability to mobilise. However, it seems a third major point is the churches view of the world. One of its problems is the growth of sexual freedom and the role of contraception and abortion in developing this freedom. The church has faced a loss over the liberalisation of contraception, over the relaxation of the divorce laws and the overturning of abortion laws. It has seen an increase in pre marital and extra marital sexuality and many members would like to see a return to the situation of earlier years where there were clear definitions of "right and wrong" even if the rules were too difficult to be obeyed.

A clear statement of this kind of position was put forward in June 1978 in an article entitled "Remove Props from Promiscuity".<sup>16</sup> In this Dr. Rhoda Lorand argued that policies of teaching contraception to teenagers was mistaken for it encourages sexuality. A high school girl was quoted as follows "We're given a lot of health courses, we're taught a lot about it. Being aware of all these contraceptive methods means - well, why not?" Lorand therefore suggested that instead of distributing contraceptives, there should be counselling services to enable teenagers resist peer pressure towards sexuality. A similar case put forward by Archbishop Bernadin, former president of U.S. Bishops Conference, writing in the New York Times on the fifth anniversary of the Supreme Courts decision, was discussed in the introduction.

There may well be many Catholics who do not totally want to have their rights to an abortion infringed - if they were subject to rape for example - but who nevertheless support the overall stand on sexuality. They therefore applaud any attack by the church on abortion.

Finally, the support of the church's position is a question of numbers. Although only a minority of Catholics believe fully in its position if it is in the region of 20% with fifty million Catholics this leaves around ten million believing that abortion is murder. Once a proportion of these became organised they were bound to make an impact.

So the Church has had a great influence and it has been different in some ways from that exerted in Britain. For example the church hierarchy in the United States has not totally given up its opposition to contraception. As late as 1972 Archbishop Medeiros had in his Easter message suggested dire consequences for those who were involved with the practice.<sup>17</sup>

"And so men who care little about the value of life and who wage wars that seek to destroy the innocent, those who tamper and interfere with the very sources of human life through contraception, those who plot and dare to do away with unborn life ..... will perish in their sins but for the mercy of God."

More importantly Fr. Paul Marx has argued consistently and volubly that the church should oppose the spread of contraceptive methods. He even resigned from the Right to Life movement because it would not take this stand. Furthermore, the argument that only 'natural' family planning should be used received something of a boost when in 1978 the British report about some of the harmful effects of the pill was published.

<sup>18</sup>  
The Pittsburgh Catholic, for example, reported:

"Many who once were called 'alarmists about contraception' are now being vindicated by the growing concerns about what is happening to women, children, men and the family because of contraception". The article continued to document the supposed perils of the pill and "its relation to cancer, thrombosis, gall bladder disease, erosion of the cells of the cervix, heart disease, blood vessel disease and death itself".

Some priests have suggested that the evidence now being produced showed that the humanae vitae proscriptions on artificial birth were 'prophetic'. There are still those such as Andrew Greeley willing to attack the church's stand but they seem to be increasingly outnumbered by those with conservative views.

A second difference is that in the United States the Bishops have been much more involved in the politics of abortion and they have upheld a very restrictive point of view. A key development was in November 1975 when the

Conference of Catholic Bishops pledged to help organise a campaign for a constitutional amendment that would abolish easy abortion. The  
19  
Minneapolis Star reported:

"A budget of \$3.9 million, estimated to include \$400,000 for anti abortion activities, was adopted by the bishops for their national organisation..... The anti-abortion campaign to be mounted by the bishops includes establishing specific anti abortion agencies within every state Catholic conference, every Catholic diocese and every Catholic parish. Most of the bishops' debate, however, focused on the proposal to stimulate formation of nonsectarian anti-abortion lobbies in every congressional district. The plan asserts such a lobby is not to be an agency of the church nor is it to be operated, controlled or financed by the church".

It then provided a detailed, 12-point description of how such an organisation was to operate, stating among other things that it was to persuade all residents in the congressional district that permissive abortion is harmful to society, that some restriction was necessary, and that it was "to maintain an informational file on the pro-life position of every elected official and potential candidate".

This direct involvement of the bishops was a very important factor in organising the political power of the church behind the anti abortion movement.

The bishops also took an absolutist position . Senator Buckley of New York had introduced a constitutional amendment to ban abortions except to save the life of the woman. Four bishops including Cardinal John Krol president of the national Conference of Catholic Bishops

and Humberto Medieros of Boston gave evidence to the Senate sub committee on Constitutional Amendments. They took the view that the provision to allow abortion to save the womans life would be unacceptable<sup>20</sup>

This exception had been written in the state laws in the days of restrictive practices. So in pressing for such an amendment the bishops were hoping for a law that was more conservative than had existed at any stage in the history of the United States.

### Mormons

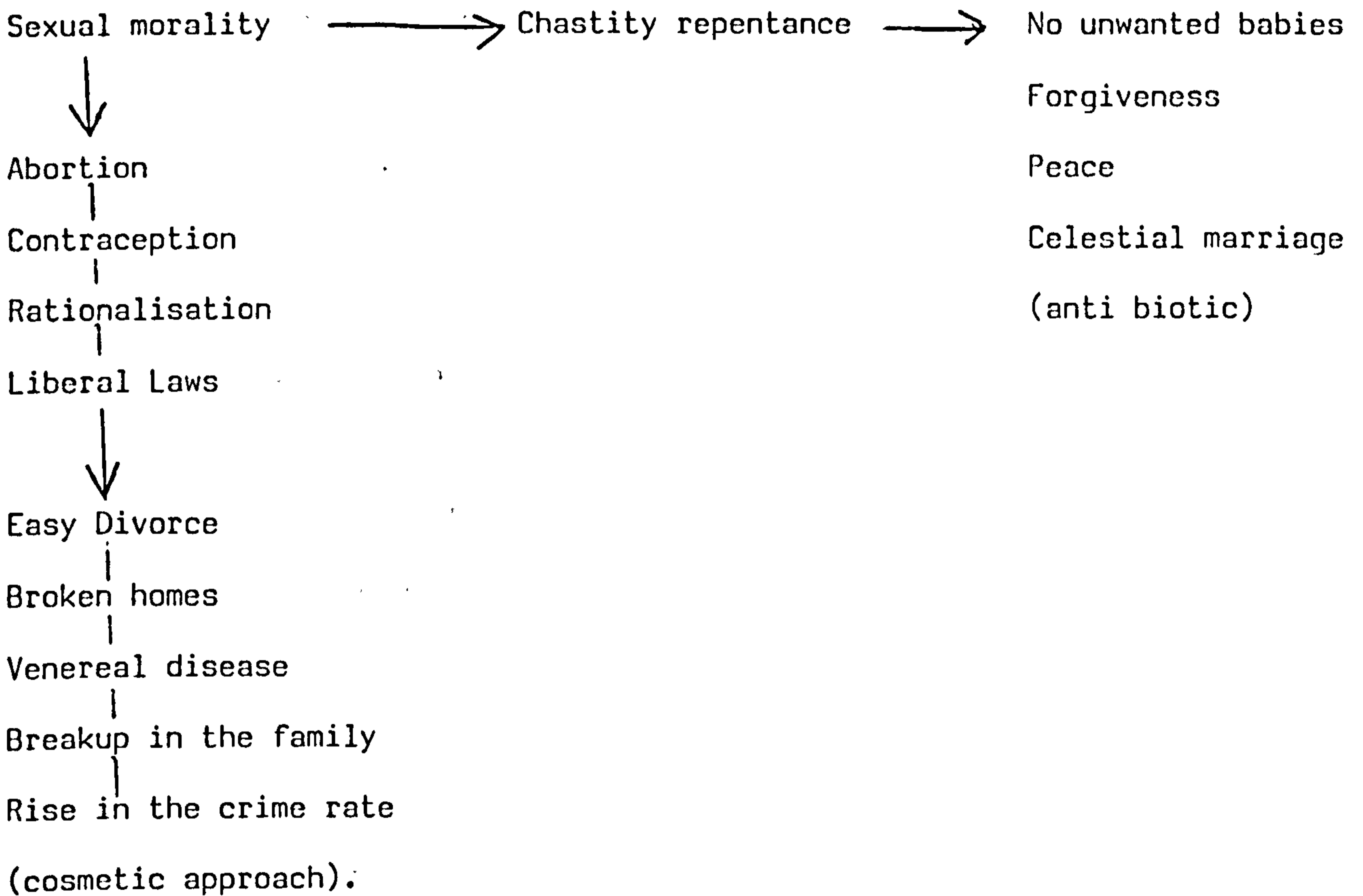
Apart from the Catholics the Mormons are the religious group most important in opposition to abortion. Their rationale in terms of sexuality is very different from the Catholics. The Mormons have never been particularly abstemious in terms of their sexual relationships. Recent reports have even suggested that polygamy has once again started to become increasingly practiced amongst some groups. However, it is the men who have the polygamous relationships and the mormons have clear ideas about the necessity for segregation of the sexes. }

In an interview in 1977 Spencer W. Kimbell, the President of the Mormon Church, outlined his view on the sex roles.<sup>21</sup>

"Man and woman are two different kinds of being. He's hard and tough. He's supposed to furnish the family's livelihood. She's more tender and unless a husband dies or the children are grown, we feel she ought to remain at home and teach children the things they should know. Therefore, we feel differently from many people towards the woman's movement and programmes that take women from the home".

With such views it is clear that demands for reproductive freedom would not be met favourably.

In attitudes to sexuality the Mormons take a view that chastity is a protection against "social evils." One of my students - a keen convert - was given the following diagram at one of her instruction periods.



From this there seemed to be two possible paths with contraception and abortion leading to various problems. She was also told that married Mormons should not try to restrict their fertility. One reason for this is that time on earth is just a stage that people pass through. There are many waiting to come down and the use of birth control will make them wait for a longer time. If this logic were generally followed Mormons should not even follow the Catholic practice of using the safe period.

However, two anti-abortion Mormons I had a correspondence with after I met them picketing a pro choice rally, took the view that contraception was perfectly acceptable. So the proscription is obviously not universally known.

## Other Groups

The Jews have been divided on abortion. / Liberal Rabbis were of course involved with the Clergy Consultation Service and other Jews have been prominent activists. However, the Orthodox have taken a position similar to the Catholics. For example, The Boston Globe quoted Rabbi Fox using the 'great man' argument against abortion.<sup>23</sup>

"The tragedy of abortion is that you cannot know who you are destroying. Another Einstein." He also called abortion 'Genocide' and said "It is organised killing. The Old Testament has a law against killing fruit trees, and every fetus has the potential of bearing fruit."

These kind of statements from Rabbis are, however, relatively rare and even though the Orthodox Jews are anti abortion it is not a crucial part of their belief system and they have been much less assiduous in / campaigning.

This comment applies also to the the Christian Orthodox who oppose abortion in theory.

In 1978, for example, the Council of Orthodox Churches in Rhode Island published the following statement.<sup>24</sup>

"The Orthodox are opposed to abortion in principle and, as a council, are opposed to public assistance for abortions ..... It has been the position of the 300 million (worldwide) member Orthodox Church over the centuries that the aborting of unborn life is morally wrong. To do so, reasons the Orthodox Church, would be transgressing the duty of humankind to protect human life, a duty interpreted as the will of God".



Despite this position the Orthodox have not been very active in an institutional sense, and one can have sympathy with the comment from a Mormon when he was National Right to Life Committee Executive Director: "The only reason we have a movement in the nation is because of the Catholic people and the Catholic Church. The rest of us would hardly make a ripple".

#### Right Wing Support

There are differences in political perspective at all levels of the Government with the Republicans more inclined to support restrictions. Thus, in the 1976 Presidential elections the Democrat's platform on abortion read "It is undesirable to amend the U.S. Constitution to overturn the Supreme Court decision in this area". Jimmy Carter also stated that he opposed any constitutional amendment although after meeting with six Catholic Bishops in Washington on August 31st it appears he softened his position<sup>26</sup> and would not oppose others wishing to bring in an amendment.

In contrast the Republican party platform stated it "supports the efforts of those who seek enactment of a constitutional amendment to restore protection of the right to life for unborn children".

This was taken by some to indicate support for a constitutional amendment to restrict abortion, however, Gerald Ford said that, although he disagreed with the court's decision, he would not encourage a total ban on abortions but rather an amendment that would give states the right to make their own choices. So with Ford taking this stand the difference between the candidates was less than it might have been but still the right wing took the most restrictive position.

This divide also applied in the Senate as can be shown by an analysis of voting patterns. On April 28 1976 the Senate voted by 47 votes to

40 to table and so kill the motion of Senator Helms (Republican North Carolina) to proceed on to the senate floor consideration of the resolution to amend the Constitution to outlaw abortion under any circumstances.

The vote according to party was as follows:

	<u>For tabling</u>	<u>Against tabling</u>
Republicans	15	20
Northern democrats	27	9
Southern democrats	5	11
	—	—
	47	40
	—	—

This vote shows that a majority of the republicans were against tabling the motion whereas a majority of the democrats were in favour of it.

It also shows a clear divide between the Northern and Southern democrats.

Those from the North were in favour of tabling by a ratio of three to one whereas those from the South were opposed to it by two to one.

A number of other more detailed studies of members voting patterns have been made. One in 1977 analysed the position on the Hyde amendment to restrict Government help for poor women to have abortions. It noted many of those opposed to finance declared their willingness to provide pregnancy support and other family related needs. However, it continued :

"An examination of House members support for typical welfare policies, like food stamps, child nutrition, and legal services for the poor, raises doubts

about this claim. Of those firmly opposed to Hyde on abortion, a clear majority - 114 out of 209 - consistently voted for cutbacks in welfare programmes. Meanwhile 112 of the 163 members seeking a lenient abortion policy took a liberal line on welfare matters too."

The report continued to say that of 57 liberals joining Hyde 45 were Catholics. This finding is very much in line with my research on British politicians where, as mentioned, I found there was more opposition to abortion than there was to such issues as homosexuality and the abolition of the death penalty as on top of the right wing there was also the opposition of the liberal Catholics. <sup>28</sup> An analysis of patterns of voting by NARAL in 1978 produced findings which were virtually identical and concluded

A great majority of anti-abortion legislators are leaders of this new conservative movement". <sup>29</sup> It also found, furthermore, that a high proportion of anti-abortion liberals were Catholics.

So the studies appear to support the comment of the National Catholic Reporter that "the National Right to Life Committee and the closely allied Life Amendment Political Action Committee have entered into a symbiotic relationship with the New Right". <sup>30</sup>

#### Politics of the Right to Life Movement.

Before 1970 there does not seem to have been an anti-abortion movement and its origin appears to have been closely linked to the Catholic Church in New York State. In a candid description Arlene Doyle has explained its beginnings: <sup>31</sup>

"For publicity purposes, the Catholic Church in New York State had put together the names of some people and placed them on a New York State Right to Life letterhead. In fact, however, the people involved never held a meeting and most of them never even met each other".

The Anti-Abortion movement grew strongest in opposition to the New York Law. However, nationally it did not evolve in its present form until after the Supreme Court decision - six months afterwards in June 1973 they met in Detroit and finalised a completely restructured organisation. Each State named its own member to the Board of Directors which in turn elected a nine member executive committee. Right to Life News reported the change as follows:

32

"The National Right to Life Committee, which had operated for several years as a loosely knit information clearing house for state and local groups, working in cooperation with the Family Life Division of the United States Catholic Conference, became a completely independent, democratically structured and incorporated organisation".

A separate organisation 'March for Life' was set up to arrange, among other events, a regular demonstration in Washington each year on January 22nd, the anniversary of the Court's decision.

Their journal describes its origins as follows: <sup>33</sup>

"Late in October 1973, grass roots pro-life leaders became concerned that January 22, 1974 might come and go without a proper memorialisation of the Supreme Court's infamous decision on abortion and petitioning Congress for corrective action. No established right-to-life organisation desired or was prepared to undertake the planning, financial and operational responsibility for the pro life march on the U.S. Capital. But the grass roots pro-lifers wanted to march !"

It went on to state that the marches grew from 20,000 people in 1974,

50,000 in 1975, 65,000 in 1976 and 100,000 in 1977 and that in 1976 it began a year long activity program.

There are various other organisations but these two are the main ones.

The sources of strength for the anti abortion movement were clearly evident as can be seen for the foregoing. However, there were many questions of tactics to be decided. One was how much to aim for. As it was a Supreme Court ruling the only way of making abortion illegal again was by some kind of constitutional amendment. However, there were several kinds of amendment that could be chosen and various methods of trying to get it accepted.

The amendment could, for example, be relatively moderate. One suggestion put forward in the Catholic Doctors Journal was for a restriction based on the length of gestation:<sup>34</sup>

"Perhaps in the United States today the best pro-lifers can realistically expect is the establishment of an amendment giving the unborn protection against unjust homicides from the end of the first trimester onwards".

However, calls for moderate change did not carry much sway in the anti abortion movement for the membership was such that it wanted a very tough law to be enacted.

The two organisations, March for Life and Right to Life, seem to outsiders to take a very similar position but Nellie Gray the President of March for Life told me that her organisation took a firmer line than Right to Life. She wanted to stop all abortions and was unwilling to compromise:<sup>35</sup>

"Once you tolerate a little bit of abortion the abortionist steps in and walks right through the law".

She is supported in her position by Michael Schwartz who is a director of March for Life and also Associate Executive director of the Catholic League for Religious and Civil Rights. He wrote a series of articles in the National Catholic Register in April and May 1978 in which he set out his views as follows:

36

"We must begin with what prolife people really believe. We believe that a new life begins at fertilisation; that this life is of a transcendent value; that, radically speaking, the life of each and every human being is equally valuable, regardless of age, health, conditions, or any other extraneous factor, that the value of one person's life cannot be placed above the value of another person's life; and that no innocent human life may be taken deliberately.

This I believe is a fair statement of the fundamental position of all segments of the prolife movement. I know no significant opposition to any of these principles within the prolife ranks.

Therefore we know that a potential or even an actual threat to the life or health of a mother cannot justify killing her baby. We know that rape, incest or any other crime, personal or social, cannot justify the commission of another crime, particularly against an innocent victim".

He continued to argue that the pro-life movement may only have one chance to change the law and so it is better to aim for everything it wants at this time rather than live in the vain hope that other changes would come at a later date.

He criticised some of those within the movement for raising legal difficulties:

37

"The deep thinkers object if we simply leave the personhood of the child open ended and unqualified, our enemies will invent all sorts of legal complications. They might say that this means preborn babies will have to be counted in the census."<sup>38</sup>

He continued to comment that if those in favour of legal abortion produced these kinds of arguments they would become a laughing stock.

"Besides, what's wrong with counting babies in the census".

In one of the articles he considered the problems raised by IUD's and took the view they should be made illegal:<sup>39</sup>

"The IUD produces abortions. Their number and specific cases cannot be accurately determined, and therefore cannot be prosecuted. But, if only in principle, we want those babies who are killed by IUD's to be protected by our basic law, our statement of rights, our constitution. The IUD is an invention perhaps unique in human history. Prostaglandins, rat poison, guns, even tactical nuclear weapons can all kill people, but all of them (with the possible exception of the neutron bomb) can be used for some other, less malign purposes. The IUD has no other conceivable purpose than to kill innocent, defenseless people. It cannot prevent conception - or as we must put it, fertilisation. It cannot remedy any pathological condition. It can kill and only kill.

Therefore, it would not be unreasonable to declare an absolute ban on the manufacture, sale, distribution or use of the IUD. There is no legitimate reason why any person should have such a device".

This position of Michael Schwartz appears to be the dominant viewpoint ( within the March for Life Movement. The March for Life Program/ Journal on the fifth Anniversary of the Supreme Court's decision set out the following guidelines:<sup>40</sup>

"Start from the right premise to get to the right outcome.

Write the legislation for the preborn child without exceptions.

Don't compromise and then expect to 'hold firm', because there is no position on which to hold firm. After compromising, it is impossible to draw a halt - the abortionists have already seen the weakness and will exploit it.

Abortionists cannot be 'appeased'.

One exception leads to another and another and another ...

Abortion clearly means killing the 'less than perfect' preborn child, and even seeking them out for killing.

Some things cannot be compromised - Life is one".

The refusal to compromise seems to be against the usual rules of politics and a disadvantage is that it is likely to reduce the basis of support.

Furthermore by going for total change they may not get lesser ones

that would be more easily available. However, there are advantages to a

group in taking an extreme position. Schattsneider has pointed out the

success of pressure groups depends not merely on what their members want

but also on their priorities.<sup>41</sup> If the activists are willing to

give a high priority to their issue the work can be made much more effective.

A second question to be resolved by the movement was what attitude to take

to contraception. When the national Right to Life Committee met in Detroit

in June 1973 Senator Mark Hatfield a sponsor of the Constitutional Amendment

to prohibit abortions took the view that NRLC should support family planning



clinics and "do everything to insure that those who do not wish to bear life will have every protection against conception". This statement did not appeal to the audience and Triumph Magazine criticised the Senator for asking the NRLC to 'ignore their own moral convictions' by encouraging contraceptive usage.<sup>42</sup> It would have been problematical for Right to Life to take such a position when so many of its activists had religious beliefs against it. Furthermore it was also facing pressure from the other side. As discussed Fr. Paul Marx the most outspoken priest within the Right to Life Movement wanted the organisation to come out against contraception as well as abortion.<sup>43</sup> He was opposed for political reasons clearly set out in a letter to the National Catholic Register:<sup>44</sup>

" I don't think he understands what would happen if Right to Life took an official position against birth control. As it is, the pro abortionists accuse Right to Life of being exclusively linked to the Catholic Church. If we come out against all forms of birth control this would only strengthen their accusations".

This kind of argument told against Fr. Marx and contributed to his resignation from the Right to Life movement which officially takes no position on the subject of contraception.<sup>45</sup>

Another question of some contention is whether the Right to Life movement should show its debt to the Catholic Church. Fr. Marx has argued it should. As the Wanderer reported in 1978:<sup>46</sup>

"Catholics have wasted too much energy trying to hide their prominence in in the pro-life movement, says Fr. Paul Marx.

The Benedictine priest and sociologist says that until recently Catholics have generally tried too hard to disguise the fact they are the backbone of the pro-life movement, but that many now feel there is nothing to be gained by such a tactic".

However, this is by no means the dominant position within the movement and and far more common is an attempt to disguise the fact by placing a non Catholic at the head of the organisation (neither of the past two presidents of Right to Life are Catholics)<sup>47</sup> and by stressing wider membership as the following report from Right to Life News shows:<sup>48</sup>

"Opponents of Right to Life Groups like to paint a picture of NRLC membership. The picture is more often of a group of middle-aged ladies and a few overly-religious men being set into motion by the clergy, most likely a Catholic bishop .....The picture is not an accurate one, however, Catholics are active in the NRLC of course. So are Lutherans, Presbyterians, Methodists, Jews .....blacks whites.....Democrats, Republicans, John Birchers, ALCU (Sic) members.....a motley crew, perhaps, but a beautiful thing to behold".

So here again there are divisions of opinion. In fact one of the problems for anti-abortion groups is that the refusal to compromise can easily lead to great splits in the organisation. These are well documented by Arlene Doyle in her pamphlet "Do you need permission to save an unborn baby"<sup>49</sup>.

She argued that the movement had in one period spent ninety per cent of its time on internal battles. She documented the split between Long Island Right to Life and the rest of New York State and also a similar battle in the Nationwide movement:<sup>50</sup>

"I have checked the minutes of all of the 1973 National Right to Life meetings - including a number of conference phone calls by members of the executive committee. Less than 2% of the time was spent on productive efforts relating to a Human Life Amendment. 98% of the time was devoted either to bureaucratic concerns or to the internal power struggle going on within National Right to Life".

The worst of the fighting seems to be over at the moment but with groups made up of those who are committed to 'no compromise' legislation conflicts are endemic. One of the major sources of dissent already alluded to is whether abortions should be allowed to save the life of the woman. Although it is against Catholic teaching to allow this it would seem a rather academic point. Nevertheless it looms large as a distinction within Right to Life circles and the Right wing Catholic newspaper The Wanderer announced on October 4th 1979 that two professors were going to debate whether there should be no exceptions for abortion at all or an exception to save the woman.

There is conflict between March for Life and Right to Life on this issue and still a great deal of tension between the organisations. March for Life members claim that they walked into a Press Conference when Right to Life was claiming it had organised the march, that Mildred Jefferson boycotted the March even when in Washington and that John Willke, the anti abortion author, had encouraged people to take National Right to Life banners on the March so that it would get the credit with Television audiences.  
51

A further problem for the Right to Life groups is how far to join with others on related issues. By helping right wing movements they will be able to form alliances and so obtain reciprocal support.

Their most active alliance has been with the anti E.R.A. movement.

On March 28th 1978 March for Life called on its members to write to their Senators to ask them to fight for a change in the law to allow States to rescind a prior ratification of the E.R.A. and to oppose changes allowing for an extension of the time limit. Similarly Lawrence Lader

noted that Phyllis Schlafly had many conspicuous anti abortion groups at her rally in Houston. <sup>52</sup> At first sight there does not seem to be any particular logic behind this alliance. In fact a document published in 1978 by a sub-committee of the National Conference of Catholic Bishops called for support for the E.R.A. However, when the full Conference met it refused to endorse this report after pressure had been applied by anti abortion groups. <sup>53</sup> These take the view that the Amendment would constitutionalise abortion. <sup>54</sup> A March for Life document carried an advertisement:

"At present the right to abortion is based on a constitutional amendment, and not expressly guaranteed by one. Therefore, the Court can and should reverse its Roe and Doe pro-abortion decisions. But if the Equal Rights Amendment is ratified, it will become a constitutional amendment, the sole purpose of which is to guarantee women their rights-including their right to abortion (under the guise of the right to privacy)..... The E.R.A. will not help women, but it may constitutionalise the killing of innocent, preborn American babies. For the love of life, the ERA should not be ratified".

This line of reasoning does not seem particularly logical but it has been important in linking the groups together and partially responsible for the problems of the E.R.A.

There has also been a certain amount of collaboration with those who are opposing gay rights. In September 1978 Onida County Right to Life sponsored a congress at which Anita Bryant was invited as the principal attraction. <sup>55</sup> The speakers at the event included Nellie Gray and Paul Marx. <sup>56</sup> Also in 1978 there was a rosary campaign in New York to oppose both the Homosexual Orientation bill and the state funding of <sup>57</sup> medicaid abortions. A letter calling for support stated:

"Commitment to the Crusade means saying a special Rosary for the stipulated intentions everyday without fail. Groups or families are urged to say the

Rosary together whenever possible ..... Remember what the Rosary has done in history against all the odds and what Our Lady has promised".

This kind of alliance with those attacking gay rights has not occurred in Britain but in the States it has helped anti abortion groups to muster extra support at key periods.

A third possibly more important alliance is with those attacking Federal taxes and this will be considered below.

#### Sources of Support for Abortion Rights.

After the 1973 Supreme Court decision many of those who had been active decided that the issue had been won and moved off into other areas of political concern. There were a few who predicted a great deal of opposition but these were a minority and in a sense this is understandable.<sup>58</sup> There are for example no organisations pressing for rights to other operations and one can understand the logic of the comments of one activist: "We do not fight for the rights to have blood donations because the Jehovah's Witnesses are not trying to legislate their morality. If they did make this attempt organisations opposing them would be formed".

On this line of reasoning it is to be expected that, while a liberal law is in operation, its supporters would only be successfully mobilised when the law is threatened. The general sources of support are those who were involved in the debate for legalisation.

#### Women's Movement.

As the Catholics have led the groups against abortion rights so the Women's groups have led the campaign in its favour. The major organisation in this

respect is NARAL (Now standing for the National Abortion Rights Action League) and it has monitored legislation, helped co-ordinate the work of various organisations and developed a system of contacts in each state.

NARAL is the major single issue group on the subject of abortion but it draws a large measure of its support from the general women's movement. For example The National Organisation for Women has had abortion as one of its prime targets second only to the fight for the Equal Right Amendment.

Various religious groups also support the Right of women to have abortion. The Unitarians have probably been the most outspoken in this direction but their numbers have been relatively small. A number of groups have worked together under the Religious Coalition for Abortion Rights which has helped to organise their campaign against restrictions. Amongst the more prominent groups belonging are the American Baptist Church, the Disciples of Christ, the Lutheran Church of America, the Presbyterian Church, the United Church of Christ, Reform Judaism, Conservative Judaism, the Unitarian Universalist Association, the United Methodist Church, the United Presbyterian Church and the YWCA.

There are also two Catholic organisations in favour of Abortion rights.

The best known is 'Catholics for a Free Choice' a Washington based group which includes amongst its membership Jo O'Rourke a former Jesuit Priest. <sup>59</sup>

The second group is Catholic Alternatives <sup>60</sup> based in New York which calls itself a "Catholic Lay organisation that supports Catholics in their use and choice of birth control methods and/or termination of pregnancy." <sup>61</sup>

These two organisations of course cause problems for the Catholic membership

62

and hierarchy as the following letter shows:

"Recently some NOW members and other women interviewed on a TV news program protested New Jersey's refusal to pay for elective abortions. A Catholic Priest, the Rev Joseph O'Rourke, was also interviewed. In Roman collar and clerical garb, a big "Catholics for a Free Choice" button on his lapel, this Priest said he favoured abortions, that many Catholics had abortions, that 88% of Catholics favoured abortions .....What a terrible scandal his statement caused ..... Why is such an abomination, a priest crusading for abortion, allowed to continue in the Priesthood".

A priest taking a radical line on abortion certainly divides the Catholic ranks and the literature of these two organisations also draws out certain inconsistencies in the historical position of the church.

Thus it points out that until 1869 the Catholic Church did not proscribe abortion and argues that the church's stand on this matter is therefore a relatively new development.<sup>63</sup>

These then are the major pressure groups in terms of abortion rights and, as discussed, they get support from the liberal politicians and from those in the population who take a liberal point of view. When Harris

in 1977 asked a sample if they agreed with the ban on use of medicaid funds for abortion only 36% of Liberals concurred compared to 53% of Conservatives.<sup>64</sup>

Overall the polls have suggested the highest support for the right to an abortion has come from the young, the Jews, the better educated, the men and those who are white. However, these are simple correlations and the differences can disappear with more sophisticated analysis. {f

education is held constant the sex difference disappears and if religious observance is controlled racial differences are eliminated.

### General Tactics of the Groups.

In their book on Politics in the United States Hathorn et al suggest that pressure groups can work at at least five different levels.<sup>65</sup> They can use media communication, participate in campaigns, influence the content of the platforms of the political parties, write letters and telegrams to members of Congress and can try and influence the administration of existing laws by challenging interpretation in the courts.

In the American campaign there is action at all of these levels but in this section I shall consider the general tactics of each side and their attempts to influence public opinion through education and the media.

Both sides try to exploit to the full various events which can embarrass their opponents. As in Britain the anti abortionists try and publicise certain results of late abortions while their opponents highlight the effects of restrictions in certain "hard cases".

Pro choice groups publicise deaths from illegal abortion and the problems of forcing women who have been raped to continue the pregnancy.

These extreme examples are not the usual result of an abortion but they attack the weak points of their opponents.

In recent years there have been two well publicised murder trials involving late abortion. The first of these was in February 1975 when a Boston doctor Kenneth Edelin was found guilty of murder after a hysterotomy at 24 weeks. This was, however, reversed on appeal.<sup>66</sup> The second concerned a doctor William Waddill, Jnr. charged with murdering a baby who



survived a saline abortion at possibly 29 weeks gestation. In his first trial there was a hung jury but it gave a great publicity opening to anti-abortionists who used it to call for the abolition of all abortions.

67

Joseph Breig commented:

"Dr. Waddill's troubles stem from the fact that his saline injection did not kill Baby Girl Weaver in the womb. Instead she emerged alive.

Then according to testimony at the trial, Dr. Waddill refused medical attention, prevented such attention by others and finally strangled the baby.....Because of the Supreme Court's 1973 decision, it is legal today (not moral; legal) for a physician to slay a child in the womb at any time in the nine months of development. BUT to cause the death of a child even seconds after natural birth is murder.

Such is the legal madhouse into which the Supreme Court plunged the American people. It is an insane situation which must be corrected no matter how long we must work for restoration of the right to life of every human being from the moment of conception to the time of natural death".

This argument moved from attacking late abortions to attacking all abortions and is a good example of the way that an extreme example can be used to support a wider case. On the other side the pro choice groups publicised the death of a woman in Mexico who had travelled with two others for a cheap illegal abortion in the absence of medicaid. A memorial service was held in Washington and a biography entitled 'Rosie' was written.

Anti-abortionists use blown up pictures of late abortions in their publicity while those who favour legal abortions have pictures of women who have been found dead after they have tried to operate on themselves although these have been used to a lesser degree.

Both sides also attempt to use the arguments on the other side against each other. The 1963 Planned Parenthood/World Population statement "An abortion kills the life of a baby after it has begun" is used time after time in anti abortion literature.<sup>68</sup>

Pro choice groups used statements which show the link between the Church and the anti abortion movement in order to attack on the grounds of separation of church and state. They also like to expose financial arrangements between the Right to Life Groups and the Catholic Church. This is important as it is illegal for tax exempt organisations to participate in a political campaign on behalf of a candidate for public office.

"Village Voice" obtained private documents showing that the Church arranged collections for New York State Right to Life in the porches of churches and that at the time the NYSRTL was campaigning for James Buckley.<sup>69</sup> These documents eventually arrived at the NARAL headquarters who charged the Right to Life Groups for filing false lobbying reports and passed on a report to the U.S. Dept. of Justice.<sup>70</sup>

So there are various allegations and counter allegations between the opposing groups.

Both sides use the usual methods of campaigning such as writing letters, lobbying and holding marches. But a marked feature of the Right to Life campaign in recent years is increased militancy. Within a month of the Supreme Court decision the Catholic bishops had served notice on civil authorities that they consider the Supreme Court ruling 'erroneous, unjust and immoral; condone civil disobedience to civil laws that may require abortion'.<sup>71</sup>

One of the most important developments in this respect is the growth in abortion clinic 'sit-ins' largely organised by a group calling itself PEACE (People Expressing a Concern for Everyone). These grew in number in 1977 and especially at the beginning of 1978.<sup>72</sup> They were aided by a ruling in Fairfax County when a judge decided six persons were not trespassing in May 1977 when they blocked halls and doorways at a clinic to try and stop 18 abortions that day.<sup>73</sup> He reasoned they believed they were acting to save lives and his decision was based on common law principles of self defence and necessity. Other judges have refused to allow this argument but if the invaders are found guilty it gives them a further opportunity by going to prison for their cause. A Catholic Priest Fr. Edwin Arentsen chose to get publicity by this method and even asked permission of his bishop beforehand.<sup>74</sup>

This kind of action highlights the strength of feeling and its proponents may well feel that they are able to save a few lives.

These then are some of the tactics and I shall now consider the more specific aims of the anti abortion groups.

#### Focus of Right to Life Action.

The anti abortion groups have a number of areas upon which they have concentrated to try and restrict abortion rights. These can be considered in three areas. Action in the Supreme Court, action in Congress and by exerting pressure at the state level both in the legislature and the courts.

These will now be considered in turn.

### Supreme Court

Although the Court Decision of 1972 legalised abortion under a wide variety of circumstances it left a number of issues open and so opponents of abortion have used these to try and restrict rights. Some of the areas not ruled on in the decision were as follows:

1. What extent could the States regulate abortion in the second trimester.
2. What regulation could be forced upon abortion clinics.
3. What restrictions could be placed upon the distribution of information and advertisements.
4. How far could the women be forced to find the consent of other parties such as her husband or parents.
5. Could the States prohibit abortions by non physicians.
6. May public hospitals refuse to perform abortions.
7. Must medicaid payments be made to women who want abortions.
8. May the States require records to be kept.
9. Can the women be forced to take note of certain information before she makes her decision.
10. Should a doctor try and save the life of a viable foetus.

With these areas of doubt there was obviously wide scope for Court cases and the following were particularly important:

a) On the question of the consent of the husband the court ruled in 1976 by 6 - 3 (Danforth v Planned Parenthood) that since the Government has no authority to veto an abortion, it cannot delegate such authority to the women's husband.<sup>75</sup> The decision stated:

"It is difficult to believe that the goal of fostering mutuality and trust in marriage ... will be achieved by giving the husband a veto power exercise-able for any reason whatsoever or for no reason at all."

b) On the question of the consent of the parents the Court ruled by 5 votes to 4 (Danforth v Planned Parenthood of Central Missouri, Baird v Bellotti 1976)<sup>76</sup>

mandatory consent laws that apply to all teenagers are unconstitutional. However, it did leave some room for regulation by suggesting that the states may be able to require an "Immature" minor consult with or notify her parents, who may decide that an abortion is not in her best interests. It also left the way open for a parental consent law if there was some escape for unreasonable refusal. The Massachusetts Legislature passed a bill which allowed the minors to obtain the permission from a Judge if the parents did not agree. This law was successfully challenged in the State Supreme Court by Bill Baird by a 2 - 1 majority. The United States Supreme Court on July 2 1979 upheld this decision by a vote of 8 - 1 and thus all laws relating to minors are unconstitutional. However, four of the Judges suggested that if a future law were to allow reference to a Judge without reference to parent(s) first and were to allow a 'mature' minor to have an abortion after a decision in consultation with her physician then they would vote for it. As one more Judge always votes anti-abortion, if the composition of the Supreme Court remains the same, it seems that a restrictive law will be declared Constitutional along these guide lines.

c) In June 1978 the Court agreed to review the Pennsylvania law - struck down by a lower court - that required a physician to try to protect the life of a fetus in an abortion if they think it can survive.<sup>77</sup> However, on 9th January 1979 the Court voided the law by a 6 - 3 margin. Justice Blackmun, who wrote the 1973 decision argued that the law "conditions potential criminal liability on confusing and ambiguous criteria" for determining the time at which a foetus might survive outside the womb.

d) The decision which had the most important implications was that of June 20th 1977 when the Supreme Court by 6 votes to 3 held that the States were not required to pay for elective abortions, and effectively returned the

decision to Congress and the States.

Justice Marshall dissented strongly arguing that the decision "in reality intended to impose a moral viewpoint that no State may constitutionally enforce..... Non white women now obtain abortions at nearly twice the rate of whites, and it now appears that almost 40% of minority women - more than five times the proportion of whites - are dependent upon medicaid for their health care.....I fear that the Court decisions will be an invitation to public officials, already under extraordinary pressure from well financed and carefully orchestrated lobbying campaigns to approve more such restrictions. The effect will be to relegate millions of people to lives of poverty and despair." <sup>78</sup>

This decision of the Supreme Court set the scene for many battles both at the Federal and the State level. In February 1980 the Supreme Court ruled funding should be continued while a further case was considered. <sup>79</sup>

There were various other decisions by the Supreme Court but these are the major ones. <sup>80</sup>

### Congress.

Anti abortion groups first attempted to persuade congress to introduce a Constitutional amendment, they also tried to stop all funding for abortion and more generally sought to alter the composition of Congress in order that it would have more anti abortion members.

There have been two kinds of Constitutional amendments proposed. One is a federal amendment which would overturn the Supreme Court's ruling that a fetus is not a person with constitutional rights. This would define

personhood at the moment of conception and ban all abortions except for the possible exception of saving the life of the woman. The second kind would return to the States the decision whether abortions could be legal.

In the months immediately following the 1973 Supreme Court decision two Senators and a Congressman introduced Constitutional Amendments. There were differences in that the version introduced by Representative Lawrence Hogan of Maryland talked of protecting life from the moment of conception until natural death, affording each human equal protection and due process of the law. As mentioned above the version introduced by Senator Buckley allowed an abortion to save the life of the woman and, although the Catholic hierarchy criticised the Buckley amendment on these grounds, the Right to Life movement took the view that both should be supported.

81

In its issue of November 1973 Right to Life News said:

"We are convinced that each of them has the same objective and wants the very best language possible to obtain. It is vital that the concepts and language of the amendment be passed by Congress in a form which can be ratified by the necessary 38 states. The danger of bringing any form of Human Life Amendment to the floor of either house without the benefit of committee hearings is that members of Congress, having experienced an unprecedented amount of public reaction on the issue, might vote, as a matter of self preservation, for whichever amendment first reaches the floor for a vote.

It would be a hollow victory, indeed, were we to see a Human Life Amendment passed by Congress and then falter as the state legislatures begin the process of ratification. A case in point is the Equal Rights Amendment, whose ratification began like a steamroller, but which now appears to have been bogged down as the opposition began to build."

So the Right to Life movement was quite political in its approach but its extreme position on abortion was sure to have problems in getting the necessary support of two thirds of both houses of Congress. Furthermore, it faced a serious setback on April 14th 1975 when the U.S. commission of Civil Rights issued a report<sup>82</sup> condemning any of the proposed Constitutional Amendments.

The States Rights kind of Amendment did have some support as a compromise measure. However, it lacked the backing of the major pressure groups. The Right to Life groups took the view that it "would fail to provide a Constitutional guarantee of personhood and equal protection of the law for the unborn child, whose rights would still be dependent upon the vagaries of the states legislatures and the governors".<sup>83</sup>

Without the pressure groups in support the measure could not succeed.

Although Congress did not support an amendment banning abortions it has been more encouraging of Right to Life plans to cut off public funding under the 1975 labour-health, education and welfare (HEW) appropriations bill.<sup>84</sup> However, this fell after discussion with the House<sup>85</sup> and in the following year the Senate reversed its vote. This was a setback for the right to life forces but they had much more success in later years both in terms of preventing medicaid abortions for poor women and by placing riders on appropriations bills. The Supreme Court decision of June 1977 led to a five month stalemate on the conditions under which Federal Funds would be granted. The House took a more conservative view than the Senate in the struggle which involved 26 roll calls excluding votes on rules.<sup>86</sup> The pro choice groups attacked the fact that poor women were being discriminated against but their campaign largely



failed and from the introduction of the regulations on Valentines day until the end of the year only 2,421 abortions were funded compared with 250,000 previously, a reduction of 99%.<sup>87</sup>

The anti abortion forces then began to have success in other areas and in the 95th Congress 1977-78 access to abortion was restricted through six bills. These were the labor/HEW bill, the Department of Defence appropriations, the foreign operations (Peace Corps), the Civil Rights Commission, pregnancy disability and the Adolescent Health Services and Pregnancy Prevention and Care Act 1978. As an example of the wording the Labor/HEW Appropriations stated "None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victim of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service; except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians".

This kind of pressure led to a suggestion by the Speaker as to the feasibility of a rule change to keep appropriations bills free of policy making riders.<sup>88</sup> However, the House democratic whip pointed out that the liberals had used the riders to cut off financing for the Vietnam war.

In order to support their case in Congress both sides on the abortion issue have tried to oust members who do not share their views. A NARAL newsletter in 1978 set out its campaign as follows:<sup>89</sup>

"Our election year plan starts off with the process of targeting candidates using the following procedures:

1. identifying pro-choice incumbents who will need our help to be re-elected.
2. identifying anti-choice incumbents who have a strong challenge from a pro-choice candidate.
3. identifying pro-choice candidates with a good chance of winning open seats."

Anti choice groups, however, seem to have had the greater success in influencing members of congress. Congressional Quarterly reported in 1978 that first term congress members favoured strict curbs on abortion by more than a 2-1 margin.<sup>90</sup> 43 of them backed the Hyde amendment to cut off funds for poor women , 19 opposed him. In contrast amongst the somophore class a clear majority (37:47) were opposed to him. This is not what would be expected from demographic factors as the young tend to take a more liberal position on abortion and it suggests that the anti abortion groups have been most effective.

They have either been able to get candidates supporting their position elected or managed to persuade the new members to support their views.

One of the techniques they have chosen is to target certain members. As Senator Bob Packwood stated "If the Right to Life groups can defeat 8 or 10 House members, and maybe one or two senators, others will get the message".<sup>91</sup>

One person they have been particularly out to unseat is Fr. Robert Drinan and in 1978 the Wanderer published the following advertisement:<sup>92</sup>

**URGENT!!**

# Please Help Retire Father Drinan

America is seeing the tragic spectacle of a Jesuit priest in Congress for eight years, who has been voting for public funding of the destruction of innocent pre-born children.

— BUT —

**AT LAST WE HAVE A PRO-LIFE CANDIDATE  
WHO CAN RETIRE FATHER DRINAN!**

**NORM WALKER IS A STAUNCH PRO-LIFER  
AND OUTSTANDING MORAL LEADER!**

*There is no Republican candidate. The September 19th Democratic primary is our only opportunity. We need the help of everyone who is concerned. Time is running out.*

Please send tax deductible contributions to:

**Walker for Congress Committee  
P.O. Box 541 — Waltham, Mass. 02154**

This ad paid for by the Walker for Congress Committee. A copy of our report is filed with and available for purchase from the Federal Election Commission, Washington, D.C.

Walker  
Sent 7 78

In this campaign they were unsuccessful but Fr. Drinan was one of 12 people especially targetted for attack in 1979.

However, one success was the defeat of Iowa State Senator Minnette Doderer who was unexpectedly beaten in the democratic primary for Lieutenant/  
Governor in 1978. The New York Times commented on her defeat:

"Anti abortion leaders have mastered single issue politics in a number of places so that they are able to defeat opponents or extract pledges of support from candidates, even though the vast majority say in public opinion polls that their choice of a candidate does not depend on the abortion issue. They accomplish this by bringing out their supporters in full strength in elections in which overall voter participation is light".

So the pressure is still very much on the members of congress and the anti abortion groups have resources both in terms of money and people to help or hinder a campaign. It appears politicians adopt public views on the subject different from those they hold in private. For example it seems that Jimmy Carter changed his views for political reasons. In 1972 as Governor of Georgia he wrote the forward to Dr. Hatcher's book 'Women in Need', which called for legalisation of abortion and Carter made a 'plea' for abortion services to halt 'an epidemic of unwanted babies'.<sup>94</sup>

By the time he was running for president, however, he was saying that he personally opposed abortion.<sup>95</sup> His position seemed to move to even further conservatism after his election and in September 1977 when asked to comment on the Supreme Court's decision that the federal government was not obliged to provide abortions for poor women he said:<sup>96</sup>

"There are many things in life that are not fair, that wealthy people can afford and poor people can't. But I don't believe that the federal government should take action to make these opportunities exactly equal, particularly when there is a moral factor involved".

So the presidents "official" view altered a great deal in just a few years and other politicians have felt the pressure of the anti abortionists.

## States

The anti abortion groups have tried to persuade the States to pass laws restricting funding for abortion and also to reduce rights in areas where the Supreme Court was not specific.

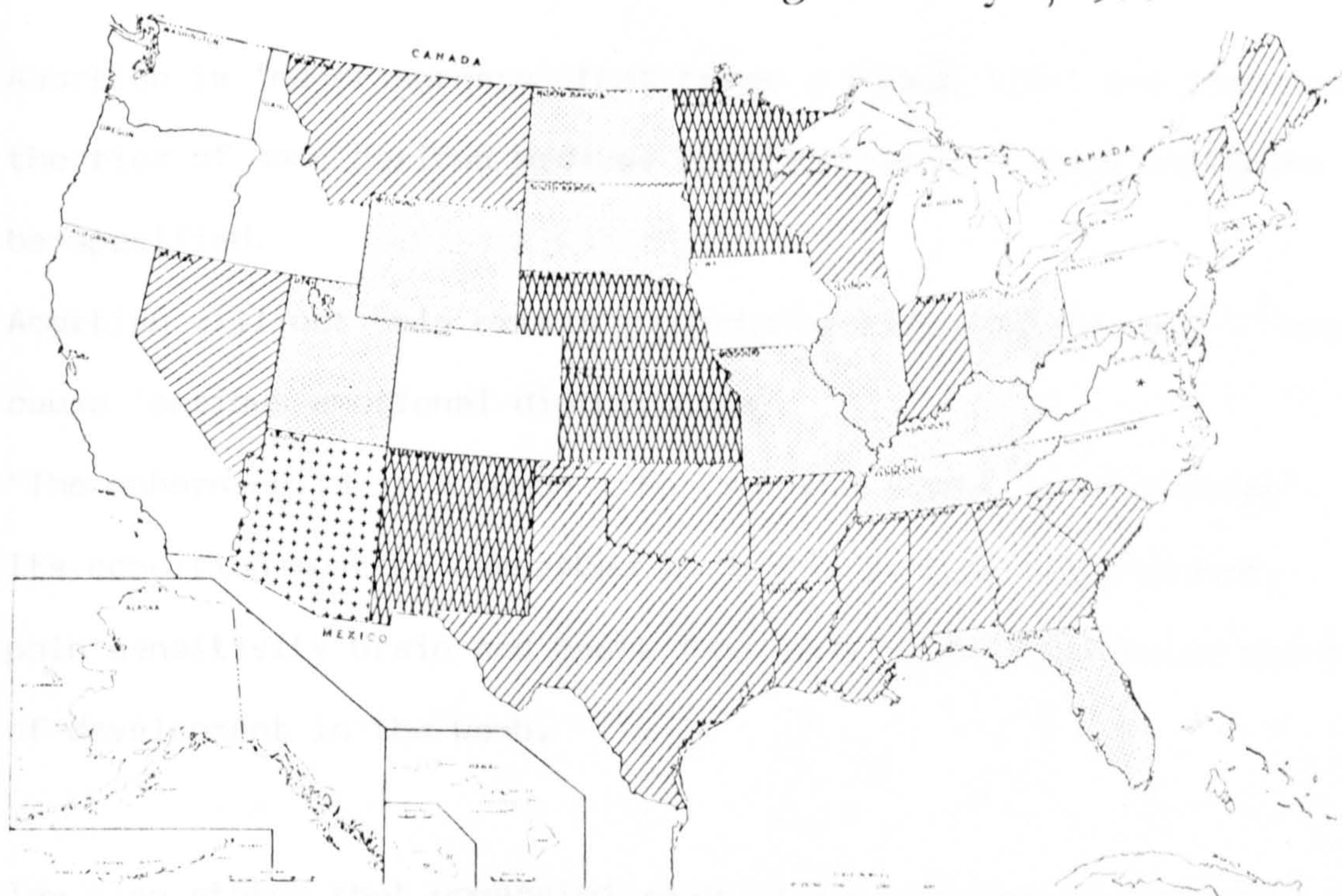
After the Hyde amendment became law the States had several options:<sup>97</sup>

1. They could decide to pay the full cost of abortions for poor women unless barred from doing so by the State legislature.
2. They were forced to discontinue funding if state laws or regulations prohibit using state monies without matching federal funds.
3. They could stop funding altogether or only allow it in restrictive categories such as rape or incest.

These possibilities meant the conflicts that occurred at the federal level were often replayed in the States. In New York for example, in most sessions there is a fierce debate as to whether to continue funding.

The diagram below gives the State policies on funding as of May 1st 1978 and the pattern in general fits in with overall attitudes with either coast more liberal than the mid west and the South.

# State Policies on Public Funding as of May 1, 1978



/ / / / / Paying for all or most abortions  
 / / / / / Paying if the woman's life is endangered, if the pregnancy resulted from rape or incest or if the woman would suffer severe and long-lasting physical health damage  
 W W W W W Paying if the woman's life is threatened or if the pregnancy resulted from rape or incest  
 . . . . . Paying only if the woman's life is threatened  
 . . . . . Has a state Medicaid program  
 \* TRO passed, final court action due mid-May

Information provided by state administering agencies, research done by Renee Shields for the *Abortion Law Reporter*.

The States have also been involved in other discussions on restrictions. If the anti abortion lobby finds some way of persuading the Supreme Court to allow them to restrict the rights of minors then it is to be expected that many more States will introduce such laws.

An important development along these lines was the introduction of the so called 'Akron Ordinance' which has become a model bill.

The method of restricting abortion rights chosen by the city council in Akron, Ohio in March 1978 was to pass a law allowing abortions only for women who gave their 'informed consent'. The law insisted that amongst other things the woman must be told that:

- Private and public agencies would assist her before and after the child's birth if she decides against the abortion.

- Abortion is 'major surgery' that takes a 'human life' and includes the risk of some serious medical complications. These must also be specified.
- Abortion will not help existing psychological problems, and may cause 'serious emotional disturbances'.
- "The unborn child is a human life from the moment of conception". Its condition must be described in detail including appearance, pain sensitivity brain and heart functions at the particular point of development in the womb.

The law also stated that unmarried women under 18 years of age could not have abortions unless their parents were notified at least 24 hours before the operation. Parental consent was needed for those below the age of fifteen years. Women (or their parents) must have signed a consent form and to have waited at least 24 hours before the abortion is performed.

The Akron ordinance also prohibited city owned medical facilities from performing abortions, and discrimination against privately owned facilities that choose not to do abortions.

There were further provisions against late abortions. If an operation should take place on a viable fetus then a second doctor must be present, the technique chosen should be that most likely 'to preserve the unborn's life'.<sup>98</sup>

This ordinance is regarded by the Right to Life Groups as a blueprint for other areas. The National Right to Life Committee in Washington is helping to defend it 'at no cost to the city'. This information was relayed by NRTLCC's special counsel shortly before the city's vote on February 28.

Furthermore at the Right to Life Convention in July 1978 a special seminar was given on the practical possibilities of developing similar legislation in other areas. This meeting was led by Marvin Weinberger a 23 year old law student on leave from Boston University who headed an organisation 'Citizens for Informed Consent'. Weinberger is an orthodox Jew and it was he who helped an Akron Attorney <sup>100</sup> draft the regulations.

Some parts of the laws were overthrown by the Federal District Court in 1979 but it seems likely that the Federal Supreme Court will have to decide which <sup>101</sup> parts of the law are constitutional.

The restrictions on abortion rights outlined so far have only effected vulnerable groups such as the young and the poor. It is, however, the Constitutional Amendment that is the main aim of the anti abortion lobby and it is at the State level that most pressure has been applied. If a convention is to be called it needs the support of two thirds of the States (34) and any decision will have to be ratified by three quarters (38).

So far in the United States history since 1787 all the 26 amendments to the constitution have been proposed and ratified through the Congressional route. No Constitutional Convention has ever been called nearest was in 1967 when 32 state legislatures wanted one to overturn the Supreme Court's one-man one vote decision that required the re-appointment of state legislatures to reflect population.

The Right to Life Groups have been working at various Human Life Amendments by both routes. By July 1979 15 states had called for a Constitutional Convention. Officially the target is 34 states but



there are some doubts that this number would ever be reached even if the anti abortion drive were successful. Many people are concerned about the prospects of a Convention. As one has never been held before there are doubts about the way it should be organised and funded. Furthermore, it could go much further than simply the abortion issue and if the conservatives were in control a number of right wing amendments could be proposed.

Daniel G. Buckley is chairman of Americans for a Constitutional Convention and he has called for an amendment to protect both the rights of the family and the 'unborn'. There are also fears that the convention

might undermine the American separation of the church and the State.

Ellen McCormack the Right to Life candidate for the Presidency stated in her January 1978 newsletter :

"Congress has refused to act to reverse the Supreme Court on the question of prohibiting prayer in public schools. Why not consider the possibility that the Constitutional convention would come up with good legislation that the Congress is refusing to consider".

The uncertainty surrounding the convention has led some to assume Congress will not want one and so will be forced to act itself. A newsletter of Americans for a Constituional Convention stated:<sup>102</sup>

"If we can make a determined effort, gain publicity, get even a few state legislatures to pass convention resolutions.....Congress may well get the message, and act on abortion if only to forestall a convention".

At the moment it does not seem that the pressure just on abortion is strong enough. However, if twenty states should make the call it could be a different situation.

At first anti abortion groups were ambivalent about a Constitutional Convention. New York State Right to Life was opposed to one as was Dr. Mildred E. Jefferson former President of the National Right to Life Committee. When in office she was quoted:

103

"Not under any threat, bribe, or blandishment will I lead or follow the pro-life movement into the Constitutional Convention wilderness".

The fact that she has been ousted from her influential position leaves the way open for the Right to Life movement to take a more active role.

A second factor is the introduction of legislation in Congress by Senators Jesse Helms and Representative Henry Hyde to establish guidelines. Their legislation is based on that drafted by Sam Ervin and passed by the Senate in 1971 and 1973 but not by the House of representatives. Their bill would define the method of selecting delegates and would require that the convention be limited to the topic named in state calls.

If a bill should pass it will aid the proponents of the convention.

However, it seems it may be the tax revolt which is the best opportunity for the Right to Life Groups. By April 1979 twenty seven states had called for a Constitutional Convention to force the Federal Government to balance the budget and this movement obviously provides a potential for linking of interests. The Wanderer (March 29 1979) carried a story entitled "Pro Life Interest in Budget Limitation Call". The article argued in favour of such a Convention on the grounds it would help stop inflation and prevent politicians 'paying for products out of the peoples own money'. It continued to point out that if the Convention were called it could also make recommendations for changing the abortion laws.

"If a Budget Convention is requested by thirty-four states and called by Congress, the pro-life movement ought to work to elect pro life delegates to that Convention".

Towards the end of the legislative session 1979 the movement to balance the budget slowed somewhat and disproved the prediction of the president of the National Conference of State Legislatures that the necessary 34 States would be reached quickly.

It seems that there will be great problems in calling for such a Convention because there is not only opposition to the issues but also to the idea of a Constitutional Convention. Lawrence Tribe suggested that it should only be used for an occasion on which the Congress itself presents an intolerable threat to the states.<sup>104</sup> The pro choice group NARAL made use of the fear of a Convention in a document they prepared which had as a headline:<sup>105</sup>

"No matter how worthy the Cause...is it worth posing a threat to the nation's stability risking the loss of our Constitutional guarantees in the Bill of Rights".

So on the two major issues facing the States the linking with other issues works for different sides. On the funding for abortion the anti abortionists also gain the support of those who believe in no state funding on other issues. However, on the question of the Constitutional Convention it is the pro choice groups who benefit from the help of those who fear its implications.

This analysis of action at the various levels shows that, despite their militancy, the anti abortion groups have had little success in restricting abortion rights except for the poor. Furthermore they seem to have little

opportunity of success in the near future.

This has led in certain circumstances to a fringe of the anti abortion movement taking violent action.

Attacks on birth control and abortion centres.

Given the fact that many of the members believe that abortion is murder it is not too surprising that some of them have taken hostile action.

Nellie Gray confirmed this in an interview with me (August 1978) in which she said:

"Our people are extremely frustrated so they think we have got to do something".

Pro choice groups have claimed the Church has promoted hostility and it is true that the Catholic Press has not always been seen to be opposing violence as the following newspaper reports implied: <sup>106</sup>

" CATHOLIC BISHOPS OPT FOR ACTION

Washington-a pro abortion organisation has appealed to all concerned about abortion "to refrain from violence and unlawfulness in any form".

The appeal of the Religious Coalition for Abortion Rights was signed by 26 religious leaders , according to the April edition of Options, the RCAR's official publication.

'Let our differences be settled by debate', the statement urged, 'our disagreements be fought with words'.

Each of the 270 Catholic Bishops was asked to sign the appeal. None did. "

The interpretation of the Catholic leader's refusal to sign as a call to action is not the only one possible and might be regarded as provocative. The Right to Life groups, themselves, have however,

distanced themselves from such action and when Dr. Carolyn Gerster took over as president of the National Right to Life her first official action was to offer 5,000 dollars reward for information leading to the arrest and conviction of any person responsible for the burning or destruction of abortion clinics. Although this action was not without its critics.<sup>107</sup>

In the two years to February 1979 twenty five clinics had been firebombed. In Omaha on the day one caused 35,000 dollars worth of damage, the Omaha World Herald received an unsigned letter that read "You'd bomb a concentration camp, why not abortion centres". This suggests a link to Right to Life propaganda.

So far only one person has been arrested for these firebombings and that was at the Bill Baird Centre at Hampstead in February 1979.<sup>108</sup>

Ironically at the time Bill Baird was at a peace meeting with anti abortionists in Washington.

#### Conclusion.

The two sides in the abortion dispute in the United States are much more polarised than their counterparts in Britain. There is virtually no "middle ground" and so it seems that the conflict will continue with a great amount of acrimony.

## Conclusion

In this research I have examined the major social forces leading to the liberalisation of abortion in the two countries and the debate following the changes in the law. The findings raise questions about previous theories of change, the influence of public opinion, the ethics of pressure groups, and the role of single issue politics within the wider political environment. However, before discussing these issues I will outline the major findings.

## Summary

As expected this thesis has established some relationship between the climate of opinion and the laws on birth control. However, the degree of correlation has varied across the four periods considered.

In the early years until the first World War the general conservatism of the two societies made it very difficult for the supporters of fertility control to make any headway. In Britain the Victorian morality was less pervasive and this did allow for greater freedom in terms of birth control. However, in the United States there was not a substantial group of people who were sufficiently concerned and with high enough status to challenge the Society for the Suppression of Vice. So the early campaigners like Margaret Sanger were relatively isolated. we can empathise her fleeing to England and her pleasure in finding a group of people who not only openly shared her views, but were willing to provide her with refuge and give her advice as to how to organise politically. The Victorian 'fog' being more pervasive in the United States meant there were not enough people prepared to come into the open and fight for their beliefs. So during this period the differences in the social climate were reflected in the legal system.

After the war there was a liberalisation in both countries as discussed in Chapter three. However, the differences were also important. Both countries developed movements to spread birth control information without it being linked to any overall ideology, however, in Britain this left the Malthusian League without a role. As has been seen it was this group of Neo-Malthusians who began to agitate for the right to abortion and who were behind the setting up of the Abortion Law Reform

action in 1950 which in turn led to the legalisation of abortion for rape in 1938. In the United States the fact that the fight for birth control was much more difficult in the face of a more hostile environment meant that there were not the resources to put into a movement for abortion rights. So again during this period the presence of an active pressure group linked to liberal attitudes was reflected in the law.

In the third period up to the liberalisation of the laws in both countries there was again a concordance with general attitudes. In Britain the fact that contraception was freely available meant that the Abortion Law could be the main focus. When this was passed in 1967 it was broadly speaking in line with public opinion. However, from this time onwards the correlation between opinion and the law has shown very great differences between the two countries. The Supreme Court decision in the United States gave American women rights that they have never officially received in Britain.

Furthermore it seems that this difference is going to be maintained. There does not seem any likelihood that the American law will be overthrown in the near future and it appears that for the next few years the United States will have a more liberal law despite being more conservative in respect of laws on capital punishment, homosexuality and equal rights for women. It is therefore clear that the way public opinion becomes realised creates paradoxes as in the present period. At least four factors are relevant:

A) Pressure Groups They are of course, related to the general environment but they do have a degree of autonomy and power and their effectiveness can have an important influence on social change. It is possible that in certain circumstance a pressure group can be counter productive if it



~~resources from the sources of disaffection and yet does not~~  
draws resources from the sources of disaffection and does not  
use them in a politically useful way.

On the other hand the presence of an active and vibrant group can be very important. Sociologists are rightly critical of what Carr calls the 'Bad King John Theory of History' - the belief that what matters in history is the character and behavior of individuals.<sup>2</sup> However, it is important to recognise that individuals and small groups can have a tremendous effect for there is a degree of fluidity within social structures. If the small group of women had not formed the Abortion Law Reform Association in 1936 it is doubtful whether English women would have been able to get abortions for rape in the period up to the passage of the 1967 Abortion Act. I have shown that the absence of such a group and a doctor as brave as Bourne willing to challenge the law led to American women pregnant due to rape having to resort to the illegal sector.<sup>3</sup> More recently the takeover of the Abortion Law Reform Association in 1964 was a key factor in enervating the organisation up to the passage of the 1967 Abortion Act. In the United States the formation of the National Abortion Rights Action League was also important and the fact that it was led by someone who was willing to compromise over the introduction of a time limit was also a factor in the passing of the United States Act in 1970.<sup>4</sup>

So, while it is true that pressure groups like individuals are products of their society, it is also the case that the groups can have widely varying powers. One of the crucial techniques that a pressure group must learn to use is to identify the social groups likely to support its case and to mobilise them. In fact one of the most significant features of the abortion campaign in recent years is that the anti-

... have become much more significant in the opinion of its supporters than previously. As I have shown this is one of the crucial factors in keeping the issue alive.<sup>5</sup>

## B) Absolutism

A continuing problem for social reformers is whether they should aim for short term gains and in so doing 'paper up the cracks' in the social system or should they pursue the long term aim of total change. Downes summarising Mathieson suggested both have their Catch 22 aspect:

"The first, by improving the system, reinforces it; the second, by insisting that alternatives be shown to meet system goals in advance of their actualisation, set impossible tasks for reformers."<sup>6</sup>

In terms of prison reform Downes continues:

"Given that the bureaucratic power of the authorities ensures that they are the arbiters in evaluating the case for reforms, the stage is set for penal reformers to end up hopelessly compromised with the system, on the one hand, or condemned to the 'irresponsible revolutionary' role, on the other."<sup>7</sup>

The English advocates of social change in terms of abortion wedded themselves firmly to the reformists position. The fact that the repealers defeated the reformers in the United States was obviously a crucial factor and this tendency to absolutism in American groups is still important today. If the American anti abortionists were willing to compromise they might be able to force through a restricted Constitutional Amendment along the lines of those proposed in Britain.

The fact that the dominant groups in the United States are able to keep the anti abortion movement on an absolutist track is something that needs some explanation. Thomas Mathieson suggested in 'Politics of Abolition' that the dichotomy between

must be pursued. His view is that changes could be divided into those which do not strengthen the system and those which do and that only the former should be performed. In fact, although the anti-abortionists in the United States have never shown evidence of awareness of his works the kind of changes they have pursued have in large part fitted with this strategy.. The attempts to prevent 'taxpayers' money for abortions has obviously a strong appeal in the current climate of opinion, the growing numbers of States passing an anti abortion amendment and the whole usage of the terminology 'pro life' has implied that pro choice groups are in some way anti life.<sup>9</sup> In contrast the very nature of the British anti abortion campaign had led for some problems. Attempts to reduce the time limit from 28 weeks gestation has of course a chequered history and both sides recognise that a compromise bill reducing the limit to 24 weeks would be a mixed blessing to the antis. It was for this reason that when David Alton introduced such a bill into the House of Commons under the ten minute rule (22 April 1980) the major anti abortion groups withdrew support and the Bill fell without a vote. So the structure of the law seems one important factor.

Also important are historical and cultural influences. Although both the major pressure groups in Britain are dominated by Catholics with an absolutist view, the British anti abortion movement did have non Catholic origins. There was an initial belief in compromise and this tradition has continued. Furthermore as discussed the United States has a much greater tradition of polarisation.

### C) Accident

When considering the role of change in history those following Marx sometimes give accidentally happenings a very small role. In a letter Marx wrote:<sup>10</sup>

"World history would have a very mystical character if

~~CONFIDENTIAL~~

change. This chance Russell  
naturally becomes part of the general trend of development and is compensated by other forms of chance. But acceleration and retardation depend on such 'accidentals', which include the 'chance' character of the individuals who are at the head of a movement at the outset."

So Marx while recognising the role of chance nevertheless gives it a restricted role seemingly unable to radically alter the course of events and also compensated by other chances which tended to have a cancelling effect.

Marx may take a global view, but on the issue of abortion it seems chance has been very important. There have been, for example, numerous instances where the law has been ambiguous or led to a variety of interpretations. When the Act of 1803 was passed it did not ban abortions with instruments after quickening and this situation remained until 1839. The 1861 Offences Against the Person's Act made abortions illegal if they were carried out "unlawfully". This phrase is somewhat tautologous but some doctors took the phrase to mean abortions were illegal if not carried out by members of the medical profession. Thus abortion on request for the rich was openly available in Britain by the 1920's.<sup>11</sup> At the other extreme some doctors took the view that abortion could not be carried out legally even to save the life of the woman. There remained some concern about this until the 1930's when it began to be realised that the Infant Life Preservation Act of 1929 had relevance for the Abortion Law and for the first time unequivocally gave permission for an abortion to save the life of the woman.<sup>12</sup> A fourth example is Lord Parker's suggested wording at the time of the passage of the 1967 Abortion Act which was regarded by some as permitting "abortion on demand".

So there have been several unintended changes in Britain. In the United States the decision in the Supreme Court was logical in terms of precedence but it was accidental in the sense that if there was not such a constitutional situation it is very doubtful whether many States would have developed such a law. Apart from changes in the actual wording of the laws there have been wide variations in interpretation such as when the Bourne trial legalised abortion for rape. It is possible that if a restricted Abortion Bill is passed in Britain it will be challenged by a doctor sure in the knowledge that it has been passed against the will of the people. If this were to occur it could lead to the British law allowing abortion on request and having an effect opposite to its original intent.

Accidents can lead to change in other ways. One of the reasons for the Steel Bill having such a good chance of passage in 1967 was that the timing of the General Election resulted in a long Parliamentary session giving extra chances to the private members measure.<sup>13</sup> Similarly the 'accident' of the change of heart by State Senator Ginsberg in New York, which prevented the law from being liberalised in 1969, paved the way for the even more radical Bill in 1970. So it can be seen that far ranging social changes can be greatly influenced by arbitrary events.

D) Political and Legal Structure One factor that can hardly be overestimated in terms of the United States is the power of the Supreme Court. As long ago as 1876 John Quincy Adams had declared that the office of chief justice was more important than that of the President.<sup>14</sup> This importance continues to be recognised and in 1978 Page Smith commented

"I believe it is safe to say that no other political

approaching the influence of the Federal Constitution."<sup>15</sup>

This is a seemingly extravagant statement but it is difficult to think of a legal document which has had such a pervasive effect on society. The fact that the Constitution is so influential and that the decisions of the Court are so difficult to overcome is of primary importance in the American context.

These then are the major reasons for the more conservative United States having more liberal abortion laws than Britain.

### Public Opinion and Pressure Groups

One of the important ethical issues raised by the abortion debate is the role of pressure groups in relation to public opinion. There is no doubt that the polls have a tremendous influence when performed by the reputable organisations. The political parties spend great amounts monitoring opinion and some fateful decisions are suspected as being the result of polls. For example, it has been reported that one of the reasons for Watergate was that the polls showed Nixon to be behind some of the main democratic candidates. One of the purposes of the 'dirty tricks' department was supposedly to ensure the selection of George McGovern as the Democratic Presidential Candidate as he was considered the weakest of the potential opponents to Nixon.<sup>16</sup> Other politicians are known to keep wary eye on the swings in opinion.

Ideally the polls should be conducted in an unbiased way and to be fairly conducted. This is especially true of a sensitive issue such as abortion as Kalton and Moser point out<sup>17</sup>:

"When an issue is complex and many sided, when its implications are not widely or easily understood, then one must

expect answers to be sensitive to the way it is presented."

However, abortion surveys are often sponsored by the pressure groups who have clear knowledge what the answers to various forms of wording will be. They are therefore able to ask the questions in such a way that will bring the desired result. When I was preparing to conduct a survey with N.O.P. (Published New Society March 22nd 1979) I called up various activists to discuss wording and proposed to ask an old question as follows:

"How far do you agree or disagree with the following statement? 'Abortion should be made legally available for all who want it!'"

I felt this wording would provide comparability to previous questions and would also show a majority in favour of the right to choose. I knew three years earlier 55% agreed with the statement. One of the activists, however, suggested I should ask whether the law should stay as it is, be tightened up or made more liberal. She hoped that around 70% would want the abortion facilities left as they were or made more freely available. Further she said the 55% could fall below 50% and so be politically damaging. I disagreed because I felt it was more valuable to show support for an extension in the law. The N.O.P. questionnaire specialists agreed with me and the result came out at 56% agreeing with the right to choose. When the Sunday Times repeated this question in January 1980 it obtained a figure of 54% showing a remarkable consistency over a period of four years.

This result was useful but I knew that in the United States the pro choice groups were obtaining a figure of over

70% agreeing with the abortion decision being left to the woman and her doctor. The question asked in this way seemed more faithfully to represent what was likely to happen in practice so when I completed the first draft of the questions for the Gallup Survey for Woman's Own I included reference to the medical practitioner. The final question was "Do you think that the choice as to whether or not to continue a pregnancy should or should not be left to the woman in consultation with her doctor?" The result was (see page 266) that 76% of the population agreed with the right to choose.

There is little doubt that if this question were repeated it would obtain broadly the same response that around three quarters agree with the right of choice when the question is asked this way. Thus the 'right to choose' reply can be increased by 20% by mentioning a doctor. The opponents of abortion rights however, have a question on abortion which purports to show most people do not support the right to choose. They asked whether abortion should be available on demand, should only be allowed in particular circumstances or should never be allowed in any circumstances. By asking about 'abortion on demand' and by giving three categories this question kept the percentage in favour of the Right to Choose well below half. Ironically the Second Gallup Poll which was used to show lack of public support for abortion rights and was publicised as doing this (see page 267) in fact showed 23% in favour of abortion on demand which was the highest percentage ever and 5% up on the figure obtained when the survey was conducted in January 1975.

So it is now clear that with different questions the support



for the 'right to choose' an abortion can vary between a quarter and three quarters and that within certain limits the pressure group operators are able to obtain the result they want. We are dangerously near the situation where you can prove anything by opinion polls. This could lead to them being brought into disrepute. One suggestion by Norman Webb at Gallup in England is that pollsters could refrain from publishing on sensitive issues at times of crisis. This would stop the confusion that occurred during 'Corrie' but it does not really get round the problem. Both sides can still obtain different results. A case can be made for research to find why such varying results are possible and guidelines for the agencies so they do not become simply agents of their paymasters.

#### Implications for other theorists

In the introduction it was shown that labelling theorists such as Becker talked of social change introducing the rules of the powerful. Further that he suggested the laws were introduced by moral entrepreneurs. The evidence of this research shows that this simple model cannot by any means account for the major changes. First of all the growth in conservative attitudes toward sex inspired by the middle classes in the nineteenth century were imposed on an unwilling aristocracy. Although this elite was able to defend its property rights it was by no means as successful in a defence of free standards of sexual behaviour. On the question of birth control I have shown that there were wide variations in the law between Britain and the United States. I have explained these as being due to a number of factors including the differences in social

attitudes, the effects of immigration and the absence of an upper class in the United States to compare with that in Britain.

The other factors I have mentioned such as the general 'climate of opinion' the effect of accidents, the role of the individual and the effect of the legal structure all show that the assignation of change to the effects of power is too much of a simplification.

However, Becker's assertion about the role of moral entrepreneurs has received far more support in this research. I have shown the presence of various people who have made political activism their priority in life. In terms of Gusfield's distinction between assimilative and coercive reform it is clear the anti abortion movement tends towards the coercive model. The aim is to get rid of abortion by making it illegal and by strong police enforcement of the laws. However, some anti abortionists also look to the law as a base and hope that the making of abortion illegal will in the end change the values of the society. These people seem doomed to be disappointed for the total abolition of abortion does not have public support and a sub-cultural network would be set up.

In the introduction I drew attention to Gusfield's suggestion that the status factor was crucial in the temperance movement. In the birth control/abortion debate, however, it is clear it is religion that is crucial. Without the institutional support of the churches the appeal of the anti abortion movement would be negligible. This is not to say that status should be totally discounted on this issue. For example, there is the view that in the United States the Catholics are having

something of a difficult time. That they as a group were rising up the hierarchy and have been most affected by legislation giving preference to black minority groups. Fr. Andrew Greeley the Sociologist/Journalist is identified with the movement to develop upward movement amongst Catholics and to stress, for example, the need for Catholic academics. However, this kind of factor is of minor importance.

### Single Issue Campaigns

One of the important theoretical developments in recent years was the movement of the socialists and radical criminologists away from the 'Crimes without Victims' approach. Their view is that deviant actions should not be ignored at a theoretical level but rather should be evaluated in terms of the wider struggle. I reported for example in the introduction that Linda Gordon viewed the high spot of the birth control movement as being the period when it was linked with socialist demands. This assertion raises the whole question of single issue groups.

These appear to have grown in strength in recent years. This is not to say they are by any means a new development. The anti pornography crusade of Comstock, the prohibition movement in the United States and the anti birth control movement in Britain are all campaigns to which I have alluded. But single issue campaigns seem to be becoming much more common and to have a much greater appeal. The success in California of Proposition 13, the effects of the anti gay movement in Florida and other places and the success of the Right to Life Movement such as in New York where it ousted the Liberal Party

from third place on the ballot are all testaments to the new strength of the single issue groups. Why do these have continuing and even growing appeal?

One important point is that there appears to be a finite target. Those aiming for the single issue subjects have a clear idea of what changes they want to bring about. They also often have the appeal of absolutism. Activists believe the 'evil' they are fighting can be abolished. This absolutist stance is more popular in the United States and possibly explains why single issue groups taking a polarised stand appear to be more successful there.

The single issue campaign also has the advantage in that it can mass support from a wide spectrum of opinion which can come together on this particular issue. I have shown how the abortion movement has mustered support from those supporting attacks on gays and how they attempted to join with the supporters of reduction in taxes. In this way they hope to broaden their opportunities. However, the fact that they are single issue means that they can hold a position without alienating their supporters. The decision of the anti abortionists not to espouse the issue of contraception was an obvious political decision to avoid tarring the whole movement at an attempt to write Catholic doctrine into the law of the land. It also enabled religious groups supporting contraception to still join the anti abortion campaign.

Another advantage of the single issue over conventional politics is that it is easier to be committed to one subject area. The policies of traditional political parties are the product of a number of compromises and do not have a coherent

philosophy of life which they are attempting to put into practice. The aims of a government such as to reduce inflation or to increase economic growth do not have the same emotional appeal as single issues whether they be right wing ones such as the return of capital punishment or left wing ones such as the campaigns against nuclear energy. These issues have appeal because they are seemingly much more concerned with intimate issues of life and, as Schattschneider points out, a crucial factor is "what we want most".<sup>18</sup>

The emotional appeal is also important in considering why people join campaigns. There is often a tremendous feeling of opposing a great wrong. Orrin Klapp has rightly observed:<sup>19</sup>

"The goal of the crusade is to defeat an evil, not merely to solve a problem. This gives it a sense of righteousness, of nobility...the crusader may think of himself as a hero and define his opponents as villains."

There are also strong feelings of comradeship. When people are on a march together they can enjoy being in the company of their friends and associates. It can also help to give some meaning to their lives. This can be true of all those in a campaign but especially the leaders. They have often become well known because of their association with a particular social issue. People such as Mary Whitehouse<sup>20</sup> and Marie Stopes in Britain or Anthony Comstock and Ellen McCormack in the United States all became national figures because of their association with an issue. So there is not just the feeling of fighting for something in which you believe there is also the satisfaction of being a well known campaigner. The modern activists are sought after by journalists, booked to give

lectures and invited to appear on television. So the individual becomes a celebrity and possible has a place in history.<sup>21</sup> For activists trials and tribulations can even be blessing in the long term. A goal sentence can focus attention and enable support to grow. Both Margaret Sanger and Bill Baird used prison sentences as a way of raising public indignation.

Although abortion is generally a single issue campaign, I have shown links with other groups. So the designation single issue needs to be modified. It is single issue in terms of the major activist groups but support is also drawn from groups known to be sympathetic. So a march organised by a pro choice organisation would gain support from a variety of left wing organisations. This is obviously useful both for the organisers and for the groups. Many left wing organisations such as the Socialist Workers Party in Britain are in a situation where they do not believe in politics in terms of coming to power by Parliamentary means.<sup>22</sup> They do not therefore, become involved with conventional politics and a good way of them fighting for part of their beliefs is to become involved in a single issue campaign for a time. In this way they hope to make some gains and also increase the awareness of others to their policies. Of course sometimes the groups may have a strong influence on the decisions of a pressure group and this can lead to conflict. For example, it is well known that the International Marxist Group has been well represented on the executive of the National Abortion Campaign.<sup>23</sup> This was one of the factors that led to N.A.C. deciding to support abortion without any time restriction and the subsequent attempt of some of the members of the Coordinating committee in defense of the 1967 Abortion Act to try

and expel them.<sup>24</sup>

There are of course a number of disadvantages to single issue groups. The first thing is the lack of widespread support by just being involved on a single part. It is of course impossible to gain power on a single plank to your platform and so the politicians working on behalf of the groups have other considerations. They cannot pursue the interests of the pressure group to the exclusion of other factors and this can cause problems and even a feeling of betrayal.

A second problem is that there may well be internal problems due to the nature of those involved. I have discussed the problems of the New York state anti abortion groups in holding the various factions intact and this is a continuing problem.

A third difficulty is that if a belief is followed for religious reasons and does not have the support of the population then the pressure groups are going to have a frustrating time. With the abortion issue this has been clearly the case. The anti abortionists are faced with a situation whereby they can keep up continuous pressure and appear to have the effective support. However, when restrictions are seriously proposed the opposition grows tremendously. The opposing pressure groups grow greatly and are able to call upon widespread support. I have shown for example the great increase in membership of NARAL when medicaid abortions were restricted and also the strength of the Campaign Against Corrie which formed in 1979/80.

Anti abortionists may also face problems in that politicians may only pay them lip service and may not be strong in

their support.

At the beginning of 1980 the two front runners in the American Presidential Campaign-Jimmy Carter and Ronald Reagan-were both nominally anti abortion, (although Carter would allow abortion for some medical reasons). However, it is doubtful if either of them are particularly committed to the prohibitionist cause. As I showed Carter once wrote the introduction to a book favouring legal abortion and Reagan signed into law the California Abortion Act of 1967. This has led to some cynicism amongst anti abortionists. For example Right to Life presidential candidate in 1976 Ellen McCormack announced (February 17, 1980) she was standing again rather than support Reagan. She has been criticised for this by some of the anti abortionists but her decision suggests she is wary about the degree to which Ronald Reagan really supports the anti abortion cause. Her press release stated she was unconvinced that Gov. Reagan had "changed his position and would actively work for pro-life policies at present" and that she could not "find a single instance in fifteen years" where he "has taken a definite action in support of right to life goals".<sup>25</sup>

McCormack's decision is understandable given her position but it has split the anti abortion movement. However, the major part of the movement is supporting Reagan.<sup>26</sup>

### Abortion in Demand

The fullest development of the socialist theory of the abortion debate is contained in Greenwood and Young's<sup>27</sup> book and this thesis suggests that it is a useful attempt to



explain the abortion controversy. It has, for example, correctly identified the issue of reform v repeal as crucial and has shown the vulnerability of a reformist law to attack in terms of reducing the number of categories of women to whom the law can apply. However, some parts of their analysis need to be re-examined in the light of the evidence produced by this research. One quotation from their book to which I drew attention in the introduction was "Abortion on demand is strongly resisted by the reformers because its existence would threaten their most cherished beliefs."

However, this statement does not apply to the bulk of the activists working for the change in the British law. As I showed in chapter six and in an article in *Political Quarterly*<sup>28</sup> the dominant view of those pressing for legalisation was that the woman should be able to make her own choice but that demands should be limited for political reasons.

Greenwood and Young do not appear to have realised this. That the activists wanted to appear 'moderate' in the hope of winning the middle ground and the extent of their feeling on this matter even surprised me. A statement I did not finally include in the *Political Quarterly* article was a quotation from one of the major agitators in private conversation that she had always supported "Abortion on Demand". I put the statement in my first draft, posted it to the journal and belatedly sought her approval to publish it. I took the view that nearly ten years had passed and so she could be open about what she believed. However, she refused permission: "I don't want people to know I was an abortion on demander back in those days." When the

article was returned for some minor changes I cut out her quotation and this incident shows clearly the problem for a researcher in simply reporting the published statements of the pressure group operators.

A second point they made was that if abortion on demand existed the issue would not raise so much opposition because the kinds of attacks mounted by the anti abortionists would not be possible. They are of course right that the anti abortionists would have to change their tack. As I have showed they have consistently used Professor Huntingford's statement to bolster their cause.<sup>29</sup> The argument has been that abortion on demand was never a stated intention of the Act, that certain gynaccologists are performing abortion on demand contrary to the wishes of Parliament and that the law needs tightening to get rid of this abuse.

Of course if the law had placed the right of choice firmly within the hands of the women this method of campaigning would be totally impossible. However, this does not mean the issue would necessarily die down. The evidence from the United States shows clearly that even with the right to choose there can be a strong backlash. In fact the degree of opposition has been much stronger there and the hypotheses difficult to maintain. However, if the perspective is widened to consider, for example, France and Italy their theory does appear to have greater merit. The granting of the right to abortion in the early months of pregnancy in these countries without any categorisation has effectively polarised the debate. They are both mainly Catholic and so absolutists dominate their anti abortion movement. It could be that these countries will find the

debate dying down as legislators refuse to ban all abortions but do not have the option of banning some of them.

In the United States the chances of abortion being made illegal again are remote but the issue is important and what the current law has done is shape the area of debate. As has been shown the issues centre around rights for minors, the role of the state in paying for abortions and the attempts to obtain a constitutional amendment. I suggest that in Britain if we had abortion on request up to a specific time limit the anti abortionists would not give up their efforts but would rather change the focus of attack. They might, for example, try to raise the age of parental consent from sixteen to eighteen years, they may, attempt to cut back National Health Service Facilities or further restrict the number of doctors who can perform abortions (for example by introduction of a clause stating only consultants can perform them). If this were to occur the debate would centre on the peripheral issues but would continue.

A third point made by Greenwood and Young was that abortion legalisation came about in part because of the belief of some in the need for population control. This is an important allegation and draws attention to the long standing debate over the use of fertility control to reduce the size of social problems. This research has of course drawn attention to the role of the population controllers in certain places such as Hawaii. There is also the strain in some parts of conservative thinking along the lines of Sir Keith Joseph that it would be good to reduce the family size of the working class (social groups 4 and 5). However, although this kind of

belief exists, it does not seem particularly prevalent. In the United States it could be argued that the right wing should support medicaid abortions for minority groups. However, as I reported in Chapter 7 a Harris poll showed more than half conservatives agreed with the ban on medicaid abortions compared to only a third of Liberals. So it seems that this factor is masked by others such as the conservatives greater opposition to Government spending.

So my findings, while giving some support to aspects of the Greenwood/Young thesis, nevertheless suggest that other factors also need to be emphasised.

### The Future Effects

While my analysis does not suggest abortion rights will be taken away the major effect of the campaign may be to aid right wing politicians. To quote anti abortionist Charles Rice:<sup>30</sup>

"Abortion is an absolutely disqualifying issue. The question that should be put to every candidate for every office, from dog catcher to President is 'Do you support a constitutional amendment to restore to the Unborn Child his constitutional right to life?' If a candidate fails that test he should not be supported no matter how good his positions are on other issues."

Now the evidence of this thesis shows that many of the anti abortionists are left wing Catholics. Even if only a few anti abortionists cross over for right wing politicians the effect could be crucial. Given the small number of votes needed to swing elections in certain places it could be that the single issue voters changing over could be vital in United

States elections both for the Presidency and for Congress. In Britain the issue is not so clear cut as the electorate votes for a Government which takes an officially neutral position and party is more important than the individual personality.

The evidence of this thesis is therefore that the abortion controversy will continue. The long term effects of the issue cannot be determined but it is clear that the battle between opposing groups will remain.

References Chapter one

- 1 Rebecca Cook "Ten years of Change in the Abortion Laws 1967-76"  
Supplement to 'People' vol 4 no. 1.
- 2 Information from article "New Zealand Steps Back" by David Flint  
Breaking Chains no.9 September 1978 p4.
- 3 Walt Rostow "The Stages of Economic Growth" Cambridge U.P. 2nd ed.  
London 1971 (first edition 1960). Other economists have also been  
concerned with the problem of overpopulation. Lord Keynes was particul-  
arly interested and in the 1920's helped Margaret Sanger.
- 4 Patricia G Steinhoff and Milton Diamond "Abortion Politics" Hawaii  
U.P. Honolulu 1977 p73.
- 5 Paul R and Anne H Ehrlich "Population Resources and Environment" W H  
Freeman and Company, San Francisco, 1970.
- 6 Editorial entitled "Right about Sterilisation" New York Times December  
4th 1977 .
- 7 In Britain forced sterilisation has often been part of a package. Doctors  
have only agreed to abort women if they would agree to be sterilised at  
the same time.
- 8 The best known example of a programme of forced sterilisation is, of  
course, that in India which in part led to the defeat of Mrs. Gandhi.
- 9 Havelock Ellis "Studies in the Psychology of Sex" Vol VI F A Davis Co  
1928 (Copyright 1910) p607. The German woman's movement stated that the  
foetus was not an independent human being and that the woman should be able  
to decide.
- 10 Article in "Feminism and Socialism " a series of papers introduced by  
Linda Jenness Pathfinder Press p21.
- 11 A British feminist argued a slightly different case (Spare Rib May 1979)  
I have made no attempt to include all the perspectives and positions. In  
1979 a North London feminist group distributed a document to its members

containing the views of 13 different sections of the woman's movement.

12 Jenness op cit p12.

13 loc cit pp5 and 6.

14 Linda Gordon "Woman's Body Woman's Right" Penguin Ed. New York 1977  
p 413 (First published Grossman 1976).

15 For a fuller discussion see Colin Francome "Youth and Society" unpublished  
M.A. thesis University of Kent 1976 ch 6.

16 Article entitled "Political Theory or Practical Government".

17 See for example Victoria Greenwood and Jock Young "Abortion in Demand"  
Pluto Press London 1976 Chapter 10.

18 ibid p67.

19 ibid p22.

20 Jock Young "The Drugtakers" Paladin 1971 p49-64.

21 Colin Francome "Abortion: Why the issue has not disappeared" Political  
Quarterly April 1978.

22 For U.S. evidence see "Abortion and Capital Punishment" Breaking Chains  
no 9 September 10 1978 p 7.

23 In the report stage of his Bill John Corrie attempted to persuade the  
House of Commons to disregard the views of the medical profession (Hansard  
15th February column 1938):

"I am well aware that most medical opinion, including that of the  
British Medical Association and the Royal College of Obstetricians and  
Gynaecologists is against 20 weeks but would support 24 weeks, but the  
two bodies which produced the fiercest opposition to the 1967 Act in the  
first place were the BMA and the RCOG. At that time their advice was not  
listened to. That is why we now have the 1967 Act which some of us want  
to change."

24 A discussion of this and other arguments is included in chapter three.

25 Our Sunday Visitor 4th June 1978.

26 January 22nd 1978.

27 Interview dated 14th May 1979. This argument is by no means new. In his book

"Birth Control" (Published by the National Catholic Welfare Council Washington D.C. 1923) John M Cooper argued that abortion would increase not lessen under a regime of contraceptive practice in cases where the method accidentally failed. He also stated that extra marital intercourse would increase.

28 I interviewed Ellen McCormack, former Right to Life candidate for the Presidency, on December 14th 1979. She said "Contraception is a serious problem and some of the side effects are just now being realised. However, it is a separate issue from abortion. I feel the use of contraception is something that prevents a life being formed and I am not opposed to it."

29 For example women who appeared to die in pregnancy were often cut open and the non viable foetus baptised in the hope it would not go to hell or limbo. P A Finney "Moral Problems in Hospital Practice" B Herder 1935 p46.

30 Steinhoff and Diamond op cit p 30.

31 Madeleine Simms quoted in Political Quarterly April 1978. American activist Bill Baird made a similar point to me in an interview April 1978.

32 NARAL Newsletter March 1972 Vol 2 no 2.

33 Phylis Bowman told me in an interview(May 1979) that she refused to allow any with racist views in her organisation(The Society for the Protection of Unborn Children).

34 For example Paul Cavadino a radical anti abortionist used to use the arch conservative John Biggs Davidson to ask his Parliamentary questions.

35 Erich Goode "The Marijuana Smokers" Basic Books New York 1970.

36 Loc cit p 55.

37 loc cit p 58.

38 loc cit p 59

39 Greenwood and Young op cit p72, 73.

40 Both socialists and opponents of abortion are likely to believe in the irrelevance of viability for example.

41. NARAL newsletter Vol 10 no. 3 May 1978 p 8.

42 Melvin Zelnik and John Kantner have argued that there would be an additional 680,000 pregnancies amongst American teenagers each year if



it were not for contraception. (Contraceptive Patterns and Premarital Pregnancy Among Women Aged 15-19 in 1976- Family Planning Perspectives Vol 10 no 3 May/June 1978.

43 Barbara and Jack Willke "Handbook on Abortion" Hiltz Publishing Co 1975 ed p6

44 A typical letter on the subject was written by Rose Soma in Newsday Feb 2 1978. She was writing to oppose an anti abortion letter:

"To his allegation that 'Hitler ....said the same thing.....and killed about 12 to 14 million people'. The fact is that the example of Hitler's madness and abortion does not exist. Nazi Germany made restrictive abortion laws stronger. The criminal law of May 26 1933 made even the act of helping in an abortion a penal offence. Hitler's Germany had one of the most restrictive abortion laws in history."

45 Christopher Tietze "Two Years experience with a liberal abortion law: Its impact on fertility trends in New York City". Family Planning Perspectives January 1973.

46 Colin Francome "Estimating the Number of Illegal Abortions" J Biosocial Science October 1977.

47 The forgoing article discusses the various articles by C B Goodhart who was on the SPUC executive for many years.

48 Willke and Willke op cit p 105.

49 The leaflet is undated and entitled "Abortion Q & A".

50 Two articles which illustrate the liberal view are H S Greer, S Lal, S C Lewis, E M Belsey and R W Beard "Psychosocial Consequences of Therapeutic Abortion", Br. J Psychology vol 128 Jan 1978 pp 74-79. Colin Brewer "Incidence of Post Abortion Psychosis: A prospective study." B M J 1977:1pp 476-477.

51 Willke and Willke op cit p 82.

52 loc cit p 87.

53 Personal interview May 1979.

54 Willke and Willke op cit p 50.

55 loc cit p 54

56 Published by myself in New Society March 23rd 1979

57 C. Francome "Opinion Polls Support Abortion"-Breaking Chains Jan 79 p 5.

58 "First Report of the Select Committee on Abortion Vol 11 Minutes of Evidence." (HMSO H C 573-11) p 38 The figure of 62% comes from the

following equation:  $\frac{62 \times 72}{100} + 18 = 62\%$  .

59 M Wynn and Wynn "Some Consequencies of Induced Abortion to Children born Subsequently." Foundation for Education and Research in Childbearing London 1973.

60 Paul Rock "Public Opinion and Criminal Legislation" p194

61 Paul Rock loc cit p 179.

62 Colin Francome 'Abortion Policy in Britain and the United States' Social Work Volume 25 no. 1 January 1980 pp 5-9.

63 Howard S Becker "Outsiders" The Free Press, New York 1963.

64 Ian Taylor, Paul Walton and Jock Young eds "Critical Criminology" Routledge and Kegan Paul, London 1975 p 21.

65 Anthony Crosland "The Future of Socialism" Cape 1964.

66 'Report of the Committee on homosexuality and Prostitution.' Chaired by Sir John Wolfenden HMSO 1957 .

67 This was requoted by Schur in 'Victimless Crimes'.

68 Becker op cit 1963 p 9.

69 Becker on cit 1963 p 17.

70 Becker on cit 1963 p148

71 Joseph R Gusfield "Symbolic Crusade" University of Illinois Press, Chicago Press 1963. Paperback edition 1972.

72 Becker 1963 p148.

73 Gusfield 1972 op cit p6.

74 Gusfield 1972 p115.

- 75 Edwin M Schur "Crimes Without Victims" Prentice Hall, Englewood Cliffs, N.J. 1965.
- 76 Edwin M Schur and Hugo A Bedau 'Victimless Crimes' Prentice Hall 1974
- 77 Schur in Schur and Bedau op cit p10.
- 78 Schur in Schur and Bedau op cit
- 79 Schur in Schur and Bedau op cit p4.
- 80 Norval Morris and Gordon Hawkins "Honest Politicians Guide to Crime Control" University of Chicago Press 1972.
- 81 Morris Ginsberg "On the Diversity of Morals" William Heinemann Ltd. London 1956 p 97 et seq.
- 82 I Taylor, P. Walton and J. Young "The New Criminology" Routledge and Kegan Paul, London 1973, 1977 edition p146.
- 83 See Taylor, Walton and Young 1973 chapter 5. Gouldner commenting on Becker's paper 'Who's Side are we On' commented that the side Becker was taking was of the new against the old elites amongst the caretaking establishments A.W. Gouldner "The sociologist as partisan: sociology and the welfare state", The American Sociologist 3rd May 1968 p 107.
- 84 Taylor, Walton and Young 'Critical Criminology' p 33.
- 85 Critical Criminology p 20
- 86 Critical Criminology p34.
- 87 Jock Young "Working Class Criminology" In Taylor, Walton and Young 'Critical Criminology' p89.
- 88 ibid p86.
- 89 ibid p88.
- 90 ibid p90.
- 91 Linda Gordon "Woman's Body Woman's Right" p404
- 92 Ibid p 414.
- 93 Victoria Greenwood and Jock Young "Abortion in Demand" Pluto Press, London 1976.

94 ibid p15.

95 ibid p75.

96 ibid p 76.

97 ibid p75.

98 I have put forward the view that the number of abortions did not greatly increase. Colin Francome "Estimating the Number of Illegal Abortions" J Biosocial Science October 1977.

99 Greenwood and Young 1976 p 84.

100 Jock Young "Left Idealism, Reformism and Beyond: From New Criminology into Marxism". In Bob Fine, Richard Kinsey, John Lea, Sol Picciotto and Jock Young ed. "Capitalism and the Rule of Law" Hutchinson, London 1979 p 27.

## References Chapter 2

1. Storm Jameson "The Decline of Merry England" Cassell and Co London 1930 p114.

See as well F J Furniwall (ed.) 'Loose and Humerous Songs' Bishop Percy's Manuscript p 35. Also 'The World' May 10th 1753 (English Folk Dance and Song Society Library).

The Middle Class sometimes attacked the loose behaviour of the rich Donald Thomas 'A Long Time Burning' Routledge 1969 p87. The Middle Class 'World' criticised the rich in 1755 as follows 'No vices or immoralities whatever blot this fashionable character; but rather, on the contrary what should banish a man from all society, recommends him to the rich.'

2. Welsh evidence from Margaret Baker 'The Folklore and Customs of Love and Marriage': 1974 Shire Publications p14.

3. In Scotland there were several versions of a folk song entitled 'Bundle and Go' John Ord 'Bothy Songs and Ballads'.

4. In 1781 in a village just outside Boston a preacher complained of a large increase in illicit intercourse which he claimed was due to young women 'admitting young men to their beds who sought their company in marriage.'

Four years later a verse was recorded which suggests that the young girls did not want restrictions imposed.

It shant be so they rage and storm  
And cuntry girls in clusters swarm,  
And fly and buzz like angry bees,  
And vow they'll bundle as they please.  
Some mothers too will plead their cause,  
And give their daughters great applause  
And tell them, 'tis no sin or shame,  
For we your mothers did the same.

So, despite the opposition of some of the middle class and the clergy, bundling was popular and was a custom with practical uses because it enabled relationships to develop with a measure of control.

5. P H E Hair "Bridal Pregnancy in Rural England Further Examined." Population Studies 1970 p60 et seq and Population Studies 1966 p233 et seq. At first he estimated 49% were pregnant but in the 1970 article he proposed a somewhat lower figure. However, Tranter's work in Bedfordshire suggests the first figure could be nearer the truth (In J D Chambers 'Population, Economy and Society in Pre Industrial England. 1972 p 74).

5(cont). In some areas pregnancy was a precondition for marriage, for example, amongst the Portland young people a couple wishing to get married would have intercourse on a regular basis. If pregnancy occurred they would marry but if not they would assume they were not meant for each other and would part with no sanctions against either for lack of virginity. Alwyn Rees (Life in a Welsh Countryside Univ. Wales Press N D) reports this was also the norm for Welsh couples as it was in numerous other areas especially in the rural northern counties such as Cumberland and Westmorland.

6. Quoted in D Crow 'Victorian Woman' London, Allen and Unwin 1971 p79

7. Reported in 'Times' 6th August 1861.

8. Francis Place 'Illustrations and Proofs of the Principle of Population

9. Rev A Means 'The Bitter Cry of Outcast London' 1883. Quoted in the Malthusian December 1883.

10. Quoted in Max Weber 'The Protestant Ethic and the Spirit of Capitalism.' Unwin edition 1968 p175.

11. Benjamin Rush 'Medical Enquiries and Observations, Upon Diseases of the Mind'. Kimber and Richardson Philadelphia 1812 pp 351-356

12. Dr. John Cowan 'The Science of a New Life' New York Cowan and Co. 1880 pp 122-127.

13. Hannah Gavron 'The Captive Wife' Penguin Ed 1966 p64.

14 P Laslett 'The World we have Lost' London Methuen 1965 p142 provides probably the best evidence although Eversley suggests the peak for Worcester was as late as 1815-19 (In D V Glass and D E C Eversley "Population in History" Arnold 1965 p413).

15. Glass and Eversley op cit p396.

16. Quoted in the Temperance Journal 1839.

17. Ben Barker Benfield "The Spermatic Economy: A Nineteenth-Century View of Sexuality." p341. Feminist Studies 1 no 1 Summer 1972.

18. Benfield op cit p349.

19. Medico-Pharmaceutical Critic and Guide 1907 p 161.

20. Benfield op cit p353

21. Ibid.

22. Quoted in Thomas op cit p 179.

23. O R McGregor "Divorce in England" Heinemann Educational London 1957.

24. David M Downes, B P Davies, M E David and P Stone "Gambling, Work and Leisure." Routledge and Kegan Paul London 1976 pp34,35.

- 25 For discussion of some of the differences see Margaret Mead "The American Troops and the British Community " London Hutchinson Publishers, 1944.
- 26 Annual Report of the Society for the Suppression of Vice 1874 p6.
- 27 No law against female homosexuality was passed.
- 28 Thomas Malthus "Essay on the Principle of Population" 1798 republished by Everyman's University Library
- 29 One of the ironies of history is that Malthus must be turned on his head. When people live in poverty they have a high rate of population growth. It is only when they become more able to control their lives that they can control the number of children they have.
- 30 Karl Marx "Capital" vol 1, Penguin Edition, Harmondsworth, Middlesex, England 1976 n766n.
- 31 Norman Haire American Journal of Sociology 1930 p544.
- 32 Francis Place "Illustrations and Proofs of the Principle of Population: including an examination of the proposed remedies of Mr. Malthus and a reply to the objections of Mr. Godwin and others". (1822)  
New Imprint of 1930 ed by Kelly Publishers(U.S.A.).
- 33 loc cit p165
- 34 loc cit n310 Place believed that sex was important for health and that women who delayed until the age of 26 were rarely free from disorders of the uterus.
- 35 loc cit n311.
- 36 Norman Haire "Robert Dale Owen and Neo Malthusianism" American Journal of Sociology 1930 n529 et seq.
- 37 Haire loc cit p546

38 Place publicised it. In 1833 he gave a copy to the Rev W F Floyd a Professor of Political Economy at Oxford. On another occasion he sent it with the comment (p328) 'I have ventured to send you a little book which relates to the subject (moral physiology) from the pen of Mr. Robert Dale Owen, the son of my old and somewhat crazy friend Robert Owen.

39. Knowlton's main suggestion as to contraception was a sponge.

40 A McLaren 'Birth Control in Nineteenth Century England' Croom Helm 1978 p100.

41. Information from the New Generation April 1929,

42 Royal Commission on Population Report HMSO June 1949 (Reprinted 1964) p36.

43 For discussion read J A Banks "Prosperity and Parenthood" Routledge 1954

44. The Times June 19th 1977.

45. Times June 22nd 1977

46. Information from Malthusian February 1914 p 19.

47. For example in 1891 H S Young was fined £20 for sending information through the post.

48. Although the clinic was not solely for this purpose but gave a wide range of services.

49. Quote from Dr. C V Drysdale October 1913 (Birth-Rate Commission Report Chapman and Hall 1917 p89.)

50. Information from the New Generation April 1933 p37.

51. Malthusian July 1881.

52. Malthusian July 1887 p51.

53. Malthusian May 1879 p28.

54. In fact in her autobiography (p128) Margaret Sanger says Vickery was the first female doctor.

55. See evidence of C V Drysdale B.R. commission report p 93.

56. Margaret Sanger Autobiography p169.

57. Information from Malthusian March 1914 p21.

58. George Drysdale 'The Elements of Social Science' p345.

59. Drysdale op cit pp270,369.

60. For eample April 1891 p29 and August 1893 p60.

61. Malthusian August 1893 p60.

62. Lancet April 19th 1902. The report drew attention to the fact that Brouardel mentioned 72 cases without a death despite the fact that 52 of his cases were illegal abortions.



- 63 Catholic Encyclopedia, Encyclopedia Press London 1913 Vol 1 p 50  
originally Published Robert Appleton Co. 1907
64. L A Parry 'Criminal Abortion' p 88.
65. J Symes writing in the Malthusian March 1885 p 588
66. Annie Besant 'Law of Population' p36.
67. B M J March 20th 1868.
68. Lancet Sept 30th 1871.
69. Article entitled 'An Appeal' The Malthusian January 1888 p4.
70. Himes The Medical History of Contraception p255.
71. Himes op cit p256.
72. Lancet October 21st 1905.
73. Frederick J Taussig "Prevention and Treatment of Abortion". London  
George Keener and Co. 1910 p 167. He was lecturer in gynecology at  
Washington University.
74. ibid.
75. Reported Malthusian February 1914 p 13.
76. There was still spasmodic opposition, however, for example Lancet  
August 11th 1917.
77. Lancet Aug 8th 1896 p 389.
78. BMJ November 19th 1898 p 1570.
79. Lancet February 5th 1916.
80. Ibid.
81. Ibid.
82. This resolution was passed on January 27th 1915.
83. BMJ Feb 1916.
84. Malthusian Jan 1884 p474.
85. Malthusian May 1888.
86. Malthusian April 1888.
87. Birth Rate Commission Report 1914 p385.
88. Malthusian July 15th 1914 p49.
89. For example the story was retold in the New Generation Aug 1922 p7.
90. Christian World 15th June 1893 Quoted in D V Glass 'Population in  
History' 1939 p 429.
91. Birth Rate Commission meeting Dec 18th 1914.
92. Francis Place op cit p 303.
93. Himes op cit 1930 p 540.
94. Karl Marx 'Capital' Penguin ed Vol 1 pages 472, 639 and 766 all make  
reference to plagiarism by Malthus.
95. Marx 'Capital' p 767n.
96. Daily News November 14th 1883.
97. Malthusian April 1914 p 29 see also article "Are Wages Affected by  
the Cost of Living" Malthusian Dec 1886 p 89.

- 98 Malthusian Jan 14th 1880.
- 99 John Rothwell "The Right to Have Children" Malthusian Dec 1884 p564
- 100 Malthusian December 1886
- 101 Malthusian April 1887 p 27
- 102 Malthusian March 1884 and Jan 1887 p3.
- 103 Malthusian December 1883 p467
- 104 Malthusian July 1879.
- 105 Article entitled 'Neo Malthusians in South London' by C V Drysdale  
Malthusian January 1914 p 42
- 106 For discussion see Malthusian April 1914 p 29.
- 107 Malthusian March 1915 p 22.
- 108 Malthusian May 1917 p39.
- 109 Malthusian June 1917 p44 article entitled "Malthusianism V Socialism".
- 110 Stella Browne letter Malthusian July 1917 p55
- 111 Malthusian June 1916 p62.
- 112 Malthusian April 1918 p30.
- 113 James C Mohr 'Abortion in America' Oxford University Press 1978.  
Cyril C Means "The Law of New York Concerning Abortion and the Status  
of the Fetus, 1664-1968: A Case of Cessation of Constitutionality." New York  
Law Forum Vol 14 no 3 Fall 1968 pp411-515. Cyril C Means "The Phoenix  
of Abortional Freedom: Is a penumbral or Ninth-Amendment Right about to  
arise from the ashes of a Fourteenth-Century Common-Law Liberty?" New  
York Law Forum Vol 17 no 2
- 114 Means 1971 p385.
- 115 Means 1971 p389
- 116 Mohr op cit p 30.
- 117 Mohr op cit p32-34.
- 118 Mohr op cit p112.
- 119 Mohr op cit p160.
- 120 Means 1971 p 386.
- 121 Horatio Storer "Why Not: A book for every woman." Boston 1866 pp36,37.
- 122 Mohr op cit p 207.
- 123 Robert Dale Owen "Moral Physiology" P24 contains the following quote "I am  
convinced that, at this moment, there is nothing approaching to an  
excess of population absolutely considered in a single country of Europe."
- 124 Thomas Pope in the "Medical and Surgical Reporter" 1888 p522.
- 125 H S Pomeroy "Ethics of Marriage" New York, Funk and Wagnalls 1888.
- 126 For discussion read Colin Francome "Youth and Society" Unpublished M.A. Thesis  
University of Kent 1976.
- 127 Winston Churchill "My Early Life" (Fontana Ed 1959 pp58-66) told that the  
Daily Telegraph opposed the purity campaign of a Mrs. Ormiston Chant. He  
also documented his own role in opposing her.

128 For a discussion of this campaign read Means (1968) p481 et seq.

129 New York Times August 31st 1872.

130 New York Times March 15th 1873. Part of his speech was quoted:

"The pride of our people in their schools may well be humble over the revelations presented by one young man in New York-whose hand with determined and commendable energy is falling heavily upon workers in this detestable business-he exhibits to us more than 15,000 letters seized from the dealers and publishers in New York alone: letters written by students throughout our land ordering obscene literature. Fathers and mothers have rested secure in the consciousness of performed duty, while unbeknown to them their children in some of our best schools were students of debasing literature, the very nature of which would be hidden by the young from the eyes of teacher and parent-a literature which kindles and inflames the brute forces born in man, and over which religion and education strive to obtain mastery."

131 Seventh Annual Report of the Society for the Suppression of Vice 1881.

132 Reported in the New York Times March 15th 1873 and in the 9th Annual Report of the Society for the Suppression of Vice.

133 New York Times March 15th 1873.

134 Fifth Annual Report of the Society for the Suppression of Vice 1879.

135 Ibid p11.

136 The change was not total and there was some early opposition to Comstock's work. In his book "Frauds Exposed" 1880 Comstock quoted a Baptist preacher attacking his laws:

"I protest against the laws and the proceedings under them of Anthony Comstock, wherein he attempts to regulate and prohibit the sale of certain things hitherto commended by prudent physicians as harmless and yet invaluable to sickly and overburdened mothers. I am aware of the fact that some of those who have favoured these prohibitions buy and use what they denounce."

137 Medical and Surgical Reporter 1888 p 759.

138 Critic and Guide Feb 1907 p 2 . A complete set of the Journal is in the New York Medical Library although the Journal changes its name slightly.

139 In the Critic and Guide 1913 p 145 Robinson wrote "I know that the

- 139(cont) dissemination of any information regarding the prevention of conception carries with it the extremely severe penalty of \$5,000 fine or five years hard labour or both, but I receive so many requests from all over the country that I have decided to run the risk of the penalty and to impart the information." However, unlike Margaret Sanger who was to follow him, Robinson was not really risking anything and he just gave a series of methods such as abstinence which could hardly be said to contravene the law.
140. It seems Comstock was using the case to put pressure on Margaret Sanger.
141. The New York Times (June 16th 1916) reported Comstock losing a curious case. He was prosecuting a dentist for selling a contraceptive and the man pleaded not guilty. The magistrate ruled that no offence had been committed and that there should be an acquittal. Comstock was furious, he attacked the decision, stated that he would report the presiding officer to the Magistrates Association and argued that he had obtained 15 previous convictions on the charge. The magistrate questioned him on the nature of the convictions and eventually overcame a great amount of prevarication from Comstock to ascertain that all the previous defendants had pleaded guilty. It seems at last people were beginning to challenge his position quite strongly.
142. New York Times June 13th 1915.
143. New York Times Sept 11th 1915 reprinted Malthusian September 1915.
144. In 1906 Robinson described his treatment for masturbation as follows:  
"Sometimes it may become necessary to produce artificially a sore on the penis by the application of a drop of nitric acid etc., so that the handling of the genitals and an erection will cause considerable pain. I have tried it a number of times on adults."  
He continued to say that the treatment was successful and that he had also used it on the clitoris of girls with similar success. (Critic and Guide p 195).
145. William Robinson "The Law Against Abortion" Eugenics Publishing Co. 1933 p 26.
146. Critic and Guide 1916 p 125.
147. Emma Goldman "Living My Life" Dover Press ed Vol 11 p552 (New York).
148. In his biography of Margaret Sanger David Kennedy (Birth Control in America! The Career of Margaret Sanger New Haven: Yale University Press 1970 p 19) argues that the information was available and that "By making control seem an innovation she personally had imported from France, she conveniently suppressed some historical facts." However, although there

- 148(cont). is no doubt that she tended to overstate her role and also that many people knew of birth control techniques, there is evidence that others were also ignorant of the methods available. Thus the Critic and Guide in 1908(p440) reported that Dr. Charles had read a paper to Portland ,Indiana Medical Society and had commented about birth control 'I could find nothing in the medical literature available.'
149. David Kennedy op cit p25.
150. David Kennedy op cit p 26.
151. Margaret Sanger Autobiography p129.(Dover Edition)
152. Margaret Sanger 'My Fight for Birth Control' Faber ed London N D p100.
153. Ibid p104 describes her visit to Holland.
154. Ibid p 98 She discussed the difference in using 'Birth Control'V'Malthus.'
- 155 Margaret Sanger of course realised the difference between the two countries so when she was due to speak to a Scottish Working Class audience on the 4th July 1920 she anticipated the opposition: Quite correctly she expected the argument that workers should have a great number of children in order to keep them discontented and hence more more revolutionary. With her usual modesty she commented:
- "I produced the unanswerable argument to this theory. 'Why do you demand higher wages then' I asked, 'When what you really want is privation? If misery is your weapon you should not insist on an eight hour day but on a twelve or fourteen hour one. You should pile up your grievances, and pile them up higher. However, in spite of your best efforts I believe your hunger-revolution will, as it has always done, capitulate to whatever force or Government that will fill your stomachs.'" (Autobiography p275).

In her speech she continued to point out that the socialists desire for the freedom of the woman was compatible with birth control and this argument seemed to appeal to the audience.

### Chapter 3

- 1 James McGovern "The American Woman's Pre World War One Freedom in Manners and Morals." J. American History September 1968.
- 2 Peter Gabriel Fine "Him Her Self" Harcourt Brace Jovanovich London/New York 1974.
- 3 V F Calverton and S D Schmalhausen "Sex in Civilisation" Macaulay New York 1929:11.
- 4 Ben Lindsey in Calverton and Schmalhausen op cit p 188.
- 5 Bertrand Russell "Marriage and Morals" Allen and Unwin London 1929.
- 6 They were published between November 1928 and January 1929.
- 7 New Leader November 27th 1928
- 8 New Leader December 7th 1928.
- 9 New Leader December 14th 1928.
- 10 New Leader December 21st 1928. Letter from Mildred Carter.
- 11 Linda Gordon "Woman's Body Woman's Right" Penguin Edition 1977 p193. Peter Gabriel Fine op cit p 150 suggests that 1900 was perhaps the dividing line after which there was a doubling in the amount of premarital intercourse.
- 12 J Borden Harriman "From Pinafores to Politics" Henry Holt and Company New York 1923.
- 13 Harriman op cit p38. However, even at that time there was some opposition to chaperonage. Pomeroy could still comment in 1888 on European chaperonage "It does not seem to me that their system of espionage and repression for girls and young unmarried women would be either desirable or possible in society constituted like ours." 'Ethics of Marriage' 1888.
- 14 Quoted in James R McGovern op cit p 318.
- 15 Vera Brittain "Testament of Youth" Gollanz 1934 p177.
- 16 Brittain op cit p 617.
- 17 Harriman op cit p18 notes that she first saw a woman without stays in

- the 1880's but they had become increasingly disposable. In 1929 William McDougall estimated that skirts had shortened 10" in previous years(Calverton and Schmalhausen op cit p90).
- 18 New Generation December 1923.
  - 19 Marie Stopes "Married Love" London Putnam Publishers 11th Ed. p 17.
  - 20 R S and H M Lynd "Middletown" 1929 Constable p 112.
  - 21 R S and H M Lynd "Middletown in Transition" 1937 Constable p 410
  - 22 That is a baby born outside marriage in order that the middle class could be better represented in the next generation.
  - 23 New Generation April 1928 p40.
  - 24 New Generation April 1929.
  - 25 New Generation December 1929 p37.
  - 26 These points were later expanded in her book"The Cost of English Morals".
  - 27 New Leader December 14th 1928.
  - 28 New Leader December 27th 1928.
  - 29 Vera Brittain op cit p 182.
  - 30 Paul S Boyer "Purity in Print" Charles Scribner's sons. New York p54.
  - 31 Boyer op cit p54.
  - 32 Samuel Schmalhausen in Calverton and Schmalhausen op cit pp 371-374.
  - 33 Ben Lindsey op cit 1925 p54.
  - 34 This was the point forcibly made by Judge Ben Lindsey.
  - 35 Havelock Ellis in Calverton and Schmalhausen op cit.
  - 36 Eliis ibid p 25.
  - 37 Birth Control News July 1922. She pointed out that, while not all the supporters of her campaign could support the Malthusians, all Malthusians could join the Campaign for Constructive Birth Control.
  - 38 New Generation May 1924 p51.
  - 39 Birth Control News reported his speech on 9th February 1926.
  - 40 Table from Janet Chance "The Cost of English Norals" Noel Douglas 1931p20.

- 41 New Generation July 1929 p77.
- 42 From the Malthusian 1921 p86 and also Critic and Guide 1923p455.
- 43 Daily Express October 16th 1921.
- 44 The report continued "The king's physician appears wearing the grimy mantle of Malthus, the greasy robes of Bradlaugh and the frowsy garments of Mrs. Besant."
- 45 New Generation(March 1934) contained an article entitled "Lord Dawson's wise speech. His foolish Bill."
- 46 John Noonan "Contraception" 1967 Mentor-Omega Edition 1967p502.
- 47 Reported New Generation 1923 p 65.
- 48 Birth Rate Commission op cit p151.
- 49 Birth Control News December 1923
- 50 Birth Control News March 1923.
- 51 New Generation October 1923 p117.
- 52 Birth Control News January 1924.
- 53 Universe July 26th 1926.
- 54 Ibid.
- 55 New Generation October 1926.
- 56 Quoted by Madeleine Simms J. of the Royal College of Medical Practitioners 1975 p716.
- 57 Birth Control News June 1923.
- 58 Quoted in Critic and Guide 1927.
- 59 New Leader December 28th 1928.
- 60 Many of these were published in a pamphlet reported in the New Generation August 1929 p90.
- 61 Noonan op cit p 604.
- 62 Malthusian November 1921p80
- 63 Noonan op cit p73.
- 64 Malthusian April 1915.
- 65 Sunday Chronicle 26th October 1919.



- 66 Birth Control Review April/May 1917 p 12.
- 67 Malthusian November 1921 p80.
- 68 Birth Control News September 1927.
- 69 Noonan op cit p604.
- 70 Birthrate Commission Report op cit p 247.
- 71 British Medical Journal 1921 p169.
- 72 A similar point was made by Lady Barret in evidence to the Birthrate Commission in 1927(p88)
- 73 Birth Control News March 1923. The case went to the House of Lords where Sutherland won.
- 74 New Generation October 1929.
- 75 New Generation May 1923
- 76 Malthusian March 1914 p21
- 77 Malthusian November 1921 p80.
- 78 David M Kennedy "Birth Control in America" Yale Uni Press 1960p160.
- 79 New Generation July 1923.
- 80 Professor J Kerr quoted in Birth Control News November 25th.
- 81 Birth Control Review March 1917 p9.
- 82 Margaret Sanger'Autobiography' op cit p 308.
- 83 Critic and Guide p265.
- 84 British Medical Journal 1921 p169.
- 85 Birth Control News June 1924.
- 86 Linda Gordon op cit p137.
- 87 Church Family Newspaper June 30th 1916.
- 88 Birth Control News April 1927.
- 89 Quoted in Malthusian August 1921 p57.
- 90 Birth Control News December 1926.

- 91 New Generation April 1935.
- 92 Catholic Times October 1922.
- 93 News Chronicle May 15th 1933.
- 94 New Generation November 1934 p123.
- 95 Quoted in Madeleine Simms op cit p 713.
- 96 Malthusian p62.
- 97 Margaret Sanger op cit p 294.
- 98 Rev. D Morse-Boycott "The Sin of Birth Control" London Philip Allen Press N D
- 99 Horation Storer and F F Heard "Criminal Abortion" 1968. Arno Press  
edition 1974 p 103.
- 100 Information from Havelock Ellis "Studies in the Psychology of Sex"  
F A Davis Co. Philadelphia 1923 Vol VI p608.
- 101 Ibid p507.
- 102 Critic and Guide 1914 p9.
- 1103 Malthusian Jan 1920 p7. It also seems it was legalised in Lausanne  
Switzerland.
- 104 New Generation September 1926 p88.
- 105 Ibid. Birkett Committee also considered the Russian experience.
- 106 New Statesman Oct 19th 1946
- 107 Lancet Dec 5th 1931.
- 108 Lancet March 19th 1932 p627
- 109 Birkett Committee Report 1939 p21.
- 110 Malthusian March 1915 p22.
- 111 British Medical Journal quoted in the Malthusian 1915 p24.
- 112 Charles Merriar "Crime and Criminals" University of London Press  
1918 p196.
- 113 Malthusian August 1920 p 60.
- 114 The quotation comes from the New Generation 1931 p134. The Malthusian  
talked of Stella Browne breaking "important ground with 'The Rights

of abortion'." (New Generation Oct 1929p110) Furthermore it noted with pleasure that she had three letters on abortion in newspapers in one week (issue March 1933)

115 Birth Control News June 1923.

116 New Generation December 1931.

117 New Generation January 1932.

118 New Generation December 1931.

119 British Medical Journal 1932 p1192.

120 New Generation August 1932 p89.

121 New Generation July 1934.

122 Margaret Sanger op cit p 359

123 Alice Jenkins "Law for the Rich" London Gollanz 1960. Riband Book edition p59.

124 Jenkins ibid p 53

125 New Generation April 1938 p41.

126 British Medical Journal April 25th 1936. Supplement p 231.

127 Quoted in the British Medical Journal July 23rd. 1938 p 199.

128 Ibid.

129 Quoted in Madeleine Simms and Keith Hindle "Abortion Law Reformed" Peter Owen London 1971 p70.

130 British Medical Journal July 23rd 1938 p202

131 British Medical Journal July 9th 1938 and July 23rd p199.

132 New Generation August 1938 p 86.

133 I am not unaware that Linda Gordon in "Woman Body Woman's Right" has interpreted some of his statements to suggest he may have carried out some abortions. She may be right but his official published opinion was as stated and so the point remains.

- 134 Critic and Guide 1925 p 136.
- 135 William J Robinson "The Law Against Abortion" Eugenics Publishing Company 1933 p 25.
- 136 New Orleans Medical and Surgical Journal 1908. Criticised in Critic and Guide p296.
- 137 Critic and Guide 1908 p 380.
- 138 Herman Dekker "The Ethical Grounds for Abortion" Critic and Guide 1920 p 336.
- 139 William Robinson in Critic and Guide 1921 p 24.
- 140 William Robinson in Critic and Guide 1929 p 428.
- 141 William Robinson "Sex, Love and Morality" Eugenics Publishing Company New York 1928.
- 142 He opened Chapter one: "What I have to say I shall say in clear , unmistakeable language. And what I shall present in this volume is neither more or less than this : A total demand for the complete and total abrogation of any law against abortion..... or at least a very radical modification". He was opposed , however, to 'ultra radicals' who 'agreed to emptying the uterus after 7 or 8 months'.
- 143 Abraham Rongy "Abortion Legal or Illegal" Vanguard Press New York 1933.
- 144 F J Taussig op cit 1936 p 426.
- 145 Margaret Sanger "Family Limitation" 1919 edition p5.
- 146 Birth Control Review May 1919.
- 147 Margaret Sanger "Woman and the New Race" New York 1920 . Maxwell Reprint Company edition 1969 pl29.
- 148 Malthusian February 1915 p 11.
- 149 Letter reprinted in Malthusian November 1915 p 86.
- 150 ibid.
- 151 James Reed "From Private Vice to Public Virtue" Basic Books New York 1978 p 118.

References to chapter four

1. Richard Titmuss pointed out that the policy of the Government was to give priority to the primary needs of the country. "Essays on the Welfare State" Unwin University Books Revised edition 1963 pp 75-87.
2. The number of women working declined to a degree after the war but by no means to the pre war level as happened after the first World War. For a discussion see Alva Myrdal and Viola Klein 'Woman's two Roles' Routledge London 1968
3. Rachael Pierce " Marriage in the Fifties" Sociological Review 1959-60.
4. See for example Rowntree and Lavers "English Life and Leisure" 1951. Rowntree was one of the anti poverty campaigners. In the book on p215 they gave three reasons why 'promiscuity' was wrong. First it was selfish and led to illegal abortion and disease, secondly it was simple animal satisfaction not spiritual and showed weakness of character and thirdly it prevented energy being used in other directions.
5. loc cit p 216
6. F. Fleischer "The New Sweden" 1957. This book discussed the fact that when Sweden introduced sex education in 1955 it was told to teach chastity.
7. David Martin "The Sociology of English Religion" Heinemann 1967.
8. John Robinson 'Honest to God' S.C.M. Press 1963 p 118.
9. E M and M Eppel "Adolescents and Morality" Routledge 1966 p 16.
10. See Colin Francome 'Youth and Society' unpublished M.A. thesis University of Kent 1976
11. George Carstairs "This Island Now" Hogarth Press 1962 p51
12. She has published her story in Alan Guttmacher 'The Case for legalised Abortion Now' Diablo Press Berkely /California 1967.
13. Keith Hindle and Madeleine Simms "Abortion Law Reformed" Peter Owen London 1975 p110.

14. This is based on a taped interview 22nd June 1979.
15. Keith Hindle and Madeleine Simms "Abortion Law Reformed"  
Peter Owen 1975 p75.
16. Hindle and Simms op cit pages 75 and 76.
17. The others were (August 1964) Basil Bonner, Martin Cole and Peter Draper.
18. She was, for example, editor of Fabian News
19. Hindle and Simms op cit p 114
20. Hindle and Simms op cit p 118.
21. Dilys Cossy was the only paid worker-part time at two pounds a week.
22. Hindle and Simms op cit p 119.
23. I was given permission to go through the private correspondence during  
this period.
24. Letter dated 23rd March 1964.
25. Leaflet entitled "Medical Termination of Pregnancy" published by the  
Abortion Law Reform Association Foreword by Douglas Houghton.
26. This information came from the private records of Diane Munday.
27. This list prepared from information in private records.
28. This Society also called for support of the Abortion Law Reform Association.
29. This resolution also called for abortion where 'the pregnant woman's  
capacity as a mother will be severely overstrained.
30. Results reported in Hindle and Simms op cit p120.
31. These reports were all written up and circulated to influential groups.
32. Hindle and Simms op cit p123.
33. ALRA also tried to use its support amongst the clergy in other ways. For  
example in published an undated pamphlet entitled 'A Clergyman's view'.
34. For example an ALRA leaflet 'A Lawyer's view' stated "The 1965 survey on  
abortion law by National Opinion Polls provides strong evidence of public  
support for a revision of the present law. 72.5% were in favour of some

reform and the majority felt that legal abortion should be permitted on grounds of preserving the mother's physical or mental health, eugenic considerations and sexual assault. Similar results were obtained by the survey of London doctors 69.5% being in favour of reform along these lines".

35 M Potts , P Diggory and J Peel "Abortion" Cambridge University

Press Ch 5. C Francome "The Chrimes Brothers" Breaking Chains Jan 1979 p8.

36 These notes were for a fairly short speech she told me "I suspect I always used the same pattern hashing it around for the audience.....one learned what arguments were effective, which ones they couldn't knock down and then linked them together according to the audience. "

37. This argument does not seem so common in Britain but Diane Munday told me "I used it solidly just to show the different role of the beliefs and get a laugh out of it too. It is quite amusing that they believed you could determine the male a forty days but you had to wait eighty for the female. Even in those days women were not considered equal."

38 Interview 22nd June 1979.

39 Requoted in "The Scotsman" December 3rd 1966

40 Quoted by John Barr in an article in New Society 9th March 1967.

41 Also quoted in New Society 9th March 1967.

42 Published in the Evening News 15th Nov 1966. It was reprinted and circulated.

43 Quoted in New Society March 9th 1967 p 344.

44 Reported in "The Scotsman" December 3rd 1966.

45 Ibid article entitled "Scottish M.P.'s waver as Catholic lobby mobilises."

46 Ibid

47 New Society 9th March 1967.

48 Peter Huntingford knew Bourne well and told me by this time he had become senile.

49 Barrington gave the anonymous quote , "On this issue one protestant is worth ten Catholics."

- 50 From B S Wignall Simpson and dated April 1967.
- 51 Hindle and Simms op cit p 100.
- 52 loc cit p 167
- 53 loc cit p 168
- 54 ibid
- 55 Sir George's statement was made on 8th March 1967 and that of Norman St John Stevas made on 22nd March. The page numbers in Hansard are 377 and 515 respectively.
- 56 Jill Knight was quoted in the Evening Mail and Dispatch (Oct 24th 1966) as follows "There is incontrovertable evidence that legalising abortion never cuts down the number of illegal abortions. The Catholic Marquess of Lothian made the same point in the House of Lords 19th July 1967..
- 57 D V Glass "Population Policies and Movements in Europe" Frank Cass Publishers London 1940 p 429.
- 58 J Chance, M Edge and M Ryan "Back Street Surgery" Abortion Law Reform Association London 1947.
- 59 C B Goodhart "On the incidence of Illegal Abortion" Population Studies volume 27 1973 p207.
- 60 Report in the British Medical Journal 2nd April 1966.
- 61 Hindle and Simms op cit p 165.
- 62 This was as part of a number of informal discussions about tactics during the period.
- 63 Hindle and Simms op cit p213.
- 64 ibid.



References Chapter five

- 1 A possible exception is China . Also Scotland has no upper time limit although it does not allow abortion on request.
- 2 James Coleman "Transition to Adulthood" 1973 p 46.
- 3 For a fuller discussion see Colin Francome "Youth and Society" unpublished M.A. thesis University of Kent, Canterbury 1976.
- 4 This is linked in part to the availability of grants. In recent years some British Medical Schools have a fifty per cent intake of females.
- 5 Betty Friedan "The Feminine Mystique" W.W. Norton, New York 1963  
Penquin edition 1965.
- 6 In a study of Long Island Students I found there were different attitudes towards male and female sexuality (Newsday 13th July 1978). For a discussion of its impact on the abortion rates see Colin Francome Social Work January 1980.
- 7 For discussion see Colin Francome op cit 1976.
- 8 "Plan your Children for Health and Happiness". It is unceasingly used by the opposition to show Planned Parenthood's change in stance.
- 9 Lawrence Lader "Abortion" Beacon Press edition 1967 p 2
- 10 Loc cit p145.
- 11 David Walbert and J Douglas Butler Editors "Abortion Society and the Law" Case University Press 1973 .Article by Alan Guttmacher pp 68,69.
- 12 Lawrence Lader op cit p146.
- 13 loc cit p 147
- 14 loc cit p 148
- 15 Alan Guttmacher:Therapeutic Abortion:One physicians viewpoint- Quarterly view of Surgery and Gynecology 1959 p 237.

- 16 Alan Guttmacher "The Case for Legalised Abortion Now" Diablo Press  
Berkeley California 1967 p 12.
- 17 Journal of the American Medical Association August 14th 1967 vol 201 no7.
- 18 Lawrence Lader "Abortion 11" Beacon Press Boston 1974.  
I interviewed Dr. Grant Harrison, a Catholic doctor, who served on  
the Committee (Spring 1978) He felt the anti abortionists had been  
manipulated.
- 19 Lader 1974 p 88.
- 20 Arlene Carmen and Howard Moody "Abortion Counselling and Social Change"  
Judson Press 1973 p102.
- 21 Alan Guttmacher in Walbert and Butler op cit 1973.
- 22 Lader 1974 p110.
- 23 Ann Cartwright "Parents and Family Planning" 1970 p 72.
- 24 Ann Cartwright found that in 1970 69% doctors said they would recommend  
abortion when requested by a married woman with six children and 34%  
said they supported abortion on request.
- 25 Lader op cit 1974.
- 26 John P Bunker "Surgical Manpower" New England Journal of  
Medicine Vol 282 no. 3 1970 pp135-144.
- 27 In the United States illegal abortions were performed by doctors to  
to a much greater extent.
- 28 Interview at the NARAL conference Washington 1978.
- 29 Lader op cit 1967 p 169.
- 30 Lucinda Cisler "Abortion Law Repeal(sort of)". 1970. Published by New  
Yorkers for Abortion Law Repeal.
- 31 Lader op cit 197 p125.
- 32 Paul Lauter and Florence Howe "The Conspiracy of the Young" World Publishing  
Company Baltimore 1970 Chapter 2 p27 et seq.

- 33 New York Times Dec 4th 1966 p81:3.
- 34 New York Times September 8th 1967 p67.
- 35 I met Maginnis at the 1978 NARAL conference. She was still actively involved.
- 36 Carmen and Moody op cit p 21.
- 37 Carmen and Moody op cit p 25.
- 38 Carmen and Moody op cit p 21.
- 39 Howard Moody "Man's vengeance on Women " Renewal Magazine 1967 p7.
- 40 This story was widely reported and reproduced in the Boston Globe August 1974 p3.
- 41 Lader op cit 197 p 51.
- 42 Evidence of this is given in Chapter 7.
- 43 Lader op cit p 64.
- 44 Dr. and Mrs. Willke "Handbook on Abortion Hiltz Publising Co. Cincinnati Ohio. First published 1971.
- 45 One of these pictures supposedly shows a baby born at twenty weeks.
- 46 Anonymous Manuscript Huntsville Alabama 15th November 1972.
- 47 Robert F Drinan "The inviobility of the Right to be Born" Published in "Abortion and the Law" Western Reserve University Press Cleveland 1967 edition pp 122,123.
- 48 For discussion see "The Terrible Choice" Forword by Pearl S Buck Bantam 1968 p 57.
- 49 P G Steinhoff and M Diamond "Abortion Politics" Hawaii University Press 1977 pp 14,15.
- 50 loc cit p 13.
- 51 loc cit p 32.
- 52 loc cit p 26
- 53 loc cit p 43
- 54 loc cit p 46.
- 55 loc cit p61.
- 56 loc cit p 38.
- 57 loc cit pp 94-117

- 58 loc cit p 114.
- 59 loc cit p 172.
- 60 New York Times Dec 14 1964 p48:5.
- 61 New York Times January 31st 1965 p73:6.
- 62 New York Times Dec. 22nd 1966.
- 63 New York Times(March 8th 1967 p1:1) reported the Committee voted against it by 15-3.
- 64 New York Times January 10th 1968 p 10.
- 65 New York Times January 10th 1968.
- 66 New York Times April 4th 1968.
- 67 Lader op cit 1974 p 123.
- 68 New York Times January 26th 1970.
- 69 Lader op cit 1974 p 125.
- 70 New York Times February 27th 1970 p24.
- 71 Lader op cit 1974 p 128.
- 72 New York Times March 8th 1970 p38.
73. ibid
- 74 Carmen and Moody op cit pp38,39.
- 75 New York Times Jan 26 1970 p19:1.
- 76 New York Times Feb 1970 p51.
- 77 New York Times March 11th 1970 p1.
- 78 New York Times March 19th 1970.
- 79 New York Times March 19th 1970.
- 80 Lader op cit 1974 p128.
81. New York Times March 22 1970.
- 82 New York Times April 10th 1970.
- 83 New York Times April 11th 1970.
- 84 New York Times August 25th 1972.

- 85 New York Times March 14th 1971 p58:3
- 86 New York Times May 4th 1971 p38:8
- 87 New York Times Oct 7th 1970.
- 88 This was based on a personal interview at 1968 NAHAL conference.
- 89 Walter Barnett "Sexual Freedom and the Constitution" University of New Mexico Press 1973 p 52.
- 90 ibid
- 91 Lader op cit 1974 inside cover.
- 92 Cyril Means Jnr. 'The Law of New York Concerning Abortion and the Status of the Fetus 1664-1968' New York Law Forum 1968.
- 93 loc cit p512.
- 94 loc cit p 514.
- 95 John T Noonan Jnr. "The Morality of Abortion" Harvard University Press final Chapter.
- 96 Means on cit 1968 p 359.
- 97 Means op cit 1968 p 353.
- 98 Means op cit 1968 p 396.
- 99 Opinion reprinted in H J Osofsky and J D Osofsky "The Abortion Experience" Harper and Row 1973 p580.
- 100 loc cit p 580.
- 101 New York Times January 26th 1973.

References Chapter 6

- 1 E. M. Schur "Crimes Without Victims" Prentice Hall 1965.
- 2 Colin Francome "More Teenage Sex" Breaking Chains No 11 January 1979 p7.
- 3 The Evening Standard (May 11 1970 p17) reported a survey showing that the middle class were much more likely to agree with premarital sex.
- 4 Published in the British Medical Journal May 10th 1975.
- 5 Diane Munday quoted in a taped interview June 22nd 1979.
- 6 This was requoted in "New Humanist" May 1972 p16.
- 7 First Report of the Select Committee on Abortion Vol2 page 19.  
Her Majesties Stationary Office H C 573-11.
- 8 Prof J J Scarisbrick "What's Wrong with Abortion?" Leamington Spa Warwks., Published by LIFE 1971 p 22.
- 9 Anonymous Pamphlet "Fifteen Errors of the Abortionist" Published by Life. no date.
- 10 JJ Scarisbrick letter in "The Universe" 10th Dec 1976.
- 11 Life News Autumn 1978.
- 12 ibid
- 13 Interview date 4th July 1979.
- 14 Information from The Guardian 13th July 1979.
- 15 Taped interview 14th May 1979.
- 16 ibid.
- 17 John Corrie stated he had been under pressure from some Catholic groups not to introduce a reform Bill "What they want is repeal and they said I'd spoil their chances if I nipped in with an amendment" Scottish Daily Record 10th July 1979.
- 18 Anonymous Document "What you want to know about SPUC" published by SPUC N.D.
- 19 For example "SPUC has become known throughout the world as being the leading information body on abortion and related subjects(e.g. population problems, social problems, possible ill effects of the operation on women).

- 20 Hindle and Simms op cit p 221.
- 21 Sir Keith Joseph statement 23rd Feb 1971.
- 22 Report of the Committee on the working of the Abortion Act Vol 1 p184  
HMSO Cmnd 5579 (1974)
- 23 loc cit p185
- 24 C B Goodhart "The Lane Committee on the working of the Abortion Act:  
Comments by the Society for the Protection of Unborn Children" London  
June 1974.
- 25 Susan Kentish and Michael Litchfield "Babies for Burning"  
Serpentine Press 1974
- 26 Oliver Gillie, Marjorie Wallace, Patricia Ashdown-Sharp and Laurie  
Zimmerman "Abortion Horror Tales Revealed as Fantasies" The Sunday  
Times March 30th 1975 p1&2.
- 27 Report Guardian 19th January 1978
- 28 Leo Abse in Hansard 9th February 1976 column 117
- 29 Gillie et al op cit p1.
- 30 I first read the book when given it by a Mr. Shackleton, an anti sex  
campaigner who at the time was trying to set up a home in London where  
homosexuals could learn to become hetero.
- 31 Gillie et al op cit p1&2.
- 32 Ibid.
- 33 Ibid.
- 34 Reported in Hansard 9th Feb 1976 Col 117.
- 35 Hansard 9th February 1976 col 116. There was an interesting interplay  
between Abse and Steel. Abse had written in the Spectator "It would have  
been wise and more effective if the authors had simply left the tapes  
to speak for themselves". To which Steel replied "I agree but there would  
not have been a book because the outrageous tapes did not exist."
- 36 Jill Knight in Hansard 9th Feb 1976 col 109.

- 37 The most detailed analysis of the facts surrounding the case is contained in "A Book for Banishing" Special Supplement to the Newsletter of British Pregnancy Advisory Service Feb 1978. It is introduced and compiled by Diane Munday.
- 38 Letter published in the Daily Express by Diane Munday 2nd Feb 1978.
- 39 Even after the High Court decision a French edition of the book was published.
- 40 Hansard Feb 7th 1975 col 1757.
- 41 Hansard Feb 7th 1975 col 1758.
- 42 Hansard Feb 7th 1975 col 1760.
- 43 Hansard Feb 7th 1975 col 1781.
- 44 Minutes of Meeting March 1st 1975.
- 45 From documents from the meeting.
- 46 It was only when the law was seriously threatened that people were willing in large numbers to spend time fighting on the issue.
- 47 There were other divisions in the movement. The National Abortion Campaign voted to make abortion legal on demand throughout pregnancy although they did not have the support of the other major organisations on this.
- 48 First Report from the Select Committee on Abortion: Vol 11 Minutes of Evidence and Appendices HMSO H C 573 11.
- 49 "First Report from the Select Committee on Abortion: Counter Report From the Abortion Law Reform Association" prepared by Colin Francome February 1977.
- 50 James White quoted in "First Report...." Vol 11 p 23.
- 51 Prof. Scarisbrick in "First Report...." Vol 11 pp 16 and 17.
- 52 Rev John Stevenson in "First Report...." Vol 11 p 160.
- 53 Margaret White in "First Report...." Vol 11 p 51.
- 54 A long term study of the effects of abortion is at present being conducted by the Royal College



- 55 Leo Abse in the "First Report....." Vol 11 p156.
- 56 First Report from the Select Committee on Abortion." Vol 1  
Report HMSO 573 1 .
- 57 "First Report....." Vol 1 p 5.
- 58 Sir Bernard Braine quoted in Hansard 7th February 1975 col 1857.
- 59 Figures provided by the Metropolitan Police.
- 60 Paul Cavadino "Illegal Abortion and the Abortion Act, 1967"  
British Journal of Crim. January 1976 vol 16 no 1
- 61 Cavadino loc-cit p 63.
- 62 Ibid.
- 63 Colin Francome "How Many Illegal Abortions" British Journal of  
Criminology October 1976. Vol 16 no 3
- 64 loc cit p391..
- 65 Questions dated 16th Feb and 28th March 1977.
- 66 Letter from the Minister to Dr George Morris and Dame Josephine Barnes  
of Doctors in Defence of the 67 Act (June 10th 1977).
- 67 I published the new figures in the British Journal of Criminology Oct 1977.
- 68 Colin Francome "Estimating the Number of Illegal Abortions" J Biosocial  
Science October 1977
- 69 Diane Munday in letter dated 26th April 1977 .
- 70 T G A Bowles and M N M Bell "Abortion- A Clarification." New Law Journal  
September 27 1979, Vol 129 p 944 et seq.
- 71 Not all anti abortionists argue that illegal abortions have increased.  
C B Goodhart wrote to me(20th April 1978) "It would surprising if there  
hadn't been some substantial decrease."
- 72 Liverpool Weekly News 25th May 79.

- 73 The latest letter arguing the case that illegal abortions are rising as of today (21st March 1980) is published by John Hutchinson in the Greenock Telegraph 3rd March 1980.
- 74 For a discussion of the Benyon Bill see Breaking Chains nos. 1&2 May and July 1977. For the Braine Bill see Breaking Chains nos. 6 and 7 March and May 1978.
- 75 Paul Cavadino quoted in Colin Francome Political Quarterly April 1978
- 76 Jo Richardson told me she believed in fighting all along the line.
- 77 For discussion see Sharon Spiers "Braine Death" Breaking Chains no 7 May 1978 p 7.
- 78 quoted in article by Rosemary Long "The Man who Plans to Change Law on Abortion" Glasgow Evening News 12th June 1979.
- 79 According to Phyllis Bowman these stories were in part due to Bill Spring a long term anti abortionist,
- 80 people like Keith Eastham a new Labour M.P. took this line.
- 81 Anonymous Article Breaking Chains Sept/Oct 1979 no 14 p 8.
- 82 At the Second Reading Catholic M.P.'s supported the Bill 30-0.
- 83 Colin Francome "Abortion: Why the Issue Has not Disappeared" Political Quarterly April 1978 p220.
- 84 Some ten M.P.s meant to vote against the Bill but did not do so. Willie Hamilton a major opponent of the Bill was one of these.
- 85 The 'deviant' was Leslie Spriggs.
- 86 Colin Francome "Abortion and Opinion" New Society 22nd March 1979 p678.
- 87 It was this argument that some feel helped to lose Sir Keith Joseph the leadership of the Conservative Party.
- 88 Bernard Braine stated at the Second Reading of Corrie "Abortion too easily obtained can lead, as it does, to marital unhappiness later in life.

- 89 Jo Richardson signed the letter for Labour members. Sharon Spiers of Tories for a Free Choice arranged the letter for the Conservative members.
- 90 Report by Melanie Phillips in Guardian 11th July 1979.
- 91 Corrie quoted in the Guardian 13th July 1979.
- 92 BPAS Newsletter Dec 1979.
- 93 Hansard 21st November 1979 Col 281.
- 94 Hansard 21st Nov 1979 Col 271.
- 95 Differences in method of calculation of pregnancy leads to Britain being two weeks higher than the United States in number of weeks gestation.
- 96 On the morning that the charities were to be considered by the Committee I sat next to Elspeth Rhys-Williams and she had about 12 copies of Private Eye which she was giving to supporters of the Bill. The article "Medical News" (7th Dec 1979 p3) was very critical of B.P.A.S. and was read into the record by Jill Knight. Once again it showed the ability of the anti abortionists to get material published at crucial times. It was a highly inaccurate report with at least eight factual errors in less than a 1000 words.
- 97 Although mass demonstrations had been organised a lobby of this size was completely new for supporters of abortion rights. The mobilisation of the Women's movement through the Campaign Against Corrie was crucial in showing the extent of the grass roots opposition.
- 98 Sheila Hogben had been a personal friend for a number of years.
- 99 I initially tried "19" but they had recently carried out their own survey.
- 100 Gill Cox consulted Rob Wybrow at Gallup.
- 101 Observer Editorial February 3rd 1980.
- 102 Peter Kellner "New Poll Shows Most Want Abortion Law Left Alone" The Sunday Times pages 3 and 37. February 3rd 1980.
- 103 The wording was the same as the question on p 23.
- 104 Daily Mail February 7th 1979

105 The anti abortion polls in Gallup were conducted by Gordon Heald. On this issue he seemed to take a different position from the rest of the organisation.

106 I had been in dispute with Gordon Heald of Gallup for a number of years. In July 1978(Breaking Chains no 8) I had published an article "Gallup Poll Bias" in which I criticised his study of gynaecologists. I noted that, despite the fact that twenty eight questions had been asked, the gynaecologists had not been asked whether they supported the Act overall. I further commented "It would have been reasonable to ask them this directly. It seems to me more likely that the question was left out because it was obvious from Gallup's earlier survey that it would not serve the political purposes of the survey's sponsors."

I first learned of the Gallup survey at the House of Commons when Jo Chambers the Co-Ordinator of CO-Ord came up to myself and Willie Hamilton . She said 'How can the anti's get this result when the polls are on our side.' I told her it must be another poll conducted by Gordon Heald and my suspicions were confirmed. I couldn't help feeling how naive were the writers of books into sample surveys when they said the aim was to avoid 'leading questions'. It was quite clear that the anti abortionists wanted a poll to support their case and they managed to get it.

A fourth poll published in February was that by Marplan for the Sun and it was the only one of the four which was not (as far as I know) sponsored in some way by a pressure group. It asked:

"Last Friday Parliament debated the new Abortion Bill that would make it more difficult for women to get abortions. Do you think the Bill

	All adults	18-34yrs	35-64yrs.	65+yrs
Should not be passed	68%	72%	68%	56%
Should be passed	32%	28%	32%	44%

This result came a little late in the day to be used in the campaign. However, it confirmed the general opposition to the Bill and by a majority of two to one.

- 107 Colin Francome "Public Opinion on Abortion: Three polls published in February 1980." Published by the Abortion Law Reform Association February 13th 1980. Sixty copies of this were delivered to Willie Hamilton and Jo Richardson in preparation for the next debate.
- 108 Report by Annabel Ferriman "Abortion Bill's full implications are not realised, MP says." The Times Jan 29 1980 p 4. At the time 151 M P's had signed the motion.
- 109 Report by Annabel Ferriman "Leading Doctors say Bill will mean more septic abortions". The Times Feb 1st 1980.
- 110 Quoted in report by Annabel Ferriman "Women Clash with Police at Commons" The Times February 9th 1980 p2.
- 111 The anti-abortionists wanted this included ostensibly on the grounds that if a baby survived at less than 24 weeks the limit could easily be changed by a single vote in the Commons and the Lords. Opponents of such wording were concerned that the limit could easily be dropped to zero and all abortions banned.
- 112 This no doubt pleased the feminists on the T.U.C. March against the Bill who were chanting "Corrie Withdraw like your Father Should have done."
- At the celebration party for the defeat of the Bill (March 18th 1980) Ian Mikado, one of the M.P.'S most effective in opposition to the proposed measure read a poem with debts to William Shakespeare:
- "Friend, Comrades, briefingmen, lend me your ears  
I come to bury Corrie not to praise him,  
The good things that men do live after them,  
The bad is often interred with the closure;

So let it be with Corrie. The noble Willie  
Hath told you Corrie was presumptuous;  
If it were so it was a grievous fault,  
And grievously hath Corrie answered it.  
Here, under leave of Willie and the rest,-  
For Willie is an honorable man;  
So are they all, all honorable men,-  
Come I to speak in Corrie's funeral.  
He was a chump, prodded by tougher wills,  
But Willie says he was presumptuous;  
And Willie is an honorable man.  
He hath re-written clauses in the Bill,  
And thereby did confuse his sponsors all;  
Did this in Corrie seem presumptuous?  
When SPUC and Life hath cried Corrie hath wept;  
Promoters should be made of sterner stuff:  
Yet Willie says he was presumptuous.  
You all did see that in the Committee Stage  
I thrice presented him a let-off of the hook,  
Which he did thrice refuse; was this presumptuous.  
Yet Willie says he was presumptuous;  
And Willie is an honorable man;  
So are ye all, all honorable men (and women)  
Whose daggers have stabbed Corrie.

References Chapter seven

- 1 A number of commentators have suggested it was Ed Koch's support for the death penalty that enabled him to become mayor of New York City.
- 2 W Barnett "Sexual Freedom and the Constitution" University of New Mexico Press 1973.
- 3 Reported "Newsday" 17th July 1978.
- 4 See "Public Opinion Polls on Abortion Issues 1976-77." Published by NARAL January 1978.
- 5 On May 9th 1978 Newsday reported that the Presbyterians considered the ordination of homosexuals.
- 6 Article in Long Island Catholic April 20th 1978.
- 7 Andrew Greeley writing in Long Island Catholic April 20th 1978.
- 8 C F Westoff and E F Jones "The Secularisation of U.S. Catholic Birth Control Practices" Family Planning Perspectives Vol 9 no 5 Sept/Oct 1977.
- 9 Ibid. The study showed those Catholics who had been married from 5-9 years and received communion at least once a month only followed Church teaching on birth control in 4% of cases.
- 10 Long Island Catholic April 20th 1978.
- 11 Sandra Stencel in "Abortion Politics" Congressional Quarterly (October 22nd 1976) reported that in recent elections where the Catholic vote fell below 60% the democrat lost.
- 12 Fr. A. Greeley "Church Attendance Down" Long Island Catholic Jan 26 1978 p6.
- 13 New York Evening News March 3rd 1978.
- 14 Colin Francome "Catholics-Sex, Contraception and Abortion" Breaking Chains no 10
- 15 Of 194 students who had been to church in the previous week 46% agreed with the statement and a further 13% did not know.
- 16 National Catholic Register 11th June 1978.
- 17 Boston Herald Traveller (April 8th 1972) reported that five Protestant Churchmen criticised the Medeiros statement. They said that the message in which supporters of birth control were "characterised as

17(cont) advocates of death was an affront to Christians who disagree with his position."

18 Pittsburgh Catholic March 5th 1978.

19 W R MacKaye in Minneapolis Star Nov 22 1975.

20 Reported in Minneapolis Tribune March 8th 1974.

21 U.S. News and World Report Dec 19 1977 p61.

22 However, the book used by the student referred to above("His Servants Speak" R Clayton Brough, Hanzen Publishers undated) stated about birth control:

"We seriously regret that there should exist a sentiment of feeling among any members of the Church to curtail the birth of their children.

We have been commended to multiply and replenish the earth that we may have joy and rejoicing in our posterity.

Where husband and wife enjoy health and vigor and are free from impurities that would be entailed upon their posterity, it is contrary to the teachings of the church artificially to curtail or prevent the birth of children."

23 Boston Globe January 22 1974.

24 The Catholic News February 9th 1978

25 Statement from L White in National Catholic Reporter May 30th 1975.

26 Sandra Stencel in "Abortion Politics" op cit.

27 Mary Eisner Eccles "Abortion: How Members Voted in 1977"  
Congressional Quarterly February 4th 1978 p 260.

28 Colin Francome "Abortion Why the Issue has not Disappeared" Political Quarterly April 1978.

29 NARAL Newsletter March 1979 Vol 2 no 2 p6.

30 This was quoted in the preceding newsletter p 5.



- 31 Arlene Doyle "Do you need Permission to Save an Unborn Baby" Published  
by Committee to Defend Pro Life Groups, Commack New York June 1977 pl.
- 32 Right to Life News Vol 1 no 1.
- 33 March for Life Program/Journal January 1978 p 18.
- 34 Patrick Coffey "When is Killing the Unborn a Homocidal Action?"  
Linacre Quarterly May 1976 p 93.
- 35 Interview 14th August 1978.
- 36 Michael Schwartz "Political Realism and Human Life Amendment" The  
National Catholic Register May 7th 1978 pages one and ten.
- 37 Michael Schwartz in the National Catholic Register April 16 1978
- 38 A similar argument was put forward by Joseph Breig (The Catholic News  
August 30th 1979 p4). He said creation does not begin when a person  
emerges from the womb but from the moment of conception. He continued  
to state that the Chinese were right when in their 'ancient wisdom' in  
they dated age not from birth but from a year before birth.
- 39 National Catholic Register April 30th 1978.
- 40 March for Life Program/Journal January 1978 p46.
- 41 E E Schattschneider "The Semi Sovereign People" Holt, Rinehard and  
Winston, New York 1960.
- 42 Triumph Magazine July 1973.
- 43 Fr. Marx was very important in the early days of the movement and  
in the first issue of the Journal he had a full page article.  
"The Mercy Killers?" National Right to Life News Vol 1 no1 November  
1973 p 10.
- 44 From Elinor Israel of the Greater Akron Right to Life published  
August 27 1978.
- 45 However, certain minor groups fight for the abolition of contraception.  
Fr. Marx's Human Life Centre is of course one.

- 46 Anonymous article "Catholics Should'nt Hide Their Leadership In Pro-Life" "Wanderer" May 25 1978 p3.
- 47 Doyle on cit p 16 set out the value of Mildred Jefferson to the movement "As a black woman Protestant pro-life surgeon, she destroys the myth that the media has created about Right to Life people. As a result she can reach out to much of the liberal community in a way that "Catholic conservative" pro-lifers cannot."
- 48 Janet Grant "In Defense of 'One Issue' Groups." National Right to Life News Vol 1 nol November 1973 p 8.
- 49 Doyle on cit especially pages pp 2-21.
- 50 Doyle on cit p 13.
- 51 Doyle on cit p 17.
- 52 Lawrence Lader "Abortion Opponents Tactics" New York Times Jan 11 1978.
- 53 Reported Newsday May 9th 1978.
- 54 March for Life Program/Journal 1978
- 55 Oneida County is Upstate New York.
- 56 Wanderer September 7th 1978.
- 57 Long Island Catholic May 18th 1978.
- 58 Bill Baird was possibly the most assiduous in pressing this view.
- 59 He was expelled from the order for baptising a baby whose mother was on record as supporting Bill Baird.
- 60 Their advisers include John Rock one of the first Catholics to openly support birth control.
- 61 Anonymous document "Answers:Contraception and Abortion" written 'by the Catholic laity for the Catho'ic Laity'. 1976.
- 62 Long Island Catholic Match 9th 1978.
- 63 loc cit n4.
- 64 Between July 23-30 1977 Harris Poll asked a random sample of 1,515 adults "Do you favour or oppose a ban on the use of federal Medicaid

64(Cont) funds for abortions for poor women who couldn't otherwise pay for them?"

	<u>Favour</u>	<u>Oppose</u>	<u>Not sure</u>
Conservative	53%	40%	7%
Middle of the Road	48%	43%	9%
Liberal	36%	54%	10%

65 G B Hathorn , H R Penniman and H Zink "Government and Politics in the United States" New York D Van Nostrand Co 1963p143.

66 For an anti abortion view of this see William A Nolen "The Baby in the Bottle" New York Coward, McCann & Georghegan Inc 1978.

67 This was in the Pittsburgh Catholic July 7th 1978 and also Catholic News 6th July 1978.

68 It was requoted for example in Paul Marx "The Death Peddlers" St Johns University Press 1971 p 15. and in the Brief to the Supreme Court of Women for the Unborn (Records and Briefs Vol 410 pages 113-178 parts 1-3 part 2 p9).

69 Village Voice November 28 1977.

70 They arrived anonymously but I assume there was some common source. Report NARAL Newsletter June 1978 vol 10 no 4 p 1.

71 New York Times Feb 18th 1973 section 1V p 10:1.

72 Right to Life News February 1978 p2.

73 Washington Star October 19 1977.

74 Edwardsville Illinois Intelligencer 20th January 1978.

75 New York Times July 21st 1976.

76 New York Times July 3rd 1976.

- 77 Twin Circle June 25th 1978.
- 78 Report New York Times June 21st 1977.
- 79 This was despite pressure from several politicians including President Carter.
- 80 The Court for example refused to hear a challenge to a 1973 Statute that permitted federally aided hospitals to decline to permit abortions and sterilisations on religious grounds (New York Times March 2nd 1976).
- 81 Editorial National Right to Life News November 1973 p8.
- 82 U.S. Commission on Civil Rights 'Constitutional Aspects of the Right to Limit Childbearing' April 1975 p 31.
- 83 National Right to Life News Vol 1 no1 November 1973 p 8.
- 84 Congressional Quarterly 1975 p 594
- 85 Edward Kennedy led the critics of this amendment to the surprise of the supporters of legal abortion. When pressed he said he was personally opposed but that the amendment was probably illegal because a number of courts had held that the Federal Government must pay for abortions.
- 86 Congressional Quarterly February 1978.
- 87 Catholics for a Free Choice Newsletter February 1979 p 11.
- 88 New York Times January 6th 1978 p A 18: 5.
- 89 NARAL Newsletter Vol 10.1. p3.
- 90 Congressional Quarterly February 4th 1978 p260.
- 91 loc cit p261.
- 92 Wanderer September 7th 1978.
- 93 New York Times 20th June 1978 p A 1.
- 94 National Catholic Register June 25th 1978.
- 95 The Newsletter of the Religious Coalition for Abortion Rights (Fall 1977) complained that Carter had refused to meet with Protestant and Jewish leaders on abortion. Their request for a meeting (Feb 1977) was denied by a pre printed postcard signed by a low level White House Aide.

- 96 This statement was made at a press conference July 12 1977 and quoted for example in Saturday Review 17th September 1977 p64.
- 97 From NAPAI, Newsletter May 1978 p2
- 98 Information from National Catholic Reporter March 10th and 17th 1978.
- 99 The Catholic News July 13 1978.
- 100 The vote for the ordinance was 7-6. Six of the seven for the ordinance were Catholic. One Catholic voted against the ordinance as it was unconstitutional.
- 101 There was some confusion as to which side 'won' at the Federal level.
- 102 Quoted by Lisa C Wohl 'Ms' Magazine February 1978.
- 103 Ibid . There are also some other objections. In "The Human Life Review" Vol 111 No 1 1977 George Carey argued against an amendment on the grounds it would legitimise the right of the Court to make such decisions. Instead he argued a course of action should be followed which should lead to Congress impeaching the supreme Court and to the removal of Pro Choice Judges.
- 104 New York Times August 29 1977 p20.
- 105 Anonymous document published by NARAL entitled "A Constitutional Convention". No date.
- 106 National Catholic Register May 7th 1978.
- 107 The Wanderer commented (Sep 7 1978) "Dr. Gerster's offer has been strongly criticised by many in pro life, who believe that the monies they contribute NRTL should be used for the protection of the unborn and no other purpose.
- 108 This was the centre where I carried out a study of 1,300 abortion patients and their partners. Bill Baird wrote to NRTL to claim the reward for the capture for his staff. They refused him, however.

## References Chapter Eight

1. There were allegations a few years ago that the Royal Society for the Prevention of Cruelty to animals was dominated by people sympathetic to foxhunting.
2. F.H. Carr "What is History?" First Published 1961 Pelican edition 1965 London p45.
3. Alan Guttmacher, for example, took the view that doctors should accept the law so that its negative effects could be realised.
4. Lawrence Lader was strongly criticised for agreeing to a 24 week upper time limit and in 1978 he told me he was still having problems for his decision eight years earlier.
5. Colin Francome "Abortion: Why the issue has not Disappeared" Political Quarterly April 1978.
6. David Downes "Abolition: Possibilities and Pitfalls" Forthcoming in A E Bottoms "The coming Crisis in British Penology" Scottish Academic Press.
7. *ibid*
8. Thomas Mathiesen "The Politics of Abolition: Essays in Political Action Theory", Scandinavian Studies in Criminology 1974 Volume 4 London Martin Robinson.
9. For a strong attack on the anti abortionists use of this argument read Bill Baird and Colin Francome "Is Anti Abortion Pro Life?" Published by the Abortion Law Reform Association 1980.
10. Quoted in Carr *op cit* p101.
11. See report of the section on obstetrics at the annual meeting of the British Medical Association (B.M.J. August 1926).
12. See for example a report by Binnie Dunlop in the New Generation January 1936.
13. It is only the first few names -possibly six- who have a realistic chance of reaching the statute book.

14. Reported in A T Mason and W M Bean "American Constitutional Law"  
5th edition Prentice Hall 1972 p X111.
15. Page Smith "The Constitution" William Morrow and Co.  
New York 1978 p 12.
16. For discussion read Carl Bernstein and Bob Woodward "All the President's  
Men." Quartet Books London 1974.
17. Graham Kalton and Claus Moser "Survey Methods in Social Investigation"  
Basic Books New York 2nd Edition pp323-325.
18. E E Schattschneider "The Semisovereign People" Holt, Rinehart and  
Winston New York 1960 p68.
19. Orrin E Klapp "Collective Search for Identity" New York, Holt Rinehart  
and Winston 1969 p274.
20. For discussion of Mary Whitehouse see Roy Wallis "Moral Indignation  
and the Media: An Analysis of the NVALA" Sociology Vol 10 no 2 May  
1976 pp 271-295.
21. Some of the activists are very concerned that 'history' will remember their  
role.
22. For a discussion of the attitude of the British Socialist Workers Party  
to this see Colin Francome "Youth and Society" Unpublished M.A. Thesis  
University of Kent 1976 chapter 6.
23. Eillen Fairwather "Abortion: The Feelings Behind the Slogans." Spare Rib  
No. 87 October 1979 p27.
- 24 This was substantially defeated but the 'nine month' issue has proved  
something of an embarrassment to N.A.C. and appears to have been one of  
the reasons for the setting up of C.A.C. (Campaign Against Corrie).
- 25 Charles E Rice "Ellen McCormack Should Reconsider Her Opposition to  
Ronald Reagan" The Wanderer March 27th 1980 p 4.
- 26 For an excellent analysis of Pressure Group tactics read 'Joyce Gelb and  
Marian Lief Palley "Women and Interest Group Politics: A Comparative  
Analysis of Federal Decision-Making." The Journal of Politics Vol 41 1979  
pages 362-392.

- 27 Victoria Greenwood and Jock Young "Abortion in Demand" Pluto Press 1976.
- 28 Colin Francome "bortion: Why the issue has not disappeared." Political Quarterly April 1978 .
- 29 Professor Huntingford wrote the introduction to their book.
- 30 Charles Rice op cit 1980.



## Appendix

# Abortion policy in Britain and the United States

Colin Francome

---

---

*This article compares the number of legal abortions performed in the United States and Britain. It reveals that the rate of abortion in the United States is more than twice that of Britain. The author analyzes the reasons for the different rates.*

---

---

*Colin Francome, MA, is Senior Lecturer, Middlesex Polytechnic, The Burroughs, London, England. This research was supported by funding from the Talor Foundation and the Social Science Research Council.*

THE BRITISH ABORTION ACT OF 1967 became effective on April 27, 1968, about five years before the United States Supreme Court held that most of the restrictions on the right to an abortion were unconstitutional. Britain's 1967 legislation does not actually stipulate that abortion is available at the request of the woman. However, it allows an abortion when continuation of a pregnancy represents a greater risk to a woman's health than an abortion. Thus, abortions are legal up to the time of fetal viability.

This article presents comparative statistics on abortion in Britain and the United States. In addition, it describes policies concerning abortion and analyzes the reasons for different rates of abortion in each country.

## BRITISH EXPERIENCE

Before the enactment of the British law, the author estimated that approximately 100,000 illegal abortions were performed a year.<sup>1</sup> He expected, however, that this number would decrease as the number of legal abortions increased. This expectation was confirmed not only by data indicating the increase in the number of legal abortions but also by those revealing the decrease in the number of maternal deaths from illegal abortions. The number of maternal deaths was forty-seven in 1966, eight in 1973, and five in 1974.<sup>2</sup> And the number of legal abortions reached a peak of 110,600 in 1973. (See Table 1.)

Three major groups provide abortion services in Britain: National Health Service (NHS) hospitals, physicians in the private sector, and two major charities—the Pregnancy Advisory Service and the British Pregnancy Advisory Service. The British government strictly controls the number of abortion facilities. In addition to NHS hospitals in 1975, there were fifty-seven approved facilities. And it was not until 1976 that the government gave its approval to the two charities to open day care abortion facilities. In all these facilities, two physicians must sign government papers indicating that abortions were carried out under the provisions of the

1967 Abortion Act. For several years after the 1967 statute, physicians in NHS hospitals performed about 50 percent of all abortions in Britain. However, because the actual number of NHS abortions dropped by 7,000 between 1973 and 1976, the percentage is now lower.<sup>3</sup>

Access to free abortion services through NHS depends on the area of the country in which the woman lives, not on her ability to pay. Because of this, chief medical authorities of NHS in some areas have exerted their influence on the government to increase the number of abortion facilities. However, medical authorities in other areas have tried to prevent such an increase. Consequently, during 1976 about 95 percent of all abortions performed in facilities in Newcastle on Tyne, Neath, Llanelli, and Gateshead were free, compared with less than 10 percent provided free in Wolverhampton, Birmingham South, Rugby, and Dudley. Women who are unable to receive a free operation choose the abortion services provided by physicians in the private sector or those offered by the two major charities. These charities provide abortions for slightly more than \$100, although a reduction may be made in the case of need. In the private sector fees vary, but costs may be as high as \$500.

Most patients who want an abortion must stay overnight. This differs from the general practice in the United States and is probably because British physicians administer general rather than local anesthetics when performing the operation. One striking feature about the performance of abortions in Britain recently is the safety of the operation. As Table 2 shows, the maternal death rate was relatively high between 1969 and 1972. However, in 1975 it dropped to a low level of 2.2 deaths per 100,000 abortions. This decline is attributable to the improvement in medical techniques and the trend toward performing abortions during the early stages of pregnancy.

Table 3 shows an overall abortion rate of 11.0 per 1,000 women of childbearing age. The rates for single women in the age groups 20-24 and 25-34 are more than twice as high as

TABLE 1. NUMBER OF LEGAL ABORTIONS AND MARITAL STATUS IN ENGLAND AND WALES (in thousands), 1969-76

Year	Number of Abortions	Rate per 1,000 Women aged 15-44	Marital Status		
			Single	Married	Widowed, Divorced, and Separated
1969	49.9	5.3	22.3	23.0	4.6
1970	76.0	8.1	34.5	34.3	7.2
1971	94.5	10.1	44.3	41.5	8.7
1972	108.6	11.5	51.1	46.9	10.6
1973	110.6	11.7	52.9	46.8	10.9
1974	109.4	11.5	53.3	45.2	10.9
1975	106.2	11.0	52.3	43.1	10.8
1976	101.0	10.4	50.5	39.9	10.6

SOURCE: Colin Francome, "Estimating the Number of Illegal Abortions," *Journal of Biosocial Science*, 9 (October 1977), Table 1.

those for other women in the same age groups. However, in the older age groups the single women have lower rates of abortion than do other groups. And of all the women, females aged 15-19 have the greatest abortion frequency. But if one considers only single women, the highest rate is among those aged 20-24. Research findings indicate that these women usually start intercourse at an early stage in a relationship and tend to postpone the use of contraceptives.<sup>4</sup>

The demand for an abortion depends on the number of children a woman has and her marital status. Statistics reveal that over nine out of ten single women who requested an abortion in 1975 had no previous children compared with only one out of eight married women.<sup>5</sup> Conversely, over two-thirds of the married women had at least two children compared with only one out of fifty single women. The figures for those who were widowed, divorced, and separated fell between these two groups. This evidence indicates that the demand for an abor-

tion comes largely from two distinct groups. One group is largely made up of single women who want to start their family only when they are ready for such responsibility. The other group consists predominantly of married women who have completed their families and do not wish to have more children. Although the two groups overlap, each individual faces different kinds of problems.

#### U.S. EXPERIENCE

In the United States the movement to change stringent abortion laws gained momentum in the late sixties. Concomitantly, in 1967 Colorado became the first state to amend its abortion law. It liberalized the law along the lines of the recommendations of the model bill proposed by the American Law Institute in 1959. The bill recommended an abortion when (1) continuation of the pregnancy would gravely impair the physical or mental health of the mother, (2) the physician believed "that the child would be born

with grave physical and mental defects," or (3) the pregnancy resulted from rape or incest. Because the amended law did not give women the right to choose an abortion, many proponents of legal abortion began to demand that all abortion laws be repealed. They had their first success in 1970 when Hawaii became the first state to repeal its statute restricting legal abortions. Consequently, Hawaii passed a law that gave its female residents the right to choose an abortion in the first twenty weeks of pregnancy.

New York State also passed a law in 1970, which was considered the most liberal abortion legislation in the United States. Its law not only allowed abortions on request up to twenty-four weeks of pregnancy but also did not require residency on the part of the expectant mother.

Three years later, on January 22, 1973, the Supreme Court struck down restrictive abortion laws, saying that the right to privacy includes the right to have a legal abortion. Thus, the decision to abort became a matter of consent between a woman and her physician. Although the ruling allowed freedom of choice in the first trimester of pregnancy, it imposed some restrictions in the second trimester to safeguard the health of the woman. Moreover, it prohibited abortions in the final trimester unless the continuation of the pregnancy represented a risk to a woman's health or life. The Court's decision therefore gave women unequivocal rights in a way that the British law did not.

Before the Court's decision, estimates of the number of illegal abortions varied, but the most commonly quoted figure was one million a year.<sup>6</sup> This estimate may have been high but after the legal authorization of abortions the number of maternal deaths from illegal abortions dropped from 106 in 1970, 63 in 1971, 41 in 1972, and 21 in 1973 to just 6 in 1974 and 5 in 1975.<sup>7</sup> Thus, in this respect the British and American experiences were similar.

Two major sources of information for the total incidence of legal abortion in the United States are the Center for Disease Control and the Alan

TABLE 2. DEATH RATE OF RESIDENTS AND NONRESIDENTS IN BRITAIN, 1968-75

Year	Number of Abortions	Number of Deaths	Rate per 100,000 Abortions
1968	23,641	3	12.7
1969	54,819	17	31.0
1970	86,565	14	16.2
1971	126,777	14	11.0
1972	159,884	15	9.4
1973	167,149	6	3.6
1974	162,940	7	4.3
1975	139,702	3	2.2

SOURCE: Registrar General for England and Wales, *Abortion Statistics*, Series AB, No. 2 (London, England: Her Majesty's Stationery Office, 1978), p. 39.

TABLE 3. ABORTION RATES FOR WOMEN RECEIVING LEGAL ABORTIONS IN BRITAIN, 1975

Age	Rate per 1,000 Women		
	Single Women	Married, Widowed, Divorced, and Separated Women	All Women
15-19	16.2	9.0	15.7
20-24	24.4	8.9	15.4
25-34	21.3	9.5	10.7
35-44	4.5	5.9	5.8
45+	0.2	0.3	0.3
Overall rate	18.2	8.0	11.0

SOURCE: Registrar General for England and Wales, *Abortion Statistics*, Series AB, No. 2 (London, England: Her Majesty's Stationery Office, 1978), p. 9.

Guttmacher Institute. The center reported that slightly more than 850,000 abortions were performed in 1975.<sup>8</sup> However, the institute reported a figure of over 1 million abortions in the same year. (See Table 4.) It consistently reports higher figures than the center does because it gets in touch with a wider range of facilities that provide abortions.

In the United States there has been a continuous increase in the number of abortions performed in the first eight weeks of pregnancy. (See Table 5.) In 1975 only 11 percent of the abortions occurred after twelve weeks of gestation. During 1975 in Britain 30.8 percent of the abortions occurred in the first eight weeks, and 54.5 percent were performed between the ninth and twelfth weeks. The delay in approval of abortions by NHS might explain, in part, the percentage increase. Furthermore, in some cases British women might have sought a free abortion unsuccessfully and then spent time finding alternative services.

Although physicians in the United States perform abortions earlier and use less general anesthesia than physicians in Britain, the U.S. maternal death rate is slightly higher than the British rate. However, the number of deaths is so small in both countries that the difference is not statistically significant. There are two different mortality rates published in the United States. The Center for Disease Control publishes the higher rate, based on its estimate of the number of abortions performed, which is consistently lower than the estimate reported by the Alan Guttmacher Institute. The institute publishes the lower rate, which is also

based on its estimate of the number of abortions. Thus, the center's reported rate for 1975 was 3.2 deaths per 100,000 abortions compared with the institute's reported rate of 2.6.<sup>9</sup>

These rates suggest that legal abortion in the United States is a safe surgical procedure. However, the recent enactment of legislation restricting the use of Medicaid funds for nontherapeutic abortions may force some low-income women to choose unsafe, illegal abortion. In 1977 the Supreme Court held that Title XIX of the Social Security Act did not require states to fund such abortions. In addition, the Court suggested that the federal government should decide on what grounds it would provide federal funds for abortions. As a result of this, in 1978 Congress passed an appropriation measure allowing Medicaid payments for abortions only when the continuation of pregnancy represented a threat to a woman's life or physical health or when the pregnancy was the result of rape or incest. Furthermore, opponents of abortion succeeded in influencing the vast majority of state

legislatures to ban Medicaid funding of abortions, except when the woman's life is at stake. Some states such as New York and California continue to help women who need to end their pregnancies for a variety of reasons. But in most states women who cannot afford abortions must find money from alternative sources, seek an illegal abortion, or continue the pregnancy.

#### DIFFERENT RATES

There is a striking difference between the abortion rates of the two countries. For example, in 1976 the British rate per 1,000 women aged 15-44 was only 10.4 compared with the U.S. rate of 23.3. (See Tables 1 and 4, respectively.) Several reasons account for this difference.

First, historically, the two countries have placed different emphasis on the use of contraceptives and abortion as methods of birth prevention. Although illegal abortions were common during the nineteenth century in Britain, the use of contraceptives has always been more important than abortions. Contraception was never illegal, and the dissemination of information about methods of birth control became legal in 1877 as a result of a well-known court case commonly known as the Bradlaugh/Besant trial. In the early 1930s the Church of England gave its support for the use of such methods, and the government provided free advice on birth control to poor women through welfare centers. Furthermore, in 1974 the government introduced facilities that provide all contraceptives free of charge, with no

TABLE 4. LEGAL ABORTIONS PERFORMED IN THE UNITED STATES (in thousands, 1970-76)

Year	Number of Abortions	Rate per 1,000 Women Aged 15-44	Marital Status	
			Married (percentage)	Single (percentage)
1970	193	N.A.*	N.A.*	N.A.*
1971	485	N.A.*	N.A.*	N.A.*
1972	586	13.1	29.7	70.3
1973	745	16.6	27.4	72.6
1974	898	19.6	27.4	72.6
1975	1,034	22.1	26.1	73.9
1976	1,115	23.3	N.A.*	N.A.*

SOURCE: Christopher Tietze, "Induced Abortion: 1977 Supplement," *Reports on Population/Family Planning*, 9 (December 1977), p. 6.

\*N.A.: data not available.

TABLE 5. DISTRIBUTION OF ABORTIONS BY WEEKS OF GESTATION (percentage)

Year	8 Weeks or Less	9-12 Weeks	13-16 Weeks	17 Weeks or More
<i>United States</i>				
1972	34.1	48.3	10.1	7.5
1973	36.7	48.1	8.6	6.6
1974	43.1	44.6	6.8	5.5
1975	45.1	43.8	6.2	4.9
<i>England and Wales</i>				
1975	30.8	54.5	11.7	3.0

SOURCES: Christopher Tietze, "Induced Abortion: 1977 Supplement," *Reports on Population/Family Planning*, 9 (December 1977), p. 12; and Registrar General for England and Wales, *Abortion Statistics*, Series AB, No. 2 (London, England: Her Majesty's Stationery Office, 1978), p. 27.

restrictions according to marital status. Moreover, the availability of male contraceptives in slot machines in colleges and bars is particularly useful in an unplanned encounter.

In the United States illegal abortions were also common during the nineteenth century, but evidence during the early twentieth century suggested that abortion was a key method of birth prevention.<sup>10</sup> In 1935 Cocks quoted the following comment by Margaret Sanger:

It is the opinion of competent medical observers during the last twenty years that there are more criminal abortions performed in the United States than in any other country in the world.<sup>11</sup>

The legal authorization of contraceptive use by Congress did not occur until 1936, and even then certain states continued to enforce their restrictive laws concerning such use. For example, the Connecticut law was not overturned until 1965. And in 1972 the Supreme Court decision in *Baird v. Eisenstadt* struck down the remaining restrictive laws. Although all restrictions are now removed, there are still wide differences in the availability of contraceptives.

Another factor that probably accounts for the difference in abortion rates between Britain and the United States is the abortion ratio of minority groups. In the United States non-whites had an abortion ratio of 476 per 1,000 live births in 1975 compared with a ratio of 277 per 1,000 births among whites.<sup>12</sup> No comparable figures are available for British minorities, although it is likely that

differences exist. However, because the percentage of minorities in the British population is much smaller than that of minorities in the United States, the abortion ratio among minority groups in Britain will have little effect on the rate of the general population.

Third, the two countries have different attitudes toward unmarried mothers. Britain's policy encourages single women to keep their babies rather than surrender them for adoption. Furthermore, the British social security system helps women who decide to rear a child outside a marriage. If an English woman becomes unexpectedly pregnant, she faces less public censure than her American counterpart. In the United States the realistic choice is more often between having an early abortion or continuing the pregnancy and giving the baby up for adoption.

Although these reasons account for some of the difference in abortion rates in the two countries, the major distinguishing feature is the pattern of premarital sexual relationships. In another article the author attempted to determine why single women in Britain have a greater number of unwanted pregnancies than married women.<sup>13</sup> His analysis suggested that the double standard of sexual morality prevents sexually active single women from accepting their sexuality. According to this code of morals, only men should have premarital sex regularly and with a variety of partners. In addition, women should be reticent about their sexuality and, ideally, should not engage in premarital inter-

course. Because of this code, it is, therefore, unlikely that the single woman will accept her involvement in sexual relationships or use contraceptives. Results of another study supported this analysis.<sup>14</sup> They also showed that contraception was less likely to be used at the beginning of than at a later time in a relationship.

On the basis of observations and interviews, the author believes that the double standard not only affects the behavior of women but also makes men feel ambivalent toward their sexual partners. For example, some young men are unable to develop a proper sexual relationship and can only have affairs with women with whom they have no romantic involvement. Because they do not care about the relationship, they take inadequate precautions against conception.

Although the double standard still exists in Britain, especially among the working class, for a variety of reasons it is stronger in the United States. Historical factors are particularly important. The U.S. shortage of women in its early years may have contributed to the assertiveness among the men. Furthermore, many of the immigrants came from different societies in which the sex divisions were much greater than those in Britain. These factors, together with the general emphasis on youth, led the United States to develop a unique dating system that institutionalized the double standard. In her article examining the relationship between American servicemen stationed in Britain during World War II and the British, Mead described the American idea of a "date," which revealed the double standard:

A good part of any date is spent in proving to each other that the date was a good idea, that each one, the boy and the girl, is really popular. They prove this, however, by exactly opposite behaviour, the boy by boldly demanding innumerable favours, the girl by refusing them. If the boy should fail to bid for a hundred kisses this would prove that he had a low opinion of himself, but if the girl gives in she thereby proves that she has a low opinion of herself. . . . A really successful "date" is one in which the boy

asks for everything and gets nothing but a lot of words; skilful, gay, witty words.

Of course, this is very confusing to British girls who haven't had any practice in wisecracking. Some of them are insulted by the speed and assurance of the American's approach and turn chilly, making him feel that Britain is a cold—and then he will add—little country. Some of them take his words which sound like wooing, and give a kiss with real warmth, which surprises him very much. Some of them think he is proposing when he isn't and want to take him home to father.<sup>15</sup>

Although the behavior of youths has changed radically in both countries since the second world war, some cultural differences remain. The American male is still much more assertive than his British counterpart, and it is significant that the term "macho" is not a regular part of the British vocabulary. Furthermore, the English grants system has promoted sexual equality; students do not pay educational fees and receive small but adequate living grants. Therefore, both male and female students have similar amounts of money. This system has done much to undermine the traditional relationship in which the male pays for the majority of the entertainment.

The acceptance of one's sexuality is even more difficult to resolve in the United States than in Britain. This became clear in a 1978 survey, which was conducted by the author, of 800 patients who requested an abortion in clinics in Boston, Massachusetts, and Long Island, New York. Of these patients only 120 used some form of birth control; 589 gave the following reasons for not using contraceptives regularly: 33 percent said that they had intercourse unexpectedly, 26 percent stated that they intended to use a contraceptive but had not made the necessary arrangements, 21 percent reported that they had stopped such use because of the side effects, about 5 percent stated that they had no intention of having intercourse again, and about 15 percent cited other reasons. These are preliminary results. A

complete report will be available later from the author.

Because many of these women could not come to terms with their feelings about engaging in sexual intercourse, they saw each act as an unexpected encounter, although many had sex on a regular basis. That many used no method of birth control because of the side effects of a particular contraceptive also showed their ignorance of alternative methods. Fifty-five percent of the patients had no sex education while in school. In this respect the educational system must share the blame for their ignorance.

During the course of the research, the author also interviewed several males accompanying their sexual partners. Findings revealed that many of the men rarely discussed the subject of contraception. In addition, most of them believed that because the woman could become pregnant, it was her responsibility to take the necessary precautions. Furthermore, religious beliefs influenced the use of contraceptives. For example, one young man, a "born again" Christian, did not believe in premarital sex because the Bible condemned fornication. However, on a few occasions in the previous year, he had had intercourse with his girlfriend. During that time, she became pregnant twice and had two abortions. After the second abortion, the couple finally accepted the reality of their behavior, and she began taking the pill. The conflict this couple faced is typical of others confronted by many young unmarried people.

### CONCLUSION

This analysis suggests the need for the following social changes in the United States. First, sexual equality should be encouraged by promoting the passage of the Equal Rights Amendment. The movement toward sexual equality should continue so that the double standard of sexual morality can be undermined and men and women can relate together on equal terms. Second, sex education programs that take into account the cultural background

of the students should be developed. Third, birth control services should be extended and made more accessible to the general population. These changes will help reduce the number of unwanted pregnancies and improve the quality of interpersonal relationships.

### NOTES AND REFERENCES

1. Colin Francome, "Estimating the Number of Illegal Abortions," *Journal of Biosocial Science*, 9 (October 1977), p. 478.
2. *Ibid.*, p. 477.
3. Registrar General for England and Wales, *Abortion Statistics*, Series AB, No. 2 (London, England: Her Majesty's Stationery Office, 1978), p. 2.
4. Joan Lambert, "Survey of 3,000 Unwanted Pregnancies," *British Medical Journal*, 4 (October 1971), p. 156.
5. *Abortion Statistics*, p. 15.
6. See Dr. X, as told to Lucy Freeman, *Abortions* (London, England: Victor Gollancz, 1962), p. 13.
7. Center for Disease Control, *Abortion Surveillance, 1975* (Washington, D.C.: U.S. Department of Health, Education & Welfare, 1977), p. 1.
8. *Ibid.*, p. 15.
9. See Christopher Tietze, "Induce Abortion: 1977 Supplement," *Reports on Population/Family Planning*, 9 (December 1977), p. 6.
10. For a discussion of nineteenth-century abortion practices and of abortion as a method of birth control, see James C. Mohr, *Abortion in America* (New York: Oxford University Press, 1978); and Marie Kopp, *Birth Control in Practice* (New York: McBride & Co., 1934).
11. S. W. Cocks, "The Spectator Leads," letter, *New Generation*, 14 (April 1935), p. 46.
12. Center for Disease Control, *op. cit.*, p. 25.
13. Colin Francome, "Abortion: The Fall," *New Society* (London), February 3, 1977; and Michael Schofield, *The Sexual Behaviour of Young Adults* (London, England: Alden Lane, 1973).
14. Lambert, *op. cit.*, pp. 156-160.
15. Margaret Mead, *The American Troops and the British Community* (London, England: British Community Hutchinson Publishers, 1944), p. 11.